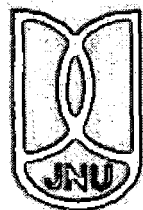


**HUMANITARIAN INTERVENTION:
CASE STUDY OF BOSNIA HERZEGOVINA**

*Dissertation submitted to the Jawaharlal Nehru University
in partial fulfillment of the requirements
for the award of the degree of*

MASTER OF PHILOSOPHY

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2009**



Date: JULY 22nd, 2009

DECLARATION

I declare that the dissertation entitled "HUMANITARIAN INTERVENTION: CASE STUDY OF BOSNIA HERZEGOVINA" submitted by me in partial fulfillment of the requirements for the award of the degree of **Master of Philosophy** of Jawaharlal Nehru University is my own work. The dissertation has not been submitted for any other degree of this University or any other university.

Priya
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CERTIFICATE

We recommend that this dissertation may be placed before the examiners for evaluation.

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TO MY

*PARENTS******

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This scholastic research attempt would not have been possible without the encouragement of the people I have come across in my life so far. They all contributed in shaping my personality in one or other. Their impact and influences have some reflection on this work.

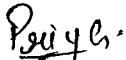
One person who is to be always remembered through this research work is my Supervisor, Dr Ummu Salma Bava. I am very fortunate to be under her blessings for all the formative years of my life. Her meaningful suggestions have been helpful not only in betterment of my research but also in my personality and life. I humbly express my heartfelt gratitude to all the distinguished faculties of European Studies Program.

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Priya Kumari

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ACRONYMS

BiH	Bosnia Herzegovina
CECS	Committee for European Construction Equipment
CFSP	Common Foreign and Security Policy
CIVCOM	The Civilian Crisis Management
COREPER	Committee of Permanent Representatives
DGs	Directorates Generals
EC	European Council
ECMM	European Commission Monitoring Mission
ESDR	European Security and Defense Policy FBiH – Federation of Bosnia Herzegovina
EU	European Union
EUPM	The EU Police Mission
HAC	The Humanitarian Aid Committee
HDZ	Croatian Democratic Party
HI	Humanitarian Intervention
HLP	High Level Panel
ICFY	The International Conference on the Former Yugoslavia
ICRS	The International Committee of Red Cross
ICISS	International Commission on Intervention and State Sovereignty
IFOR	The implementation Force
IPTF	International Police Task
JNA	Yugoslavia National Army
MBU	Bosnian Muslim Organization Easter Europe
NATO	North Atlantic Treaty Organization
OHR	Office of High Representative
OSCE	Organization for Security and Cooperation in Europe

PHARE	The Program of Community aid to the Countries of Central Europe
PIC	The Peace Implementing Council.
PPEWU	The Policy Planning and Early Warning Unit
PSC	The Political and Security Committee
R2P	Responsibility to Protect
SDA	Party of Democratic Action
SDP	Social Democratic Party of Bosnia
SDS	Serbs Democratic Party
SFOR	Stabilization Force
UNMIBH	UN Mission in Bosnia Herzegovina
TEU	Treaty of European Union
UNPROFOR	The United Nation Protection Force
WEU	Western European Union

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PREFACE

Collapse of Yugoslavia in 1990s raised a question mark on the future of its constituent parts. Serbia was the most populous republic having 40 percent of its total population of nearly twenty-four million. The Serbs dominated the Yugoslav National Army (JNA) and bureaucracy. So they self proclaimed themselves as the heir of Yugoslavia and started working for greater Serbia (which meant merging other republics) under the leadership of Slobodan Milosevic. In the period between May 1992 and December 1995, BiH was the battleground for three ethnic groups, the Bosnian Muslims, comprising 43.7 percent of the BiH population, the Bosnian Serbs who represented 31.4 percent, and the Bosnian Croats, with strength of 17.35 percent. In Tito's Yugoslavia, BiH became one of the federation's depressed areas. One of the consequences of this ethnic distribution was increased communal tensions; another was the departure of many Bosnian Serbs to Serbia, this made the Muslims largest of the three main communities in BiH. Tito encouraged the Muslims to think of themselves as a distinct community and they were formally so recognized in 1971. But they split between communist and anti-communist Muslims. Ilija Izetbegovic, future president of BiH, was a prominent anti-communist leader.

In 1990 the government of BiH was coalition formed after election in that year. It contained Muslims, Serbs and Croats but the Serbs left the coalition- first step towards a distinct Serbs and Croats but the Serbs left the coalition- their first step towards a distinct Serb state. When fighting in Croatia began President Izetbegovic was faced with a choice between remaining in a new Yugoslavia shorn of Slovenia and Croatia, or claiming independence as Slovenia and Croatia had. He chose for latter and were accorded international recognition and UN membership on 22 May 1992. The war in Bosnia began in April 1992. The Bosnian Serbs were supported by Milosevic.

Human right violation committed by the Serbs towards the Muslims pressurized the international community to intervene. But a fledging EU (at that time EC) had its own share of problems like it was going through structural changes due to Maastricht treaty (1992), one of its prominent member Germany recently got united, end of Cold War have

shifted the balance of power. Therefore it could not that effectively handle the crisis situation unfolding at its doorsteps. So humanitarian intervention was done by US led NATO forces and Dayton peace accord was signed in 1995.

Intervention is not allowed at the international level, because all states are equal and intervention by one state in another states territory is violation of latter's sovereignty. But in case all the peace full means to stop a government from slaughtering its own people has been exhausted it would be a prudent decision on the part of international community to intervention, to stop any more human right violation. Though intervention is not allowed but if intervention is done on the above mentioned ground it should be in accordance with the Just War theory, which basically deals with six conditions that need to be fulfilled, which includes just cause, right intention, proper authority and public declaration, last resort, probability of success and proportionality. Now days the concept of Humanitarian Intervention has been replaced by the Responsibility to protect, as first developed in 2000-2001 by the International Commission on Intervention and State Sovereignty (ICISS). According to ICISS "The responsibility to protect implies an evaluation of the issues from the point of view of those seeking or needing support, rather than those who may be considering intervention."

Chapter 1 describe the concept of humanitarian intervention, its past history, Just War theory and its six principles, Legality of Humanitarian Intervention, Evolution from Humanitarian Intervention to Responsibility to Protect and position of EU on Responsibility to protect.

Chapter 2 explains the case study of Bosnia Herzegovina, its history, its islamification, condition of BiH before Tito, during the period of Tito and after Tito, actual conflict and the Dayton agreement.

Chapter 3 analyzes the approach adopted by important international actors like EU, UN and NATO, with a special emphasis on EU. But main focus of this chapter is role of EU in Bosnia-Herzegovina before war, at the time of war and in the post war

reconstruction. Here accountability of international forces towards the people of the state in which they have intervened is also one of the areas of concern.

CHAPTER 4 concludes the discussion by analyzing whether Humanitarian Intervention approach adopted by the US led NATO forces in BiH was in accordance with the Just War theory.

The methodology of the study is descriptive and analytical. It used the data in general framework and analyzed these data to come to logical frameworks. The theories of 'Just War' have been explained and shown whether the war waged in BiH by NATO forces was in accordance with these principles or not. The study referred both primary and secondary sources of information and data. The primary sources include available reports of the EU, UN, and BiH government. The secondary sources include books, journal articles, newspaper reports and other relevant materials in the internet.

CHAPTER - I
******** INTRODUCTION: HUMANITARIAN***
INTERVENTION*****

CHAPTER 1

INTRODUCTION: HUMANITARIAN INTERVENTION

It cannot be right, when the international community is faced with genocide or massive human rights abuses, for the United Nations to stand by and let them unfold to the end, with disastrous consequences for many thousands of innocent people.

UN Secretary-General Kofi Annan,

In larger freedom, para. 134(21st March 2005)

The society of states has committed itself in the post-holocaust world to a 'human rights culture' which outlaws genocide, torture, and massive human rights abuses, but these principles of humanitarianism can and do conflict with the principles of sovereignty and non-intervention. Sovereign states are expected to act as guardians of their citizen's security, but what happens if states behave as gangster towards their own people, treating sovereignty as a license to kill their own? Should murderous states be afforded protection of the norm of sovereignty and non-intervention, and what responsibility do other states have to act as guardians of human right in the society of states?

The end of cold war was not at all a sign of the end of human conflict. Contemporary cases of politically induced humanitarian disaster have reinvigorated the debates about the ethics of 'Humanitarian Intervention' (Catherine 2006: 14-28). The fact that human rights violation is presented as a reason to intervene in the domestic affairs of another country has led to a growing concern over the role of sovereignty principle and human rights in international politics. If we examine the legal status of the claimed prerogative of a foreign actor to use force within the territorial jurisdiction of a state, without the consent of the ruling authority, to ameliorate or terminate violations of internationally recognized human rights, it can be easily pointed that these are generally not altruistic behavior (Miller 2000). In fact it is not a technical legal question, if properly understood. It is a fundamental political question about authority in world politics. There might be some hidden interest behind this intervention, so it is always good if intervention is done by if not possible by an international organization (due to its size) at least by regional originations.

Any type of humanitarian intervention should be based on “Just War Theory”. According to the Just War theory it is morally justified to resort to armed forces if the condition of *jus ad bellum* is fulfilled. Basically *jus ad bellum* talks about what constitutes a just or unjust resort to armed force. According to Just War theory six conditions should be fulfilled before the resort to armed force, they are - just cause, right intention, proper authority and public declaration, last resort, probability of success and proportionality.

But any kind of humanitarian intervention leads to a kind of tussle between respecting sovereignty and responding to the plight of the needy, that is, there is tension between respecting governments’ authority and desire for non-interference, and respecting the individuals who suffer under their leadership. So there is tension between the goal of promoting peace, avoiding conflict and war, and engaging in military operations for protective purposes, which by definition involves conflict (Brock 2006).

This chapter examines the puzzle of whether state sovereignty or individual right should get priority. First, the meaning of humanitarian intervention will be discussed, moving on to a brief historical background, is humanitarian intervention justified if yes then what is the legal basis, and the evolution from humanitarian intervention to The Responsibility to Protect (R2P) and finally the position of the European Union (EU) on R2P.

Defining Humanitarian Intervention

R.J.Vincent in ‘Nonintervention and International Order’ gives the classical definition of intervention which is:

Activity undertaken by a state, a group within a state, a group of states or an international organization which interferes coercively in the domestic affairs of another state. It is a discrete event having a beginning and an end, and it is aimed at the authority structures of the target state. It is not necessarily lawful, but it does break a conventional pattern of international relations (Roberts 1993).

Humanitarian intervention is an effort by the external authority to stop the human right violation being done to the people of particular state by its own government. Traditionally, intervention has been defined in terms of a coercive breach of the walls of the castles of sovereignty. Such a breach violates the cardinal norms of non-intervention, which is enshrined in customary international law and codified in Article 2(7) of the UN Charter. Conventionally, humanitarian intervention is defined in terms of intervention motivated by humanitarian considerations, but this raises the question as to what counts as humanitarian?

The International Committee of the Red Cross (ICRC) was founded in 1863 on seven principles: humanity, impartiality, neutrality, independence, voluntarism, unity and universalism, defines humanitarian acts as those that 'prevent and alleviate human suffering'(Aeberhard 1996). Protection of human being is very important irrespective of their gender, race and nationality. The problem with this definition is that it assumes that humanitarian acts are the same across time and space; that a capacity for humanitarianism naturally inheres in all humans by virtue of a common human nature. Critics of this position argue that what counts as human suffering changes from one historical epoch to another. There is nothing natural or inevitable about who gets defined as human or inhuman. Thus slavery was regarded as perfectly natural in one century and later identified as a scourge against humanity.

According to the International Commission on Intervention and State Sovereignty (ICISS) report "responsibility to protect" was first developed in 2000-2001:

Sovereignty implies responsibilities as well as rights: to be sovereign means both to be responsible to one's own citizens and to the wider international community. The starting point is that any state has the primary responsibility to protect the individuals within it. But that is not the finishing point: where the state fails in that responsibility, through either incapacity or ill-will, a secondary responsibility to protect falls on the international community, acting primarily through the U.N.¹.

This basically implies that a state has the primary responsibility to protect its citizens but if they do not do so, the responsibility falls on the wider international community.

¹ ICISS (December 2001), Report by the International Commission on Intervention and State Sovereignty, "Responsibility to Protect", URL: <http://www.iciss.ca/pdf/Commission-Report.pdf>.

Before resorting to military intervention the international community should exhaust all other alternatives, but if peace cannot be achieved it is good to resort to military intervention rather than sitting and doing nothing while dead bodies are piling up. Taking its proper shape, Responsibility to Protect has evolved through a gradual process, and now has reached a stage where it had got accepted by the world's heads of state and government assembled at the September 2005 United Nations Summit, and endorsed in general terms by the Security Council in April 2006, and now beginning to be invoked in specific cases (as in the recent Resolution 1706 of 31st of August 2006 authorizing the extension of a UN peacekeeping mission to Darfur). But difficulty still comes while implementing it as we can see in the case of Darfur.

Of all the unfinished business in relation to R2P, the most significant for present purposes is the failure to agree, here as elsewhere, that a set of guidelines should be adopted by the Security Council identifying when it is, and is not, appropriate to go to war.

Background

Humanitarian intervention is not a new phenomenon. The issue of the right to intervene for humanitarian reasons became a matter of state policy particularly during the nineteenth century, especially on behalf of co-religionist minorities. Thus, guarantees for equal treatment of Catholic and Protestant minorities are to be found in such instruments as the Treaties of Augsburg, 1555, and Westphalia, 1648(Green 2003).

1648 Westphalia Peace Accord established the concept of sovereignty, where states for the first time agreed not to intervene in the internal affairs of other country. From this accord what was derived was a state system. Statehood meant that the world was divided into territorial parcels, each of which was ruled by a separate government. Westphalia state was ruled by a separate government. Westphalia state was moreover sovereign, that is it exercises comprehensive, supreme, unqualified and exclusive control over its designated territorial domain. By comprehensive we mean the sovereign state had jurisdiction over all affairs in the country. Supreme means sovereign state had the final say in respect of its territorial realm without supreme authority over it. Unqualified means state's right of total authority over its territory

was treated as sacrosanct by other states. Exclusive means sovereign state did not share competence in regard to their respective domestic jurisdiction.

So this accord proved to be very powerful in order to establish the authority of state not Church. Though this made the state all powerful, but then it was writers like Francis Bacon (1561-1626) put it, it was not the State (the ruler), but a Man who 'in the first state of creation had the sovereignty and the power'. This opened the avenue to question the authority of state if it violates the basic rights of individuals. This powerful idea of 'justice'—further developed, for example, in the works of Aquinas, de Victoria, and Grotius—was taken up subsequently by revolutionary doctrines, notably during the French Revolution. The French Revolution made it clear that individuals should raise their voice against the suppressive authority of state².

Today instead of sovereignty and individual being the focus of attention it is the territorial sovereignty and the State's external relations which has become the focus of attention. A non-intervention principle and a principle of equality of states within the international arena were conceptualized in the eighteenth century by de Vattel and Wolf. But this principle gave freedom to do human right violation as no one else could interfere in the internal affairs.

The most vigorous supporters of the principle of non-intervention were just those states who were most subjected to foreign interference. The nonintervention principle was, for example, sanctioned by the young French Republic in articles 118 and 119 of the Constitution of 1793. In the 1823 Monroe Doctrine, the United States pledged not to intervene in European affairs and declared that any European intervention in the Western hemisphere would be regarded as an unfriendly act by the United States. During the 19th century, the newly independent South American states became major defenders of the non intervention principle. Since the 1960s and 1970s their example has been followed by the young African and Asian nations. The first formal conceptualization of the non-intervention principle—albeit only on a regional scale—took place on 26 December 1933, in the Convention on Rights and Duties of (American) States.

² The Internet Encyclopedia of Philosophy 2009), "The just war theory" [online web] accessed on 16th January 2009, URL: <http://www.iep.utm.edu/j/justwar.htm>.

This principle was used during Cold War by the communist regimes to stave off the scrutiny done by the international authority to interfere in their internal affairs. This even became a matter of contention between East-West. Importance of human right became so important for the west that in the Helsinki Process in 1975, respect for human rights (the crux of Basket Three) was defined as a sine qua non for the transfer of Western high technology and know how to the East.

The end of the Cold War and the Gulf War (1990/1991) signaled the beginning of a “New International Order”, when the Soviet Union for the first time abstained from using its veto to block the international military humanitarian intervention; Resolution 688 of April 5, 1991 legitimated Allied Coalition forces to pursue humanitarian actions in favor of Kurds and Shiites displaced by the Iraqi civil war and by human rights violations of Saddam Hussein's regime³.

In today's world when things are getting interlinked due to globalization, the concept of sovereignty cannot be defined in still that old manner, that of non-intervention in the internal affairs of other country. But the state apparatus still survive more strong and intrusive in social life than before but not in the Westphalia form. Actually it is not so much the state as political space that makes the intervention morally problematic; it is, rather the idea of the state as private space. It basically becomes the question of finding a balance between state rights and human rights –or state security and human security.

State sovereignty is premised on territorial geography. But with globalization, social relations and borders are transcended with a deluge of electronic and other flows, crucial pre-conditions for effective sovereignty no longer prevail. Alongside these material changes, globalization has loosened some important cultural and psychotically underpinnings of sovereignty. Like as a result of the growth of trans-border network, many people have acquired that supplement and in some cases even override feeling of national sovereignty that previously lent legitimacy to state sovereignty like women's movement, environment movement etc. At the same time

³ SC Res. 688, 5 April 1991 (10-3-2). On the authorization or delegation by the Security Council of its chapter VII powers, <http://www.fas.org/news/un/iraq/sres/sres0688.htm> .

globalization has also reinvigorated more localized loyalties, for example indigenous peoples and other ethnic groups.

Of course there were violations of sovereignty under the Westphalia system too, but at that time the norms were at least hypothetically realizable. A state could, by strengthening its institutions and instruments, graduate from mere legal sovereignty to effective sovereignty. In contrast, under, conditions of contemporary globalization governance in terms of supreme and exclusive territorial state authority have become utterly impracticable. No amount of institution building and unilateral legislation will allow a state to achieve absolute control of its realm.

In the post cold war era the first war fought on the humanitarian ground was the first Gulf war, then there was Bosnia Herzegovina, subsequently there was a botched 'Humanitarian Intervention' in Somalia in 1993. But after that role of the international community is questionable as could be seen in the case of genocide in Rwanda. But then came the 9/11, which shook the great powers and after that US has waged a 'war on terror', so their first target was Afghanistan followed by Iraq. The reason given by the US President George W. Bush in both the cases was humanitarian ground only. The unilateral action taken by the US in Iraq in 2003 by sidelining UN was a major disaster to this organization. To undermine so comprehensively the norm of non-intervention on which any system of global order must be painstakingly built is to invite a slide into anarchy.

Henry Kissinger, not normally a reluctant user of U.S. power, who wrote in a Washington Post column on 16 September 2002:

As the most powerful nation in the world, the United States has a special unilateral capacity to implement its convictions. But it also has a special obligation to justify its actions by principles that transcend the assertions of preponderant power. It cannot be in either the American national interest or the world's interest to develop principles that grant every nation an unfettered right of preemption against its own definition of threats to its security⁴.

⁴Kissinger, Henry A. (2002), the prepared statement, [online web] accessed on 2nd of January, 2009, URL: <http://www.iraqwatch.org/government/US/HearingsPreparedstatements/sfrc-kissinger-092602.htm>.

So this shows that how now the principle of sacrosanct sovereignty no longer holds the ground, as individual life is given precedence over state right. But the problem arises when the strong state fulfills its own national interest violates the sovereignty of other state. Therefore it may be at time important to intervene in the internal affairs of other country but drawing a silver line between military intervention for altruistic behavior or to fulfill their own national interest is difficult to define.

Just War Theory

Just War Theory is based on the fact that while war may be awful, it is nevertheless sometimes a necessary aspect of politics (Waal and Omaar1994). If we have certain moral standards, on that basis it will be easy to say whether war is just or not. This helps to systematize war also so that no war can be resorted for a wrong reason, and even if military might is used as a last resort it should be justifiable on moral grounds.

The just war theory also has a long history. The literature on Just War is usually traced back to Saint Augustine of Hippo in the fifth century. The theme was revived in the twelfth century and was made systematic by Saint Thomas Aquinas in the thirteenth century. As a received tradition, it is Christian and largely Western-though it draws on ancient Greek philosophy, there are a comparable concept in the Koran and a similar debate in Islam. European theologians were primarily responsible for formulating the specific Just War criteria for judging the morality of war and along with Augustine, and Aquinas, Grotius played an important role in developing the idea of Just War theories (Fixdal and Smith 1998).

Saint Thomas Aquinas explicitly talks of ethical behavior in war and the concept of just cause. In the Summa Theologicae, Aquinas presents the general outline of what becomes the just war theory. He discusses not only the justification of war, but also the kinds of activity that are permissible in war. Aquinas's thoughts become the model for later Scholastics and Jurists to expand. The most important of

these are: Francisco de Vitoria, Francisco Suarez, Hugo Grotius, Samuel Pufendorf, Christian Wolff, and Emerich de Vattel⁵.

In the twentieth century it has undergone a revival mainly in response to the invention of nuclear weaponry and American involvement in the Vietnam War. The most important contemporary texts include Michael Walzer's *Just and Unjust Wars* (1977), Barrie Paskins and Michael Dockrill -*The Ethics of War* (1979), Richard Norman's *Ethics, Killing, and War* (1995), and Brian Orend's *War and International Justice* (2001). In addition there is Michael Walzer's *War and Justice* (2001), as well as seminal articles by Thomas Nagel "War and Massacre" (Nagel 1972), Elizabeth Anscombe "War and Murder" (Anscombe 2001).

