

## Bosnia: Reclaiming Local Power from International Authority

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February 2007: Constitutional Court challenges decisions of the High Representative for being contrary to Article 13 of the European Convention on Human Rights – Order of the High Representative: execution of the Court's decision contrary to Article 25 UN Charter – Ruling by command may lastingly hinder democratic development

The growing number of international organisations involved in 'state-building' and the scope of jurisdiction they exercise have raised a number of important questions under international law – as to the nature of international authority, its legal basis in the UN Charter, and its limitations, for example. These new approaches to conflict management have ignited a debate over the fundamental purposes of such practice and the extent to which policy-making towards those ends can be improved.<sup>1</sup> In this discourse, it has become commonplace to observe that in the life-cycle of an international territorial administration, there comes a time when the domestic political system has developed to the point where local politicians and institutions become critical and suspicious of the continued discharge of public authority by the international organ. Their ensuing calls for an end to foreign dominance generates vastly different responses. They may be addressed by a continuous devolution of power (as in East Timor under UN rule), or they may be answered with a renewed assertion of international power, as exemplified in Bosnia in its thirteenth year under close international supervision.

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<sup>1</sup> Representative of many: William Bain, *Between Anarchy and Society. Trusteeship and the Obligations of Power* (Oxford, OUP, 2003).

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A cursory review of relevant literature indicates that the 'rule by decree' approach to international institution-building has lost much of its appeal. As the Rapporteur of the Council of Europe's Political Affairs Committee remarked not so long ago, the powers of the High Representative in Bosnia and Herzegovina to dismiss public officials that he finds in breach of the Dayton Agreements 'are reminiscent of a totalitarian regime'.<sup>2</sup> More cautious critics follow a thread of thought that can be traced back to Edmund Burke's eloquent formulation of the fiduciary duties of a colonial power, and the notions of accountability the latter must be subject to.<sup>3</sup> They have compared the international community's assertion of authority in Bosnia to the British Raj in early nineteenth-century India, likening the international High Representative to an 'uncomfortable caricature of a utilitarian despot'.<sup>4</sup>

The High Representative's powers are said to derive from Annex 10 of the General Framework Agreement for Peace in Bosnia and Herzegovina (GFAP) which brought an end to the conflict in late 1995.<sup>5</sup> The Framework Agreement itself is a complex amalgam of bi- and trilateral treaties which was, in turn, endorsed by the Security Council in a Resolution based on Chapter VII of the UN Charter.<sup>6</sup> In it, the parties agreed to request 'the designation of a High Representative ... to coordinate the activities of the organisations and agencies involved in the civilian aspects of the peace settlement by carrying out, as entrusted by a U.N. Security Council resolution' various tasks related to peace implementation.<sup>7</sup> Annex 10 is, however, not the true source of the High Representative's powers; its operative part is interspersed with verbs such as 'monitor', 'co-ordinate', 'facilitate', 'report' and 'provide guidance'<sup>8</sup> – malleable language which one would not immediately associate with the powers of a 'utilitarian despot'. Indeed, the Office of the High Representative was originally not meant to exercise the panoply of public author-

<sup>2</sup> *Strengthening of Democratic Institutions in Bosnia and Herzegovina* (Doc. 10196, 4 June 2004), §35. The OHR's powers and their exercise are discussed in European Commission for Democracy through Law (Venice Commission), *Opinion on the Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative* (CDL-AD(2005)004), 62<sup>nd</sup> Plen. Sess., Venice, 11-12 March 2005.

<sup>3</sup> Cf. his celebrated speech in the House of Commons in support of Charles Fox's motion to abolish the East India Company's dominion in India (1 Dec. 1783), 'The Writing and Speeches of Edmund Burke', in *India: Madras and Bengal* (Vol. V ed. by P.J. Marshall, Oxford, Clarendon, 1981), at 385.

<sup>4</sup> For a 'neo-Burkean' critique of the interventionist paradigm interpreted as imperialist concept in disguise, see Gerald Knaus and Felix Martin, 'Travails of the European Raj: Lessons from Bosnia and Herzegovina', 14:3 *Journal of Democracy* 60-74 (2003), 66-67.

<sup>5</sup> Bosnia and Herzegovina – Croatia – Federal Republic of Yugoslavia, Paris, 14 Dec. 1995, 35 *ILM* 75 (1996).

