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THE POLITICS OF THE “UNFINISHED BUSINESS”: BOSNIAN POLICE REFORM

BRANKA MARIJAN AND DEJAN GUZINA

KEY POINTS

- Police reaction to recent protests in Bosnia has called attention to stalled police reform. This brief provides a historical overview detailing the evolution of police structures and the reform attempts and provides recommendations for long-term effective police reform.
- After Bosnia's 1992–1995 war, police reform became a crucial element of security sector reforms. The police were accused of human rights violations, a lack of proper training and over-militarization. There have been further allegations of criminality and corruption within the force and a lack of cooperation between different police agencies, all resulting in an unsustainable policing environment.
- Initial reforms to obtain state-wide standards through centralization were complicated by the politicization of the reforms and were perceived as an attempt to assimilate the divided state. The result is a fragmentation of police services and disagreement between the three main political blocs within the country.
- Recommendations to improve the policing environment and build trust in the police services include curbing political interference in policing matters, increasing engagement with civil society and formalizing a system to enable reporting of public concerns and complaints.

EXECUTIVE SUMMARY

The recent protests in Bosnia-Herzegovina (henceforth, Bosnia) have once more shown the extent of the remaining challenges in the country. However, while many commentators have examined the political, economic and social roots of the protests, less attention has been paid to the role of the police in these events. Police confusion, their inability to respond to the street protests in a timely and professional manner, and allegations of the use of excessive force against protestors represent clear evidence that the stalled police reform in the country needs to be re-examined. After almost two decades of international assistance,

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first by the United Nations (UN) and later the European Union (EU), police reform in Bosnia remains incomplete. Since the 2012 closing of the EU police mission (EUPM) in Bosnia, the issue of police reform has been put on hold. Bosnia’s multiple police services remain fragmented and lack transparency. More importantly, the lack of harmonization, coordination and civic oversight leads to political interference in policing.

The European Union and other international agencies such as the United Nations Development Programme (UNDP) in Bosnia and the Organization for Security and Co-operation (OSCE) in Europe, would be wise to take the lead in promoting a further focus on accountability, increased cooperation and civic oversight of police services. Instead of focusing on top-down reforms and the great challenges, such as centralization of policing, a new strategy is needed. This strategy should entail establishing more civic oversight and monitoring of policing and building public confidence in the institution that many see as equally corrupt and unaccountable as the rest of the political system.

INTRODUCTION

While much international attention remains fixated on the ongoing crisis in Ukraine, recent protests in Bosnia have reminded the international community of the unresolved crisis in another part of Europe’s backyard. In the last few months, within some of Bosnia’s major cities, citizens’ protests against systemic state corruption and the dire economic situation in the country have been largely peaceful. For a few days at the outset in early February 2014, these peaceful protests turned into violent street riots. Images of police clashing with the protestors heightened the sense of worry on the part of European and other international observers that the country was once more on the slippery slope of conflict.

The protests and police reaction in Bosnia did not escalate to significant levels of violence, but police use of excessive force was noted by international and local civil society organizations. For example, Human Rights Watch (HRW) has called on the authorities in Bosnia to investigate the reported police violence against the protestors and journalists that occurred between February 5 and 9, 2014.

At the same time, local media continued to report on the political infighting between leaders of key security and police agencies over the response to the protests (Oslobodjenje 2014b). Primarily, the politicians disagreed over which police agency should be responsible for policing the protests and coordinating the response. Moreover, “anecdotal evidence” of attempts by political elites to pre-empt protests with armed police patrols in some parts of the country have once more brought policing in Bosnia into focus and again raised questions of what more can be done to build an effective and accountable police service¹ against the backdrop of political interference, politicization of policing and the lack of transparency and public accountability. Given the extent of international commitment to the previous reform attempts, the current state of the Bosnian police should be an important concern for the international community, particularly EU and UN agencies.

THE STALLED POLICE REFORM

Bosnia’s police reform was initially undertaken by the UN Mission in Bosnia and Herzegovina (UNMIBH) as part of the wider security sector reform in the country.

