

Constitutional Origins of the Bosnian Problem

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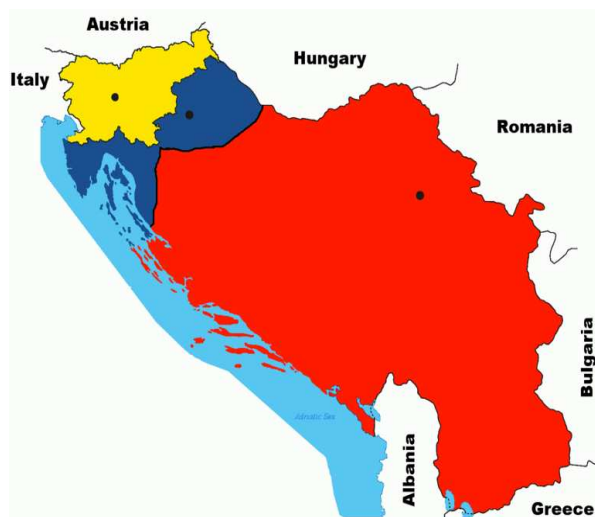
Main Problems

- Political system imposed by the
Constitution
 - Lack of consensus
 - Rise of nationalism
 - Hampered development process of the
country and reconciliation process of the
society.

Three Constituent Peoples of Bosnia and Herzegovina

- Bosniacs/
Bosnian
Muslims
- Bosnian Croats/
Catholics
- Bosnian Serbs/
Orthodox

Greater Serbia



Greater Croatia



Bosnia and Herzegovina



As a result ...

- *'(...) the Dayton constitution purports to create a 'state' composed of two unrelated parts, armed against each other, each allied with neighboring states, and with no functional central government. This is a constitution worthy of a Zen master, the concept of single 'state' so divided being comparable in its subtlety to the sound of one hand clapping'.*

Robert M. Hayden, 'Blueprints for a House Divided: The Constitutional Logic of the Yugoslav Conflicts'.

Origins of the constitution

- **Agreed by:**
 - the Republic of Bosnia and Herzegovina
 - the Republic of Croatia
 - the Federal Republic of Yugoslavia

Origins of the constitution

- **Witnessed by:**
 - European Union Special Negotiator
 - the French Republic
 - the Federal Republic of Germany
 - the Russian Federation
 - the United Kingdom of Great Britain and Northern Ireland
 - the United States of America

Origins of the constitution

- The Peace Implementation Council established during the Peace Implementation Conference held in London on December 8-9, 1995, comprises of countries and agencies that support the peace process

Origins of the constitution

- **PIC Members and Participants:**
 - Albania,
 - Austria,
 - Belgium,
 - Bosnia and Herzegovina,
 - Bulgaria,
 - Canada,
 - China (resigned in May 2000),
 - Croatia,
 - Czech Republic,
 - Denmark,
 - Egypt,
 - Federal Republic of Yugoslavia,
 - Finland,
 - Former Yugoslav Republic of Macedonia,
 - France,
 - Germany,
 - Greece,
 - Hungary,
 - Ireland,
 - Italy,
 - Japan,
 - Jordan,
 - Luxembourg,
 - Malaysia,
 - Morocco,
 - Netherlands,
 - Norway,
 - Oman,

Origins of the constitution

- Pakistan,
- Poland,
- Portugal,
- Romania,
- Russian Federation,
- Saudi Arabia,
- Slovak Republic,
- Slovenia,
- Spain,
- Sweden,
- Switzerland,
- Turkey,
- Ukraine,
- United Kingdom,
- United States of America;
- the High Representative,
- Brcko Arbitration Panel (dissolved in 1999 after the Final Award was issued),
- Council of Europe,
- European Bank for Reconstruction and Development (EBRD),
- European Commission,
- International Committee of the Red Cross (ICRC),
- International Criminal Tribunal for the former Yugoslavia (ICTY),
- International Monetary Fund (IMF), North Atlantic Treaty Organisation (NATO),
- Organisation for Security and Co-operation in Europe (OSCE),
- United Nations (UN),
- UN High Commissioner for Human Rights (UNHCHR),
- UN High Commissioner for Refugees (UNHCR),
- UN Transitional Administration of Eastern Slavonia (UNTAES; disbanded in January 1998),
- the World Bank.

Origins of the constitution

- **PIC Observers**
 - Australia,
 - Central Bank of Bosnia and Herzegovina,
 - European Investment Bank (EIB),
 - Estonia,
 - Holy See,
 - Human Rights Ombudsperson in Bosnia and Herzegovina,
 - Iceland,
 - International Federation of Red Cross and Red Crescent Societies (IFRC),
 - International Mediator for Bosnia and Herzegovina,
 - International Organisation for Migration (IOM),
 - Latvia,
 - Lithuania,
 - New Zealand,
 - Liechtenstein,
 - South Africa
 - the Special Co-ordinator of the Stability Pact for South Eastern Europe.

