

FIRST DRAFT

Transcending Divisions?

**Transitional Justice through the Lenses of Institutional Engineering in
Bosnia and Macedonia**

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Introduction

The original intention of external state builders in Bosnia-Herzegovina (hereafter, Bosnia) and Macedonia has been to compensate for overtly ethnicized power-sharing arrangements in the political field by creating powerful constitutional and institutional arrangements that can (in principle) allow for the development of civil society and human rights. According to this logic, those interested in politics would enter the political arena with explicit and somewhat contradictory aims of simultaneously building democracy and defending one's national interest. Those disinclined to enter politics have another venue open to them: joining any of the externally-financed civil society organizations that were supposed to counter-balance the "freezing" effects of various power-sharing arrangements in the respective countries. The hope was that through an active engagement of the international community (IC) some of the ethnic aspects of power-sharing arrangements would eventually have been replaced with more integrative institutions along the civil society model. Constitutional setup in both countries has fully supported such division of labour.

From the very beginning, however, it became clear that challenges of transitional justice (TJ) have not been fully anticipated by the institutional engineers of Bosnia and Macedonia, thus creating a particular grey area where political and social actors have continuously clashed over imposing one's own understanding of TJ. Passionate debates over the question of who is right and whose justice should be served are fully understandable. After all, at the heart of this debate is the question of moral and legal responsibility for the crimes committed in one's national name. For these reasons, the transitional justice literature is almost in unison in arguing that the transformation of conflict is considered to be central to the process of state-building in war-torn and conflict-prone societies. In this regard, particular attention is being paid to the mechanisms of transitional justice (the ICTY and ICJ, domestic trials, truth commissions, apologies, memorialization of events, and politics of symbols), as these mechanisms are seen as instrumental to restoring justice and bringing closure to all affected by the crimes committed in the name of one group against the other. I argue in my paper that these hopes are not warranted for the very reason that they are either undermined by the counter-logic of externally imposed political systems in transitional societies, or simply arrested by the political agendas of local (both, ethnic and civic) entrepreneurs. But, I also argue that these mechanisms fail to address the question of the accommodation of minority nationalisms in divided societies; or if they do, they

perceive identity claims to be one of the (central) causes of the crimes committed during the armed conflicts. As such, the hope of TJ literature and its practitioners has been to facilitate the transition away from accommodating minority claims towards building identities that will be based on the sturdier constitutional protection of individual rights. Thus far, these hopes have been continuously undermined by developments in the region, and elsewhere.

The overall purpose of this paper is to provide a more balanced perspective to the study of the dilemmas of state building in Bosnia and Macedonia by linking two strands of the literature that usually do not speak to each other: restorative/transitional justice and power sharing/dividing literature. The paper deals with two general questions. First, what type of power sharing has been tried in Macedonia and Bosnia, and whether or not certain institutional and electoral arrangements have been proved more successful in mitigating the conflict than the others. Secondly, the essay deals with the question as to what type of citizenship and TJ practices have emerged in the Bosnian and Macedonian post-conflict environment. One caveat is in order, however. Bosnia rightly represents a testing ground of the international community for various practices of power sharing and TJ after the signing of the Dayton Agreement in 1995. Macedonians were engaged in minor armed conflict (2001) that did not leave the same type of deep wounds as is the case with Bosnia. Still, given the elaborate, albeit, different power-sharing arrangements in the respective countries, a comparison between them should be helpful in ascertaining whether or not a particular type of power sharing could be perceived as a better fit for the development of restorative practices of state and society building in the region. Thus, even though it makes sense to talk about TJ practices in the context of Bosnia, I use the term TJ rather loosely in the context of Macedonia as well.

Analytical Framework

Elite perspectives: (Complex) Power Sharing vs. National Stewardship

In response to the horrific experiences with the fratricidal, ethnic war in Bosnia-Herzegovina and elsewhere in the early 1990s, the international community (the UN, the OSCE, the Council of Europe, and the USA) emphasized that conventional institutes of democratic governance (regular free and fair elections, rule of law and respect for human rights) should be fine-tuned to manage ethnic and cultural diversity in conflict-torn societies. For these reasons, the newly emerged belief system of the international community was organized around achieving two interrelated

goals: developing politically stable, liberal-democratic states, on the one side, and integrating ethnicity as an unavoidable political ingredient of the (culturally divided) post-conflict societies, on the other side. Thus, it is not surprising that the international community has influenced many divided democratizing states in the past fifteen to twenty years to experiment with different types of power-sharing arrangements for their fledgling democracies.

Theoretical justification for these types of arrangements was found in the theory of consociationalism, which is rightly associated with the work of Arend Lijphart.¹ Its central idea is that ethnically (culturally, linguistically, and religiously) divided polities cannot achieve political stability through the majority decision-making process for the very reason that in deeply divided societies social cleavages are mutually reinforcing rather than crosscutting. Insisting upon the Westminster institutions of majoritarian democracy could only lead to the permanent marginalization of ethnic/national minorities in such a state. Instead, the focus should be on the politics of accommodation between majority and minority groups in a divided plural society that is based on the following elements: a grand coalition government, incorporating major ethnic segments; proportionality in the legislature (but also in the police, military, civil service, etc.); autonomy (communal self government which can be territorial and segmental); and a system of mutual veto rights over issues that are considered vital to the interest of respective ethnic segments/communities (language, education, culture).² As will be seen, each and every one of these elements has been incorporated to a greater or lesser extent into the institutional setups of Bosnia and Macedonia.

More recently, John McGarry and Brendan O'Leary have expanded this approach into what they call a complex power sharing.³ In addition to Lijphart's already identified consociational requirements, complex power sharing incorporates major techniques that have been recently tried in deeply divided societies: human and minority rights regimes; dispute settlement mechanisms;

¹ See: Arend Lijphart, *The Politics of Accommodation*, 2nd ed. (Berkeley: University of California Press, 1975); Arend Lijphart, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries* (New Haven: Yale University Press, 1999); and Arend Lijphart, *Thinking about Democracy: Power Sharing and Majority Rule in Theory and Practice*. (New York: Routledge, 2007).

² Sujit Choudhri, "Bridging Comparative Politics and Comparative Constitutional Law: Constitutional Design in Divided Societies," in: Sujit Choudhri (ed). *Constitutional Design for Divided Societies: Integration or Accommodation?* (New York: Oxford University Press, 2008), 18.

³ John McGarry, Brendan O'Leary, and Richard Simeon, "Integration or Accommodation" The Enduring Debate in Conflict Regulation." In Sujit Choudhri (ed). *Constitutional Design for Divided Societies: Integration or Accommodation?* (New York: Oxford University Press, USA, 2008): 41-90.

territorial autonomy/federalism for national minorities; and various forms of international governance. Also, O'Leary emphasizes the importance of ethnic demography and whether or not plural societies are characterized by the existence of the so-called *Staatsvolk* (state-dominant nation).⁴ His main idea is that in multination states that are not dominated by one group, the state itself is in danger of a permanent rift between different political communities. Still, O'Leary and his co-author McGarry remain optimistic that precarious balances can be reached through a combination of territorial autonomy/federalism, human and minority rights regimes and power sharing.⁵

However, even though power sharing seems to be popular among policy makers around the world, many analysts are weary of its long term benefits. For example, Jack Snyder's analysis of nationalist conflicts in the 1990s has led him to hypothesize that the process of democratization (particularly in its early stages) enhances, rather than reduces, the possibility of both international and internal ethnic conflicts.⁶ Snyder maintains that in politically weak societies with little understanding of liberal institutions, it is in the self-interest of various ethnic elites to sidetrack democratization and pursue the defence of "sacred" national interests. The countries upon which he draws his analysis vary from the historic examples of the nineteenth- and early twentieth-century Britain, France, Germany and Serbia to countries of the former Soviet Union and Yugoslavia, Sri Lanka, Malaysia, India, Rwanda and Burundi. Snyder maintains that ethnic mass mobilization has become "an alluring substitute for true democracy." Moreover, he strongly doubts in the long-term possibilities of managing ethnic nationalism through various forms of power sharing and/or ethnic federalism (a territorial arrangement in which a certain part of the country is identified with a so-called titular nation of that particular region). Rather, Snyder believes that power-sharing arrangements between different ethnic leaderships tend to solidify ethnicity as the single most important identity marker in such states, at the expense of policies that could foster more inclusive, civic versions of national identity.

⁴ See Brendan O'Leary, "The Elements of Right Sizing and Right Peopling the State," in B. O'Leary, I. Lustick, & T. Callaghy (eds.) *Rightsizing the State*. (Oxford: Oxford University Press, 2002).

⁵ John McGarry and Brendan O'Leary, "Federation and Managing Nations," in: M. Burgess, and J. Pinder (eds.), *Multinational Federations* (London: Routledge, 2007).

⁶ See Jack Snyder, *From Voting to Violence: Democratization and Nationalist Conflict* (New York: W.W. Norton, 2000).

