

Facing institutional change in Mostar: a litmus test for Bosnia and Herzegovina

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The reconstruction of Mostar could have been a symbol of renewed multiethnic coexistence. Instead, it has become a synonym for failed institutions and divisions, mirroring the difficulties of the whole country. While imposition of both the 1996 and 2004 statutes establishing the city's administrative units was connected with crisis, the city has also faced two major deadlocks, in 2008–2009 and 2012. In the first, a solution was imposed by the international community's High Representative (HR). But the second remains unresolved, as the HR resists intervening. The aim of the paper is to analyze these impasses – moments when institutional change should have occurred, but for some reason did not. Even the solutions – acts of external imposition – might be treated at best as institutional pseudo-change that shows that imposed institutions have a particular inertia that resists change. The topic will be presented from the perspective of historical institutionalism, with special emphasis on the path-dependency approach, which refers here not only to the formal institutional structure of the city, but also to the decision-making processes in the moments of stalemate.

Keywords: Bosnia and Herzegovina; Mostar; path dependency; institutional change

Mostar has always been a symbol. Originally it stood for multiethnic coexistence and the ideology of “brotherhood and unity.” Since the end of the war, instead of being a “charming microcosm of Bosnia” as Sumantra Bose said, Mostar has become a symbol of the destruction of multiethnic heritage or, with its postwar division into enclaves, the fate of Bosnia as a whole and the failure to achieve any significant degree of reunification (2002, 98). Moreover, Mostar might be treated as a litmus test for solutions and a key for understanding problems in Bosnia, as it mirrors the country's experience with imposed and unchangeable institutions. As Safet Oručević said, “Mostar might represent a prototype for a unified and tolerant BiH, as well as a direct test, a kind of barometer, for the viability of the state and the Croat-Muslim Federation” (1996a, 24–26), a place “essential to [Bosnian] peace” (*The New York Times* 1997). Its successful reconstruction could have been a representation of coexistence and cooperation, a working example that a city might be treated as a primary unit of peace-building (Beall, Crankshaw, and Parnell 2002). Instead, it has become a synonym for failed institutions and divisions revealing and reflecting the difficulties of the whole country.

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Significant elements of the unsuccessful, postwar reconstruction of Mostar were its statutes, both imposed in an atmosphere of crisis – the first on an interim basis in 1996, the second in 2004 – as major attempts to reform the structure of the city. The moments of their enactment marked the first significant impasses the city experienced, but since then it has faced two subsequent crises, in 2008–2009 and 2012, which again enforced attempts to change the dysfunctional institutions. While the High Representative (HR) imposed a minor reform that broke the first deadlock, the 2012 impasse, in which the HR has taken no role, persists.

The aim of this paper is to analyze these impasses, moments when crises were combined with institutional reforms, or, as in the second case, a hypothetical is perceived as the only solution. The analysis results in two observations. First, international intervention and imposition of a new institutional solution are the only manner in which institutional reform has been introduced here (although taking different shapes). Second, despite the structural changes introduced into the system, measured in the long term these internationally imposed reforms might be treated at best as institutional pseudo-changes, which do not address the problem but merely give the appearance of reform (Head and Sorensen 2011). Since the very beginning, institutions imposed by the international community, unaccepted and abused by local political actors, have a specific inertia that makes them impervious to change.

The analyzed impasses should be understood in the light of the path-dependency pattern created after the conflict, in which during crises the only solution available is the external imposition of a new institutional structure that might be connected with the “dependency syndrome” known in the literature of state-building. Yet the external imposition is problematic, violating the basic institutional assumption that rules are agreed upon in advance, so that actors know what they are agreeing to when they accept them (Peters 2012, 54). The path dependency refers here not only to the formal institutional structure of the city, which, with the last demands of the SDA (Stranka demokratske akcije, Party of Democratic Action), has come full circle, but, first of all, also to the decision-making procedure of institutional reform that might be treated as an informal institution.

The analysis will focus on institutional change and resistance to change, assuming that the processes of institutional reproduction and change are mutually reinforcing, in the sense that many of the forces that change institutions also stabilize them (Campbell 2010, 88), and that in moments of crises, institutional logic is reversed and we can observe how politics shapes institutions (Thelen and Steinmo 1992, 15). The topic will be presented from the perspective of historical institutionalism, with special emphasis on path dependence approaches and based mainly on primary sources: materials broadcast by Radio-Television Mostar and published by local newspapers, documents issued by the OHR (Office of High Representative) and the Organization for Security and Co-operation in Europe (OSCE), as well as interviews with local politicians conducted during field research from June to August 2014. The following section gives an overview of the assumptions and merits of the theoretical framework; the subsequent section contains a brief summary of the political situation in postwar Mostar; followed by a presentation of the impasses under examination; while the last part places the analysis in the context of the main theoretical argument.

State-building and the theory of institutional change

After a number of complex international peace-building operations aimed at stabilizing countries emerging from war, a shift in the peace-building field in the late 1990s and early 2000s put an emphasis on the construction or strengthening of legitimate

governmental institutions (state-building). However, as Chesterman (2005), Krasner (2004), and Paris (2004) have argued, too little attention has been paid to the processes of international state-building (Paris and Sisk 2009, 1, 8), including the issue of institutional change and the tension between devolving authority to local actors and maintaining international overseers (Krasner 2004, 100). Consequently, international interventions have repeatedly been criticized as creating dependency between international and domestic actors, and opportunities for political irresponsibility (Bose 2002; Chesterman 2005; Knaus and Martin 2003).

