International intervention in the post-conflict states of former Yugoslavia, in particular in Bosnia-Herzegovina, did not only end the wars, but also initiated an unprecedented intense and lasting process of transforming the institutions of the states in question. In a number of cases, the far-reaching mechanisms of protecting minority and group rights and co-decision making mechanisms of all major communities stand in stark contrast to a reality of continued discrimination and ethnic divisions.

The paper will examine the opportunities and constraints to external state-building in the case of ethnically contested states. On the basis of the case of Bosnia-Herzegovina, this paper argues that the success of external state and institution building lies less with constitutions, and state-institutions, but with making local government inclusive and functional, establishing effective arbitration and conflict resolution mechanisms and enabling institutional evolution.

In examining the successes and failures of the external state-building process, the paper will examine three aspects: interethnic cooperation at the local level, external arbitration

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and blockages in the institutional system and finally the transformative potential of multiethnic institutions.

First, most literature on divided societies and institutional design focus primarily at state level institutions, but pays only scant attention to local government. The case of refugee returns in Bosnia, however, suggests that the nature of institutions at the municipal level is key in re-building interethnic trust. The paper will draw the attention on external state-building at the local level and their significance in reconstructing a minimal degree of interethnic cooperation.

Second, the paper will outline the mediation mechanisms in power-sharing institutions and the role of external actors in overcoming institutional blockages. Due to the volatile consensus on core issues of governance in many multiethnic countries, mediation mechanisms are crucial in overcoming blockages between different communities. The relevance of this aspect arises from neglect in much of the academic literature and the particularity of substantial international intervention in Bosnia.

In conclusion, the paper will examine the ability or rather the inability of multiethnic institutional arrangements to change over time. As the protection of group rights is frequently the consequence of violent conflict, the strong emphasis on groups might not be relevant in the long term trajectory of the development of the country and in fact might even harm democratization. A key aspect is thus the ability of these institutional systems of evolve over time, the concluding aspect to be discussed in the presentation.

Local-level institution building, mediation and the transformative ability of institutions in multiethnic institutions will highlight the key challenges to external state-building in multiethnic environment and indicate that there is no blueprint for conceptualizing external intervention in post-conflict settings.
1. Local Governance and Diversity

Studies of power-sharing and external state-building have a natural tendency to examine state level institutions. The state bias is understandable in light of the term ‘state-building’ itself and considering that in most cases, it is the state which holds most competences, resources and power. Nevertheless, sub-state forms of multiethnic governance are key in facilitating governance in divided societies. A variety of different types of sub-national arrangements, managing diversity, exists throughout Europe and thus constitutes a key form of conflict management.2

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Types of subnational multiethnic governance

In general, one can distinguish between two categories according to which subnational forms of multiethnic governance can be classified. First, some forms constitute a form of ethnic autonomy, i.e. regions governed by one community as a form of self-governance. As such, the element of diversity is relational to a higher level of government, such as a state-level consociational or federal arrangement. Within the territorial unit, governance will not be impacted by power-sharing considerations, but rather it will have to negotiate particular group interests with the state or other territorial units. The second form of subnational governance is quite the opposite: Here power-sharing takes place at the regional or local level. Such consociations might be part of a

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more homogenous national framework, as for example South Tyrol in Italy, or be part of a state-wide power-sharing system, as Brussels in Belgium. The distinction between ethnic autonomy and regional/local consociation is obviously based on the nature of the institutions, but also has to consider the population distribution and function of the particular institutional set-up in regard to other levels of government. A second line of distinction is the nature of constitutional guarantee for the particular type of subnational arrangement. Territorial autonomies, be they governed internally as a consociation or as an ethnic autonomy, are understood to be guaranteed by a constitutional arrangement or similar legislation. In addition, the particular territory will have significant competences which commonly the power to legislate in specific fields and a certainly level of fiscal autonomy. \(^3\) Local governments constitute a different type of multiethnic governance. Firstly, they will generally be smaller and weaker in regard to the state at larger than regional autonomies. This relationship is also characterized by a clear subordination to the state (or other intermediate layers) in terms of financing, legislation and protection of the particular status.