In a similar vein, Philip Roeder and Donald Rothchild claim that power sharing works well only in the early stages of the transition to democracy and that in the consolidation stages the very mechanisms that brought peace are becoming a part of the problem; that is, in the long run, power sharing tends to destabilize the divided societies that it is supposed to heal from the scars of ethnic conflict.⁷ In addition to government rigidity and inefficiency, central to this is a so-called second-generation problem when new elites once more put the system under pressure with ever-increasing demands, leading to the new spiral of ethnic conflict and ethno-national crises.⁸ Hence, there is a trade-off between the short-term gains and longer-term costs of power sharing. For Roeder, the solution is in replacing power-sharing with power-dividing arrangements and nation-state stewardship that revolve around building multiple majorities on the principles of limited government as espoused by Madison and other defenders of the American constitutional federal model.⁹ In the introduction to their *Sustainable Peace* on the dilemmas of state building after civil wars, Roeder and Rothchild define national stewardship as a strategy that is based not so much on empowering minority groups, but rather on expanding individual liberties, multiple majorities and checks and balances. Thus, the power-dividing model contrasts sharply with both the traditional British (Westminster) principles of simple majority, on the one side, and power-sharing models, on the other. Roeder and Rothchild also maintain that in deeply divided societies where political cleavages are “unidimensional, recurring and cumulative” the only remaining option might be partition.¹⁰ Curiously, though, the authors do not claim that Bosnia is such a case even though its political cleavages could be clearly identified as unidimensional, recurring and cumulative. For, as they argue, Bosnian problems are intensified in the post-Dayton period as the result of the weaknesses of the power-sharing arrangements rather than an impossibility of Bosnia as a joint state.¹¹ Still, at least from the theoretical perspective, their approach seems to leave much more room for various NGOs and civic organizations in rebuilding post-conflict states. It is no wonder, then, that the power-dividing framework with its emphasis on individual

⁷ Philip Roeder and Donald Rothchild (eds.), *Sustainable Peace: Power and Democracy after Civil Wars* (Ithaca: Cornell University Press, 2005), 1-106, 319-346.

⁸ Roeder and Rothchild, 38-39.

⁹ Roeder and Rothchild, 51-52. For a different reading of the same question, see also John McGarry, Brendan O’Leary, and Richard Simeon, “Integration or Accommodation” *The Enduring Debate in Conflict Regulation*, in: Sujit Choudri (ed). *Constitutional Design for Divided Societies: Integration or Accommodation?* (New York: Oxford University Press 2008), 45-51.

¹⁰ Roeder and Rothchild, 19.

¹¹ Roeder and Rothchild, 333-336.

rights represents the matrix within which most TJ literature is situated. The following section elaborates more on the underlying assumptions of TJ and citizenship from such a perspective.

TJ and Citizenship in Divided Societies

Violent conflicts undoubtedly have negative effects on community relations in post-conflict states as the trust between groups is low and cross community relationships have been damaged.¹² From the grass-root perspective, a great challenge in post-conflict societies is the building of a common citizenship and a strong civil society. A grass-root perspective focuses on the role of the local population, that is, individuals who have directly been impacted by the conflicts and continue to face the daily struggles of living in a post-conflict society. Not surprisingly, peacebuilding literature argues for more citizen involvement and the importance of engaging in community projects. This type of “engaged citizenship” is about recognizing that one belongs to the wider political community and not only to a community based on one’s ethnicity. Julie Mostov argues that there needs to be a “decoupling of citizenship,” which is best achieved by separating the concept from its nation-state ties.¹³ Mostov argues that if citizenship incorporates many different aspects of one’s identity in a community and is not only focussed on citizenship as right to belong to one particular ethnic group, national citizenship and identity have a potential to create multifaceted societies. Hence, a viable civil society ensures that citizens are able to express their wishes and foster change especially when there is political stalemate. It is through civil society networks that citizens should be able to express their concerns and grievances and to address common challenges.¹⁴

In the context of TJ, what does this all mean; that is, how does citizenship and civic engagement relate to the quest for justice? In his annual report, Antonio Cassese, the first president of the International Criminal Tribunal for the Former Yugoslavia (ICTY), noted that:

The role of the Tribunal cannot be overemphasized. Far from being a vehicle for revenge, it is a tool for promoting reconciliation and restoring true peace. If responsibility for the appalling crimes perpetrated in the former Yugoslavia is not attributed to individuals, then whole ethnic and religious groups will be held accountable for these crimes and branded as

¹² John, Vaughn, “Community Development in a Post-conflict Context: Fracture and Depleted Social Capital” *Community Development Journal* (2010): 152.

¹³ Julie Mostov, *Soft Borders: Rethinking Sovereignty and Democracy* (New York: Palgrave Macmillan, 2008).

¹⁴ The paragraph is written jointly with Branka Marijan and taken from the paper on Engaged Citizenship and the Role of Civil Society in Bosnia that Branka Marijan and Dejan Guzina presented at the ASN convention in New York, April 14-16, 2011.

criminal. In other words, "collective responsibility" – a primitive and archaic concept – will gain the upper hand; eventually whole groups will be held guilty of massacres, torture, rape, ethnic cleansing, the wanton destruction of cities and villages.¹⁵

Cassese is fully aware that the conflict in the former Yugoslavia is aggravated by ethnic and religious overtones and that intergroup hatred takes “the form of ethnic cleansing, genocide, mass rape and other manifestations of widespread breaches of human rights.” Still, by not identifying perpetrators and victims according to their group identity, Cassese hopes to individualize the guilt and stop perpetuating divisive categories of framing the conflict exclusively in group terms. According to such an understanding, as Cecile Aptel observes, “it is reasonable to assume that criminal justice, including international and hybrid jurisdiction, can contribute to the reconciliatory process in divided societies, as long as significant portions of all communities accept the legitimacy of the accountability mechanisms.”¹⁶ And, what seems crucial for this to happen is to develop citizenship that will cut across the membership ties. For as long as an “us vs. them” mentality persists (that is, the “victims” identify the “perpetrators” solely in terms of their ethnic/religious identity), mechanisms of TJ will fail to become relevant for the process of reconciliation. This raises the question whether the concept of TJ is not only a legal term but a political and social as well.

More recently, Lara J. Nettelfield has further elaborated on the significance of TJ for postwar states. In her book, she focuses exclusively on the role of the ICTY and hybrid jurisdiction in Bosnia. Even though it would seem that she emphasizes only legal elements of TJ, her main conclusion is that the real contribution of the Hague process and other forms of TJ is in its attributing to “positive democratic development inside Bosnia,” particularly in the areas of the “creation of new postwar identities based on the rule of law and participation.”¹⁷ Drawing upon the work of Mark Drumbl, she is doubtful that retributive and deterrent goals of domestic justice can be easily replicated in the context of international criminal law. Thus, it would seem that she departs from the general thrust of the TJ literature. After all, the central tenets of international criminal law are: to uncover the truth about the past atrocities; punish perpetrators and help

¹⁵ First Annual Report of the President of the ICTY to the United Nations General Assembly (2004). Available at <http://www.icty.org/tabs/14/1> (accessed on May 4, 2011).

¹⁶ Cecile Aptel, “International and Hybrid Criminal Tribunals: Reconciling or Stigmatizing?,” in Paige Arthur (ed.) *Identities in Transition: Challenges for Transitional Justice in Divided Societies* (Cambridge, Cambridge University Press: 2011), 180.

¹⁷ L.J. Nettelfield, *Courting Democracy in Bosnia and Herzegovina : the Hague Tribunal's Impact in a Postwar State* (New York: Cambridge University Press, 2010), 15.

victims; provide the rule of law; support reconciliation; and serve as deterrent for future crimes.¹⁸ At the same time she fully accepts Drumbl's understanding that, even though we should be cautious about retributive and deterring potentials of international justice, the extra-legal rationale for international tribunals still stands. That is, in the words of Drumbl, the justification for international prosecutions is in "the messaging value of punishment to affirm respect for law, reinforce a moral consensus, narrate history and educate the public."¹⁹ From this perspective, Nettelfield concludes that "the work of court encouraged political participation by representatives of family associations and civil society groups who might otherwise have lacked legitimacy; it provided them and elites with a language about accountability and, and in some cases, a set of tools – namely, law – with which they could lobby for forms of redress."²⁰ In other words, even though Bosnians did not get justice, they got democracy (or, at least, they started moving into that direction), and through the work of international and hybrid courts certain forms of civic and political engagement have developed that otherwise might not have been possible. From the policy perspective, this conclusion radically steps away from the conventional understanding of TJ; still, it heavily relies on the same assumptions previously identified in the context of the critique of power sharing and espousal of engaged citizenship and civil society. However, civil society cannot be always perceived as a positive force. Many authors raise their concerns regarding "uncivil society" or the "dark side" of civil society.²¹ These are all those elements of society which organize around exclusive membership and sometimes utilize violence to obtain their goals. To put it simply, in divided states citizenship tends to be contested by representatives of different communal groups, while exclusive ethnic/religious identities are quite often put in front of the broader inclusive identity. Many authors that emphasize the leading role of the respective national elites in divided societies argue for good reasons that a fluidity of identities and more inclusive membership into the national community is possible only in societies that are not deeply divided according to ethnic/religious membership. As they argue, in deeply divided societies, the will to make a claim based on a broad notion of belonging is often not present and communities are fragmented according to ethnic ties. The reasons for this failure

¹⁸ Nettelfield, 10.

¹⁹ Qt. in Nettelfield, 11.

²⁰ Nettelfield, 273-274.

²¹ Petr Kopecky and Cas Mudde (eds.), *Uncivil Society? Contentious Politics in Post-communist Europe* (New York: Routledge, 2003).

are many, but the most often quoted relate to the role of the homogenizing polices at the elite level.²² Such understanding quite often leads to the particular types of internationally-sponsored policy initiatives to replace “bad” leaders with “civic-minded” ones in divided societies in transition. And yet, this logic of replacement has not been working so far in Bosnia, where Milorad Dodik, the second-generation leader of the Bosnian Serbs, even though handpicked by the IC a few years ago, continues in his strident defence of Bosnian Serbs’ interests against the wishes of the IC.