Dependency is a complex phenomenon, of which “perverse effects are explained by the exporter’s absence of adaptation or the pathological behavior of the importers,” while the dysfunctional character of the imposed strategies might lead to even greater dependency (Solioz 2007, 100). Paris emphasizes here a “culture of dependency” among local people, who might come to rely on international officials and lose interest in governing themselves (Paris 2004, 204). Chesterman puts it a more radical way: “The governance of post-conflict territories by the United Nations embodies a central policy dilemma: how does one help a population prepare for democratic governance and the rule of law by imposing a form of benevolent autocracy?” (Chesterman 2005, 127).

This problem is visible in Bosnia and Herzegovina on both the central and local levels, with the creation and functioning of the Bosnian governance structure dependent on international intervention with the OHR as the main supporter of its institutions (FPI 2008, 9). Yet, it is not only the creation and functioning of institutions, but also the process of institutional change that has come to rely heavily on outsiders, to little avail.

There is no consensus on how to define either institutions¹ or the process of institutional change, and in fact, each branch of neo-institutionalism has created its own theoretical perspective. Yet this text’s focus on chosen moments of political crises over a longer period of time and repeated institutional resistance to change places it close to the historical institutionalism that emphasizes the persistence of institutions (Peters 1999, 67). The basic idea is that the choices made when an institution is being formed, or when a policy is initiated, will have a continuing and largely determinate influence over it far into the future (Peters 1999, 63).

Therefore, it has been assumed that institutions do not change rapidly – they are sticky, resistant to change, and generally rather “path dependent,” in which contingent events or decisions result in the establishing of institutions that tend to persist over long periods of time and constrain the range of options available to actors in the future, including those that may be more efficient or effective (Campbell 2010, 90).

However, definitions of path dependency range from the broad – “what has happened at an earlier point in time will affect the possible outcomes of a sequence of events occurring at a later point in time” (Sewell 1996; Mahoney 2000, 510) – to the narrow – contingent events set into motion institutional patterns or event chains that have deterministic properties (Mahoney 2000). Crucial features here include self-reinforcement – each step in a particular direction makes it more difficult to reverse course (Pierson 2004, 20–21; Thelen 2003, 219–220) – and emphasis on agency – actors’ choices create institutions and structures, which in turn shape subsequent actors’ behaviors, which in turn lead to the development of subsequent institutional patterns (Mahoney 2001, 11).

Even though it seems that the analytical framework of historical institutionalism is stuck on the enduring effects of choices made at the initiation of a structure (Peters 1999, 68), institutional change is possible and at first was introduced to the theory by two quite similar concepts of punctuated equilibrium and critical junctures (Collier and Collier 1991, 29), which are defined as periods of contingency or choice points triggered by

exogenous shocks. Yet, more recent works on historical institutionalism have attempted to explain how change can result from the accumulation of incremental changes that are endogenous to institutions. Assuming that a conceptual schema that provides only for either incremental change supporting institutional continuity or disruptive change causing institutional breakdown and discontinuity is not enough (Streeck and Thelen 2005, 8; Mahoney and Thelen 2010, 2), five modes of institutional change were introduced: displacement (removal of existing rules and the introduction of new ones), layering (introduction of new rules on top of or alongside existing ones), drift (changed impact of existing rules due to shifts in the environment), conversion (redirection to new goals and functions), and exhaustion (in which behaviors allowed under existing rules operate to undermine them) (Streeck and Thelen 2005, 9–29).

Mostar: introductory remarks

Mostar has been a multiethnic and multicultural settlement, with an independent political identity since the twelfth century (Pasić 2004, 5). Under the Ottomans it became a colonial crossroad, but it was during the Austro-Hungarian period when the city's planning, infrastructure, and housing were reformed (Pasić 2004, 7). This era also marked the birth of Muslims' national movements, while the city became the Serbs' center of resistance (Hoare 2007, 77). Its position as a political center for Muslims and Serbs also spurred the creation of organizations representing mixed identities: a left-wing, Serb-oriented Muslim democracy and a multiethnic radical student group, Young Bosnia (Hoare 2007, 87–88). The Croatian element was also present: among journals established on its territory were not only the Muslim *Zora* and Serbian *Srpski vjesnik*, but also the Croat *Glas Hercegovaca* and *Osvit* (Hoare 2007, 71), while in 1936 the city's Croats organized a rally against political exclusion. During the Yugoslav period, Bosnia's industrial base was expanded with the construction of a metal-working factory, cotton textile mills, and an aluminum plant that triggered a demographic boom. From 1945 to 1980, Mostar's population grew from 18,000 to 100,000 (Pasić 2004, 9) and the city became a mixture of ethnicities, religions, and cultures living in relative harmony. At the League of Communists party conference in Mostar in 1966, Herzegovinians were included in its structures of power – Džemal Bijedić, Branko Mikulić, and Hamdija Požderac appeared as a new generation of Communist politicians who helped foster a new Bosnian regime in 1966–1968 (Lovrenović 2001, 185).

Mostar experienced two conflicts during the 1992–1995 war: the first, between Serbs and Bosniak–Croat defenders, took place between April and June 1992; the second, between Croats and Bosniaks, was a nine-month siege organized by the HVO (Hrvatsko vijeće obrane, Croatian Defense Council), which ended in February 1994 (Shaw 2003, 21–22). According to Richard Holbrooke (1996), the conflict and the postwar years made Mostar “the most broken city on the European continent.” It was the most heavily damaged city of the 1992–1995 war, and this physical as well as demographic change clearly affected the city's postwar climate, with a political and psychological division into Croat and Muslim as the prevailing consequence (Makas 2005, 1). It has also become less urban and more rural, as the majority of new citizens come from villages, and visibly less Serbian, while Croats now make up a larger percentage of the population than Bosniaks.

