

Peace Treaty Tensions: The Relationship between Content and Implementation of Negotiated Agreements in Former Yugoslavia

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Abstract:

This article presents a framework, applied on the case of former Yugoslavia, which should be considered in the design and analysis of negotiated agreements dealing with 'ethnic conflict' and civil wars. Such agreements implemented from above must include an analysis of how they affect: i) the local rationality structure (both intra- and inter-ethnic relations); ii) structural conditions; iii) institutional conditions and relations; and iv) the space for contestation of implementation. Based on document analysis, this study demonstrates that if left unattended these dimensions may recreate tensions for years to come, block implementation and generate risk of relapse into violent conflict.

Keywords: Former Yugoslavia, peace treaties, Dayton, Rambouillet, Ohrid

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Peace Agreements as Roadmaps for Building Peace

Several agreements that have been signed and implemented in the process of dissolution of former Yugoslavia have brought silence to the arms. Most would agree that these agreements thereby served their purpose to end the wars. Bieber who analysed the Dayton agreement in Bosnia claims that '[t]here is little controversy over the fact that the peace agreement has kept the peace... there has been a notable decline of ethnically motivated violence since the end of the conflict'¹. At the same time, '... the type of peace the Dayton Accord set out to establish has not yet been researched in depth'², and as Rice underlines, 'although the Dayton Peace Accords aimed at creating a unified state, they also served to reinforce the ethnic segregation that resulted from practices of ethnic cleansing during the civil war'³. We agree with the negative peace claims of Bieber, however, yet simultaneously give credence to Keil and Kudlenko⁴ who state that 'the Dayton Accord contains requirements for both types of peace with a focus on the positive one. Yet gives much clearer instructions for achieving the negative one'. Of course, it is hard to foresee all the factors that may impact a long-term peace process, but we argue that the inclusion of specific dimensions in negotiated agreements especially in the context of ethno-national civic wars are crucial, for the direction, dynamics and quality of the subsequent long-term peacebuilding process. Applying new analytical tools to the case of former Yugoslavia, we present four specific dimensions which are crucial to be considered in the design and analysis of such peace agreements in ethno-national conflicts, namely how they affect: i) the rationality structure of the local agents; ii) structural conditions (especially social and economic relations); iii) institutional conditions and relations; and, iv) the space for contestation in implementation enabled by the agreement (or the 'level of vagueness').

Previous research on civil wars has indeed downplayed these specific dimensions. Although substantial literature exists and academic research has been conducted, focusing on, and examining the substantial content of negotiated agreements and effects of implementation, these

¹ Florian Bieber, 'After Dayton, Dayton? The Evolution of an Unpopular Peace,' *Ethnopolitics*, 5(1) (2006a):15-31, 16.

² Soeren Keil and Anastasiia Kudlenko, "Bosnia and Herzegovina Twenty Years after Dayton -Complexity Born of Paradoxes." *International Peacekeeping*, 22 (5):1-19, 2.

³ Florian Bieber, *Post War Bosnia: Ethnic Structure, Inequality and Governance of the Public Sector* (London: Palgrave, 2006b), 6.

⁴ Keil and Kudlenko, op. cit. 3.

four dimensions and the way they influence the durability of peace in the implementation have not been addressed and received the attention they require. In previous research, the implementation phase has often been viewed as having its own dynamics with exogenous factors fostering challenges and pitfalls. While the dynamics of the implementation phase are certainly important⁵, we argue that these four dimensions remain fundamental to the issue and are key dimensions that need to be addressed in negotiated agreements of identity wars, for the implementation to have a chance of long-term impact, and avoid continuous tensions between ethnic groups, which could, at worst, escalate into renewed conflict. We rest our argument on researchers claiming that the specific endogenous agreement factors, the contents of the agreement, often include inherent problems which build a permanent structure and block the space for manoeuvre for the involved actors, thereby eventually causing new conflict escalations between the signatories to the agreement⁶. In the following sections, we present and apply this framework in four negotiations addressing armed conflicts in the context of erstwhile Yugoslavia, all of which have an ethno-national conflict dimension.

Peace and Negotiated Agreements

We present below, previous research that has dealt with the content of negotiated agreements, which include both ceasefire agreements and full-fledged peace accords. This research establishes the relationship between the content and the implementation phase, in the short as well as long-term perspective.

When a mediator has used a soft and facilitating approach to bridge the gap and also to find the (few) bridging denominators between the parties, there lies a risk of leaving out the essential dimensions that need

⁵ Roger Mac Ginty, "Introduction: The Transcripts for Peace: Public, Hidden or Non-obvious?" *Journal of Intervention and State Building*, 7(4)(2013):423- 430
Dzemaal Sokolović and Florian Bieber (Eds.), *Reconstructing Multi-ethnic Societies: The Case of Bosnia-Herzegovina* (Ashgate Publishers, 2001).

⁶ Deiniol Jones, *Cosmopolitan Mediation? Conflict Resolution and the Oslo Accords* (Manchester: Manchester University Press, 1999); George Downs and Stephen John Stedman, "Evaluation Issues in Peace Implementation," in *Ending Civil Wars. The Implementation of Peace Agreements*. eds. Stephen John Stedman, Donald Rothchild and Elizabeth M. Cousens (Boulder/London: Lynne Rienner Publishers, 2002), 43-70; Ramzi Badran, "Intrastate Peace Agreements and the Durability of Peace," *Conflict Management and Peace Science*, 31(3) (2014):193-217; Virginia Page Fortna, *Peace Time: Cease-Fire Agreements and the Durability of Peace* (Princeton: Princeton University Press, 2004).

to be included in the content of the agreement. Several scholars have emphasised the risks with weak agreements that do not include the key issue(s) of the conflict, merely agree to a ceasefire without a negotiated agreement⁷. When these key issues are not included, and no detailed roadmap for implementation is part of the agreement, peace processes are at risk of stalling.

Those arguing that the content of the agreement matters more, analysed inter-state armed conflicts and further argued that ‘...belligerents can draft ceasefire agreements that foster peace by altering the incentives to attack, by reducing uncertainty about intentions, and by preventing and controlling accidents’⁸. Several mechanisms can be included in such ceasefire agreements, for instance, installing third-party security guarantees and separating the parties from each other, confidence-building measures, and measures to control rogue groups and thereby reducing the risk of renewed wars⁹.