Paige Arthur provides us with a more nuanced understanding as to why pursuing TJ in the wake of ethnic conflict quite often fails. At the heart of her argument is that TJ concepts do not take seriously enough the concept of identities. Following Fearon and Laitin, she reminds us that ethnic identities are different from other social identities “because they are constructed around the idea of descent, as well as social and biological reproduction.” As such, they are composed of, in the words of Fearon and Laitin, “cultural attributes” (religion, language, custom, myths), neither of which could be easily handpicked by individuals. Arthur doesn’t dismiss the individualist constructivist arguments; nevertheless, she points out that there are limits in what and how identities can be (de)constructed. This, however, has huge consequences for our understanding of TJ, for, as Arthur explains, ethnic violence can never be reduced to a political one.²³ And, accordingly, a cookie-cutter approach that shies away from the problem of the salience of ethnic identities is bound to hit the wall when TJ measures become translated by local populations to fit their preconceived notions of identity.

In similar fashion, Will Kymlicka argues that the concept of TJ is very closely tied to a civic understanding of nation building understood solely in terms of society building, that is in terms of sharing the same political community. However, he maintains that, despite the strong support for such a model of political community, both among the scholars and external policy makers, this model is quite often untenable in societies where the same space and memories are shared by

²² On the relationship between the engaged and contentious citizenship, see Branka Marijan and Dejan Guzina, “Engaged Citizenship? The Role of Civil Society in Bosnia.”

²³ Paige Arthur, “Fear of the Future, Lived through the Past”: Pursuing Transitional Justice in the Wake of Ethnic Conflict, in Paige Arthur (ed.) *Identities in Transition: Challenges for Transitional Justice in Divided Societies* (Cambridge, Cambridge University Press, 2011), 273.

more than one cultural community.²⁴ Under such conditions, the imposition of one political community is quite often perceived as an open policy of assimilation by the members of other communities sharing the same space. In the more extreme cases, this leads to open ethnic conflicts where all kinds of mass crimes are committed in the name of one's nation. Thus, in the context of post-conflict development, divided societies quite often perceive conventional policies of "citizenization" with distrust, for they can always be interpreted as more beneficial to the majority or the dominant group in such a state. In other words, a purely "civic" form of nationhood quite often (whether inadvertently or not) leads to clashes over the issues of ethnicity (language, identity, customs, religion).

An example of the complexities of civic engagement in divided societies through both "engaged" and "contested" citizenship practices is nicely elaborated upon by Roberto Belloni. He argues that in the case of Northern Ireland "[T]housands of voluntary organizations provide citizens with opportunities for engagement in all areas of social, economic, and political life."²⁵ At the same time, however, Belloni finds that despite the various possibilities for involvement in social projects many of the groups remain organized around ethnonational lines. Overall, it is the politicization of ethnic/religious ties that shape citizens' involvement. To put it simply, membership in voluntary organizations is shaped by "in group" mentalities according to which individuals are primarily wishing to improve one's "own" community and its well being. To the extent that such citizenship practices prevail, many voluntary organizations cannot be said to have fostered "engaged citizenship" because they are still functioning within exclusive and divisive identity politics that are being influenced (even if not completely dominated) by their respective local ethnic entrepreneurial elites. Thus, Belloni recognizes the problem of "contentious" citizenship, but he explains it by applying a rather rigid distinction between civic and ethnic categories. Kymlicka's suggestions, however, put a different spin on such conclusions. Reading of all aspects of the social and the political in divided societies through the ethnic lenses stems not only from "evil" elites' initiatives, but also from the limits of inclusive

²⁴ Will Kymlicka, "Transitional Justice, Federalism, and the Accommodation of Minority Nationalism," in Paige Arthur (ed.) *Identities in Transition: Challenges for Transitional Justice in Divided Societies* (Cambridge, Cambridge University Press, 2011), 303-307.

²⁵ Roberto Belloni, *Northern Ireland: Civil Society and the Slow Building of Peace*. In Thania Paffenholz (ed.), *Civil Society and Peacebuilding: A Critical Assessment* (Boulder, CO: Lynne Rienner 2010), 105. Also, see, Roberto Belloni, "Shades of Orange and Green: Civil Society and the Peace Process in Northern Ireland," in Michaelene Cox (ed.) *Social Capital and Peace Building* (New York: Routledge, 2009), 5-22.

citizenship. Rather than uncritically insisting on such citizenship policies, it might be more prudent to engage in “innovative forms of multicultural citizenship.” These are the policies that are based not only on principles of peace, democracy and individual freedom, but also on intergroup equality that can be achieved through various forms of territorial and non-territorial autonomy.²⁶

This, indeed, represents a radical break with the citizenship model that informs TJ literature. In the context of multination states or federations, it is extremely hard to identify one nation (cultural community) as the bearer of sovereignty. Indeed, the existence of O’Leary’s *Staatsvolk* (a dominant nation within a state) is the exception rather than the rule. Under such conditions it is more prudent for a state to instil a sense of “nested identities” in society rather than to engage in various policies of nation building that would be based on the ideal of a single political community. Or, as Kymlicka cogently explains, “in the context of Western multination federations, citizenization is not about resolving disputes over legitimacy, but about learning to live with their ambiguous and contested character, and building peaceful and democratic forums for continuing conversation.”²⁷ In the context of diverse societies coming out of violent conflicts, such conception of multinational citizenship simply implies that TJ could only be achieved if the elements of fear and mutual distrust are removed from the inter-group dynamics. But, as Kymlicka readily admits, with the possible exception of Northern Ireland and Spain, such coupling of TJ and citizenization with multination building has never been tried before.

In sum, the power-sharing literature has usually been critiqued as bringing short term gains, but at the price of longer-term costs (freezing of identities, undemocratic character of political institutes, and so on). Against such a model, both the power-dividing model and TJ literature offer the ultimate goal of reconciliation that is achievable through the implementation of liberal democracy, protection of individual rights, and development of engaged citizenship. If my reading of Kymlicka is correct, then the complex power-sharing model with its incorporation of the guarantees of human rights protection and various forms of (non)territorial autonomy need not be decoupled from those goals and principles. In fact, failing to uphold some of the norms of multination/multicultural citizenship can effectively undercut prospects of reconciliation. With

²⁶ Kymlicka, 310.

²⁷ Kymlicka, 314.

these clarifications in mind, in what follows the focus will be on the interplay of power-sharing, citizenship and TJ in Bosnia and Macedonia.

TJ and Power Sharing in Bosnia-Herzegovina and Macedonia

Bosnia: a Qualified Success, Failure, or Both?

In its latest report (May 6, 2011), the International Crisis Group identifies the current situation in Bosnia as being the worst since the end of the war in 1995. Seven months after the Bosnian elections of October 2010, the main state institutions (still) seem to lack any legitimacy. In the Bosnian Federation, they are disputed by the Croats (at least, by their two major parties in Bosnia) who have created a parallel Croat National Assembly. At the same time, despite daily protests by Valentin Inzko (the UN High Representative), the National Assembly of the Serb Republic (Republika Srpska) is continuing with its plans to organize a referendum on the work of the Bosnian Court and the attorney office. In the eyes of many Bosnian Serbs, the Court's decisions are perceived as being biased against the Serbs. If the High Representative tries to stop the referendum, it may serve as a pretext for Bosnian Serbs' representatives to walk out on all Bosnian state institutions. Effectively, this would make Bosnia a failed state.²⁸ In other words, it seems that Bosnian power-sharing arrangements have failed to live up to the IC expectations.²⁹

The Dayton Agreement (hereafter the Agreement or Dayton), whose principal purpose in 1995 was the cessation and prevention of hostilities, was successful in bringing peace to the region. At the same time, however, the power-sharing arrangements that resulted from Dayton and the creation of two entities under a shared umbrella-state, have led to a lack of clear governance and coordination in the country. Dayton created a "one state-two entities-three nations" model that is at the core of the issues today.³⁰ The Agreement sought to include all of the ethnic groups, and by ensuring representation it also resulted in the entrenchment of the very ethnic divides that

²⁸ International Crisis Group, Bosnia Briefing No. 62 (May 6, 2011). The report can be accessed on <http://www.crisisgroup.org/>.

²⁹ The following two pages (pp. 14-15) elaborating upon Bosnian power-sharing institutions were written jointly with Branka Marijan.

³⁰ Zarije Seizovic, "Constitutional Reform in Bosnia and Herzegovina: 'Civil State' of Constituent People," Paper presented at the *Second Annual Conference on Human Security, Terrorism and Organized Crime in the Western Balkan Region*, organized by the HUMSEC project in Sarajevo, 4-6 October 2007.

caused the conflict.³¹ Most notably, it ensured that the main warring parties and the three nations/majority groups (the Bosniaks, Croats and Serbs) were entrenched as the “constituent people” who had veto rights over any Constitutional changes. Moreover, Annex 10 of the Agreement also created the Office of the High Representative, which was meant to monitor the implementation of the Agreement and, with subsequent resolutions, has increased its power and control over the politics in the country.³² Thus, from the very beginning there was a tension between the creation of a democratic order, which would ensure that all local sides were represented, and the imposition of the international oversight in the process of democracy-building.

The overall political system was thus a largely decentralized state with multiple levels and seats of power. The Constitution (Annex 4 of the Agreement) was drafted to encourage a democratic order and the establishment of a viable civil society.³³ Annex 4 also created a system of governance that includes a rotating Presidency, a Council of Ministers and a bicameral Assembly but none of these have any authority over the political powers of the entities.³⁴ The two entities have their own separate structures and choose their own presidents. Since there were no state-wide elections for entity leaders, ethnonational politics were from the outset were built into the system.³⁵ Within the Federation there is a further division of power to ten cantons, which allows the Bosnian Croatian population to be in charge within the cantons where they represent a local majority.³⁶ The different levels of government are also being replicated at the level of citizenship policies. Even though Bosnian citizens are formally equal wherever they live, in reality individuals’ identities are based on their ethnic/religious identities first, on their entity ties

³¹ Oliver P. Richmond and Jason Franks, 'Between partition and pluralism: the Bosnian Jigsaw and an 'Ambivalent Peace'', *Southeast European and Black Sea Studies*, 9: 1(2009): 18.