1 Kurt Bassuener (2014) notes this anecdotal evidence in his commentary on Bosnian protests. Local media in Bosnia have also reported on similar concerns. Milorad Dodik, a leading Bosnian Serb politician, stated that the police in the Serb-dominated entity would not allow the “importing of the disorder” from the other parts of the country (Katana 2014).

Despite early success, such as in setting up necessary state-level institutions, the remaining challenges for policing in Bosnia are largely political. Namely, police reform became marred by political concerns and came to be seen by Bosnian Serb representatives as a “proxy for constitutional change” (NATO Review 2008), an issue that has stalled other reforms in the country as well.² This was partly a result of the international community’s perceived framing of police reform as a vehicle for further centralization of the divided state.³

As a result of the political stalemate in the country, the international community pulled back on the call for more reforms. The EUPM closed its offices in 2012 after almost a decade of work on Bosnia’s police reform. While EU policy makers described the mission as a success, many regional and international analysts agree that the reform was not entirely successful. As an international officer in Bosnia notes, “The full transformation of police did not happen. Bosnia’s policing is stuck in the early 2000s despite the significant international

2 The Bosnian state as structured by the Dayton Agreement is composed of two entities the Bosniak-Croat Federation and the Bosnian Serb-led Republika Srpska (Serb Republic), as well as the special status Brcko District. Dayton enshrined a corporatist power-sharing model that is supposed to maintain a balance between different group interests. Groups are constitutionally predetermined as Bosniaks, Serbs and Croats. In 2009, the European Human Rights Court ruled that the Bosnian Constitution needs to be amended to ensure that individuals from all groups are able to hold office. This matter has remained unresolved as it would lead to a shift in the delicate power-sharing balance. The central issue is the competing visions of the state. While the Bosniaks prefer a centralized state, the Bosnian Serbs stress the importance of decentralization and factual independence of the Serb Republic. Bosnian Croats tend to favour the creation of a third Croat-dominated entity to ensure their own group rights. This underlying struggle of the different political visions for the country is also reflected in the views on policing.

3 This perception arose during Lord Ashdown’s term as the high representative for Bosnia. The high representative, a representative of the international community, is tasked with ensuring the civilian implementation of the peace agreement. In 1997, the high representative was granted additional powers (Bonn powers) to dismiss elected officials obstructing the implementation of the peace agreement (Padurariu, 2014, 4). For a time, as will be discussed below, the high representative was also double-hatted as the EU special representative.

involvement.”⁴ Thus, the key question regarding police reform is whether the international actors (in particular, the European Union) can do anything to ensure that previous gains made in the security sector are not eroded.

GOALS OF THE POLICE REFORM

Police reform was a crucial component of the broader security sector reforms following Bosnia’s 1992-1995 war. There were two major reasons for the focus on police reform. The first reason was that members of the police lacked proper training, had become overly militarized and were known for human rights violations during the war. The UN estimated that during the war some “70 percent of human rights violations in BiH [Bosnia] could be attributable to the police” (Ivkovic and Shelley 2005, 430). Indeed, the police were described as largely indistinguishable from the military: “soldiers with police badges sewn on to their uniforms, or in fact organized paramilitary units” (Vejnovic and Lalic 2005, 364). In the immediate aftermath of the war, the police in various parts of Bosnia were increasingly seen as a “protector” of members of their “own” ethnic group rather than the population at large. For example, the police in the Serb Republic were alleged to have prevented refugee returns by members of “other” ethnic groups and avoided arresting Serb war crimes suspects (Becirevic and Cehajic 2013, 44; ICG 2005).

This brings us to the second reason for the reforms. The original intention was to create an integrated and representative police service, effective in providing security over the whole territory. This task was complicated by the fact that the Constitution, Annex 4 of the Dayton Peace Accord, enshrined the right of

the two entities, the Bosniak-Croat Federation and the Serb Republic, as well as the Brcko District to provide a secure environment for their citizens. The decentralized Dayton structure for Bosnia was mirrored in the police structures. Following the Dayton political structures, only a few functions, such as international and inter-entity criminal law enforcement and immigration remained at the state-level (Frejabue 2013, 39). As such, the focus of the reforms quickly concentrated on the need to bolster the state-level institutions and to centralize the police structures. The goal was thus to set state-wide standards for policing and to ensure coordination between the different police services.