Also, Badran¹⁰ analysed intra-state conflicts from 1946 to 2010 and through his research demonstrated that the design and quality of the peace agreement have a significant effect on the durability of the peace. Agreements that are carefully designed to deal with all obstacles to cooperation have the strongest pacifying effect.

Druckman and Albin¹¹ explored the relationship between the principles of distributive justice and the durability of negotiated agreements. The data from these studies were used to evaluate three sets of hypotheses regarding the relationship between distributive justice and durability, the role of the conflict environment, and the types of distributive justice principles. They coded four justice components (equality, equity, compensation, or need) in the agreement and tested them in relation to the durability of the agreements¹². The results obtained from both statistical and focused-comparison analyses indicate that distributive justice moderates the relationship between conflict environments and the outcomes. When principles of justice are central to

⁷ Stedman et al, op. cit., 56; Jones, op. cit.

⁸ Fortna, op. cit., 3.

⁹ Madhav, Joshi, Sung Yong Lee and Roger Mac Ginty. “Built-in Safeguards and the Implementation of Civil War Peace Accords’, *Empirical and Theoretical Research in International Relations*, (2016) 1-25; Fortna, op. cit.

¹⁰ Badran, op. cit.

¹¹ Daniel Druckman and Cecilia Albin, “Distributive Justice and the Durability of Peace Agreements’, *Review of International Studies* 37 (2011):1137-1168.

¹² Ibid.

an agreement, the negative effects of difficult conflict environment are reduced. When principles are not central, the negative effects of difficulty are heightened. These relationships are accounted for primarily by one of the four distributive justice principles: equality.

Wagner and Druckman¹³ examined beyond the mere absence of violence (negative peace) aspects of durable peace and questioned whether the effects on the durable peace are similar or different from those found for the durability of agreements. They have demonstrated that stable agreements focus on and mediate the relationship between equality provisions in peace agreements and durable peace and also the relationship between procedural justice and the reconciliation component of durable peace. When it came to the economic component, it seemed to not play a role in durability.

Contribution of this Study

Leaning on the above-mentioned endogenous factors, we argue that in ethnic or ethno-national armed conflicts, one of the reasons for a stalled or collapsed peace process is precisely linked to the substance of the content of a peace agreement, specifically aspects that frame and set the structural conditions for the peace process and the implementation phase. We argue that these elements (analysed in detail below) are linked to how peace agreements comprising ethnic identity conflicts as part of a civil war, are affected by the aspects discussed below.

The study is based on a qualitative case study approach. This work presents a methodological description of how the analysis is conducted, followed by the findings of the study. We finalise the article with a discussion of the results and with a conclusion regarding the extent to which we can generalise this study's findings from the case of former Yugoslavia. Moreover, we give inputs for the implications of future research on the role of peace agreements in ending ethnic identity conflicts in civil wars.

Framework for the Analysis

We have used four sub-processes within the former Yugoslavia as our foundation for analysing the suggested aspects to be decisive about

¹³ Lynn Wagner and Daniel Druckman, "Drivers of Durable Peace: The Role of Justice in Negotiating Civil War Termination," *Group Decis Negot* 26 (2017):45- 67.

the outcome of the peace process. By considering these, we hypothesised that one has a good chance of arriving at a relatively rich assessment of problems that may arise with the agreement in the long-term implementation phase of identity conflicts. The four inquired agreements have been in place for more than 15 years and have in many ways contributed to establishing negative peace, but the long-term tensions that have developed during these time periods risk breaking down the negative peace (absence of violence) and chances for a future durable peace.

The mere absence of direct violence (negative peace) does not preclude the complex political conflicts that have been linked to the implementation phase, and there has been a constant risk of escalation into renewed armed conflicts. This is not to say that a peace agreement should make peace for all time but that, when the above-mentioned four dimensions are not properly addressed, it will influence the implementation phase, maybe even for decades. We argue that new-old political tensions have followed every step of the implementation period. These issues have become obstacles in the implementation process, even after decades of negative peace, due to the absence or subordination of the four key aspects in the agreements.

Rationality Structure of Local Agents

This aspect is crucial when it comes to the future dynamics of the relationship between the conflicting parties and also when taking into consideration the spectrum of 'moderates' versus 'radicals' within each respective party. With a minimum of two conflict parties in cases of 'ethnic conflicts', we have emphasised that one should consider at least four parties. Usually, we can also identify that the views of the ethnic group's grassroots differ from the views of top leaders about the conflict, and the views should therefore not only be seen from above, but also from below, and we could speak of official vs popular, formal vs informal, or civic vs ethnic¹⁴ dimensions of an ethnic conflict party. It is therefore important to analyse how these actors are affected by the agreement

¹⁴ Thomas Hylland Eriksen, *Us and Them in Modern Society* (Oslo: Scandinavian University Press, 1992).

Structural Conditions

We need to carefully assess how the agreements deal with the effects on structural conditions, for example, economic and social relations. We know how important this is from the lesson of the Versailles Treaty after the First World War. The terms and conditions of the treaty imposed on Germany were humiliating. Germany was never invited to discuss peace and a finalised treaty was forced upon Germany, and fostered economic and social chaos, subsequently leading to the Second World War, a fact which is still debated¹⁵. Today we have the liberal peace and liberal economic orders, which foster challenges in former war zones¹⁶. The Versailles Treaty's structural conditions are also crucial lessons for contemporary liberal economics that must be considered when analysing how peace agreements affect structural conditions, such as economic and social ones.

Institutional Conditions and Relations

We also need to address institutional conditions and how new institutional relations may recreate tensions. An example of this can be seen when the agreement stipulates an excessively dysfunctional form of local self-rule in which cantons, regions, or municipality structures with high local self-governance contribute to a less efficient central authority, undermining the governance structures or vice versa.

Space for Contestation in Implementation

Finally, we need to analyse the extent to which the agreement creates a space for contestation in implementation (or the level of 'vagueness'). Certain details naturally need to be hammered out in a post-agreement phase. However, while the use of vagueness can often be a useful technique to pilot an agreement towards completion and avoid technical disputes among other benefits, all negotiators know that the 'devil is in the details'. Leaving too much space for contestation in implementation can create gridlocks that remain for decades.