³² Bernhard Knoll, “Bosnia: Reclaiming Local Power from International Authority,” *European Constitutional Law Review*, 3 (2007): 359. For constant changes in the role of the Office of the High Representatives in Bosnia, see periodic reports by the International Crisis Group (ICG) <http://www.crisisgroup.org/>.

³³ Asim Mujkic, “We, the Citizens of Ethnopolis,” *Constellations* 14, no.1 (2007): 113.

³⁴ Rory Keane, *Reconstituting Sovereignty: Post-Dayton Bosnia Uncovered* (Burlington, VT: Ashgate 2002), 70.

³⁵ Elizabeth M. Cousens and Charles K. Cater, *Toward Peace in Bosnia: Implementing the Dayton Accords*, (Boulder, CO: Lynne Rienner 2001), 144.

³⁶ Patrice C. McMahon, “Rebuilding Bosnia: A Model to Emulate or to Avoid?” *Political Science Quarterly* 119, no.4 (2004.):574.

second and lastly on their belonging to the federal state.³⁷ Thus, most analysts agree that the political system created by Dayton inspires fragmentation at both the political and societal level. Given the aforementioned, it is not surprising that Dayton Bosnia remains a fragmented state where ethnic politics continue to shape everyday life. Despite the international attempts to ensure equitable representation, the political will to engage in cross community relations has been weak. For example, as Bieber points out, in the Bosniac-Croat Federation there has been very little Serb participation, while at the same time the first Bosniac minister to join the Serb Republic government was not until 2001, six years after Dayton.³⁸ The current deadlock, however, has its roots in the failed constitutional reforms that were attempted in 2006. These reforms failed due to the different visions for the future of the Bosnian state.

The general position on the state by the three groups is that the Bosniac population favours a centralized state, while Bosnian Serbs prefer a looser version of federalism and the Bosnian Croat population is somewhere in between.³⁹ Bosnian Serbs are concerned with ensuring the survival of the Serb Republic while the Bosniac population generally would prefer a unified state. This tension became obvious when the proposed Constitutional reforms were attacked by Haris Silajdžić (a former Bosniac foreign minister and prime minister during the time of the conflicts) as not being comprehensive enough. It was Silajdžić's party SBiH (Party for Bosnia and Herzegovina) and the smaller Croatian party, HDZ (Croatian Democratic Union) 1990, which rejected the reforms⁴⁰, each for their own reasons. For the fringe HDZ 1990, the constitutional reforms would undermine the chances of the Bosnian Croats ever getting their own entity. For Silajdžić, however, the objective was in creating an ever centralized Bosnian state. While running for office in 2006, he argued for a "one man-one vote system."⁴¹ Naturally, Silajdžić's position was not acceptable to all in the state as the Bosniak population outnumbers

³⁷ Dejan Guzina, "Dilemmas of Nation-building and Citizenship in Dayton Bosnia," *National Identities* 9, no.3 (2007), 217-234.

³⁸ Florian Bieber, *Post-war Bosnia: Ethnicity, Inequality and the Public Sector Governance* (London: Palgrave 2005).

³⁹ Sofia Sebastian, "Leaving Dayton Behind: Constitutional Reform in Bosnia and Herzegovina," *Fundación para las Relaciones Internacionales y el Diálogo Exterior (FRIDE) Working Paper 46* (2007):1-20. On the latest developments on the respective Bosniak, Serb, and Croat position regarding constitutional changes, see Sofia Sebastian's paper on the "Constitutional Reform in Bosnia: Can the Stalemate be Broken?," presented at the ASN Convention in New York, April 14-16, 2011.

⁴⁰ Sebastian, 2007, 6.

⁴¹ Christopher S. Chivvis and Harun Đogo, "Getting Back on Track in Bosnia-Herzegovina," *The Washington Quarterly* 33, no. 4 (2010): 104.

the others. His comments made the Bosnian Serbs' leaders very concerned about the future of the entity of the Republika Srpska. Silajdzic's comments particularly enraged Milorad Dodik, the former president of the Serb Republic, who was up until then a moderate and a supporter of the Constitutional reforms.⁴² Both Silajdžić and Dodik were elected in 2006 and, as outlined by the tensions that arose over centralization, had largely stalled any progress on moving away from ethnicized politics. Silajdzic lost in the 2010 elections against Bako Izitbegovic, a moderate Bosniak representative of the Party of Democratic Action, but thus far a tit-for-tat politics continues unabated in Bosnia.

However, it would be too easy to identify various Bosnian ethnic leaders as the root cause of the divides in Bosnia and, accordingly, to look for the solution in the so-called civic forces of Bosnia (civic minded parties, civic NGOs, and so on). As Eldar Sarajlic lucidly explains, there are no pure civic parties in Bosnia.⁴³ The strongest candidate is definitely the Social Democratic Party which emphasizes the Bosnian national idea along the lines of the Bosnian civic identity. There are two problems, however, with such a claim. One is empirical – almost all members of the party are Bosniaks. This still means that in principle a unified Bosnian identity is attainable once Bosnian Serbs and Croats reject their nationalist leaders. However, the other problem is conceptual, for it shows that both ideals of Bosnia – civic vs. ethnic – are based on the false dichotomy. Following Brubaker, Sarajlic claims that “the ghost of the nation-state has been haunting Bosnia,” and that “the ethnic vs. civic dialectic in Bosnian politics represents two sides of the same coin, both of which are firmly embedded in the rule that cultural and political boundaries need to overlap, with differences pertaining to what type of cultural ‘content’ is deemed appropriate for defining the Bosnian common belonging.”⁴⁴ Ultimately, all parties in Bosnia pursue the chimera of the nation-state, albeit using different tools to achieve their objectives. Some (namely, civic-minded politicians) rely more on the French understanding of the nation-state; the others on the ethno-cultural (German) model of the nation-state. Either way, the civic and ethnic categorization cannot sustain itself. Bosniak leaders perceive the country primarily as their own, as members of the other communities have their own nation-states in the

⁴² Chivvis and Đogo, 104.

⁴³ Eldar Sarajlic, "The Ghost of the Nation-State: Recurring Ethnonationalisms and Bosnian Elections," the paper presented at the *Convention of the Association of the Study of Nationalities* (New York: 2011).

⁴⁴ Sarajlic, 6.

close vicinity. The others (Bosnian Serbs and Croats) agree that they belong to “wider national bodies with nation-state homelands in the immediate neighbourhood,” thus they openly pursue policies of creating smaller versions of their nation-state homelands. Social Democrats, as the major non-nationalist party, cannot escape this logic. Their inability to acknowledge (or to separate themselves from) their cultural debt to the Bosniak national discourse makes them unpopular among both the Serbs and the Croats.⁴⁵

These similar, yet divisive, political perspectives on the future of the Bosnian state show that competing nation-state building projects will continue to play a great role in determining the future of the joint state. As it stands today, Bosnia is a deeply divided state; neither a fully functioning federation, nor a republic. Neither side is ready to give up on the ideal of Bosnia as a nation-state, nor accept what Kymlicka has identified as the alternative to the nation-state - “multination citizenship” practices, or what Juan Linz has recently identified as a “state-nation.”⁴⁶ In the remaining part of this section the links between TJ policies and the competing nation-state building projects will be evaluated.

Valery Perry rightly notes that “reconciliation” is a word rarely mentioned in good faith in Bosnia. In her survey of reconciliation processes, she divides them into the following tracks: a non-governmental reconciliation (the incorporation of the experiences from other countries through the work of the so-called “conflict resolutionaires,” mediation efforts sponsored by the IC, the Association of Citizens-Truth and Reconciliation, and so on); research, training and education; and official governmental reconciliation. But, despite identifying certain progress in these areas, the overall conclusion is hardly optimistic as the principles of the zero-sum game are as prevalent in the sphere of reconciliation as they are in the more traditionally perceived world of politics.⁴⁷

Education is a very good example of the Bosnian style, rational choice approach to reconciliation. General scepticism about the engagement in cross community efforts has also

⁴⁵ Sarajlic, 6.

⁴⁶ See Alfred Stepan, Juan J. Linz, and Yogendra Yadav, *Crafting State-Nations: India and Other Multinational Democracies* (Baltimore: The Johns Hopkins University Press, 2011).

⁴⁷ Valery Perry, “A Survey of Reconciliation Processes in Bosnia and Herzegovina: the Gap Between People and Politics,” in Joanna R. Quinn (ed.) *Reconciliation(s): Transitional Justice in Postconflict Societies* (Montreal and Kingston: McGill-Queen’s University Press, 2009), 174-206.

been built in the Bosnian education system with segregation between the groups. Segregation in the Bosnian education system occurs in three ways. One is the idea of “two schools under one roof,” the second is the bussing of children to monoethnic schools, and the third is the practise of teaching the so-called “national subjects” in a way that expose children to separate and contradictory versions of who is to blame for the war in Bosnia.⁴⁸ The “two schools under one roof” is really two ethnically separate schools that share a physical space but not the same curriculum, teachers, or administrators. National subjects are those that are seen as central to national identities and are taught to children regardless of what their identity is. This is, obviously, not the case in Bosnia. Perhaps most extreme is the complete segregation by the bussing of children to mono-ethnic schools where they are taught by teachers of their ethnic background and the curriculum is also reflective of their ethnic background. The idea behind these policies that are supported by the communities is that since there is no agreement on shared history, geography, and language and literature, then the curricula the students are taught should be their own ethnic version of these subjects. In other words, Bosniak, Serb and Croat kids are taught history from textbooks that present the same events of the former war in Bosnia in a radically different way. What is truth in one textbook is deemed incorrect in the remaining two. The biggest debate over the issues of TJ in Bosnia and how they relate to the Bosnian political system is over the Srebrenica massacre of July 1995 when Bosnian Serb forces organized the single worst atrocity in Europe since WWII. Over the period of only five days, more than six thousand Bosniak men and boys were executed even though the city was supposed to be a safe haven defended by the UN peacekeeping troops.⁴⁹ Thus, whatever TJ and reconciliation mean, it is through this event that they are being evaluated in the case of Bosnia. It is for this reason that Jelena Subotic asserts that Bosnians still live in the Srebrenica straightjacket.⁵⁰ The Srebrenica massacre is legally defined as genocide by the ICTY, however, it did not stop the public debate over Srebrenica in Bosnia; that is, the extent to which Srebrenica could be seen as the symbol of

⁴⁸ Gordana Bozic, “Reeducating the Hearts of Bosnian Students: An Essay on Some Aspects of Education in Bosnia and Herzegovina,” *East European Politics and Societies*, 20, no. 2 (2006): 326.