Another source, especially for the *in jus bello criteria*, was the medieval chivalric code. The medieval knight's duty to protect the innocent or the weak was one of the first attempts to codify immunity for noncombatants. On the *jus ad bellum* side, the sixteenth-century reformation led to a partial secularization, splitting apart the secular from the religious and the Protestant from the Catholics, but there was often agreement across these divides. Most religious philosophers maintained that war for religion was the most just cause for the use of force. In their opposition to this point of view, secular scholars were joined by the influential Catholic theologian, Vitoria. Secular philosophers who thought about justice in war in terms of natural law were identifiably inspired by writers such as Augustine and Aquinas. In their interpretations of right, the Jesuit Francisco Suarez and the Protestant Hugo Grotius were closer to each other than to some of their respective co-religionists.

Those readers deterred by the theology in Just War arguments may be reassured by the tradition's inclusion of both secular and ecumenical elements. The Just War tradition has several advantages in dealing with the range of problems involved in determining the legitimacy of using force. Its first advantage is that it recognizes politics and the reality of power alongside ethics. The relevant parts of Augustine's *City of God* are an effort to move away from early Christian pacifism without ceding Christian virtues. Writing in the wake of the sack of Rome, Augustine

⁵The Internet Encyclopedia of Philosophy 2009), "The just war theory" [online web] accessed on 16th January 2009, URL: <http://www.iep.utm.edu/j/justwar.htm>.

points to the flaws and sinfulness of human nature that make wars necessary but that do not give license to taking war as an occasion to suspend the struggle to be virtuous. He confronts the dilemmas that force wars upon the unwilling, saying: But the wise man, they say, will wage just wars. Surely if he remembers that he is a human being, he will rather lament the fact that he is faced with the necessity of waging just wars; for if they were not just, he would not have to engage in them, and consequently there would be no wars for a wise man". For Augustine, then, wars always have been and will be a part of earthly life. He is sometimes referred to as an early realist, but *City of God* shows him to be subtler than that, sitting on the cusp between realism and idealism, seeking the virtuous path through a sinful world.

There are two Just War categories, *jus ad bellum* and *jus in bello* (Martin 2005). The former concerns when we may justly resort to war, and the latter discusses how the war may legitimately be fought.

According to *jus ad bellum* six conditions should be fulfilled before resorting to war, these conditions are following

a) **Just Cause:** resort to war should be in the cases of systematic, massive denials of life and liberty; that is, in cases of massacre and enslavement for self-defense from external attack; the protection of innocents from brutal, aggressive regimes; and punishment for a grievous wrongdoing which remains uncorrected. Most theorists hold that initiating acts of aggression is unjust and gives a group a just cause to defend itself. But defining a Just cause will be as difficult as different states will show there reason to resort to war as just, so defining Just cause is an open ended question. Though self-defense against physical aggression, putatively the only sufficient reason for just cause.

b) **Right Intention:** The general thrust of the concept being that a nation waging a just war should be doing so for the cause of justice and not for reasons of self-interest or aggrandizement. If the motive of the intervener is power or land grab, or irrational motives, such as revenge or ethnic hatred, then war is ruled out. It should only be to correct the wrong being done or to safeguard the interest of the people of the nation in which intervention is going to take place. Putatively, a just war cannot be considered

to be just if reasons of national interest are paramount or overwhelm the pretext of fighting aggression. However, possessing right intention masks many philosophical problems. The issue of intention raises the concern of practicalities as well as consequences, both of which should be considered before declaring war like right intentions for humanitarian military intervention are the alleviation of human suffering and halting of wide-spread atrocities and humanitarian intent must be primary for intentions to be right.

c) **Proper Authority and Public Declaration:** Decision to go for war should be taken by an appropriate authority and be made public, notably to its own citizens and to the enemy state(s) and it can be made by an international organization, regional organization or a group of states. But action taken by an interantional organization will be prefereable compared to those states or a group of states, who have used humanism as an excuse for self-serving war in the (recent) past or to those that do not even respect human rights within their own borders. But having consensus in such a big organization will always be a diffuclt thing, so if a government or a group of states is just, i.e., it is accountable and does not rule arbitrarily, then giving the officers of the state the right to declare war is reasonable. But who will decide that the government is just. The notion of proper authority therefore requires thinking about what is meant by sovereignty, what is meant by the state, and what is the proper relationship between a people and its government.

d) **Last Resort:** exploring military options should not be the first thing that states should do, war is just only if all other paths of dealing with a conflict have been exhausted, as war always bring loss for every side the difference is just that for winning side the loss is comparatively less as compared to the losing side but both side lose. A state may resort to war only if it has exhausted all plausible, peaceful alternatives to resolving the conflict in question. This principally pertains to all options in the diplomatic sphere. The idea of war as the last resort should not be taken lightly. It is arguably the most succinct way of saying that an intervention is not an option until there are no other options (Davidovic: 2008).

e) **Probability of Success:** before resorting to war the states should see to it that what are the chances of success in this war? A state may not resort to war if it can foresee

that doing so will have no measurable impact on the situation. It is always reasonable to calculate the costs and benefits of a campaign. However, the concept of weighing benefits poses moral as well as practical problems as evinced in the following questions. Should one not go to the aid of a people or declare war if there is no conceivable chance of success? Is it right to comply with aggression because the costs of not complying are too prohibitive? Is it not sometimes morally necessary to stand up to a bullying larger force, as the Finns did when Russia invaded in 1940, for the sake of national self-esteem? Besides, posturing for defense may sometimes make aggression itself too costly, even for a much stronger side. However, the thrust of the principle of reasonable success emphasizes that human life and economic resources should not be wasted in what would obviously be an uneven match. For a nation threatened by invasion, other forms of retaliation or defense may be available, such as civil disobedience, or even forming alliances with other small nations to equalize the odds. Historically, many nations have overcome the probability of defeat: the fight may seem hopeless, but a charismatic leader or rousing speech can sometimes be enough to stir a people into fighting with all their will. Winston Churchill offered the British nation some of the finest of war's rhetoric when it was threatened with defeat and invasion by Nazi Germany in 1940. For example in speeches to the British Parliament he said: "Let us therefore brace ourselves to do our duty, and so bear ourselves that, if the British Commonwealth and its Empire lasts for a thousand years, men will still say, 'This was their finest hour.'"....And "What is our aim? Victory, victory at all costs, victory in spite of all terror; victory, however long and hard the road may be; for without victory, there is no survival."⁶

f) **Proportionality**: the proportionality clause refers to the need to have a proportional reaction to an aggression or conflict. The intervention, simply put, must be proportional to the cause. A war would not be just if it was an excessive reaction to a minor, purely political conflict. For example, if nation A invades a land belonging to the people of nation B, then B has just cause to take the land back. According to the principle of proportionality, B's counter-attack must not invoke a disproportionate response: it should aim to retrieve its land. That goal may be tempered with attaining assurances that no further invasion will take place. But for B to invade and annex

⁶ Churchill, Winston (1940), Speech delivered by Winston Churchill before Commons on June 4, 1940, <http://history.hanover.edu/courses/excerpts/111chur.html>.

regions of A is nominally a disproportionate response, unless (controversially) that is the only method for securing guarantees of no future reprisals. For B to invade and annex A and then to continue to invade neutral neighboring nations on the grounds that their territory would provide a useful defense against other threats is even more unsustainable.

The principles are not wholly intrinsic nor consequentiality, the lack of a strict ethical framework means that the principles themselves are open to broad interpretations.

Jus in bello (Civilian immunity)

Attack should not be indiscriminately, since non-combatants or innocents are deemed to stand outside the field of war proper. Civilians should never be targeted at the time of intervention and military operations should be so designed that the inevitable loss of civilian lives is reduced or even minimized. The intervening party should just aim for the military target of the other side. Deviation from this is only possible if at stake is liberal constitutional democracy, to save a political community from annihilation, or its citizens from large scale massacre or enslavement. But at times following this principle will be very difficult as the hard targets hide within the soft targets, so that it becomes difficult to distinguish between the soft and hard targets. Though ideally soft targets should be avoided but at times there remains no difference between the soft and hard targets. But the combatants on both sides are vulnerable to attack as they legally enter the arena of war and are equally well equipped to inflict harm on the other side.

Walzer tried to rationalize this mutual vulnerability with the idea that combatants temporarily forfeit their human rights to life and liberty and take on, in their place, certain “war rights.” Rawls’s, to the contrary, emphasized the idea of mutual self-defense against attack as the grounding justification for this mutual vulnerability. Here soldiers on each side are protecting themselves, in combat, from attacks by soldiers on the other side; and since the attacks from either side can be deadly, each side may use lethal force in self-defense.

This theory focuses on the fact that though use of force is not solution to eliminate the root cause of any problem but at times if all the means are exhausted

then force can be used as its better to do something rather just being a spectator of gross human right violation taking place in any corner of the world. So this theory talks about those exceptional situation where when force is resorted to it should be done in a proper manner following all the rules and regulation as mentioned in this rule book named “Just War” theory.

This theory helps in judging each theory individually and deciding whether it is legitimate to intervene or not. Rather than submitting moral dilemmas to the "tyranny of principles", it attempts to bring morality and actuality onto the same plane. Conclusions arise not from strong preconceived notions about justice in war (or intervention) but from sensitivity to the reality of the particular war (or intervention).

Legality of Humanitarian Intervention

History is witness of a lot of war fought between states and a lot of bloodshed caused by it. So in order to avoid these wars like situation in the future the United Nations was formed in 1945 and its Preamble explicitly states that it has been created in order “to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind”. However, Article 2(7) of the UN Charter states that:

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

Along with the above, Article 3; also affirm that “everyone has the right to life, liberty and the security of person”. Article 55 commits the UN to “promote . . . universal respect for, and observance of, human rights and fundamental freedoms”; and Article 56 that pledges all members “to take joint and separate action” toward this end⁷.

⁷ Charter of The United Nations, CHAPTER I: PURPOSES AND PRINCIPLES, <http://www.un.org/aboutun/charter/chapter1.shtml>

The UN Charter also clearly states when to use force, how to use it and who should use. So for the first time all these things were explicitly stated. The Charter made absolutely clear in Article 2(4) that all UN member states “shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations”. It allowed only two exceptions to the prohibition on the use of force: self-defense under Article 51, and military measures authorized by the Security Council under Chapter VII in response to “any threat to the peace, breach of the peace or act of aggression”.

In 1965 the expanded UN membership adopted General Assembly Resolution 2131 (21 December) which reads in part:

No State has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic, or cultural elements are condemned. No State may use or encourage the use of economic, political or any other type of measure to coerce another state in order to obtain from it the subordination of the exercise of its sovereign rights, or to secure from it advantages of any kind. Also no state shall organize, assist, foment, finance, invite or tolerate subversive terrorist or armed activities directed towards violent overthrow of the regime [government] of another state or interfere in civil strife in another state⁸.

These same words were written into another General Assembly resolution five years later, when that body adopted the much cited "Declaration On Principles Of International Law Concerning Friendly Relations And Cooperation Among States In Accordance With the Charter Of The United Nations," with the usual caveat that "[n]othing in the foregoing paragraphs shall be construed affecting the relevant provisions of the Charter relating to the maintenance of international peace and security⁹."

Certain International legal obligations like the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Covenant

⁸ G.A. Res. 2131, U.N. GAOR, 20th Sess., at 11, U.N. Doc. A/6014 (1965).

⁹ G.A. Res. 2625, U.N. GAOR, 25th Sess., at 121, U.N. Doc. A/8082 (1970).

on Economic and Social Rights, the Genocide Convention, the Geneva Conventions and additional protocols, the Rome Statue of the International Criminal Court have also created a benchmark for state conduct, changed national action and are fostering the transition from a culture of sovereign impunity to a culture of national and international accountability (Dacy: 1996).

Cold War was a major stress on the international order and the UN Charter, as the ideological differences were hampering any collective decision making within the UN, but after the Berlin Wall eventually came down a new age of confidence really did dawn. The removal of a major source of ideological and great power conflict liberated the UN to play the global security role its founders intended, and the response to Iraq's invasion of Kuwait in 1991 was as swift, and comprehensive and rule-of-law based as anyone could possibly have wished. Multiple events since then, however, have brought all the old anxieties bubbling to the surface again: Somalia in 1993, Rwanda in 1994, Bosnia in 1995, Kosovo in 1999 – and above all the decision of the U.S., and its coalition allies, to go to war in Iraq in March 2003 in defiance not only of one or more threatened vetoes, but of the clear views of the great majority of the members of the Security Council.

A lot of intervention started taking place on a unilateral basis by the big powers like U.S so it became very important to distinguish the Conception of the responsibility to protect from a “right to intervene.” Then the next major development in the field of explicitly stating the objective of humanitarian intervention was the “Responsibility to Protect”, as first developed in 2000-2001 by the International Commission on Intervention and State Sovereignty (ICISS), has been a powerful conception both politically and intellectually. “The responsibility to protect implies an evaluation of the issues from the point of view of those seeking or needing support, rather than those who may be considering intervention.”

It seeks “to develop a global political consensus on how to move from polemics – and often paralysis – towards action within the international system, particularly through the United Nations.”¹⁰ Its main normative thrust is that individuals must be protected from mass killings and other gross violations of their

¹⁰ International Commission on Intervention and State Sovereignty (2001), ICISS Report on Responsibility to Protect, para 1.7, URL: [http:// www.ciise-iciss.gc.ca/report-en.asp](http://www.ciise-iciss.gc.ca/report-en.asp).

rights, and that the state that is sovereign over the territory in which they reside has primary but not exclusive responsibility. If the state does not live up to that responsibility or worse actively violates it, it fails “the minimum content of good international citizenship” then coercive intervention for human protection purposes, including ultimately military intervention, by others in the international community may be warranted in extreme cases.

According to the report the concept of sovereignty signifies “the legal identity of a state in international law.” In international relations, “sovereign states are regarded as equal, regardless of comparative size or wealth”. “A condition of any one state’s sovereignty is a corresponding obligation to respect every other state’s sovereignty”. This is the norm of non-intervention which is codified in the UN Charter. However the authority of the state is not absolute as internally it is regulated by constitutional power sharing agreement and externally each state has certain obligations being the member of the international community. Even in 1923 the Permanent Court of International Justice said in a dictum: “the question of whether a certain matter is or is not solely within the jurisdiction of a state is an essentially relative question; it depends on the development of international relations”¹¹. So what was earlier an internal matter has now become an international matter (Pease and Forsythe 1993).

The ICISS report also talks of the possibility of anticipatory action is very important, as without it the international community would be placed in the morally untenable position of being required to wait until genocide begins, before being able to take action to stop it.

Resort to military option should be as a last resort, before that all diplomatic and non-military avenues for the prevention or peaceful resolution of the humanitarian crisis must have been explored. But that does not mean that a lot of time should be wasted in exploring other options often there will simply not be the time for that process to work itself out. So in that case if no solution can be seen to the

¹¹ Nationalities Decrees in Tunis and Morocco, Permanent Court of International Justice, Series B, No. 4, 24 (1923).

problem of human right violation in the near future through these methods, without wasting any more time international community should resort to military action.

Stanley Hoffmann says that “there are situations in which a quick, early use of force may well be the best method, and the only one capable of preventing a further aggravation of the [humanitarian] crisis” (Hoffmann 2000: 170). For if the threshold for intervention is that the bodies already have started to pile up, this is hardly humanitarian – perhaps less in humanitarian than not acting at all, but that’s not exactly a high standard.

The ICISS report talks about having an early warning system which can access the fragility of the situation and risk associated with it. There should be a system wide coordination for data analysis and resource coordination. Greater regional involvement is also crucial.

So according to this report UN should be in the forefront while taking any action regarding having a check on the human rights violator state or organization. But the commission was also aware about “the UN’s limits in both addressing conflicts before they become emergencies and coming to the rescue once a humanitarian crisis is clear.” So taking into consideration the limit of UN, the commission stated that any regional organization or sub regional organization can take action, but with the approval of UN. So the commission made sure that the authorizing body should be UN only, because if it is left to the regional organizations only, then a group of states can coalesce against any particular state, so if the authorizing body is the UN then it will see to it that no innocent state becomes a victim of the action taken by a group of states. So even if the UN is not in a position to take action it can still have a check on the acts of states. But later on in order to retain faith in the UN, the full UN Summit added the caveat that the action would be “collective” and “through the Security Council.”

The follow-on to the ICISS Report was the 2004-05 Secretary-General's High-Level Panel (HLP) on Threats, Challenges and Change¹². The HLP Report did endorse the responsibility to protect as an "emerging norm" and did make a strong statement that "the principle of non-intervention in internal affairs cannot be used to protect genocidal acts or other atrocities." The 2005 UN World Summit¹³ did adopt the Responsibility to Protect norm. The official UN 2005 World Summit Fact Sheet claims that there was "clear and unambiguous acceptance by all governments of the collective international responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity."

But the main problem comes while assigning roles to international actors to stop the human rights violation taking place anywhere in the world. If there is a genuine human rights violation taking place, the international organization or regional organization or an informal group of states also who have right intention should come forward to take the responsibility of humanitarian intervention through military means also if all the other means have been exhausted. The world cannot sit quietly like a spectator when human beings are being brutally murdered in some other part of the world.

Evolution from Humanitarian Intervention to Right to Protect (R2P)

Humanitarian intervention is not a new phenomenon. The issue of the right to intervene for humanitarian reasons became a matter of state policy particularly during the nineteenth century, especially on behalf of co-religionist minorities. Thus, guarantees for equal treatment of Catholic and Protestant minorities are to be found in such instruments as the Treaties of Augsburg, 1555, and Westphalia, 1648.

But as discussed above with the establishment of the UN, the use of force became an exception not a rule. So UN respects the concept of sovereignty and restricts any individual country to intervene in the domestic affairs of any other country (Hensel 2008).

¹² Report of the Secretary-General's High-Level Panel (HLP) on Threats, Challenges and Change (2004), "A More Secure World: Our Shared Responsibility", <http://www.un.org/secureworld/report2.pdf>.

¹³GA Res. (2005), UN Doc.A/60/L.1, 2005 UN World Summit, <http://www.unep.org/greenroom/documents/outcome.pdf>.

Let's look at the main milestones in the codification of Humanitarian Law:

- *1864: First Geneva Convention protecting wounded and sick soldiers;
- *1907: Hague Regulations governing the means and methods of hostilities;
- *1925: Geneva Gas Protocol;
- *1929: Two Geneva Conventions updating the protection of wounded and sick and adding rules on the treatment of prisoners of war;
- *1949: Four Geneva Conventions updating the 1929 Conventions and adding rules on the protection of civilians and on armed conflicts "not of an international character"
- *1954: Hague Convention and Protocols on the protection of cultural property and two protocols;
- *1972: Biological Weapons Convention;
- *1977: Two Protocols additional to the 1949 Geneva Conventions updating the rules on the conduct of hostilities and on the protection of war victims and providing the first international convention specifically applicable in non-international armed conflict;
- *1980: Convention on certain conventional weapons and five protocols dealing with certain conventional weapons (formally known as the 1980 Convention on Prohibitions and Restrictions on the use of certain Conventional Weapons which may be deemed to be excessively injurious or to have indiscriminate effects);
- *1993: Chemical Weapons Convention;
- *1997: Ottawa Convention banning anti-personnel landmines;
- *1998: Statute of the International Criminal Court.

Humanitarian intervention was not a legitimate practice during the cold war. But in the post Cold War era defense of Kuwait against Iraq in 1991 was the first international response to interstate aggression. After this it was considered that

international community will always be there to take care of any human right violation. But that was not the case, this became clear from international response to Somalia in 1993, Rwanda in 1994, Balkans and also the situation Kosovo in 1999, when the international community did in fact intervene as it probably should have, but did so without the authority of the Security Council in the face of a threatened veto by Russia.

As discussed above, attempts in the earlier years of post cold war era led to the forming of a commission, the Canadian government-sponsored International Commission on Intervention and State Sovereignty (ICISS), which took the responsibility of drafting a framework for humanitarian intervention which would be used to guide future responses to imminent humanitarian catastrophes. This commission presented its report, entitled *The Responsibility to Protect*, to the UN Secretary General at the end of 2001. The Commission made four main contributions to the international policy debate which, it seems fair to say, have been resonating ever since.

Most important contribution of this report lies in the fact that it reframed the word 'right to intervene' into "responsibility" that is responsibility to protect. This actually introduced a very constructive way of looking towards humanitarian intervention, which is not a right of any state but responsibility of the intervening state to see to it that violation of human right should not take place, anywhere in the world¹⁴.

Generally 'responsibility to protect' is seen as a military solution only. But this commission made it clear that 'responsibility to protect' was about much more than intervention, and in particular military intervention. It extends to a whole continuum of obligations:

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- the responsibility to prevent: to address both the root causes and direct causes of internal conflict and other man-made crises putting populations at risk;

¹⁴ Evans, Gareth(2006), "From Humanitarian Intervention to The Responsibility to Protect", Keynote Address by Gareth Evans, President of International Crisis Group and Co-Chair of the International Commission on Intervention and State Sovereignty 2001, to Symposium on Humanitarian Intervention, University of Wisconsin, Madison, 31 March 2006, <http://www.crisisgroup.org/home/index.cfm?id=4521&l=1>.