¹⁵ Cf. Manfred F. Boemeke, Gerald D. Feldman, and Elisabeth Glaser (Eds.), *Versailles: A Reassessment after 75 Years* (Publications of the German Historical Institute. Cambridge: Cambridge University Press, 1998); John Maynard Keynes, *The Economic Consequences of the Peace* (London/New York: Macmillan/Cambridge: Cambridge University Press, 1971).

¹⁶ Jens Stihoff Sørensen, "The Shadow Economy, War and State building," *Journal of Contemporary European Studies* 14(3) (2006):317-351.

In the following sections, we explore and illustrate this framework with its application to four selected negotiation processes, all linked to the Balkan wars and the dissolution of the former Yugoslavia in the 1990s. The first two are the agreements for Bosnia and Herzegovina. First, the 1994 Washington Agreement, which was a ceasefire agreement between the warring parties: the Croatian Republic of Herzegovina-Bosnia and the Republic of Bosnia and Herzegovina. The second was the Dayton Peace Agreement of 1995 for Bosnia-Herzegovina, which incorporated the former. The third is the text from the Rambouillet negotiations of 1999 between the Albanians in Kosovo and Serbia, which was never signed and ratified but became the basis for the NATO bombings and influenced the agreement that came after the bombings, and also affected the Macedonian situation. The fourth and final agreement is the Ohrid Framework Agreement from 2001 between the Macedonian government and the Albanians in Macedonia.

Table 1. Dimensions Analysed in Each Negotiated Process

<i>Negotiations</i>	<i>Rationality Structure of Local Agents</i>	<i>Structural Conditions</i>	<i>Institutional Conditions</i>	<i>Extent of Space for Contestation</i>
Bosnia-Herzegovina, Washington 1994 & Dayton 1995		X	X	
Kosovo, Rambouillet 1999 (not signed)	X			
Macedonia, Ohrid Framework Agreement 2001	X	X	X	X

It should be noted that the analysis is by no means exhaustive regarding the agreements; all aspects of the agreements have not been considered. Both space limit and the complexity of the conflicts and agreements preclude any detailed analysis of all agreements. Some of them, like the Dayton Agreement, have complex conditions and ramifications in a range of fields from police and security to education.

Instead, our aim is to utilise the four negotiations to provide empirical examples and highlight the relevance of some of the four aspects taken from the proposed analytical model.

Findings

Agreements for Bosnia and Herzegovina: Washington and Dayton Agreements

The Washington Agreement of 1994 was drafted by the USA to broker a ceasefire between the Bosniaks and Bosnian Croat parties and to end the tripartite dimension of conflict in Bosnia and Herzegovina, thereby creating a unified party vis-à-vis the Bosnian Serbs. The Dayton Peace Agreement signed in 1995 is another peace agreement that also included the Serbian side. The analysis of the two agreements below will focus on two of the dimensions of the model: structural conditions and institutional conditions and relations.

Structural conditions

The Dayton Agreement was drafted on the lines of the Washington Agreement with the principle of ethnic separation. It was decided that the central government in Sarajevo has a tripartite presidency in charge of foreign affairs, defence, and the central state budget. The three candidates represent the ethnic groups and are self-defined in the sense that they must claim one ethnic identity. It was not possible to agree to a candidate transgressing the ethnic category or identifying outside the pre-constituted groups. While this ensures ethnic representation, it also freezes the division. Tax collection takes place within the two entities, having separate budgets and allocating funds to the central government and cantons or municipalities respectively.

Institutional Conditions and Relations

In many respects, the Washington Agreement was a peculiar construct from the start, aiming at a ceasefire but with no desire from any of the local parties to create a common state. The constitution illustrated this since it created a central government as a nearly empty category but instead invested ten cantons with considerable power¹⁷. The division of power essentially established the federation as an economic community

¹⁷ Robert M. Hayden, *Blueprints for a House Divided: The Constitutional Logic of the Yugoslav Wars* (University of Michigan Press, 1999).

with defence forces, and originally a foreign office, which was dropped in the final version. Citizenship, defence, foreign relations (dropped), economic policy, commerce, finance and financial institutions, combatting crime (international and inter-cantonal), allocation of electronic frequencies and energy, and finances for these functions were to be exclusive federal responsibilities. In contrast, the jurisdiction of human rights, environment, health, communications and transport, social welfare, implementation of citizenship laws, immigration, tourism, and natural resources were shared responsibilities with the cantons¹⁸. All other responsibilities were granted to the cantons¹⁹. Each canton has its own government, presidency, cabinet, and ministers and various ministries, agencies, and services. The structure of the federation became the foundation for one of the entities in the Dayton Agreement.

The Dayton Agreement laid the foundations for a federal constitution based on three constituent peoples, Serbs, Croats, and Bosniaks or Bosnian Muslims, and two self-governing federal entities, the Serbian 'Republika Srpska' and the Bosniak-Croat 'Federation Bosnia and Herzegovina'. In addition, there is the self-governing entity, the district of Brčko. To provide for as much ethnic self-rule as possible, the constitution devolves as much power as possible to the entities and levels below. Centralisation would simply not have been acceptable to the ethnic groups. This condition has provided for a very weak central administration with recurrent themes of how to organise a functioning state. The multi-level administration between cantons, municipalities, and the central government in the federation (Bosniak-Croat) constitutes a complicated and unruly structure²⁰. In multi-ethnic areas, ethnic interests must be balanced in canton and municipal councils with duplicate mayors, deputy mayors, ministers, and senior officials. The Serbian entity, Republika Srpska, is more homogenous and therefore has a simpler and more easily governed structure.

¹⁸ Washington 1994, Art. III.1 and III.2:

<http://www.ucdp.uu.se/gpdatabase/peace/BoH%201994%200301.pdf> (2018-03-01); Robert M. Hayden, *Blueprints for a House Divided: The Constitutional Logic of the Yugoslav Wars* (University of Michigan Press, 1999) 114-15.

¹⁹ Washington 1994, Art. III.4:

<http://www.ucdp.uu.se/gpdatabase/peace/BoH%201994%200301.pdf> (2018-03-01); (Art. III.4)

²⁰ E.g. Bieber, op. cit; Roland Kostić, "Ambivalent Peace: External Peacebuilding Threatened Identity and Reconciliation in Bosnia and Herzegovina" (PhD diss., Department of Peace and Conflict Research, Uppsala University, 2007).