⁴⁹ The exact number of Srebrenica victims is still not known. Through the use of DNA identity testing, the ICMP (the International Commission of Missing Persons) has revealed the identity of 6,186 Srebrenica genocide victims. Additionally, the DNA results support an estimate of 8,100 genocide victims.

⁵⁰ Jelena Subotic, *Hijacked Justice: Dealing with the Past in The Balkans* (Ithaca and London: Cornell University Press, 2009), 123.

the entire war in Bosnia or just a horrific incident that occurred a few weeks before the end of hostilities. In light of the never-ending debates over the character of the war (whether it was genocidal or not), it is tempting to dismiss the entire reconciliation process as a failure. Still, as was already presented in the previous section of this paper, Nettelfield tries to offer a more optimistic understanding of the role the Hague Tribunal has on post-war Bosnia. And, her conclusion is that even though we cannot talk about reconciliation, the Hague effect on the democratization of the country has been positive:

[w]ithout the Tribunal, Srebrenica family associations might not have been as successful at organizing networks around the genocide of July 1995; the Bosnian government would not have grappled with the fact that crimes were committed under its leadership; and NGOs would have been more reluctant to work in other entities. Local trial for war crimes most certainly would not have been held. Still, the Dayton Agreement has meant that trials have reverberated through a charged political environment that has sometimes made them look farcical.⁵¹

Hence, the overall Hague effect has been positive, while the negative aspects of reconciliation stem from the flows of the Dayton Agreement. But, even though I agree with Nettelfield that there are some discerning positive Hague effects on democratization, her overall conclusion is hard to accept. First, the Hague reconciliation effects on Serbia and Croatia is ambiguous at best even though these two countries do not have political system that is based on power-sharing arrangements. Moreover, as Jelena Subotic has shown in her book, the phenomenon of “hijacked justice” goes well beyond the Balkans, for the same problem could be found in Indonesia and East Timor, Cambodia, Burundi, and elsewhere. Accordingly, even though Subotic is critical of the Bosnian-style federalism, it would be hard to identify hijacked justice with a specific institutional model of justice, or a particular political environment.⁵²

Subotic insists that TJ institutions have become very popular in addressing past abuses in the post-conflict societies, while at the same time such states “use these mechanisms to achieve goals quite different from those envisioned by international justice institutions and activists.”⁵³

⁵¹ Nettelfield, *Courting Democracy in Bosnia and Herzegovina*, 292.

⁵² Subotic, 172-188.

⁵³ Subotic, 6.

She insists that analysts should not only focus on whether or not states comply with a TJ framework, but also how and why they comply. Subotic proposes an analytical framework that is based on distinguishing between four major state and societal coalitions: true believers who fully support the normative principles of TJ; norm resisters; instrumental adapters; and international norm promoters. Her argument is very simple but effective – in situations when norm resisters and instrumental adopters are stronger than true believers, the normative and institutional compliance will take the forms that are unanticipated by the international promoters.⁵⁴ That is, such states (or various coalitions within such a state) will engage in appropriating TJ initiatives according to their own respective political objectives.

The case of Bosnia is symptomatic in this regard. In what follows three examples will be briefly presented to illustrate the ways in which the norms and institutes of TJ were appropriated for the purposes of daily politics: international justice and the symbolism of Srebrenica; the Oric trial; and the “right” number of the war casualties in the Bosnian war.⁵⁵ From the very beginning of the Dayton Bosnia, the Bosniaks have shared an understanding that they were victims of genocide. Subotic rightly asserts that this was the reason why they were much more interested in the genocide case in front of the International Court of Justice (ICJ) than in the individual cases before the ICTY.⁵⁶ The genocide conviction was first passed in 2001, when the ICTY clearly stated in its verdict against the Bosnian Serb commander Radislav Krstic that: “[B]y seeking to eliminate a part of the Bosnian Muslims, the Bosnian Serb forces committed genocide. They targeted for extinction 40,000 Bosnian Muslims living in Srebrenica, a group that was emblematic of the Bosnian Muslims in general.”⁵⁷ This ruling was hailed as “historic” in the Bosnian media. It also created optimism that a similar ruling would soon follow in the case of Bosnia vs. Serbia at the International Court of Justice. The hope was that by winning the genocide case against Serbia, the Bosnian war should be finally redressed as a war of aggression and genocide against Bosnia, which would then have necessitated the abolition of Republika Srpska and Serbian reparations to Bosnia. In other words, what could not have been achieved

⁵⁴ Subotic, 6-8.

⁵⁵ The number of books and articles that cover the aforementioned issues is enormous. But, a very good overview of these topics is in Subotic, 122-165; Nettelfield, *Courting Democracy in Bosnia and Herzegovina*; and Gerard Toal and Carl T. Dahlman, *Bosnia Remade: Ethnic Cleansing and its Reversal* (Oxford: Oxford University Press, 2011).

⁵⁶ Subotic, 154.

⁵⁷ *Prosecutor vs. Krstic*, Appeals Chamber Judgment, April 19, 2004.

during the Dayton negotiations, could have been finally achieved through the Court ruling. However, in February 2007, the ICJ issued a ruling that cleared Serbia of direct responsibility for the genocide and any complicity in the genocide that happened between 1992 and 1995. Also, the ruling reiterated the ICTY decision that the only confirmed case of genocide in Bosnia is the one committed by the Bosnian Serb forces in Srebrenica.⁵⁸ At the end, as much as the Bosniak intellectuals and leaders experienced the ICJ's ruling as the slap in the face, Serbia's authorities took a big sigh of relief. The decision let them off the hook and effectively undermined the Bosniak claims to identify the war as the one of aggression and genocide against Bosnia. At the same time, this has weakened their arguments against Republika Srpska and in favour of a stronger unitary Bosnian state.

The Oric case was the first case that tested Bosniaks' trust in the work of the ICTY. Unlike in the previous cases, this time, it was one of their own that was on trial. Naser Oric was a Bosniak war commander in the area around Srebrenica. The NATO forces arrested him in 2003 for the crimes committed against the Bosnian Serbs in the Serbian villages surrounding Srebrenica in 2002 and 2003. Oric's arrest and transfer to The Hague provoked many Bosniaks to accuse the Hague Tribunal as playing the ethnic balance game.⁵⁹ Thus, for the Bosniak side, such an arrest was, in the words of one of the representatives of Mothers of Srebrenica (local NGO), a shameful act, because his only crime was to "defend his own people." Others in the Bosniak community have argued that Oric's crimes - the killing of seven Serbs - are far less than offences committed by thousands of former Serb soldiers, none of whom have been indicted. On the other side, as the journalist reported at the time, a local Serb, and the head of the association of war invalids in a Serbian village, Bratunac, had said that, "Naser's departure to The Hague proves that justice will reach everyone. With this happening we are beginning to believe a bit more that The Hague is not biased, that it is not arresting only Serbs, but all those suspected of committing crimes."⁶⁰ In July 2006, Oric was sentenced to two years in prison to be immediately released for time already

⁵⁸ See Richard J. Goldstone and Rebecca J. Hamilton (2008), "Bosnia v. Serbia: Lessons from the Encounter of the International Court of Justice with the International Criminal Tribunal for the Former Yugoslavia," *Leiden Journal of International Law*, 21 (2008): 95-112.

⁵⁹ See Amra Kebo, "Regional Report: Bosnian Fury at Oric Arrest," Institute for War and Peace Reporting (IWPR), 22 February 2005. Available on line: <http://iwpr.net/report-news/regional-report-bosnian-fury-oric-arrest> (accessed on May 1, 2011).

⁶⁰ Kebo, 2005.

served. On his way back from The Hague, Oric enjoyed a hero's welcome home, which once more "proved" to local Serbs that the ICTY is biased against them and that it should not be trusted.⁶¹

Finally, how many people died in the Bosnian war? During the war days, international media reported the loss of more than 200,000 human lives. This figure was based on the UN Expert Commission's Report on war crimes in Bosnia that was released in 1994. However, even before the release of the report, similar figures were freely circulated in the media without journalists ever bothering to substantiate them. After the war, these figures were further supported by claims that 160,000 victims were Bosniaks, 30,000 Croats, and 25,000 Serbs.⁶² It is not a wonder then that everybody was caught by surprise when the Research and Documentation Center, an NGO based in Sarajevo, has first published its data (the so-called Book of Dead) on the number of dead in the war. The Center confirmed 97,207 people being killed in war (60 percent soldiers and 40 percent civilians), a much smaller figure than the one usually circulated in the media reports. According to the ethnic demographic of the dead, 64,036 were Bosniaks, 24,905 Serbs, and 7,788 Croats (that is, around 65 percent of all victims were Bosniaks, 28 to 30 percent were Bosnian Serbs, 5 percent Croats, and 2 percent "other"). At the same time, the statistics are rather different for the civilian casualties: more than 80 percent of civilian victims were Bosniaks, 10 percent were Bosnian Serbs, and around 5 percent Bosnian Croats.⁶³

In December 2005, when the first results of the Research and Documentation Center became public, the Bosniak political and intellectual elites publicly attacked the Center's projects on the following grounds: methodology, integrity of the people involved in it, sources of finding, and so on (the Center is internationally sponsored, like any other NGO in Bosnia). What was hard for the Bosniak leadership to swallow was that the head of the project was a Bosniak himself, Mirsad Tokaca whose center works under the slogan – Truth now, peace forever. Of course, the rationale for dismissing the work of the Center has been the fear that a decrease in the reported

⁶¹ Subotic, 131. Subotic maintains that the most controversial aspect of the entire case is the judicial justification of the sentence, according to which the abysmal conditions in Srebrenica "has led to such a breakdown of law and order that Oric could not be held accountable for the crimes committed by his troops (p. 130)."