- the responsibility to react: to respond to situations of compelling human need with appropriate measures, which may include coercive measures like sanctions and international prosecution, and in extreme cases military intervention; and
- The responsibility to rebuild: to provide, particularly after a military intervention, full assistance with recovery, reconstruction and reconciliation, addressing the causes of the harm the intervention was designed to halt or avert (Thakur 2002).

Of these three dimensions to the responsibility to prevent, the Commission made very clear its view that prevention was the single most important action.

The commission identified five criteria of legitimacy which should be applied by the Security Council - and be used by the world at large – to test the validity of any case made for a coercive humanitarian intervention. They are as follows:

(1) **Just Cause:** is there serious and irreparable harm occurring to human beings, or imminently likely to occur, of the following kind:

A. large scale loss of life, actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation; or

B. large scale ‘ethnic cleansing’, actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape.

The bar for military intervention here has been set deliberately high and tight, excluding many kinds of unconscionable behavior (e.g., imprisonment and torture of political opponents, or overthrow of a democratically elected government) that would certainly justify other forms of coercive response (e.g., targeted sanctions):

(2) **Right Intention:** is the primary purpose of the proposed military action to halt or avert human suffering, whatever other motives may be in play?

(3) **Last Resort:** has every non-military option for the prevention or peaceful resolution of the crisis been explored, with reasonable grounds for believing lesser measures will not succeed?

This guideline was not intended to mean that every non-military option must literally have been tried and failed. Given that there will often be simply no time for that process to work itself out, what is necessary is that there be reasonable grounds for believing, in all the circumstances, that these other measures would not have worked.

(4) **Proportional Means:** it is the scale, duration and intensity of the planned military action the minimum necessary to secure the defined human protection objective?

(5) **Reasonable Prospects:** is there a reasonable chance of the military action being successful in meeting the threat in question, with the consequences of action not likely to be worse than the consequences of inaction?

There remained to address the problem of legality. What if, taking into account all these five criteria of legitimacy, a very clear case can be made for coercive intervention, but the Security Council – under the UN Charter the only source of authority for the legitimate use of military force, except in cases of legitimate self-defense simply will not vote to authorize it? This was exactly the issue that had to be confronted with Bosnia Herzegovina, when all the elements of a horrific new ethnic cleansing operation were falling into place but Russia made clear it would veto any military intervention but US acted unilaterally due to fear of Russia vetoing this case if this matter was brought before the UN Security Council.

In these cases a very real dilemma arises as to which of the two evils is the worst: the damage to international order if the Security Council is bypassed or in the damage to that order if human beings are slaughtered while the Security Council stands by. The ICISS Commission's responded to this crisis by stating that if an individual state or ad hoc coalition steps in, fully observes and respects all the necessary criteria of legitimacy, intervenes successfully, and is seen to have done so by world public opinion, then it should be allowed, but this is likely to have enduringly serious consequences for the stature and credibility of the UN itself (Evans and Sahnoun 2002). That is essentially what happened with the U.S. and NATO intervention in Bosnia Herzegovina. But UN cannot afford to drop the ball too many times.

Position of EU on Responsibility to Protect

According to Javier Solana (High Representative for the Common Foreign and Security Policy, Secretary-General of the Council of the European Union):

The Responsibility to Protect means that all States must exercise their sovereignty with responsibility and that the international community will not stand by and allows other States to inflict harm on their own populations¹⁵.

The one word that comes to our mind while defining EU's position on humanitarian intervention is "Fragmented". But at the same time it can also describe as the most coercive and successful regional human rights regime regarding its legal obligations and the largely positive human rights record European states display on the whole (Brosig 2006).

The European human rights regime accounts for different types of interaction or tasks and one can single out at least five types:

1. Norm enforcement through legal institutions.
2. Monitoring of European courtiers by international organizations.
3. Policy coordination.
4. External promotion of human rights and assistance.
5. National norms implementation and application.

Entry into the European Union starts with the pre-condition for member countries to subscribe to the rule of democracy and respect for human right. Then making its intention clear European states have clearly condemned colonialist and imperialist intervention. They consider intervention legitimate only if it is decided upon and supported by a number of democratic countries.

The European Community started to include the humanitarian dimension into its policy framework in the 1970s. In the 1990s, the EU participated in collective intervention authorized by the UN Security Council and participated in humanitarian intervention in northern Iraq, Kosovo and Sierra Leone. In 1999 the Cologne and Helsinki European Council decided to create a rapid reaction force for crisis

¹⁵ Solana ,Javier(2008), "Welcomes today's Launch of the Global Centre for the Responsibility to Protect", Council of the European Union, Brussels 14 February 2008, URL:<http://www.consilium.europa.eu/solana>

management and through the Nice Council in 2000 efforts have been made to establish such a force.

There are different treaties, articles, some clauses which directly or indirectly refer to or act as a source of options which allow the EU to use military force. The declaration of the European Council of Cologne, Helsinki, Feira and Nice and NATO's new security concept along with the common concept of European security drawn up in November 1995, and finally Common Foreign and Security Policy (CFSP) are considered as one of the important sources.

The Maastricht Treaty¹⁶ that created the European Union in 1992 based the EU's activities on three 'pillars'. Pillar One incorporated the three founding treaties forming the European Community (EC); Pillar Two established the CFSP under Title V of the TEU; and Pillar Three established EU cooperation on matters of justice and home affairs.

The first pillar of EU also known as its civilian power, constitute of many institutions most important among them is the European Commission which is the engine of policy within the EU. It has got exclusive rights to initiate all legislative measures. It comprises 20 Commissioners, organized into several services and 25 Directorates-General, in charge of sectoral policies in, for instance, agriculture, transport and energy and financial and economic affairs. The DGs most relevant to humanitarian action are DG Relex (external relations), and DG Dev (Development cooperation and humanitarian aid). Of relevance here is, for example, the Regulation governing humanitarian aid.

The Council is served by a Secretariat-General, with a permanent structure staffed by civil servants. This body is under the Secretary-General, who is also the High Representative for the CFSP. Committee of Permanent Representatives (COREPER) and the Political and Security Committee made up of senior civil servants from member states, are related to the Council and supervise the EU's responses to crises. The Humanitarian Aid Committee (HAC) formed in 1996 oversees European Commission's Aid Office (ECHO) and is governed by the Humanitarian Aid Regulation.

¹⁶ The Maastricht Treaty (1992), <http://www.eurotreaties.com/maastrichtec.pdf>.

The Second pillar is related to Common Foreign and Security Policy (CFSP). The CFSP belongs to the realm of inter-governmental policy-making. According to article 11.1 of TEU is “the union shall define and implement a common foreign and security policy covering all areas of foreign and security policy.”

This article basically tries to safeguard common values, fundamental interests, independence and integrity of Union in conformity of the principle of UN Charter. The objective of which should be to strengthen the security of the union in all ways, to promote international cooperation, to develop and consolidate democracy and rule of law and respect for human right and fundamental freedom.

But two important problems facing the EU are first in the area of decision making is the requirement of unanimous decision making and the other problem is the absence of operational means available to the Council.

In some part the above was addressed by the Amsterdam Treaty in May 1999¹⁷ with the aim of establishing its Petersburg task¹⁸ proposed the military units of the Western European Union (WEU). But WEU was never a success as it mainly depended on member states contributing men and equipment. Having a unanimous decision making being a big problem, the Amsterdam Treaty introduced the concept of ‘constructive abstention’. By this process unanimity remains the main principle in decision-making, but the member states that do not want to follow a course of action can remain silent, without blocking the adoption of an EU decision unless the number of states abstaining represent more than a third of weighted votes. Another significant change is that the Council can now adopt a Joint Action or take a Common Position on the basis of a Common Strategy on a qualified majority vote. To date, three Common Strategies have been adopted: on Russia, on Ukraine and on the Mediterranean region.

¹⁷ The Amsterdam treaty (1997), <http://www.eurotreaties.com/amsterdamtraety.pdf>.

¹⁸ The ‘Petersburg Tasks’ were crisis-management tasks of a peacekeeping or humanitarian nature which the EU member states agreed to collaborate on. They were announced in a declaration issued at Petersburg castle in Germany.(June 1992)

On the basis of guidelines established in Cologne in June 1999, the European Council in Helsinki in December 1999¹⁹ decided to establish a Rapid Reaction Force (RRF). The RRF will in due course form the military component of the EU's crisis response capability, with a military force of 50,000–60,000 troops deployable within 60 days and able to sustain deployment for at least a year. The Political and Security Committee (PSC) was established by a Council Decision of 22 January 2001 to supervise the implementation of EU decisions in response to crises. It will issue guidelines to, and receive advice from, the Military Committee and the Committee for Civilian Aspects of Crisis Management. The Military Committee and the Military Staff were also established on 22 January 2001.

The Civilian Crisis Management Committee (CIVCOM) was created by a Council Decision of 22 May 2000. It will receive guidance from and provide information to the PSC in four priority areas: policing, strengthening the rule of law, strengthening civilian administration and civil protection. The Policy Planning and Early Warning Unit (PPEWU) – now called the Policy Unit – was created following a joint declaration of the member states in the Amsterdam Treaty, and placed under the authority of the High Representative for the CFSP. This unit is mandated to monitor and analyze trends in areas covered by the CFSP, to provide assessments and to advise the EU on strategies to be adopted within the framework of foreign policy. It is also to provide advanced warning of potential crises and their impact on the EU²⁰.

From time to time the EU has taken initiative in the area of peacekeeping also. According to article 17.2 of the TEU 'questions referred to in this article shall include humanitarian and rescue task, peacekeeping task, and task of combat forces in crisis management, including peacemaking'.

¹⁹ The European Council in Helsinki (1999), Annex Iv Of The Presidency Conclusions Helsinki European Council 10 And 11 December 1999, <http://www.consilium.europa.eu/uedocs/cmsUpload/Helsinki%20European%20Council%20-%20Annex%20IV%20of%20the%20Presidency%20Conclusions.pdf>

²⁰ Trends and risks in EU Humanitarian Action, The New Humanitarianism : A Review of the trends in global humanitarian action, HPG report, sel.isn.ch/serviceengine/FileContent?serviceID=7&fileid=F185183D-7025-5F4F-CC36-5AF8FAD78FAD78FA3&Ing=en.

These three missions were envisioned in the Petersburg tasks and in 1992 operation provide comfort in northern Iraq and evacuation of Europeans from Zaire by Belgian and French troop in 1991 are a good example of humanitarian and rescue tasks. The United Nations Protection Force (UNPROFOR) formed in 1992 is an important example of peacekeeping and allied action against Iraq is a good example of crisis management.

So it's clear from the above discussion that the EU has provisions for the use of military force but through its Petersburg declaration in 1992²¹ EU has implicitly declared that use of coercive force by WEU will be subordinate to the Security Council. It affirms that 'Decision to use military unit answerable to WEU will be taken by WEU Council in accordance with the UN Charter'. Along with that the member states declared that they are 'ready to support on a case by case basis and in accordance with their own procedures, the effective implementation of conflict prevention and crisis management measures, including peacekeeping activities of CECE or the United Nation Security Council'.

Development of European security and defense policy is a really very slow process. At the European Council of Cologne, Helsinki, Feira and Nice efforts were made to develop rapid action force for crisis management.

Like the Cologne Council (3rd and 4th June, 1999) stated that if EU has its own force that will increase its ability to contribute to international peace and security in accordance with the principles of UN Charter. The Helsinki Council introduced the concept of responsibility where member states said that military capability would be developed so that 'they could assume their responsibility across full range of conflict prevention and crisis management as the task defined in EU treaty'.

The Atlantic Alliance's Strategic Concept of April 1999 subscribed by 11 EU member states is used in connection with the NATO operations and since NATO may provide capability for EU-led operations. The common European security concept of

²¹Petersburg Declaration (1992), Western European Union council of Ministers Bonn 19 June 1992, <http://www.weu.int/documents/920619peten.pdf>

1995 has drawn up many points from NATO's concept. The common concept focuses on the concept of democracy like:

(These principles) ensure that national armed forces, and the machinery of government as a whole, are properly answerable to public opinion and democratic institution and cannot be used as an instrument of oppression either inside or beyond the borders.(para. 20)

The European states have expressed their concern that the security of their nationals should be guaranteed everywhere in the world:

There are a large number of European citizens living and working abroad, many are in unstable or dangerous areas. Many more travel abroad on a short term basis. Their security, over and above that provided by the countries where they are present, is the responsibility of national authorities.(para.28)

But it is very important that EU should have a proper document specifying the use of limited force in accordance with the principles of UN. This document will make clear to the neighbors and other states that the intension of EU forces is not offensive, but will be used in accordance with the Security Council decision. But it will be difficult to make a document which will include all the details of how to use force, as predicting international situation is difficult, as each of these situations is unique. So only a general framework can be chalked out.

For EU framing a document is not a difficult thing but the problem comes while trying to have a consensus, which is very difficult for the EU to achieve, as the entire 27 member states think differently. Efforts should also be made to amend the procedure to arrive at the decision whether to use military force or not, like it is not necessary to ask for unanimity among the member states in order to initiate any military option.

The benefit of having military force is that if stalemate continues in Security Council, it is quite possible that EU can come to the forefront to take action of intervention if the situation is getting out of control and needs immediate action. So it's good to have options at the time of crisis like whether to use Security Council, NATO, EU or some other regional organization²².

²²Evans, Gareth (2007), "The Unfinished Responsibility to Protect Agenda: Europe's Role", Panel Presentation by Gareth Evans, President, International Crisis Group, to EPC/IPPR/Oxfam Policy

But at the same time it should make it clear neither to the world that this force is not intended to conquer the world, nor to profit from the resources of other people. On the contrary this force will be used to for the establishment of peace and stability, in close association with the UN. Along with that EU should continue its policy of transparency which it has followed till now.

The European Union always believed in using its soft power that is trying to find solution for any problem through the use of its diplomatic and economic power. They do not believe in, using hard power that is military power. This is so because for a large group like EU getting consensus on use of economic power is simple as compared to use of military power. But in this changed scenario when EU member states are a target of the terrorists it is not good for its own reputation to be called a civil giant and a military dwarf²³.

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Dialogue On Europe's Responsibility to protect: What Role for EU?, Brussels, 5 July 2007, <http://www.crisisgroup.org/home/index.cfm?id=4936>.

²³ Ortega, Martin (2001), "Military Intervention and the European Union", Institute for Security Studies Western European Union, Paris March 2001, <http://aei.pitt.edu/505/01/chai45e.html>.

CHAPTER-II
******** CASE STUDY OF BOSNIA***
HERZEGOVINA*****

CHAPTER 2

CASE STUDY OF BOSNIA HERZEGOVINA

This chapter will look at the legitimacy of humanitarian intervention in state practice in the post-cold war era, focusing on the case study of Bosnia Herzegovina (BiH). This case has been selected because after the Gulf war, this was the second case of humanitarian intervention in the post Cold War era and breakdown of Yugoslavia and NATO intervention in Bosnia called into question many formerly uncontested principles of international law like state should not intervene for primarily humanitarian reasons as this violates the compact between state and citizens. Of particular salience to the Bosnian case study is the strategy of the newly constituted European Union towards Bosnia (Prior to 1992 the EU was called the European Community).

BiH is a country located in the Balkans with its capital Sarajevo (as shown in Map 1) and was recognized as a separate state and accorded international recognition and membership of the UN only on 22 May 1992. It is a well known fact that none of the today's Central and East European countries including the Balkans existed in the similar political form before 1918. BiH itself was a part of Yugoslavia which itself came into political existence only in 1918. Bosnia Herzegovina was however, different from Serbia and Croatia not merely as a separate Yugoslav republic but as a political entity which, with its varying boundaries, had been accepted as such formally since the 16th century and in practice for many generations earlier (Malcom 1996: 61-98). Because of BiH history as a frontier society on the fault line first of contending empires and then of competing nationalism, modern collective identities in BiH emerged and developed on the basis of ethnic national communities. Many of the inhabitants had affinities with Serbs or Croats other were different because they were Muslims.

Since late 1960s, Europe's eastern most Islamic community has been considered politically and juridical equal in stature within Yugoslavia with the Serb and Croat



MAP No.1
Bosnia Herzegovina*

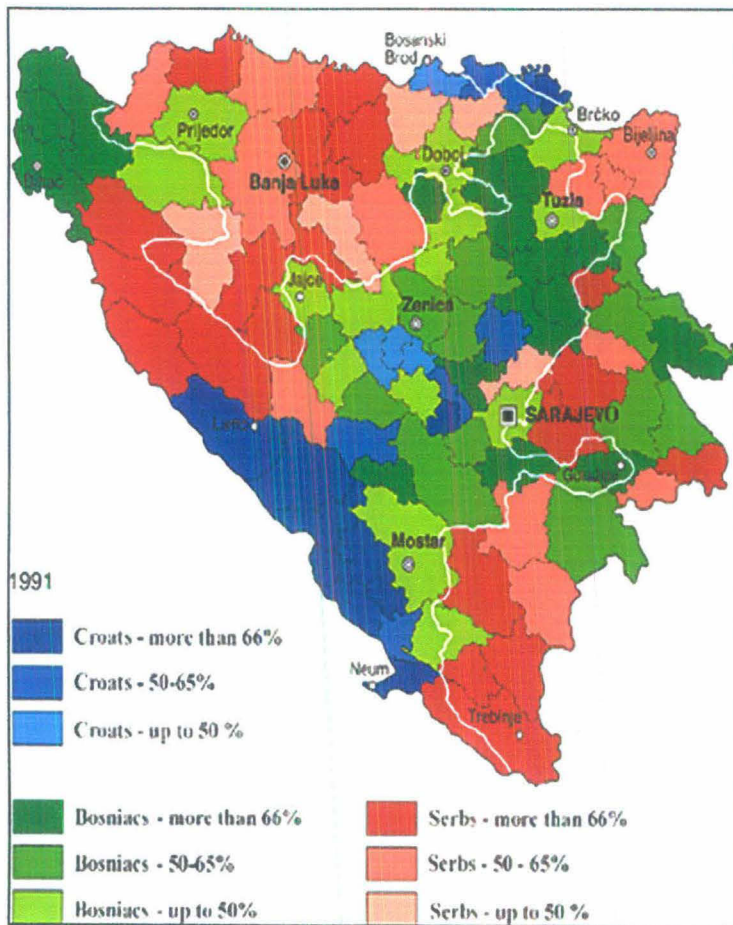
*Accessed on 27 Feb 2009

URL: <http://www.worldatlas.com/webimage/countrys/europe/lcolor/bacolor.htm>

nations with which the Muslims share common Slavic origins. For a communist country that in principle is atheistic, to legitimate the status of an avowedly religious group was no casual action. But this official recognition made them vulnerable to Serb and Croat pressures, because neither group would accept the Bosnian Muslims as anything more than a religious entity and certainly not as a nation entity.

Federal Republic of Yugoslavia during Tito's time consisted of six constituent republics (BiH being one of them) along with two autonomous regions (one of which is Kosovo). The collective presidency of federation rotated among the republics. Decisions were taken by a majority of the eight constituents. Serbia was its most populous republic having 40 percent of its total population of nearly twenty-four million. The Serbs dominated the Yugoslav National Army (JNA) and bureaucracy. Yugoslavia's demography and different levels of economic prosperity among the republics defeated its unity. History suggests that federations of different national entities can work successfully only if they are genuinely democratic political system, but this was not the case in Communist Yugoslavia where any striving for greater national autonomy was bound to absorb like blotting paper all the bitter political dissatisfaction which was flowing through the whole system. Death of Marshal Tito meant the end of the Yugoslav federation for his personal attention was the glue that bound the federation together across the nationalities and ensured some degree of consensus governance.

In the period between May 1992 and December 1995, BiH was the battleground for three ethnic groups, the Bosnian Muslims, comprising 43.7 percent of the BiH population, the Bosnian Serbs who represented 31.4 percent, and the Bosnian Croats, with strength of 17.35 percent. Map 2 shows the ethnic composition of different regions in BiH before the start of war in 1991 is shown. In Map 3 the ethnic composition of BiH after the war in 1998. These maps clearly show differences, how BiH which earlier used to look mosaic was in the post war era was clearly divided into 4 zones with the predominance of Serbs as against the earlier predominance of Bosnian Muslims.

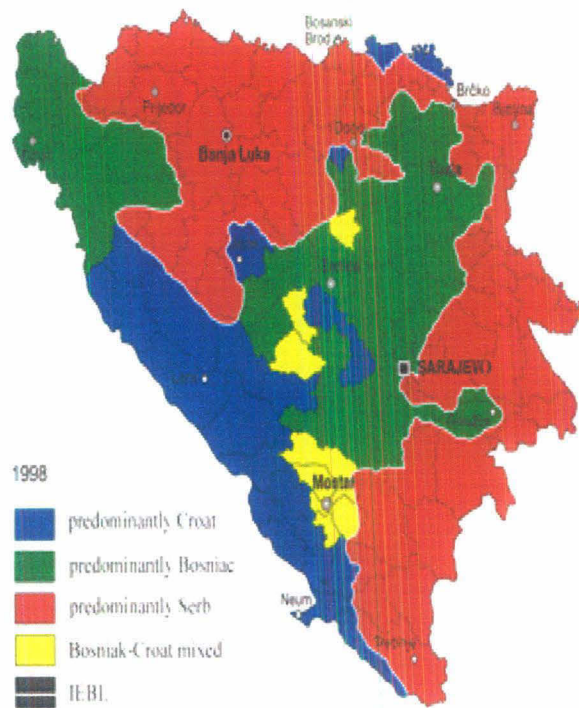


MAP No .2

Ethnic composition before the war in BiH (1991)*.