For prolonged periods, the internal borders have seemed stronger than the external borders, with Bosnian Serbs and Bosnian Croats effectively pretending that they live in neighbouring states (Serbia and Croatia)²¹. With politicians unwilling to cooperate or unwilling to be seen cooperating, this heavy constitutional structure has created a dysfunctional state. In the words of the Bosnian philosopher Zdravko Grebo, it is a monstrous state created by the international community, but in which the local people must live.²²

A real dilemma has been that the structure has laid clear foundations for decentralisation to secure ethnic self-determination and thereby has also locked them in and prevented the core functions of a state. Any attempt to bridge or amend this initial design at a later stage comes with the risk of escalating tensions rather than ameliorating them. It has become obvious to local and international agents and observers that the Dayton structure is dysfunctional and requires amendment or renegotiation.

However, this has never been initiated for the fear of being unable to control the process of re-opening the Dayton Agreement. Instead, the international administration has simply tried to overrule various aspects of the constitution or initiated reforms it has considered necessary to create a functioning state. The continuous story has been the Bosniak politicians in Sarajevo arguing for increased central powers, in which they have typically been backed by the international administration. The Bosnian Serbs have vetoed such attempts and claimed them unconstitutional, with reference to the Dayton Agreement. The Bosnian Croats, locked into a federation they never wanted, have often sided with the Bosniaks, while desiring to create an entity of their own.

Education and Reproduction of Divisions

While the inbuilt tensions of the Dayton and Washington Agreements have materialised in many dimensions, the education system provides an illustration of how these divisions continually reproduce. The education system, which lacks a coordinating central Ministry of Education, is segmented along entity and canton lines into 12 education ministries (one for each entity and canton) and an education department in the District of Brčko. This resulted in an 'ethnified'

²¹ See also Kostić, op. cit.

²² Personal communication.

structure, or a structure coloured by ethnicity, where Bosnian Serbs have decision-making power in Republika Srpska, and the Bosniak and Croat majorities respectively have such power in each of the ten cantons in the federation, while the two mixed cantons are particularly fragmented at a sub-cantonal level²³.

The political and administrative division has meant a continuous politicisation of education, which maintains ethnically coloured curricula that affects a range of subjects, especially history, geography, civics, language, and music culture with ethnic symbols in the schools²⁴. This has proved a real obstacle to the return and reintegration process. Placing children in schools where the school has been hostile to their ethnic group creates a very real obstacle. Further, transfers between schools and programmes have remained difficult since the curricula are not coordinated. Therefore, the divided and ethnically tainted education system has been a continuous obstacle to returning to a common education system and for reconciliation attempts.

Many institutional reforms have been attempted, for example, with a conference of ministers of education and a central Education Agency, but it has lacked any real power. In this frozen framework, the international community has played an increasingly passive role and, as noted by Valery Perry²⁵, the domestic ruling parties feed on nationalist sentiment and employment of patronage systems, and have little to gain from engaging in policies that produce compromise or inclusive civic orientation

Police Reform and Escalating Tensions

Another instructive example highlighting how the tension inbuilt in the Dayton Agreement generates problems for implementation is the structure of the police and the attempts at reform to create a coordinated

²³ Marina Bowder and Valery Perry, "Returnees and the Challenges for Education Reform in Bosnia and Herzegovina," in *Education and Internally Displaced Persons* eds. Christine Smith Ellison and Alan Smith (Bloomsbury, 2013, 142-164); Valery Perry, "Classroom Battlegrounds for Hearts and Minds: Efforts to Reform and Transform Education in Post-war Bosnia and Herzegovina," in *Bosnia-Herzegovina Since Dayton: Civic and Uncivic Values* eds. Ola Listhaug and Sabrina P. Ramet (Ravenna: Longo Editore, 2013, 225-246).

²⁴ Bowder and Perry, op. cit.

²⁵ Valery Perry, "Classroom Battlegrounds for Hearts and Minds: Efforts to Reform and Transform Education in Post-war Bosnia and Herzegovina," in *Bosnia-Herzegovina Since Dayton: Civic and Uncivic Values*. eds. Ola Listhaug and Sabrina P. Ramet (Ravenna: Longo Editore, 2013, 225-246).

law enforcement agency. In the decentralised Dayton structure, almost all competencies of the police were allocated at the level of the entities and cantons, which meant that there were as many as 15 autonomous police agencies.

In 2000 and 2002, two state level functions were created with the 'State Border Service' and 'State Investigation and Protection Agency', but overall, the fragmented and uncoordinated police structure remained, which created a dysfunctional state of law enforcement. Meanwhile, there was a growing international awareness of the problem with organised crime and corruption, which was paramount in the whole region and affected Europe.²⁶ With crime and corruption being a major obstacle to development and with the informal local control of the police, the international administration, through its representative Office of the High Representative (OHR), initiated negotiations on police reform with the aim of forming a unified police force with competencies at the central state level and with districts crossing the inter-entity boundary line and hence centralisation.

This would set in motion a centrifugal and conflict-escalating dynamic with increasing tension among local politicians²⁷. It started with an OHR-imposed decision in 2004 to establish a restructuring commission and continued over a three-year period of protracted negotiations and tensions and was finally aborted in December 2007. The seemingly technical and practical issue of the police was in fact a crucial state-building issue, and local politicians and observers immediately perceived this as such and hence as a constitutional rearrangement in violation of the Dayton Agreement. Therefore, it generated a dispute on the organisation of the state, rather than on the practical coordination of law enforcement.

Resistance and suspicion regarding the reform initiative came from all ethnic groups, but the Bosnian Serbs saw it as an attempt to fully or partially abolish the Serbian entity. In an unfortunate move, the reforms were pinned to Bosnia and Herzegovina's relations with the EU, by making them conditional to the 'Stabilization and Association Agreement' (SAA), which was under negotiation. Eager to move the

²⁶ The central Balkans became one of the largest smuggling zones in the world, and, for example, between 70% and 80% of all heroin trade in Western Europe (depending on the country) travelled through the Balkans. See Sørensen, op. cit. 2006.

²⁷ Daniel Lindvall, *The Limits of the European Vision in Bosnia and Herzegovina* (Acta Universitatis Stockholmiensis: Stockholm Studies in Sociology, New Series 40, 2009).

state-building and peace-building process forward, the OHR referred to the police reform in terms of the conditionality to fulfil European standards, which the EU, internally divided, allowed it to formulate. Because of the failure to reach an agreement, the reform effectively came to block the entire EU policy in Bosnia and Herzegovina. Since local tensions and mutual suspicion were escalated rather than ameliorated, the initiative was eventually abandoned, and the conditionality bar lowered.