Moreover, the Croatian Herceg-Bosna wartime administration, though officially dissolved in 1996 when HDZ BiH (Hrvatska demokratska zajednica BiH, Croatian Democratic Union BiH) agreed to transfer its functions to the Federation and theoretically

change into a political organization, still existed in a number of forms a couple of years after the war. In consequence, a complex network of parallel institutions, through which the Croat and Bosniak nationalist parties exercised their power, was kept alive with separate mayors, police forces, pension funds, judicial systems, hospitals, fire departments, public transport companies, and electric, telephone, and postal networks for West and East Mostar (Ambrosio 1996, 232, 237; Shaw 2003, 22).

The reconstruction of the city started on 6 April 1994 in Geneva, when Croat and Bosniak politicians signed the first significant accord on its future. The memorandum of understanding (in accordance with the Washington Agreement) created the European Union Administration of Mostar (EUAM), which started to operate on 23 July 1996, with a two-year mandate.² While both Bosniaks and Croats pledged to cooperate with the EU administration, the main goals of the EUAM were, among others, to facilitate the postwar transition, coordinate reconstruction, and initiate the basic development of essential structures (Ambrosio 1996, 231; OHR 2003a, 50). Administrator Hans Koschnick, as the supreme authority, was empowered to rule by decree for the period of the mandate and was obliged to appoint a quota-based advisory council as a consultative body (Yarwood 1999, 7–8). It was the first of two municipalities with special, international regimes created after the war – the second was the Brčko District, where, unlike in Mostar, international imposition of reforms and institutions was mixed with suspension of elections and strict international administration and governance.³

Administration officials emphasized that “the EU had not come to Mostar as a colonial power to impose solutions,” insisting that parties must reach an agreement with one another, while they were there only to help with advice and to create a climate of peace (Oručević 1996b, 8) – an attitude that would soon be forgotten. The problem was that the EUAM’s behavior was not entirely consistent with its political aims – because mono-ethnic institutions and companies were the only ones that really worked, EUAM ended up contributing to them, which reinforced the ethnic division of the city (ICG 2000, 3).⁴ As Safet Oručević commented, “EUAM needed to give an appearance of progress, both for international public opinion and for its prestige in Mostar” (1996a, 26).

Besides economic liberalization, the international community’s first goal in Mostar was early elections (Moore 2013, 4). Even though the SDA described them as the victory of a unified city (*Dnevnik* 1996) and the OHR as “a success for Mostaris and the EU administration of the city” (Bose 2002, 116), the OSCE report said the administration “was less than well-prepared for either May or September [1996] elections” (OSCE 1996), and they resulted in the HDZ blocking the formation of both the city and the municipal governments. New municipal elections were held in September 1997, but four days before that, the HDZ announced a boycott as a consequence of its objection to a Provisional Election Commission’s (PEC’s) decision that an additional three councilors would be elected in the Central Zone, which the HDZ argued would give Bosniaks an unfair advantage.⁵ Consequently, on the first day of elections, HDZ leaders called on voters not to participate in the elections and waited to call off the boycott, ignoring a deal with the PEC, until the cantonal council approved the UNHCR (United Nations High Commissioner for Refugees) return plan (ICG 2000, 24).

The Interim Statute: when the pattern was created

The decision that EUAM would guide the creation of the 1996 Interim Statute that would form the legal basis for the administration of Mostar after the EU’s departure was made in Geneva and confirmed in the Madrid Agreement (24 October 1995), where it was

announced that EUAM would finalize it according to the principle of Mostar as a unified city, with the administrative structure decided already in an annex to the Dayton peace accord (ICG 2000, 7). This document confirmed that the prewar territory of Mostar would be administered simultaneously by the City of Mostar (responsible for finances, tax and other economic policies, urban planning, infrastructure, public transportation, and the Mostar Airport) and six city municipalities, which would govern all competencies not subsumed by the city government ("Principles," 1996, 181–183). Thus, even though between 1995 and early 1996 an advisory group consisting of West Mostar Mayor Mijo Brajković, East Mostar Mayor Safet Oručević, Milan Bodiroga (representing the Serbs), and other local figures was negotiating the statute (Moore 2013, 58), the EU had ultimate authority to arbitrate among them (ICG 2000, 8), and the document consisting of internationally designed institutional structures was imposed on the local actors (Bieber 2005, 422).

Part of the Interim Statute about the Central Zone serves as an example.⁶ On 7 February 1996, Koschnick issued a decree on the administrative plan of Mostar, outlining the municipalities as well as the Central Zone, whose size was a compromise between SDA and HDZ proposals. Even though both sides had agreed to accept the arbitration, in effect the Croat mayor, Brajković, announced that the Croat side was breaking off all relations with the EU and called for a demonstration in front of the EU office that ended in a riot. In reaction, the Rome Agreement was signed on 18 February 1996, where the sides were represented, instead of by Mostar's mayors, by the Bosniak and Croat presidents, and where the EU, acting against Bosniaks, acceded to pressure from the HDZ and reduced the size of the zone (ICG 2000, 9).

Eventually, on 20 February 1996, EUAM published the Interim Statute for the City of Mostar – the intersection of two characteristic elements for the whole country: power-sharing based on territorial division of the city and imposition by the international community, which would begin the path-dependency pattern of all major institutional changes that Mostar would experience in the next years.⁷ The international community produced (and negotiated to acceptance) the statute, but "it was of limited value in practice, since there was no functioning administrative machine" (Yarwood 1999, 23). In effect, by the 2000 elections, local politicians were blaming the international community for "the rude mistakes" made and for "the undemocratic method used," dictated by the desire to accelerate Dayton's implementation. According to political leaders in Mostar, the political line carried on by the international community in BiH since 1996 had failed because they were seeing only what they wanted to see, ignoring the reality (OSCE 2000). As David Chandler summarized, the policy to be implemented after the 1996 elections by the newly elected council was to be made in Brussels through the offices of the EU and OHR, so the elections were considered a success not because of the results, but because they provided a mechanism for enforcing the will of the international community (Chandler 2000, 80–81).