*Accessed on 22 Jan 2009

URL:<http://www.setimes.com/cocoon/setimes/images/2005/12/15/3mapsbih2.jpg>



MAP No. 3
Ethnic composition in 1998*

*Accessed on 12 Feb. 2009 URL:<http://www.ohr.int/ohr-info/maps/images/ethnic-composition-after-the-war-in-1998.gif>

The complicated origins of the war lay in part in the attempt by the Bosnia Serbs to break up Bosnia and link the areas which contained Serb ethnic majorities to the larger entity of Serbia. The goal was the establishment of what Serbs propagandist called "Greater Serbia". The Bosnian Serbs rejected the alternative of becoming part of a unified, independent state of Bosnia, whose government would likely be delimited by the Muslims. The Bosnian Muslims, in turn, feared that they themselves would be dominated by Serbia if they were to remain in a rump Yugoslavia whose ethnic balance had been upset by the secession of Slovenia and Croatia (Paczulla 2004-2005). And herein began the seeds of the new conflict between the ethnic groups.

History

The history of BiH was shaped on the cusp of the contending Habsburg and Ottoman empires for four centuries and then on the seam of two contending nationalism- Serbs and Croat- during the twentieth century (Bose 2007: 105-153).

The Bosnian Serbs accounted for less than a one third of the population, the Bosnian Croats for about one sixth and the Muslims for nearly half. All these people were Slaves by race as result of invasions in the early middle Ages by Slavs and of various kinds such as Iberian, Celtic and Avar peoples and other trace elements. Among these invaders, Serbs and Croats were the most prominent and they penetrated into Bosnia as well as establishing principalities of their own on three sides of it. They arrived in the Balkans as pagans but became Christians and although they were often allies against the dominant but declining power of the Byzantine Empire they were divided by giving their allegiance to rival Byzantine and Roman ecclesiastical authorities. The battle of Kosovo Polje in 1386 proved to be a momentous event for the Balkans. Although the battle was a draw, but Serbs lost a lot that helped to open the Balkan Peninsula to the Ottoman Empire, ending Serbia's pretensions of building a Balkan empire during the middle ages.

Relatively inaccessible, Bosnia became a patchwork of lordships, great and small, which were relatively independent of outside domination until the conquest of the whole area by the Ottoman Turks after the battle of Adrianople in 1463. From

beginning to end of the Turkish domination, Bosnia's fortunes were conditioned by the frequent wars. Its frontier was fixed by the treaties which punctuated those wars in the 18th century.

The weakness of the ecclesiastical link, the growth of towns under Turkish rule and the simple good sense of adopting the new ruler's faith contributed to the unusually whole sale conversion of Bosnians to Islam. By about 1600, half of them were Muslims. In the thirteenth century the Habsburg dynasty controlled the northern and western region, and the Ottoman conquered the southern and eastern portions in the fourteenth century. Both the empires were at the loggerhead with each other to expand their own territory. The Ottomans dominated the area in the early 1600th century. In the 1700s and 1800s Habsburg power reasserted itself in the region, while the Ottoman armies and state suffered defeat and internal dissolution. Habsburg rule lasted only until the end of World War I, and it brought many Western influences. Catholicism was promoted by the regime business and modernization, and Bosnia was drawn economically northward.

The new intellectual climate led to the development of national consciousness among the inhabitants in the late eighteenth and early nineteenth century. Earlier the Europeans identified themselves primarily in terms of religious affiliation, but now they started affiliating themselves within different national groups. But in general the region was populated by southern Slavs, or Yugoslavs (yugo=southern), of which there were several branches.

In 1878 both Serbia and Montenegro were granted official international recognition by the Treaty of Berlin. Once an independent Serbia was established, the goal evolved to include all Serbs within that state. The plan for a greater Serbia had its root in one drawn up in 1844 by Ilija Garasanin, a liberal constitutionalist, government minister, and adviser to Serbian princes.

With Serbia and Montenegro becoming independent states and clients of Russia, Austro- Hungary became more worried about the Russians than about the Turk and Bosnia became more vulnerable to expansionist neighbors. After the Russian defeat of the Turks in 1877 the European powers gathered at Berlin to redraw

the map of the Balkans. In this meeting Austria-Hungary was awarded the administration of Ottoman Bosnia-Herzegovina, who had pursued an expansionist policy in Balkans after 1878 and annexed BiH by 1908, which it lost again after the end of First World War with its defeat along with that of Germany. Between that war and the next there was a wide agreement on the idea of a Yugoslav state but no agreement on the division of powers. In this power struggle Bosnia was with Croatia, opposed to centralization which meant in effect, power to the Serbs.

The problem was unsettled when World War I broke out in the summer of 1914, this war brought to an end four European empires; they were Austria-Hungary, the Ottoman Empire, Germany and Russia. In the centre of Europe from the Baltic Sea to the Black and Adriatic seas, emerged a string of small independent national states and Yugoslavia was among them.

The new map of Europe which was drawn in 1919 in Paris packaged Serbs, Croats and Slovenes into one national state. Croats and Slovenes resisted the new arrangement, yet they had little choice but to go along. The Habsburg south Slavs were tainted by having fought for Austria. Serbia was among the war victors and to a certain extent regarded the new state as an enlargement of Serbia, a fortuitous fulfillment of greater Serbia idea.

But after the outbreak of the Second World War each of the Yugoslavia's neighbours took a share of the country, generally claiming ethnic rights to the area they annexed. So the first Yugoslavia, which had become an independent European state in 1918, had ceased to exist after only 23 years. But slowly and gradually resistance to the occupiers of Yugoslavia developed everywhere, but two major movements were led by Colonel Draza Mihailovic and by Tito. By 1942 civil war complicated the Yugoslav story. But in the end Tito's communist led Partisan forces prevailed (Rogel 1998: 3-16).

Islamification of Bosnia

Like its national composition, BiH religious picture was also complex. Religious identification generally, but not always, corresponded to national affiliation, Serbs were usually Orthodox, Croats were usually Catholic, and the Muslims were generally Sunni Muslims. Bosnia also had a small Jewish community, descended mostly from Sephardic Jews, exiled from Spain who settled in the area in sixteenth century. After fifty years of socialist rule, however many Bosnians no longer practiced religion- or at least not regularly. This was often the case in urban centers.

Long before the final conquest of Bosnia (1463) and Herzegovina (1482) by the Ottoman's Muslims lived in these places. The earliest trace of their existence date back to 895 A.D. At the time Islamic nomads emigrated from Asia as mercenaries employed by Hungarian kings. In the 11th and 13th centuries, Hungarian Muslims inhabited BiH in compact settlements. Also Bosnians who served in Moorish Spain, Arab seamen and Turkish immigrants brought Islam into the country. However, it is only after the rise of the Ottoman Empire that one can speak of an Islamification of BiH.

When the Turks finally conquered Bosnia, many Bosnians converted to Islam, but this was a slow process throughout the late 15th and 16th century and large scale Islamification of peasants and town dwellers may not have begun in earnest until the end of the 15th century. Not all religious conversion was to Islam. In fact, the Orthodox Church gained a number of converts from the Bosnian church and even from Catholicism because the Orthodox Church was favored over the Roman Catholic Church under the Ottoman rule.

Most Scholars agree, however, that the Islamification of the Balkans was for the most part peaceful and voluntary and the Ottomans allowed the non-Muslims indigenous people autonomy in local and religious affairs in return for their loyalty to the Sultan. In fact the conversion of Christian to Islam entailed financial loss to the Ottoman Empire, such as "infidel tax" would no longer be collected, as it was levied on other religion excluding Islam.

There were many reasons for the conversion of Bosnians to Islam. One of the reasons was that there was no strong Christian religion organization in Bosnia to capture the allegiance of the Bosnian peasants. Therefore, when Islam entered the area with its dynamic and well-ordered organization, the Bosnia peasants, most of whom were religiously unengaged because of weak Christian proselytizing, responded enthusiastically (Friedman 1996). Furthermore, opportunism also played an important role in the individual's choice of Islam as a religion, as Islam was considered to identify with higher civilization, so by accepting Islam that is following state religion meant to acquire the political, monetary and social advantages, as only Muslims could hope to rise to the higher position within the Ottoman Empire.

Much of the conversion to Islam was among the town people only because the Ottoman administration was centered there. Merchants gained greater freedom of movement and more secure transport of goods if they were Muslims. Professional soldiers also converted to Islam to ensure rapid advancement; particularly because of the Ottoman armies were so successful during 15th and 16 century.

Although conversion was less rapid and widespread than that in the towns, but still Islamization also made inroads in the villages. Many peasants likely found seductive the fact that tax and rent benefits, as well as equal civil status with all other Muslim-no matter how highborn – accrued on to Muslims. Peasants trying to get a living with the minimum of interference from superiors, merchants anxious to maintain and extend their commerce in the new environment of Turkish administration, Turkish law and Turkish favors, found little embarrassment in putting of one faith and putting one another or the reverse, when expedient. Another motive for the conversion of Bosnians to Islam may have being its 'war like and conquest oriented ideology' as a way to wreak revenge on the previous aggressors, the Papacy and Hungar (Friedman 1996).

John J.A Fine (Jr) (1994) described what may have been the attitude of most Bosnians when they converted to Islam.

“Probably few Bosnians in accepting Islam underwent any deep change in the pattern of thought or way of life. Most of those who become Muslims probably lived as they always had; retaining most of their domestic customs as well as many Christian practices. They adopted now a few Islamic practices,

which quickly would acquire great symbolic values and which would soon come to be viewed as the essentials of Islam”.

Some scholars' believed that medieval Bosnians easily converted to Islam in reaction to previous excess and persecutions to Catholic leaders. The egalitarian concept that granted person of any nationality who embraced Islam access to the best position in Ottoman society was also attractive. Even more powerful lure may have been that Islam and Christianity shared concurrent religious and political dimensions. The level of commitment of indigenous Christians on either dimension therefore would not have been compromised by entering Islam.

Bosnia in Tito's Yugoslavia, 1945-1989

In November 1945, with the war over, the communists proclaimed the establishment of the Federal People's Republic and with that a second Yugoslavia came into being. The new Yugoslavia was a federation of six republics- Serbia, Croatia, Slovenia, Montenegro, Macedonia and Bosnia Herzegovina- and two autonomous units- Kosovo and Vojvodina. Each of the republics was constitutionally recognized as a national unit, with the exception of Bosnia Herzegovina. The latter, a kind of Yugoslavia in miniature with a very mixed national and religious composition, was given the republic status because it had been so important to the Partisan resistance against the foreign occupiers and also in the fight against Croat Ustasa and Serbian Chetniks. The most intense struggle of the war had taken place there and many Bosnians had fought for a new kind of Yugoslavia. Tito needed this kind of commitment, for both Croats and Serbs had failed the first Yugoslavia. The new government thus bet a good deal on this Bosnia Herzegovina republic and even made it the basis of its defense system and established the bulk of Yugoslavia's munitions industry there.

Tito always proclaimed of pursuing an independent, liberal-minded and anti-Stalinist line. But actually Tito's policies were closely modeled on those of Stalin. Even the Yugoslav federal constitution, proclaimed in Jan 1946, was simply a direct imitation, of the Soviet constitution promulgated ten year earlier for e.g. each constituent republic was sovereign, but also eliminating the right to secede by declaring that the peoples of Yugoslavia had chosen to live together forever.

One of the most typical features of this period of Stalinist policies was the campaign against religion. The Catholic Church was treated with special harshness, Orthodox churches fared little better, and for Islam, it seems to have suffered a double disadvantage in the eyes of the new Yugoslav rulers, first, it was seen as a type of religion which involved not only private beliefs but also social practices. Second, it was viewed as backward and Asiatic.

In 1961 much of Bosnia was officially declared an underdeveloped region, For example in terms of highest illiteracy rate, Bosnia had the highest proportion of people whose only education was 3 year of primary school and smallest proportion of people living in towns, and it rated only next to Kosovo. Out of all Yugoslav republics, Bosnia had the lowest rate of economic growth over the entire period 1952-68, Bosnian's national income, which was 20 percent below the national average in 1947, had plummeted to 38 percent below average by 1967. During the 1970s, the Bosnian authorities were promoting some grandiose industrial projects that too because of winter Olympics there for 1984.

Bosnia was economically weak, and survived basically on whatever was given to them by the centre. For decades most of the country had been ruled by local dynasties, political families which had done well out of the war and had been promoted early on to positions where they could develop networks of personal patronage with Tito.

But the general treatment of Islam improved in late 1950 and 1960s for a very special reason: Yugoslavia's Muslim community was now being used as a tool of Tito's self styled 'non-aligned' foreign policy. This lifted Islam out of the doldrums in Bosnia and increased its contacts with rest of the Muslim world. And even by 1960s the decision to drop the policy of 'Integral Yugoslavs' and strength republican identities instead and the belated rise of a small elite of Muslim Communist officials within the Party machine in Bosnia was a type of relief for Islam.

1963 Bosnian constitution referred equally in its preamble to Serbs, Croats and Muslims allied in the past by a common life implying, but not stating that they

were equally to be regarded as nations. It was in May 1968 Bosnian central committee said “Practice has shown the harm of different forms of pressure..... from the earlier period when Muslims were designated as Serbs or Croats from the national viewpoint. It has been shown and present socialist practice confirms that Muslims are distinct nation”. Despite fierce objection this policy was accepted by the central government. And so, on the 1971 census form, for the first time, the phrase appeared: ‘Muslim, in the sense of a nation’ the drive for recognition of the Muslims as a nation in the late 1960s and early 1970s was not an Islamic religious move but was led by the communists.

So as it is clear that the Bosnian republican Government was just trying to preserve official communist policy which aimed at the eventual withering away of any religious element in national identity. It was against this background that the most famous clampdown on Muslims activities in Bosnia took place in the trial in Sarajevo in 1983 of 13 people charged with ‘hostile and counter revolutionary act derived from Muslim nationalism’ (Bennett 1995).

The main basis of hostility was not ethnic, or religious but economic. The resentment felt by the members of mainly Christian peasantry towards their Muslim landowners. But the economic causes of hatred were eroded by changes and reforms in the late 19th and early 20th centuries, until they had largely ceased to exist. The religious cause of hatred was reduced in second half of 20th century by all the process of secularization.

For more than a century, Croats have written books claiming to prove that the Bosnians are ‘really’ Croats; Serbs have augured equally unceasingly that they are all really Serbs. The question of what it meant to be a Muslim in Bosnia of whether it was a religious, an ethnic or a national identity had not gone away, despite the belief of the Yugoslav communist party in the early Tito years that it would. What ‘decided on their national identity’ meant here was ‘decided whether to call themselves Serbs or Croats’. Party members were put under some pressure to declare themselves as one or the other.

However, labeling the Muslims of Bosnia as Serb or Croats would be wrong for two reasons:

1) Because no such distinct 'Serb' or 'Croat' identities existed in Bosnia in the period before Islamization; so it would be false to talk about a 'Muslim Serb' as it would imply that his ancestors were Serbs before they became Muslims.

2) When Bosnian Christians began, at a very late stage to identify themselves as Serbs or Croats, they did so purely on ground of religion (Mahmutcehajic 2000).

The artificial move was made by the Orthodox or Catholic Bosnians in the late 19th and early 20th centuries when they started to call themselves by the ethnic labels of Serbs and Croats. The drive for recognition of the Muslims as a nation in the late 1960s and early 1970s was not an Islamic religious movement, but led by Communists and other secularized Muslims who wanted the Muslim identity in Bosnia to develop into something more definitely non-religious.

Bosnia as republic was considered of lower status because Bosnia was seen as containing not a distinctive nation but merely fragments of two other nations (Serbs and Croats) and a non-nation. In Tito's Yugoslavia, Bosnia became one of the federations most depressed areas. One consequence was increased communal tension, another was the departure of many Bosnian Serbs to Serbia, a flight which made the Muslims much the largest of the three main communities in Bosnia. Tito encouraged the Muslims to think of themselves as distinct community and they were formally so recognized in 1971, which to an extent helped in the revival of republican pride which helped to turn Bosnia's economy around. But still they were split between community and anti-communist Muslims. Ilija Izetbegović future president of Bosnia-Herzegovina was a prominent anti-communist leader.

By mid 1960s to late 1980s there was a revival of national feeling: Most important being that of Serbs and Croats. Croatian argument was based on the fact of their under representation in higher posts in Bosnia. Growth of Serbian nationalism was result of Tito's post 1945 settlement that had not given Serbia the sort of territorial reward which was customary gains of war. The situation in Kosovo which

by the early 1980s had reached a state of permanent crisis and military occupation due to rapid 'Albanianization' of the province, making Serbs realize their status of being in minority, because the main focus for the revival of Serbian nationalism. Because the Kosovo Albanians were predominantly Muslims, anti-Islamic sentiment became an ever more important feature of Serbian nationalism.

Tito continued to rule until his death in 1980. Tito's successors were less committed than he was to preserve Yugoslavian unity; some even plotted the state's dismemberment. So the passing away of Marshal Tito meant the end of the Yugoslav federation for his personal attention that bound the federation together across nationality and ensured some degree of consensus governance.

Bosnia and Death of Yugoslavia: 1989-92

In January 1990 the Slovenian Communist walked out of the Yugoslav communist party congress; two weeks later they renamed themselves the party of Democratic Renewal. Both Slovenia and Croatia made arrangements for multi-party elections in spring of 1990: these were won in the former republic by a liberal-nationalist coalition and in the latter by the new Croatian nationalist party, the Croatian Democratic Union led by Franjo Tudjman. In Bosnia, the communist party had disintegrated in early 1990 and a set of nationalist or national parties had been formed. From 1989 onwards Milošević openly associated with pan-Serb politics. Tudjman of Croatia on the other hand believed that most of Bosnian Muslims were 'incontrovertibly of Croatian origin' and that Bosnia and Croatia form 'an indivisible geographic and economic entity'.

Croat party founded in Bosnia in early 1990 was an offshoot of Tudjman's HDZ, and its official policy was to keep the borders of Bosnia inviolate. But when a Serb party was founded in Bosnia in July it called itself the SDS the same as the party which was already agitating for 'autonomy' in the Croatian Krajina. The main Bosnian Muslim party, which called itself the party of Democratic Action (SDA), was founded in May 1990; its leader was 'Alija Izetbegovic' (Balance 1995). Placed between the hammer and the anvil of Serbian and Croatian nationalism, the Bosnian Muslim reacted in two different ways: they strengthened their own Muslim nationalism by

giving greater emphasis to the most distinctive thing about it, its religious component and they also emphasized that they stood for the pretension of Bosnia's unique character as a multinational, multi-religion republic. Adil Zulfikarpasic, broke away to found his own party, the Bosnian Muslim Organization (MBO) with an explicitly non-religious program.

Against Izetbegovic charges were framed that through his book "Islamic Declaration"²⁴ he would transform Bosnia into a fundamentalist Islamic State. But no such plans were contained either in the programme of the SDA, or in the text of the Islamic Declaration itself. This book was, written in the late 1960s by Izetbegovic in 1969-70 and republished in 1990 in Sarajevo (by Mala Muslimanska Biblioteka), is a general treatise on politics and Islam addressed to the whole Muslim world; it is not about Bosnia and does not even mention Bosnia. He starts with two basic elements: Islamic society and Islamic Government. Islamic Government, cannot be introduced unless there is already an Islamic society and the latter exist only when the absolute majority of the people are sincere and practicing Muslims. 'Without this majority, the Islamic order is reduced to mere power and can turn into tyranny'. This provision ruled out the creation of an Islamic Government in Bosnia, where Muslims even nominal Muslims, let alone practicing and devout ones were in minority. Talk of a fundamentalist threat in Bosnia was in any case particularly inappropriate because the Bosnia Muslims were by now among the most secularized Muslim populations in the world. Decades of secular education and communist political culture had been reinforced in this respect by an ever increasing Westernization of socially along with mixed marriages.

In December 1990 elections out of 240 seats SDA got 86 seats, MBO-13, Serbian party -72, Croatian HDZ-44 seats. Serbian party (SDS) had campaigned in vague terms for the defense of Serb rights, but had not said anything about dividing Bosnia even by peaceful method, let alone by war and the mandate which they got in this election was not much, which proved that people were not that excited about there demands. Izetbegovic formed what was in effect a Government of national

²⁴ Izetbegovic, A.(1990), "The Islamic Declaration: A Programme for the Islamization of Muslims and the Muslim People", [Online: web] URL:http://archive.serbianunity.net/politics/papers/Islamic_Declaration_1990_reprint_English.pdf

unity, constructed out of a formal coalition between three major parties out of good faith as he could easily form a government along with Croats (Manning 20004).

During the first half of 1991, the 'Autonomous Region of the Krajina' set up by the SDS in Croatia was becoming more militant in its demands, as it became more heavily armed by Serbia. In May the SDS in Bosnia began demanding the secession of large parts of northern and western Bosnia, which would then join up with the Croatian 'Krajina' to form a new republic. Not long after this a minor party in Croatia, the extreme nationalist party of Rights, demanded the annexation by Croatia of the whole of Bosnia. Regular secret deliveries of arms to the Bosnian Serbs were being arranged by Milošević.

In September 1991, the Bosnian Serbs acted, as had the Croatian Serbs the Previous year, by declaring enclaves of Bosnia to be Serbian autonomous regions. On October 24, 1991 the assembly's Serbian deputies proclaimed a separate assembly of the Serbian nation. For the next six months Bosnia was pulled in two directions: it could remain part of a rump Yugoslavia, which Bosnian Serbs favored in a referendum of November 1991, or it could declare independence, which Bosnian Croats and Muslims voted for on February 29 March, 1992.