While differences between regional autonomies and local government might appear to be fundamental, there is considerable overlap when examining concrete case studies. Most importantly, the distinction between constitutionally guaranteed autonomies and ‘mere’ local government might be less important than apparent. Laws on local government might be subject to veto rights at the state level and require special majorities for changes, resulting in a situation, where the degree of protection might resemble that of constitutional guarantees. Although local governments do not have the competence to legislate and are thus subjected to key decisions taken at higher layers of government, this form of multiethnic governance is of crucial importance for

understanding good governance in post-conflict and other divided societies. Most services are delivered at the local level and local administrations frequently are the ‘face’ of the state most visible to ordinary citizens. Furthermore, local government can be more specifically responding the nature of diversity at the particular level. It might allow for a greater degree of homogeneity and ‘autonomy’ than a regional autonomy might be able to accomplish, or alternative might give power-sharing a practical dimension which helps overcome some of the blockages occurring elsewhere.

Bosnia-Herzegovina and former Yugoslavia have seen extensive experiments with this type of governance. In fact, the rise of municipal government as a form of conflict management has been a direct response to the increased rejection of territorial autonomy. In Bosnia according to the Dayton Peace Accords ethnic relations have become fundamentally territorialized with the delegation of authority to the level of greatest ethnic homogeneity, thus either within an entity, canton or municipality. In international efforts to end the conflict in Macedonia and the constitutional framework for Kosovo, territorial autonomies have been explicitly rejected. Cause for this is both the resistance of majorities (not last influenced by the application of *uti possidetis* in case of the dissolution of Yugoslavia) and international attempts to avoid creating and legitimizing homogenous territories.⁴ In fact, the trajectory of peace in Bosnia has followed a similar path. The entities and cantons have been weakened over the past decade, whereas the state-level government resembles more other governments around the world in terms of competences and resources. Before briefly examining the different types of power-sharing at the local level, we shall trace their origins as a feature of external intervention and discuss briefly the conceptual framework of municipal power-sharing.

The Dayton Peace Accords does not establish any particular international responsibility over municipalities. In fact, it does not address governance at the local level at all, as this was left to the entities to define. External interest in municipal government arose primarily in the city of Mostar, which was placed under EU administration already in 1994. In addition, municipalities in two cantons of the Federation (Central Bosnian/Hercegovina-Neretva Canton) were granted a special status under the Federation constitution. As these two cantons were the only ones of a total of ten with a substantial share of Bosniak and Croat post-war population, they were governed by a ‘special regime’. The federation foresaw the delegation of competences to municipalities in the fields of media, education, culture, tourism, local business and charitable activities. In fact, this regulation required all cantons to delegate such competences in case “the majority of population in the municipality or city is other that of the Canton.” This type of devolution essentially extends territorial autonomy to the lowest level of governance. In case of Mostar, the establishment of a weak city government was an international attempt to overcome the war-time fragmentation of the city, which were in turn recognized through the creation of 6 largely homogenous Bosniak and Croat municipalities in the city. Early efforts in regard to local governance thus focused on managing governance in the few regions of Bosnia which remained diverse after the war and were confined within one unit of government, in this case cantons. The dominant trend in the immediate post-war period was to reinforce homogeneity rather than created conditions for diverse governance at the local level. The failure of IFOR to intervene in 1996 when the Serb-inhabited part of Sarajevo Grbavica was transferred to the control of the Federation and most Serbs left at the

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6 Constitution of the Federation of Bosnia-Herzegovina 1994, Art. V.2(2)/7
7 Ibid.
urging of their political leadership. In addition, some corrections to the border between the entities reaffirmed similarly the concept of ethnic homogeneity.