Therefore, since the very beginning, a number of decisions regarding institutional change that would have required the painful cooperation of both sides were made and then imposed by the international community. The problematic character of these imposed institutions was visible immediately in both of the cases mentioned above – they were successfully boycotted by Croats, with the added use of violence, while the Central Zone was never really created.⁸ Moreover, the institutional structure designed in the Interim Statute, even though never boycotted directly, was also never fully implemented. Although this pseudo-change did not reform the dysfunctional and divided administration, it still can be characterized as the result of a critical juncture – an answer to an exogenous shock. After this period, enforced decisions would never trigger violent reaction and the general response to the international

imposition would be passive acceptance combined with a lack of political will to implement it, thus the path-dependency pattern of international imposition of new institutions as a quasi-change would be set with time.

The New Statute: resistance and change

Virtually all of the provisions of the Interim Statute remained mere declarations and were never actually implemented. The city remained physically divided into the six city municipalities functioning as two separate blocs, while the Central Zone has never been properly established (*Recommendations* 2003, 13). The central city administration was largely ineffective not only due to the complete parallelism of most institutions and double budgeting (Bieber 2005, 424), but also because HDZ representatives, who previously boycotted all city institutions, took the narrowest possible view of their functions when they finally decided to join them (ICG 2003, 2). However, in 2000 some modest progress was observed (Bose 2002, 17), a fact connected, first of all, with the changing situation in the Croat camp. City authorities even announced that they would begin working on the final status of Mostar (*Recommendations* 2003, 53), while the 2000 election campaign of Savez za cjelovitu i demokratsku BiH – a coalition of, among others, the SDA and SBiH (Stranka za Bosnu i Hercegovinu, Party for Bosnia and Herzegovina) – in Mostar was based on the multiethnic character of the city and its unification (Spotovi 2000).

The OHR Mostar began outlining a process for reforming the Interim Statute and formulated a plan for unification as early as 2002, but the new HR, Paddy Ashdown, postponed it because of countrywide economic reforms. Finally in April 2003, the OHR Mostar received the green light to establish an official commission, composed of local political elites and mediated by OHR officials, whose goal was to draft a new statute for a unified city administration (Bieber 2005, 424; Moore 2013, 62). Also, the Peace Implementation Council (PIC) perceived the resolution of the Mostar question as critical to the sustainable and peaceful development of Bosnia (OHR 2004a), while a formal reason for reform was created by Federation constitutional amendments of April 2002, which required that Serbs and “Others” receive equal status and proportional representation in Mostar as well (ICG 2003, 7). Also, even though the impulse came from the OHR, in the beginning of 2003, the main political figures in the city were talking about a new statute that would improve the functionality of the city (*Fokus* 2003a).

The first nine-member drafting commission was established on 15 April, as a result of the HR’s call of 21 March 2003. It was composed of representatives of the seven main political parties nominated by the mayor, Hamdija Jahić, and deputy mayor, Ljubo Bešlić, and appointed by the City Council. They met 15 times from April through July to discuss the reform (with 31 July as the deadline). Theoretically, the OHR and OSCE served as the secretariat, leaving the commission fully responsible for the negotiations (ICG 2003, 8; *Recommendations* 2003, 56). However, despite the fact that the commission was presented as a local initiative, the HR, “in order to help members in their work,” outlined eight principles as guidelines. The list included a prohibition on changes to the current boundary of the city, a unified and trimmed-down administration, a city administration whose composition reflected the last census, a single budget, sufficient revenues, a single assembly and electoral system ensuring the representation of all constituent peoples and “others” and representation from all parts of Mostar, full respect for the principle of responsibility in office, and the vital interests clause, which required legislation to win majority support from Bosniak and Croat deputies at the city and municipal levels (OHR 2003b). It left no doubt about the direction of planned institutional change.

The commission was split and suffered mainly from Bosniak defections, regardless of orders from SDA headquarters in Sarajevo. During the last session on 31 July 2003, there was no quorum; the five remaining members produced a minority report largely consonant with the HDZ's original plan: a single municipality and effective majority rule that, even though it was incoherent with the principles, was described by Ashdown as "a foundation upon which we could build" (ICG 2003, 8; OHR 2003a). Interestingly, because of the changed demographic structure of the city, the HDZ and SDA switched positions. While the unified city was always a vision promoted by the SDA, now it was undertaken by the HDZ, with the SDA describing it as a structure designed for a Bosniak majority. But there was no space for independent political bargaining. As Sead Djulić from the SDP (Socijaldemokratska partija, Social Democratic Party) commented, "We said a long time ago that the commission made no sense – to reach a technical agreement first you need a political one, and the commission was used as a smokescreen to impose an already constructed solution" (*Fokus* 2003b).

