

*Journal*  
of Global Politics  
and Current Diplomacy

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*Chandra PUTCHA, Chapman RACKAWAY, Paul RUTLEDGE  
and Brian W. SLOBODA*

**The Burden of International Obligation and Responsibility  
in Granting Amnesty to Boko Haram by the Nigerian State**

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The Practical Limits of the Dayton Peace Agreement**

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# An Analysis of the Results from the 2016 US Presidential Election

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Paul RUTLEDGE \*\*\* Brian W. SLOBODA \*\*\*\*

**Abstract.** This paper presents a model for state-level presidential outcomes for the popular vote and the Electoral College votes for the 2016 Presidential election in the United States of America. The input for the statistical model in this paper used a variety of polls from each state to estimate the winner of each state by the popular vote and the Electoral College votes. The first part of the paper presents an overview of a variety of models used to predict outcomes in past Presidential elections as well as the 2016 election. The final results of the 2016 election revealed that the polls were not accurate. But is that true? We carefully investigate those polls and compare our results to other results. Then, the final part of the paper explores the plausible reasons for the unexpected results and how these results may translate into the results of future Presidential elections.

**Keywords.** Presidential elections, state polls, behavioural differences in voters

## Introduction

FOR MOST OF THE HISTORY OF POLLING, pollsters have had great success predicting the outcomes of American Presidential elections. However, there have been notable and infamous exceptions. When John Dewey's lead grew so large in 1948, Gallup stopped updating their polls and thus missed the most significant come-from-behind victory of the 20<sup>th</sup> century in Harry Truman's eventual presidential election victory. In 2000, which was perhaps the tightest race for the presidency of the polling era, the popular vote winner lost the Electoral College, and the event

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ushered in an era of greater scrutiny to state-level results. The 2016 Presidential election joined 1948 and 2000 as one of the greatest surprise elections in recent American history. Political pundits and election forecasters were nearly unanimous in their expectations that Hillary Clinton would not only win, but in some cases comfortably win, the Electoral and popular vote majorities and become the 45<sup>th</sup> President of the United States. Her opponent, Donald J. Trump, defied campaign norms consistently throughout, and the election results proved to be no different. Trump lost the popular vote but won the Electoral College just as George W. Bush had in 2000. As ever more sophisticated data collection and analysis techniques entered both political campaigning and political science, so increasing methodological sophistication followed in the predictive models used by pundits and political scientists alike. Increasing sophistication noted during the 2008 and 2012 elections suggested that polling was more accurate than it had ever been before. However, as noted in 2016 and in 2000, the unexpected outcomes of the Presidential elections caused journalistic analysts and scholars alike to question their predictive models. Thus, a new opportunity to examine the forecasting models and refine existing predictive practices is presented.

Forecasting elections has become a tradition among political scientists and often with great success. Many election-forecasting models detailed in this manuscript have proven successful over multiple election cycles. In fact, several of the election models discussed can claim to have been “mostly correct” in their predictions of the 2016 election. Several notable models predicted the popular presidential vote to within half of a percentage point of the actual vote total. The more sophisticated state-level predictive models that focused on electoral votes were generally less accurate.

In this paper, we apply an approach to the aggregation of Presidential state polls from various publications using statistical methods to estimate the winner of the 2016 Presidential election. The input data for this analysis are publicly available and compiled for statistical analysis. We will describe this method and tell a story about the meaning of these results. Indeed, the premise of this manuscript challenges the idea that “mostly correct” is an adequate standard by which to evaluate predictive models. Do election-forecasting academics truly want to laud “scientifically close” accomplishments? When one considers the binary choice involved in an American election (functionally only between Democrats and Republicans even with the presence of other minor parties), predictors need only choose between two options. With such a small sample of potential victory from which to draw, should anyone who in fact got the prediction wrong be considered mostly correct and the contribution of their model valuable or in some cases be the subject of praise and adulation? If our election forecasting science had been accurate, we would be in the middle of the United

States' second-consecutive historically significant presidential term as the first female President, Hillary Rodham Clinton, would be in office.

In contrast, we advocate an approach that evaluates predictive models from a dichotomous perspective to which a wider readership would subscribe, and we begin from the fundamental acceptance that while some predictions may have been close to the eventual outcome, it does not matter if those predictions are in fact wrong. Put another way, what is the value of a model that comes second in the race to predict? When predictive methods fail in their intended tasks, they should either be improved upon or abandoned. We must first determine whether the methods are robust enough to continue using, and if so, we must determine what improvements to the models must be made.

## The 2016 Presidential Election Forecasts

In the 2016 Presidential election, most forecasting models produced by political scientists predicted Hillary Clinton to be the eventual victor. Notably, while Donald Trump won the Electoral College vote, Hillary Clinton did, in fact, win the two-party popular vote with a 51.1 percent tally. Evaluating predictive models in the two-tiered system of the Electoral College provides a complication that we must consider from the very beginning. Some models may predict a winner of either the popular vote or the electoral vote, and since a split popular-electoral vote has occurred twice in the last five elections, a complete model will separately predict both the popular and electoral winners. Donald Trump, the winning 2016 candidate, received 48.9 percent of the two-party percentage of the popular vote. However, Donald Trump won the presidency in spite of the popular vote disadvantage with a somewhat comfortable Electoral College margin of 306-232.

In his recap of the 2016 presidential election forecasts put forward by political scientists, James Campbell states that “with few exceptions, the accuracy of presidential vote forecasts ranged from impressive to extraordinary” ([Campbell et al. 2017](#)). Campbell goes on to note in his evaluation of ten forecasting models that “three missed Clinton’s national vote share by less than a half of one percentage point,” and seven others were within a percentage point or less of the two-party national vote share ([Campbell et al. 2017](#)). Finally, in noting several models that were further from the true two-party popular vote tally, Campbell notes that Abramowitz’s “Time for a Change” model underpredicted the Clinton vote share by 2.5 percentage points, a total which sets Abramowitz’s model apart among the election forecast models Campbell summarizes for being one of the least accurate.



Campbell’s summary, however, is problematic: Abramowitz’s “Time for a Change” model was one of the two election forecast models Campbell summarized which actually predicted a Trump victory. The other exception belongs to Norpoth’s primary model that forecasted a 52.5 percent share of the two-party popular vote for Donald Trump. The two political science election forecast models that correctly predicted the 2016 presidential election winner were also the most incorrect according to the accepted practices of election forecasters. Thus, [Campbell et al. \(2017\)](#) lauded the accuracy of the models that were wrong while describing the two models that correctly predicted the winner to be the least accurate. However, with regards to Campbell’s model, it should be noted that it did so by underestimating Clinton’s electoral vote which is a legitimate issue with the model as [Abramowitz \(2012\)](#) argues, forecasting elections based on the popular vote has become a hazard for political scientists in a deeply divided partisan era. The closely divided partisanship currently observed in American politics tends to create narrowly divided elections, where the normal results will be extremely close. Indeed, since 1992 only two elections have seen popular vote victory margins larger than five percent: 1996 and 2012. Presidential elections are exceptionally close as a default in the 21<sup>st</sup> century.

Due to the close elections associated with such partisan divisions, a previously rare split between the popular vote winner and the Electoral College winner is much more likely. Two of the last five Presidential elections produced split popular and electoral votes (2016 and 2000). Specifically, 2000 was the first election since 1888 to see a split popular and electoral vote when Republican George W. Bush won the Electoral College despite losing the popular vote to Democrat Al Gore.

The fundamental philosophical question this raises is whether or not we really want to be the discipline that makes a habit of taking second place victory laps? Not even in motorsports such as NASCAR does second place and the associated reward in the point system prompt such a trip to Victory Lane.

## The Models That Were Close...But Wrong

**Table 1:** Summary of the Academic Models in the 2016 Presidential Election

Author	Model Type	Clinton Popular Vote Prediction	Clinton Electoral Vote Prediction	Trump Popular Vote Prediction	Trump Electoral Vote Prediction
<a href="#">Lewis-Beck &amp; Tien</a>	Political Economy	51%	N/A	49%	N/A
<a href="#">Campbell</a>	Convention Bump	51.2%	N/A	48.8%	N/A

<a href="#">Campbell</a>	Trial Heat	50.7%	N/A	49.3%	N/A
<a href="#">Lockerbie</a>	Economic Pessimism	50.4%	N/A	49.6%	N/A
<a href="#">Erickson &amp; Wlezien</a>	LEIs and Polls	52%	N/A	48%	N/A
<a href="#">Jerome &amp; Jerome</a>	State-by-State Political Economy	50.15%	319	49.85%	219
<a href="#">Holbrook</a>	National Conditions	52.5%	N/A	47.5%	N/A
<a href="#">Abramowitz</a>	Time For Change	48.6%	N/A	51.4%	N/A
<a href="#">Norpoth</a>	Primary Model	48.6%	N/A	51.4%	N/A

Among the forecasting models that predicted a Hillary Clinton victory, the closest model to an accurate forecast of the two-party percentage vote was the Political Economy Model constructed by Lewis-Beck and Tien (PEM) ([Campbell et al. 2017](#)). The PEM has predicted the percentage of popular votes in presidential elections with impressive accuracy since the early 1980s while using time-series methodology to base the model in historical election results. The percentage share of the two-party popular vote is modelled as a function of political popularity and economic growth. Political popularity is derived from the incumbent president's job approval rating in the July Gallup poll, while economic growth is measured by the growth in the Gross National Product (GNP) in the first two quarters of the election year ([Lewis-Beck & Tien 2016](#)). Using the 51 percent job approval rating in July 2016 of incumbent Democratic President Barack Obama and the .20 percent GNP growth during the first two quarters of 2016, the PEM predicted that Hillary Clinton (the same party candidate as the incumbent president) would receive 51 percent of the two party vote for president in 2016. The model was only off by 0.1 percent of the two-party popular vote share, which is indeed an impressively accurate result as Campbell notes in his review of the models.

James [Campbell's \(2016\)](#) Convention Bump model was similarly close. Specifically, Campbell's model accounted for both post-convention bumps for both of the two major party candidates as well as the economy. In this model, Campbell's forecast predicted a 51.2 percent victory in the two-party vote share for Hillary Clinton. The model weighed the unfavourable climate for Democrats, but it also accounted for the rare occasion in which both of the major party candidates were so significantly unpopular with Hillary Clinton considered the "lesser of two evils." Two weeks following the conventions, [Campbell \(2016\)](#) also issued his Trial Heat model, which predicted Clinton would receive 50.7 percent share of the two-party vote. While only a one-half-of-one-percent decline from the post-convention prediction, the 50.7 percent share was not only remarkably close to flipping in Trump's favour, it also exposes a downward trend for the Clinton vote share throughout the election cycle. In summarizing the 2016 election cycle for his forecast models, Campbell (2016) maintained that his forecasts "could hardly have been more accurate" ([2016: 334](#)).

Brad Lockerbie's Economic Pessimism Model forecast a victory for the Democratic candidate Hillary Clinton to receive 50.4 percent of the two-party vote share, 0.7 percent off of the actual two-party vote share of 51.1 percent. Lockerbie's model has the advantage of being simple yet reasonably accurate at predicting the two-party vote share. The model only accounts for prospective views of voters regarding the economy and the length of time the incumbent party has held control of the White House (Lockerbie 2012). Lockerbie notes that many pundits predicted a landslide victory for Hillary Clinton, and in his retrospective view on the success of his model in forecasting the 2016 election, he commends political scientists for sticking to electoral fundamentals for more accurate forecasts in spite of the unconventional candidacy of Donald Trump (Lockerbie 2016).

Erickson and Wlezien's (2016) Leading Economic Indicators and Polls Model predicted a 52 percent share of the two-party vote for incumbent-party candidate Clinton. The Erickson and Wlezien forecast models the incumbent's two-party vote share as a function of prospective economic indicators, specifically the Conference Board's Index of Leading Economic Indicators (LEI) from quarter 13 of the incumbent president's term, and trial heat polls from quarter 15. Erickson and Wlezien present another political science model that predicted the two-party vote share for the incumbent candidate within a percentage point of the actual vote. Erickson and Wlezien (2016b) note, similar to Lockerbie (2016) above, that the election fundamentals used in political science forecasts won out over the pundit predictions of a doomed Trump candidacy because of his unconventional style.

Jerome and Jerome-Spezari's (2016) State-By-State Political Economy Model is the first of the predictive methods under review here to take a state-centred approach and account for the Electoral College. The model predicted a Clinton victory in both the popular vote (50.15 percent) and the Electoral College (319 votes). Clinton won the popular vote with 51.1 percent but lost the Electoral College vote with 232 electoral votes. The model was incorrect in the key states that swung the election in President Trump's favour, including Florida, Iowa, Michigan, Ohio, Pennsylvania, Virginia, and Wisconsin. Among those states, the authors note stemming from simulated revision models that the inclusion of state level popularity and party identification of voters would have only helped in correctly predicting Iowa and Pennsylvania. However, the key states of Florida, Michigan, and Wisconsin remained less predictable in Jerome and Jerome-Spezari's model. One idea the authors advance for model improvement, innovative in the forecasting literature, is the inclusion in the model of the primary performance of the incumbent candidate's main rival (in this case, Bernie Sanders) for each state. Bernie Sanders did perform well and in fact over-performed compared to the national average in Iowa, Michigan, Pennsylvania, and Wisconsin. While the inclusion of this variable offers some innovative progress, the question remains

whether this would improve the overall forecasting model for all election cycles or better capture the peculiarities of the 2016 election only (Jerome & Jerome-Spezari 2016).

Finally, Holbrook’s (2016) National Conditions and Trial Heat Model predicted a two-party vote share of 52.5 percent for Hillary Clinton. The model with Clinton’s highest reported two-party vote share represented a +1.4 percent deviation from the actual two-party vote total Clinton earned. The Holbrook Model incorporates a variety of national conditions throughout the summer of the election year and trial heat polls in early September of the election year. In his assessment of the model, Holbrook notes that even when accounting for the election results of 2016, the fit of the model from 1952-2016 does not change. He concedes appropriately, however, that forecasts are based on predicting the popular vote winner rather than the winner of the presidential election due to the Electoral College.

## State-Level Electoral Vote Predictive Models

Table 2: Electoral Vote—The State-Level Predictive Models

Model Title	Primary Author	Summary	Trump EV <sup>1</sup> Prediction	Clinton EV Prediction	Trump PV <sup>2</sup> Prediction	Clinton PV Prediction
538.com	Silver, Nate	meta-analysis of state-level polling data	235	302	44.9	48.5
New York Times	Katz, Josh	vote estimates for each electoral subdivision	216	322	50.2	48.8
Princeton	Wang, Sam	Proprietary	215	323	48	52
Cook Political Report	Staff	Proprietary	214	278	N/a	N/a
VA Center for Politics	Sabato, Larry	Proprietary	216	322	N/a	N/a
PredictWise	Rothschild, David	Proprietary	216	322	49.8	50.1
Actual Results			306	232	46.1	48.2

<sup>1</sup>EV= the Electoral College votes; <sup>2</sup>PV= the popular vote

The academic models presented so far are all products of academics and have one other notable connection: every model predicts the popular vote for president only. While the popular vote for the president is significant, the final predictor of the election winner comes in the state-by-state accounting of the Electoral College

vote. Numerous models exist to predict the electoral winner, though most come from commercial entities with two exceptions.

The ‘gold standard’ of electoral predictions prior to 2016 was undoubtedly FiveThirtyEight.com, a website started by and still run by Nate Silver. While sites such as RealClearPolitics pioneered state-by-state polling data to predict electoral vote outcomes, Silver was the first to advance the methodology publicly to weight the individual state-by-state polls. Notably, Silver is not a political scientist but trained in the analysis of baseball statistics with Bill James, a pioneer himself in data analysis of major league baseball.

In 2008, Silver’s predictive model correctly selected the winner between John McCain and Barack Obama in forty-nine of the fifty states, creating a reputation that Silver had determined a better way to conduct election polls. In 2012, Silver improved on the accuracy of the 2008 model and predicted the winner of all fifty states in the electoral contest between Barack Obama and Mitt Romney.

The election of 2016 would not continue Silver’s streak. For the Trump-Clinton election of 2016, Silver actually reversed the electoral numbers. 538.com predicted that Hillary Clinton would win both the popular and electoral votes, with 48.5 of the popular votes and 302 electoral votes going to the Democratic nominee, while Donald Trump would receive 44.9 percent of the popular vote and 235 electoral votes. Once the votes were tallied, Trump took in 306 electoral votes and Clinton earned 232, while Clinton did win the popular vote as predicted by Silver but with 48.2 percent compared with Trump’s 46.1 percent. All percentages of vote are of total votes cast, not the two-party vote.<sup>1</sup>

In the 2016 election, Nate Silver’s prediction failed to correctly predict the winner in five battleground states that led to Trump’s victory: Michigan, Wisconsin, Pennsylvania, Florida, and North Carolina. After only getting one state wrong in the 2008 and 2012 elections, being off by five states with a combined electoral vote of ninety was enough to make Silver look off the mark for his 2016 prediction. It may appear that Silver’s model was wrong based on the outcomes from the election, but it was not wrong. That is, his model was highly accurate because his final model included a 10 percent probability that there would be an Electoral College/popular vote split that would give the election to candidate Trump. Silver relies on a post he issued via the 538 blogs about a week out from the election noting that the probability for Clinton to win the popular vote was 85 percent but only 75 percent for the Electoral College. Consequently, the latter presented a widening gap that people should be aware of creating a 10 percent chance of a split. Therefore, according to Silver, his predictive model continued its winning streak because despite calling the winner of both the popular vote and the Electoral College for Clinton., his model reports probabilities, and the proba-

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<sup>1</sup> All percentages of vote are of total votes cast, not two-party vote.

bility of a Trump popular vote win was 15 percent and an Electoral College win as 25 percent. In turn, on technical grounds, he called the election correctly.

*The New York Times'* Josh Katz predicted an even larger Clinton victory, with 322 electoral votes to Trump's 216. Katz also predicted that Trump would win the popular vote with 50.2% of the two-party vote to Clinton's 48.8 percent. Katz' model predicted even larger likelihoods of victory in the states Clinton was projected to win, and the Times/Katz model is also proprietary to that provider.

PredictWise<sup>2</sup>, another site with its own proprietary model, made an identical prediction to the Times: Clinton 322 to Trump 216. Cook Political Report (Cook 2016) predicted the electoral vote only with a 278-214 advantage for Clinton with a few states excluded for being too close to call but still adequate to predict a Clinton victory should all of the excluded states fall to Trump.

Academic state-by-state models fared no better. Larry Sabato's Crystal Ball (Sabato et al. 2016) predicted the same as Cook Political and the Times, while the Princeton Elections Project (Wang 2016) called one additional electoral vote to Clinton for a 323-215 advantage.