⁶² See Srebrenica Genocide Blog at <http://srebrenica-genocide.blogspot.com/2009/10/how-many-people-died-in-bosnian-war.html> (accessed on May 2, 2011).

⁶³ The figures are regularly daily updated by the Center. They could be accessed on the Center's website: <http://www.idc.org.ba/> (last accessed on May 2, 2011).

numbers of dead will undermine the official narrative that the war against the Bosniaks was genocidal in its character and thus that the Republika Srpska, as an illegal and illegitimate outcome of such a war, should be abolished. Of course, this is exactly how this was interpreted in the Bosnian Serb (and also Serbian) media. However, as Mirsad Tokaca himself has aptly explained: “Genocide is not a question of numbers; it is the matter of the identity of the victims.”⁶⁴ And, the figures definitely support the fact and the consequences of the Bosnian Serb policies of ethnic cleansing towards Bosniaks. After all, more than 80 percent of the civilian casualties are identified as Bosniak.

In conclusion, all these examples have shown that the international efforts to individualize responsibility have had only a limited success in the Bosnian context. The competing narratives over the war in Bosnia revolve around whether Republika Srpska is a legitimate entity or not. In the eyes of Bosniaks, it is not, for they were victims of genocide; in the eyes of the Bosnian Serbs, Republika Srpska is a legitimate expression of their need to protect themselves against the potential physical threat of other communities in Bosnia. In order to support this claim, the 1992-1995 war in Bosnia is being connected to the Bosnian Serb horrific experiences during the WWII. The way these competing narratives are posited against each other leaves no room for compromise. More than fifteen years after signing the Dayton Agreement, these narratives are still holding their sway over both local populations and their respective elites. Caught in between, the international and domestic mechanisms of transitional justice could only fail to make bridges between different communities. In the cases when TJ seems to have been working this has not been so much because of its restorative or democratization potentials. Rather, various local civic and political organizations have always been ready to accept TJ mechanisms to strengthen their respective nation-building projects. In the process, the normative and institutional potentials of TJ have quite often been emptied/hollowed out. This is not to say that there are not “true believers” in TJ principles in Bosnia, but their voice is rather weak amidst the cacophony of voice that is being produced by competing nation-building projects.

Macedonia: A Qualified Success, but For How Long?

On 13 February 2011, the Macedonian daily *Vecer* reported that around ten people were injured in a brawl between ethnic Macedonians and Albanians at the Kale Fortress in Skopje. According

⁶⁴ Quoted in Subotic, 155.

to the Vecer report, almost one hundred people had gathered for a protest, aiming to protect the construction of the Christian Orthodox church shaped museum, while at the same time an Albanian NGO called Wake Up had a counter-protest fearing that building yet another church in a Skopje neighbourhood with a large ethnic (predominantly Muslim) Albanian population can only be interpreted as a political provocation against them. The two groups met at the entrance of the fortress and started throwing stones at each other until the special police forces managed to separate them. The Macedonian Albanian NGO asked for the resignation of Pasko Kuzman, the director of the directorate for cultural heritage protection. Nobody thinks, however, that the problem is so easily fixable. At its heart, there is a clash between radically different visions of nationhood and citizenship in Macedonia. This recent spate of violence is not the first one and certainly not the last one. What is symptomatic, however, is that the fight erupted between the members of supposedly civic organizations, showing the extent to which Macedonian civil society failed to integrate across the ethnic divides almost twenty years after the emergence of the independent Macedonian state. As was hinted at in the introduction to this paper, the Macedonians never tried to formalize any TJ mechanisms. Thus, while discussing the Macedonian case, I am evaluating Macedonian policies through the lenses of multicultural citizenship (that is, types of policies and civic activism that aim at integrating the country). As will be seen, despite some progress in terms of a more equitable representation at the local and state-administrative level, the overall Macedonian record is rather unpromising in this regard.

The Former Yugoslav Republic of Macedonia emerged as an independent state in 1991. The original constitutional set up of Macedonia as a unitary state was based on the Westminster principles of parliamentary democracy, on the one side, and on the recognition of the constitutive character of the Macedonian nation, on the other. Even though members of national minorities were granted full citizenship rights, the normative foundations of the state were based on an understanding that the newly emerged state was first and foremost a state of the Macedonian people (Preamble to the Constitution of Macedonia 1991). Still, due to the territorial concentration of the ethnic Albanian population in the north-western parts of the state, the majoritarian electoral rules did not affect the Albanian representation in the Macedonian Parliament. Also, due to the split in vote between the two major Macedonian parties (social democrats-SDPM and conservatives/nationalists VPMRO-DPMNE, Democratic Party for Macedonian National Unity), every single government in the 1990s was organized as a coalition

between one major Macedonian party (SDPM or VPMRO-DPMNE), one major Albanian party, and at least one smaller party representing one of the remaining Macedonian minorities (Turks, Roma, Vlachs, Serbs...). Thus, from the very beginning of the Macedonian independence, certain elements of power sharing have been present within the system, albeit in an informal fashion. Overall, however, the consensus among ethnic Macedonian political elites was to build Macedonia as a nation-state, rather than a state in which more than a third of the population belongs to various non-Macedonian ethnic groups. Nowhere was such a proprietary understanding of ethnic Macedonians as a *Staatsvolk* more prevalent than in the various levels of the state administration and public companies, where more than 85% of employees identified as ethnic Macedonians, while only 7% as ethnic Albanians despite the local Albanian estimates that they represented close to one third of the Macedonian population at the time.⁶⁵

The original set-up of the country collapsed in 2001 as a result of the violent clashes between armed Albanians (led by the so-called Macedonian Albanian National Liberation Army - NLA) and Macedonian security troops. At the root of this conflict has been the political mobilization of many social cleavages under the umbrella term of ethnicity. As Brunbauer has shown in his evaluation of various census data in Macedonia, Albanians throughout the post-WWII period were distinguishable from the majority population by being less educated, more rural and having higher birthrates. In the 1990s, all these social cleavages (rural vs. urban, marginal vs. non-marginal, state-employed vs. self-employed, state centered vs. keen centered, traditional vs. modern) further separated the social and economic interests of Macedonian Albanians from ethnic Macedonians.⁶⁶ In the spring of 2001, the violent dynamics of the events in neighbouring Kosovo between the Kosovar Albanian population and the Serbian security troops had a delayed spill-over effect on Macedonia. Even though the events in Macedonia were primarily influenced by domestic tensions, Albanians in Macedonia imitated the Kosovo scenario to a certain extent when opting for violence as a means of expressing their dissatisfaction with their status as second-rate citizens.⁶⁷

⁶⁵ Izvestaj Helsinskog komiteta za ljudska prava, Skopje 1999.

⁶⁶ Ulf Brunnbauer, "Fertility, Families and Ethnic Conflict: Macedonians and Albanians in the Republic of Macedonia, 1994-2002," *Nationalities Papers* 32, no. 3 (2004): 590.

⁶⁷ Farimah Daftary and Eben Friedman, "Power-sharing in Macedonia?", 268-270 in Marc Weller, and Barbara Metzger. *Settling Self-determination Disputes: Complex Power-sharing in Theory and Practise* (Lieden/Boston: Martinus Nijhoff Publishers, 2008), 265-306.

After few months of sporadic violent actions between two sides, the international community (the OSCE, the EU, the USA, and the NATO) “encouraged” the leaders of the biggest Macedonian parties to negotiate the Ohrid Framework Agreement, which was signed on August 13, 2001.⁶⁸ One of the alleviating factors for coming to an agreement in a relatively quick and painless fashion was that, unlike in the case of Bosnia where the conflict was ultimately over redrawing the state borders, Albanian representatives did not challenge the territorial integrity of the Macedonian state but were negotiating in favour of achieving a more equitable status in a society through the processes of decentralization, proportionality and non-discrimination. At the same time, their Macedonian counterparts were primarily concerned with inaugurating the principle that there are no territorial solutions for ethnic conflicts. Both sides got what they hoped for. The final product thus represents an uneasy mix of the principles favouring the unitary state, on the one side, and power sharing institutional arrangements, on the other side. By giving each side something to hold on, its ultimate goal has been to encourage ethnic Macedonians and Albanians to resolve their problems through institutional bargaining rather than fighting.

Ultimately, however, the Framework Agreement depends heavily upon the various Macedonian ethnic elites’ support for its fundamental pillars: equal representation; dual majority principle; decentralization; and the more equitable use of the Albanian language at the state level.

Compared to the Bosnian Dayton Peace Agreement, it proved to be much more flexible and successful. But, as Florian Bieber reminds us, “it is considerably easier to make peace after eight months of skirmishes with around 200 victims, than after three and half years of war and over 100,000 dead’.⁶⁹ Throughout the post-2001 period, public polls have persistently shown little or no support for the maximalist claims on both sides.⁷⁰ At the same time, however, one third of Albanians still justify the use of violence for political gains⁷¹, while a rather small minority of ethnic Macedonians (24%) fully supports the Agreement. Instead, the overwhelming sentiment is that the international community imposed the Agreement in a way that rewards Albanians “more

⁶⁸ Robert Hislope, “Between a Bad Peace and a Good War: Insights and Lessons from the almost-War in Macedonia.” *Ethnic and Racial Studies* 26, no. 1(2003): 129-151.