After the failure of the first commission, Ashdown issued a decision on 17 September 2003 creating the Commission for Reforming the City of Mostar, which consisted again of representatives of political parties but was chaired by a special envoy, Norbert Winterstein, and should have issued the new statute by 15 December 2003. The commission was to contain 12 members, including six representatives of political parties (one each), a chairman, and up to five experts nominated by him or her (OHR 2003c). The HR considered three possible roles for the international community in the work of the new commission: as mediators among the parties, as arbiters, or, the one that prevailed, as active participants and leaders (ICG 2003, 8). Representatives of six parties – SDA, HDZ, SDP, SBiH, SDU, and NSRzB – along with a seventh member, Mirko Ivanišević of the Returnees' Association, signed a formal declaration agreeing that the HR would appoint the commission and pledging to "participate constructively in its work" on 15 September 2003 (*Commitment* 2003; *Recommendations* 2003, 11).⁹

The commission agreed on several issues, but was unable to reach consensus on the structure of the city and on the design of the electoral system (*Fokus* 2004; *Recommendations* 2003, 12).¹⁰ Yet, in Winterstein's opinion, the group reached "a consensus on virtually all of the articles in [...] proposed City Statute" (2003). A report issued in December 2003 was accompanied by a proposed draft statute with the HR solutions where the parties could not have reached an agreement, but the City Council refused to adopt it (Moore 2013, 62). Then on 28 January 2004, Ashdown imposed the commission's unification plan on, what should be emphasized, an interim basis until it was adopted by the City Council – which has not yet happened (OHR 2004a), even though in February 2003 it had been reported that he would not impose it (*Fokus* 2003a).¹¹ Prior to the unification, a number of unofficial referenda showed that while Croat municipalities supported a unified city, Bosniak municipalities were opposed. The general response to the international imposition was mostly "passive acceptance, while most political parties welcomed or at least accepted the final statute" (Bieber 2005, 425).

Imposition of the new statute was followed by an active OHR promotional campaign under the slogan "Mostar – One City," claiming that the unification of the city meant new possibilities and a better future for citizens ("Mostar jedan grad," *Hercegovačke novine* 2004). The HR even made a TV address to the citizens of Mostar and BiH in which he said:

All Mostar's political representatives did a reasonable job – they managed to agree on 90% of the new statute for the city. ... Whether or not Mostar succeeds in overcoming the divisions

... depends, ultimately, not on me but on your political leaders – no one else. As High Representative, I can show the way. ... (*HR's TV Address 2004*)

It was not, however, entirely true, since Ashdown established a separate Mostar Implementation Unit headed by a special envoy answerable directly to the HR whose task was to coordinate all efforts relating to the reorganization of the city (OHR 2004b) – the success of the whole initiative was incredibly important for Ashdown's political life and for the image of the whole international community (Moore 2013, 128).

Therefore, at that point, implementation was the key question, but it was inextricably connected with the problem of imposition. As Željko Komšić said,

The question is the implementation of a solution that has been imposed ... – it was imposed even though a consensus was possible. ... Winterstein adopted the wrong approach from the very beginning. He gave a draft of the possible statute and insisted that we work on it. No other proposals were taken into consideration. Some parties even declared that they would return their mandates and not participate in the city institutions if Ashdown imposed the solution. ("Neustavno i nezakonito rjesenje," *Hercegovačke novine* 2004)

Thus, even though Ashdown underlined that the text was 90% agreed upon, the imposed character of the statute coherent with the path-dependence pattern was a problem. The reform was shaped as a displacement – the whole institutional structure of the city was changed, which broke the impasse and gave a way out of the crisis, but which even now continues to influence the system. There was a common perception that "if there is no compromise, it must be imposed" ("BiH na probi u Mostaru," *Hercegovačke novine* 2004), so there was an obvious need to overcome the institutional resistance to change, but the way chosen to do it – imposition – given its effects, should be treated rather as a pseudo-change that only deepened the problem that has been present in local politics since the moment of the first enforced decisions. Moreover, not only the path dependency of the first structure, but also the illusory character of changes that have not been undertaken by local actors were made clear by the fact that both territorial and bureaucratic division of the city have survived.

The 2008–2009 impasse: the path dependency of problems

Another political deadlock gripped the city and lasted more than a year after the 2008 municipal elections, when Croat and Bosniak parties were unable to reach an agreement on the election of a new mayor, the division of control over municipal departments, or the budget for 2009 (Moore 2013, 66). The decisions were to be based on purely political bargaining that in Bosnia included the international community – it was as early as 1996 when the Croat mayor was part of the 6 August Agreement reached under the EU Special Envoy for Mostar that ensured the cantonal governor would be Bosniak (OSCE 1997).

To some extent, the impasse occurred allegedly because the HDZ withdrew from the 2004 agreement with the SDA to support the SDA's candidate for mayor following the 2008 elections. The agreement contained, first of all, the division of offices, with the mayor position given to Croats, and was signed by SDA Mostar and HDZ Mostar with guarantees by the leaders of the HDZ and SDA (*Sporazum* 2004).¹² However, the text did not explicitly talk about the post-2008 Bosniak mayor – according to SDA politicians, there was just a nonbinding clause stating that if in 2008 the SDA achieved results similar to the HDZ in 2004, then the HDZ would support the SDA's candidate for mayor (*Dnevni list* 2008b). Consequently, in June 2008, before the municipal elections, both the HDZ and HDZ 1990 (Hrvatska demokratska zajednica 1990, Croatian Democratic Union 1990)

claimed that the agreement from 2004 between the then-united HDZ and SDA was no longer in force because HDZ 1990 did not sign it, while the HDZ was convinced that it would win the elections, which would give it the post of mayor (*Dnevni list* 2008a). Also, each community saw the mayoral election as the symbolic answer to the question “who is the master of Mostar,” so it became a contest about Mostar’s identity (ICG 2009, 6).

On the other hand, the problem was also rooted in the imposed structures from 2004, which Mostar’s Croat majority considered illegitimate.¹³ That did not, however, prevent them from demanding that the HR – in accordance with the pattern of imposition that replaced local decision-making – enforce a solution on their behalf (Bevanda 2014; ICG 2009, 1) and not only change the problematic provision for electing a mayor, but also impose a direct, popular election of a mayor, strengthening the Croat position as the city’s dominant national group (ICG 2009, 5). The expectation that the HR should solve the problem was shared by almost all parties: the SDA and SDP also claimed that since the HR imposed the statute, he should explain it and “do something” (*Fokus* 2009a). Jerko Ivanković Lijanović (NSRzB) was here an exception, saying that it should not be a solution created by the HR because it was the responsibility of the parties (*Fokus* 2009f).