However, this again directly affected the negotiation dynamics. The Bosniak politicians who had built up expectations of an increased centralisation saw a lowering of the bar as a move by the international community to reward the Bosnian Serbs for obstructions related to the reforms²⁸. Now, anything that was weaker than the initial proposal was perceived by the Bosniaks as rewarding the Serbs, and vice versa. Specific proposals and counter proposals were offered and blocked.

One of the Bosnian Serb leaders, Milorad Dodik offered a compromise proposal in which the police were brought under supervision at the central level, while keeping the organisation at the entity level. The Bosniak representative Haris Silajdžić expressed that his main goal was to abolish the Bosnian Serb entity, Republika Srpska, proclaiming that its existence was a legalisation of a structure resulting from genocide²⁹. The positions became increasingly blocked, and in the end, the international community suggested a watered-down proposal, which was rejected by both the Serbs and the Bosniaks. The final demise of the police reform came from an OHR attempt to impose several decisions to force local politicians back to negotiations. With the Bosnian Serbs simply refusing and instead threatening with a complete withdrawal from the central government and parliament, the OHR had to abandon its decision. The net result of the process was that the legitimacy of the OHR as the international community's representative, was considerably undermined.

Kosovo: Rambouillet Negotiations and Shock Waves from Dayton

The Rambouillet negotiations aimed at bringing an agreement between Kosovo leaders and Serbian leaders to a joint agreement over Kosovo's future. However, the text of the Rambouillet talks were never

²⁸ Lindvall, op. cit.

²⁹ Lindvall, op. cit..

signed and ratified. Notwithstanding, the text became slightly revised after the NATO bombings of Serbia in 1999. The subsequent NATO bombing campaign spurred an immediate Serbian counterstrike and assault inside Kosovo, both to prepare the ground for an expected NATO invasion and as a revenge act upon the Albanians.

In face of the subsequent humanitarian disaster, it became evident that new negotiations were necessary to break the deadlock. A renegotiation after the bombings was possible with the involvement of Russia, and now the crucial problem points from the first (February) version of Rambouillet were dropped or altered, after which Serbia agreed to what in effect became a UN protectorate in Kosovo³⁰. The UN Security Council Resolution 1244 formalised the mandate, officially guaranteeing Serbian sovereignty over Kosovo, but placing it under UN administration. The focus of the analysis below is on the rationality structure of local agents in the Kosovo context.

Rationality structure of local agents

The Rambouillet negotiation is as close to a textbook case as one may find on how an agreement profoundly affects the rationality structure of local agents and thereby the political dynamic in a direction towards radicalisation of the conflict. One of the claimed causes of the breakdown was the content of the appendix B. The Serbs representing the Former Yugoslavian side had been close to agreeing until this appendix was shown. It implied that 'NATO personnel shall enjoy, together with their vehicles, vessels, aircraft and equipment, free and unrestricted passage throughout the FRY, including associated airspace and territorial waters. This shall include but not be limited to, the right of bivouac, manoeuvre, billet, and utilisation of any areas or facilities as required for support, training, and operations.'³¹

It was also one of the clearest examples of how an agreement immediately affects intra-ethnic relations. Moreover, in the case of

³⁰ Kjell Magnusson, *Rambouilletavtalet: Texten, förhandlingarna, bakgrunden*. Centrum för Multietnisk forskning, Uppsala, 1999; E. A Dauphinee, "Rambouillet: A Critical (Re)Assessment," in *Understanding the War in Kosovo* eds. F. Bieber & Z. Daskalovski (Frank Cass, 2003), 101-121; Jens Stihoff Sörensen, *State Collapse and Reconstruction in the Periphery: Political Economy, Ethnicity and Development in Yugoslavia, Serbia, and Kosovo* (Oxford & New York: Berghahn Books, 2009).

³¹ From Appendix B quoted in Alex Bellamy, "Reconsidering Rambouillet", *Contemporary Security Policy*, 2001, 22:1, 31-56, 36.

Kosovo, the 'neighbouring' Dayton Agreement had a profound effect, although (or precisely because) it did not mention Kosovo.

In Kosovo, we also find a particularly clear example of the importance of the intra-ethnic dimension in an ethnically delineated conflict. Here, the most crucial issue aside from the dynamic in Serbian-Albanian relations was the intra-Albanian competition between the moderate and initially hegemonic political party Democratic Alliance of Kosovo (LDK) and the radical faction Kosovo Liberation Army (KLA), with the latter's continuous consolidation throughout the second half of the 1990s. Of importance is how the latter obtained international support intentionally and unintentionally and how the peace agreements contributed to this. This development throughout the 1990s profoundly influenced the conditions and direction of peace- and state-building after 2000.

In response to the *de facto* abolishment of Kosovo's autonomy within Serbia, the Albanian majority organised their own parallel institutions and boycotted all the state ones, which were dominated by Serbs. Since the Albanians opted for a non-violent strategy, there was little direct confrontation, but the result was a deeply divided society. The system was financed through a 3% tax for all Albanians, including those working abroad, diaspora remittances and, to some extent, international aid with donors supporting what they perceived as an emerging 'civil society'. It also relied on voluntary work, solidarity, reduced salaries, bartering, and subsistence farming.

Politically and institutionally the scene was completely dominated by the LDK, which essentially managed to temporarily unify the Albanians against the Serbs. The LDK's strategy was not undisputed, and there was opposition and divisions within the party and with other smaller parties, especially from autumn 1994 onwards. There was a split with a breakaway moderate faction of those willing to settle for autonomy within the new Yugoslavia. The split also developed across the diaspora in Germany, Switzerland, and the US, and there was an accompanying growing opposition towards LDK's dominance in the local government³².

³² Sørensen, op. cit 2009; Jens Stilhoff Sørensen, "Reconstituting Crisis: Revisiting the Dayton and Rambouillet Agreement" in *Mediation and Liberal Peacebuilding*. eds. M. Eriksson, & R. Kostić (Routledge Studies in Intervention and State building, London: Routledge, 2013).

Within the diaspora, there were also more radical groups. While most joined the LDK in 1990, some militant factions remained³³. From these grew the KLA, formed during 1992-93, with the objective of an independent Kosovo and unification of all Albanians in a Greater Albania³⁴. The KLA drew its members mainly from a few clans in the Drenica area and from the diaspora. The group remained very small and marginal until autumn 1995.