**Table 3:** State-by-State Predictions by Predictor

State	Electoral Votes	NYT	538	PW	PEC	Cook	Sabato	Actual Result
D.C.	3	>99% Dem.	>99% Dem.	>99% Dem.	>99% Dem.	Solid Dem.	Solid Dem.	Dem
California	55	>99% Dem.	>99% Dem.	>99% Dem.	>99% Dem.	Solid Dem.	Solid Dem.	Dem
Maryland	10	>99% Dem.	>99% Dem.	>99% Dem.	>99% Dem.	Solid Dem.	Solid Dem.	Dem
Hawaii	4	>99% Dem.	99% Dem.	>99% Dem.	>99% Dem.	Solid Dem.	Solid Dem.	Dem
Vermont	3	>99% Dem.	98% Dem.	>99% Dem.	>99% Dem.	Solid Dem.	Solid Dem.	Dem
New York	29	>99% Dem.	>99% Dem.	>99% Dem.	>99% Dem.	Solid Dem.	Solid Dem.	Dem
Rhode Island	4	>99% Dem.	93% Dem.	>99% Dem.	>99% Dem.	Solid Dem.	Solid Dem.	Dem
Illinois	20	>99% Dem.	98% Dem.	>99% Dem.	>99% Dem.	Solid Dem.	Solid Dem.	Dem
Washington	12	>99% Dem.	98% Dem.	>99% Dem.	>99% Dem.	Solid Dem.	Solid Dem.	Dem
New Jersey	14	>99% Dem.	97% Dem.	>99% Dem.	>99% Dem.	Solid Dem.	Solid Dem.	Dem

<sup>2</sup> Predictwise. 2016. "Election Day." Retrieved from <https://blog.predictwise.com/2016/11/election-day-2016/>

State	Electoral Votes	NYT	538	PW	PEC	Cook	Sabato	Actual Result
Connecticut	7	>99% Dem.	97% Dem.	>99% Dem.	99% Dem.	Solid Dem.	Solid Dem.	Dem
Maine (CD 1)*	1	>99% Dem.	92% Dem.	98% Dem.	>99% Dem.	Solid Dem.	Solid Dem.	Dem
Delaware	3	>99% Dem.	91% Dem.	>99% Dem.	>99% Dem.	Solid Dem.	Solid Dem.	Dem
Massachusetts	11	>99% Dem.	>99% Dem.	>99% Dem.	>99% Dem.	Solid Dem.	Solid Dem.	Dem
Oregon	7	98% Dem.	94% Dem.	>99% Dem.	>99% Dem.	Solid Dem.	Solid Dem.	Dem
Virginia	13	96% Dem.	86% Dem.	98% Dem.	98% Dem.	Likely Dem.	Likely Dem.	Dem
New Mexico	5	95% Dem.	83% Dem.	98% Dem.	91% Dem.	Likely Dem.	Likely Dem.	Dem
Michigan	16	94% Dem.	79% Dem.	95% Dem.	79% Dem.	Lean Dem.	Lean Dem.	Rep
Minnesota	10	94% Dem.	85% Dem.	99% Dem.	98% Dem.	Likely Dem.	Likely Dem.	Dem
Wisconsin	10	93% Dem.	84% Dem.	98% Dem.	98% Dem.	Lean Dem.	Likely Dem.	Rep
Maine	2	91% Dem.	83% Dem.	98% Dem.	98% Dem.	Likely Dem.	Likely Dem.	Dem
Pennsylvania	20	89% Dem.	77% Dem.	93% Dem.	79% Dem.	Lean Dem.	Lean Dem.	Rep
Colorado	9	89% Dem.	78% Dem.	95% Dem.	96% Dem.	Lean Dem.	Likely Dem.	Dem
New Hampshire	4	79% Dem.	70% Dem.	84% Dem.	63% Dem.	Lean Dem.	Lean Dem.	Dem
Nevada	6	68% Dem.	58% Dem.	91% Dem.	84% Dem.	Lean Dem.	Lean Dem.	Dem
Florida	29	67% Dem.	55% Dem.	77% Dem.	69% Dem.	Tossup	Lean Dem.	Rep
North Carolina	15	64% Dem.	56% Dem.	66% Dem.	67% Dem.	Tossup	Lean Dem.	Rep
Ohio	18	54% Rep.	65% Rep.	67% Rep.	63% Rep.	Lean Rep.	Lean Rep.	Rep
Iowa	6	62% Rep.	70% Rep.	79% Rep.	74% Rep.	Lean Rep.	Lean Rep.	Rep
Maine (CD 2)*	1	64% Rep.	51% Dem.	52% Rep.	60% Dem.	Tossup	Lean Rep.	Rep
Utah	6	73% Rep.	83% Rep.	86% Rep.	>99% Rep.	Lean Rep.	Lean Rep.	Rep
Nebraska (CD 2)*	1	80% Rep.	56% Rep.	75% Rep.	92% Rep.	Tossup	Lean Rep.	Rep
Alaska	3	83% Rep.	76% Rep.	94% Rep.	96% Rep.	Likely Rep.	Likely Rep.	Rep
Georgia	16	83% Rep.	79% Rep.	91% Rep.	88% Rep.	Lean Rep.	Likely Rep.	Rep
Arizona	11	84% Rep.	67% Rep.	82% Rep.	91% Rep.	Lean Rep.	Lean Rep.	Rep

State	Electoral Votes	NYT	538	PW	PEC	Cook	Sabato	Actual Result
Mississippi	6	86% Rep.	98% Rep.	>99% Rep.	>99% Rep.	Solid Rep.	Solid Rep.	Rep
South Carolina	9	90% Rep.	90% Rep.	99% Rep.	99% Rep.	Likely Rep.	Solid Rep.	Rep
Texas	38	96% Rep.	94% Rep.	99% Rep.	>99% Rep.	Likely Rep.	Solid Rep.	Rep
Indiana	11	97% Rep.	97% Rep.	99% Rep.	>99% Rep.	Likely Rep.	Solid Rep.	Rep
Missouri	10	98% Rep.	96% Rep.	>99% Rep.	>99% Rep.	Likely Rep.	Solid Rep.	Rep
Louisiana	8	98% Rep.	99% Rep.	>99% Rep.	>99% Rep.	Solid Rep.	Solid Rep.	Rep
Montana	3	99% Rep.	96% Rep.	93% Rep.	>99% Rep.	Solid Rep.	Solid Rep.	Rep
Nebraska (CD 1)*	1	99% Rep.	89% Rep.	>99% Rep.	>99% Rep.	Solid Rep.	Solid Rep.	Rep
West Virginia	5	>99% Rep.	>99% Rep.	>99% Rep.	>99% Rep.	Solid Rep.	Solid Rep.	Rep
Tennessee	11	>99% Rep.	97% Rep.	>99% Rep.	>99% Rep.	Solid Rep.	Solid Rep.	Rep
North Dakota	3	>99% Rep.	98% Rep.	>99% Rep.	>99% Rep.	Solid Rep.	Solid Rep.	Rep
Kansas	6	>99% Rep.	97% Rep.	>99% Rep.	>99% Rep.	Solid Rep.	Solid Rep.	Rep
Alabama	9	>99% Rep.	>99% Rep.	>99% Rep.	>99% Rep.	Solid Rep.	Solid Rep.	Rep
Arkansas	6	>99% Rep.	>99% Rep.	>99% Rep.	>99% Rep.	Solid Rep.	Solid Rep.	Rep
Nebraska	2	>99% Rep.	98% Rep.	>99% Rep.	>99% Rep.	Solid Rep.	Solid Rep.	Rep
South Dakota	3	>99% Rep.	94% Rep.	99% Rep.	>99% Rep.	Solid Rep.	Solid Rep.	Rep
Idaho	4	>99% Rep.	99% Rep.	>99% Rep.	>99% Rep.	Solid Rep.	Solid Rep.	Rep
Kentucky	8	>99% Rep.	>99% Rep.	>99% Rep.	>99% Rep.	Solid Rep.	Solid Rep.	Rep
Oklahoma	7	>99% Rep.	>99% Rep.	>99% Rep.	>99% Rep.	Solid Rep.	Solid Rep.	Rep
Wyoming	3	>99% Rep.	99% Rep.	>99% Rep.	>99% Rep.	Solid Rep.	Solid Rep.	Rep
Nebraska (CD 3)*	1	>99% Rep.	99% Rep.	>99% Rep.	>99% Rep.	Solid Rep.	Solid Rep.	Rep

**Note:** Those designated with a \* are in Maine and Nebraska. These states use a “congressional district method” that allows the allocation of two electoral votes to the state popular vote winner, and then one electoral vote to the popular vote winner in each Congressional district (CD-2 in Maine, and CD-3 in Nebraska). The latter creates multiple popular vote contests in these states leading to a possible split in the electoral vote.



## The Models That Were Right But Not Close

Two leading political science forecasting models actually “correctly” predicted a victory for President Trump in the 2016 election. However, the two models share the uncommon distinction of being both correct in predicting the winner of the 2016 election and being the furthest from the actual vote. We discuss these two models below.

First, Alan [Abramowitz’s \(2016\)](#) “Time for Change Model” predicted Donald Trump would win the 2016 presidential election with 51.4 percent of the two-party vote share. As Abramowitz predicted, the unconventional nature of the Trump candidacy led to Trump’s popular vote underperformance compared to the model, which would have allowed Hillary Clinton a narrow victory. The Time for Change Model ultimately predicted Donald Trump would receive 2.5 percent more of the popular vote than he actually received, which is a margin much greater than the other academic popular vote models discussed above. However, it also has the peculiar distinction of being one of the two models to correctly forecast the winner of the election. The model itself uses three variables: the incumbent president’s approval rating in the middle of the year according to the Gallup poll, the real GDP growth in the second quarter of the election year, and whether the incumbent party has held the presidency for one term or more than one term. The approval rating and economic growth measures have a positive impact on the incumbent party candidate, and the number of terms in office have a more significant and substantive negative impact on the incumbent party vote share. In this case, the two-term presidency of Barack Obama was a sufficient negative in the model, which successfully modelled 17 presidential elections, to outweigh the positive impacts of economic growth and incumbent popularity vis-à-vis their impact on Hillary Clinton’s share of the two-party vote.

The other model which accurately predicted Trump’s victory, while still being far off of the intended measure of the two-party presidential vote, was Helmut Norpoth’s Primary Model. The Primary Model predicted a Trump victory with 51.4 percent of the two-party vote share, and it asserted with 87 percent certainty that Donald Trump, not Hillary Clinton, would be the 45<sup>th</sup> President of the United States ([Norpoth 2016](#)). However, while the model correctly predicted the next president within the binary choice set, it was the least accurate of the political science forecasting models. The model overestimated President Trump’s share of the two-party vote by 3.6 percent of the vote. The model relies on two variables as predictors of the incumbent party’s share of the two-party vote. First, the model includes the performance of the major party nominees in the party primary elections. Second, similarly to Abramowitz, the model also includes a variable measuring electoral swings,

where the incumbent party is generally more successful after one term in the White House but far more likely to lose after two terms in control. As Norpoth notes, the strength of the model compared to competitors is that the model is based on what voters have actually done rather than polls on what they prospectively *will* do or indicators that predict voting behaviour.

In the next section, we discuss as a statistical model as presented by (Putcha 2010; Putcha and Doti 2012). Like many models and their counterparts outside of academic circles, the model predicted Hillary Clinton to be victorious.

## The Statistical Model for the 2016 Presidential Election

### *Data Sources*

In this research, method statistical approach is developed for predicting the 2016 American Presidential elections which was also applied to the Presidential Elections of 2008 and 2012 accurately (Putcha 2010; Putcha and Doti 2012). The data used are essentially the polling data from many well-known sources (e.g., the Rasmussen Reports and Survey USA). A complete list of polling sources used in the construction of our model is listed in the Appendix, Table A-1, while the polling data used in the forecasting model are shown in the Appendix, Table A-2.

The proposed model's assumption is predicated on the premise that the polls will capture the pulse of the people as to how they are planning to vote in the actual Presidential election, and hence, if the polling information is correct, the model that uses this information should correctly predict the outcome of the Presidential elections. Noteworthy here is that ambivalence exists about the accuracy of the source polls in 2016. The shift to mobile phones as a replacement for land lines, use of extensive weighting for small sample sizes, and use of web-based polling all may contribute to a longer-term derogation of polling accuracy (Valentino, King and Hill 2017: 110-115). For the time being, one data point suggesting reduced predictability for polls will be set aside.

This model used is a dynamic model as the result of polls vary depending upon the timing of the poll and the political events occurring in the country at that time. American elections consist of two parts: the Electoral College and the popular vote. The winner of the American Presidential elections must have the majority in the Electoral College and win the popular vote if possible.

### The Statistical Methodology

First, the polling data collected will be compiled. Once the data are compiled, a histogram will be prepared to determine the probability density function of the polling data. The probability density function could be a normal distribution log-normal distribution or the beta distribution or any distribution.

The adequacy of the chosen distribution is based on the chi-square test and Kolomogrov-Smirnov test. Both these tests will be performed on the collected data. After that, a threshold value will be established to determine the winner of the election. This threshold value is used in the calculations of the model as follows. The probability of a candidate obtaining greater than or equal to the threshold value is calculated using the information of the chosen probability distribution. For example, normal distribution is a two-parameter distribution ( $\mu$  and  $\sigma$ ) where  $\mu$  is the mean value and  $\sigma$  is the standard deviation of the collected data. Similarly, if it is a lognormal distribution, which is also a two-parameter distribution, the parameters are:  $\sigma$  (the standard deviation of the log distribution) and  $\xi$  (the location parameter). On the other hand, if the data follow a uniform distribution, which has two parameters, the bounds are defined by the parameters,  $a$  and  $b$ , which are the minimum and maximum values for the distribution.

This information based on the probability distribution will also assign the electoral votes for each of the two contesting candidates in the elections. Thus, the information about the popular vote as well as the Electoral Votes is collected. These two essential pieces of information will then be judiciously combined to determine the winner of the election. Tables 4-6 show the polls and the results.

**Table 4:** Statistical Analysis of State-wide Polling Data for Popular Vote of 2016 American Presidential Elections

State	Presidential Candidate			
	Clinton		Trump	
	Mean ( $\mu$ )	Standard Deviation ( $\sigma$ )	Mean ( $\mu$ )	Standard Deviation ( $\sigma$ )
Alabama	35.00	2.64	52.67	5.03
Alaska	35.67	6.50	40.67	4.72
Arizona	41.50	2.645	45.50	2.88
Arkansas	32.00	2.64	56.00	1
California	57.00	4.47	32.60	1.51
Colorado	49.00	2.82	43.50	2.88
Connecticut	51.67	2.88	37.67	3.78
Delaware	53	2.64	35.33	6.11

State	Presidential Candidate			
	Clinton		Trump	
	Mean ( $\mu$ )	Standard Deviation ( $\sigma$ )	Mean ( $\mu$ )	Standard Deviation ( $\sigma$ )
District of Columbia	66.00	0	20.00	0
Florida	48	2.30	45.00	1
Georgia	43.75	1.70	47.75	2.87
Hawaii	52.00	2.82	30.25	1.06
Idaho	25	4.04	45.33	6.11
Illinois	51	1.52	32.00	4
Indiana	38.67	2.08	45.67	3.05
Iowa	42.23	3.35	42.00	1
Kansas	36.00	0	47.50	0.70
Kentucky	35	0	53.00	0
Louisiana	35.67	2.08	48.00	5.19
Maine	49.00	0	39.50	0.70
Maryland	60.00	3.60	28.67	2.88
Massachusetts	59.50	7.77	29.00	1.41
Michigan	49.25	3.30	38.75	4.34
Minnesota	47.10	1.85	41.00	2
Mississippi	42.25	0.35	52.50	2.12
Missouri	40.67	1.52	46.67	0.57
Montana	31.50	6.36	44.50	2.12
Nebraska	33.33	4.50	55.33	3.05
Nevada	46	1.70	43.25	2.62
New Hampshire	45	1.15	39.67	3.21
New Jersey	49	2.51	38.33	2.88
New Mexico	45.00	1.41	35.00	1.41
New York	57.00	2.64	33.00	4.35
North Carolina	49	0.81	45.25	2.98
North Dakota	33.33	3.21	49.33	6.50
Ohio	45	2.36	47.25	2.21
Oklahoma	32	2	59.67	3.51
Oregon	45.67	2.51	36.67	1.15
Pennsylvania	48.00	3.46	42.50	1.73
Rhode Island	53	4.58	36.00	3.60
South Carolina	42.50	0.71	49.00	5.65
South Dakota	37	0	46.00	2.82
Tennessee	37	2.64	49.67	6.02
Texas	40.50	2.08	47.00	5.35

State	Presidential Candidate			
	Clinton		Trump	
	Mean ( $\mu$ )	Standard Deviation ( $\sigma$ )	Mean ( $\mu$ )	Standard Deviation ( $\sigma$ )
Utah	25	3.82	31.50	4.20
Vermont	54	9	24.67	8.62
Virginia	46.67	1.15	40.00	5.19
West Virginia	32.50	4.94	60.00	1.41
Washington	50.67	2.51	36.00	6.24
Wisconsin	48.00	2	41.00	2.64
Wyoming	26.50	4.94	62.00	4.24

**Table 5:** Forecasting of 2016 Presidential Elections- Winning Probability (estimated last week before the election)

State	Winning Candidate	Winning (Probability in %)	Electoral College Votes	
			Clinton	Trump
Alabama	Trump	86.13%	0	9
Alaska	Trump	8.34%	0	3
Arizona	Trump	27.80%	0	11
Arkansas	Trump	100.00%	0	6
California	Clinton	98.58%	55	0
Colorado	Clinton	73.77%	9	0
Connecticut	Clinton	93.91%	7	0
Delaware	Clinton	98.58%	3	0
District of Columbia	Clinton	100.00%	3	0
Florida	Clinton	58.01%	29	0
Georgia	Trump	57.59%	0	16
Hawaii	Clinton	95.52%	4	0
Idaho	Trump	38.00%	0	4
Illinois	Clinton	99.66%	20	0
Indiana	Trump	30.79%	0	11
Iowa	Clinton	6.95%	6	0
Kansas	Trump	66.43%	0	6
Kentucky	Trump	100.00%	0	8
Louisiana	Trump	56.12%	0	8
Maine	Clinton	100.00%	4	0
Maryland	Clinton	99.98%	10	0
Massachusetts	Clinton	94.31%	11	0