Thus, the problem was an imposed statute, but the solution was supposed to be enforced by the same agency that imposed it. This duality illustrates the hidden consequence of the pattern that works in a path-dependent way – first, if there is to be an institutional change, it must be imposed by the international community, but second, the enforced solution lacks democratic legitimacy and was not made by the parties; so, since there is no chain of responsibility, the easiest attitude is to obstruct it – which means that an imposed change is ultimately no change.

The City Council’s inability to elect a mayor was also based on the drafting and interpretive imprecision of the statute – if no candidate won a two-thirds majority in the first two rounds of voting, in the third one “a simple majority of elected councilors” would be sufficient; and if that round resulted in a tie, the younger candidate would be declared the victor – in this case Bešlić. Thus, according to the first HR’s interpretation, victory requires the votes of at least 18 of the 35 councilors, or a tie – even a zero–zero tie. In effect, each of numerous attempts looked exactly the same: in defiance of the statute, the council voted by public roll call; in the initial rounds, with no tie-breaking provision, each candidate received 14 votes; in the third round, the SDA ensured that at least one of its council members abstained to avoid a tie that would mean victory for the HDZ (ICG 2009, 4–5).

The NSRzB was the party that actually tipped the balance because of its surprising seven mandates and the biggest capacity to make coalitions (*Fokus* 2009b), but the council was divided into three blocs and Radom za boljitak was divided among them. The first bloc was Croatian, with the HDZ, HDZ 1990, HSP (Hrvatska stranka prava, Croatian Party of Rights), and some representatives from NSRzB, whose candidate, Bešlić, had 12 to 14 votes; second, the SDA–SBiH with its candidate, Suad Hasandedić, also had 14 mandates; and then there was the undecided third group, with the SDP and the rest of NSRzB (*Fokus* 2009c). In fact, the SDA, SBiH, SDP, and NSRzB signed at the end of March 2009 an agreement that included a possibility that a Croat from HDZ 1990, HSP, or NSRzB would be the future mayor, but the coalition collapsed (*Fokus* 2009d).

The deadlock lasted more than a year, and there were actually two ways out, assuming that the political agreement between the SDA and HDZ was impossible: new local elections or changes to the statute, but both would have also required a political consensus. In a statement, the OHR said such proposals were “neither realistic nor helpful. The HR expects that the mayoral election procedure will be repeated as many times and as often as necessary

until the mayor is elected.” It suggested that the City Council undertake secret balloting for the position of the mayor, as allowed by the city statute (*Balkan Insight* 2009). The statute could have been amended by the City Council, but only after its formal adoption, and the council has never taken this necessary first step (ICG 2009, 5). There was even a proposal to divide the term into two and create two two-year periods, one with a Croat and one with a Bosniak mayor (*Fokus* 2009e), but it faced the same problems.

An institutional change seemed to be the only option, but it was conducted according to a well-known pattern – the HR stepped in. His pressure was felt during the whole crisis – on 11 March 2009, in one of his first actions in the post, Valentin Inzko addressed a letter to the parties saying the situation was unacceptable and threatening “to take certain measures to remedy” it, while the PIC called on him in June and again in November to “take further steps to facilitate the election of a new mayor” (OHR 2009a, 2009b). The first imposed decision during the crisis came on 30 October 2009, when Inzko repealed a January measure by the City Council that introduced a legal basis for public ballot. It resulted in the 17th unsuccessful attempt to elect a mayor, as NSRzB obstructed the session after its candidate failed to advance to the second round (*Fokus* 2009g).

In his second decision, Inzko, regretting that he “was forced to act on behalf of the local authorities in order to enable the functioning of the institutions of the city,” changed the provision that allowed the mayor’s election by a simple majority in the third round to allow it instead by a simple majority of those present and voting (OHR 2009b). Eventually this allowed the HDZ’s Ljubo Bešlić to be re-elected mayor at the end of December 2009 – on the 18th ballot (*Fokus* 2009h). Thus, this time, international imposition of a new institution – this time in accordance with the “layering” mode – helped to solve the problem, but it was a short-term victory that bought Mostar an additional three years of quasi-stability. The embattled election of a mayor was just the tip of the iceberg and reflected deeper and more profound problems of the city – that is why the imposed institutional change can be again described as merely a pseudo one.

The 2012 impasse: no imposition means no solution

As one SDP official told Adam Moore: “The statute is not something that has been accepted and works in practice, it exists only on paper” (2013, 64), which means that the 2008–2009 impasse was not an accident and stabilization is still an idea of the future. The only difference is that while duplication once meant two institutions offering the same service to different parts of Mostar, it now means one institution with all key functions doubled (ICG 2009, 11). It has become clear that the concept implemented by Ashdown was based on false optimism about the tempo of integration. With emotional declarations, “jumbo” posters, pictures with citizens, and wide media support, it not only failed to integrate, but also failed to ensure national equality (*Al Jazeera* 2012).