The war in Bosnia began in April 1992. During the first year of fighting, until about May 1993, the leading combatants were the Bosnian Serbs and the Bosnian government. The government, although multinational (Croats, Muslims and Serbs), was usually misleadingly identified as Muslims, partly because its president, Izetbegovic, was Muslim. The Bosnian government, unprepared for war, appealed to the United Nations for assistance. The UN responded by recognizing BiH as an independent state on May 22; on May 30 it imposed sanctions against the aggressors, the FRY (Serbia and Montenegro), for its involvement in the conflict. In spite of the UN action, the war continued, and in the late summer and autumn of 1992 reports of concentration camps and crime against civilians began to fill the media. When the International Red Cross obtained access to the camps, its investigators concluded that the Serbs were the most to blame for the human right violations, including at least 20,000 rapes. Muslims became the primary target of the ethnic cleansing, which

active perpetrators have maintained was prepared well in advance and carried out calmly and systematically (Ramet 1996).

By January 1993 the international community produced a first comprehensive peace proposal, the Vance-Owen plan. It proposed dividing Bosnia into ten provinces- three for each national community and a separate UN province for Sarajevo. The next phase of the Bosnian war lasted nearly a year, until March 1994, it began with a new peace proposal- the Owen – Stoltenberg plan- on the table. The new plan proposed that Bosnia be reconfigured into a confederation of three ethnic units.

The Croat – Muslim alliance broke down in less than a year as radical Bosnian Croats launched their own land grab and expulsion campaign directed against Muslims in center BiH during the first half of 1993. The Croats – Muslim war was most vicious in the area of Mostar, a city whose elegant sixteenth – century bridge- a symbol of ethnic and religious harmony- was destroyed by Croats fire in November 1993. Mostar was almost destroyed and became a divided city. Civilians on both sides, Croat and Muslim, were killed. The refugee flow surged again and the Owen-Stoltenberg plan collapsed.

In February 1994 there was yet another Serbian bombing of the market place in Sarajevo. The bombing marked a turning point in the handling of the Bosnian situation. NATO was brought in to frighten the Serbs, who were given an ultimatum to vacate a 20 km exclusion zone around Sarajevo. In late February, NATO shot down four Serbian planes near Banja Luka. It should be noted; however that NATO's move was made in defense of UN personnel only.

Bosnian Serbs continued their defiance of the EU, the UN and NATO. They violated Bosnia's areas, expelled Western journalists, abducted UN troops, fire-bombed UN humanitarian relief offices in Belgrade, and in April 1994 shot down a British plane that was evacuating Muslim war victims for Red Cross. Intense fighting took place around Bihac in northwestern Bosnia in October, and in November Sarajevo was again hit hard. The Bosnian Serbs, who had inherited the arsenal of the Yugoslavian People's Army (JNA), had military advantage. The September 1991 UN ban on sale of weapons to the republic of former Yugoslavia still held. It had been

imposed by the UN at the request of the Yugoslav federal government- still headed at the time by Prime Minister Ante Markovic- in hopes of saving a united Yugoslavia.

The extension of the September 1991 arms embargo against BiH seemed to be innocuous and understandable, but this action by the Security Council put the government of BiH at a great disadvantage. It was an unequal contest from the outset. The Bosnian government had not prepared for the war. According to estimate, it could assemble unequipped militia of only 50,000 in comparison with the Serb army that could field 60,000 troops, and another 10,000 paramilitary force. BiH had repeatedly pleaded, but in vain, for an end to the arms embargo that stripped BiH of the “basic right” to defend itself especially against a vastly superior force. President Clinton strongly favored lifting of the arms embargo against BiH but both France and Britain warned that if the arms embargo was lifted, they would withdraw their troops from the region. They were concerned about the safety of their personnel’s than in a fair and just settlement in BiH.

By December 30, 1994, Bosnia had been at war for 1000 days. The estimated number of deaths was 200,000; there were 2 million refugees, 1.1 million of whom now lived abroad. The Bosnian Serbs appeared to be the victors. The year 1995, however, brought a reversal of fortunes for the Bosnian Serbs, and it also produced a peace agreement. Three interlocking developments determined the course of events: military Action in Croatia, NATO bombing in Bosnia, and diplomatic efforts of the Contact Group as orchestrated by the United States.

In 1995 when Croatia got international approval, Tudjman now wanted to reassert claims to Croatia’s occupied territories. In May Croatia troops went on the offensive in Croatia’s western Slovenia area, attacking Serbs. In any case, the FRY did not come to the rescue of the Croatian Serbs, and to many it looked as if Milosevic had betrayed them for his own political gain. The Croatian army then crossed its borders into western Bosnia, where it joined efforts with the Bosnian army against Serbs. The combined armies then quickly reduced Serbs- held territory from 70 percent to about 50 percent by mid- September. The Bosnian Serbs also escalated their defiance of both the UN and NATO. In late May and early June, they took 370 UN hostages, many of whom were then chained to NATO target objectives and

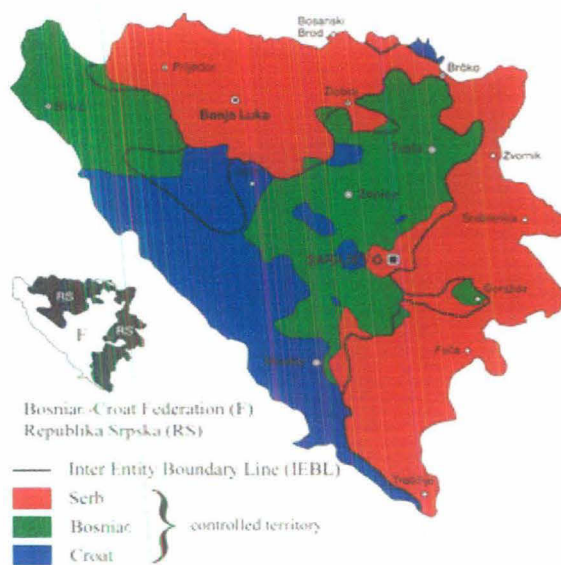
tauntingly displayed on Serbian television. This was the Serb response to NATO's rather belated and mild use of force against them when UN regulations, for example, no fly zones were violated. NATO gradually stepped up its bombing of Bosnian Serbs during the course of summer. In mid- September the Serbs finally pulled back their weapons from Bosnia's capital.

After a series of meetings in September, held at the imitative of President Clinton aided by the assistant Secretary of State Richard Holbrooke, members of the Contact Group and the foreign ministers of Bosnia, Croatia and Yugoslavia signed an agreement on the basic principles to guide restoration of peace. A separate accord was signed between the Bosnian government and the representatives of the Bosnian Serb-controlled area called "Republic of Srpska". It was agreed that Bosnia would consist of two democratic entities, the Bosnia-Croat federation and a Serb Republic called Republic of Srpska, with a 51 percent to 49 percent territorial division between them. One third seats in the Bosnian parliament and in the collective presidency would be assigned to the Serbs. A ceasefire for 60 days was quickly brought into force on 5 October. On 21 November 1995, after three weeks of negotiations, the US brokered an agreement at an American air base in Dayton, Ohio, which was signed formally on 14 December 1995 in Paris. The signatories- BiH, Croatia and the Federal Republic of Yugoslavia- undertook to respect each other's sovereign equality, to settle disputes by peaceful means and to refrain from any action against the territorial integrity and independence of Bosnia. In addition to territorial and constitutional arrangements, the agreement provided for a 60,000 strong NATO force that would replace the UNPROFOR to enforce the ceasefire and implement the agreement. The Security Council promptly welcomed the Dayton agreement²⁵ and lifted the sanctions against Yugoslavia. The mandate of the UNPROFOR was terminated with effect from 1 January 1996 (Shrivastava and Agarwal 2003). Map 4 shows the BiH as agreed under Dayton, the country consists of two entities -- the Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska and Map 5 shows the ethnic composition of Federation.

²⁵The Dayton agreement(1995), <http://www.state.gov/www/regions/eur/bosnia/dayton.html>

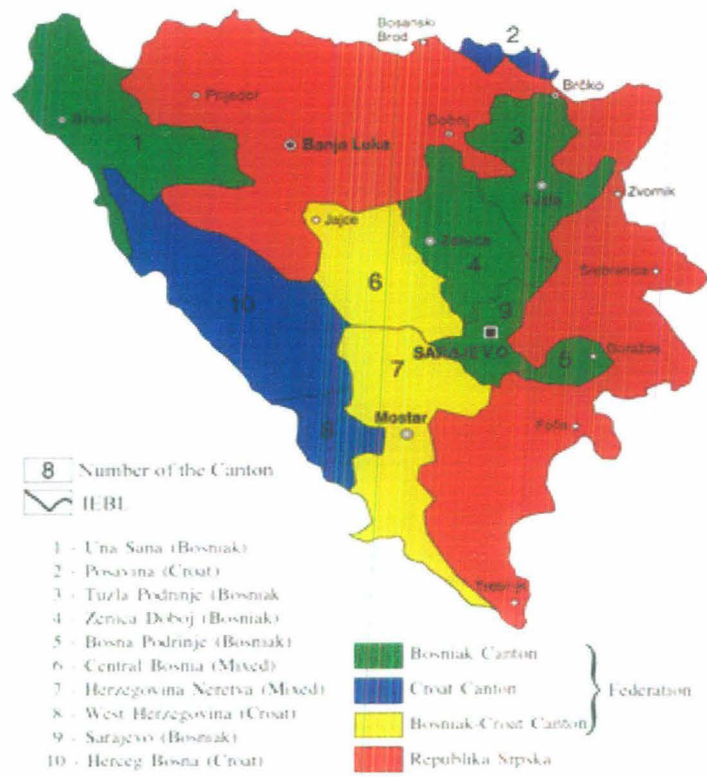
Summing up development from the beginning of the war in 1992 until the ratification of the Dayton Accord in 1995, a timeline can be constructed around the following periods, which signify increased military, political, and media activity (Hansen 2006).

- ⇒ March 6 to May 29, 1992: the prelude to and beginning of the war.
- ⇒ July 19 to September 20, 1992: the revelations of camps and ethnic cleansing, the London Conference, the extension of UNPROFOR to Bosnia.
- ⇒ February 1 to May 22, 1993: the presentation of the Vance- Owen peace plan and the creation of safe areas.
- ⇒ February 5 to April 30, 1994: massacre in Sarajevo, Serbian attacks on Gorazde, NATO bombings, and 150 UN personnel taken hostage.
- ⇒ May 20 to June 30, 1995: NATO's bombing of Bosnian Serbian munitions bunkers in Pale, Serbian attack on Tuzla with 71 casualties, more NATO bombardments, and 370 UN personnel taken hostage.
- ⇒ July 1 to September 16, 1995: the fall of Srebrenica and Zepa, massacre in Sarajevo, and Operation Deliberate force.
- ⇒ November 10 to December 20, 1995: the conclusion of the Dayton Accord.



Map, no. 4
Federation of BiH*

*Accessed on 12 Feb. 2009 URL:<http://www.ohr.int/ohr-info/maps/images/bih-under-dpa-and-front-lines-1995.gif>



MAP No. 5
Federation of BiH*

*Accessed on 5 Jan. 2009 URL: <http://www.ohr.int/ohr-info/maps/images/federation-of-bih.gif>

Conclusion

Yugoslavia's breakup and its bloody war were caused by the age old ethnic hatred. Although Tito's self-styled communist regimes sought to resolve the 'nationalities problem' through the construction of 'socialist man', but those policies merely fossilized ethnic and national loyalties by driving them underground. Ethnic and religious nationalities were undoubtedly vehicles for expressing anti-communism. The political instability and economic uncertainty that the collapse of communism predicated were a perfect breeding ground for a form of politics that offered 'organic' senses of collective identity. Four wars were fought in the former Yugoslavia in 1990s, among them war in Bosnia was one of the greatest human tragedy without comparison.

Things started unfolding in 1990, when a coalition government was formed in BiH after election in that year. It contained Muslims, Serbs and Croats but the Serbs left the coalition their first step towards a distinct Serb state in as much of BiH as they might be able to conquer. When fighting in Croatia began President Izetbegovic was faced with a choice between remained in a new Yugoslavia shorn of Slovenia and Croatia or claiming independence as Slovenia and Croatia had. He had chosen latter. On 6th April 1992 hesitatingly the European Community (EC) had recognized the sovereign independence of the former Yugoslav constituent republic of BiH, to come into effect the following day. BiH owed this accomplishment to Germany, newly reunited (October 1990) and determined to make its mark on the European scene.

Serbia gained control of half BiH in a few days, using weapon of savagery and massacre. Milosevic was helping Bosnia Serb leader Karadzic the Bosnian capital was reduced to starvation almost the whole population of Srebrenica was massacred and some 400 Dutch and Ukraine's serving in UNPROFOR were taken hostage and humiliatingly evicted. This war led to wholesale destruction of property, industry, basic infrastructure and the total collapse of the social, economic and political systems, massive displacement of people. UN reacting to the Serbs regular force in Serbia (normally around 45,000) and the growth of Serb irregular units had imposed its embargo on the supply of arms to all parts of Yugoslavia, including BiH. This embargo was not going to in anyways effect Serbia who was one of the most

powerful of the six former republics of Yugoslavia, both homes to the largest group (Serbs) and with the largest numbers outside its own republic: 2 million Serbs in Croatia and BiH besides 10 million in Serbia- particularly in Greece and Cyprus. As the Bosnian Serbs were getting help from Slobodan Milosevic president of Serbian Republic, this arms embargo was not in anyways going to affect their position but was definitely going to affect Bosnian Muslims who already were short of ammunition supplies. As early as November 1991, some Muslim countries suggested the lifting of the arms embargo against the Bosnian Muslims alone. But one sided lifting of the embargo implied an engagement in the hostilities which in 1992 no government seemingly contemplated, partly because to do so must jeopardize UNPROFOR' task and put an end to the EU/UN's mediatory diplomacy and partly because the Bush and Clinton administration set their faces against the kind of UN intervention which must entail active American involvement on the ground. The result was equivocal at the international level and covert arms supplies to all parties. This is just an example of how the international inaction further aggravated the situation.

International community was well aware of the fact that the situation was deteriorating in BiH, still they were not ready to intervene and stop this atrocity as they were not ready to engage themselves in an area which was after the end of cold war was of not that important. Though BiH sought intervention by the European Community as well as the US to end the problem, actions and initiatives from both the EC and the US were guided by their own perceived national interests and policy preferences. When the EC was unable to handle the problem all by itself, it supported the US and brought the UN into the picture for purposes of wider involvement and greater legitimacy of the parties to the conflict and lack of coordination between the EU, US, Russia and the UN prolonged the conflict.

With the efforts of US led NATO forces though the Dayton agreement was signed bringing an end to this conflict but it is very important to look in to the role played by some of the important international actors whose inaction led to the prolonging the conflict. It is important to see the reason behind inaction on the part of EU when things were taking ugly turn in its neighborhood. So focus of next chapter will be this very issue of response of the international community, it is important

because international actors played really a crucial role in solving this problem, though the direct use of force was delayed for a long time but still it was this very action which brought solution to this crisis otherwise either the war would have continued till now or BiH would have been integrated in to Serbia and their citizens would have got second class treatment.

-X-

CHAPTER-III
******** INTERNATIONAL ACTORS IN BOSNIA***
HERZEGOVINA: ROLE PLAYED BY THE EUROPEAN
UNION*****

CHAPTER 3

**INTERNATIONAL ACTORS IN BIH: THE ROLE PLAYED
BY THE EUROPEAN UNION**

The countdown for war in Bosnia Herzegovina (BiH) began in November and December 1990, when multiparty election were held. In early 1943 Fitzroy Maclean, a British intelligence officer, described his impression of war time Bosnia in the following words:

Bosnia was in a sense a microcosm of the country Yugoslavia as a whole.....the population was made up of violently Orthodox Serbs, with a strong admixture of equally fanatical local Moslems. It is hard to imagine the savage intensity of the passion that were aroused or the extremes of bitterness they engendered. Magnified and revitalized by the war the latent tradition of violence revived. The lesson we were having was an object lesson, of burned villages, desecrated churches, massacred hostages and mutilated corpses (Bose 2006: 105-153).

So in 1992, the condition of the people was deteriorating, and there was a growing opinion in the west that no longer any justification to stop the international community from intervening in that conflict on the ground that it is an internal matter. Intervention should be allowed if it based on Just War theory. Intervention is a multistage process which starts with a general criticism of the parties involved in the conflict. Even if after that the situation shows no sign of improvement then multilateral economic sanctions can be imposed though its effectiveness also depends on the economic vulnerability of the targeted state. Then if required military means could also be adopted. All in all the purpose is to force the parties to agree to terminate their conflict. Though the international intervention tends to assume high moral ground, undercurrents of political bias, prejudice and competing national interests of the intervening countries may not be difficult to discern.

After World War I, the United States and the victorious European powers played a major role in defining the boundaries and character of Yugoslavia. The justification given was national self determination of the local inhabitants, a principle that was put forward by President Woodrow Wilson. So Yugoslavia was going to act as a buffer zone between, Russia which was in the throes of a communist

revolution and the West. But then came Tito in Yugoslavia in 1945 who adopted communist form of government, the west accepted communism in Yugoslavia as the lesser of two evils (Fascism/Nazism being the other). In 1948, when Yugoslavia was expelled from the Moscow led Cominform, Tito's regime was welcomed by the West as an enemy of the enemy and the West overlooked the socialist nature of Tito's regime. Since the beginning of 1950s, Yugoslavia started getting a lot of military assistance from West, which definitely enhanced there military capability.

Yet, the fact that in terms of international community Yugoslavia belonged neither to the East nor to the West, but in the non-aligned group, put it in a unique and what would prove to be a very precarious position. With the Cold War virtually over in 1989, Yugoslavia ceased to be of strategic interest. Troubles in Yugoslavia even a bloody war, would no longer be of major interest to either East or West. So in this conflict besides the inflexibility of the parties to the conflict and lack of coordination between the EU, US, Russia and the UN prolonged the conflict.

Role of International Actors

The war in Bosnia started nearly one year after Yugoslavia's disintegration began by 1991, and by that time the major power's position, motives and policies towards the area were pretty much set. For the British and the French, the recently reunited Germany was the central concern. It loomed as a potential economic and political colossus, threatening to dominate the emerging European Union. Therefore Germany's sponsorship of independence for Slovenia and Croatia was seen as a traditional thrust southeastward by German expansionism. Germany actually wanted this Yugoslavian problem to be sorted out as soon as possible as it was Germany only who was literally bearing the major load of Yugoslav refugee problem. So it urged greater international involvement on behalf of the separatist republics and against Belgrade. On the other hand Britain and France supported Yugoslavia's unity which actually stressed their traditional ties with Serbia (e.g. in World War I), and though they may have been pressured by world opinion to send peacekeepers and humanitarian aid to Bosnia in the months to come, both were opposed to substantive commitment over there.

In late 1991 the European Union- then still known as the European Community- established a commission to recommend a policy towards the crisis. The Commission's observed that Yugoslavia was irretrievable and in a "process of dissolution" and this paved the way for international recognition of the emergence of the country's republics as sovereign states. On the basis of the principle of international law known as *uti possidetis juris* Yugoslavia's internal borders became international frontiers. Finally through a referendum, BiH declared itself independent in year 1992. But one thing should be kept in mind that such plebiscites inflame and polarize sensitive disputes over sovereignty because they "cannot measure intensities of belief" and they preclude "working things out through discussion" (Jackson 2004:104). Robert Dahl has pointed out in his book *A Preface to Democracy* (1963), that the conventional principle of democratic decision making, majority rule, is neither appropriate nor valid when "the rightfulness of the unit" of sovereignty and governance is itself contested.

The American foreign policy was preoccupied with the break-up of the Soviet Union following the coup against Gorbachev in August 1991 and the 1991 Gulf war, and the Bush administration therefore left the scene largely to the Europeans. The American version of the Balkan discourse combined the construction of 'Balkan' spatial and temporal identity with the articulation of previous American experiences in 'Vietnam' and 'Beirut' to constitute Bosnia as a dangerous foreign involvement in a far away place with no clear American national interests and no comprehensive military strategy (Rosen 2009).

In the United States, the Bush administration did not formulate a policy towards Yugoslavia until January 1993, and it favoured Yugoslav unity and opposed involvement in that country after it began to disintegrate. Bush seemed to be reluctant to risk a Balkan version of Desert Storm against the JNA in the spring of 1992. In fact the Clinton administration that was critical of Bush administration's inaction towards the Yugoslavian crisis, itself did nothing after coming to power.

The USSR, as well as its successor, the Commonwealth of Independent States (CIS), was at first only a peripheral player in the Yugoslav arena. In 1991, while

Gorbachev was still in power, he met with the presidents of Serbia and Croatia, Milosevic and Tudjman, hoping to mediate between them. Later, with Boris Yeltsin in power, the Russians resurrected their traditional role as protector of the Serbs. This seems to have been prompted largely by Yeltsin's need to quell domestic pressures from Russian rightist like Vladimir Zhirinovskiy. The West appeared to accept this Russian position- after all, with the Cold War ended, how much of a threat could Russia be? But it was clear that Russia's efforts to side with Serbia, its traditional ally, did not succeed not only because the Bosnia Serbs were unwilling to heed anyone's advice but also because Russia was too eager to get closer to the US and the West.