The issue of managing diversity at the local level remained primarily acute in Mostar and in the municipality of Brcko, which was divided at the end of the war, but not awarded to any entity pending arbitration. When it was established as an independent district, the municipality contained a substantial Serb, Bosniak and Croat population. The importance of local governance was transformed with the process of refugee return.

In the first post war years many refugees and IDPs returned, but only few of them went to municipalities where they now constituted a minority. The key to refugee return in these cases was not so much encouragement at the entity level (or state level), but in municipalities where refugees return was to take place. In a study on returns in 2000 the UNHCR noted accordingly: “Without the political will and co-operation of the local authorities, minority returns could not occur, regardless of the financial or security support of the international community”. Access to employment, control over the police and many other aspects crucial for refugees are exercised at the local level, rather than at any higher instance. Furthermore, after the return of refugees and IDPs, the ethnic structure of previously homogenous municipalities has fundamentally changed. Firm numbers on minority returns are elusive, as many are either temporary returnees (returning occasionally to their property) or in fact returned to sell their pre-war property. According to the UNHCR, some 450,000 minority returns took place by mid-2005. The number is probably larger than the real number of minority returnees, while at the same time a share of all three communities continued to live as a de-facto

minority throughout the war in territories not under control of 'their' community (i.e. Bosniaks in the Serb Republic), one can assume that well over 10 percent of the Bosnian population live as de-facto minorities.

Although group representation received substantial space in the state constitution, group rights are ironically underdeveloped in the constitutional set-up established in the Dayton Peace Accords. A Bosniak in the Serb Republic or a Serb in the Federation enjoyed no right to either separate schooling or an education on the basis of more inclusive curricula. Furthermore, these communities had no guaranteed political representation or special measures to secure employment in the civil service until 2002 in the entity and cantons. Thus, for return often meant the beginning of discrimination (esp. in employment and education) and the denial of rights aimed at preserving the group identity. The only exception was the highly problematic practice of establishing separate Bosniak and Croat schools in the Federation, later often formally unified under the heading “Two schools under one roof.”

International intervention at the local level has altogether had a multitude of causes and took numerous different forms, ranging from attempts to facilitate governance through decentralization to first providing incentives for refugee return and later to end discrimination against returnees. In fact, the international state-building at the local level was until recently largely a function of other policy objectives rather than local government itself. Only in recent years have some international organizations, in particular the OSCE, undertaken more systematic efforts to advance the reform of local government.

As a result of this eclectic approach to local governance, a number of different local institutional approach towards diversity emerged. These range from Mostar and the

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aforementioned municipalities in two Federation cantons to the district of Brcko and the municipalities of Gornji Vakuf-Uskoplj e and Žepce which were Bosniak-Croat municipalities united by the OHR in 2000. In addition, some of the ten cantons in the Federation resemble in terms of size (and their history) municipalities. Goražde or Posavina for example have less 50,000 inhabitants and cover a relatively small territory. Similarly the district of Brcko with around 70,000 inhabitants—based on the pre-war municipality—is comparable to a municipality. The state has no competence in regulating local self-government, but instead self-government is regulated at the entity/cantonal level. Thus, there are 12 different types of local government—ten in the Federation (as every canton has its own law on local self-government) in the Serb Republic and in Brcko. In both the Federation and the Serb Republic municipalities suffer from a lack of funding and often excessive control and dominance of either cantons (in the Federation) or the entity-level (in the Serb Republic).

There are generally speaking three types of local multiethnic governance. The first type is in use in the cantons and in the district of Brcko. These are either governed by explicit power-sharing systems or some form of consensual decision-making. While small in size, the fact that the units are governed by constitutions (or comparable legal documents) and have the power to legislate makes these more similar to federal units or regional autonomies which are governed by power-sharing systems. The second type includes municipalities and cities which have special power-sharing arrangements. These might be complex and highly institutionalized, as in Mostar, or they might be less explicit and more based on temporary measures, such as the regulations regarding the municipality of Gornji Vakuf/ Uskoplj e. Finally, the majority of municipalities have no specific features of multiethnic governance, i.e. there is no guaranteed representation in the municipal assembly, nor can municipal councilors veto any decision. However, the
municipal heads of departments are assigned on the basis of the 1991 population census, which thus constitute a measure of proportional representation, or in fact disproportional representation, considering the discrepancies between the census and the actual population distribution. Finally, the aforementioned municipalities which enjoyed enhanced competences between 1994 and 2002 could be considered as particular form of territorial autonomy.