As a result, no one had to wait long for a new impasse – Mostar was the only municipality in the country in which local elections were not held in 2012 due to the inability of city councilors to agree on necessary changes to the electoral system as required by two BiH Constitutional Court rulings (June 2011 and January 2012) that struck down the election of three delegates from each of the six city areas (Kesić, Meyer, and Vlastelić-Rajić 2012).¹⁴

To deal with the lack of new elections, the Mostar City Council in November 2012 extended its members’ terms until new council members and a new mayor were elected “or unless a higher competent authority establishes a different situation and position of local authorities in the City of Mostar.” In response, the HR asked them to refrain from making any decisions until the issue of their mandates was resolved. As a result, the

rump City Council, without a single Croat member, has twice adopted a decision on temporary financing that was challenged at the Federation BiH Constitutional Court. Subsequently, the acting mayor proclaimed a budget despite procedural irregularities that was also legally challenged (OHR 2012–13). SDP officials have noted bitterly that the SDA and HDZ have no incentive to find a solution because now they rule in a simpler way – without democratic elections (Behram 2012b).

The Expert Group created by the City Council to solve the problem was as divided as the City Council, and instead of one draft of the reform, it prepared the same number of possible solutions as it started with – four (*Dnevni list* 2012a). When it failed, the HR, on 16 October 2012, launched a multiparty facilitation process to seek an agreement to implement the court rulings on elections and enable local elections to take place. Even though most of the parties in the process – all of which were represented in the BiH Parliamentary Assembly, where amendments to the BiH election law would be adopted – have demonstrated the desire to compromise, the two parties that have dominated Mostar politics for the past 20 years – the HDZ and SDA – refused to retreat from their irreconcilable positions (OHR 2012–13).

The main Croat parties, claiming that their rights were being infringed, want Mostar to be one self-government unit and one electoral district with the implementation of the “one person-one vote” rule. On the other hand, the SDA demands that Mostar be a special case (“grad slučaj”) and that regulations from Dayton and the Washington Agreement be preserved, supporting the division of Mostar into a number of self-government units – electoral districts to protect Bosniaks from the Croat majority (Behram 2013). This brings all parties back to the year 2004, for their demands are the same. The OHR prepared a draft of reform that proposed the division of Mostar into three electoral districts that would cross the river (interestingly, in 2004, it rejected the SDP’s similar plan with four units crossing the Neretva), which was supported by six political parties but not the SDA and HDZ (*Bljesak* 2014).

Thus, after the failure of the Expert Group, the HR, again in accordance with the well-known scheme, started talks with its members and other politicians. However, this time Inzko repeatedly stressed that changes would not be imposed and that since the beginning of the crisis he had not wanted to interfere, but ultimately did not have a choice. He also threatened political parties with financial fees (Behram 2012a; *Dnevni list* 2012b). Adil Šuta (SDA) acknowledged that solutions imposed by the HR had no traction and that locally made decisions would be preferable (*Dnevni list* 2012a). That acknowledgment itself, which is undoubtedly shared by other local actors, shows how difficult it is to break the institution’s resistance to change as well as the pattern structured in a path-dependent way. Therefore, the crisis persists, but without the change that it should have triggered.

Conclusions

In 1999 the HR introduced in BiH the idea of “ownership of the peace process,” which was supposed to be a change in the international approach to intervention, aimed at empowering local actors (Belloni 2007, 52). But on both the state and local levels, reforms were still imposed by the OHR. Then, in 2006–2007, Christian Schwarz-Schilling took the position of the HR with the aim of constraining the use of his governmental functions and allowing individuals in the country to govern themselves – to reduce dependency (Everly 2008, 81).

Nevertheless, the postwar impasses in Mostar reveal a strong dependency, persistent but dysfunctional institutions, and crises, without the institutional change they should have triggered. All reforms have been externally enforced, so they have not improved the situation

and cannot be treated as institutional change. They are short-term and have been neither implemented nor effective, with their only function being to give “the superficial impression that the system is ‘working’” (Belloni 2013, 283). Therefore, despite these pseudo-changes, the city remains divided and dysfunctional, while the last impasse shows that without imposition there is only deadlock. Typically, such situations are the result of political actors’ inability to reach consensus about change, but, while the role of intransigent actors should not be ignored, this text offers additional explanation, focused on the role of the international community and derived from the path-dependence theory.

Thus, the persistence of institutions imposed since the beginning, in a situation of crisis, results in a deadlock that might be broken only through a subsequent round of imposition – which could be described as specific for Bosnia’s state of inertia. In Mostar and across Bosnia, there is no institutional reproduction, which would imply functionality, and both the city and the state are in a permanent crisis. But that has not led to institutional change – just a permanent deadlock and resistance to change. What is more, imposed institutions are rejected by local actors as illegitimate and used to obstruct the system, but the path-dependency pattern, according to which an imposed reform is the only answer to the deadlock, is still followed by the local actors (Perić 2014), a vicious circle that Ashdown has called a “dependency syndrome” (Ashdown 2007, 238).

An imposed solution, though it might appear a better option than deadlock, is a dangerous choice that could have “perverse effects” not only for institutions, but also for institutional change (Solioz 2007, 100). In Bosnia it has serious implications for the whole system, especially in light of voices emphasizing that in order to make Bosnia a “working state,” the international community must be ready to take a decisive step forward and impose the constitutional changes (Ćurak and Turcalo 2012, 77–79). On the other hand, perceiving local ownership as a necessary element, external state-building, including institutional change, must be regarded as intrusive if it does not allow for input, consultation, and control by local stakeholders in all phases of the process. Consequently, external state-building can be regarded as less intrusive if solutions are not imposed but reached by consensus with legitimate local actors (Narten 2009, 255).

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Notes

1. Defined as rules of the game, restricting and enabling actors’ behavior (North 1990), but here limited to political institutions – legally designed and established structures. Historical

institutionalism sees them as formal or informal procedures, routines, norms, and conventions embedded in the organizational structure of the polity or political economy – in general, this approach associates institutions with organizations or rules promulgated by formal organization (Hall and Taylor 2006, 938).