FROM WAR TO PEACE

The International Police Task Force (IPTF) was created in 1995 as part of the Dayton Peace Accord (Annex 11). The IPTF became one of the key components of the UNMIBH. At the outset, due to a difference in opinion between American and Western European countries, the IPTF had a weak mandate. Namely, it was tasked with advising, monitoring and observing the local police (Bieber 2010, 8). However, the 1996 UN Security Council Resolution 1088 provided additional powers for the mission, strengthening its role (Bieber 2010, 9).

As of 1996, the IPTF was involved in vetting police officers, reducing their numbers, removing those guilty of human rights abuses and ensuring professionalization of the services. The UNMIBH downsized “police numbers from 44,000 to just under 15,800 by 2002” (Celador, 2009, 233). This was done through the certification of officers in an attempt to remove those individuals who did not meet the international standards and who were

⁴ Interview with international officer, September 10, 2013.

potentially involved in criminal activities or human rights abuses during the war (Padurariu 2014).⁵

Overall, the United Nations had undertaken the initial necessary actions of reducing the number of police officers and re-establishing a demilitarized police service. The IPTF achieved important progress with the improving of policing standards, setting up a public oversight mechanism, as well as the State Border Services (SBS) in 2000 and, most importantly, the State Investigation and Protection Agency (SIPA) in 2002 (Juncos 2007, 56).⁶ SIPA's creation was important as this institution was the first to have control over the complete territory. Still by the early 2000s, the UN was overstretched in other conflict zones and needed to cut back its mission in Bosnia (Matthiessen 2013, 14). Though the technical aspects of the UN mission were proceeding well (though not without problems), the constitutional enshrining of the decentralized system remained a great obstacle.

At the same time, the United Nations felt that the Europeans could step in and assist in building institutions that would eventually provide direction and support for European Union accession. This resulted in the double-hatting of Lord Ashdown as both the high representative and the EU special representative. Security sector reform gained renewed prominence when Lord Ashdown took office as the high representative for Bosnia in 2002. The EUPM in Bosnia was conceptualized in 2002 by the Council of the European Union and was supported by the United Nations Security Council Resolution 1396

(Missiroli 2003, 498).⁷ In May 2002, less than a year after Ashdown's appointment, the EUPM was officially launched on January 1, 2003. This marked the beginning of what can be referred to as the second phase of reforms, or what is commonly referred to as the “from Dayton to Brussels” phase (Donais 2013).

FROM DAYTON TO BRUSSELS

The second phase of reforms was marked by EUPM activities, though often in the background of Ashdown's heavy-handed approach to police restructuring. The EUPM's tasks were complicated by the reduced number of staff and a limited mandate to “monitor, mentor and inspect” (ICG 2005). Unlike the IPTF, the EUPM could not decertify officers, although the commissioner in charge of EUPM could recommend dismissal to the Office of the High Representative (OHR) (Bieber 2010, 10). Over time, the EUPM mandate expanded to include securing independence of the police from political interferences, fighting corruption and organized crime, and ensuring the financial viability of the service (Deljkic and Lucic-Catic 2011, 174). The reasons for this shift in the EUPM mandate was due to a more ambitious restructuring of the police, as Ashdown recognized that the “high administrative cost of policing, the lack of coordination between the different police authorities and the close links to ethnonationalist power structures” needed to be tackled in a more direct way (Bieber 2010, 15).

5 From the local police perspective, there was much dissatisfaction with this process by the IPTF. The so-called “decertified” officers had no legal mechanisms for complaints at their disposal either at the local or international level (Latal 2013, 52).

6 Both of these organizations would be further improved upon by the EUPM.

7 In addition to the EUPM, in 2004 the European Union also replaced the NATO-led Stabilization Force with the European Union Force Althea (EUFOR) furthering the EU presence (Wallace 2005, 447). NATO maintains a military headquarters in Sarajevo, providing assistance (planning, logistic and command support) to EUFOR (NATO 2014). Some regional analysts suggest that EUFOR takes on the practical, junior-level tasks while NATO has remained more interested in senior-level issues (Interview with Bosnian security analyst, September 11, 2013).