State	Winning Candidate	Winning (Probability in %)	Electoral College Votes	
			Clinton	Trump
Michigan	Clinton	73.25%	16	0
Minnesota	Clinton	47.85%	10	0
Mississippi	Trump	99.38%	0	6
Missouri	Trump	17.78%	0	10
Montana	Trump	10.15%	0	3
Nebraska	Trump	99.61%	0	5
Nevada	Clinton	28.90%	6	0
New Hampshire	Clinton	5.30%	4	0
New Jersey	Clinton	72.00%	14	0
New Mexico	Clinton	5.99%	5	0
New York	Clinton	99.99%	29	0
North Carolina	Clinton	98.63%	15	0
North Dakota	Trump	62.85%	0	3
Ohio	Trump	50.90%	0	18
Oklahoma	Trump	99.98%	0	7
Oregon	Clinton	27.12%	7	0
Pennsylvania	Clinton	59.13%	20	0
Rhode Island	Clinton	89.72%	4	0
South Carolina	Trump	62.48%	0	9
South Dakota	Trump	33.57%	0	3
Tennessee	Trump	65.88%	0	11
Texas	Trump	48.51%	0	38
Utah	Trump	0.01%	0	6
Vermont	Clinton	77.50%	3	0
Virginia	Clinton	32.21%	13	0
West Virginia	Trump	100.00%	0	5
Washington	Clinton	91.58%	12	0
Wisconsin	Clinton	65.54%	10	0
Wyoming	Trump	99.98%	0	3
Total Electoral College Votes			329	209
Popular Vote (in percent)			43.7	42.5

**Table 6:** Forecasting of 2016 Presidential Elections II- Popular Vote (estimated on October 26, 2016)

State	Winning Candidate	Popular Vote (in %)		Electoral College Votes	
		Clinton	Trump	Clinton	Trump
Alabama	Trump	35.00	52.67	0	9
Alaska	Trump	35.67	40.67	0	3
Arizona	Trump	41.50	45.50	0	11
Arkansas	Trump	32.00	56.00	0	6
California	Clinton	57.00	32.60	55	0
Colorado	Clinton	49.00	43.50	9	0
Connecticut	Clinton	51.67	37.67	7	0
Delaware	Clinton	53	35.33	3	0
District of Columbia	Clinton	66.00	20.00	3	0
Florida	Clinton	48	45.00	29	0
Georgia	Trump	43.75	47.75	0	16
Hawaii	Clinton	52.00	30.25	4	0
Idaho	Trump	25	45.33	0	4
Illinois	Clinton	51	32.00	20	0
Indiana	Trump	38.67	45.67	0	11
Iowa	Clinton	42.23	42.00	6	0
Kansas	Trump	36.00	47.50	0	6
Kentucky	Trump	35	53.00	0	8
Louisiana	Trump	35.67	48.00	0	8
Maine	Clinton	49.00	39.50	4	0
Maryland	Clinton	60.00	28.67	10	0
Massachusetts	Clinton	59.50	29.00	11	0
Michigan	Clinton	49.25	38.75	16	0
Minnesota	Clinton	47.10	41.00	10	0
Mississippi	Trump	42.25	52.50	0	6
Missouri	Trump	40.67	46.67	0	10
Montana	Trump	31.50	44.50	0	3
Nebraska	Trump	33.33	55.33	0	5
Nevada	Clinton	46	43.25	6	0
New Hampshire	Clinton	45	39.67	4	0
New Jersey	Clinton	49	38.33	14	0
New Mexico	Clinton	45.00	35.00	5	0
New York	Clinton	57.00	33.00	29	0
North Carolina	Clinton	49	45.25	15	0
North Dakota	Trump	33.33	49.33	0	3
Ohio	Trump	45	47.25	0	18
Oklahoma	Trump	32	59.67	0	7
Oregon	Clinton	45.67	36.67	7	0
Pennsylvania	Clinton	48.00	42.50	20	0
Rhode Island	Clinton	53	36.00	4	0
South Carolina	Trump	42.50	49.00	0	9

State	Winning Candidate	Popular Vote (in %)		Electoral College Votes	
		Clinton	Trump	Clinton	Trump
South Dakota	Trump	37	46.00	0	3
Tennessee	Trump	37	49.67	0	11
Texas	Trump	40.50	47.00	0	38
Utah	Trump	25	31.50	0	6
Vermont	Clinton	54	24.67	3	0
Virginia	Clinton	46.67	40.00	13	0
West Virginia	Trump	32.50	60.00	0	5
Washington	Clinton	50.67	36.00	12	0
Wisconsin	Clinton	48.00	41.00	10	0
Wyoming	Trump	26.50	62.00	0	3
Total Electoral College Votes				329	209
Popular Vote (in percent)				43.7	42.5

From the analysis presented in Tables 5 and 6, our model predicted that Clinton would receive more popular and Electoral votes than Trump. After the election, Clinton received more popular votes than Trump, while Trump received more Electoral College votes than Clinton. Our results mimic somewhat with the results from Nate Silver’s 538.com model that the model on the surface was not correct, but it was technically correct. The next section will delve into the reasons why the popular vote and Electoral College vote mismatched in such an outstanding way. Would this be the permanent feature of our Presidential elections perhaps for the next decade or longer, and how can forecasters deal with this new reality that the popular vote may not predict the winner in a Presidential election?

### *Some Explanations for the Trump Victory*

Unfortunately, the political science literature regarding the 2016 general election for the presidency has been too busy lauding the self-proclaimed pinpoint accuracy for any critical analysis of the causes for the unexpected Trump victory. Fortunately, the primary election victory was just as surprising as his general election victory with far less personal aggrandizement regarding forecasting models at stake. To understand the support of Trump and begin to move towards an explanation of the Trump victory in the general election, we must turn to some critical analysis of the primary election victory that helps explain the base of support, which carried him to victory in both.

Patrick [Fisher \(2016\)](#) explains the unexpected Trump victory in the Republican primary using political culture. He argues that Donald Trump’s campaign appealed to a portion of the Republican electorate that had been dormant in recent elections. Notably, Trump outperformed other recent Republican candidates for president among white voters without a high school education, those who live in



mobile homes, and in areas where the transition from a manufacturing economy to a more globalized economy has not occurred as quickly (Fisher 2016). Additionally, Irwin and Katz (2016) note that President Trump performed considerably better than recent Republican presidential candidates in areas where support was high for George Wallace in the 1968 presidential election. Unsurprisingly, there is a significant correlation between identity politics, particularly white identity politics, and support for Trump.

Adding to the identity politics explanation, however, Fisher conducts an analysis of the political cultural explanations of support for the Trump candidacy. Using Ira Sharkansky's (1969) operationalization of Daniel Elezar's typology, Fisher found that Trump performed better in states with individualistic political cultures and fared rather poorly in states with a moralistic subculture. Trump's self-proclaimed ideological flexibility fits better with individualistic states than it does moralistic states. Notably, the culture variables in Fisher's model outperformed the demographic characteristics of voters, indicating that cultural explanations may be a better fit for Trump support than identity politics.

MacWilliams (2016) characterizes support for Trump in the Republican nomination contest as a rise of authoritarian voters who decided the nomination in place of the party. Authoritarianism, as conceptualized by Hetherington and Suhay (2011), is one of only two variables in the MacWilliams multivariate analysis that significantly impact support for Trump among likely Republican primary voters. The only other significant variable is the fear voters held regarding the personal threat from terrorism. Notably, authoritarianism had no statistically significant impact on support for other leading Republican candidates. The MacWilliams analysis of the Republican primary indicates that Trump's support came from his populist, strongman message that activated fear among the Republican base.

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## Discussion and Conclusions

The premise of this paper opens with a discussion of the importance of models getting the call right as evidenced by the forecasting literature. The results from this election showed that there is a mismatch calling the winner based on the popular vote and the Electoral College vote given that the forecasting models had identified Clinton as the winner in the popular vote and the Electoral College vote. However, the basic tenet that was obtained from our analysis of our paper that getting the popular vote share right may hardly matter when a forecasting model predicts the Electoral College vote winner wrong. Given the latter, could this set a new trend in future Presidential elections in 2020 and beyond? Bitecofer (2017) provides a possible reason for this mismatch. During the Re-

publican primary season, there was growing dissatisfaction with Trump as the Republican nominee, and some disaffected Republicans became part of the group “Never Trump.” The Clinton campaign aimed vigorously to attract the “Never Trump” members and selected Tim Kaine as her vice president because he is a moderate that could attract independents and “Never Trump” members after she had been tarnished by the Benghazi investigations and the email server problem while Secretary of State. As pointed out by [Bitecofer \(2017\)](#), we are in polarizing times, and there are not as many persuadable voters left to attempt to attract. On the other hand, the Democratic primary was a bitter struggle between Clinton and Sanders, a progressive populist, that alienated the progressive voters of the Democratic party as Clinton continued her quest to attract independents. The latter resulted in progressive voters defecting from the Democratic ticket by either staying home or even voting for another candidate (either a third-party candidate or Trump). As pointed by [Bitecofer \(2017\)](#), in Wisconsin, a state that was decided by less than 1 percent, the defection rate was five times higher than normal with 6.32 percent of voters casting votes for a third-party candidate or write-in ballots. In fact, Clinton performed just as well as Obama did among independents.

Since Trump entered the political world after climbing down the escalator in Trump Tower in 2015, media pundits as well as many political pundits viewed him as an exceptional, if not unique, figure in American politics. But is he? [Grossman and Hopkins \(2016\)](#) do not agree with the latter description of Trump. They do, however, make it clear that the two parties are different: The Democratic Party is focused on producing concrete solutions for citizens, whereas the Republican Party is obsessed with conservative ideological purity. From their perspective, Trump is the unintended product of a Republican Party purification process. So, no doubt there is a disconnect between the two parties, but there is also a disconnect within the thinking of the American people. They explained that the “American electorate consistently holds collectively left-of-centre views on most policy issues even as it leans to the right on more general measures of ideology.” [Grossman and Hopkins \(2016\)](#) focus more on the party-focused ideological differences.

Now [Abramowitz \(2018\)](#) provides a different analysis from [Grossman and Hopkins \(2016\)](#) by focusing on the voters, not the party-focused approaches. However, despite these differences in the motif of these books, their works are complementary regarding the longer-term perspectives of the political differences.

In fact, [Bitecofer \(2017\)](#) and [Abramowitz \(2018\)](#) also share the perspective that the polarized thermonuclear partisan environment is the product of long-term historical processes that have persisted for quite some time and may persist. The latter could also result in the mismatch of the popular vote winner

and the winner in the Electoral College votes. More specifically, Abramowitz (2018) writes that “while Trump won the election by exploiting the deep divisions in American society, he did not create those divisions,” and he asserts that these divisions will not even go away even after the Trump presidency.

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## Appendix

**Table A-1: Polling Sources**

SurveyMonkey
UPI/CVOTER
News-5/Strategy Research
Alaska Survey Research
Lake Research Partners
Moore Information
Ipsos/Reuters
NBC News/Wall Street Journal/Marist
CBS News/YouGov
Data Orbital
Talk Business/Hendrix College
Emerson College
KABC/SurveyUSA
USC Dornsife/Los Angeles Times
Insights West
Field Research
Remington Research/Axiom Strategies
Quinnipiac University
Public Policy Polling
University of Delaware
Electoral Vote
New York Times Upshot/Siena College
Landmark Communications
Opinion Savvy/Fox 5 Atlanta
WXIA-TV/SurveyUSA
Election Projection
Dan Jones & Associates
Victory Research
Illinois Public Opinion Strategies
Southern Illinois University
Gravis Marketing
WISH-TV/Ball State University
Monmouth University
Des Moines Register/Selzer & Co.

SurveyUSA/KSN News
Mason-Dixon
JMC Analytics
Maine People's Resource Center
University of New Hampshire
Washington Post/University of Maryland
WBUR/MassINC
Western New England University
Fox 2 Detroit/Mitchell Poll
EPIC-MRA
Detroit News
Star Tribune/Mason-Dixon
Montana State University Billings
Las Vegas Review-Journal/Bendixen & Amandi International
InsideSources/NH Journal
Fairleigh Dickinson University
Stockton College
Zia Poll
DFM Research
CNN/ORC
SoonerPoll
Riley Research/KGW
DHM Research
Morning Call/Muhlenberg College
Citizen
University of Houston
Rasmussen Reports
Castleton University/Vermont Public Radio
Hampton University
Elway Poll
McLaughlin & Associates

**Table A-2: Polling Data**

State	Winning Candidate	Winning	Electoral College Votes	
		(probability in %)	Clinton	Trump
Alabama	Trump	86.13%	0	9
Alaska	Trump	8.34%	0	3
Arizona	Trump	0.42%	0	11
Arkansas	Trump	100.00%	0	6
California	Clinton	98.58%	55	0
Colorado	Clinton	59.13%	9	0
Connecticut	Clinton	93.91%	7	0
Delaware	Clinton	98.58%	3	0
District of Columbia	Clinton	100.00%	3	0
Florida	Trump	28.52%	0	29
Georgia	Trump	66.94%	0	16
Hawaii	Clinton	95.52%	4	0
Idaho	Trump	38.00%	0	4
Illinois	Clinton	99.66%	20	0
Indiana	Trump	30.79%	0	11
Iowa	Trump	10.72%	0	6
Kansas	Trump	66.43%	0	6
Kentucky	Trump	100.00%	0	8
Louisiana	Trump	56.12%	0	8
Maine	Clinton	100.00%	4	0
Maryland	Clinton	99.98%	10	0
Massachusetts	Clinton	94.31%	11	0
Michigan	Clinton	64.85%	16	0
Minnesota	Clinton	61.98%	10	0
Mississippi	Trump	99.38%	0	6
Missouri	Trump	17.78%	0	10
Montana	Trump	10.15%	0	3
Nebraska	Trump	99.61%	0	5
Nevada	Trump	26.44%	0	6
New Hampshire	Trump	12.53%	0	4
New Jersey	Clinton	72.00%	14	0
New Mexico	Clinton	5.99%	5	0
New York	Clinton	99.99%	29	0

State	Winning Candidate	Winning	Electoral College Votes	
		(probability in %)	Clinton	Trump
North Carolina	Clinton	68.21%	15	0
North Dakota	Trump	62.85%	0	3
Ohio	Trump	50.90%	0	18
Oklahoma	Trump	99.98%	0	7
Oregon	Clinton	27.12%	7	0
Pennsylvania	Clinton	43.78%	20	0
Rhode Island	Clinton	89.72%	4	0
South Carolina	Trump	62.48%	0	9
South Dakota	Trump	33.57%	0	3
Tennessee	Trump	65.88%	0	11
Texas	Trump	48.51%	0	38
Utah	Trump	0.01%	0	6
Vermont	Clinton	77.50%	3	0
Virginia	Clinton	69.12%	13	0
W. Virginia	Trump	100.00%	0	5
Washington	Clinton	91.58%	12	0
Wisconsin	Clinton	65.54%	10	0
Wyoming	Trump	99.98%	0	3
<b>Total Electoral College Votes</b>			<b>284</b>	<b>254</b>
<b>Popular Vote (in percent)</b>			<b>43.63</b>	<b>42.52</b>

# The Burden of International Obligation and Responsibility in Granting Amnesty to Boko Haram by the Nigerian State

Regis Chima ANYAEZE \*

**Abstract.** In 2013, the Nigerian government declared Boko Haram a terrorist organization, prompting some other states to do the same. \*\* The United Nations (UN) has also declared Boko Haram a terrorist organization and regards it as the third deadliest terrorist group in the world thereby convincing others in the international community to treat the sect as a dangerous terrorist group. The prolonged presence of Boko Haram and its brazen and ruthless attacks on innocent citizens has given rise to suggestions to negotiate with, and grant amnesty to Boko Haram as a means to end the human and material casualties arising from the activities of Boko Haram in Nigeria. The paper aims to screen the international implications of granting amnesty to Boko Haram by the Nigerian state. For these reason, aspects of the current global war on terror are highlighted, especially the international regimes enacted by the UN to combat international terrorism and their implications for amnesty to Boko Haram in Nigeria.

**Keywords:** Boko Haram, International terrorism, Security, Responsibility, Obligation

## Introduction

DISCUSSIONS ON THE POSSIBLE SOLUTION for Boko Haram insurgency in Nigeria have been ongoing since 2008. In 2009, a military action by President Umaru Musa Y 'ardua significantly reduced the capacity of the Boko Haram to operate as a violent group in Nigeria (Onuha 2010; Solomon 2012, Weeraratne 2017, Zenn 2018, Anyaeze 2020). Amnesty and dialogue

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\*\* While Nigeria declared Boko Haram a Terrorist Organization in August 2013, the UN and EU declared Boko Haram a terrorist organization on May 22 and 23, respectively. Earlier, the UK had declared the group a terrorist organization on July 24, 2013, while the US designated Boko Haram as a Foreign Terrorist Organization (FTO) on November 14, 2013, having already in June 2012 declared three Boko Haram leaders as terrorists.



emerged as possible solution for the insurgency after the events of 2011 presidential election won by Goodluck Ebele Jonathan ([Solomon 2012](#), [Anyaeze 2020](#)). [Iro and Osumah \(2012\)](#) have prescribed solutions to end terrorism and militancy in Nigeria, which include the disbandment of ethnic political militias, grassroots socio-economic empowerment programmes, investment in education and health care, the upgrading of operational and logical tools of the security apparatus, re-allying with and cooperating in the multilateral fight against global terrorism and re-evaluating the game of politics in Nigeria. In an empirical study conducted in 2012 on the best way to end Boko Haram insurgency, 'dialogue' with and 'amnesty' to Boko Haram generated 48 percent and 36 percent respectively among respondents against 88% and 90% for employment generation and poverty alleviation respectively as best solutions, ([Iro and Osumah 2012](#)). Despite these recommendations, the leadership of Arewa Youth Forum (AYF), a northern cultural organization, had in March 22, 2013, not only urged the 19 Northern Governors to grant amnesty to Boko Haram, but indeed to all the other groups responsible for the restiveness in Northern Nigeria ([Sahara Reporter 2013](#)). The group criticized President Goodluck Jonathan's \* government in what it termed federal government's politics, sophistry, flagrant display of insensitivity and nonchalance under in handling the Boko Haram insurgency which has further compounded the challenges confronting Northern Nigeria. According to AYF ".....this position has become expedient because the North is on the verge of 'extinction and collapse, and there may no longer be a Northern Nigerian region as a political and geographical entity within the larger Sovereign State of Nigeria."([ibid.](#)) The group further blamed the governors of northern extraction for not acting fast to stop the insurgency and the toll it has taken on the economy of the north, the aged-long togetherness of Christians and Muslims in the north, and the destruction of political cohesion in the North, without a clear sign that the ugly trend was being contained ([ibid.](#)).

However, in April 2013, some northern religious and political leaders pressured President Goodluck Jonathan to grant an amnesty to Boko Haram militants, insisting that the military response to the insurgency was not enough to restore peace in the northeast ([BBC News 2013](#)). The main argument was that the previous president Umaru Musa Yar'Adua, \*\* granted amnesty to militant groups from Niger Delta, Nigeria-South. President Goodluck Jonathan (now from the Niger Delta), ought to reciprocate the gesture by granting amnesty to Boko Haram members from the north. Unfortunately, Boko Haram through its leader, Abubakar Shekau rejected the offer, claiming that the group had done no wrong, and therefore considered an amnesty out of place for Boko Haram. According to Shekau:

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\* Goodluck Jonathan, President of Nigeria between 5 May 2010 – 29 May 2015.