<sup>6</sup> UN Doc. S/RES/1031 (1995), 15 Dec. 1995.

<sup>7</sup> GFAP, Annex 10, Art I.1 and 2.

<sup>8</sup> GFAP, Annex 10, Art II.1.

ity in the country.<sup>9</sup> Intransigence on the part of the local government prompted Bosnia's top diplomatic consultation body, the Peace Implementation Council, to advocate more robust policies. As a former High Representative, Lord Ashdown, explained,

we were not prepared to accept that hard-line officials could sabotage the [GFAP] with impunity, or ... cripple various governments and parliamentary assemblies, or hobble the legislative process, rendering it incapable of passing the legislation necessary to cement democracy and re-start the economy.<sup>10</sup>

The power of the High Representative grew out of the catch-all provision in the GFAP that had designated him as 'the final authority in theatre regarding interpretation of this Agreement on the civilian implementation of the peace settlement'<sup>11</sup> to whom local authorities owed full co-operation.<sup>12</sup> If such co-operation was not forthcoming, or so the thinking went, the High Representative could, as final authority over, and guardian of, the provisions of the GFAP, deem it appropriate to make binding decisions in its civilian sphere. Grasping the opportunities of unaccountable power, former High Representative Carlos Westendorp noted at that time that 'if you read Dayton very carefully, Annex 10 even gives me the possibility to interpret my own authorities and powers.'<sup>13</sup> Promptly, such ideas were welcomed by the Peace Implementation Council that convened in Bonn in late 1997.<sup>14</sup>

For a decade, the High Representative has now promulgated laws and subsidiary instruments, amended and repealed legislation adopted by local institutions and issued executive decisions based on the final interpretation of his own mandate. In effect, this has led to a situation in which some of the core functions that the Office of the High Representative continues to exercise do not find their legal basis in the substantive provisions of the constituent instruments with which it

<sup>9</sup> Cf. Carl Bildt, *Peace Journey – The Struggle for Peace in Bosnia* (London, Weidenfeld & Nicolson, 1998), at 132-133.

<sup>10</sup> Speech by the High Representative, Lord Paddy Ashdown, to the Venice Commission, 8 Oct. 2004 (annexed to the Report from the 60<sup>th</sup> Plenary Session of the Venice Commission (CDL-PV(2004)003), at p. 21).

<sup>11</sup> This language is reiterated in S/RES/1031, *supra* n. 6, §27.

<sup>12</sup> GFAP, Annex 10, Art. IV, echoed in S/RES/1031, §1.

<sup>13</sup> 'Interview with Carlos Westendorp', *Slobodna Bosna*, 30 Nov. 1997.

<sup>14</sup> Conclusions, *Bosnia and Herzegovina 1998: Self-Sustaining Structures* (Bonn, 10 Dec. 1997), merely 'welcomed' in S/RES/1144 (UN. Doc S/1997/979), 19 Dec. 1997. See, in particular s. XI.2(c) of the Conclusions which stipulates that 'measures may include actions against persons holding office ... who are found ... to be in violation of legal commitments made under the Peace Agreement and the terms of its implementation' (henceforth referred to as the 'Bonn powers').

was created.<sup>15</sup> Following Burke, present writing on the scope of the Office of the High Representative's 'international' powers is thus mostly concerned with elaborating the argument that progress towards developing democratic structures is, through a process of local mimicry, bound to remain slow and incomplete if the means employed towards that end resemble semi-authoritarian administration.<sup>16</sup> The ongoing imposition of legislation by the Office of the High Representative is seen to deprive local political institutions of any responsibility and reduces elected assemblies to toothless bodies rubberstamping legislation not of their own making. Simon Chesterman phrases the central policy dilemma facing international administrations in the following way: 'how does one help a population prepare for democratic governance and the rule of law by imposing a form of benevolent autocracy?'<sup>17</sup> 'Participatory' models that include both in-built provisions for establishing a partnership with local institutions and constitutional structures tying international authority into the long-term interest of the governed population are thus recommended as potentially more successful in the medium term and more sustainable in the long run.<sup>18</sup>

Recent thinking in the field of democracy promotion and its critique of 'state-building' under tutelage forms the intellectual backdrop to specific local challenges to international trusteeship which form the subject of this article. At the heart of the current debate over the scope of the High Representative's powers in implementing the GFAP lies a remarkable pattern of institutional contestation. Essentially, the Office of the High Representative and the Constitutional Court of Bosnia and Herzegovina have developed diverging narratives on the question of ultimate authority. While the High Representative maintains that international supervision continues to be framed by the greater struggle between progress and the darker forces of local ethno-nationalist obstructionism, the Constitutional Court has recently embarked on a course that challenges international tutelage not only on grounds of the idea of local ownership, but more interestingly, on the basis of the set of values that the Office of the High Representative itself professes to disseminate. This year, the two narratives collided in a spectacular fashion. Here is what happened.