⁶⁹ Florian Bieber, “Power-Sharing and the Implementation of the Ohrid Framework Agreement,” 7 in: Stefan Dehnert, and Rizvan Sulejmani (eds). *Power Sharing and the Implementation of the Ohrid Framework Agreement*. Skopje: Friedrich Ebert Stiftung, 2008: 7-40.

⁷⁰ See regular UNDP Early Warning Reports for Macedonia 2004-2008.

⁷¹ Saso Ordanoski and Aleksandar Matovski, “Between Ohrid and Dayton: The Future of Macedonia’s Framework Agreement,” Forum, Centar za strategijski istrazivanja i dokumentacija: Skopje, 2007. <http://www.forum-csrd.org.mk/> (accessed August 24, 2009).

than they deserve.” Not surprisingly, Albanians are overwhelmingly in favour of the Agreement (83%), while their dissatisfaction targets their respective political representatives for not always following it to the letter.⁷² Overall, the populace and politicians on both sides of the ethnic divide approach the agreement almost exclusively in terms of a zero-sum game according to which the gain of one side has to be interpreted as a loss of the other. In what follows, a more elaborate evaluation of the Agreement’s pillars and its links to the Macedonian party and electorate system will be presented.

The multi-ethnic executive system in Macedonia is not institutionalized in the system, and yet since its independence Macedonia has always had a coalition government. This is not so much related to the particular type of its electoral system: SMD (single member district)-two rounds majority system until 1994, a combination of a SMD for 85 mandates and PR (proportional representation) party lists for 35 mandates in 1998, and a proportional system based on D’Hondt formula after 2002. Rather, a coalition type of the government grew out of a peculiar ethnic demographic picture of the Macedonian state. According to 2002 census, ethnic Macedonians represent 64.2% of the population. However, both the size (25.2% of the population) and relative territorial concentration of ethnic Albanians in the north-western parts of Macedonia allow major Albanian parties to have a strong say in the Macedonian parliament (*Sobranie*). Hence, an informal rule emerged that the electoral winner always picks up one Albanian party as a coalition partner, irrespective of ideological and programmatic differences between the two.

Thus, the Macedonian party system is an essentially bipolar system where the central position belongs to two major Macedonian parties: Social Democratic Union of Macedonia (SDSM) and Internal Macedonian Revolutionary Organization-Democratic Party for Macedonian National Union (VMRO-DPMNE). The former is an offspring of a Macedonian Communist Party, while the latter is a centre-right, nationalist party. SDSM was at helm from 1991 to 1998, and from 2002 to 2006, while the VMRO-DPMNE controlled the parliament between 1998 and 2002 and is again in control of the coalition government from 2006.⁷³

⁷² Blagoja Kuzmanovski, " Osam godina od potpisivanja Ohridskog sporazuma," Radio Slobodna Evropa. <http://slobodnaevropa.org> (accessed August 20, 2009).

⁷³ Mirjana Maleska, "The General and Direct Elections for President of the Republic Should Be Abandoned." New Balkan Politics. <http://newbalkanpolitics.org.mk> (accessed August 29, 2009), and Mirjana Maleska, Lidija Hristova, and Jovan Ananiev, *Power Sharing: New Concept of Decision Making Process in Multicultural Municipalities*. Skopje: The EU Funded Project, 2006.

On their part, the differences between all Macedonian Albanian parties are related to the question of leadership and where they stand on the issue of the status of Albanians in Macedonia. In the 1990s, two major parties were the Party for Democratic Prosperity (PPD) and the Democratic Party of Albanians (DPA). The former party was calling for the changes in the constitutive status of Albanians, while the latter was in favour of the creation of the post of the Vice-President, belonging to an Albanian ethnic community. Also, both parties were firmly in favour of language policies, and territorial decentralization, even though DPA had a firmer stand on these issues and was in favour of the binationalization/federalization of Macedonia.⁷⁴ In 2002, a new Albanian party emerged out of the political wing of the National Liberation Army – Democratic Union for Integration (DUI). Its party program is not so much different from the previous two; however, due to their credentials as being ready to fight for the Albanian cause, DUI emerged as the most popular Albanian party in the post-Ohrid period. Still, most analysts would agree that overall the practical contingencies are obscuring any real programmatic differences between all Macedonian parties.⁷⁵

If the informal power-sharing arrangements at the executive level were already present in the pre-Ohrid period, this is certainly not the case with two other pillars of the Ohrid Framework Agreement: double majority and local self-government. The double majority principle provides an indirect veto for minority representation in the sensitive areas of language, culture, education, and local self-government. The right to the veto is defined in the Clause 5 under the Framework Agreement in the following manner: “the laws that relate directly to culture, use of language, education, personal documentation and use of symbols, as well as laws on local finances, local elections, the City of Skopje and the municipal border, will have to be adopted with majority of votes. That includes majority of votes of the parliamentary members that claim not to be representatives of the majority population of Macedonia (2001).” In addition, in the cases where is not clear whether the double majority principle should be applied or not, the Framework proposes the establishment of a Committee on Inter-ethnic Community Relations. According to

⁷⁴ Eben Friedman, "Electoral System Design and Minority Representation in Slovakia and Macedonia," *Ethnopolitics* 4 (2005): 387-388.

⁷⁵ Dane Taleski, "Minorities and Political Parties in Macedonia." In *Minority Participation and Political Parties in the Balkans*. Skopje: Fes/ECMI, 2007). Pp. 127-151. See also Friedman 2009; Bieber 2008; Gordana Davkova Siljanovska, "Makedonske politicke partije kroz prizmu ideologije," in: Zoran Lutovac (ed.) *Politicke stranke i biraci u drzavama bivse Jugoslavije*. Fridrich Ebert Stiftung: Beograd, 2006. Pp. 205-236.

Amendment XII (Article 78) of the 2001 Constitution, the Committee is to be comprised of 19 members: “seven members from each of the groups of Macedonian and Albanian parliamentary members, five members representing the Turks, Vlachs, Roma and other two communities.”

In the period between 2002 and 2006, the major members of the coalition government were Macedonian social democrats (SDSM) and Albanian DUI. Given that together they commanded a dual majority, there were no problems passing new laws in the mentioned areas. Also, and despite the resistance of the Macedonian general public, the representation of ethnic communities in public administration increased dramatically from 2 to 16.3%. At the same time, the gap between the percentage of Albanians in society and their participation in civil services was substantially reduced: in the police, from 2 to 16%; in the Ministry of Defence, from 2 to 14%; and in the Ministry of Economy from 5 to 24%.⁷⁶ Thus, it is fair to conclude that some elements of multicultural citizenship were finding their way into the fabric of the Macedonia state.

The problems with the veto rule, however, started in 2006 when the biggest Macedonian party (VMRO-DPMNE) defeated SDSM in the elections. Even though DUI emerged as the strongest Albanian party in the parliament, the leader of the VMRO-DPMNE and Prime Minister designated, Nikola Gruevski, has opted to create a coalition government with the second largest Albanian party (DPA). By excluding Democratic Union for Integration from coalition he failed to achieve enough parliamentary seats to control the dual majority in the parliament. This development pushed the coalition government into a crisis because the DUI effectively boycotted parliament thus making it impossible to pass some major legislations regarding inter-community sensitive issues, but also legislation required for EU accession. Moreover, opting for the DUI's major local Albanian competitor (DPA) created an all-out, intra-ethnic tug of war between two major Albanian parties that raged full two years. Finally, during 2008 elections, violence exploded between the supporters of the two major Albanian parties, showing the precariousness of the intra-ethnic balance among Albanians in Macedonia.⁷⁷

⁷⁶ Elmira Mehmeti, “Implementation of the Ohrid Framework Agreement,” p.78 in: Stefan Dehnert, and Rizvan Sulejmani (eds). *Power Sharing and the Implementation of the Ohrid Framework Agreement*. Skopje: Friedrich Ebert Stiftung, 2008. Pp. 67-88.

⁷⁷ Gordon N. Bardos, "The New Political Dynamics of Southeastern Europe." *Southeast European and Black Sea Studies* 8 (2008): 175; Manco Mitevski, "Macedonia: Violence Has No Ethnicity," *Transtions on Line*. www.tol.cz (accessed August 15, 2009).

The governmental move to reject the Democratic Union for Integration as a possible coalition partner also showed the precariousness of the inter-ethnic balance in Macedonia. The DUI responded by claiming that (as the strongest Albanian party) they should be considered as the only truly, legitimate candidate for the coalition government, even though the question of the coalition making was never part of the double majority principle.⁷⁸ In May 2007, and at the pressure of the IC (the EU and the USA), the VMRO government accepted the DUI as its new coalition partner. Still, both “partners” continued to play hard, leading to the early 2008 elections. The leader of the VMRO-DPMNE tried once more to outmanoeuvre the DUI’s leader Ali Ahmeti by organizing a coalition of twenty smaller parties, in which eleven parties claimed to represent various Macedonian minorities. The underlying idea was to boost the number of minority representatives in the parliament and thus achieve control of both the simple majority and majority of minority votes. The Democratic Union (DUI) responded by threatening to open negotiations over the Ohrid Agreement and that they would put federalization of the country at the negotiating table. Afterwards, both sides agreed to work together creating yet another coalition government in Macedonia.⁷⁹ However, the latest incidents over building the church at the Kale fortress show how precarious this coalition is and also how, when comes to the issues of “defending” one’s national interests, the differences between political and civic interests collapse. Moreover, despite the certain integrative aspects of the Macedonian citizenship policies and the Constitution, the politics of “memorization,” that is being pushed by both sides effectively undermines the Macedonian-style multiculturalism. In that regard, the Kale fortress is just the tip of the iceberg that covers the uncompromising nation-building projects that are built around the radically different ethnic cores of ethnic Albanian and Macedonian nations – language, religion, and history.⁸⁰

⁷⁸ Aleksandar Matovski, “Macedonia after Bucharest: Avoiding Another European Failure in the Balkans,” Paris: European Union Institute for Security Studies, 13 June 2008: 2. <http://www.iss.europa.eu> (accessed August 21, 2009).