Ashdown perceived police reform as a critical issue in his term as the high representative. He pushed for centralization of the police services because he believed a stronger national police force for the entire territory of Bosnia was essential to the country's survival. Ashdown saw successful police reform as part of the international community's "exit strategy." From the outset of Ashdown's tenure, the Bosnian Serb leadership were reluctant to support him as they perceived any vision of a more centralized Bosnian state as a way to dismantle the Serb Republic. And, certainly it did not help that Ashdown frequently used his OHR powers to remove elected Bosnian Serb officials. He was, therefore, not seen as a legitimate facilitator of the reform process due to his perceived favouritism of the Bosniak position (Muehlmann 2008).

But more importantly, it was Ashdown's insistence, alongside agreement in the European Union, that established the requirement for police reform in the Stabilization and Association Agreement (SAA). The European Union conditional agreement rested on three principles: "exclusive competence (including legislative and budgetary) for all police matters at the state level; no political interference in policing; and Local Police Areas (regions) designed on the basis of technical policing considerations, rather than politics." (ICG 2005, 5). The OHR created the Police Restructuring Commission, tasked with proposing a plan for the Bosnian police reform that captured these three European principles and was supposed to strengthen state institutions. Bosnia needed to meet these three principles in order to sign the SAA with the European Union (Donais 2013).

This particular linking of Bosnia's European integration and police reform was a crucial mistake, with consequences that are still felt throughout Bosnia. A centralized system of policing was not reflective of the

European policing reality. Rather, there are diverse police structures in European countries. As such, pushing for the centralization of the Bosnian police could not be justified by referring to European standards (Donais 2013, 200). More importantly, the European Union itself lacks an *acquis communautaire* in regards to police matters (Bieber 2010, 16). Ultimately, a push for centralization seems to have been envisioned as a "quick fix" for Bosnia's deep divisions, a vision that failed to recognize the extent of these divisions in the first place. By "playing the European card," Ashdown almost jeopardized not only the reforms but also the European future of the country (Muehlmann 2008).

Ashdown's European path for Bosnia came to be closely related to the implementation of the police reforms. So much so, that even after Ashdown left office (in January 2006), the 2007 pre-accession agreement between Bosnia and the European Union rested on the agreement of the Council of Ministers to adopt the Action Plan for Police Reform among other procedural changes (Celador 2009, 232). In April 2008, two police reform laws were passed and Bosnia signed the SAA with the European Union in June 2008 (Bieber 2010, 17). Bosnian politicians agreed with the international community and several state-level police organizations were created, such as the Directorate for Police Coordination Bodies, the Agency for Forensic Examinations and Expertise and the Agency for Education and Advanced Training of Personnel (Padurariu 2014, 9). However, at the entity and cantonal levels, the police were left intact. The watered-down agreement accepted by the international community was just a face-saving measure for the OHR. Almost a decade after its inception, the EUPM was dismantled in 2012 without being able to deal with non-compliance by political elites in police and other security matters (Tzifakis 2012). Still, the Europeans chose to portray the EUPM as a success.

MISSION INCOMPLETE: BETWEEN DAYTON AND BRUSSELS

The European Union’s inability to recognize the stalled character of the police reform in Bosnia has impacted Bosnia’s development in more than one way. Francisco de Borja Lasheras (2014) aptly summarizes how “botched” police reform in Bosnia has both undermined the European Union’s leverage with political elites, but also, crucially, with Bosnian citizens. When Bosnian citizens took to the streets in recent protests, they organized plenums, or citizens’ forums, to address governance issues in the country on their own. EU flags and calls for EU involvement have been conspicuous by their absence at the protests. Instead, protestors have held up signs stating, “Europe, our kids are hungry” (Lasheras 2014). These sentiments point to the disconnect between EU strategies and the daily reality faced by the population. Hence, many citizens perceive the international actors, rightly or not, as supporting the corrupt and inefficient political system. As one Bosnian political analyst notes, “[T]he European Union is constantly lowering its standards pointing to the local politicians that they are not firm in their positions. To the citizens then, the European Union is not perceived as a problem solver and it is too slow in its response to crisis in this country.”⁸