The cantons have instituted the most comprehensive system of sub-national power-sharing in the region following a landmark decision of the constitutional court. In the decision of 2000, the court obliged the entities (and in extension the cantons) to treat all three constituent nations (Bosniaks, Croats, Serbs) equal and declared any specific preference extended to any nation(s) unconstitutional. The amendments to the entity constitutions by the High Representative in 2002 were emulated through constitutional reform in the cantons. Thus, all cantons introduced the language of all three nations in the constitutions, as well as both Latin and Cyrillic alphabet. Representative of most other cantons, the canton Goražde introduced the creation of national clubs of the three constituent people in the cantonal assembly. These clubs propose candidates for the three-member assembly presidency (if one nation is not represented, the respective position remains empty). As an additional feature of power-sharing, the constituent nations have the right to invoke a veto on the basis that a decision of the assembly breaks the vital national interests of one constituent people in areas defined in the Federation constitution (such as education, national symbols). If one member of the parliament presidency invokes a veto, it has to be confirmed by a two thirds majority of the deputies from his/her national club to uphold the veto. If two all presidency members invoke a violation of national interest, a majority of all national clubs is

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required to pass the decision or law. In case a veto is successfully invoked, the Constitutional Court of the Federation is responsible for resolving the dispute. In addition, the government has to be representative of the population structure on the basis of the 1991 census. Similarly, the civil administration of the canton has to follow the population structure. As a result, the cantons of the Federation have instituted a system of power-sharing which can be found at the entity level. While some cantons in the size resemble municipalities, the decision-making structure is more reminiscent of power-sharing structure at the state-level or the level of autonomy, in particular due to the fact that cantons have the competence to pass laws, which municipalities’ lack. Altogether, the system has made cantonal (and entity) decision-making cumbersome and often the representation of all three nations has been difficult to accomplish due to insufficient refugee return. Nevertheless, it has also resulted in the inclusion of citizens from nations which were previously excluded from cantonal public administration and governance.

A different approach to subnational multiethnic governance has been adopted by Brcko, which is an independent district, formally part of both entities, but has been governing itself since an arbitration decision in 1999. Between 1999 and 2004, the district has been a full protectorate, where the mayor and all members of the assembly have been appointed by an international administrator. The system of governance lacks some power-sharing features of the cantons or the entities. There are no veto rights for constituent nations, but instead most key decisions (election of the mayor, budget, laws, and appointment of police chief and his/her deputies) require a three fifth majority, which prevents outvoting of the two large communities (Bosniaks and Serbs). This type of decision-making could be described as an integrative system, where the mayor will

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13 Ibid, Art. 28 a, b.
14 Ibid, Art. 33.
have the legitimacy from more than one community, as due key decisions. The public administration and the heads of the district departments are further required to be representative of the population structure, as are all three constituent people required to be represented by at least 4 assembly members. The veto rights which do not explicitly exist in Brcko have been frequently criticized for blocking decision-making in other parts of Bosnia. Thus, Brcko has been an experiment at less ethnified decision-making. Subnational mechanisms to accommodate different communities have been an integral part of post-war governance. The multiple government layers in Bosnia have been criticized as being excessively complex and costly. This lack of cohesion has been largely the consequence of the lack of symmetry, unclear definition of competences, cumbersome decision-making processes and the lack of local consensus on much of the institutions. As a result, external intervention has been an integral part of securing the functioning of the institutional arrangement of Bosnia, as will be discussed in the next section. However, despite these weaknesses, local multiethnic governance has not failed. In fact, experience of Bosnia in regard to refugee return suggests that local level might be more effective than intermediate levels of regional autonomy.

