

Bosnia revisited: a retrospective on the legacy of the conflict

Brad K Blitz

It is instructive to review the legacy of both the conflict in Bosnia and Herzegovina and the post-war settlement and experience in order to appreciate how this European conflict set the stage for major institutional developments in the field of humanitarian protection, and how, after 20 years, the lessons which emerged from this experience are being ignored.

While more than 1.2 million Bosnians still have not returned after fleeing the conflict, the vast majority successfully received refugee status in countries of asylum. Germany and Austria took in hundreds of thousands of refugees, most of whom were given temporary protection for four to five years and later either returned to Bosnia or moved on to third countries such as Australia. Other countries such as Sweden,

the United States, Canada and the United Kingdom granted refugee status, though in smaller numbers. As a result, Bosnia and Herzegovina (BiH) established a large and important diaspora which its government has turned to in the hope it may assist with the economic revival of the country.

In addition to providing international protection, the international community invested heavily in a programme of political

reconstruction. It created a Human Rights Chamber, an International Criminal Tribunal for the Former Yugoslavia (ICTY) and, later, special war crimes courts operating within the region. It also established the Office for the High Representative and saw institutions pass from UN to European control during a phase of marked supranational development and European integration. While Europe impressed its design on the former Yugoslavia – for example by pressing for greater regional cooperation and by drafting multi-staged roadmaps that would, if followed correctly, open the door to European Union accession – BiH emerged from the war less as an independent state and more visibly an international protectorate.

The most glaring example of Western political interference was the imposition of a new constitutional order by means of the Dayton Peace Agreement, which saw the re-configured state of BiH, with its proliferation of cantons and its division into

two ‘entities’ (the conjoined Croat-Muslim Federation of BiH and a Bosnian Serb mini-state, Republika Srpska) resemble a cross between Belgium and Switzerland. This constitutional order, which preserved the ethnic division created by the war, was later to be condemned by the European Court of Human Rights in its ruling on *Sejdić and Finci v. Bosnia and Herzegovina* for denying Roma, Jews and others from the possibility of assuming the highest political office.

Independent post-war BiH looked considerably different from the multi-ethnic and largely secular republic of the former Yugoslavia. The war had robbed it of its young, deprived it of a manufacturing base and left many without any hope for a better future, while the war criminals who had incited and participated in the war were protected in neighbouring Serbia and, to a lesser extent, Croatia. It was only the prospect of European accession for Croatia and later Serbia that gradually saw these two countries



View of Sarajevo from its ruined Parliament building, 1996.

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distance themselves from the ethnic Serb and ethnic Croat populations in BiH. While Croatia joined the European Union in 2013, and Serbia is a candidate country awaiting accession negotiations, BiH is a generation away from Europe. A key fault line remains the effective partition of the country.

One surprising development is the economic progress of the Republika Srpska, which experienced extreme poverty just ten years ago and now enjoys relative prosperity, thanks to the country's mineral wealth. One important consequence of this has been the further empowerment of those in power who place ethnic 'purity' above other considerations, who have done little to recapture the human capital lost during and after the war years but insist rather on full secession.

Learning from history

Twenty years on, the return project is ready for review. While a commitment to return was formally written into the Dayton Peace Agreement under Annex 7, the untold story of BiH's post-war independence is the large numbers of nationals who returned but then left again to go back to their host countries or to re-emigrate to Australia, the US and Canada. The suggestion that return would be a 'durable solution' is at odds with the experience of post-war Bosnia. There are, nonetheless, some important lessons one can take from the country's recent history, both during and since the war.

First, the experience of those who, in the early stages of the war, either took refuge in private accommodation as internally displaced persons or who fled abroad contrasts markedly with those who sought protection from international agencies, including the United Nations High Commissioner for Refugees. And all of these had experiences which were sharply differentiated from those of people who stayed where they were, often under siege conditions. Overwhelmingly, those who sought refuge in temporary accommodation rather than in camps were integrated much faster, whether in receiving states or within BiH. The fact that

BiH's collective centres remain inhabited by people displaced by the conflict, some twenty years later, is a shameful indictment of a policy effectively of encampment.

Second, those who held out hopes of justice, both through the International Court of Justice and the special tribunals, including the ICTY, have been sorely disappointed. BiH's neighbours refused to hand over the most significant perpetrators of violence and incitors of hate. The lure of justice is a powerful and important motivating force for refugees and victims of conflict but it must not be oversold.

Third, the prospect of return is considerably more complicated to achieve than was sold to BiH, its nationals and its protectors. The return project has failed to revive BiH, and new models of migration need to be examined, including the potential for greater circular migration and for delayed return migration, perhaps at the point when people are at retirement age.

The most positive conclusion from the Bosnian experience remains the management of the humanitarian effort during the war and the reception given to more than two million people who desperately needed protection. From the vantage point of host states, this demonstrates that temporary and large-scale humanitarian protection is possible. The history of humanitarian protection in BiH is especially relevant to the contemporary horrors of the conflict in Syria that has destroyed much of the country and caused the displacement of more than eight million people. While the European Union Member States remain in disagreement over the relocation of some 60,000 Syrian refugees, the Bosnian experience demonstrates that people can be effectively protected, resettled and integrated in Europe. Cooperation is possible. That must be one of the key messages from this tragedy.

Brad K Blitz brad1@mdx.ac.uk

Professor of International Politics, Middlesex University. www.mdx.ac.uk

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