Internal divisions grew and a real change in strategy in the Albanian movement came in the second half of the 1990s. This partly resulted from the perception shock wave that the Dayton Agreement sent among the Albanians in Kosovo. The Albanian interpretation of the Dayton Agreement was that building ethnic polity had been legitimised (the entities were created through ethnic cleansing). More importantly, since Kosovo had been ignored at Dayton, they interpreted that the only way to receive serious international attention was through violence³⁵.

The strategy of non-violence was now openly challenged, and the political spectrum widened with divisions into three positions, pacifist, activist, and militant. In the following years, the KLA gained more initiative. From November 1997, masked KLA guerrillas started displaying themselves at funerals to read statements, a tactic creating fear among many Albanians³⁶. They targeted not only Serbs, but also LDK supporters, and many Albanians began to fear the KLA.

The KLA had limited resources, but their strategy was to provoke violence, as in Bosnia and Herzegovina, to gain international attention for their cause³⁷. The strategy proved successful, and an incident in early 1998, the Drenica massacre, placed Kosovo at the centre of international attention, which would strengthen the KLA considerably (see Sørensen 2009, 2013). In two operations in February and March, Serbian forces attacked a few extended families connected to the KLA in the Drenica area and killed 26 and 58 people respectively, in the compound of the

³³ Tim Judah, 'The Kosovo Liberation Army', in *Perceptions*, 2000, pp. 61-77; Sørensen, op. cit., 2009; Sørensen, op. cit., 2013.

³⁴ D. Janjić, *Kosovo under the Reign of Slobodan Milosevic*, Belgrade: *Forum for Ethnic Relations*, Institute of Social Sciences, 2009.

³⁵ Janjić, op. cit; Skelzhen Maliqi, *Kosova: Separate Worlds*. Prishtina, Dukagjini Publishing House, 1998.

³⁶ A. Salihu, M. Hajrullahu and J. Xharra, 'Radicals Test the Ground in Drenica' *Balkan Crisis Report No 498, 20 May 2004* (London: Institute for War & Peace Reporting, 2004)

³⁷ H. Thaqi, 'The KLA Brought NATO to Kosova' in *Kosovo: Contending Voices on Balkan Interventions*. ed. J. W Buckley (Cambridge: Cambridge University Press, 2000), 282-290

guerrilla leader Adem Jashari³⁸. This provoked outrage among Albanians throughout Kosovo and in the diaspora, and the clan elders in various regions now began supporting the military uprising. Moreover, the Albanian-American community, which had been supporting the LDK, now shifted its political and financial support to the KLA³⁹.

At this time, the KLA was internationally labelled as a terrorist organisation, but within a few months, the US changed its position radically regarding the KLA⁴⁰. During the second half of 1998, the US dropped its support of LDK and began supporting the KLA, a foreign policy shift that was finally completed by spring 1999. Although the KLA had no elected representatives nor any wide popular support, it was given a key role at the Rambouillet talks in February 1999, whereas the LDK was marginalised⁴¹.

From the start, the UN mission was entrenched in the explosive issue of Kosovo's status and a highly radicalised local political dynamic. From now on, the KLA would come to have a strong position in Kosovo, and once a protectorate was established, they embarked on a revenge wave of ethnic cleansing upon the Serbs. Serbs were attacked and murdered or forced to leave, and property, monasteries, and cemeteries were demolished. Moreover, NATO became a bystander, either unable or unmotivated to stop it.

The KLA's leader, Hashim Thaqi, proclaimed himself prime minister and began forming a government, which the UN could not prevent, although it was considered illegitimate. It took almost a year before some security and control were established, and this initial period marked the coming years by generating deep distrust and resentment from the Serbs vis-à-vis the international administration. Violence and destabilisation also spread to Macedonia and southern Serbia, where branches of the KLA embarked on guerrilla campaigns.

³⁸ Magnusson, op. cit.; Tim Judah, 'The Kosovo Liberation Army', in *Perceptions*, 2000, 61–77.

³⁹ F. Nazi, 'Balkan Diaspora 1: The American-Albanian Community' in *Kosovo: Contending Voices on Balkan Interventions*. ed. W.J. Buckley (Cambridge: Cambridge University Press, 2000), 152.

⁴⁰ Magnusson, op. cit.; Sørensen, op. cit, 2009; Sørensen, op. cit., 2013.

⁴¹ Magnusson, op. cit.; Dauphinee, 'op. cit., 2003; Sørensen, op. cit., 2009

Preventing Further Shock Waves: Ohrid Framework Agreement for Macedonia

The Ohrid Framework Agreement (OFA) was signed on 8 August 2001 between the Albanian and Macedonian leaders of the main political parties of the Republic of Macedonia. The signatories of the OFA were Prime Minister Ljubcho Georgievski (Internal Macedonian Revolutionary Organisation – Democratic Party of National Unity), Branko Crvenkovski (Social Democratic Union of Macedonia, SDSM), Arben Xhaferi (Democratic Party of the Albanians, DPA), and Ymer Ymeri (Party of Democratic Prosperity, another Albanian party).

To avoid further escalation into a full-scale major armed conflict and to cease the fighting that had begun in early 2001, they agreed to a set of new amendments to the 1991 Constitution. These amendments implied relative far-reaching legislative changes that were supposed to meet the Albanians' long-standing demands. The international community, the EU, and the US, freshly experienced from other regional 'powder kegs', primarily the Bosnian and Kosovo armed conflicts, rushed to curb the outbreak of the armed conflict. In May 2001, after EU and US mediation, a unity government was formed and 'a package of wide-ranging amendments to the constitution and far reaching legislative changes that should meet the Albanians' long-standing demands'⁴² was reached, to be ratified in August 2001. However, several spoiling attempts followed, and armed clashes continued, which forced the external actors to continue pressurising for a peace agreement that should be signed by the involved parties.