\*\* Umaru Musa Yar'Adua, President of Nigeria between 29 May 2007 – 5 May 2010

*"It was the Nigerian government that was committing atrocities against Muslims. Surprisingly, the Nigerian government is talking about granting us amnesty. What wrong have we done? On the contrary, it is we that should grant you [a] pardon." (BBC News 2013).*

On Monday April 29, 2019, Dr. Sidi Ali Mohammed, a member of the Presidential Committee on the North East Initiative (PCNI) prescribed an amnesty for Boko Haram members, as a strategy to end their attacks and siege on the southeast of Nigeria. His argument was that Boko Haram fighters earned as much as \$1000 per day as against N1000 (\$10) daily earning for Nigerian Military fighters in the North East. Some prominent Nigerians and groups including members of the Nigerian National Assembly had earlier proposed or supported amnesty for Boko Haram as the fastest way to end the insurgency in the North East. Farooq Kperogi reacts to President Muhammadu Buhari's statement on March 23 that his government would grant amnesty to Boko Haram members that are ready to lay down their arms. "We are ready to rehabilitate and integrate such repentant members into the larger society." Farooq insists that the consequences of the president's action and statement were already devastating. (Kperogi 2018) The current President of Nigeria, Muhammadu Buhari had also on March 23, 2018, tinkered with the idea of granting amnesty to and rehabilitating repentant Boko Haram members. In his words:

*"While further efforts are being made to secure the release of every abducted citizen in Nigeria, the government is ever ready to accept the unconditional laying down of arms by any member of the Boko Haram group who shows strong commitment in that regard. We are ready to rehabilitate and integrate such repentant members into the larger society. This country has suffered enough of hostility. Government is, therefore, appealing to all to embrace peace for the overall development of our people and the country." (Olaekan 2018)*

Against the backdrop of the proposal for amnesty to Boko Haram, I shall argue that amnesty to Boko Haram contradicts international regimes against terrorism, especially the 'International Obligations,' the 'International Responsibility,' the 'Due Diligence and Friendly Relationship' as enacted by the United Nations to combat international terrorism.

## Nigeria, Boko Haram and International war on Terror

In 2013, the Nigerian government contributed military personnel to Mali in a joint military mission with other nations to dislodge the operational base of Boko

Haram where the terrorist organization purportedly carried out its trainings. In May 2014, Boko Haram was listed for targeted financial sanctions and an arms embargo by the UN Security Council's Al Qaida Sanctions Committee. ([United Nations 2014](#)) Several states, Canada, China, France, the United States of America, Germany, the United Kingdom, Spain, the United Nations, the European Union (EU), pledged assistance to Nigeria following the abduction of Chibok schoolgirls in April 2014. ([United Nations 2015](#)) The assistance included sharing intelligence, training the Nigerian military and joint efforts to create a regional counter-terrorism strategy. On October 7, 2014, The Lake Chad Basin Commission (LCBC) Member States and Benin created a Multi-National Joint Task Force (MNJTF) to combat Boko Haram. The LCBC countries had further requested and obtained authorization from the African Union and the United Nations to operate as a joint strike force against Boko Haram. The MNJTF was discussed at the African Union Peace and Security Council meeting on 29 January 2015 where the *modus operandi* was defended and approval given by the AU, with UN, EU, France, UK in attendance, ([African Union Peace and Security 2015b](#); [United Nations 2015](#)) while an agreement for the operationalization of the MNJTF and the AU was signed in Addis Ababa, Ethiopia on October 16, 2015. ([African Union Peace and Security 2015a](#)) Since the last six years, Chad, Niger and Nigeria have operated the MNJTF to provide border security between these nations and to combat Boko Haram as a terrorist organization. On Monday, March 21, 2020, Boko Haram ambushed and killed more than 50 Nigerian soldiers in Goneri village in Yobe State of Nigeria, ([Vanguard 2020](#)) and marched on to attack the Chadian strike force on the Boma peninsula on March 25 2020, killing 92 of its soldiers, ([Aljazeera 2020](#)) in what the president of Chad, Idriss Derby described as the worst military nightmare in the history of Chad as a nation. Aside cross-border attacks, Boko Haram has carried out more than 330 successful attacks and raids in Nigeria, with more than 50 suicide attacks, destroyed more than 20 national and international, captured and taken more than 2000 women (including Schoolgirls), symbols ([Weeraratne 2017](#), [Iyekekpole 2016](#)), displaced over 2000,000 people including children ( with more than one million Nigerian refugees residing presently in Cameroon and Chad), ([Aljazeera 2020](#)) killing at least 292 soldiers and 36 000 civilians including children, ([Aljazeera 2020](#)) recruited more than 20.000 young men and women, sacked more than 5 military bases and more than 28 towns and villages, and once succeeded in once erecting its flag in vast area of the north-east of Nigeria (27 municipalities) as a caliphate, ([Zenn 2018](#); [Amnesty International 2015](#); [2019](#); [Internal Displacement Monitoring Centre 2020](#)).

## The International Implication of Amnesty to Boko Haram

The suggested amnesty to the members of Boko Haram may provoke national and international concern. The concern may arise not because of the aversion people already have for terrorism, but more because of international regimes against terrorism. An attempted amnesty to Boko Haram therefore requires sound arguments. This section considers the international implications of the suggestions making wave among some opinion leaders in Nigeria for an amnesty to Boko Haram by the Nigerian state.

The Nigerian state has successfully labelled and criminalized Boko Haram as a terrorist organization by imposing a burden of terror on the group. This means that Nigerian as a state has recognized Boko Haram as a terrorist organization. The UN and other members of the international community including the US, the UK, France and the EU have equally done so by officially declaring Boko Haram as a terrorist organization.<sup>\*</sup> This means that the Nigerian state has a duty under national and international law not only to condemn the activities of Boko Haram, but also to continue to dissociate itself from the group, and fight in co-operation with the international community to defeat Boko Haram as a terrorist organization. The Nigerian state must not be viewed to 'harbour' Boko Haram as a terrorist organization.

However, amnesty to Boko Haram may be considered if other stakeholders,<sup>\*\*</sup> with sound reasons, choose to 'de-label' Boko Haram by 'offloading' the burden of terror from the group, and possibly, not until Boko Haram as a terrorist organization steps forward to convincingly denounce violence and terror by laying down its arms. Existing international regimes, protocols, and conventions on terrorism, in principle make these demands implicit and imperative. For some international conventions, such as the conventions on the environment, sea, and trade, sovereign states may freely choose to accede to such conventions or not. Such conventions may not be binding on states that choose not to accede. However, on conventions relating to international terrorism, acceding to instruments carries a different weight and obligation. It is often demanded that national legislation and penal codes be screened and brought in line with 'any' or

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<sup>\*</sup> While Nigeria declared Boko Haram a Terrorist Organization in August 2013, the UN and EU declared Boko Haram a terrorist organization on May 22 and 23, respectively. Earlier, the UK had declared the group a terrorist organization in July 24, 2013, while the US designated Boko Haram as a Foreign Terrorist Organization (FTO) on November 14, 2013, having already in June 2012 declared three Boko Haram leaders as terrorists.

<sup>\*\*</sup> The stakeholders include, the Nigerian state, the LCBC, the UN and AU, and indeed those countries that have already contributed funds and personnel to fight Boko Haram, or already have declared Boko Haram a terrorist organization.

‘those’ international conventions concerning terrorism. Owing to the enormity of the impact of terrorism, the freedom to accede or not, no longer exists as such. As the United Nations Security Council (UNSC) has indicated in resolution 1373 (repeated in resolution 1456), ‘*all countries should become a party*’ to *treaties on terrorism*. According to paragraph 3 of Resolution 1373 of the UNSC: *The Security Council calls upon all States to:*

*(d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999;*

*(e) Increase cooperation and fully implement the relevant international conventions and the protocols relating to terrorism and Security Council’s resolutions 1269 (1999) and (1368) 2001. (United Nations 2001a).*

The formulation of ‘to call upon,’ may give an impression that the invitation to become parties to the relevant international conventions and protocols does not fully amount to an obligation. However, the phrase *calls upon* is nevertheless considered to come very close to full obligation (van Krieken 2010). In other words, the freedom and liberty to refrain from becoming a party to the conventions and protocols concerning terrorism is limited to virtually zero, also, in view of the fact that resolution 1373 has been adopted under Chapter VII of the United Nations Charter.\* It is therefore not possible that Nigeria is an absentee from these conventions, since any international convention adopted under Chapter VII of the UN Charter carries an international obligation, and therefore, *binding on all nations*. We can trace an example to an incident in May 2006, when countries like the UK and Germany objected to Belgium’s attempt to reserve to itself the right not to extradite from Belgium a suspect of terrorist bombings. The reason for Belgium not wanting to extradite the suspect was that the offense concerned may have been politically motivated. The UK and Germany objected because Belgium was perfectly considered wrong in making exceptions to the rule, since the UNSC on a number of occasions has indicated that “no justification whatsoever is acceptable” to any of the acts covered under the terrorism instruments. This case reaffirms the United Nations Security Council resolution 1456 of 2003 which stipulate that:

*“any acts of terrorism are criminal and unjustifiable, regardless of their motivation, whenever and by whomsoever committed and are to be unequivocally condemned, especially when they*

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\* Chapter VII of the UN Charter gives right to the SC to legislate over issues relating to international peace. Any issue relating to international peace is approached with any means possible” including aggression and invasion.

*indiscriminately target or injure civilians.” (United Nations 2003)*

Belgium’s reservation indeed violated this important principle.

The suggested amnesty to Boko Haram in Nigeria can be placed side by side with the above incidence. As long as the Nigeria state has established that Boko Haram is a terrorist organization, with the UN and many countries declaring Boko Haram as such vis a vis its activities, especially the indiscriminate targets on civilians, acts regarded as unacceptable, it may be an affront on international law if the suggestion for amnesty for Boko Haram is given any consideration by the Nigerian state. It may in principle amount to ‘harbouring’ a terrorist group or persons, an act gravely outlawed by international conventions as contained in the UNSC Resolutions mentioned above. Thus, as long as Boko Haram, as a terrorist group, has indiscriminately targeted civilians and inflicted injuries on them, and without provocation caused massive psychological and psychic pains to the civilian population and neighbouring countries, the Nigerian government may be breaching international law if it attempted granting amnesty to the group. The implication is that Nigeria risks to be treated as a nation that harbours terrorists. Further, any country that feels threatened by this act of ‘granting amnesty’ to Boko Haram, and makes a genuine case against Nigeria for self-defence, citing the relevant instruments, protocols, resolutions and conventions of the Security Council against terrorism, may stand a solid chance of indicting Nigeria as harbouring terrorists. Such an indictment may attract heavy international sanctions and penalties including international military invasion using Chapter VII of the United Nations Charter as support. It is not difficult to find cases in history where this happened.\*

## The International Red Zones on issues concerning Terrorism

In the aftermath of the passing of the UNSC resolution 1267 (1999), an international committee was set up to monitor various developments across the globe concerning terrorism. The focus of the committee was to systematically monitor and particularly investigate adherence to anti- terrorism conventions and resolutions. Following the September 11, 2001 terrorist attacks on the US,

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\* Though international law experts like Van Krieken refers as illegal the invasion of Iraq by the US, because the later acted without the approval of the UNSC. However, one of the reasons for the invasion bothered on assumption that Iraq harboured or supported terrorist groups. Though the assumption has been proven to be untrue, yet pre-emptive strike (which was coined to support the invasion) has generated much debate in favour or against pre-emptive strikes by experts in international law and politics.

another committee of fifteen members was established, but without power of sanctions. The new committee 'Counter Terrorism Committee' (CTC) was to function as a monitoring team for the implementation of resolution 1373 and ultimately to increase the ability of States to cooperate and fight terrorism. (United Nations 2020) In 2004, the UNSC yet adopted another resolution (S/Res/1535), to create the 'Counter-Terrorism Committee Executive Directorate (CTED), tasked with the additional duty of providing the CTC with expertise advice on all areas covered by resolution 1373. The CTED was to provide and facilitate technical assistance to countries, as well as to promote closer cooperation and coordination both within the UN system of organizations and among regional and inter-governmental bodies on issues of terrorism. (Ibidem) Emphasizing the importance of international cooperation in fighting terrorism, the September 2005 UN World Summit of Heads of States and Governments adopted resolution 1624, and strictly urged *all* countries to comply with the relevant international conventions against terrorism. (United Nations 2005)

In other words, the necessity for close international cooperation against terrorism emerged after the 9/11 attacks on the US. As various UNSC resolutions have mandated, *all states must cooperate in fighting and defeating terrorist organizations or 'be branded as harbouring terrorists'* (emphasis mine). With resolutions 1373, 1456 and 1624, countries may be labelled terrorist states or safe havens for terrorists if they go contrary to the stipulations of the above UNSC resolutions. With these resolutions, the threshold on state's involvement and culpability on issues concerning terrorism were also lowered. It may therefore no longer be enough for states to cooperate on issues against terrorism, but states must ensure that they *do not condone or harbour terrorists*. It means also that a state may be accused of harbouring terrorists if such a state shows a sign of *protecting terrorists or terrorist organizations within her borders*. The same resolutions also make it unlawful act in accordance with various international agreements or conventions for any state to harbour terrorists, knowingly or unknowingly. On harbouring terrorism, two fundamental approaches are important: a) states tolerating terrorists, and b) states not taking appropriate measures against terrorists.

As mentioned above, the 9/11 terrorist attacks on the US brought about important changes with respect to lowering the attribution tests of terrorism. Initially, the traditional paradigm for invoking state responsibility for terrorist attacks was by assuming terrorists as an agent of states. In this regard, article 8 of International Law Commission (ILC) presents a perfect controlling test. According to this article 'active state involvement in wrongful acts', refers to acts by individuals over whom the state exercises control like police, the State Security Service and the military. (United Nations 2001b) Boko Haram is a non-state actor, and the Nigerian state in principle has no control over the members



of Boko Haram. If the Nigerian state accepts to grant amnesty to Boko Haram, it can be assumed that the Nigerian state exercises power and control over the group. Nigeria as a state may become responsible for acts committed by Boko Haram after granting amnesty to the group. Terrorism according to international understanding, is meant to be fought and defeated and not tolerated. It is assumed that Nigeria, as a sovereign independent state with the monopoly of the use force could defeat Boko Haram. However, if for any reason the Nigerian state is genuinely unable to confront and defeat Boko Haram alone, there is enough room in international protocols for cooperation with other states and agencies to fight and defeat a terrorist group without infringing on its sovereignty. The failure of the Nigerian state to explore these options and the attempt to abdicate its international responsibility granting amnesty to an established terrorist organization with proven international networks and sponsors amount to, or could be interpreted in international law as a case of harbouring terrorists as Articles on State Responsibility indicate. An amnesty to an international terrorist organization amounts to a level of support, hosting, harbouring, or tolerating terrorists, therefore sufficient to establish a lack of state responsibility.

The Article 1 of the ILC on State Responsibility states that: “Every internationally wrongful act of a state entails state responsibility.” Article 2 of the ILC Charter on State Responsibility stipulates what an internationally wrongful act means and what the elements are. The two elements are: first, breach of an international obligation and second, the breach attributable to the state. For instance, a case of international wrongful act of a state exists when a conduct consisting of an action or omission: (a) is attributable to the state under international law; and when a conduct (b) constitutes a breach of international obligation. It means that a state can be held accountable for any wrongful act that has international consequence. An amnesty to a terrorist organization amounts to harbouring terrorists or granting them a safe haven and may warrant international consequences. In this case, it may not be difficult to establish state responsibility against Nigeria since harbouring or providing safe havens to terrorists has been declared as an international wrongful act as resolutions 1373, 1456 and 1624 have indicated. It invokes further responsibility if Boko Haram remains active after receiving amnesty. With a high probability that Boko Haram is not tamed by an amnesty, and therefore continues to carry out terrorist attacks in Nigeria and across border, state responsibility can be established against Nigeria with the possibility of invoking Responsibility to Protect. In establishing state responsibility against Nigeria, an indictment may not be difficult because the state has breached a primary obligation by harbouring terrorists, originating from political amnesty. The State Responsibility imposed on all states by UNSC Resolution 1373 (2001) demands that all states must:

- refrain from supporting terrorists;



- deny safe haven to those who finance, plan, support or commit terrorist acts or harbour them,
- prevent the use of their territory for any act of terrorism. (United Nations 2001a)

An attempt at amnesty for Boko Haram, which has been established as a terrorist group, means that the Nigerian state would be breaching international obligation, and subsequently liable to international sanctions as may be required by international law. Further, any state that feels threatened by the activities of Boko Haram as Chad did on March 25, 2020 when it lost 92 soldiers and hundreds of its citizens to Boko Haram, may confront Nigeria legally or militarily for harbouring terrorists.

State obligation further demands that all states deal with terrorism on their own territory, particularly, “punishing terrorists and preventing terrorist acts.” (OHCHR 2008) If expanded, this obligation entails that the international frameworks on terrorism must be incorporated in the domestic legislation and norms to criminalize terrorism and punish the perpetrators. It further demands from states, strict active action to prevent terrorist attacks. If Resolution 1373 is taken together with Article VII of the UN Charter, it means that the main duty imposed on state organs is to act against terrorism and resort to ‘*all appropriate means*’ to fight and defeat terrorism, since terrorist organizations pose significant threat to international peace and order. In this regard, rewarding a terrorist organization such as Boko Haram with an amnesty does not seem to amount to using ‘*all appropriate means*’ to fight and defeat terrorism, rather it does seem more to ‘harbouring terrorists’ and ‘providing them safe haven.’ In the present case, a probable violation of an international obligation is visible as the state organs could be regarded as being inactive in the fight against terror. Tinkering with amnesty for Boko Haram could mean that Nigeria harbours or provides safe haven to terrorists and their sponsors; and that Nigeria tolerates Boko Haram as a terrorist group, act that constitute a breach of both primary and international obligation, which exists when the state encourages and provides a safe haven to terrorists. (United Nations 2001a)

## **The Attribution Rules of International Obligation vis a vis Amnesty to Boko Haram**

I have discussed the meaning of ‘Primary and International Obligations’ on terrorism, and how these could be established and breached. I shall now focus on the ‘Attribution Rules’ of these obligations that help to firmly establish state responsibility.

It is an accepted international and general rule that ‘the state is responsible for the acts of its own organs’. (United Nations 1998) Article 4 of the International Law Commission (ILC), especially the Statute on State Responsibility, states that “the conduct of any state organ should be considered an act of state.” (United Nations 2002) The word ‘conduct’ in international law strictly means an ‘act or omission’ of a state organ. With respect to harbouring terrorists, it amounts to an omission by state organs to prevent terrorist attacks or to punish terrorists. Such a ‘conduct’ could be attributed to the state and could entail state responsibility.