<sup>15</sup> Doubts therefore remain whether the PIC, in the pattern of ad hoc and arbitrary extensions of international regulatory authority observed since 1997, had the legal means to vest the High Representative with powers beyond those originally provided for in Annex 10, as endorsed by S/RES 1031 (1995).

<sup>16</sup> Cf. Richard Caplan, *A New Trusteeship? The International Administration of War-Torn Territories* (Adelphi Paper #341, Oxford, OUP, 2002), at 54-55.

<sup>17</sup> Simon Chesterman, *You, the People. The United Nations, Transitional Administration, and State-Building* (Oxford, OUP 2004), at 127. Cf. also the Report by the CoE Political Affairs Committee, *Strengthening of Democratic Institutions in Bosnia and Herzegovina* (Doc. 10196, 4 June 2004), §35.

<sup>18</sup> Cf. Bernhard Knoll, 'Legitimacy through Defiance: The UN and Local Institutions in Kosovo', 17:4 *Helsinki Monitor* 313-326 (2006).

In February 2007, the Court published its decision on the dismissal of Dragan Kalinić, the fiery speaker of the Republika Srpska National Assembly who had been removed from office by the Office of the High Representative in 2004 along with 59 other individuals suspected of financing Radovan Karadžić's fugitive life.<sup>19</sup> Back in June 2004, the High Representative had, along with his removal decision, also barred Mr. Kalinić from holding any official, elective or appointive public office or from running in elections until such time as the High Representative expressly authorised him to do so or hold the same. Entitlements to receive remuneration arising out of his posts were terminated. No evidence of wrongdoing was, however, produced or presented to an independent authority, judicial or otherwise. Moreover, the High Representative's decision did not provide for appeal – a situation confirmed by Bosnia's Supreme Court which ruled in 2005 that Mr. Kalinić's request for the protection of his rights and freedoms was not admissible.<sup>20</sup> In his appeal to the Constitutional Court, the appellant complained against a violation of his rights under the Constitution of Bosnia and Herzegovina and the ECHR, especially its fair trial guarantees, and stated that the legal remedies he filed against the decision of the High Representative did not meet the criteria of effectiveness as there were no institutional mechanisms to correct such a decision. In essence, the Court agreed. While it declared itself incompetent to review individual decisions of the High Representative, it pronounced itself competent to examine whether legal remedies are available within the meaning of Article 13 of the ECHR.<sup>21</sup> The answer, predictably, was that there weren't any.<sup>22</sup>

With this decision, the Constitutional Court which had hitherto declined jurisdiction in all cases challenging the High Representative's powers submitted to

<sup>19</sup> Office of the High Representative, *Decision to Remove Dr. Dragan Kalinic from his Positions as Chairman of the National Assembly of RS and as President of the SDS*, No. 219/04 of 29 June 2004.

<sup>20</sup> The Supreme Court's ruling of 18 May 2005 is discussed in the Constitutional Court's decision on admissibility and merits in the case of *Milorad Bilbija and Dragan Kalinić* [2006], AP-953/05, 8 July 2006), §14.

<sup>21</sup> *Id.*, §40.