The UN Security Council through its resolution 781(1992) and 942(1994) imposed comprehensive economic sanctions including ban on trade, air service, sporting exchanges, scientific and technical cooperation and cultural exchanges as well as reduction of diplomatic staff, as Belgrade refused to stop military operations against Bosnia. In an unprecedented action in September 1992, the General Assembly, at the behest of the Security Council, declared Yugoslavia's seat vacant thereby attempting to isolate the country. At periodic intervals, the economic sanctions were tightened to force Yugoslavia to stop supporting the Serbs in Bosnia and facilitate agreement on a peace plan. Under severe pressure, Yugoslavia severed economic and political relations with the Bosnian Serb faction and closed its 300 miles border with areas of Bosnia under the control of Bosnian Serbs to all traffic except for food, clothing and medical assistance (Shrivastav and Agarwal 2003).

The UN's peacekeeping forces on the ground were reduced to the role of beleaguered and usually ineffective fire brigade trying to contain eruptions of fighting around the country. On the military front, without adequate firepower at its disposal, the UN was unable to take on the Serbs who challenged its authority. The countries contributing force for the UN operation threatened to withdraw their forces when their preferred policy option was not followed. The Serbs humiliated the UN force in many ways: attacked the convoys of humanitarian assistance, shelled the six UN designated "Safe Areas" and disarmed and took the UN peacekeepers as hostages. The Serbs also took control of Srebrenica and Zepa and in the former, committed genocide against the Muslims who were being protected by the UN force. This was

on top of reports, confirmed, by a UN committee, of concentration camps, torture, rape and murder of the Bosnian Muslims (Markusen and Mennecke 2004).

The documentation of evidence of four large camps in Omarska, Trnopolje, Manjace and Keraterm, put pressure on Western governments to stop what became known as 'ethnic cleansing', and the British government- who held the EU presidency- convened the London Conference in August 1992 on behalf of the EC and the UN. So leaders of international community met in London with representatives of all parties to the Bosnian conflict. This London conference was convened to "galvanize international action"²⁶. In this conference the need of a more permanent negotiating forum to deal with the Yugoslavian problem was felt. So the International Conference on the former Yugoslavia (ICFY) was established, in order to unite the peace making efforts of United Nations and the European Union. The ICFY had two chairmen, the former US Secretary of State Cyrus Vance, appointed by the UN, and former British Foreign secretary Lord David Owen, appointed by the EU. It consisted of six working groups and one group entirely devoted to Bosnia headed by Martti Ahtisaari, who later became the President of Finland (Rogel 1998).

In January 1993, the Vance-Owen plan was proposed, which was basically a plan to reorganize BiH into 10 cantons- three for each of the national groups and a separate one for Sarajevo- while still preserving BiH unity and multiethnic character. The territorial distribution gave roughly 40 percent to the Serbs and 30 percent each to the Muslims and Croats. The Bosnian Serbs comprised 30 percent of the pre-war population, but were in control of 70 percent of the territory and they were not allocated continuous territory or territory that was fully linked to Serbia. The Bosnian Muslims, on their part, had to relinquish the idea of Bosnia as a multi-ethnic, territorial unified entity. The Clinton administration considered the plan to reward the ethnic cleansing carried out by the Bosnian Serbs as well as strategically unenforceable. This plan was rewarding the Serbs in the sense that before fighting broke, Slavic Muslims made up 44 percent of Bosnia's population, with Serbs at 31 percent and Croats at 17 percent. Under the Vance-Owen plan, Croats and Muslims would each dominate about 25 percent of Bosnian territory while Sarajevo, the

²⁶Eagleburger, Lawrence (1992), Acting US secretary of state at a news conference at the close of the London conference on 28 August 1992. <http://www.presidency.ucsb.edu/ws/index.php?pid=21390>.

capital, would be in a jointly controlled province. So it is clear that this plan would give the Serbs more territory in proportion and would form homogenous population in those 10 cantons, so that no more ethnic cleansing need to be done by Serbs, they will get what they want, which will set an example for other countries to follow that use of illegal means lead to success (Spolar and Preston 1993). So this was turned down by America because it granted too much to the Serbs and also by the Bosnian Serbs because they wanted more. Then again in March 1994 a new plan was proposed by Owen and Thorvald Stoltenberg of Norway. Their plan for a Bosnia peace settlement featured a Bosnia with three ethnic components and was based on an outline proposed by Milosevic and Tudjman. At this point the US started taking initiative to resolve the Yugoslavian crisis and asked the Muslims and Croats to come together.

In April 1994, the so-called “contact group” was established to formalize the participation of Russia and United States, alongside Britain, France and Germany. The international community wanted to permanently settle the conflict, as two years of war in Bosnia had led to a rising death toll. Even US Bosnia’s policy changed, as after years of sitting on the fence with respect to Bosnia, the Clinton administration committed itself to developing a serious endgame strategy, mostly because the failure in Bosnia had begun to tarnish the reputation of US foreign policy in general (Bass 1998). The Contact group focused its energies on drafting a map of inter-ethnic boundary line. But these diplomatic efforts could not bring out any tangible peace treaty. Main reason for these failures was the lack of unity among the international actors on different issues, which even questioned their credibility. Like many in the international community, especially the US argued that ethnic cleansing and the war could end if Bosnians were only allowed to defend themselves. To this end many called for lifting the arms embargo against Bosnia, so that a level playing field could be created. This strategy of the US was known as “lift and strike” policy (Mertus 2004). They wanted that the embargo should be lifted and air strike should be done by the NATO forces. In fact on the initiative of the US, the UN General Assembly adopted Resolution 49/10 on 3 November, 1993 calling on the Security Council to lift the arms embargo against the Bosnian government. But EU was opposed to such policy as they had troops stationed in Bosnia which could be the target of Bosnian Serbs retaliatory strike. It was also pointed out that as the arms to land locked

Bosnia would have to pass through Croatia it would have resulted in arming the Croats as well.

On September 14, 1992 UN Security Council Resolution 776 declared the deployment of peacekeepers to Bosnia by extending UNPROFOR (the UN Protection Force) from Croatia to Bosnia. UNPROFOR would become the largest peacekeeping operation ever undertaken by the UN. West European NATO- member, with France and Britain were the major contributors. The major task of the force was the delivery of-and the protection of the delivery of- humanitarian aid, which required 'the permission of the dominant forces in the area, in many cases the ground implied that the troops-contributing countries became highly skeptical of the adoption of the use of force, in particular air strikes, as this might threaten the security of their lightly armed forces.

Within Bosnia itself the international community had established its presence in the UNPROFOR body. That UN agency had set up its headquarters in March 1992 in order to monitor the Croatian peace from a safe place. But even before the UN commander, General Lewis Mackenzie of Canada, arrived in Bosnia's capital, war had already begun there, UNPROFOR troop's number had to be increased. UNPROFOR was a ragtag group, often ill trained and poorly equipped. It was billed as peacekeeping force, but it had no authority to use weapons even to defend its own troops, much less to defend the local inhabitants. Its troops were shot at, killed by snipers, and taken hostage and UNPROFOR watched, or stood by, as others were raped and killed, even those in its care, like the Bosnian deputy prime minister, Hakija Turajlic, who was murdered by Bosnian Serbs in January 1993, and the 6000 plus Srebrenicans who were executed in July 1995. Its UN authorized charge was to remain neutral, to treat all sides equally. Those who took sides, like the French UNPROFOR commander General Philippe Morillon, who espoused the cause of the people of Srebrenica, under Bosnia Serb attack in spring 1993, were recalled(Oliver 2005).

UNPROFOR occupied itself primarily with dispensing humanitarian aid. But humanitarian convoys were regularly sabotaged, aid was confiscated, and supplies often failed to reach the needy, prompting the United States unilaterally to initiate air

drops of food in the spring of 1993. More than a few Bosnians as well as foreign journalist began to look upon this humanitarian aid quite cynically: it was a device designed to keep the victim fed until the aggressor could kill him. It also helped feed and supply the fighters, whose front men regularly raided the convoys and exacted tolls from their drivers. At least one American reporter concluded that UNPROFOR's presence in Bosnia was actually prolonging the war: Bosnia's saviors had become its jailers.

In April 1995 UNPROFOR got a new commander, Rupert Smith, who was more forceful than his predecessors in arguing for the use of air strikes against the Bosnian Serbs; now objections came from the Special Representative of the UN Secretary General, Yasushi Akashi, and the force Commander, Bernard Janvier. On May 22, 1995 Bosnian Serbs seized two pieces of heavy weaponry from a UN collection point, and Bosnian government forces withdrew weapons in return. Rupert Smith threatened both sides with air strikes unless weapons were returned within 24 hours. As Bosnia Serbs failed to comply, six NATO aircraft attacked two Bosnia Serbian munitions bunkers outside the Serbian parliamentary town of Pale. In retaliation, the Bosnian Serbs stepped up the attacks on the other parts of Bosnia, including a shelling of safe area of Tuzla, which led to 71 fatalities and close to 200 wounded. NATO responded with further bombardment of the facilities in Pale, and Bosnian Serbs answered by taking more than 370 UN peacekeepers hostage, tying some of them to militarily strategic sites to prevent further NATO bombardment. Not wanting to risk the lives of UN peacekeepers or escalate the confrontation, UN and NATO refrained from additional air strikes and hostages were released between June 2 -18.

So it is clear that the international community was reluctant to get militarily involved in the Yugoslavian conflict. The UN was also exclusively concerned with humanitarian peace keeping activity. NATO was also not that enthusiastic about the use of military power as it considered Yugoslavia outside its jurisdiction. UN Secretary General Boutros Ghali, shied away from an assertive UN involvement in BiH by calling it a "rich man's war" (Mahmutcehajic 2001). Inactivity on the part of international community tarnished the image of many international actors but it was

the EU whose public image suffered a lot, for not showing interest and in fact not being capable of handling a crisis happening in its neighborhood. In order to avoid the conflict from spilling to the other areas they just recognized the authority of Serbia over the Bosnian Muslims.

Here media also played a crucial role in criticizing the inaction on the part of the international community to solve this crisis. *The Independent* in its editorial on August 15, 1992 said that 'The Muslims have, after all, suffered far the worst from the brutal policy of ethnic "cleansing", practiced most ruthlessly by the Serbs, and that 'For the past year Western policy has been hopelessly indecisive and reactive'. *The Guardian* (1993) ended its editorial on April 6, 1993 by asking 'How, why, have we failed so dismally to save Bosnia?' *The Times* (1993) argued that 'Bosnians are playing a terrible price for Europe's vacillation more than a year ago, when preventive action could have stopped the fighting from breaking out', and *The Independent* (1993) pointed to 'the deep sense of collective shame that is building up among the people of this country as they watch the atrocities in Bosnia unfold'. Turning to July, 1995, two years later, similarly critical notes are struck by *The Times*, speaking of 'The miserable record of solemn pledges unfulfilled, of piecemeal improvisation, of ultimatum found to be nine parts bluff'. And, moving past the conclusion of the Dayton Accord, *The Independent* looked back on 'a war that has shamed Europe'

So after all these criticism, reluctantly NATO got involved in the conflict in 1992. In 9 October 1992, UN adopted resolution 781 which established no fly zone over BiH, except UNPROFOR flights or other flights in support of UN operations and requested that UNPROFOR monitor compliance with the ban by placing observers at various air fields (Solan 1998). After humanitarian disaster in Sarajevo in July 1993 NATO's Secretary General Wörner stated on August 2 that 'the alliance had decided to prepare for stronger measures, including air strikes', to be used if "the strangulation of Sarajevo continues

But another statement a week later retracted from this position and reaffirmed the so called 'dual UN-NATO key': that all the use of air power should be approved by the UN Secretary General as well as by the UNPROFOR Force Commander and

the NATO Commander-in-Chief of Allied Force South. The dual key system was generally considered to make the adoption of air strikes a cumbersome process and Britain had been a key factor in insisting that it be upheld.

The countdown to Dayton began in May 1995 when Bosnian Serbs took UN soldiers hostage and humiliated them in chains before the world media. In July Mladic's force launched large scale attacks on the remnant Muslim enclaves in eastern BiH, including Srebrenice, which had been designed as a UN protected "safe haven" two year earlier. On April 16 the UN Security Council passed resolution 819, which declared Srebrenica a 'safe area', 'free from any armed attack or any other hostile act' and an attack on Srebrenica would constitute 'a declaration of war against the entire world'. On May 6, five other enclaves were added to the list of 'safe areas': Sarajevo, Tuzla, Bihac, Zepa and Gorazde. Massacre on a grand scale took place in safe area of Srebrenica, which was protected by lightly armed Dutch peacekeepers, who were unable to prevent the Serbian conquest of the enclave on July 11, 1995. The Bosnia Serbs subsequently deported about 5,000 women, children, and elderly on July 12, and executed more than 7,000 Bosnian men and boys, either in town of Bratunica or along the route to Tuzla. Survivors began arriving in Tuzla on July 17 and news media reported their stories of summary executions, which in turn put further pressure on the UN, NATO, and the international community.

At a high level diplomatic conference of the contact group in London on 21 July 1995, the restrictive "dual key" arrangement, which had previously required joint NATO-UN approval for strikes, was simplified and the responsibility for ordering air strikes was placed in the hands of NATO.

On 1 August 1995, the British, French and Americans warned the Bosnian Serb military commander, General Ratko Mladic, that NATO would meet any further attacks on UN safe areas with "disproportionate" and "overwhelming" force. Now that their peacekeepers were no longer exposed to the Bosnian Serbs, the British and French strongly favored the newly adopted US emphasis on the use of air strikes. Following another Bosnia Serb assault- Mortar attack on the marketplace in Sarajevo on 28 August 1995, killing 37 civilians and wounding 85- NATO commenced a sustained air campaign against Bosnian Serb targets. Operation Deliberate Force

started on 30 August 1995 at 2 am local time, and represented the largest military action in NATO history up to that point. (Paczulla 2004-05).

The tide of war had already been dramatically reversed in Croatia earlier that summer when the Croatian army, massive built up since 1991, over-ran three of the four zones that made up the rebel Croatian Serbs entity. Many Croatians Serbs fled out this offensive, which had US approval, into Serbs controlled Bosnia and further a field to Serbia.

By mid September 1995 the Bosnian Serbs were facing a military crisis. Croatian army units fresh from their triumph across the border swept into western Bosnia supported by the Bosnian Croats and captured large swaths of Serb-held territory including several towns. Capitalizing on Bosnia Serbs disarray, Muslims forces broke out of there enclave around the town of Bihac in Bosnia's northwestern corner and retook some territory from the Serbs, including the town of Sanski Most, which fell in late September. The Bosnian Serbs' largest town and political capital, Banja Luka in northwestern Bosnai, swollen with several hundred thousand Croatian Serbs and Bosnia Serb refugees fleeing the enemy advances, was threatened with capture.

This leveling of the cleansing field enabled a determined and forceful American third-party effort to successfully mediate a settlement during two weeks of "proximity talks" on the Wright-Patterson at the Air Force Base in Dayton, Ohio, in November 1995. The Bosnian Serbs, who had acquired a reputation for incorrigible intransigence and whose top figures, Karadzic and Mladic, were already indicted as war criminals, were effectively excluded from the negotiations. Instead Slobodan Milosevic negotiated on behalf of the Bosnian Serbs, and his cooperation was important for agreement. Milosevic was by now weary of his embarrassing Bosnian Serbs ex-protégés and was to rid Serbia of crippling economic sanctions and reinvent himself as a peacemaker on the international stage. Croatian president Franjo Tudjman, basking in his assent was also vital. The Bosnian Muslim delegation presented a confused picture, its members at loggerheads with each other and its leader, Alija Izetbegovic, seemingly unwilling or unable to engage in the substantive details of negotiations. But in the end they too fell in line.

The talks were successfully wrapped up on 21 November and on December 1995 the agreement ending the Bosnian war was ceremonially signed at the Versailles palace near Paris. So finally Milosevic, Tudjman and Izetbegovic representing Serbia, Croatia and Bosnia Muslim had to put down their signature on the agreement. In attempting to consolidate peace accord Bosnia across BiH, Dayton's "one state, two entities" formula offered a degree of separation to the Serbs but presumed the functional integration of Bosnia's Muslims and Croats political communities. Such integration, alas, does not yet exist.

So it was basically the American efforts in Bosnia crisis, not only at the time of bombing but also through its diplomatic skills on the negotiating table proved that in the post cold war the international system is left with single pole. The course of US conduct in Bosnia was set by four important decisions:

- The secret rearmament of Bosnia in 1994. Iran was allowed to ship arms to the Muslim government through Croatia in violation of the UN embargo, which the US had supported.

- The US Senate voted in July 1995 to unilaterally lift the embargo on arms exports to Croatia and Bosnia, in defiance of the President, who did not want to flout the will of the international community.

- The events on the ground in Croatia and Bosnia in the summer of 1995 forced a review of the objectives of the US conduct, which was discredited by the Serb attacks on Srebrenica and Sarajevo. With an eye to the President's re-election, the Clinton team decided to make a much stronger and more sustained commitment; it provided for the Croatian offensives in Krajina, authorized the use of force, and asserted US leadership with its allies in a bid to line them up behind the American position.

- The US was replaced by NATO as the main institutional mechanism for the use of force and the imposition of a settlement. This move led, notably, to the bombing of Bosnia Serbs position by NATO planes in August and September 1995 (David 2007).

No one at the Dayton talks really believed the accord would instantly tear barriers erected over 42 months of warfare and brutal atrocities. Though there is the continuation of bitter disagreements among the parties, over the divisibility of the state, but thanks to the Dayton accord, their struggles are now largely nonviolent. The peace implementation process depended extensively on the international commitments in the military, political and economic spheres. Confronted by a sense of embarrassment for its previous inaction, the international community had taken its new responsibilities seriously. Comparatively speaking, support in post-Dayton reconstruction of Bosnia has been generous on all fronts, though not from the outset.

This war waged in BiH by US led NATO forces to certain extent fulfilled the criteria of just war theory. As discussed earlier any humanitarian intervention should take into consideration *jus ad bellum* which consist of six criteria, they are just cause, right intention, proper authority and public declaration, last resort, probability of success and proportionality . As far as the first criteria of just cause is concerned it was fulfilled in this war, as the causes included systematic denial of rights and liberty, massacre and enslavement, mass ethnic cleansing which involved murder of thousands of people others were forced to leave their home, women's were raped indiscriminately (without considering their age), by the Serbs against the Bosnian Muslims. The intention of this war was to stop the Serbs from committing any more human right violation as mentioned above and bring peace and stability in this region. There was no hidden interest involved on the part of US; in fact in this war they took side of Muslims, who according to Huntington's "clash of civilization" are the main contending parties. Now whether the next criteria of proper authority and public declaration were fulfilled or not is debatable. As far as the proper authority is concerned UN is the preferable organization but in this war US led NATO forces didn't take permission from UN as they feared that if this matter is brought before the Security Council it will be vetoed by Russia. Earlier EU members were also not supporting this war as they had their own stakes like their troops were stationed in there and they didn't favor use of military forces in its neighborhood, as this will affect their own security.

There was a proper public declaration of this war in the sense that, as stated above on 1 August 1995, the British, French and Americans warned the Bosnian Serb

military commander, General Ratko Mladic, that NATO would meet any further attacks on UN safe areas with “disproportionate” and “overwhelming” force, still Serbs didn’t stop. So the enemy and the peacekeeping forces over there were informed beforehand. The criteria of use of military force as a last resort was also fulfilled as all the earlier effort to negotiate a peaceful solution to this crisis proved to be unsuccessful. Efforts included UN declared military and economic embargo, Vance-Owen plan, formation of contact group, deployment of UN peacekeeping force etc. Probability of success was quite high as NATO compared to Serbs forces is quite powerful. The attack was proportional to the cause of stopping the human right violation, once that aim was fulfilled NATO forces stopped bombarding, they never tried to get hold of that territory, this proves that the intervention done was more or less was a just intervention, without having any hidden agenda. The central Western policy from the outbreak of war and until Operation Deliberate Force was to combine a peacekeeping operation aimed at alleviating the humanitarian crisis with the negotiation of political solution that all the three parties would accept.

The central political actors undertaking and defending policy of negotiation were the troop-contributing countries, France and the UK being the largest of them, and the EC/EU and UN mediators and special representatives. Since the British government was the most reluctant to adopt more aggressive policies, including the American ‘lift and strike’ and was the strongest defender of ‘humanitarianism’ it was an exemplary case of how the Western policy of mediation and peacekeeping was legitimized. This gives a broad idea of what was the Western policy towards BiH but it is very important to know what the EC/EU policy was towards the situation in BiH. This discussion is very important because one should know that what role was played by an international actor who is considered one of the poles of this multi polar world. How efficient were they in solving a crisis which was occurring just in their neighborhood because by analyzing their role in this situation only then can one conclude whether EU is a reliable actor to solve the problems.

EU in Bosnia Before War

The role played by EC/EU in Yugoslavia before the start of war was exactly what can be expected from a civilian power. The EU pursued a rigid strategy of diplomatic and economic foreign policy, failing to generate the political will necessary to explore alternative approaches.

Prior to the crisis, Yugoslavia held a privileged position within Western Europe because of its strategic importance between the Soviet and the West block. One of the ways this manifested was in Yugoslavia being exempted from having to pay custom duties on goods exported to West Europe. In 1991 over 90% of Yugoslavian export to Europe was tariff free (Dover 2005). Between 1985 and 1991 EU gave \$ 4.8 bn worth of loan and grants to improve Yugoslav infrastructure in order to stabilize the political vacuum left by the death of Tito. An overt attempt to stabilize Yugoslavia through financial aid came on 24 June 1991 with the EU's decision to lend €730 million to the federal government for sensitive infrastructure improvements. Investment in Bosnia was therefore an established means by which the government of EU tried to contribute the stability and development of the region.