Concerning terrorism and in reference with state responsibility, states are duty-bound under international law to observe the ‘Due Diligence Obligation.’ Due diligence means that a state must preserve or maintain certain standards of public order. The due diligence obligation obliges the state to take all reasonable measures to prevent illegal actions that could harm a third state. The adoption of the Declaration on Friendly Relationship in 1970 imposed this obligation on all states. (United Nations 1970) In other words, the actions taken by Nigeria in relation to Boko Haram are not supposed to threaten the peace and security of other states. Due diligence obligation requires that Nigeria must properly consider if amnesty to Boko Haram has no capacity to cause harm to a third state. The Declaration on friendly Relationship states that “Every state has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another states or acquiescing in organized activities within its territory directed towards the commission of such acts, when acts referred to in the present paragraph involve terrorist activities.” (Ibidem) The attack by Boko Haram in Chad on March 25, 2020, that killed 92 Chadian soldiers would have breached international and due diligence obligation had Chad not been a participating state in the fight against terrorism and Boko Haram as a member of LCBC.

The Declaration on Measures to Eliminate International Terrorism adopted in 1994 obliges states to refrain from organizing, instigating, facilitating, financing or tolerating terrorist activities and to take practical measures to ensure that their territories are not used for terrorist installations, training camps or for the preparation of terrorist acts against other states. (United Nations 1994) Nigeria participated in a joint mission in Mali in 2013 to ensure that the territories of Mali were not used for terrorist installations, training camps or for the preparation of terrorist acts against other states, possibly to give force to the above principles contained in the 1970 Declaration on principles on International law Concerning Friendly Relations and Cooperation among States in Accordance with the Charters of the united Nations (GAR 2625). It might be the case that after receiving amnesty from the Nigeria government, that Boko Haram decides to carry out terrorists acts on the nearby states of Niger, Cameroon, Chad or Togo. With Due diligence obligation accepted in case law as exemplified in 1947 by the International Court of Justice (ICJ) held in Corfu Channel, (Inter-

national Court of Justice 1949) Nigeria would have a case to answer. A breach on due diligence, the Declaration of Friendly Relationship, and the Declaration on Measures to Eliminate International Terrorism shall occur if amnesty leads or is linked to a terrorist attack on a third state by Boko Haram. If applied to terrorist activities, the principle of respecting the right of other states becomes obligatory for a state not to permit its territory to be used for terrorist activities.

However, if Nigeria is unable to punish or prevent terrorism, it does not immediately entail harbouring terrorists or amount to state responsibility. This is essentially because acts of non-state actors in some cases are not attributable to the state, in which case, a state may not be considered as breaching the due diligence obligation. This requires a visible effort in doing the right thing – honest effort to defeat terrorism. Nevertheless, the danger inherent in granting concession and amnesty to Boko Haram, a faceless terrorist organization (Iro & Osumah 2012), is great and does not neutralize the threat posed by terrorism in Nigeria and neighbouring countries. Terrorism needs to be combated and defeated to sustain international peace and order. An effort to enable a complete combating of terrorism and international co-operation already entailed the lowering of the attribution threshold of terrorism and terrorist activities. The consequence is the broadening of acts and conducts that fall under terrorism and the broadening of state responsibility and obligation. Harbouring and sponsoring terrorists fall under these categories. For instance, since harbouring terrorists is a breach to international law, including international peace and order, and provokes state responsibility, the use of sanction and or force against such a state in self-defence or retaliation may be considered justifiable under Chapter VII of UN Charter. Establishing state responsibility for harbouring terrorists has become necessary, otherwise terrorists would have a good chance to escape from responsibility and become “untouchable”.

The Al-Qaeda case presents a good example. In Afghanistan, Al Qaeda did not aim to become an organ or agent of the state since the absence of statehood and state sponsorship made Al-Qaeda a ‘free-rider and untouchable,’ by escaping from the established rules of international law. By commission or omission, the Taliban government in Afghanistan allowed certain degree and level of freedom for Al Qaeda to operate in Afghanistan. Al Qaeda indirectly and symbiotically enjoyed protection from the Afghan State as safe haven from where it launched cross-border attacks. It was a calculated strategy to flee from responsibility, even for Afghanistan, because the action of Al-Qaeda did not fit into the traditional understanding of the self-defence paradigm and state responsibility. Therefore, the necessity to lower the attribution threshold to include “harbouring or providing safe haven to terrorists which emerged after the 9/11 attacks now covers all areas that provide direct and indirect protection to terrorists and terrorist organizations. This includes the expansion of different forms of rela-

tionship that may exist between terrorist groups and the state including sponsorship, provision of intelligence, and inclusion of terrorist sympathisers in government.

## Final remarks

This article has analysed the concept of terrorism and the international cooperation against terrorism, especially as it has developed since after the 9/11 attacks on the US. It has equally analysed the various international protocols, conventions, and regimes as they are understood today in international relations and law. The article has further established a correlation between the norms of state responsibility, especially as it concerns attribution rules and the risks involved in cooperating or harbouring terrorist organizations by states. The history sources of norms concerning terrorism have become more connected after the declaration of the war on terror in 2001 by US government. It has become seemingly easier to indict governments and states on issues of terrorism because of the lowering of the attribution threshold as seen in the cases of Afghanistan, Nicaragua and Tadic, and controversially Iraq. This has moved step by step to further lowering the threshold of attribution towards simply harbouring terrorists and granting them safe haven. The highpoint of some recent international regimes and conventions on terrorism is the use of force in self-defence against states harbouring terrorists. The debate to grant amnesty to Boko Haram, already declared a terrorist organization by the Nigerian government and the international community has the capacity to invite unnecessary international attention on Nigeria. In any way that Nigeria does not have the capacity to fight and punish the terrorists as recommended by various international regimes, the same international regimes give Nigeria the privilege and right to solicit for international help and cooperation to defeat Boko Haram as a terrorist organization.

If amnesty has become an indispensable strategy to control the activities of Boko Haram in Nigeria, we envisage that two things must come first before an amnesty could be considered:

1. The Nigerian state may first denounce the burden imposed on Boko Haram as a terrorist organization by genuinely proving the innocence of Boko Haram as a terrorist group to other third countries, especially the LCBC, UN and AU. Nigeria has also to convince and prove to the international community and its partners on the fight against terror, especially those that have committed personnel, funds and materials in the fight against terror in Nigeria that Boko Haram has ceased to be a terrorist group.

2. Boko Haram may need to openly denounce violence and terror by laying down its arms and genuinely apologize to the state and the civilian masses and the victims of the unprovoked and reckless violence of Boko Haram.

An amnesty to captured aggressors whose remorse may have been induced by hopelessness rather than genuine change of mind remains a time bomb for national and international peace and security and may be seen as giving protection to Boko Haram by the Nigeria state. It may equally trigger violent reactions from law abiding citizens who have lost their loved ones to the criminal activities of Boko Haram. Amnesty to Boko Haram may amount to betraying their sense of loyalty to the country, instead of giving them justice and hope. Further, amnesty for Boko Haram may further compound and escalate divisive politics and tendencies in Nigeria and encourage other self-determination groups to become armed and militant (Nwodo 2020).

Failure to procure genuine change of mind and renouncement of terrorist tendencies before embarking on the project of amnesty to Boko Haram may amount to a breach of international responsibility and obligation. Nigeria risks the chance of being labelled and branded a terrorist country, a supporter of terrorism and a country that harbours and provides safe haven to terrorists. The short- and long-term implications and consequences may be too heavy for Nigeria to bear.

Nigeria is now exposed to the destructive phenomenon called terrorism, with huge international network. The battle to combat Boko Haram may still last very long. However, granting amnesty to Boko Haram seems not to be a solution. International obligation demands that terrorism must be defeated and not tolerated or conceded. A window of opportunity for international cooperation exists for Nigeria to achieve this feat if it cannot face the challenge alone.

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# Challenges to EU Integration in the Early Months of the COVID-19 Pandemic

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**Abstract:** The purpose of this paper is to elucidate the ways that COVID-19 has challenged the EU's diplomatic community and its narratives of solidarity. The period of focus for this paper is from late-February to early-April 2020. This paper discusses three main areas that concretely show these challenges. First, EU diplomatic integration was consternated due to the nature of the COVID-19 crisis. Second, the EU's vulnerability amid the crisis offered Beijing an opportunity to foster or enhance diplomatic ties with European countries, to the misfortune of Brussels. Third, discourses over economic measures to mitigate the COVID-19 recession inflamed EU relations, partly because the disagreements reflect longstanding discrepancies in EU economic distribution. Throughout the paper, it is argued that COVID-19 is a critical juncture for the EU, and that how it responds to this crisis will greatly affect the quality of its diplomatic relations and integrations in the future.

**Keywords:** COVID-19 Pandemic, European Union Integration, Balkans, China, mask diplomacy

## Introduction

THE EUROPEAN UNION REMAINS THE 'GOLD STANDARD' for regional governance and diplomacy. The success of its many functions partly depends on its branding of unity, solidarity, and cohesion. Given the post-World War II order and legacy that the EU emerged from, another source of success is the EU's ability to respond to international crises. This paper will research the hypothesis that the EU was challenged as an integrated diplomatic and socio-economic community during the early months of the COVID-19 pandemic. This paper will mainly analyse the period of late-February to early-April 2020 in order to highlight the various challenges that faced EU diplomatic integration. The timeline is

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highly circumstantial for the analysis on diplomatic and institutional developments in Europe. My argumentation is structured through an analysis of these three aspects:

- COVID-19 containment measures resulted in differentiated travel regulations and a stagnated flow of medical resources between EU members.
- China attempted to increase its soft power in Europe by capitalizing on the EU's socio-economic vulnerability during the early months of the COVID-19 pandemic.
- Discourses on the mitigation of COVID-19's economic impact saw a provocation of pre-existing economic discrepancies among member states.

An analysis of these three areas will demonstrate the many ways that EU integration was challenged from late-February to early-April 2020.

A discretion must be stated that research on the diplomatic ramifications and ripple effects of COVID-19 are dynamic, in the sense that, at the time of publication, the crisis is acutely ongoing. The research of this paper is less reliant on a literary review since the snapshot is very new. The analyses of this paper are targeted less at providing normative prescriptions and more on highlighting how the crisis has been understood through narratives. To that extent, some of the analysis made in this paper are historiographical.

## Theoretical Background: What is Regional Diplomacy?

Regional diplomacy denotes the operation of diplomacy specific to contoured regions with differing attributes. Regions are defined by increased integration economically, socially, politically, and institutionally. Due to the global trend of increased integration of formerly atomic nation states, synthesized (even dialectical) identity claims have emerged that place emphasis on the region as a whole. Regional identities contrasts identity claims associated to the parts of a given region— nationalism. The term 'pan-Europeanism' is an example of this kind of transcendental identity claim. As regions begin to integrate, foreign services also begin to do the same. An example of this trend is the European External Action Service (EEAS). The EEAS organizes departments into geographical 'neighbourhoods' of the world, listed as "Asia-Pacific, Africa, Europe and Central Asia, the Greater Middle East and the Americas", showing a change of *ethos* for diplomacy toward regionalism. (DEUM 2020) Diplomacy has been adaptive to the swift changes that globalization and regionalism have brought about.

Regional diplomacy can also mean something less particular, perhaps because the term is relatively new and has had less time to solidify. Regional diplo-

macy can refer to a geopolitical kind of diplomacy, in that the study and practice of diplomacy are conducted through the “plurality of ways in which the political world is spatially demarcated, scripted, imagined, and represented *as well as* the materials, practices, and embodied experiences which constitute it”. (Jackson 2017: 9) This definition is manifested in the foreign services of many states, who engage multilaterally with another state *and* its surrounding neighbours with relevant interests (e.g. U.S. regional diplomacy with North Korea often involves South Korea and China). Thus, regional diplomacy nuances the Westphalian and traditionally-European form of diplomacy where states engage with each other bilaterally.

## Premises

This paper sees the European Union as an institution that is geared toward promoting unity among European citizens, a model for crisis-response, and a diplomatic institution that is still largely governed by inter-European relations (thus it cannot achieve a unified foreign policy until this is “resolved”, if you will). Another premise of this paper holds that the European Union is itself in a continuum of public diplomacy by its mere existence; the EU depends upon the support of its citizens and is therefore in a (sometimes uphill) battle to maintain its legitimacy. According to the European Commission in 2007: “public diplomacy deals with the influence of public attitudes. It seeks to promote EU interests by understanding, informing, and influencing. It means clearly explaining the EU’s goals, policies and activities and fostering understanding of these goals through dialogue with individual citizens, groups, institutions and the media”. (Duke 2013:2). Sandrin and Hoffmann (2018:1) correctly assess this statement as a “declared aim” of fostering a “positive image of the EU”. The EU, however, was not always at its forefront dedicated to social solidarity. In fact, for the European Steel and Coal Community, European integration meant layered economic interdependence, and from this would result in social connectivity. Over the years, economic interdependence has transformed into social solidarity (pan-Europeanism), delimitations on travel (Schengen Passport), and institutional integration (European External Action Service).

The European Union is many things: an economic community, a role model for regional diplomacy, and a commitment to quell the dangers of nationalism. However, the EU’s “grand narrative” of peace, as reflected in its awarded Nobel Peace Prize in 2012, has legacy in its historical origin. Underneath it all, the EU is described best as a crisis prevention and relief system as a result of this history. Post-World War II, European nations collaborated to create an antidote to the conflicts that plagued the Continent for a good part of two thousand years. For decades, this antidote has worked— and it is a remarkable achieve-

ment, given the history of Europe. The fact that the EU has functioned to prevent war between great powers serves as a major source of political legitimacy for Brussels. The logic holds that, *if the EU becomes unable to prevent or contain crises, its political legitimacy will be damaged*. Epitomizing this notion is the EU Commission's rendering of the EU Civil Protection Mechanism— the institution for crisis-response, that functions to strengthen cooperation between member states.

In the last decade alone, the EU has been challenged to meet these aims of cooperation and coordination through various crises with qualitative differences. The European debt-crisis, that resulted in several bailouts for countries unable to pay back loans, exemplifies a problem that the EU is ideally designed to solve. This point is self-evident in the formation of the European Central Bank, which functions to manage finances between members of the EU. Secondly, the ongoing migrant crisis has been arguably far more complicating to navigate since migration policy is largely a national issue, and it has left members like Italy and Hungary with deeply-embedded grievances. These grievances manifested in the popularity of far-right leaders like Matteo Salvini and Viktor Orbán. A third example was the intensification of terrorism in Western Europe resulted in robust crisis-response measures, often administered by the European community as a whole. A lesson of these crises is that responding to crises unitarily is good for European solidarity. Moreover, it is often logistically effective since members share resources, and beneficial for maintaining a positive image of the European regional model to the rest of the world. President of the European Council, Charles Michel, states “The only way forward is a common strategy in a spirit of solidarity” for COVID-19 response. (European Council 2020) In a later section, this paper will analyse how the unprecedented situation of the COVID-19 pandemic is profoundly challenging to the EU narratives of solidarity, and to intra-European regional diplomacy in practice.

While institutions like the European External Action Service (EEAS) strive to create a more unitary image of Europe externally to the global community, the European Union's diplomacy is still greatly occupied with inter-European relations. Even the EEAS is a hybrid of both EU and national diplomats, respectively. (Bichi and Bremberg 2016: 395) The fact that the EU strives for a unitary foreign policy, but still has complex inter-European diplomacy, has been deemed a “double standard”. (Bátora 2006) Henry Kissinger once whimsically remarked that when he called Europe, he was unsure of which European country to call. (Cherrier 2012: 8) Another joke among Brussels elites has the EU's foreign-policy chief telling Hillary Clinton that, “she now has the single telephone number so that America can ‘call Europe’”. But when the secretary of state dials it, all she gets is a recording: “For French foreign policy, press 1. For British foreign policy, press 2...” (The Economist 2010) For Beijing, this is no joke, since

“Xi phoned French President Emmanuel Macron, German Chancellor Angela Merkel and Spain’s King Felipe over the past week...it was left to Premier Li Keqiang to make the call to Von der Leyen”. (Lau 2020) Tellingly, the President of the European Commission was the only major head of European leadership to not receive a call from President Xi Jinping. (Ibidem) The diversity of the European Union naturally creates divergences and differences of opinions among its members; the outbreak of the COVID-19 pandemic on the Continent made these differences saliences.

## The COVID-19 Pandemic and European Integration

It is a truism to describe the COVID-19 crisis as unprecedented. Regardless, there are qualitative differences between this particular crisis and the aforementioned crises impacting the European Union that must be explicated. First, this crisis is not ‘human’ — global pandemics are a ‘silent killer’. The COVID-19 pandemic has created confusion among the diplomatic community because diplomacy is a dynamic process that is defined by human contact and in-person communication. Second, this crisis involves the norm of inter-European diplomatic relations coupled with an unusually high interference and influence from major outside players, especially China. China’s “mask diplomacy” is highly important and consequential for the Continent, socio-politically, strategically, and for the medical crisis on the ground.

Third, COVID-19 has drastically affected every member of the EU, and the mutuality of COVID-19 to the EU distinguishes it from other crises. In the ongoing migrant crisis, geographical proximity to the Mediterranean or Aegean Seas is consequential, whereas for countries farther from the southern seas such as Denmark, migration policies are easier to regulate and enforce for the state. The mutual impact of COVID-19 to all EU member states is immense in terms of individual health and in terms of the economy, social relations, and electoral politics. The diplomatic fallback of this crisis is unlike any other *because all European countries’ diplomatic behaviour has shifted*. Overall, European states struggled to retain the cooperation of their intra-regional diplomatic relations while simultaneously containing the deadly virus.

### *Diplomatic Integration in Times of COVID-19*

A dilemma for the EU continues regarding enacting coordinated travel regulations; this component reflects a long-standing debate over the coordination of European law-making in general. In ‘EU Diplomacy at 27’ (2012), the authors conduct a prisoner’s dilemma to assess the behaviour of European states vying

for leverage in regard to their foreign policies. (Cherrier 2012: 8) Among other things, the paper speaks to the process of the “unanimity of decision making”, the transactional costs of transnational governance, and the differences of preferred outcomes for member states in the EU. (Ibidem) There are overlapping themes between this discussion and the travel restrictions that followed in the wake of the COVID-19 crisis on the Continent.