2. Mediation, Arbitration and International Intervention

Mediation and arbitration are two key aspects of making complex states governable. Even if states are not shaped by deep ethnic divisions, mediation between different layers of government is crucial for securing the functioning of the state. In divided societies, which are governed by highly formalized power-sharing structures, mediation and arbitration is essential not only between the different horizontal layers, but also between the vertical divisions which run nowadays through virtually all layers, from cantons to the state level. Wherever one stands on the debate over the need for the
heavy-handed intervention by the Office of the High Representative, there is little doubt over the importance of the institution in arbitrating between different positions.

One line of criticism of the current arrangement in Bosnia has been the argument that Bosnia has no history of independence and only within the framework of a larger state or empire the different communities could coexist.\textsuperscript{15} In fact, the core argument here related to external coercion and arbitration. Whereas in a democratic state coercive measures practiced in previous state-frameworks to reduce ethnic antagonisms might be unacceptable\textsuperscript{16}, the role of an arbiter and mediator remains relevant.

Before examining the different Bosnia experiences, one has to recall the options. In addition to the important distinction between formal/institutionalized forms of mediation and arbitration, one has to differentiate between legal and political types of conflict resolution. Generally speaking, political mechanisms are most frequently based on mediation, while judicial institutional foremost arbiter between conflicting parties.

Post-war Bosnia has seen the emergence of a complex grid of formal and extra-institutional mediation and arbitration mechanisms. Formally, the key institution in charge of arbitration is the Constitutional Court. It is in charge in deciding on conflicts between entities and the state level\textsuperscript{17} and has to find a decision in case a vital interest veto in parliament cannot be resolved through a parliamentary mediation commission.\textsuperscript{18} Unlike many other institutions at the state level, the Constitutional Court is not governed by power-sharing and does not grant veto rights to any of its members (2 Croats, Bosniaks and Serbs, and 3 international members). At first surprisingly, the


\textsuperscript{16} Under Austro-Hungarian rule the History of the Serbs written by the administrator himself, Benjamin von Kally was banned in an eventually failed attempt to build a joint Bosnian identity. In Yugoslav Bosnia, the singing of nationalist songs was banned and routinely punished with short prison terms.

\textsuperscript{17} Constitution of Bosnia-Herzegovina, 1995, Art. VI, 3a).

\textsuperscript{18} Constitution of Bosnia-Herzegovina, 1995, Art. IV, 3f).
court has had only few cases of conflicts either between state and entities or on the use of vital veto rights. This could be either interpreted as a sign that Bosnia’s decision making mechanisms are functioning better than critiques often assume or alternatively that blockages in the decision making process take place (and are unblocked elsewhere). While decision making in Bosnia has become more effective in recent years, suggesting that the limited involvement of the Constitutional Court suggests the lack of serious constraints to the passing of laws would mean ignoring the informal structures. As governments in Bosnia are generally coalitions including parties from all three dominant nations decision making often is blocked prior to being put into formal procedure. Similarly, arbitration and mediation mostly takes place at an earlier stage.

This begs the question on what causes potential blockages requiring specific mediation and arbitration mechanisms. The most visible form of blockage can result from the invocation of veto on the basis of the violation of a vital national interest. Such so called ‘vital-interest’ rule can be found at the state, entity and cantonal level. They can be invoked by members of parliament, but similar mechanisms also exist in government and in the state-level presidency. Invoking a veto thus can fully block a decision. Here, one can distinguish between two types of vetoes. At the level of entities, the vital national interests are limited to the following: exercise of the rights of constituent peoples to be adequately represented in legislative, executive and judicial authorities; identity of one constituent people; constitutional amendments; organization of public authorities; equal rights of constituent peoples in the process of decision-making; education, religion, language, promotion of culture, tradition and cultural heritage; territorial organization; and public information system.¹⁹ At the state level the veto right