At times it can be said that ability of EU governments to formulate common position and policies in the early stages of the crisis was hindered by different relations member states had with the component republics of Yugoslavia. But still economic incentives and penalties were the principle foreign policy tools the EU was able to use in the Bosnian civil war because of the absence of competing, competent foreign policy actors able to deploy financial resources in the region and because in using fiscal instrument the EU did not have to formulate new agreement, or allocate new resources. EU tried to use financial and diplomatic resources at its disposal in best possible manner as on the military front it still lacked CFSP at that point of time which came only in 1993. Economic solution to Bosnian crisis required the lowest common denominator agreement to be reached between the member states. In fact the very nature of inter-governmental bargaining is less likely to produce coherent and unified policies without the presence of an international norm or an overwhelming security threat (Dover 2005).

Ethnic cleansing in Bosnia was a crime of cognitive dissonance (Lieberman 2006). Still the EU's reluctance to act strongly in the crisis was partly because of a perception that the US and Russia were better able to exert pressure and act more effectively than the EU and also that it could face potential dangerous internal political schism in trying to formulate a military response to the Bosnian crisis. Another reason for the inactiveness of the EU was that France and Britain, which provided the largest contingents for UNPROFOR, determinedly opposed any measure which might provoke attack on its troops and necessitate its withdrawal together with the aid agencies and there by delude the Muslims with vain hopes.

The EU didn't take any initiative on its own and just worked towards the implementation of UN sanctions, the emergence of international norms against radical nationalism and human rights abuses. The EU presidency argued that the enforcement of sanctions was the best way to secure an end to violence: the continuation and strengthening of the sanction policy will have effect that no rational or responsible leader could deliberately inflict on his country.

Role of EU at the Time of War

EU could never think of taking any military action to stop this civil war, reason can be either that they didn't have the military capability as CFSP emerged in 1993 only or that they got stuck with the forth principle of the Just War theory (of use of military as a last resort) because of which they all together ignored the fact that after certain period of time if these negotiations have become unfruitful, they need to change their strategy and use force as the aim should be to stop human right violation if possible through peaceful means and if not possible through military means.

War broke out when EC's attention was absorbed by other events (the reunification of Germany, the dissolution of the Soviet Union, and a new Intergovernmental Conferences IGC)²⁷ which was discussing the Treaty of Maastricht (1992). BiH civil war was definitely challenge for the newly emerged CFSP as it was

²⁷Intergovernmental Conference (IGC), this term is used to describe negotiations between the Member States' governments with a view to amending the Treaties. Intergovernmental conferences play a major part in European integration, since institutional changes must always be the outcome of such negotiations.

not ready or properly equipped to get involved into serious conflict like this (Juncos 2004: 46-80).

The EC adopted a high profile during the beginning of the conflict, leading international response to the conflict rather than itself taking any initiative. The EC negotiators achieved the cease-fire to stop the war in Slovenia in July 1991 (the Brioni Agreement), as well as it put in place several diplomatic and economic sanctions to force the parties to a negotiated solution. However, the recognition-issue hampered the efforts at the EC Peace Conference in September 1991, as well as later negotiations regarding the war in Croatia and the first signals of violence in BiH. The inability to act and even to agree on a common line at the first stages of the crisis in former Yugoslavia showed the limitations of the newly-created CFSP in 1993.

As the conflict intensified, the EC was progressively marginalized by the intervention of other international actors, mainly the UN. Though the EC continued to play an important role in the diplomatic efforts, implementation of sanctions, and the provision of humanitarian aid, however, the whole of EC/EU activities were carried out within the framework of UN. For their part, the Member States supplied troops to the UNPROFOR mission.

With the creation of the Contact Group (1994), the role of the EU was completely diminished (not to say completely absent) from the table of negotiations. Even if some argued that the Contact Group was a way to give a voice to the EU together with other international powers, the reality showed that it was an initiative of and for its five constituting states Washington, London, Paris, Bonn and Moscow, where the voice of the EU as such as barely heard.

The main role of the EU came after the Peace Agreement, in the process to assist post-conflict reconstruction. Now BiH was used as a test case by the EU to build a new identity for itself: the EU as a regional normative power. Actually the instigating force for EU to get engaged in the Balkans has been to prevent the export of the conflict and its negative implications to Western Europe. As argued by Susan Woodward, 'the myriad of reforms and programmers in south-eastern Europe are

aimed at providing security for Western European states and citizens in defense against south-eastern Europe (Weller and Wolff 2006:5).

Role of EU in Post-War Era

The termination of active hostilities in Bosnia and Herzegovina was greeted with tremendous relief, both inside Bosnia and Herzegovina and on the outside. Though there was a general sense that Bosnia and Herzegovina would fall apart, as soon as the vast international military presence deployed in the territory was withdrawn. In short, the settlement seemed morally wrong and politically impracticable, but still necessary in order to end violence of a scale and intensity not seen in Europe since the end of the Second World War.

Against this background the obstacles to success for (re) building Bosnia and Herzegovina into a secure, stable and dependable member of the international community appeared overwhelming. At the time of implementing reforms, discrepancy often arise between international demands, standards and norms on one hand and local need and interest on the other. The initiative may well be external and based on international demand and standards, but the local actor need to feel that they themselves are taking part in the process and hence have a feeling of ownership (Schear 1996). This is crucial for long term sustainability and for the peaceful exit of international engagement in any given country. However, ten years later, political life in BiH is still led by three nationalist parties. Both entities still fear each other and this feeling constitutes one of the main obstacles to the creation and consolidation of common institutions and multi-ethnic parties (Manning 2004:62).

The EU (until 1993) the European Community (EC), in particular, while aspiring to become a major security provider, did not have a clear role in this emerging security architecture. The task for the EU was easier and harder at the same time: it had to define its own role in conflict prevention and crisis management and carve out its own space in an already crowded field at a time when all the established players were about to adjust to a fundamentally changed situation. So following the embarrassment suffered of being overruled during the armed conflict, and after the signature of the Dayton agreement, the EU assumed the responsibility of helping the

region in the post-conflict reconstruction. Besides the humanitarian assistance provided by EU from 1996, BiH benefited from trade preferences and from the Poland and Hungary: Assistance for restructuring their Economies²⁸ (PHARE) and OBNOVA²⁹ programmes. The economic assistance under these initiatives was accorded under the terms of the respect of human rights, democracy and the rule of law.

EU's institutional experience in civilian crisis has been gained in the Balkans only. In July 1991, the then European Commission Monitoring Mission (ECMM) was sent to monitor the withdrawal of the Yugoslav army from Slovenia, but its mandate also included observation and monitoring of human rights and policing. Later, the ECMM has continued its monitoring mission in the Balkans. In-addition, the EU has been engaged through the Western European Union (WEU), in BiH and in Albania. From 1994 to 1996, the WEU established unified police force in Mostar (BiH), while the EU had Mostar under its administration (Muehlmann 2007). International Police Task Force (IPTF) assumed this responsibility at the end of 1996, when the EU terminated its administration over Mostar. In spring 1997, the WEU in Albania established a police force called Multinational Advisory Police Element (MAPE). MAPE's mandate included the observance, advice and training of the Albanian Police. Following the transfer of most WEU task to the EU in 2000, the EU overtook the work that the WEU had done within MAPE in June 2001.

The European Union Police Mission (EUPM) in Bosnia and Herzegovina, established on 1 January 2003, is the first ever mission launched as part of the European Security and Defense Policy (ESDP) and as such falls under the Union's civilian crisis management operations. It is the successor of the United Nation's and it's International Police Force. EUPM derives its legitimacy in part from Security Council Resolution 1396 of 5 March 2002 and an earlier decision by the Steering Board of the Peace Implementation Council on 28 February 2002 to accept the EU's

²⁸ The PHARE programme is one of the three pre-accession instruments financed by the European Union to assist the applicant countries of Central and Easter Europe in their preparations for joining the European Union.

²⁹ The OBNOVA programme was set up in 1996 by the EU Council Regulation (EC) for the rehabilitation and reconstruction of Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia, and the Former Yugoslav Republic of Macedonia (FYROM).

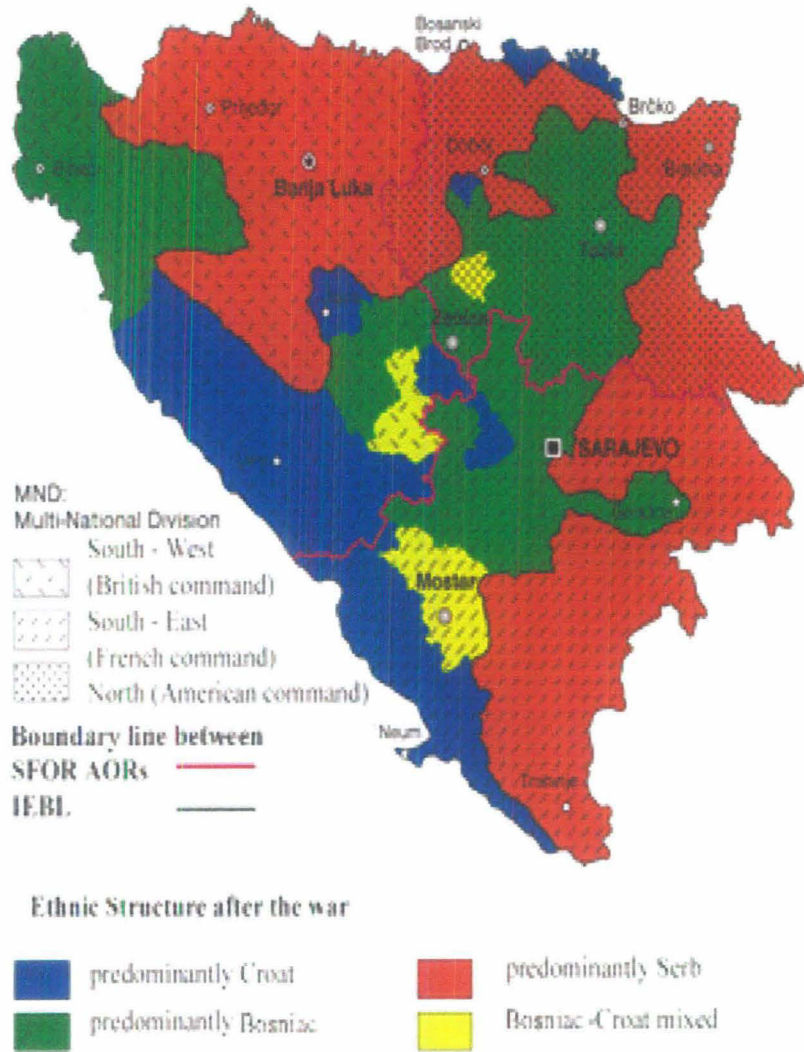
offer to provide the police mission following the end of the mandate of the UN Mission in Bosnia and Herzegovina (UNMIBH) (Osland 2004).

The mission statement of the EUPM specifies that it is to 'establish sustain policing arrangements under Bosnia and Herzegovina ownership in accordance with best European and international practice, thereby raising current BiH police standards'.³⁰ Apart from technical and professional assistance and training, EUPM is therefore also involved in the creation and consolidation of institutional structures that will enable local police forces to achieve better results in flight against organized crime and in protecting returning refugees.

On 12 July 2004 the European Council decided to take over responsibility from NATO for securing the conditions for the implementation of the Dayton Peace Agreement in Bosnia and Herzegovina. Following a Council Decision in November 2004, Operation Althea was launched, marking the transition from NATO-led Stabilization force (SFOR) to an EU Force (EUFOR) (Map No.6). In the medium term the operation is meant to support Bosnia and Herzegovina's progress towards EU integration, initially with the aim of concluding a Stabilization and Association Agreement.

The EU continued support for humanitarian aid was seen in July 1994, for example, with a pledge of € 7.15m to rebuild the town of Mostar and again gave € 20m to aid its administration, this assistance surely helped the city of Mostar to come back to life (as civil war had totally destroyed Mostar). Bosnia continued to receive financial support from the EU, like € 60m worth of loan and grants in 1996 which further demonstrates the EU's continued commitment to Bosnia and also its adherence to a somewhat fixed economic foreign policy strategy. EU was an effective provider of aid which helps prevent an even greater humanitarian crisis in the aftermath of the war whilst being powerless to prevent human rights abuses by all sides, but predominantly by ethnic Serb soldier during the war.

³⁰EUROPEAN UNION (March 2006), EU Police Mission in Bosnia and Herzegovina (EUPM), http://www.consilium.europa.eu/uedocs/cmsUpload/Factsheet_060312.



MAP No. 6
IFOR/SFOR Areas of Responsibility in BiH*

*Accessed on 27 Feb. 2009 URL: <http://www.ohr.int/ohr-info/maps/images/karta-ifor-sfor-aor.gif>

EU's policy was not to walk alone but along with other international organizations active in the Western Balkans. This relates primarily to the UN and the Organization for Security and Cooperation in Europe (OSCE), both of which continue to play a role in Bosnia and Herzegovina. EUFOR operates on a Chapter VII mandate; the EU closely coordinates action taken under its military mission-Operation Althea-with those taken under its police mission-EUPM at the same time cooperation is also going on with the Peace Implementation Council and the Office of the High Representative.

EU is undisputedly one of the biggest financial donors in BiH. But the EU's relative success of late in the Western Balkans has its sources not only in improved crisis management capabilities compared with the 1990s and its financial assistance towards its stability but because of its policy of conditionality. Potentially accession to, the EU is credible and where both political elites and the general public are ready to make compromises in order to attain what many believe to be a panacea for all their problems.

Another name for the road to prosperity, peace and freedom to travel and work in Europe is EU Membership. In fact, one of the most frequent demands of the Bosnian population refers to the softening of the visa regime, which is an everyday reminder that they are still out of Europe. From the EU, the willingness to support the process of integration of BiH has been reiterated on several occasions, and today, this commitment constitutes the long term objective of the EU's policy in the country. The launch of the Stabilization and Association process (SAP) and the offer of membership in The European Council meeting in Santa Maria da Feira on 19 and 20 June, 2000 and in EU Balkan Summit in Thessaloniki in June 2003 have reassured BiH to a certain degree.

The "return to Europe" has been more painful in the case of BiH, than in the cases of the other ex-Yugoslavian republics like Slovenia and Croatia, and this for several reasons. Firstly, even though BiH is recognized as a sovereign state, but still the identity of this state is still disputed because of the undemocratic nature of the entity agreed at Dayton. What is more, both the "Balkan" and the "Muslim" stigma have been perceived as potential obstacles on the road towards Europe. Indeed, there

has been suspicious regarding the willingness of the EU to incorporate a state with such a large Muslim population. Finally, an uneasy relationship exists between Europe and part of the Bosnian population, in particular the Bosnian Muslims, owing to the role (or rather the absence of role) of the European countries during the war.

Problem of Accountability

While the EU along with other international authorities seeks among other objectives, to enshrine democratic accountability in the local public institutions within their purview, these same authorities are in many ways unaccountable themselves. Accountability basically refers to norms, practices and institutions whose purpose is to hold public officials (and other bodies) responsible for their actions and for the outcomes of those actions. It is concerned, in particular, to prevent and redress abuses of power. It means the obligation on the part of public officials to inform the public about what they are doing and to provide explanations for their behavior (Caplan 2005:472). One reason to limit the scope of public accountability is to ensure the independence of officials who might otherwise be susceptible to electoral or other pressures that would compromise the integrity of their work.

The purpose of the office of the High representative (OHR) originally was to 'facilitate the parties' own efforts to implement the Dayton peace agreement, the hands of the HR has been strengthened considerably as a consequence of a re-interpretation of these powers by the Peace Implementing Council. At its meeting in Bonn in December 1997, the Peace Implementation Council (PIC) gave the high representative (HR) greater authority, including the power to dismiss local official deemed to be obstructing implementation of the Dayton accord and to issue interim laws if the local parties were 'unable' to do so. Other international authorities, meanwhile among them the Governor of the central Bank, the three international judges of the constitutional court, and individual serving with SFOR and its EUFOR follow on have from the start enjoyed significant autonomy in the relation to the local parties by virtue of the provisions of the Dayton accord.

These provisions it bear noting were agreed to by the local parties; however, ten years on, as the urgency of the situation in BiH has abated, there has been

considerable debate, both within BiH and internationally, about the appropriate exercise of international authority.

CONCLUSION

BiH has remained a challenge in terms of the role and authority of the international community at the time of war and even after the war got over. One of the biggest reasons for this is country's internal political dynamics. There are certain conditions that need to be fulfilled if Dayton agreement has to succeed. Like Bosnia's 2 million refugees and displaced people would have to be allowed home or resettled; its interentity border would have to be more porous than its existing international frontiers; and most of all, its Serb and Croats community would have to feel as much, if not more, loyalty to a government in Sarajevo as to one seated anywhere else. These objectives seem very distant considering current circumstances.

Main problems in Bosnia today are the legacy from the war: a legacy of organized crime, corruption and unemployment. Primary source of instability is a weak state in the sense that it does not possess a legitimate monopoly on violence. As it is not possible for Bosnia to fight these problems on its own so international forces are helping them. But one consequence of the massive international involvement in BiH has been the creation of a culture of dependency both politically and economically. This has led to feeling of helplessness among citizens and policy makers in the region. If these factors are seen in combination with the fact most reform process have been result of foreign driven demand for reforms, there is reason for some skepticism as to administrations such as the one in BiH implies that the international community becomes part of the process and, in many instances, also part of the problem. The question of accountability still remains unattended. David Harland has observed 'In a world in which sovereignty is understood to flow from the will of the people, the very idea of an administration brought from outside runs against that of sovereignty (Harland 2004).

The EU's handling of post-conflict situation has undergone changes during the past decade. Initially it didn't want the conflict in its neighborhood to spread to an unmanageable stage. Much of this mediocre performance could be ascribed to

their relative unimportance of south-east Europe compared with other regions, like for example, the Middle East, whose economic and strategic importance had, almost simultaneously, predisposed major powers to go to war and pay for it. But now to improve its image and to circumvent any spillover effect of in other East European States, EU has finally engaged itself in Bosnia.

But still today it is essential that the EU implement its goal of speaking with one voice. This implies that the EU coordinate its 'carrot' and 'stick' policy so that the demands for police and other democratic oriented reforms are linked to aid and future membership. In order to promote ownership, accountability and legitimacy, this 'package' should be in cooperation between actors from both the EU and BiH. Because, even though the reforms are imposed externally a domestic and socially inclusive, public dialogue can contribute to staunch the destructive potential. If successful, the future may look somewhat brighter not only for the people of Bosnia and Herzegovina, but also Europe and for the future development of the ESDP.

-X-

******* CHAPTER-IV
CONCLUSION*******

CHAPTER 4

CONCLUSION

Nobody starts a war, Clausewitz wrote, "or, rather, no-one in his senses ought to do so, without being clear in his mind what he intends to achieve by that war and how he intends to conduct it." The war in BiH is a case in point and it is clear that the response to such challenges has not exhibited the clarity of aim and means that Clausewitz recommends. Muddle and hesitation, misguided compromise with the perpetrators of atrocities and the initiators of wars, seesaws of public opinion, and dissent among allies have marked the diplomatic and military efforts of western nations in a critical decade (Woollacott 2001)

The collapse of communism in Yugoslavia led to ethnic conflict in 1990s, which was basically about the struggle between mobilized identity groups for greater power. The civil war in the Balkans was linked to 'fault lines that run through that part of Europe today, as they have for centuries'. Douglas Hurd, the former British Foreign Secretary, stated that 'Once old hatreds have been aroused, they are hard to put to sleep again' and that the Bosnian war belonged to a group of wars which were 'usually civil wars simmering with centuries of mutual hatred, sustained by people with no will for peace' (Hansard, September 25, 1992, column 125; quoted from Hansen 2006: 124). In a civil war no side has the monopoly on evil; all the parties bear equal responsibility (Hansen 2006:124).

The crisis started unfolding with the declaration of independence by Slovenia and Croatia in June 1991 from Yugoslavia by, repudiating not only the existing federation but any modification of it. The most powerful of the six republics of Yugoslavia was Serbia. Decision taken on the part of Slovenia and Croatia challenged the authority of Serbia headed by Slobodan Milosevic and his plan for Greater Serbia. So Serbia became cautious of any separatist move and therefore it tried to contain Bosnian independence at the earliest. Bosnian Serbs accounted for less than a third of the population of BiH, the Bosnian Croats for about a sixth, and the Muslims for

nearly half the population. With the declaration of independence on the part of BiH, Serbia waged a war against them.

Three things gave Serbia the edge at the onset of the crisis. First, they had more heavy weapons. Second, western policy (Shoup and Burg 1999: 1-16 helped them enormously, buttressing their territorial holdings and helping them politically by going down the partition path. Third, and most important, they had Franjo Tudjman (first President of Croatia), whose belief in an eventual partition of Bosnia between Serbia and Croatia led him to hold back Croatian forces at critical moments in the conflict. Croatia's sins of omission were as important as Serbia's sins of commission in determining the fate of Bosnia. The combined combat power of the Croatian and Bosnian armed forces was from the start almost sufficient to roll back the Serbs, perhaps all the way to the Sava. When that combat power was eventually unlocked, the Serbs scrambled for peace. But they still got their chunk of Bosnia, because the outside powers still saw the solution to the problem as partition, if of a softer variety. The damage done to all the peoples of former Yugoslavia, with the partial exception of the Slovenes and the Macedonians, was horrendous.