Arend Lijphart's consensual democracy

- *'territorial and nonterritorial federalism and decentralisation;*
- *balanced bicameralism and minority representation;*
- *executive power-sharing;*
- *separation of powers;*
- *multiparty system;*
- *multidimensional party system;*
- *and finally written constitution and minority veto'* [\[1\]](#).

• [\[1\]](#) Lijphart A., *Democracies. Patterns of majoritarian and consensual government in twenty one countries.* Yale University Press, New Haven and London, 1984 p.23-30

Territorial Division of BiH



- Frontline of 1995
- Unnatural, disfunctional division

The Parliament - representation

- House of Representatives
 - 42 Memebers
 - 2/3 from the FBiH and 1/3 from the RS
- House of Peoples
 - 15 Delegates
 - 5 Croats from FBiH
 - 5 Bosniacs from FBiH
 - 5 Serbs from RS

The Parliament – legislative powers

- House of Representatives
 - 2/3 Members of one of the national groups
- House of Peoples
 - 3 Delegates representing one of the constituent peoples

The Presidency of BiH - representation

- Three Members:
 - Bosniac (from the FBiH)
 - Serb (from the RS)
 - Croat (from the FBiH)

The Presidency of BiH – legislative powers

- Each Member by referring to protection of one of the entities vital interest
- By seeking support of majority of respective Members of the entity parliament.

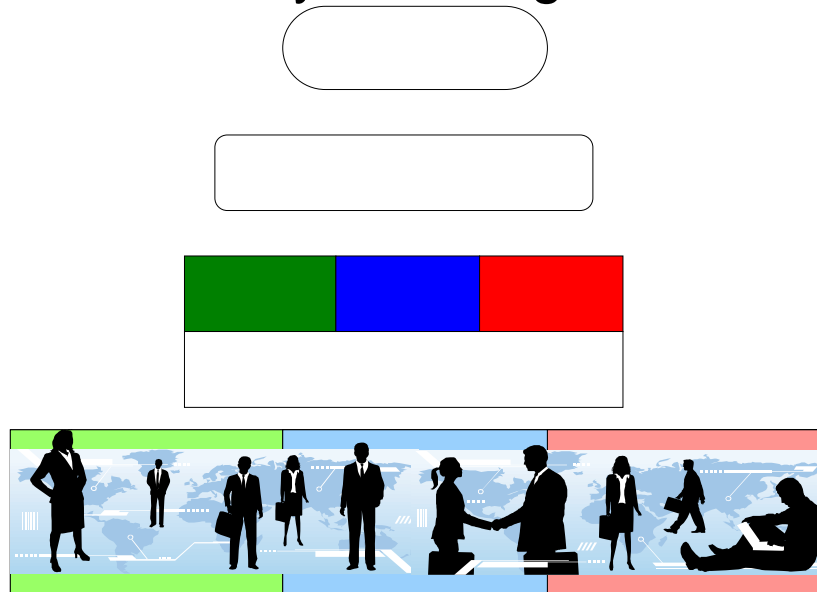
Ethnic parity of the Council of Ministers

- Article V (4)b states that '*no more than two-thirds of all ministers may be appointed from the territory of the Federation*'.

The composition of the Council of Ministers in BiH in March 2009

- Chair – Nikola Špirić (**Serb**);
- Minister of Foreign Affairs – Sven Alkalaj (**Jew**, representative of 'the Others' term used to other as Serbian, Bosniac or Croat nationalities, member of Bosniac party SBiH), Deputy Minister - Ana Trišić-Babić (**Serb**), Secretary - Adnan Hadžikapetanović (**Bosniac**);
- Minister of Security – Tarik Sadović (**Bosniac**), Deputy Minister - Mijo Krešić (**Croat**), Secretary - Bakir Dautbašić (**Bosniac**);
- Minister of Defense - Selmo Cikotić (**Bosniac**), Deputy Minister - Igor Crnadak (**Serb**), Deputy Minister (Minister of Defense has two deputies) - Marina Pendeš (**Croat**);
- Minister of Finance and Treasury - Dragan Vrankić (**Croat**), Deputy Minister -Fuad Kasumović (**Bosniac**), Secretary - Biljana Dakić-Đurović (**Serb**);
- Minister of Justice - Bariša Čolak (**Croat**), Deputy Minister - Srđan Arnaut (**Serb**), Secretary - Jusuf Halilagić (**Bosniac**);
- Minister of International Trade and Economic Relations - Mladen Zirojević (**Serb**), Deputy Minister - Vilim Primorac (**Croat**), Secretary - Hamdo Tinjak (**Bosniac**);
- Minister of Communication and Transport - Božo Ljubić (**Croat**), Deputy Minister - Veselin Poljašević (**Serb**), Secretary - Nikola Šego (**Croat**);
- Minister of Human Rights and Refugees - Safet Halilović (**Bosniac**), Deputy Minister - Slavko Marin (**Croat**), Secretary - Dragomir Kovač (**Serb**);
- Minister of Civilian Affairs - Sredoje Nović (**Serb**), Deputy Minister - Senad Šepić (**Bosniac**), Secretary - Zlatko Horvat (**Croat**)

A federal system of government



A federal system of government