¹⁹ Amendment XXXVII, Definition of Vital Interests, Decision on Constitutional Amendments in the Federation of Bosnia and Herzegovina, OHR, 19 April 2002; available at: www.ohr.int.
is undefined. As the Venice Commission has pointed out in its recent report, the Constitutional Court has begun to interpret the veto right and suggest a more restrictive interpretation. In a request on the constitutionality of veto invoked by Croat MPs over a higher education law, the court reaffirmed the importance of veto rights, while also highlighting both the problems of the veto rights and the challenges arising from including the court into an essentially political dispute. In a remark which sums up fundamental concerns over veto rights, the court notes that

“[t]he term vital interest of a constituent people is a functional category and has to be approached from this point of view... On the other hand, the protection of vital interests cannot encroach upon the implementation of the theory of state functionality, which is closely linked with the neutral and meaningful understanding of the term citizenship...In other words, the protection of vital interests cannot lead to the unnecessary disintegration of the civic society as an essential category of modern statehood.”

In a detailed decision on the particular merits of the case, the court in fact recognizes the legitimacy of the particular veto in most cases, but most importantly evaluates the validity of the claim to invoke a veto, suggesting that such a right is not absolute. This development suggests both reducing the room for institutional blockages and the emergence of criteria which would allow for arbitration based on the merits of the particular veto.

As institutional practice has shown in recent years, the main source of institutional blockage, however, has been in the decision making process prior to the invocation of a formal veto. Considering that governments are based on grand coalitions, many laws

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and decisions are not made due to the lack of consensus between the parties representing the communities. Thus, informal mediation is of particular importance in these cases. Here, international organizations have acted as effective informal mediators and arbiters. The field of activity of international actors range from the national level to the local level. At the national level particularly the OHR has been the key arbiter in Bosnia in terms of governance and reform. At the local level, OSCE and OHR field officers have been frequently key mediators between local communities. While not equipped with a formal mandate or powers to enforce decisions, the local international presence has often been instrumental in resolving conflicts. Another instance of international mediation has been the International Mediator in Bosnia-Herzegovina, a post held until the end of its mandate by the former German politician Christian Schwarz-Schilling.\(^{22}\) While the impact and significance of the different levels of international intervention vary, the complex network of international mediators and arbiters has been key in rendering post-war Dayton workable. As such, the functioning of the complex institutional set-up is directly linked to the existence of an informal international support structure.

This intrinsic link or rather dependency between international intervention and complex institution was for the first time explicitly recognized in a key opinion of the Venice Commission in March 2005. \(^{23}\) The symbiosis between international superstructure and domestic institutions is being slowly dissolved by the continuous international withdrawal. The OHR is scheduled to be transformed into the office of the EU special representative in 2006 and its powers to impose laws and dismiss officials (the ‘Bonn powers’) will similarly be revoked. All this raises the question on whether


The key informal structure negotiation and mediation emerged in 2002 as a result of the need to harmonize the entity constitutions with a key decision by the Constitutional Court. Although the High Representative eventually had to impose the constitutional amendments, for first time did the leaders of the key political parties from both entities engage in direct negotiations over the constitutional structure of the state and entities. This type of informal forum to mediate different positions has since emerged as a key form of informal mediation and negotiations. As such, the meetings of party leaders are not an institution, but an extra-institutional form of overcome deeply-rooted conflicts. A similar process has taken place in 2005 under the auspices of the former Deputy High Representative Donald Hays. The use of informal negotiations on these issues is both a reflection of the influence of political parties and also indicative of the contentious nature of the issues under negotiations which are unlikely to be concluded successfully in the public sphere, such as in parliament. Although these negotiations took place among domestic political actors, the requirement of external mediation or at least good offices indicates the reliance on external actors. However, this form of external intervention is no longer based on direct intervention, but on facilitating domestic dialogue. As a consequence, successful external mediation does not have to rely on broad competences to directly intervene.