The OFA agreement is considered to have addressed some of the important conflict issues that hampered the relations between Albanians and ethnic Macedonians in the otherwise civic-defined Republic of Macedonia. The power-sharing arrangements that were drafted in the agreement were expected to avoid a continued and escalated violent civil war. In many ways, the idea was to build the political system similar to a model of a consociational democracy. However, it also included some aspects that would create long-term consequences for the implementation process. Hence, the primary focus was placed on the

⁴² Ulf Brunnbauer, "The Implementation of the Ohrid Agreement: Ethnic Macedonian Resentment," *Journal of Ethnopolitics and Minority Issues in Europe*, Issue 1/2002. European Centre for Minority Issues, 2002, 3.

rationality structure of local agents, structural conditions, and institutional conditions and relations.

Rationality Structure of Local Agents

In Macedonia, the events in Bosnia-Herzegovina and Kosovo had a direct effect on the political tensions between the largest ethnic group, the Macedonians, and the largest minority group in the country, the Albanians. It also had an effect on how the OFA came into being as the political reality. The international community's determination to prevent further escalation was based on the experiences in Kosovo. In a similar way as in Kosovo, the Albanian militant organisation, the National Liberation Army (NLA), closely linked and partly overlapped with the KLA in Kosovo, launched several attacks against Macedonian security forces in January 2001. Their official political objective was to fight against the Macedonian security forces until the Albanian basic rights were achieved and were at parity with most of the country's other citizens, the ethnic Macedonians. However, to achieve this, as was the case with the KLA in Kosovo, NLA's strategy was to first gain attention from the international community. This search for attention was aimed to give NLA a legitimate presence as key actor in the forthcoming political process.

The NLA, partly considered an insurgency movement from Kosovo since many of their commanders had been founders and commanders of the KLA in Kosovo, also created political confusion among the Macedonian parties. Soon the NLA also made a claim that they were part of the new political reality and should be considered as one party to the conflict. Until then, Macedonia had been described as '...an "oasis of peace"', mostly because everyone needed at least one peaceful actor and alleged success in the regional nightmare⁴³ of former Yugoslavia.

Some challenging and sporadic violence broke out after the attack by the Albanian National Army (ANA), who opposed the OFA and wanted a unification of what they considered all Albanian areas in the Western Balkans⁴⁴. Despite this, there was a 'surprisingly low level of

⁴³ Biljana Vankovska, "The Role of the Ohrid Framework Agreement and the Peace Process in Macedonia", in *Regional Cooperation, Peace Enforcement, and the Role of the Treaties in the Balkans*, eds. S. Bianchini, J. Marko, C. Nation, and A. M. Uvalic (Ravenna: A. Longo Editore, 2007), 41–63, p. 12.

⁴⁴ Norbert Mappes-Niediek, 'Warum die Kosovo-Mission gescheitert ist', in *Blätter für deutsche und internationale Politik*, 2001, 46, 447–455, 446.

inter-communal violence in ethnically mixed localities...'⁴⁵. Vankovska argued that the EU and US primarily enforced the OFA on the signatory parties without any deeper understanding of the conflict situation. In fact, she underlined that the NLA leader and his party (today the Democratic Union for Integration, DUI), became a 'shadow actor' that, with its armed attacks, placed itself on the political arena despite the NLA not participating directly at the Ohrid negotiations. In September 2001, a month after the signing of the OFA, NLA was disarmed, although only formally in the view of many ethnic Macedonians.

Its commander and political leader, Ali Ahmeti, who also was one of the founding figures of the KLA in 1998, formed the political party DUI in 2002. From that point onwards, DUI became a dedicated supporter of the OFA, thereby initially downplaying the role of other Albanian parties. It soon became the largest Albanian party. However, for many ethnic Macedonians, 'for whom he remains a perpetrator of war crimes'⁴⁶, it was an improper outcome of the 2001 violence. Paradoxically, one of the previously main Albanian parties, the DPA, that had been part of the government coalition did not believe the OFA would give what the Albanians demanded. A similar pattern as in the case of Kosovo followed, in which violence was politically rewarded in the sense that the international community, primarily the EU and US, took the mediator role upon themselves to curb further violence, and *de facto* 'the weak and non-democratic leaders who contributed the most to the conflict explosion were given international support to decide upon the destiny and the future of the ordinary citizens who had never really been involved in direct inter-ethnic armed hostilities'⁴⁷. The international mediators pressured the Macedonian government to give several concessions to the Albanian minorities but also continued to support the OFA and created EU guarantees for local warlords.

Structural Conditions

Studies have shown that despite a relatively high growth rate compared to neighbouring countries, there is a high degree of social exclusion in Macedonia among ethnic Albanians and the Roma population in rural areas and the capital itself compared to places with a

⁴⁵ Vankovska, op. cit., 13.

⁴⁶ Brunnbauer, op. cit, 18.

⁴⁷ Vankovska, op. cit., 13.

population less than 30,000 that tend to have a better situation⁴⁸. The broader public appreciated the immediate peace dividend in the form of the absence of violence and the ceasefire. With time however, when the implementation did not follow the OFA, public frustrations increased, and when the expectations were thus not fulfilled, escalation of different forms of resistance followed.

In recent years, popular frustrations with lack of increased socio-economic output, particularly in terms of dividing the socio-economic improvements in a fair way, has spurred demonstrations and protests. With a critique of the government budget proposal, the now former leader of the leftist opposition party (SDSM) Branko Crvenkovski while addressing the thousands of supporters outside of the parliament on 23 December 2012 said that 'We are calling for civil disobedience... Macedonia will see a popular uprising'⁴⁹.

Critique has also been forthcoming for the lack of implementation of health reform and the high corruption rate within government structures. Several new government reforms were implemented in 2014, for example, that universities are placed under closer control of the government, and civil society has received a three-fold increase in tax payment requests on honorarium payment. These reforms increased popular questioning of the government policies but risk being addressed in ethnic terminology and in relation to the OFA. This can evolve into renewed ethnic tensions in society.

At present (June 2020), Macedonia still faces an open question on whether the political parties will risk playing the 'ethnic card', and whether the public is willing to be dragged into such a political game; especially when the country has been shaken by series of corruption scandals investigated by a Special Public Prosecution Office. Still, voices from the Albanians continue to claim that the implementation of the OFA is not yet accomplished, while voices among ethnic Macedonians have begun to say that it is time to go beyond the OFA.

Institutional conditions and relations

⁴⁸ Joseph Deutsch, Jacques Silber and Paolo Verme, 'On Measuring Social Exclusion: A New Approach with an Application to FYR Macedonia,' in *Poverty and Social Exclusion in the Western Balkans. New Directions in Measurement and Policy*. eds. Caterina Ruggeri Laderchi and Sara Savastano (New York/Heidelberg: Springer Verlag, 2013) 99-116.