What distinguishes this conflict from other is the uncertain response of the international community towards this state directed violence. Post war international system is based on the principle of state sovereignty and territorial integrity and the UN has also recognized this principle to preserve international peace and order, so violence and atrocities against secessionist would be overlooked by the international community. External intervention in ethnic conflicts has been motivated by direct security concern on the part of neighbouring states or geo strategic concern of states or alliance. Rarely intervention has been done to uphold the principles like human rights or minority rights. Similarly, in the case of BiH also initially none of the outside powers showed any interest in solving this crisis as after the end of Cold War there was no immediate strategic interest to major countries which would be fulfilled by engaging themselves in this war. In fact none of the international actors were ready to engage in a foreign land which was not going to fetch them any profit in near future.

The chief aim of the international bodies (like EU, UN and NATO) most of the times were to stop the war. They failed because, initially, they were not prepared to deploy the necessary force and later, because they could not agree among themselves on what kind of force to use in the war. The discredit for these failures fell on the UN as an organization but the blame attached more significantly to the principal members of the Security Council as they ducked the issue by trying to use the UNPROFOR for purposes for which it was neither intended nor equipped by them. Some 400 Dutch and Ukrainians serving in the UNPROFOR were taken hostage and humiliatingly evicted. The Security Council was not asked to treat the war in BiH as a threat to international peace (which it clearly was) or to authorize consequential measures as prescribed by the UN Charter. The UN was further diminished when the United States, having resolved to take effective action, preferred to do so not by giving a lead to the UN but through NATO, whose members could be relied to mute their objections to American strategies (Hass 1999: 183-189).

In this case the role played by the European Union was very unpredictable as it was not sure on what measures to take so as to stop the civil war in BiH. Given the other political changes happening in Europe after the end of Cold War such as the reunification of Germany, the dissolution of the Soviet Union and the transformation from EC to the EU there was limited engagement with the Bosnian war. In such a situation working out a solution for BiH by EU was really a difficult job. EU was going through structural adjustments within itself, in order to incorporate the newly launched CFSP and ESDP. So the EU itself was not ready for any big problems, but crisis do not wait for anyone and suddenly this BiH monster was in front of this new born entity, which was not sure of its next step.

It proved to be a very difficult crisis for EU to handle not because of its intensity but because of the EU's unpreparedness. But still BiH being its neighbour surely it had some stake in this war due to different reasons. They never wanted this crisis to be blown out of proportion as it would lead to huge refugee flow in the neighbouring countries. The dissolution of Yugoslavia would have made other areas also very unstable like Kosovo and any proclamation of independence on the part of BiH would off course instigate the feeling of independence in these areas also. France

and Britain, which provided the largest contingents for UNPROFOR, determinedly opposed any measures which might provoke attacks on its own troops.

The Russians, on whom the Contact Group counted to persuade Milosevic to compel Karadzic, the Serb leader to accept its latest peace plan, found it hard to accept the introduction of the quintessentially anti-Russian NATO into the Bosnian tangle. This step was regarded as an alternative to bypass the Security Council and hurt the Russian ego by bringing NATO into the battle on the side of the Bosnian government against the Serbs. Preferring international diplomacy to international action, the EC and for a time, the US wrongly assessed, first the readiness of the belligerents to heed reasonable proposals for peace and later the capacity or willingness of Milosevic to control the Bosnian Serbs, in particular Karadzic, who was a potential rival for the chieftainship of Serbian nationalism. The introduction of UNPROFOR in the absence of a cease-fire was an unprecedented gamble which, despite some promise in Croatia in the first round, went disastrously wrong in the next. (Calvocoressi 2006: 347)

Due to this civil war, the Bosnian capital was reduced to starvation; almost the whole population of Srebrenica was massacred. Media and other human rights forums started to criticize individual states and the international community for not stopping the conflict in BiH. They were criticized for sticking to the policy of non-intervention in the internal matter of other states when people were being killed by their own government.

The US resolved belatedly that defeating the Serbs was a necessary preliminary to peace in the region. Although the US had the power but they were undecided how to use it, unsure of the cooperation of its European allies, vexed by the prospect of picking up a quarrel with Russia and determined to avoid putting American lives at risk. This last concern meant using air power but not ground forces and consequently areas where Serbs had their strong hold were attacked by France, Britain and The Netherlands. The air operations, which were the largest in NATO's history, were undertaken without informing Yeltsin. In substance, the US overruled its European allies, humiliated Russia, and sidelined the UN and got the results. Later on Kofi Annan commented on: 'It is indeed tragic, that diplomacy has failed, but

there are times when the use of force may be legitimated in the pursuit of peace' (Annan 1999). Finally through the diplomatic efforts of the US, the Dayton agreement was signed in 1995.

More than a decade has passed since the conflicting parties have put down their signature, and we can analyze the success of the Dayton agreement. One can start off by mentioning the fact that, the solution finally imposed by the US, had a strong air of uncertainty. (Bieber 2009: 108-132) The Bosnia fashioned at Dayton did not come into existence. In the Serbian segment the Serbs split and Karadzic, now an indicted war criminal, lost his majority in the assembly and a faction willing to accept the Dayton agreement briefly prevailed; but in 1998 Karadzic's heirs regained control until the next year, when the international administrator appointed to Dayton, Carlos Westendorp, dismissed their leader, Nikola Poplansan. The Bosnian Croats refused to play their allotted role in the central administration at Sarajevo and so transformed the entire arrangement with the Muslims.

BiH was divided into two political entities- Federation of Bosnia and Herzegovina (divided into 10 cantons) and Republika Srpska. Though on paper BiH is divided in to two entities but in actual practice it is divided in to three ethnically homogenized territories. Each zone in its efforts to become self-dependent or to keep an eye on its neighbour, have organized its own army, police force and intelligence service³¹.

Laws were implemented so that displaced people could come back to there land and stolen property was supposed to be returned. But still actual refugee return has been weak and the population remains relatively, homogenized by territory. This is because of policy adopted by the separatist leaders. This situation makes it easy for the extremist nationalists who administer most of BiH to maintain an atmosphere of fear and therefore retain power. These leaders transformed BiH into a breeding ground for corruption, through there ill practices, in which many a times even the

³¹ "Background Notes: Bosnia Herzegovina", Accessed on 11 July 2009
URL:<http://www.britannica.com/bsp/additionalcontent/18/27357582/Background-Note-Bosnia-and-Herzegovina>.

international officials (who are in BiH as Peacekeepers) come to share the spoil with these corrupt extremist leaders. Because of these reasons the type of peaceful proposed for BiH through Dayton agreement could never materialize (Lippman 2006)

Though BiH has travelled a great distance from what it was in 1992. BiH has a population of 4.6 million and ranks 75 (out of 179) on the Human Development index. BiH has a parliamentary democracy, where the Presidency rotates every eight months among three members (Bosniak, Serbs and Croats), each elected for 4 year term. These three members of the Presidency are directly elected³². Power is divided between the executive, legislature and judiciary. Still regarded as a transition economy, BiH see the long term goal of EU membership as a driver to further economic growth and development. Due to BiH strict currency board regime, which links the Konvertibilna Marka (BAM) to the Euro, inflation has remained relatively low and as a result, the BAM is one of the most stable currencies in south east Europe . The banking sector has been fully reformed with a significant inflow of foreign banks (foreign ownership currency stands at 85% of the banking sectors) providing business with easier access to capital and a better range of banking services. Since Dayton agreement, over \$14 billion as foreign aid has flown into BiH, approximately \$940 million of it coming from Support for East European Democracy (SEED) funds. In addition to SEED funding, US agency for International Development (USAID) program have been crucial to the redevelopment of BiH. USAID has programming in the following areas:

- economic policy reform and restructure,
- private sector development (the Bosnian Development program);
- infrastructure rebuilding;
- democratic reforms in the media, political process and election and rule of law code formulation and
- Training programmes for women³³.

³² Background Note: Bosnia Herzegovina (January 2009), Bureau of European and Eurasian Affairs, US Department of State Diplomacy in Action, [Online: web] Accessed on 17th July 2009, <http://www.state.gov/r/pa/ei/bgn/2868.htm>.

³³ Background Notes on Countries of World: Bosnia Herzegovina (May 2008), Foreign Relation, Database: International Security and Counter terrorism, [Online Web] Accessed on 17th July 2009. URL: <http://www.britannica.com/bps/additionalcontent/18/32539973/FOREIGN-RELATIONS>

Per capita GDP in 2007 was approximately \$3,802 with a total nominal GDP of approximately \$14.6 billion. The estimated real GDP growth rate for 2007 was 5.8 percent and projected growth for 2008 is around 6 percent while official unemployment is approximately 40 percent, unofficial estimate of unemployment is 18%-22%. In BiH the most immediate task is of economic revitalization and the top economic priorities are- acceleration of EU integration by concluding a Stabilization and Association Agreement (SAA), strengthening fiscal system, public administration reforms, WTO membership and securing economic growth by fostering dynamic, competitive private sectors.

In the past few years BiH have seen many ups and downs, but now slowly and gradually it is coming back to life. All round construction work is taking place, new schools and colleges are opening up, and comparatively the standard of life is improving. These efforts would not have been possible without the help of international peacekeepers. They provided people of a war ravaged country peace (Bolling 2004).

But still a lot needs to be done. The economy still remains crippled, with production stagnating at a fraction of pre-war level. Around a fifth of the BiH population lives below the poverty line, three fifth are unemployed. Foreign investment remains low. BiH was among the poorest areas of the old Yugoslav federation. For the most parts, agriculture remain in private hands, but farms have been small and inefficient and net food import increased dramatically in the aftermath of the 1992-95 war. Industry still is overstaffed, reflecting the legacy of the centrally planned economy. Under Tito, military industries were widespread in BiH which hosted a large share of Yugoslavia defence plants. Three years of this interethnic strife damaged or destroyed much of the economy and infrastructure in BiH, caused the death of about half of the population. Considerable programs had been made since peace was re-established following Dayton agreement. But the country needs meaningful progress in structural reforms to strengthen the basis for sustained private sector led growth. In order to improve business climate, private sectors growth especially small and medium enterprises (SMEs) and FDI acceleration are needed to support economic growth and job creation.

Politics is still somewhat a dirty game, with parties in power manipulating the government offices and the media to maintain them in power. The dominant parties are tied to religious/ethnic identity. Independent, issue-oriented parties have not fared well (Bolling 2004). Corruption and political manipulation is not limited to Bosnian Serbs. Extreme nationalist Croats continue to promote the creation of a “third entity” for their own beleaguered population—a development that would spell the end of a reunified BiH. Nor is corruption foreign to the country’s Muslim leaders. The list of representatives of all the three ethnicities who have been removed-or banned from travel to US- due to corruption or flouting Dayton continues to grow.

Due to international pressure the Serbs agreed to transfer jurisdiction over its armed forces to a joint state command. In the future there will be no Serbs, Muslim or Croats forces, just one Bosnian army at least on paper. A potential problem however is that Bosnian army structures remain territorially based. Thus their composition will reflect the ethnic makeup of a territory. However the agreement on military restructuring was sufficiently satisfactory to international officials for them to give BiH a green light for the eventual entry to NATO. Once the hurdle of police force unification is cleared, BiH will be invited to participate in discussions on a Stabilization and Association Agreement (SAA). It is first step towards accessions to the EU. Meanwhile BiH domestic leaders are aware that, if their bid for accession to the EU is to taken seriously they will have to reform the state constitution. With a confounding and counterproductive 14 levels of government (BiH has well over 100 ministers) however, opportunities of obstructive and corruption are vast. For BiH “going to Europe” is something like going to heaven, one doesn’t know what it actually will be like, but it has to be much better than present reality. For ordinary Bosnians, Europe means job, euro and good passports.

It will perhaps take years or perhaps a decade for BiH to shape up sufficiently to join the EU. But at least rhetorically EU membership is the one thing on which everyone agrees. Bosnia and Herzegovina is a potential candidate country for EU

accession following the Thessaloniki European Council of June 2003³⁴. On 16 June 2008 the EU and Bosnia and Herzegovina signed the Stabilization and Association Agreement (SAA)³⁵, which will enter into force only once its ratification process has been completed. Indeed, it may be the one issue the outside world can use as leverage to influence the functioning of the community if it has the will. It is very important to use the “carrot” of EU membership in an intelligent manner because as of now the international peacekeepers are taking a good care of the security situation in BiH, it has prevented a good deal of violence that might have occurred. As the job of security was taken up by NATO and EU so the government of BiH was left with a lot of time and resources to take care of the development and integration issues and work towards more responsible and more democratic form of government. But the international peacekeepers cannot stay in the Balkans forever to pick up the bits and save people from the consequence of their own actions. International peacekeepers can show the way towards the negotiating table, but only they can decide when to sit and talk seriously about peace (Hansen 2006: 124).

There will have to be a political solution in Bosnia. Sooner or later people will have to accept that they cannot go on slaughtering each other but will have to come to terms with living together as neighbours, peacefully and in harmony or at least without resorting to the violence as the past. “But for that to happen and the good effects to last, the initiative and driving force must come from within the minds, spirits and willing determination of the local people and their leaders. For that they will have to have a government who is able to represent their desire in a true sense and do not misguide them. So for that matter they need democracy but one created by themselves rather than being imposed by outside authority or people”³⁶.

The intervention in BiH on humanitarian grounds has revived the debate between State Sovereignty and Human Rights. Should the recognition of BiH by few

³⁴ Bosnia Herzegovina-Relation with EU, European Commission Enlargement, [Online: Web] Accessed on 17th July 2009 URL: http://ec.europa.eu/enlargement/potential-candidate-countries/bosnia_and_herzegovina/eu_bosnia_and_herzegovina_relations_en.htm

³⁵European Union (16 June 2008), Regulation: Council (EC) No 594/2008, Official Journal of the European Union, [Online: Web] Accessed on 17 July 2009 URL:http://www.europa.ba/files/docs/publications/en/SAP_en.pdf.

³⁶ Bolling, Landrum (August 22, 2004), Balkan Region is Slowly Rebuilding: Peaceful Change, Emergencies, Economic Development, MercyCorps, [Online Web] Accessed on 17th July 2009, and URL: www.mercycorps.org/countries/bosniaandherzegovina/10433.

states against the wish of its mother country, be considered as promoting secessionist trend and challenging the concept of territorial integrity of a state? Is it legitimate on the part of other international organization or individual state to intervene in the internal matters of other state which in a sense is a violation of state sovereignty?

The first questions can be answered by adopting two different approaches; they are pluralist and power sharing approach. As per the power sharing approach (Lijphart 1977) any ethnic conflict is understood as originating in contact between group holding incompatible, culturally rooted values. Hence they call for complete isolation of groups from each other at the mass level with entirely separate social and political organization. None of the cultural group can compromise, so they should be given complete autonomy in their sphere. In the sphere of decision making they call for proportional representation so that different groups can have a say in the policy making. Each of these groups should be given veto power to protect their vital interest when they are at stake.

The pluralistic approach (Dahl 1961), is based on certain different sets of principles. States under critical important condition of open communication and equality generates mutual understanding and cooperation not conflict. Due to constant interaction a common civil culture develops between different groups. They see the institutions as a means to transform the relation between the groups. So pluralists leave no room to recognize the claims of ethnic groups to state constituting status. So in BiH, the international community was faced with reconciling these two approaches, as the first approach denotes the position of BiH and Serbia denotes the second approach (Shoup and Burg 1999: 1-16).

As far as the second question is concerned it should be kept in mind that humanitarianism is not to be confused with military engagement in the conflict itself. In the case of BiH the troops were there to protect civilians from starving and to enforce the embargo and sanctions against the former Yugoslavia and that their presence might help stabilize the situation in such a way that a political settlement between all the parties could be reached (Baehr and Gordenker 1999). Almost all peaceful and diplomatic alternatives were tried but could not solve this problem. So at the end in the light of the human right violation done by Serbia on the Bosnia

Muslim, it became very important to use force. Yes it violates the principle of State Sovereignty but it was worth it. Rules are made to regulate the life of people, not to rule them. As everything changes with time, rules should also change depending upon the need of the people, if they are for betterment of people it should exist otherwise should go.

If the use of force is legitimized under certain conditions that does not give license to the states to use it as they want. Considering that all the peaceful alternatives have been exhausted then only states should resort to military intervention that too according to the “Just War” theory. According to Just war theory it is morally justified to resort to armed forces if the condition of *jus ad bellum* is fulfilled. Basically *jus ad bellum* talks about what constitutes a just or unjust resort to armed force. According to Just war theory six conditions should be fulfilled before resort to armed force, they are just cause, right intention, proper authority and public declaration, last resort, probability of success and proportionality. Humanitarian intervention in BiH fulfilled all six of these pre-conditions. It had a just cause of denial of rights and liberty, massacre and enslavement, mass ethnic cleansing which involved murder of thousands of people others were forced to leave their home, women’s were raped indiscriminately (without considering their age), by the Serbs against the Bosnian Muslims. The intention was to stop above mentioned human rights violation. As far as authority is concerned it was US led NATO forces, who were not having the UN mandate. Option of military intervention was taken up by NATO forces only after all the other non-military options were exhausted. The probability of success was high as NATO is powerful when compared to Serbia. The attack by NATO forces was proportional to the attack by the Serbs, it was sufficient enough to stop atrocities committed by the Serbs.

So in this case the intervention was truly on humanitarian ground, as the intervening parties had no hidden agenda. Much of this mediocre performance could be ascribed to the relative unimportance of south east Europe (after the end of Cold War) compared with, for example, West Asia, whose economic and strategic importance had, almost simultaneously, predisposed major powers to go and pay for it.

One can conclude from the above discussion that International intervention in the Yugoslavia wars had two motives: first was to stop the fighting for that fear that it would spread to the whole of Yugoslavia and beyond. The second branch of international intervention was the succour to the victims of war and the protection of those providing these services. It was pursued by various agencies, including UN agencies, and by a UN force-UNPROFOR- recruited from over 20 countries and dispatched to aid and protect the aid providers but not to become involved in the hostilities (Calvocoressi 2001:339-340).

The West European policy discourses, have given their own version of R2P. Their main discursive move of the humanitarian responsibility discourse was to introduce 'civilian' as 'innocent victims' opposed to the 'leaders' of the 'parties': the innocents are women and children, elderly people, civilians and non-combatants, the hapless victims of civil strife that their political and military leaders continue to inflict on them'. This 'humanitarian responsibility' for 'civilians' modified the original Balkan discourse by introducing a 'dual subject': 'Bosnia' was no longer compromised solely by 'parties', but by a juxtaposed constellation of 'parties' and 'civilians', of 'responsible leaders' and 'innocent victims'. The splitting of Balkan subject into 'leaders' and 'civilians' implies furthermore that responsibility was divided into a Western humanitarian responsibility taking care of the civilians and a Balkan political responsibility in that the 'Balkan leaders' were the ones who uniformly and exclusively held responsibility for the war itself (Hansen 2006:126).

In short, the humanitarian responsibility discourse constitutes responsibility as applicable to a passive subject only. Though civilians were trying not only to stay alive, but seeking to influence the outcome of the war, either by supporting 'their leaders', by creating civil society networks, or by mobilizing the intervention of the international community. An incorporation of such civilian agency would complicate the construction of a sharp division between 'leaders' and 'victims' (Hansen 2006: 127).

The absence of a political account implies that responsibility for the civilians/victims fall back upon the leaders of the Balkan discourse: the leaders are the one who have brought on the war, and who are preventing its conclusion. The

pressure on and responsibility of 'the leaders' is a consequence reinforced: not only are they responsible for the way they are also responsible for the slaughter of their own populations. While the responsibility of the West is thus on the one hand expanded in the move from a Balkan discourse to a humanitarian responsibility discourse, it is on the other hand fundamentally patrolled: the West takes on a humanitarian responsibility for the victims, but these are constituted as produced by their political and military leaders not by any political history or Western (in) action (Hansen 2006:128).

From the above discussion one can conclude that states act according to their national interest. A state will never pick up a case for Right to Protect for altruistic reasons, as the people do not give them mandate and pay taxes to be spent on foreign land. States get involved because there might be certain hidden interest which they want to fulfil, so what can be a better reason than the intervention on humanitarian grounds. This explains the delay on the part of international community to shoulder the responsibility of BiH or Darfur as compared to a much relevant area like Kuwait in 1991. Action taken belatedly in BiH was just a face saving attempt by the international community, as they were criticized a lot by media for their inaction. How far the human right violation is a genuine cause is still a very subjective question, as what can be a reason to intervene in a third world state by a Western state might be for that third world state just another excuse to interfere in its internal matter.

If there is a genuine case of human rights violation then it is good on the part of international community or a group of state to intervene to stop that from happening, rather than just be a spectator while dead bodies are piling up. But the crucial question is who will decide that human rights have been violated, the obvious answer comes to our mind is UN, but its past performance in BiH, Afghanistan, Iraq etc have left a question mark on the creditability of the UN. So the other option is group of states like a regional organization, but then it is possible that a group of state can come together, form an alliance and intervene in other state without any provocation. If this is the case then we should have seen a new intervention every second day but that is not the case - why? The reason is that with Humanitarian intervention comes the responsibility to develop that devastated state which is

financially and mentally a painful job for any state (like for the US in Afghanistan). Just take the example of democracy, it is not something to be imposed from outside, for its success it needs support of the people who are going to be effected by that institution otherwise it will not survive for long.

Despite the development of R2P at the international level, the idea of humanitarian intervention is not above criticism for the way it has been selectively used by a group of states and the international community. It is not a concept that will find favour with all states given the politics that surrounds the decision making in invoking this idea in crisis situations.

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