While some European countries, like Hungary, relinquished travel days before the EU decision, others like Belgium, the home of the EU, contained travel days after. Ultimately, a lack of coordination results in a net loss, just like a prisoner dilemma. Showing the problems arising from a lack of coordination, the United Kingdom acted markedly different from the rest of the European Union in the early days of COVID-19. 66 million people, the UK’s population, were governed by a *laissez faire* strategy of “herd immunity” for weeks while the pandemic wrecking through Europe, allowing the virus to spread within the UK and elsewhere unhindered. (Conn et al. 2020) The UK’s deviance from Brussels’ policy was resoundingly to the detriment of both EU and non-EU countries. (Hunter 2020)

COVID-19 containment precisely requires the limitation on the unregulated travel of people. Needless to say, this includes travel across national boundaries. The European Union banned incoming travel on 17 March from all non-EU and European Economic Area long-term residents, immediate family members, and citizens (Switzerland and United Kingdom were exempt). The initial hope for Brussels was that a restriction on travel coming from outside the Eurozone would convince national European countries to limit restrictions on intra-European travel. (Bayer and Cokelaere 2020) It would turn out that this hope could not be farther from the reality. Moreover, the European Commission had a distaste for the term “travel ban”, suggesting that the EU was self-conscious of the way these policies were advertised to the populace. (Ibidem) The dilemma for the EU is that legislation, implementation, and enforcement of travel bans are mostly the authority of the many national governments within the Union. For this reason, “Commission spokesperson Adalbert Jahnz said that the border restrictions would be a coordinated set of ‘national decisions’”. (Ibidem)

While the official EU regulation came on 17 March, travel restrictions were set in place days before by some national governments. Given the swift-moving timeline of the COVID-19 situation, days are profoundly significant increments for the efforts to contain the spread of the virus. On 13 March, Slovakia, Czech Republic and Malta were the first to announce a border closure to most fellow EU member states. (Schengen Info 2020) Most other countries implemented travel bans on 17 March, coinciding with the EU’s official decision. However, there were some late exceptions. Belgium, for example, only closed

its borders to “non-essential” travel on 20 March. (Cokelaere 2020) Romania’s border closure came two days later on 22 March.

Travel restrictions are an obvious indicator of how EU diplomatic integration was challenged in the early months of the COVID-19 pandemic in Europe. However, more telling was the stagnation of medical equipment, sanitation supplies - and even doctors themselves, amidst national governments’ rational concern of meeting their own domestic demands. (Financial Times 2020) The timeline for this aspect is once again crucial in understanding the tensions facing European relations as a result of COVID-19.

## Narratives of Solidarity Challenged

In April, fellow European countries actively provided patronage to Europe’s most devastated country, Italy, to aid their overwhelmed health care system. Coinciding the material efforts to help Italy came a campaign for European solidarity. The European Commission tweeted on 26 March, “In the face of adversity, the people of Europe are showing how strong we can be together. This is the example that the EU must follow. EU countries are starting to help each other. #EU CO #EU solidarity #EuropeansAgainstCoronavirus”. (European Commission 2020a) Germany and France have donated millions of masks to Italy, and Austria donated over 1.6 million. France contributed 20,000 medical protective suits. (Ibidem) Furthermore, the EU enhanced RescEU, the apparatus for crisis control, to create stockpiles for essential medical equipment. Quoting the President of the European Commission, Ursula von der Leyen, “With the first ever common European reserve of emergency medical equipment we put EU solidarity into action. It will benefit all our Member States and all our citizens”. (European Union 2020b)

Despite the EU’s official line as of late-March, the extent of logistical support flowing to Italy is a highly contentious issue. While the question of whether or not the EU is doing enough to aid Italy transcends the scope of this paper (and a subject deferred to the global health specialists), in mid-March, the general consensus among leading policy reviews, including *Foreign Policy* and *Foreign Affairs*, was that the EU was ‘abandoning’ and ‘letting down’ their colleague in the project of a more unified Europe. On 12 March, *The New York Times* acknowledged the early view that “the Coronavirus Tests Europe’s Cohesion, Alliances and Even Democracy”. (Erlanger 2020) Days later, *Foreign Policy* ran an article on 14 March with the title “The EU Is Abandoning Italy in Its Hour of Need”. (Braw 2020) The article’s subtitle read that the EU was committing “a shameful abdication of responsibility” due to the failure— at the time, to meaningfully contribute medical assistance in the early days of the outbreak.



(*Ibidem*) A 16 March article in *Foreign Affairs* highlighted that Europe behaved in protectionist fashion, as Germany prohibited the export of medical masks, “even though it is a member of the European Union, which is supposed to have a ‘single market’ with unrestricted free trade among its member states. The French government took the simpler step of seizing all available masks”. (Farrell and Newman 2020) Again in *Foreign Policy*, on 17 March it published “The Coronavirus Is Reducing Merkel’s EU Legacy to Ashes”; within the article it cites a poll: “it is hard to disagree with the 88 percent of Italians who, in a recent poll, agreed with the statement that the ‘EU was not helping [them]’”. (Bremer and Matthijs 2020) On 31 March, *Independent* ran the article that “The European Union will be destroyed by its immoral handling of the coronavirus”. (Mammone 2020)

To reiterate, the philosophy of the EU is oriented on pan-Europeanism, interconnectedness, unity, and cooperation, and the COVID-19 crisis concretely draws these tenets in question. It is for this challenge that COVID-19 is a critical juncture of the EU. The widespread acknowledgement of the EU’s irresponsibility from late-February to early-April, supported by immutable facts, taints the EU’s narratives of solidarity. The impression of the EU as falling short of meeting the needs of its citizens will outlast the pandemic itself. If the EU is to remain the gold standard for regional models worldwide, it is imperative that it meets the crisis in the trenches. The EU’s political legitimacy is intertwined with crisis prevention and relief; its political legitimacy is intertwined with these functions. The worry for Brussels is that Italians have strong cases to reject this narrative due to the COVID-19 crisis. The EU’s competitors are taking note of Brussels’ worries.

## Beijing Exploiting the EU’s Fallouts through Mask Diplomacy

The adversity facing EU integration leaves room for the EU’s competitors to make strategic gains in Europe. The EU’s foreign policy chief, Josep Borrell, said the EU and China are in a “global battle of narratives...China is aggressively pushing the message that, unlike the US, it is a responsible and reliable partner”. (Ferraresi 2020) For instance, the aforementioned tweet by the European Commission explicitly states that European countries are far out-contributing China. (European Commission 2020a) A European Parliament briefing perfectly describes the challenge that Brussels’ competitors pose to EU inter-relations, “Both Moscow and Beijing seem to be driving parallel information campaigns, conveying the overall message that democratic state actors are failing

and that European citizens cannot trust their health systems, whereas their authoritarian systems can save the world". (Bentzen 2020)

In the early period of the pandemic on the Continent, China was restlessly distributing masks to European countries (both inside and outside the EU), from Italy, to Hungary, to Serbia, in order to promote a politics of goodwill that will foster bilateral relations in the future. This operation is called mask diplomacy. Optically, China's strategy is seen to have been working elsewhere in Europe, as Serbian President Aleksandar Vučić even "theatrically kissed China's flag when a team of doctors landed in Belgrade" (while Serbia is not in the EU, it will be shown that the country is a case of China's soft power at work). (Ferraresi 2020) The images of Orbán greeting China's pilots on the tarmac was a symbolic image captured by both the Hungarian press and Chinese state media. (Xinhua 2020a)

China's 'politics of generosity' can effectively put a wedge in the integration of the EU community if Beijing's narratives resonate with resentful countries. This notion was eloquently stated in a 2018 policy report, "by generating support of some EU member states for its positions, Beijing drives a wedge between European countries, exacerbating existing fault lines between EU member states with broadly liberal and integrationist agendas on the one hand, and those with Eurosceptic outlooks on the other hand". (Benner 2018: 15) In 2020, Beijing intentionally intends to exploit tension within the EU, left in the early days of Brussels' muted COVID-19 response. Beijing has strong incentive to challenge the regional interconnectedness of the EU where it can, notably because the Belt and Road Initiative seeks to gain partners in the nations that render themselves distanced by the policies of Brussels (interesting, that Italy was the first G7 country to get on board with the BRI). The future of Chinese regional diplomacy in Europe is not unlike its regional diplomacy in other continents, where China employs the BRI to foster partnerships that leaves much of the bargaining power in Beijing's hands. As an illustration of the BRI at work, Serbia has intertwined some of its technological and telecommunications sectors with Chinese corporations like Huawei. (Stojkovski 2019) The EU's concern over China's interest to interfere with European integration are endemic to many areas of policymaking and predate the COVID-19 pandemic. (Bohman and Ljungwall 2018)

Some of Beijing's state-sponsored narratives are reinforced by facts. Campbell (2020) writes that "when no European state answered Italy's urgent appeal for medical equipment and protective gear, China publicly committed to sending 1,000 ventilators, two million masks, 100,000 respirators, 20,000 protective suits, and 50,000 test kits". (Campbell and Doshi 2020) Italy has been grateful for these contributions. Quoting a former leader of the anti-establishment populist Five Star movement Luigi di Maio, "Those who scoffed at our par-

ticipation in the Belt and Road Initiative now have to admit that investing in that friendship allowed us to save lives in Italy”. (Ferraresi 2020) China did send medical supplies rather timely in response to the outbreak in Italy on 12 March. It is imperative to state that an excessive amount of China’s medical supplies have been ineffective or faulty, especially in contrast from supplies that are coming from the West in Europe. (BBC News 2020; Stojanovic 2020) With that being said, political rhetoric often does not need to match the facts on the ground to have the efficacy it desires.

The growing diplomatic relationship between China and Serbia represents a telling case of Beijing establishing diplomatic ties in Europe much to Brussels’ misfortune. (Subotić, Janjić and Lazarević 2000: 2) Precisely because Serbia is not in the EU (it applied for accession in 2009), Beijing perceives it as a viable future partner for diplomatic, economic, and political ties. This partnership has various strategic and economic interests for both parties. For instance, since China sits on the P5 Security Council, it can help Serbia ensure that Kosovo never retains sovereignty. (Jianchao 2008) Serbia receives \$2.2 billion from China, mostly in the form of loans. (Milic 2020)

Serbia, like Italy, sent out early calls for assistance early amid outbreaks of COVID-19 within its borders. Enraged by the limitations of medical imports it can receive from European community, Serbian President Aleksandar Vučić said that “European solidarity does not exist” — a direct front to the EU project. (Popović 2020) Beijing realized Serbia’s grievance and responded homogeneously as it did with Italy, sending its own national epidemiologists as well. The Chinese ambassador to Serbia collaborated with other Chinese diplomats to create a dedicated Twitter account that disseminates narratives of China’s generosity and friendship with the Serbian people. (Albert 2020) Chinese state media, like *China Daily*, have been running articles emphasizing the positive role of Beijing, such as “Serbia announces massive testing for COVID-19 with Chinese help”. (Xinhua 2020b) This follows the greater trend of state-run media projecting specific narratives; “Chinese aid hailed as nations reel,” “As China recovers from COVID-19 blow, and “Chinese rush to Europe’s rescue”. (Ibidem)

China’s mask diplomacy in Serbia is significant for a few reasons. While Serbia is not an official member of the EU, it demonstrates a clear example of where China’s soft power in Europe can be effective where Brussels’ soft power— tied to the narrative of solidarity— cannot. The point of emphasizing Serbia-China bilateral relations is to show that a precondition of resentment with the EU can mean, for Beijing, a fertile ground for enhancing diplomatic relationships. At least from the period of late-February to early-April, the COVID-19 pandemic has seen Serbia-China diplomatic relations become closer. Importantly, the pandemic presented an opportunity for Beijing to find partners in a faltering EU.

Hungary demonstrates the epitome of a country that, not coincidentally, has strained relations with Europe and good relations with China. Orbán's illiberal governance has contributed to it being called the most disappointing EU member, making it an anomaly from the EU. (Végh 2020) Orbán's regime is opportunistically using COVID-19 as an avenue for consolidating more power. (Bottoni 2020) As a result, the EU Commission's support to Hungary during COVID-19 has been complicated due to its integral interests to promote democratic rights, and its obligation to support COVID-19 containment efforts in all member countries. (Politico 2020) For a number of reasons, China and Hungary are natural allies during the COVID-19 pandemic. On 23 March, China began importing significant medical resources to Hungary. (Seaman, Julianne and ETNC 2020: 32) By 15 April, "Chinese counterparts had delivered 46.9 million masks, 352 thousand test kits and 20.3 million PPEs. Besides these, 101 ventilators have been sent to Hungary from China". (Ibidem: 33) The COVID-19 pandemic has demonstrably shown Hungary's amicable relations with China.

Greece is another EU member state that is possibly distancing itself from Brussels and toward Beijing. According to a Pew Research Center study, Greece has the most unfavourable sentiments with the EU and the EU Parliament (it was higher than the UK in 2018). (Wike, Fetterolf and Fagan 2019) This is not unknown to Beijing, "The PRC embassy in Greece has launched an ambitious public diplomacy campaign in relation to the pandemic. The arrival of the State Grid-donated supplies on 21 March at Athens airport, in the presence of four Greek cabinet ministers and the PRC ambassador, was covered by many media outlets, including TV channels. The slogan of the event was an admittedly smart catchphrase attributed to the ancient Greek philosopher Aristotle: 'A friend is a single soul dwelling in two bodies'". (Seaman, Julianne and ETNC 2020: 30) Through mask diplomacy, Beijing intends to maintain access to the seaport of Piraeus in order to achieve the projects of the BRI. (Ibidem: 31)

China has indisputably contributed large amounts of material resources to European countries. China's efforts are not benevolent— to not understand the "politics of generosity" through the lens of grander geopolitical strategy is mis-apprehensive. EU elites are well aware of how Beijing's soft power functions. In response to China's battle of narratives, the EU emphasized its own contribution to China as well. According to the Commissioner for Crisis Management, The EU "delivered 56 tonnes of equipment to China" in February (this begs the questions as to where this aid was when Italy needed it the most in early-March). (European Commission 2020c) The EU declared that the aid received from China by Europe was more a gesture of reciprocity rather than of altruism. (Lau 2020) Ultimately, the EU realizes it must reinforce its claims of solidarity with tangible support for the narratives of solidarity to remain tenable post-COVID-19.

Some critics may question the logic that fostering closer ties with Beijing necessarily results in distancing from Brussels for European countries. This is not an absolute; but it is no secret that China's global ambitions seek to replace Western institutions with Beijing's economic expansionism. EU diplomatic integration is certainly a target — or at the very least a collateral, of Beijing's geopolitical agenda. In the past, China's soft power has struggled to gain grounds on the Continent. (d'Hooghe 2010: 36) COVID-19 presented the Chinese Communist Party with an opportunity they sought to capitalize on.

## COVID-19 Exposing Pre-existing Economic Discrepancies

Another way COVID-19 has challenged EU diplomatic relations is by exposing pre-existing economic disagreements and regional discrepancies (the North contrasting the South) in the EU. Around late-March and early-April, the discourse began orbiting on the subject of 'coronabonds'. (Kalamov and Staal 2020) Coronabonds are defined as the joint debt issuances that alleviate deficit ceilings especially for European countries hardest hit by the disease. These economic measures would help the post-COVID-19 recovery. Just as the Eurozone debt crisis intensified conversations about the utility of the EU (not to mention the very existence of the institution itself), coronabonds have been a contentious and dividing issue among European leaders and between civil societies. This is especially true of the Spanish and Italian delegations who have waged heated arguments against opponents of coronabonds, namely the Dutch and Germans. The discourses over coronabonds are reflective of fundamental divisions in the EU, especially between the lower-middle range states of financial influence and the 'Frugal Four' plus Germany, respectively. The fiscally conservative members of the EU, especially the Netherlands and Germany, believe that a relaxed threshold for giving loans would result in financial irresponsibility, and even a moral hazard. (European Central Bank 2011: 78) The Netherlands and Germany perceive coronabonds as giving a blank cheque.

Many of the world's regional diplomatic models are centred around integrating economically and seek to ferment this integration by forming financial institutions (like the euro, to use the obvious example). By establishing institutions with a clearly defined set of rules and parameters, regional models like the European Union enact the integration of individual member states by creating laws and regulations that function mutually to all. Regarding the COVID-19 pandemic, the Spanish and Italian cases for coronabonds has precedent and legal grounding in EU policy. The European Union created the European Stability Mechanism as a permanent means of crisis management. The policy statement

itself states that “A credible crisis management framework should help shape market expectations by providing clear ‘rules of the game’ and thus influence the incentives for both private creditors and public debtors”. (*Ibidem*: 74)

While it can be argued that there exists an established precedent for European economic bailouts, this paper holds the premise that COVID-19 is an economic crisis that differs from all previous crises. All member states are severely impacted as a result of the pandemic, since COVID-19’s effects are inescapable. Thus, while the European Central Bank seeks to buoy sinking economies in the EU, the mutuality of financial recessions in all EU member states amid this crisis presents a major challenge to the EU’s economic integration. The ECB policy statement reads, “In times of crisis, however, close financial integration means that unsustainable developments in one member country can easily spread to others perceived as vulnerable by the market”, acknowledging that one country’s fiscal problems can cause unwanted ramifications elsewhere due to economic integration. (*Ibidem*)

The diplomatic disputes between European countries clearly reflect attributional differences, in terms of the way that EU members perceive fiscal policy. These regional differences persist despite the EU actively seeking to mitigate the discrepancies of its members as part of its fundamental mission. The COVID-19 pandemic is inflaming fundamental disagreements on fiscal policy, and it is moreover highlighting the differences in economic standing between EU members. It is no coincidence that disputes over coronabonds mirror differences in economic standing, since by the end of 2019 (right before the outbreak of COVID-19), “Germany and the Netherlands had debt-to-GDP ratios of 59 percent and 49 percent, respectively; the ratios in Italy and Spain were far higher, standing at 136 percent and 97 percent, respectively”. (*Jones E. 2020*)

These economic contrasts continue to be an Achilles heel for the EU, a regional model that has its origin in the integration of markets. Diplomatic integration came long after the economic integrations of the Steel and Coal Community, the Marshall Plan, and other integrating economic institutions; this is telling in regard to how policymakers place importance on diplomatic integration. Simply put, without economic integration, would the diplomatic community of Europe exist? (*Schiff M. and Winters 1998: 273*) It is unlikely this would be the case. If the EU cannot responsibly provide economic crises-relief mechanisms to the economic fallback of COVID-19, the integrated diplomatic community it has accomplished will potentially be the collateral. The Eurozone debt crisis saw this scenario become reality, as conversations about leaving the EU became increasingly prevalent in national discourses. Thompson (2017) called the eurozone debt crisis a ‘timebomb’ for the future of British membership in the EU. (*Thompson 2017*) The strength of the British political economy was one

reason why the British populace was confident enough to leave the EU (however, experts disagree).

Erik Jones, Professor of European Studies and International Political Economy at the Johns Hopkins School of International Affairs, states that the “The ECB has bought time with its latest measures. But it has not solved the economic problems Europe faces as a result of the coronavirus”. (Jones E. 2020) As COVID-19 continues to inflict upon the European and global economy, nation states could see their policies become increasingly protectionist even after the medical crisis is resolved.