⁴⁹ Al Jazeera, 12 Dec. 2012, 'Macedonia Budget Sparks Clashes.'

In contrast to the Washington, Dayton, and Rambouillet Agreements, the OFA included elucidations regarding the language issues and the relationship between the local autonomy requests (primarily Albanian party positions) and the demands to keep the centrality of the state (primarily the position of the ethnic Macedonian party position).

Further, the OFA states that the relative size of the minorities of the total population should be reflected in the number of civil police employed. A clear plan of how many new recruits are needed for recruitment was built on a forthcoming census, and 'the parties commit themselves to ensuring that the police services will by 2004 generally reflect the composition and distribution of the population of Macedonia' (Article 5.2). The new recruits should be trained by the OSCE and USA.

The objective was to let all sectors mirror the Macedonian ethnic societal composition and 'increase the representation of members of communities not in the majority in Macedonia in public administration, the military, and public enterprises, as well as to improve their access to public financing for business development' (Article 5.1). Moreover, the media sector became affected and 'the parties invite the international community, including the OSCE, to increase its assistance for projects in media to further strengthen radio, TV, and print media, including Albanian language and multi-ethnic media' (Article 6.1) thereby, creating two *de facto* media systems, one in the Macedonian and one in the Albanian language, respectively.

The OFA did not change the political system and is based on the 1991 Constitution. The election system, in which 85 representatives of the 120 seats in the parliament are elected according to the majority principle, in effect, sparks intra-ethnic rivalry, meaning that wherever Albanians are the majority, it becomes an inter-Albanian rivalry for gaining most of the votes. Further, it forms an actual model in which essentially only two ethnic groups are part of the *de facto* consociational democratic system. Due to the OFA, with a further strengthening of local autonomy for the municipalities, further segregation between Albanians and ethnic Macedonians was strengthened

Space of Contestation in Implementation

When we bring our focus on the space of contestation in the OFA, we find further issues of ambivalence. In the OFA we find that when the

signatories signed the agreement, they 'violated the Constitution'⁵⁰ since the Constitution of 1991 required that political agreements as the OFA must be signed in the Macedonian language. The OFA was written in American English and is the only authentic version of it. Furthermore, several translations of such terms as 'community', 'public body', 'public space', etc., were ambiguous and created questions, such as whether 'community' referred to the 'ethnic' or 'local' community (Škaric 2004).

Today, 19 years after the signing of the agreement, although most public grievance is mainly directed at the government, there is a latent risk of increased polarisation mainly between ethnic Albanians and ethnic Macedonians. The risk of renewed ethnic mobilisation and escalation into new violence and armed conflict overshadows the various issues of the OFA that have been achieved. Much of the development and economic policies during the last years have led to a major gross domestic product (GDP) output; however, it also created a rift, and socio-economic gaps have widened between the 'haves' and "have-nots'. Due to continuous segregation in the country, these socio-economic and political cleavages risk being addressed in ethnic terms. What has shifted in terms of expectations since 2001, and how has the resistance against the top-down peace project unfolded over time?

The OFA provides a quota system concerning how power sharing should be designed to ensure that the biggest minority, the Albanians, could gain access to power and work options in the various parts of the authority. In recent studies, we find that most of the ethnic Macedonians consider the OFA to be outdated, and to give the Albanians *de facto* better work options even in cases in which the merits are fewer. Albanians, on the other hand, emphasise that the OFA still has not been implemented, and that the segregation still prevails in practice. Incidents such as attacks and violent clashes between demonstrating Albanians and police have further fuelled the tensions.

Conclusion

Peace agreements are often designed with the immediate concern of ending violent conflict. This study has particularly looked at four aspects that are of crucial importance to be included in the negotiations of ethnic identity conflicts. If these aspects are not dealt with properly, it risks

⁵⁰ Svetomir Škaric, "Ohrid Agreement and Minority Communities in Macedonia" in *Prospects of Multiculturalism in Western Balkan States*. eds. Vojislav Stanovčić and Goran Bašić, (Belgrade, Ethnicity Research Center, Friedrich Ebert Stiftung, 2004) 96.

freezing conditions around which conflicts can re-crystallise and re-emerge for years and even decades after the treaty was signed. They may contain inbuilt tensions with wide-ranging and long-lasting ramifications for the implementation of peace and for the subsequent political (and ethnic) dynamics in post-intervention society. Using former Yugoslavia as a case, we analysed how these four aspects have been neglected in the negotiations, namely: i) how the agreement affects the rationality structure of local agents; ii) how it affects structural conditions, such as socio-economic; iii) how it affects institutional conditions and relations, and iv) the extent of space for contestation of the content of the agreement. While these dimensions mattered to various extents for the outcome in the four agreements analysed, they provide a complementary framework to engage in to achieve the desired results. Hence, these aspects can be seen as complementary to the research that has argued that endogenous factors matter for the outcome of the long-term peace process⁵¹.

This study's findings complement previous research, and in specific when we deal with ethnic conflict contexts. We have highlighted the importance of analysing the aspects, and to what extent they constitute determining or contributing factors that bring conflict parties into a successful conflict transformation process or not. As shown in this study, we can draw some tentative conclusions regarding the dimensions analysed and how they may be of concern. Failure to consider them and incorporate all or some of them, when relevant, may partly explain why many peace processes related to ethnic and armed conflict dynamics return to armed conflicts within the first five years. Although we draw our conclusion from one single, yet highly complex, case, our findings indicate that these dimensions matter for ethnic conflict transformations. Hence, we propose that more systematic studies should be conducted on how peace processes of ethnic conflicts are linked to peace agreements, with special emphasis on the four dimensions as discussed in this study. This will further broaden the scope of our understanding on the subject.

⁵¹ Wagner and Druckman, op. cit.; Madhav et al, op. cit.; Badran, op. cit.; Daniel Druckman and Cecilia Albin, 'Distributive Justice and the Durability of Peace Agreements,' *Review of International Studies*, 37 (2011):1137-1168; Jean Poitras, and Aurélie Le Tareau, 'Quantifying the Quality of Mediation Agreements', in *Negotiation and Conflict Management Research*, 2(4), 2009, 363-380; Fortna, op. cit., 2004; Stedman et al op. cit, 2002; Jones, op. cit.

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