<sup>22</sup> *Id.*, §51. The lack of remedies against executive acts of international authorities in Bosnia has not only affected local politicians; mistakes resulting in the denial of due process were also made with respect to 793 police officers who were banned for life from exercising police duties. Cf. the Report of the CoE Commissioner for Human Rights on the issue (*Special Mission to Bosnia and Herzegovina* (CommDG(2007)2), 17 Jan. 2007). In 2004, the BiH Human Rights Commission had found that Art. 6 ECHR had not been violated by national authorities, but insinuated that such breach had been committed by the UN (*Rusmir Džaferović v. The Federation of Bosnia and Herzegovina* (No. CH/03/12932, 7 May 2004, Decision (Merits)), at §72). In a report on the issue, the CoE Venice Commission suggested that the UN Security Council set up a body entrusted with reviewing decertification cases (*Opinion on a Possible Solution to the Issue of Decertification of Police Officers in Bosnia and Herzegovina* (No. 326/2004, 64<sup>th</sup> Sess. (Venice, 21-2 Oct. 2005), at §§57-8) – a recommendation ignored so far.

it,<sup>23</sup> aligned its reasoning with the opinion of the Venice Commission which had, a year earlier, concluded that

the High Representative is not an independent judge and he has no democratic legitimacy derived from the people of Bosnia and Herzegovina ... As a matter of principle, it seems unacceptable that decisions directly affecting the rights of individuals taken by a political body are not subject to a fair hearing or at least the minimum of due process and scrutiny by an independent court.<sup>24</sup>

In what has been termed the most authoritative challenge yet to the international protectorate, the Constitutional Court found an international authority in violation of the very norms it has been mandated to promote.<sup>25</sup>

The Court's generic contribution to the debate on the use of 'Bonn powers' was its pronouncement of an uncomfortable truth, namely, that it fell upon Bosnian state institutions to secure the individual's protection of rights and freedoms, even when it had transferred competencies to international organisations.<sup>26</sup> Their international legal obligation to co-operate with the High Representative 'cannot determine the constitutional rights of people' who are within their jurisdiction.<sup>27</sup> An echo of powerlessness, however, reverberates through the decision's operative part which ordered the State as per its positive obligations to put an end to the violation of Article 13 ECHR and protect the appellants' constitutional rights without specifying how they could accomplish this in the face of a hostile international presence.

The international community's irritated response to what must have appeared as vulgar impertinence came immediately. The communiqué by the ambassadors represented on the PIC Steering Board<sup>28</sup> that followed the publishing of the Court's decision contained a thinly veiled warning against further challenges to international authority. It 'noted with concern that domestic actors ... have challenged actions undertaken on the basis of Dayton and UN Security Council Resolutions

<sup>23</sup> See, e.g., its rejection of the appeal by the former PM of the Federation of BiH, Edhem Bićakčić (U 37/01 of 2 Nov. 2001).

<sup>24</sup> *Opinion* of 11-12 March 2005, *supra* n. 2, §96. The Venice Commission proposed 'as an urgent step' to set up an independent panel of experts which would have to give its consent to any such decision of the High Representative (§98).

<sup>25</sup> European Stability Initiative, *Legal Dynamite: How a Bosnian court may bring closer the end of the Bosnian protectorate* (12 March 2007), at 3.

<sup>26</sup> CC decision AP-953/05, *supra* n. 20, §53.

<sup>27</sup> *Id.*, §68.

<sup>28</sup> As diplomatic body, the PIC Steering Board includes the members of the Contact Group (US, Russia, UK, Germany, France, Italy) as well as Japan, Canada, the EU Presidency, the European Commission and the Organisation of the Islamic Conference. The Steering Board and the larger Peace Implementation Council, composed of over fifty states and agencies, guide the peace implementation process in Bosnia.

under Chapter VII' and reminded all institutions that Bosnia's international obligations under the UN Charter must be respected. In a fit of activism, it also called upon the High Representative 'to take appropriate actions to ensure that Bosnia and Herzegovina fulfils these international obligations.'<sup>29</sup>

The High Representative followed up on this call for action in his own right and set the international community on a war path with Bosnia's constitutional organs. He announced, in the form of an Order, that any step taken by any institution or authority to establish any domestic mechanism to review his decisions would be treated as conduct undermining the implementation of the civilian aspects of the GFAP,<sup>30</sup> implying that, should institutions of Bosnia and Herzegovina follow-up on the Constitutional Court's decision, they would be in violation of Article 25 of the UN Charter. From a political perspective, this was a remarkable departure from an earlier willingness, exhibited by Lord Ashdown, to treat the Court not merely as a nuisance but as an asset:

I have recognized the Constitutional Court's right to review my Decisions. That's not always been welcome to some of my international partners who believe this is an infringement of the absolute power of the Bonn powers. But I have said that I would submit my Decisions where they are constitutionally contentious to the Court, and if the Court decided that the action I had taken was unconstitutional, I would withdraw that procedure ... I've already informed the Court that I would respect their decision. I am the first High Representative to have done this.<sup>31</sup>