In the 44th report to the Secretary-General of the United Nations, presented in October 2013, the current High Representative Valentin Inzko noted that political interference in operation policing remains a great challenge. Inzko specified that “[T]he primary challenge has come in the form of delayed appointments of independent boards, parliamentary bodies responsible for conducting the selection processes for police

commanders, as well as the delayed appointments of police commanders themselves” (OHR 2013). The latest evidence of this is that, as of February 10, 2014, Bosnia was left without effective leadership of the Border Police and the Directorate for Coordination of Police Bodies (Oslobodjenje 2014a).⁹ Both of these police organizations have been supported by the international actors and are seen as crucial to the security of the country and the wider region.

Undoubtedly, Bosnian police inefficiencies have wider consequences for the region and EU security. The European Union has recently pointed to weapons smuggling from Bosnia to European countries as a remaining concern. European Police Office’s Serious Threat Assessment for 2013 highlighted illicit firearms trafficking as a serious security concern in the Western Balkans. Police from the Serb Republic cooperated with Swedish colleagues in arresting more than a dozen suspected smugglers (Dragojlovic 2014). Perhaps the greatest challenge remains the level of fragmentation of the different police services, particularly in the Bosniak-Croat Federation. Coupled with the lack of coordination and cooperation between the police forces this leads to an unsustainable policing environment. At the moment, cooperation between different services remains ad hoc and dependent on individual police officers.

MISSION IMPOSSIBLE?

Poignantly, the NATO Review (2008) examination of police reform in Bosnia is entitled “Mission Incomplete or Mission Impossible?” Despite lofty goals, police reform efforts have been tested in the local context. From

8 Interview with Bosnian political analyst, September 11, 2013.

9 The Council of Ministers of Bosnia and Herzegovina failed to transparently elect the new heads of these two institutions. The term of the previous heads of these institutions and their deputies expired on February 9, 2014.

the outset, the Serb Republic resisted any attempts to release competencies to the state-level, seeking instead to have jurisdiction over its own territory. As a result, the Serb Republic has its own police and Ministry of Interior, and Serb representatives argue that the policing in the entity is efficient and centralized. The situation is more complex in the Bosniak-Croat Federation given the further level of decentralization into 10 territorially organized regions (cantons). Each of these cantons has their own police force and Ministry of the Interior. Moreover, the Bosniak-Croat Federation's Ministry of Interior is not superior to the cantonal Ministries of Interior (Dragojlovic 2014). In general, the Serb Republic representatives as well as the Croat-majority Cantons prefer the fragmented structures. Given the different levels and the sheer number of police agencies in the country, there is a general consensus that the police service is largely inefficient. For example, different police agencies have only recently decided to share an electronic database of information with each other.¹⁰ Although some cooperation occurs across entity lines, there are also plenty of cases where no cooperation exists.¹¹ Initial goals of minority representation within the forces also remain underdeveloped. In some areas, police forces are easily identified with a majority single ethnic group due to demographic changes across the entire country as the result of ethnic cleansing during the war, and the unwillingness of returnees to go back to their original homes (ICG 2005). Civil society involvement and oversight of policing is in its infancy, despite some projects on community policing. As such, the question of overall legitimacy of the police remains open.

Serious allegations of police inefficiency and corruption continue to shape citizens' views of and experiences with the police. In the 2013 Transparency International (TI) Global Corruption Barometer, some 62 percent of respondents felt that the police were corrupt and 32 percent reported having paid a bribe during the last 12 months to the police (TI 2013). In addition, a Bosnian Security Ministry report on the security situation in 2012 highlighted that criminal networks have permeated state institutions, including police structures (Ministry of Security of Bosnia and Herzegovina 2013; Dalje 2013). The report claims that the criminal networks have bribed police officers and other government officials by providing them with information about current investigations against them (Ministry of Security of Bosnia and Herzegovina 2013, 29; Dalje 2013). The media continues to report on the rise in complaints and ill-treatment by police in different parts of Bosnia, particularly in the Serb Republic. Consequently, the media has been subject to attack by political parties, which has drawn OSCE condemnation. The OSCE (2014) reports that some political parties are calling journalists and media outlets "foreign agents" leading to concern about safety of journalists in the country. HRW (2014) has also received complaints about the police from journalists reporting on the recent protests.