3. Conclusions, Changes and Transformation


Vlatko Vukotic, Constitutional changes ahead for BiH, Southeast European Times, 7.11.2005.
The ability of institution to adjust, adopt and eventually transform themselves is of particular relevance in post-conflict power-sharing systems. The reasons are four-fold: First, institutions are established by external actors and frequently lack domestic legitimacy and consensus, thus requiring change as an aspect of asserting ‘ownership’. Second, if one considers institutions and constitutions are reflection of society at a given point time, the institutions have to reflect change over time. As immediate post-conflict social and ethnic relations are fundamentally different than five years or a decade later, the institutions need to ‘grow’ with society. Third, and closely related to the last point, is the fact that most post-conflict arrangements are shaped by both the dominance of ethnopolitical parties and distrust between communities, resulting in excessively regulated institutional representation of communities. Such an overinstitutionalization might be required in the immediate post-conflict context, but is an unlikely basis for long-term democratization. Finally, the extensive role of external actors as formal and informal actors of domestic institutions is not indefinitely sustainable.

As discussed in the first sections, external intervention has extended across all levels of government, down to the municipalities. The previous section highlights the degree to which external intervention is interwoven with the fabric of domestic institutions. In brief, external intervention in such complex state-building experiments as Bosnia reach much lower than just at the state-level, in fact in order to be successful, state-building had to move beyond the ‘state’. Furthermore, international intervention results in relationships which are more enduring than simple and more visible forms of external imposition. This particular experience begs the question on how institutions can and do transform themselves to evolve towards greater sustainability.

Institutional evolution can take place both through informal processes and as a consequence of deliberate legal and constitutional reform. Frequently, institutional
evolution without formal legal changes is more feasible as it avoids often difficult consensus building processes and furthermore allows for some institutional mechanisms to ‘whither away’ which might be too controversial to be abolished. The key challenge from such a path of transformation is two-fold. First, there are boundaries set by constitutions which constrain certain changes. Second, informal change begs the questions where there is an informal consensus on these changes and whether this informal process disproportionally disadvantages particular groups.

In fact, the institutional system of Bosnia has been greatly transformed without constitutional reforms. In an exchange between Biljana Plavšić, president of the RS, and US Secretary of State Madeline Albright in 1998, Plavšić reportedly rejected additional competences for the state as these were not contained in the constitution, upon which Albright called for a strengthening of the state in the “spirit of Dayton”, prompting Plavšić to rebut: “But we do not want to implement the “spirit of Dayton” but “Dayton”. Today, the “spirit of Dayton” has won over “Dayton”. The institutional development of post-war Bosnia has been dramatic. The entities lost their formal ethnonational dominance, the state controls the armed forces, and increasingly resembles ‘normal’ Federal states.

The contradictions and ambivalences in the GFAP allowed for this development. The substantive change to the institutions, largely externally driven, has been accepted to different degrees. The functional strengthening of the state is more broadly accepted than the proliferation of power-sharing to lower levels of government. Much of the change remains insufficiently legislated and the changes do fall in the category of


28 Although the difficulty of reform the police forces and linking them to the state-level points to limits of strengthening the state.
“incompletely theorized agreements”²⁹, where change receives support or at least silent acceptance by all communities for different reasons. If the strengthening of the state were pursued with the state goal of abolishing or entirely hollowing out the entities, the process would have failed a while ago. As the previous section indicated, the institutional structure of Bosnia is intrinsically linked to the international presence. Furthermore, the institutional structure is primarily a conflict management tool, which received considerably less attention during the peace negotiations than other aspects, such as military disengagement. In fact, the weakness of the internationally designed institutions in part necessitates the high degree of external intervention into the institutional evolution. This dependency relationship is particularly challenging to break up, as it extends beyond the functioning of institutions and becomes part of the political culture.