He would have been the last. Under a legal prism, the Office of the High Representative's understanding of the concept of effective legal remedies as munificence showered upon complainants *ex gratia* has seen a revival and is neatly encapsulated in its statement, contained in the March 2007 Order, that it is already 'open for individuals to make representations to the High Representative to have their ban lifted, notwithstanding their previous removal.'<sup>32</sup> As the Constitutional Court's ruling could not affect the status of individuals banned from public life by his decisions, they remain condemned to a *capitis deminutio media* – 'civil death'.

It is not disingenuous to view the Order issued by the former High Representative, Dr. Schwarz-Schilling, as an ironic twist that will shape his legacy. After all, he assumed office with the intention of being the last incumbent. He vowed to radically transform his office into that of a European Union Special Representa-

<sup>29</sup> Communiqué by the PIC Steering Board, *Maintaining Progress* (27 Feb. 2007).

<sup>30</sup> *Order on the Implementation of the Decision of the Constitutional Court of Bosnia and Herzegovina in the Appeal of Milorad Bilbija et al.* (No. AP-953/05), 23 March 2007, Art. 2.

<sup>31</sup> Press Conference on Constitutional Court, 11 Feb. 2005.

<sup>32</sup> OHR Order of 23 March 2007, *supra* n. 30, p. 4.



tive and to practice restraint in the use of his Office's regulatory powers. In whichever way Bosnia will look back at his reign, there are strong indications that by issuing the Order, he overstepped the mandate given to his Office. While the so-called Bonn powers vested him with the competence to make 'binding decisions, as he judges necessary' on certain issues which 'may include actions against persons holding public office ... who are found ... to be in violation of legal commitments under the Peace Agreement or the terms of its implementation',<sup>33</sup> they do not foresee, or imply, a competence to revoke a decision of Bosnia's highest constitutional organ. After all, the High Representative may act as the final interpretative authority over aspects of the Peace Agreement and may oversee the implementation in the civilian sphere, while 'the primary responsibility for the further successful implementation of the Peace Agreement lies with the authorities in Bosnia and Herzegovina themselves', as the Security Council put it recently.<sup>34</sup>

Indeed, strong doubts remain whether the High Representative can, without having received commensurate competencies under Chapter VII of the UN Charter, characterise a highly respected institution made up by Bosnia's six most senior judges and three jurists appointed by the President of the European Court of Human Rights as obstructive of the peace process when it merely fulfilled its role of upholding the Constitution.<sup>35</sup> The threat to annul any future decision of a court or any other state institution on the issue extinguishes due process considerations in an anticipatory fashion and is in no way compatible with the understanding of the nature of 'emergency powers' which had underpinned the High Representative's interventions in the past years.<sup>36</sup> As there are currently no institutions capable of making such determination within the Bosnian legal system we shall not know whether the Order was adopted *ultra vires*. What we do know is that under the pressure of the United States and the United Kingdom, the Office of the High Representative dramatically departed from the advice of the Venice Commission which had, in 2005, recommended that it provide guidance to institutions of Bosnia and Herzegovina 'by more subtle means'.<sup>37</sup>

It is, in any case, hard not to notice the emerging self-consciousness, if not irony, with which the Constitutional Court argued its role in protecting the Bosnian Constitution against the political supremacy of the Office of the High Representative. In open defiance of international power, it delivered a potent reminder that effective mechanisms for the protection of human rights are absent. In its agonis-

<sup>33</sup> PIC Conclusions, *supra* n. 14, XI.2(c).

<sup>34</sup> S/RES/1722, *The Situation in Bosnia and Herzegovina*, 21 Nov. 2006, §1.

<sup>35</sup> Art. 6.3. of the BiH Constitution (Annex IV of the GFAP).

<sup>36</sup> Cf. *VC Opinion* of 11-12 March 2005, *supra* n. 2, at §86.