Bosnian police reform, thus, remains incomplete. Yet, there are short-to-medium term strategies, such as a focus on improving existing legislation, that suggest reforms are not entirely impossible. Some of these options for consideration are discussed below. The broader political environment and debates on constitutional change in Bosnia impact the possibilities of a comprehensive police reform. As recent events have shown, however, not tackling the remaining challenges of the unfinished reform is also an untenable choice. An important concern, as noted by High Representative Inzko among others,

¹⁰ Interview with Bosnian security analyst, September 11, 2013.

¹¹ Interview with Bosnian police analyst, September 13, 2013.

is that the level of political interference undermines the gains made to date. A new strategy for police reform needs to be envisioned in partnership between local and international actors. Rather than becoming stuck in political battles, a skilled facilitator needs to first address the shortcomings and problems of the current policing model in Bosnia. Ultimately, a more realistic, long-term plan for reform needs to be developed.

RECOMMENDATIONS

To summarize, there are no quick fix solutions to the stalled police reform in Bosnia. At the same time, stronger, more accountable police structures free from political pressure are key to the continuing state-building efforts in Bosnia. The following recommendations are made with these points in mind.

In the short-to-medium term, international actors should focus on building political will among Bosnian elites for additional reforms and strengthening of institutions and mechanisms already in place. International actors, such as the European Union, should advocate for Bosnian politicians to establish a plan to tackle the necessary reforms and curb political interference in policing. This will likely be met with resistance if undertaken too quickly, but with incremental changes, improvements can be made to current legislation. For example, Inzko's support for the draft Bosniak-Croat Federation Law on Internal Affairs is an instance of this strategy as it would ensure budgetary and legal independence.

At the same time, there should be a review of current police agencies to establish whether a new independent process could be created to handle complaints and concerns of the public. Seemingly “softer” approaches to encourage a more accountable and legitimate police service, such as the support for community policing

initiatives, should not be dismissed. If adapted to reflect the local context, these initiatives can have important impacts.

In the long term, civil society organizations need to become more engaged in monitoring police activities and reform. Few organizations in the country are focused on police and wider security sector reforms. This is partly due to the donor and project-oriented nature of the civil society sector in Bosnia. Unless this changes, the lack of funding for monitoring of police work by civil society organizations will continue to impede any effort at transforming the Bosnian policing culture. This will require financial support from the European Union at the outset, but the goal should be to establish independent police boards that include civil society representatives.

Another long-term goal is to build trust in police services. Restructuring policing regions entails establishing trust in policing services, particularly when carried out by members of the “other” community. Hence, this will be a long-term process and short-term-only solutions may create further insecurity.

CONCLUSION

The “unfinished business” of Bosnia's police reform should not be ignored as political infighting between Bosnian politicians amid the recent street protest has shown. Thus far, top-down approaches to police reform have had limited results. The willingness and ability of the European Union to be more actively engaged in Bosnia has remained questionable. Moreover, the lack of consensus as to how to support Bosnian political reforms in light of serious economic and social crisis further highlights the weakness of the EU approach towards Bosnia. Though the way forward remains

unclear, a new approach needs to be developed by the European Union. The cost of avoiding the issues of police reform can be too great for the overall role of the European Union in Bosnia. The European Union also needs to recognize that it is time to engage Bosnian citizens in tackling the short-term and long-term questions of political and, in particular, police reform in the country.

ACRONYMS

EUFOR	European Union Force Althea
EUPM	European Union Police Mission
HRW	Human Rights Watch
IPTF	International Police Task Force
OHR	Office Of The High Representative
OSCE	Organization For Security and Cooperation in Europe
UNDP	United Nations Development Programme
UNMIBH	United Nations Mission in Bosnia and Herzegovina
SAA	Stabilization and Association Agreement
SBS	State Border Services
SIPA	State Investigation and Protection Agency
TI	Transparency International

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