⁷⁹ Matovski 2008; Ordanoski and Matovski 2007.

⁸⁰ In the interviews that I did last May in Skopje, my Albanian interlocutor clearly explained to me that Skopje’s fight against Greece over the name of the country is not their fight and that symbolism of Alexander the Great in the current Macedonian discourse (that is being pushed by the government) not only leaves them uninterested in the affairs of the state, but also makes them wonder about the potential of the second-rate status in such a state. It also provokes an equally damaging Albanian (at least, from the perspective of the unity of the country) response with its competing narrative of the Gjergj Kastrioti Skanderbeg, a fifteenth century Albanian national hero.

Another negative aspect of this zero-sum game between the two major Albanian and Macedonian parties considers the spill-over effect of the parliamentary “wars” in 2006/7 on the process of decentralization and local self-government. In principle, 2002 Law on self-government and 2004 adjustments of the municipal borders were envisioned to allow ethnic Albanians to have a sense of being in charge in those municipalities in which they represent either a substantive minority or majority.⁸¹ In addition, a double majority principle was replicated at the municipal level. This was done not only to protect minorities but also out of fear that local Macedonians might become second-rate citizens in multiethnic communities where they are minorities themselves.

However, the local self-government reforms were not based solely on the principles of power sharing. Instead, the mayoral elections at the local level were envisioned according to the majority principle.⁸² Not surprisingly, this rule allowed municipalities with the Albanian majority to be under control of politicians belonging to local majorities. In 2006/7, almost all of them were simultaneously members of the DUI, which allowed them to boycott many governmental initiatives. On its side, the VMRO-controlled government was trying hard to undermine the entire process of decentralization and local self-government by slowing down the legislature in the parliament. Finally, after they won the 2008 elections, and being forced once more to enter into the coalition with the DUI representatives, the government softened its stance on the issues of local government. Nevertheless, many analysts believe that VMRO’s 2008 electoral victory represents the victory of ethnic nationalism in Macedonia,⁸³ and that their style of government since 2006 has in fact further removed ethnic communities from each other.

The aforementioned overview of the Macedonian power sharing should also be linked to the very important Macedonian debate over what the “right” number of different members of Macedonian communities is. In the past 20 years, Macedonia had three systematic counts of population (in 1991, 1994, and 2002). Albanians boycotted the internationally sponsored census in 1994, but they participated in 2002 Census. The usual perception/estimates in the 1990s have been that ethnic Albanians represented at least 30% of the population, while the official Macedonian

⁸¹ Eben Friedman, "Electoral System Design and Minority Representation in Slovakia and Macedonia," *Ethnopolitics* 4 (2005): 381-396.

⁸² Mirjana Maleska, Lidija Hristova, and Jovan Ananiev, *Power Sharing: New Concept of Decision Making Process in Multicultural Municipalities* (Skopje: The EU Funded Project, 2006): 20.

⁸³ Ordanovski and Matovski 2009.

census results would put this figure to 21.7%.⁸⁴ The census results for 2002, however, put the Albanian figures at 25.2% of the population,⁸⁵ which is still much higher from the previous projections of the Macedonian State Statistical Office.

Most of studies in the 1990s also claimed that the Albanian birth rates were much higher than those of Macedonians,⁸⁶ sparking fear among Macedonians that their country would be “taken over through sheer numbers.”⁸⁷ However, the census results since 1981 do not support such a claim. The rise of the Albanian population is steady, but less dramatic (20% in 1981, 21.7% in 1991 and 25.2% in 2002). Still, the census results show that while the percentage of other minorities remains relatively stable, the ethnic Macedonian share is slowly reducing – from 66.3% in 1991 to 64.2% in 2002.⁸⁸ To complicate things further, even though there are clearly identified areas where Albanians represent local majority, almost half of its population lives in and around municipalities where they are minority. At the same time, more than one hundred thousand Macedonians live as minority in their own country in municipalities dominated by local Albanian majority.⁸⁹ Thus, in addition to the debates over the achievements of the Ohrid Agreement in the past ten years, the question that most Macedonians keep constantly asking is whether or not the political elites’ commitment to the Ohrid Framework Agreement can survive any substantive changes in the Macedonian ethnic demographic setup? Of course, these type of question make sense only to the extent that the very idea of the “nation-state” remains the guiding light for all the major parties in Macedonia.

Conclusion

The implementation of the Dayton Agreement in Bosnia and the Ohrid Framework Agreement in Macedonia represents a qualified success for the supporters of power sharing. Bullets were successfully replaced with ballots in Bosnia, while in Macedonia Albanians reached a much more equitable position in society (public employment, education, the use of language and other

⁸⁴ Bieber 2008, 16.

⁸⁵ Popis na naseleineto 2002.

⁸⁶ See Robert Albion, and Adam Albion. “Success in the Balkans. A Case Study of Ethnic Relations in the Republic of Macedonia,” in Ian Cuthbertson and Jane Leibowitz (eds.) *Minorities: the New Europe’s Old Issue* (Boulder and New York: Westview Press, 1993).

⁸⁷ Ivanka Nedeva Atanasova, “Transborder Ethnic Minorities and Their Impact on the Security of Southeastern Europe (p. 371),” *Nationalities Papers* 32 (2004): 355-422.

⁸⁸ Bieber 2008; Popis 2002.

⁸⁹ See Maleska, Hristova, Ananiev 2006.

national symbols). Despite the important differences in the institutional setup of Bosnia and Macedonia, the power-sharing arrangements did not alleviate the majority's fear of Bosnia being split into two or three independent entities/states, or Macedonia becoming a bi-national state. Moreover, in the case of Macedonia, other minorities (Turks, Roma, Serbs, Vlachs) were pushed aside and forgotten in a deal between the "strong Albanian minority" and the "weak Macedonian majority." Yet, unlike in the case of a rigidly applied consociationalism in Bosnia, Macedonian institutions provide for much more flexibility. New Constitutional Amendments (2001) provide for civic citizenship, presidential elections allow for multiethnic cooperation, and local self-government is organized according to the EU principle of subsidiarity rather than ethnic quotas. Unfortunately, the majority principle at the municipal level in a country where every decision is sifted through the prism of ethnic lenses has worked against the expectation of the policy advisers, leading to the consolidation of power at the ethnic level in the hands of the local majority, rather than through the incorporation of all citizens in the municipal power structures irrespective of their ethnic origin.

In divided societies such as Bosnia and Macedonia, the role of the state and the relationship between its citizens has been and still is conditioned by controversial relations between ethnic majorities and minorities. Despite the democratic rhetoric in their respective Constitutions, the prevailing model of the state in both Bosnia and Macedonia is still an uneasy mix between two traditional nineteenth century European models of modernization – the French and German. If the French model emphasizes political homogenization and centralization, the German model legitimizes the links between various local ethnic majorities and parts of the state. Power sharing did not change this logic; it just adjusted to it. The fear of minorities' claims for a greater saying in the affairs of the state is not alleviated so much as it is subdued under various power-sharing arrangements that affects the way civil society is organized as well.

Under such conditions, it is no wonder that TJ mechanisms have become "hijacked" or simply incorporated into the logic of nation-state building. But, we should be more careful while discussing the negative relationship between TJ, politics of reconciliation and power sharing. TJ literature is based on the assumption of the negative correlation between the two – the more rigid power-sharing mechanisms are being applied, the less likely that TJ will work. Still, the assumed negative relationship between the two (TJ and power sharing) relies heavily on the problematic assumptions of the democratization and TJ literature that there should be "consensus among

citizens that they form a single sovereign people.” As Kymlicka has argued, the ultimate objectives of TJ – security, human rights guarantees, and democratic accountability – are better perceived as the social preconditions needed for certain innovative forms of multinational citizenship to emerge, and thus alleviate the fear that is based on the politics of competing nation-building projects.⁹⁰ However, it is unclear how this could be done. For, federalism is the one institutional arrangement that weak majorities in both Bosnia and Macedonia fear most. They see such an arrangement as a possible next step towards the break-up of their respective countries. And, one may add, their fears are justified by the counter-moves of their ethnic counterparts.

In conclusion, Snyder, Roeder and Rothchild’s critique of power sharing seems to be fully corroborated in the cases of Bosnia and Macedonia. Still, even though my survey of Bosnian and Macedonian practices with power sharing supports some of the findings of Snyder and others that are critical of power sharing, the alternative seems to be equally flawed. This is because the critics of power sharing do not have much to say as to how to extinguish the “ghosts of the nation-state building” in divided societies. As both cases have shown, the supposedly civic political parties or organizations are ultimately based on a particular type of a cultural matrix that rightly looks suspicious to members of other communities in the respective states. Thus, we are left with the Catch 22: power sharing is important and necessary for stabilizing post-conflict societies, while at the same time its long term consequences are best described in terms of a further freezing of ethnic divides. Various forms of national stewardship, power-dividing mechanisms, and further international support of TJ and the work of NGOs are needed, but they come at the price of undermining the very principles of local ownership; that is, the right of citizens of respective local communities to decide on their own their own fate, even though it might not be to the liking of their international mentors.

⁹⁰ Kymlicka, 328.