## Final Remarks

The COVID-19 pandemic has risen myriad challenges to the diplomatic integration that the EU’s solidarity-narratives cannot resolve alone. The first challenge to EU integration this paper highlights is the consternation experienced by the institutions of the EU’s inter-diplomacy, such as the Schengen Passport coupled with the varying travel bans. Secondly, this paper elucidated the narrative-battle waged between China and the EU, and the soft power efforts of Beijing to influence both member and non-member states. Both the late-EU response to COVID-19 and China’s mask diplomacy has significantly challenged Brussels’ narratives of solidarity that are aimed at integrating Europe. Thirdly, discourses over economic measures to mitigate the COVID-19 recession inflamed EU relations, partly because the disagreements reflect longstanding discrepancies in the EU’s economic distribution.

While the timeline shows that EU member states have retracted “nationals first” positions, the early failings of the EU to come to Italy’s aid will not be forgotten. Spain, a country that was already hit hard by the eurozone debt crisis, may not forgive its European counterparts for their veto on coronabonds. While the EU falters on building its economic unity and single market, Chinese regional diplomacy, in various regions, subtly invokes expansionism by gaining economic ‘partners’ amidst the COVID-19 pandemic.

If Italy and Spain lack confidence in the ability of the EU to respond to crises promptly, especially in the wake of what has been their most severe crises since World War II and the Spanish Civil War, then the likelihood that these two countries maintain their diplomatic openness with Europe in the future could be compromised. Indeed, Italy’s growingly amicable relationship with China is an early indicator of this scenario possibly playing out (and an indicator of Chinese regional diplomacy accomplishing its goals). Furthermore, this paper uses Serbia as an example of how closer ties to Beijing can come at Brussels’ expense. Serbia



is a prime case of China's soft power showing its potency, and it is clear that Beijing would like to replicate this elsewhere on the Continent.

Lastly, while quantitative figures are presented throughout the paper on matters such as the number of masks entering Italy via China, assessing whether these figures reflect responsible policymaking is outside this paper's defined scope. The intention of displaying these figures is mostly descriptive, rather than normative. What can be confidently stated is that the COVID-19 pandemic is a critical juncture for the European Union, especially since the EU is at its foundation meant to stabilize Europe in dire crises. Since the EU emerged from a legacy of negating war on the Continent—which is crisis aversion and response, the EU's potential failure to respond to COVID-19 promptly and timely could further delegitimize perceptions associated to its global governance. Without a doubt, the many integrated institutions of the EU would be the collateral. The pandemic is a test of European solidarity and diplomatic institutions. Perhaps most testing of all is that the early months of the pandemic that tested the will of its citizens to remain under the authority of a transnational polity. Italian prime minister Giuseppe Conte was on to something, when he told the *Financial Times* that "If Europe fails, I fear it will fade away in the conscience of our fellow citizens, giving space to the worst nationalistic instincts. This is a different virus that we need to defeat now". (Johnson, Ghiglione and Fleming 2020)

## Suggestions for Further Research

Outside of the topic of EU integration, scholars ought to dedicate more analyses to the relationship between China's regional diplomacy and global health initiatives, to understand how diplomatic efforts like mask diplomacy seek to project a positive image of Beijing. These efforts have been crucial for expanding China's soft power. Furthermore, while this paper has analysed the narratives attributed to the aid distributed throughout Europe, experts can assess whether European countries allocated enough material supplies to the hardest hit regions. If research reveals that the Germans and French were 'hoarding' supplies unnecessarily, these revelations will give credence to a widely held view that Italians were 'abandoned' early in the crisis.

Scholars ought to conduct more research on how the EU uses narratives to foster diplomatic integration. Too often, scholars take for granted lofty, abstract terms such as 'European solidarity' and 'pan-Europeanism', without providing sufficient philosophical inquiry. These narratives are without a doubt positive messages, but without clearly defined meanings, populists can malleably interpret these messages to serve their agendas. Political scientists, linguists, and philosophers ought to conduct studies on what context the sign 'European solidarity' is codified. Judging from the preliminary research of this paper on this area,



European diplomacy heavily uses this term whereas it is sparser in economic discussions.

While this paper has dedicated its focus on regional diplomacy in the context of the EU, research on how COVID-19 has severely *damaged* China's soft power through diplomacy will surely reveal that the Chinese Communist Party's ability to influence the world has diminished, both domestically and abroad.

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# Post-Conflict Reconstruction in Bosnia and Herzegovina. The Practical Limits of the Dayton Peace Agreement

Ionela-Sorina APETREI\*

**Abstract.** Yugoslavian dissolution has had an effect of increasing segregation between the main ethnic groups in Bosnia and Herzegovina, which led to the outbreak of civil war between Croats, Serbs, and Muslims from 1992 to 1995. The Dayton vision of Bosnia and Herzegovina's operation has importance for the foundation of our research objective. This paper is focused on the High Representative's reports, between 2006 and 2007. Our research objective is to identify to what extent the Dayton Agreement sets out the steps to be taken to establish a climate of peace and post-conflict recovery. However, Dayton Agreement limited the capacity of international bodies to lead Bosnia and Herzegovina to reach the objectives established at the beginning. As a consequence, Bosnia and Herzegovina emerge as a territorially fragmented, politically, ethnically and religiously fragmented state with non-functional institutions dominated by disagreements between the three ethnic groups and corruption.

**Keywords:** Dayton Peace Agreement, conflict resolution; post-conflict reconstruction; Bosnia and Herzegovina

## Introduction

THE INVOLVEMENT OF THE INTERNATIONAL COMMUNITY IN RESOLVING THE CRISIS in Yugoslavia and subsequently in managing the transition from war to peace to the new states created as a result of the dissolution of the former Yugoslavia has been the subject of restoring security in the region and international order (Cox 2001; Brogan 1990). A special case, where the international community had to respond to many adversities was Bosnia and Herzegovina. A clear example of cultural, ethnic, and confessional fragmentation and diversity in the Balkans, Bosnia and Herzegovina captures the picture of the Balkan conglomerate to the slightest detail. The direct implications of these multiple features on the territory of Bosnia and Herzegovina have materialized in the efforts of the international conflict resolution community and the failure of many constitutional projects since 1991. Yugoslavian dissolution has had an effect of increasing segregation between the main ethnic groups in Bosnia and Herzegovina, which led to the outbreak of civil war between Croats, Serbs, and Muslims from 1992 to 1995. The cessation of hostilities between combatants was based on the Dayton Peace Accord. Signed officially on December 14, 1995, the

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Agreement provides a multidimensional solution to end the conflict and introduces a constitution for Bosnia and Herzegovina (Greenberg and McGuinness 1999). The Dayton Peace Accord has provided the prerequisites for the transition from war to peace and the post-conflict reconstruction process. Thus, based on the agreement, the international community began the missions in Bosnia and Herzegovina to achieve the objectives set out according to the agreement.

In this context, the Dayton vision of Bosnia and Herzegovina's operation, along with the post-conflict reconstruction and transition regulations, are of particular importance for the foundation of our research objective. At the same time, the program designed by the international community as a component of the *status quo* of the Dayton Agreement has played an important role in the case of Bosnia and Herzegovina, thanks to its comprehensive approach and ongoing donor support. As a consequence, our research objective is to identify to what extent the Dayton Agreement sets out the steps to be taken to establish a climate of peace and post-conflict recovery. Our research argument will be based on the context in which representatives of ethnic groups in Bosnia and Herzegovina, through the decision-making power obtain as a result of signing the Dayton Agreement, influence the evolutions of the post-conflict reconstruction process. Also, the inability to establish cooperative relations between the representatives of the state and those of the international community, to a certain extent, complicate the task of the latter to create functional state institutions and self-sustaining development. Practically, opposition to international community initiatives and the impossibility of reaching consensus among ethnic groups for decision-making lead us to the premise that the provisions of the Dayton Agreement created a state with non-functioning institutions which, despite the sustained efforts of the international community, cannot achieve the objectives of the post-conflict reconstruction process until ethnic groups share a common view of the future of Bosnia and Herzegovina.

This paper is divided into three sections. The first section is dedicated to reviewing the literature on the post-conflict reconstruction process, where we identified concepts such as the establishment of the rule of law, the acceptance of foreign actors' actions by the host nation, the legitimacy of foreign intervention in the reconstruction process, state empowerment and building functional state's institutions. The second section is about revising the literature on post-conflict reconstruction in Bosnia and Herzegovina. Finally, the third is related to the Dayton Peace Accord and the High Representative's reports, focusing on the period between 2006 and 2007, which will lead us to formulate the results of the research.

## Theoretical considerations on the post-conflict reconstruction process

Taking into account the post-Cold War events, we can see that new concepts such as post-conflict *recovery*, *reconstruction*, or *development*, suggest a return of war-torn states to the status quo before of war. Therefore, the post-conflict reconstruction process may include several elements such as the rehabilitation of the infrastructure, the restoration of the economy, the health system, the communication, and the roadways, as well as the construction of the government system, public institutions and the settlement of the problems such as corruption or organized crime.

Alexandra Gheciu and Jennifer Welsh, in the article *The Imperative to Rebuild: Assessing the Normative Case for Post-conflict Reconstruction*, gives us a perspective about post-conflict reconstruction process by initiating a critical analysis of the moral goals that determine the involvement of external actors in the reconstruction process and of the problems that arise as a result of starting the process. Thus, the article highlights four objectives that motivate the involvement of external actors in the reconstruction process, and the first of them takes into account "collective responsibility", according to which the responsibility to intervene in the reconstruction of a post-conflict country rests with the bodies involved in the military campaign of that conflict (Gheciu and Welsh 2009: 134-137). The second imperative that governs the motivation to engage in post-conflict reconstruction is "*promoting the democratic model*," according to which international actors have to support states in transition from war to peace, and at the same time to promote democratic values which should be appropriated and applied in these states (Ibidem: 137-138). The third imperative invoked is "the defense of society", to which can be added the own interests of the actors (Ibidem: 139-140). Finally, the fourth objective invoked is "*the creation of a self-determined unit*", which faces another dilemma, namely the integration of the concepts of sovereignty, on the situation of the territories under reconstruction (Ibidem: 142). Concluding with this analysis, Alexandra Gheciu and Jennifer Welsh, support the idea that, regardless of the imperatives invoked by international actors engaging in the reconstruction efforts of conflict-affected states, the international actors must take account of the challenges associated with each approach and to co-ordinate these responses collectively, assumed and responsible way, which coincides with the particularities of the area undergoing reconstruction.

Another approach to post-conflict reconstruction is found in *Post-conflict Recovery: How Should Strategies Be Distinctive?*, in which Paul Collier proposes a step-by-step approach to the reconstruction process. The basic premise of this study was the evaluation of the effectiveness of previous reconstruction processes and the identification of factors that contributed to the return of the conflict to the areas that have undergone post-conflict recovery. Consequently, Col-



lier found that the conventional approach to post-conflict situations is based on three principles: politics, as an essential element in the successive transformation of the conflict situation with the construction of the political system, the second component is the maintenance of peace, in while the third stage is aimed at withdrawing peacekeeping troops with the establishment of a legitimate government through democratic elections (Collier 2009). Given this finding, Collier proposes an approach that could help increase the effectiveness of post-conflict reconstruction interventions.

Thus, to restore a safety-oriented environment conducive to development and prosperity in conflict-affected countries, it is necessary to recognize the interdependence of three key actors. Security Council, with a role in generating security through peacekeeping forces, provided this is done in the long run. Donors, whose task is to provide long-term financial aid, is the second actor and the third actor has the responsibility to carry out economic reform, a task assigned to the government of the host state. According to this approach, these three actors must be in a condition of interdependence guaranteed by reciprocal official engagements (Collier 2009:124-127).

In conclusion, by raising awareness of the interdependence between the three actors and streamlining the functioning of the institutions in question, basic services for citizens will be provided, which will increase the trust of the people in the governing government. And finally, the emphasis on the transparency of institutions and governments will lead to the elimination of corruption in the system, and the gradual selection of the political class and staff in public institutions will be achieved democratically.

As a result of the increased number of missions undertaken by peace-making organizations in areas affected by violent conflicts post-Cold War and the need to adapt post-conflict reconstruction missions to complex conflict situations, *Guiding Principles for Stabilization and Reconstruction*, aims to establish a set of guiding principles for this process through which decision-makers can base their decisions, planning, training and implementing such a mission. Therefore, this document contains a set of transversal principles, which are recommended for the post-conflict reconstruction process to achieve a high degree of efficiency. These principles are the host nation's capacity and participation in the reconstruction process, political landscape, legitimacy, unitary efforts, security, conflict transformation, and regional engagement (United States Institute of Peace 2009).

The three aspects mentioned above (the host nation's capacity and participation, political landscape and legitimacy) aim to achieve a high degree of acceptance of the reconstruction mission by the population (*Ibidem*: 16-18). Unitary efforts underline the need for a uniform understanding of the environment in which the reconstruction mission is undertaken, the acceptance and assumption of the chal-

lenges that may arise during the implementation of reconstruction policies and the constant cooperation between the actors involved in achieving the objectives of the mission in the short, medium and long term (*Ibidem*: 18-19). Security, another principle that must be included in post-conflict reconstruction initiatives, is an indispensable condition for initiating such a mission and for the constant development of the reconstruction process. Finally, the conflict transformation principle and regional engagement are the guiding roles of strategic initiatives to change the conflict environment in a climate of sustainable peace. Transforming the conflict requires a significant reduction in the number of promoters of violent actions and an increase in the number of people supporting the cause of state reconstruction in the political, security, rule of law, economy and the social sphere. Achieving this goal will also strengthen the capacity of the host nation to manage the political and economic sphere by peaceful means. According with the first element of this principle, regional engagement is to support the host nation by establishing bilateral relations between the host state and regional actors, which aims to promote economic and political cooperation, which ultimately contributes to the development of the two areas (*Ibidem*: 21-23).

Therefore, the relevance of these principles for achieving an effective and sustainable outcome of post-conflict reconstruction missions lies in the primordial role assigned to the host nation and implicitly to its population in the process of rebuilding the state. According to the document, active engagement of the state and citizens in post-conflict reconstruction determines, besides awareness of the need for change and the legitimacy of reconstruction initiatives, while the external actors involved in this process become guides to the host nation by providing a model of good practice.

Another research attempting to provide an ideal model for the post-conflict reconstruction process is *Reconstruction, development and sustainable peace: a unified program for post-conflict countries*, a work in which Milivoje Panic is structuring its analysis based on the premise that an effective approach to post-conflict reconstruction issues should firstly highlight the causality of the conflict and, second, prioritization of actions according to the most important segments of the rule of law in regions affected by conflicts. Thus, according to the author, each country that faced violent civil conflicts, irrespective of their duration, has some common features in the post-conflict period, including poverty, unemployment, economic stagnation, low security, instability politics, lack of functional institutions, etc. Considering these characteristics into account, Milivoje Panic believes that an optimal post-conflict policy model should first establish and pursue the primary objectives of the post-conflict reconstruction process. Starting from this observation, the author claims that the achievement of favourable results in the reconstruction process can be achieved by focusing post-conflict strategies on building or rebuilding the institutional system, on cre-

ating policies that promote reconciliation and reconstruction, and not ultimately, reducing poverty and economic insecurity (Panic 2005).

Accordingly, the rehabilitation or reconstruction of functioning institutions in conflict-affected societies is one of the priorities of post-conflict reconstruction strategies, because by achieving this goal the necessary conditions for the supply of goods and services to society are created, increases citizens' confidence in public institutions, which in turn determines the legitimacy of the ruling government and ensures security (*Ibidem*: 8-9). The second element invoked by the author, reconciliation, is also an objective in a condition of interdependence with the other objectives because the establishment of conditions for cooperation between the actors involved in the conflict and those involved in the post-conflict reconstruction process contributes to the restoration of security in the area and at the same time to the creation of a favourable environment for development. In addition to the security aspect, reconciliation is a *sine qua non-condition* for implementing reforms in the legal system, respect for human rights and citizens' freedoms (*Ibidem*: 10-11). The reconstruction of the physical infrastructure of the state is the third priority in the post-conflict reconstruction process, on the one hand, because it contributes to the provision of basic social services and on the other hand because, as with the reconciliation or institutional reconstruction, facilitates the re-launching of the economic activity and indirectly involves citizens in the reconstruction process (*Ibidem*: 11). Fourth, economic development and poverty relief in conflict-affected areas play an essential role in achieving sustainable development and reducing the risk of a return to conflict (*Ibidem*: 12-17).

As we can see, Milivoje Panic brings to the forefront the idea that post-conflict reconstruction strategies cannot have results evaluated in terms of efficiency unless it involves a relationship of interdependence between all sectors of the state. It also considers that reform measures should be initiated from top to bottom by the leadership of that state, while external actors have the role of monitoring and providing the necessary support for the implementation of these reforms. Through this approach, the author considers that all post-conflict reconstruction measures and efforts can be more easily accepted by the host state and at the same time legitimizing the government, institutions, and policies, which will lead to the establishment of the rule of law and creating the necessary conditions for development.

## Perspectives on post-conflict reconstruction in Bosnia and Herzegovina

The article *Post Conflict Peace-building: Strategies and lessons from Bosnia and Herzegovina, El Salvador and Sierra Leone, some thoughts from the rights to ed-*

*ucation and health* provide a comparative approach between the post-conflict interventions of the international community of Bosnia and Herzegovina (BiH), Sierra Leone and El Salvador. Thus, it results from this analysis that in the case of BiH the interventions of the international peace-building and post-conflict reconstruction actors can be considered a success, because by signing the Dayton Agreement, a solid government system has been created with a uniform representation aimed at strengthening the economy and the political component and ultimately has provided the premises for social development (Filipov 2006).

Starting from this point, the provisions of the Dayton Agreement offer special attention to all sectors of the newly created state, thus substantiating the intervention of external actors in the post-conflict reconstruction process. According to the Agreement, the post-conflict reconstruction process in Bosnia and Herzegovina involves a multidimensional approach particularly focusing on four key issues: achieving political stability, achieving economic stability, reconstructing the health system, and developing education system. Therefore, to achieve the first proposed objective, namely achieving political stability, have to be done the next: provide solutions to stop hostilities between the three parties involved; fair distribution of power among combatants; good cooperation between external actors and local authorities, to create a strong multi-level system of the state and efficient and sustainable institutions, the adoption and implementation of effective anti-corruption policies; and the last but not the least, the establishment of the legal and executive framework of public administration (Ibidem: 25-36). Achieving economic stability in Bosnia and Herzegovina implies, on the one hand, the government's commitment to providing a safe environment for foreign direct investment and, on the other, the efforts of external actors to rehabilitate the nationwide economic infrastructure (Ibidem: 48-49). To reconstruct the public health system, it is necessary to pursue: the improvement of health system infrastructure; providing the necessary equipment in the conflict-destroyed areas, improving the working conditions for the employees, reducing infant mortality, encouraging the training of the medical staff and financial aid. Lastly, the development of the education system involves improving the educational infrastructure, providing incentives for parents and children, creating school and post-high school programs for young people between the ages of 15 and 24 (Filipov: 47-50).