<sup>37</sup> *Id.*, §100.



tic counter-narrative, the Court displayed an extraordinary amount of mistrust in the authority of the international executive and challenged the legitimating myth of emergency intervention on which the Office of the High Representative bases its continuing powers. In essence, there are two aspects to the Court's reminder. The first is a message to the High Representative, chiding him for disregarding the recommendations of the Venice Commission on the matter and reprimanding him for having failed to implement adequate procedures for redressing his Office's violations of human rights. Yet the Court's approach to the problem is decidedly bottom-up, mindful of it being situated within national legal space.<sup>38</sup>

Second, its argumentative strategy reinforces its position *vis-à-vis* domestic governmental branches as the true guardian of European values. According to the Constitutional Court, the fact that the primary actor behind a human rights violation is an international agent does not excuse the state from its domestic responsibilities. State institutions, the Court seems to say, cannot avoid these responsibilities by hiding behind the autonomy of the Office of the High Representative, regardless of whether Bosnia shared responsibility for its creation or not. On a more political level, the Court provided a stern reminder that the primary obligation of Bosnian institutions is to follow the Constitution, and not to be bullied into submission by the High Representative's decisions. By the same token, it thereby consolidated a distinctly national perspective in the untidy architecture of Bosnian constitutional relations, in defiance of the 'international obligations' so confidently invoked by the Peace Implementation Council Ambassadors and the subsequent High Representative's Order.

Given the history of successful rebellion of Bosnian courts against the non-reviewability of legislative acts of the High Representative,<sup>39</sup> there is as yet a more general lesson to be learned here: if domestic courts ascertain that an international authority is in breach of a comprehensive set of guarantees, they should continue to weave the threads of the counter-narrative and proceed to assess the legality (or, as in the *Kalinić* case, the human rights compatibility) of the effects produced by that authority as it acts within a national legal order, on the basis of domestic human rights standards. This may facilitate the metamorphosis of an international mandate into domestic authority, which would, in turn, enable the High

<sup>38</sup> '[T]here is nothing in the international legal context from which this case arises to compel it to reach a conclusion different from the one at which it would arrive purely on the basis of its interpretation of the rights in their national constitution context.' (CC decision AP-953/05, *supra* n. 20, §71).

<sup>39</sup> Cf. the celebrated decision of the CC in the case of U 9/00, 3 Nov. 2000, §5 *et seq.* and its jurisprudence that further conceptualised the 'dual functions' which the High Representative fulfills as both international authority and organ substituting for national authorities in the cases U 25/00 of 23 March 2001 and U 13/02 of 6 April 2002. See Joseph Marko, *Five Years of Constitutional Jurisprudence in Bosnia and Herzegovina: A First Balance* (EURAC, European Diversity and Autonomy Papers #7, 2004), at 16-8.

Representative to continue to address international obligations while respecting barriers against disproportionate interferences in legal positions.

As Nathaniel Berman has argued with great eloquence, bold experiments in internationalisation need to constantly achieve and re-achieve legitimacy

through continually persuading relevant publics that the internationally sponsored regime was producing an evolving and coherent whole out of its heterogeneous elements in response to the exigencies of the local situation.<sup>40</sup>

Yet chances are that the current High Representative, Miroslav Lajčák, will continue to look for short-term gains from interventions such as the Order discussed here and ignore the wider damage that his predecessor has done. With a remarkable rebuff to the only local authority in the country which has established a constitutional balance between democracy and ethnocracy and which continues to be indispensable in making Bosnia's fragile state structure work, the Office of the High Representative may have lastingly undermined its own Mission and the first of the six core areas on which it had vowed to focus its energy: the entrenchment of the rule of law.<sup>41</sup> Worse, the international community's practice of ruling by command may lastingly debilitate democratic development, for it entails an abrogation of the courts' monopoly over the correct interpretation of the constitution.

The tension between the idea of sustainable local ownership and the practice of reasserted coercive power by international authority has often been presented as a paradox of state-building. If there is a glimmer of hope in the constitutional politics of Bosnia and Herzegovina, it may be the emerging self-consciousness of local courts and the way in which they insinuate themselves into the foreground of international political initiatives. The malicious dialogue between the Office of the High Representative and the local protector of Bosnia's constitutional order will, in any case, continue. Stay tuned for the next sequel of what may turn into a grim struggle between an international authority and its unruly ward.



<sup>40</sup> 'Intervention in a "Divided World": Axes of Legitimacy', 19:4 *EJIL* 743-769 (2006), at 748.

<sup>41</sup> *OHR Mission Implementation Plan*, 31 Jan. 2003.