2. Mostar was not the first case of an internationally administrated city. Due to their multiethnic populations, the Free City of Danzig after World War I was supervised by the League of Nations with a high commissioner as a head of the mission, and the Free Territory of Trieste was under the direct responsibility of the UN Security Council after World War II. An interesting case is Belfast from 1972 to 1998, when the British enacted “direct rule” for the whole region, substantially eroding the authority of local governance and freeing city councilors to be extreme (Bollens 2013, 341). Also in the region some post-conflict cities have received international support, including Mitrovica, with the United Nations Mission in Kosovo Administration, which is now focused on conflict prevention and mediation, and the Brčko District, with the OHR office suspended only in 2012 (see below). After the end of EUAM’s mandate, its responsibilities were transferred to a set of international organizations: the UN International Police Task Force, OSCE, the UN refugee agency, the Reconstruction and Return Task Force, NATO’s Stabilization Force (SFOR), and OHR-South, which was responsible for overall coordination of the civilian agencies (Bose 2002, 107).
3. While the international community assumed a “soft” protectorate role in the whole of Bosnia, in Brčko, there has been a “hard” approach (Perry 2009). In Dayton, parties were unable to resolve the Brčko question, so an administrative district under international supervision was created on 8 March 2000. The cornerstone of this approach was the formation of a new OHR office in Brčko (OHR-North) headed by a deputy high representative for Brčko equipped with powers that included promulgating binding regulations and orders, imposing a statute, and organizing local elections, as well as determining the length of the transition period (ICG 2003, 11; Moore 2013, 117–118). In this case also all changes were imposed by the international community, which also enforced their implementation. As the OHR office was formally suspended only in 2012, it is too early to observe any patterns that have appeared since then (the 2012 election of the mayor and the 2015 budgetary crises were subjected to rather informal institutional changes that triggered further problems).
4. In effect EUAM compromised the authority and image of the EU (Oručević 1996b, 13).
5. In 1996, the SDA took 21 seats on the City Council – the 16 reserved for Bosniaks and five for “Others,” while the HDZ received only the 16 reserved for Croats. In 1997, the balance of power remained similar, with just the mayor and his deputy, from the two parties, switching positions. In 2000, elections showed greater support for the SDP (nearly 13%), but the SDA and HDZ remained unchallenged. Elections in 2004, under the new statute, evidenced weakening of the two main nationalist parties – the SDA received only 24.9% of votes (four seats) and the HDZ votes fell to 36.6% (seven seats), but the dominance of the national Croat and the Bosniak voting blocs remained unchallenged (Bieber 2005, 428). The 2008 elections visibly weakened the HDZ (seven seats), with a surprisingly good result for the NSRzB (seven seats). The SDA (12 seats) and SDP (three seats) kept almost the same level of support (www.izbori.ba).
6. It was the EUAM that proposed the Central Zone as a seventh, jointly administered municipality and politically shared space in the city that should have fostered interaction between the two sides and provided a physical starting point for a reunited city.
7. As it was assumed, the Interim Statute divided the city into seven administrative districts: three Bosniak, three Croat, and one common Central Zone – it established Mostar as a “highly decentralized city with far-reaching power-sharing mechanisms that sought to counteract the territorial control of the communities, while at the same time institutionalizing ethnic divisions” (Bieber 2005, 422). In addition to the municipalities, there was a weak central city administration with a mayor, deputy mayor (whose election required a cross-community consensus), and quota-based City Council that was given jurisdiction over the shared Central Zone (Interim Statute 1996).
8. Among other enforced decisions that Croats refused to adopt might be mentioned the vital interest clause. In order to exclude Bosniaks from municipal institutions, the three Croat majority municipalities refused to adopt the clause as required by the City Interim Statute, which resulted in the OHR imposition of the clause on 6 July 1999, to little effect (ICG 2000, 45; Moore 2013, 62; OHR 1999).

9. SDU: Socijaldemokratska unija, Social Democratic Union. NSRzB: Narodna stranka radom za boljitak, People's Party for Work and Betterment.
10. Fatima Leho (SDA) was the only one in favor of preserving the city municipalities, but also supported the transfer of substantial competencies to the city level. Željko Komšić (SDP) insisted on keeping the city municipalities, but reduced to four multiethnic units (*Recommendations* 2003: 18–20). All other members declined this proposal and it was not further discussed. For more on positions of particular parties, see ICG (2003, 9–10) and *Recommendations* (2003).
11. The new statute re-established Mostar as a single unit of government with strengthened authority for the central city administration, but the city municipalities have been reconstituted as “city areas” with city administration branch offices that continue to serve as electoral districts. The new statute also preserves most of the key power-sharing measures found in the Interim Statute with a changed electoral system for the City Council (Moore 2013, 63–64). However, if the statute does not discriminate significantly against any constituent people, it works strongly in favor of the SDA, since more than half of the City Council seats are elected in districts corresponding to the six old municipalities that, given the unequal size of the districts, create a “hidden threshold” that favors large parties that are strong in small districts (ICG 2009, 10; *Statute* 2004).
12. On December 14, 2004, Ljubo Bešlić was chosen as a new-old mayor with the support of 14 representatives from the coalition of the Croat parties and seven out of 10 representatives from the SDA during the third round of voting (*Dnevni avaz* 2014).
13. The position of the SDA was also not cooperative, despite pressure from the center. As Suad Hasandedić said,

We are the most numerous party in the City Council (12 seats) with the biggest support of 20,242 votes (HDZ had respectively seven and 16,258) while I have got the biggest number of votes – then, according to democratic principle, I should be the new mayor. (*Fokus* 2008)
14. A consequence of 16 September 2009, application submitted by the Caucus of Croat people in the House of Peoples of the Parliamentary Assembly for review of, among others, some provisions of the Statute of the City of Mostar.

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