Another approach to post-conflict reconstruction in Bosnia and Herzegovina is found in the *Neoliberal Recipes to the post-conflict Bosnia-Herzegovina: The case of privatizations*, in which Volkan Gültekin studies the post-conflict case of Bosnia and Herzegovina from the perspective of the neoliberal approach used on international community interventions in the area. The author of the paper recognizes the importance of the Dayton Peace Accord for the post-conflict reconstruction missions started in Bosnia and Herzegovina and identifies, as Filip Filipov, its multidimensional approach. However, Volkan Gültekin

believes that BiH's international community interventions have failed as a result of a cumulus of factors.

Therefore, according to the author, the Dayton Agreement is directed towards the creation of economic policies and the consolidation of the political component, but, as regards the organization of the state, it notes the existence of many shortcomings, starting with the recognition of the territorial division and ethnicity of Bosnia and Herzegovina, which makes it difficult to create functional institutions and establish the rule of law. Another major problem of the Dayton Agreement system is the representation and equal participation of ethnic groups in the decision-making process, which stimulates competition between these groups, generates delays in decision making, hindering the functioning of the state and may consequently lead to the decisions blocking if the three sides do not agree. Also, the administrative structure of Bosnia and Herzegovina reveals the high degree of state decentralization that limits the influence and the power of central state authority. At the same time, through the responsibility given to the two entities (the Federation of Bosnia and Herzegovina and Republika Srpska) to finance the state authority, the latter is deprived of significant income. Another author's remark on the liberal-federal structure created in BiH is related to the role and attributions of the Office of the High Representative of Bosnia and Herzegovina, an element used as a tool to obstruct the work of the central state authority (Gültekin 2011).

Concluding, the post-conflict reconstruction program created for Bosnia and Herzegovina has created the prerequisites for fragmentation and decentralization of the state, phenomena that have generated countless obstacles for international actors involved in this process. Also, these phenomena created an economy-dependent on foreign aid. Moreover, by empowering local elites and taking over from public institutions the responsibility for social regulation by NGOs, civil society involvement in the post-conflict reconstruction process was ruled out. Another negative outcome of this program is due to the low number of jobs in Bosnia and Herzegovina, which, besides civil society concerns, causes higher costs for state authorities to support society (*Ibidem*: 29-30).

## The practical limits of the Dayton Peace Agreement

Referring to the literature that works with the post-conflict reconstruction process, we agree with the unanimous idea shared that this process is an extremely complex process which, in addition to the transition from war to peace, also involves the restoration of all sectors of a state, so the latter operate under democratic principles and international norms, which will determine the development of the state and the establishment of a climate of peace. To achieve these

objectives, it is necessary to implement a comprehensive agenda that includes first the building of functional institutions in the state, and then the parallel reconstruction of all the sectors of the state, whether political, social, economic, infrastructure, etc. ([The World Bank 1998](#)).

Starting from this point, the agenda proposed by the Dayton Agreement is comprehensive because:

- provides the premises for putting an end to the hostilities in Bosnia and Herzegovina.
- establishes a state functioning system with collective representation that responds to the causes that led to the conflict.
- recognizes the multiculturalism of Bosnia and Herzegovina, and therefore decided that state-level decision-making should be done following an algorithm by which each ethnic group is equally represented.
- has specified the steps to be taken to achieve the transition from war to peace.
- has set out what internal and external actors are responsible for stabilizing the situation in the area.
- decides to set up the Office of the High Representative to deal with the implementation of civilian aspects of the content of the agreement.
- has decided how Bosnia and Herzegovina's reconstruction will be achieved.

However, the Dayton Agreement has hampered the post-conflict reconstruction process as it contains several ambiguities that offer combatants the possibility to reject the initiatives of the external actors designated under this agreement to provide support and ensure the transition from peace war. An example of this is linked to reform initiatives, which must be voted by consensus in the Parliamentary Assembly according to the decision-making procedure, thus reform initiatives can be adopted and subsequently implemented. If reforms are recommended by the international community, they can be seen as a form of coercion of the parties, which leads to their failure to adopt them.

Another aspect worth to be mention is the fact that Dayton offers the possibility for the three combatants to participate equally in the decision-making process but makes the parties conditional on the freedom of movement in Bosnia-Herzegovina, to ensure and protect human rights, to allow the return of refugees to the country and to ensure the investigation and prosecution of persons who have committed war crimes ([United Nations 1995: 60-61](#)). Multiculturalism in BiH is also recognized in the provisions establishing that state functioning should be based on a structure composed of two entities (the Federation

of Bosnia and Herzegovina and Republika Srpska) and the ten cantons. However, the main issue raised by the establishment of this structure is how competencies are assigned between the two entities, the institution of the presidency, the government institution, and the local authorities. Thus, government powers are divided between the four levels established by Dayton (the state, the two republics, the ten cantons, and the municipalities). As a consequence, the state's political responsibilities are limited to foreign policy, law enforcement, immigration, and refugee policies, while all other functions of the statute are attributed to the governments of the two entities. Another important aspect, regarding the distribution of power in the state, is the attribution of the delegations of each canton, which in turn transfers a series of tasks to municipalities (*Ibidem*: 63-70).

Although the new system of operation of Bosnia and Herzegovina is based on the principle of proportionality, whereby each ethnic group is represented and has the right to decide in the state institutions (thus avoiding any divergences that may arise from this point of view) a major problem of the system created is the constitutional provision that gives the two entities major and independent responsibilities to central state authorities. According to these provisions, the Governments of the Federation of Bosnia and Herzegovina and Republika Srpska (RS) conduct and monitor the activity of state institutions and have autonomy over the defence and police system (*Ibidem*: 65-67).

Another major issue that Bosnia and Herzegovina face in the decision-making process, which also makes it difficult to carry out post-conflict reconstruction missions, is linked to the fiscal system, according to which the state does not have its sources of income distributed by the two entities. Although the Dayton Agreement does not prohibit the state from having their sources of income, it again allows the entities to legislate in this respect. At the same time, while the state is responsible for trade and customs policy, its administration is attributed to the two entities (*Ibidem*: 67-70).

Consequently, if we relate to post-conflict reconstruction theories to see to what extent the Dayton Agreement has set the ideal framework for achieving this, we can see that it provides a comprehensive approach as it follows all the essential steps to solve Bosnia's problems and Herzegovina for possible integration into Euro-Atlantic organizations. The agreement requires, in the first instance, the "cessation of hostilities" between combatants to facilitate the transition from war to peace and then provides the necessary framework for the creation of "*functional institutions in the state*" which in turn should provide "legitimacy" to achieve post-conflict reconstruction (*Collier 2009*). Achieving these goals should lead the state to solve economic, social, military, and political problems. From our point of view although the Agreement includes a comprehensive approach, without neglecting certain aspects, the results of post-conflict



reconstruction in Bosnia and Herzegovina have not been satisfactory for at least two reasons:

1. During the period 2006-2007, Bosnia and Herzegovina was confronted with a political crisis that blocked the adoption of the necessary reforms to undertake the reconstruction process of the state.
2. On the background of the same political crisis, the ruling governments have challenged the role and authority of international actors.

Therefore, in the present case, the importance of achieving the objectives of post-conflict reconstruction has been the level of "assent of policies and conditions" (Coyne 2005; Gheciu and Welsh 2009) coming from external actors by the host nation. This has had two major implications: firstly, because the failure to practically accept the policies and conditions set out by Dayton Agreement has failed to create functional state institutions that provide legitimacy to the policies and interventions of the international community; secondly, due to the lack of cooperation and acceptance of the reforms needed for post-conflict reconstruction by political elites, since 2006, Bosnia and Herzegovina has been confronted with a major political crisis before which the international community has been unable to provide the necessary solutions.

Changing the attitude of the local political elites in Bosnia and Herzegovina brought to the attention of the international community new reporting trends for the post-conflict reconstruction process. Thus, although the developments known until the beginning of 2006 were satisfactory, the situation creating the impression that the post-conflict reconstruction process will proceed at the same pace, the rejection of the constitutional reform package by the Parliamentary Assembly on April 26, 2006, has inflamed political parties, causing them to return to the nationalist discourse during the war, during the electoral campaign to be held. As a consequence, there are increasingly radical initiatives regarding the future of Bosnia and Herzegovina, especially from Prime Minister Milorad Dodik, who in the political discourse calls secession referendum for Republic of Srpska, as it had already occurred in Montenegro and Kosovo (situations considered legitimate by the international community) (High Representative 2006: 2-4). These prerequisites of the political environment in Bosnia and Herzegovina denote, first of all, the incapacity of the international community to establish state-owned institutions, and second, the "lack of co-operation" (Collier 2009; United States Institute of Peace 2009) from political elites to achieve the objectives set out in the Dayton Peace Accord. Establishing a cooperative relationship between the host nation and the external actors involved in the post-conflict reconstruction process is a precondition for reconstruction. This provides legitimacy to external intervention and constitutional reforms that are seen as internal initiatives, resulting in a high degree of achieve-



ment acceptance among public opinion. But in the case of Bosnia and Herzegovina, political instability has blocked any cooperative initiative with international community representatives. In a post-conflict reconstruction state, a stable political environment provides the basis for a functioning, sustainable system and contributes to the restoration of a peace climate (United States Institute of Peace, 2009). In spite of these benefits, local political elites in Bosnia and Herzegovina chose to return to the negative rhetoric during the war and adopted opposed positions, for example, on Republika Srpska's jurisdiction.

The collapse of the political environment, characterized by the lack of cooperation of the local political elites with the international organizations involved in the post-conflict reconstruction process in Bosnia and Herzegovina, and radical political discourse have prompted the slowdown or, in some sectors, the halt of the reforms needed for the recovery of the state. As an action with direct implications on the post-conflict reconstruction plans, Republika Srpska revoked previous transfers of competence to the state, opposed any police restructuring plan and in May 2006, the Parliamentary Assembly of Bosnia and Herzegovina, RS delegates organized a one-month boycott, which made Parliament unable to have sessions ([High Representative 2006](#)).

The difficult political situation in Bosnia and Herzegovina, as mentioned earlier, has slowed the post-conflict reconstruction process once the Parliamentary Assembly failed to function as a result of the boycott organized by RS delegates and, on the other hand, because of the hamper of constitutional reforms. These two impediments implicitly affected the development of other sectors of the state, such as the economic sector, which is of vital importance for "generating security in civil society" ([Collier 2009](#)).

Reforms of the economic sector have been affected by three factors:

- Government change in Republika Srpska has led to a halt in economic development efforts over two months.
- The unofficial start of the electoral campaign had negative implications, both for the economic and the political sectors, because the lack of cooperation of the parties, in order to continue the development of the two sectors, the subsequent steps were stopped.
- The Council of Ministers and other authorities in Bosnia and Herzegovina have faced the inability to make decisions, so they have tried to transfer responsibility for these decisions to the High Representative ([High Representative, 2006](#)).

Milorad Dodik from the SNSD and Haris Silajdžić from Party for Bosnia and Herzegovina (SBiH) won October 1, 2006, general election ([High Representative 2007a](#)). The post-election period was characterized by some moderation of the previous assertive political discourse on behalf of Milorad Dodik and Haris

Silajdžić. Moreover, in public statements, Milorad Dodik has pledged to remove from his agenda the secessionist rhetoric promoted in the electoral campaign, as confirmed by Republika Srpska's President, Milan Jelic, who on March 28, 2007, declared that: "The SNSD abandoned any intention to hold a referendum to obtain RS independence, in line with the position of the international community and the Office of the High Representative, stating clearly that the RS cannot be dismantled as no referendum could be accepted" ([High Representative 2007a](#)).

This context can't be described as the ideal environment for achieving reforms to meet post-conflict reconstruction goals. As such, the positions over the constitutional amendments rejected in April remained the same, but the constitutional reform continued to be a topic in the negotiations of the new governments. From this point of view, Bosnia and Herzegovina have two different positions on the nature and scale of reforms:

1. Republika Srpska's position, through which it favours a federal state, composed of three entities (representing the three major ethnic groups). This position becomes unacceptable due to the limits that undermine the Serb-Croat concentration.
2. The position of the Bosnians, who continue to place themselves in favour of the elimination of territorial subunits and their transformation into administrative subunits. As in the first case, this position is also considered unacceptable by Serbs and Croats ([High Representative, 2007](#)).

As a consequence, we can assume that the distinct positions adopted by the political elites in the context of the debates on the structural reform and the unstable political landscape have reduced the *degree of acceptance* ([United States Institute of Peace 2009](#)) of the reconstruction missions by the host nation because:

- Efforts by local elites have not coincided with those of international organizations, which may lead us to the idea that the environment in which missions are conducted has not been understood uniformly by those involved.
- The challenges that occurred during the implementation of reconstruction policies were not taken up.

Although the overall political environment in Bosnia and Herzegovina seemed to stabilize at the beginning of 2007, the verdict of the International Court of Justice on February 26, 2007, on the perpetrators of Srebrenica's war-time genocide led to a reaffirmation of the political discourse during the electoral campaign by the ruling parties. The verdict, in which Republika Srpska's military forces were found guilty of genocide, offered the SBiH party the oppor-

tunity to support its case on the future of Bosnia and Herzegovina. Thus, SBiH calls for Srebrenica to be withdrawn from the Republika Srpska jurisdiction, then to remove the RS police institution and, last but not least, to dismantle the entity. These demands of SBiH have not been left unanswered by Republika Srpska's leadership, leading to threats to secession ([High Representative 2007a](#)).

The period between July 2006 and March 2007 offered again the opportunity for the parties to support their speeches on how Bosnia and Herzegovina should continue to be organized, except for the slowdown in the post-conflict reconstruction process. Furthermore, during this period were positions and requests that were not in compliance with the provisions and commitments of the Dayton Peace Agreement, which denotes the non-recognition of the provisions of the Agreement, and the interventions of the international community. The importance of political stability (United States Institute of Peace, 2009) for the post-conflict reconstruction missions lies in the capacity of the political environment to establish a functional and sustainable system that will lead to the reestablishment of peace.

The existing political instability in Bosnia and Herzegovina has steadily worsened during the reporting period of the High Representative from April 1, 2007, to September 30, 2007, leading the Serbs and Bosnians to block any reform initiatives. As a result, due to the political crisis, there has been no change in the period under review to facilitate the further commencement of the reconstruction mission. As evidence, the controversial issue of constitutional reform has remained in the same situation ([High Representative 2007b](#)), the reforms to the police restructuring leading to the Stabilization and Association Agreement (SAA) have not improved, as has happened in the other sectors ([High Representative 2007b](#)).

Despite the assertions that the post-conflict reconstruction in BiH would be a success ([Filipov 2006](#)) the reality revealed by the reports and exposed in the paper leads us to a different opinion. However, the Dayton Agreement provided the premises for building a solid government system with uniform representation and orientation towards economic development. However, the main issue, in this case, was the failure of the international community to resolve political divergences and, at the same time, the inability of governments to give legitimacy to external initiatives and cooperation to implement these initiatives.

Volkan Gültekin's opinion regarding the post-conflict reconstruction in BiH can only partially be accepted. He states that Dayton Agreement is geared towards creating economic policies and strengthening political compensation while neglecting the state's organization has restricted the possibility of creating functional institutions and the establishment of the rule of law ([Gültekin 2011](#)).

As a counterargument, we bring the period 2006-2007. In these years it is noticed that the main problem that has made post-conflict reconstruction difficult was the lack of consolidation of political co-operation. Considering this background, the political parties reorganized the way the state functions according to their interests. Moreover, the lack of consolidation of the political component adds the system of representation and equal participation of the main ethnic groups in the decision-making process (*Ibidem*) which has led to delays in making decisions. All this has contributed to the poor functioning and coordination of the state. However, the author's other view that the system of representation and equal participation of the main ethnic groups in the decision-making process has led to delays in decision-making and has made the functioning of the state seem to be relevant if we report to the analysis of the situation in Bosnia and Herzegovina.

We also agree with the opinion shared by Volkan Gültekin that the Dayton Agreement created a decentralized state, limiting the powers of central state authorities and giving greater authority to the two entities (*Ibidem*). State decentralization is an effect of the division of state responsibilities between the two entities (Federation of Bosnia and Herzegovina and Republika Srpska), the Presidency, the Government and the ten cantons. This has led in many cases to the blocking of the reforms needed to achieve post-conflict reconstruction, especially in the case of constitutional reforms and police reorganization reforms (*High Representative 2007b*), which, as we have seen in the reports of the High Representative of Bosnia and Herzegovina, have raised opposition from both entities. But, from our point of view, this has also happened because of the inability of the international community to come up with an optimal solution to be accepted by the three ethnic groups and also to the inability of international bodies to strengthen the political component.

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## Final remarks

Although at the time of the Dayton Agreement, it was considered to be a success in terms of setting up the termination of hostilities and how post-conflict recovery was to be carried out Dayton Agreement limited the capacity of international bodies to lead Bosnia and Herzegovina to reach the objectives established at the beginning. The limitation of international forces was mainly due to the functioning system of the state which, as a result of the need to meet the imperatives of the three ethnic groups, emerged as non-functional state institutions. Moreover, the division of the state between the two entities (Federation of Bosnia and Herzegovina and Republika Srpska) and the ten cantons facilitated fragmentation and favoured the possibility for ethnic group representatives to use access

to decision-making functions to determine their attainment purposes. On the other hand, the deficiencies of the system created by Dayton have provided the premises for an inconsistent political climate on the future of Bosnia and Herzegovina.

The post-conflict reconstruction process, in the case of Bosnia and Herzegovina, has partially achieved the objectives of the program proposed by the international community. Guided by the High Representative's reports, we noticed that post-conflict reconstruction in Bosnia and Herzegovina had a slow pace, precisely because of the impediments created by the Dayton Accord. The most representative moment of the period studied by us, with a major impact on the post-conflict reconstruction, took place between 2006 and 2007 when a major political crisis broke out. The political crisis in Bosnia and Herzegovina has highlighted both the real problems of the state (identity nationalism, the fragmentation of society and public institutions, the lack of a government capable of effectively conducting the country, the disagreements on territorial division), as well as the post-conflict reconstruction process. Thus, although the Dayton Agreement and the Post-Conflict Reconstruction Program for ending hostilities in the area and the country's recovery in the post-Dayton period amounted to a multidimensional approach focusing on settling the conflicts that led to the conflict, in practice, the outcome of this was different.

As a consequence, Bosnia and Herzegovina emerge as a territorially fragmented, politically, ethnically and religiously fragmented state with non-functional institutions dominated by disagreements between the three ethnic groups and corruption. Last but not least, BiH is a fragile state from the point of view that finding a solution to put an end to the conflict by signing the Dayton Agreement is a partial way out. National divergences regarding the reforms required to meet the Agreement and administrative-territorial conditions have generated insecurity and the reaffirmation of the existing nationalist rhetoric during the war. This has highlighted the incapacity of the international community to undertake effective crisis management and post-conflict reconstruction missions in Bosnia and Herzegovina.

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