THESIS SUMMARY

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Balkan models of international territorial administration:
Bosnia and Herzegovina, and Kosovo

Ph.D. dissertation

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Institute for International Studies

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1. METHODOLOGY

The thesis is focusing on the international territorial administrations in Bosnia and Herzegovina and Kosovo, in both cases after the closure of the armed conflicts. The activity of the international organisations and actors can be studied from different point of views, such as: security, the democratic institutions of a state, humanitarian and economic aspects. In the thesis we are concentrating on the first and the second dimensions, the third and the fourth aspects can be the subjects of further analysis later.

The central subject of the thesis is the activity of international community relating to the conflicts of Bosnia and Kosovo. This reductionism is necessary in order to narrow the focus of analysis and because of the following facts:

1) in the Balkans these two conflicts resulted the most significant losses in human lives and infrastructure, and in both cases the conflict escalated into armed conflict;
2) the international community’s reaction in these two courses of events was the most dynamic and intense, and eventually resulted in the use of force in both cases;
3) the two conflicts differ from each other both in time and space, but there is a number of similarities among their characteristics and this is a good basis of a comparative analysis;
4) the international community is still involved in Bosnia and Kosovo, it plays a decisive role in the civil and military aspects of international territorial administration and this is a unique phenomenon in the Balkans.

In the thesis we do not pay attention to the historic predecessors and chronicles of the armed conflicts, one can find a number of great Hungarian and foreign monographies, books and articles dealing with it. Similarly, it is not the aim of this work to study the level of democratization, or to reveal the internal reform programs and achievements of Bosnia and Kosovo. However, it is unavoidable to refer to some local events and processes but only if it is necessary to understand the dynamics of international involvement.

In both caseworks the scope of the study extends only to the period after the end of the armed conflicts: in the case of Bosnia until today, and as for Kosovo, until 2008. This year is considered to be a borderline when the Kosovar parliament unilaterally declared independence and the international territorial administration has undergone significant changes, too. The framework of the thematic approach is assigned by the selected dimensions.

The introductory section of the paper should perform two functions: on the one hand we outline the theoretical background of international territorial administration, on the other hand we get acquainted with the previous and current examples as well. In the second and third part you can find two case-studies (Bosnia and Kosovo), in both cases firstly we examine the two documents which formally ended the conflicts (Dayton Agreement and UN Security Council resolution 1244), and when it is necessary, we
present the environmental factors influencing the international administration. Then along the selected dimensions (security and democratic institution-building) we evaluate the two Balkan models of international territorial administration. However, the structure of the Bosnian and Kosovar parts differ from each other, because as for the essential characteristics, there are substantial differences between the two chosen entities. The international administration settled into an operational state having a democratic institutional system in Bosnia, where the international component in the state governance may have appeared besides the local element: as a result of this a bigger emphasis has to be put onto the Bosnian institutions. Contrarily, in the case of Kosovo in a non-sovereign entity with an uncertain status, the civil international administration – at an early stage of its functioning – exercised directly the administrative functions, with a minimal involvement of local autonomous organs. In the Kosovo case-study, therefore, we deal mainly with the direct international administration and we devote less space to the Kosovar institutions during the transitional period in which the transfer of competencies to the local organs have already begun, but the international component is at present considerably. The two examined dimensions, of course, in both case-studies appear, and we intend to show which institutions took an active part in operating of international administration models and how they perform this task.

1. Theory of international territorial administration

1.1. Definitions

The notion of “territorial administration” is often applied by the scholars to indicate the international administrative structures, however, there is some confusion about the definition of the concept. Some scholars’ approach embrace a broader range of activities under consideration, they describe almost all forms of international assistance as international territorial administration, others operates with a narrower scope of analysis. According to Wilde “the 'territorial administration’ refers to a formally constituted, locally based management structure operating with respect to a particular territorial unit; it can be limited (e.g., a territorial program concerned with certain matters) or plenary (e.g., a territorial government) in scope.” (Wilde [2001] p. 585.) Chesterman applies a narrower interpretation, he uses the notion “transitional administration” for international activities such as electoral assistance, human rights and rule of law technical assistance, security sector reform, and development assistance. Within this class of operations, transitional administration is assuming temporarily some or all of the powers of the state. (Chesterman [2004] p. 5.)

According to the Handbook on United Nations Multidimensional Peacekeeping Operations interim or transitional administration “has authority over the legislative, executive and judicial structures in the territory or country”. (DPKO [2003] p. 20.) The definition of Stahn is similar to that of DPKO: “the exercise of administering authority [executive, legislative or judicial authority] by an international entity for the
benefit of a territory that is temporarily placed under international supervision or assistance for a communitarian purpose.” (Stahn [2008] pp. 44–45.)

Finally we present Dominik Zaum’s interpretation, which in addition to being one of the most complete definitions, it also leads us to the next topic discussed: how to distinguish international territorial administration from other forms of international involvement operating in a war-torn territory? Zaum defines international administration as “international bodies exercising governmental functions over a territory, which are locally based and the most recent of which have been engaged in the establishment or reform of that territory’s political and social institutions.” (Zaum [2007] p. 51.) The definition embraces three structural characteristics, which are suited to differentiate international territorial administration from other forms of international assistance (e.g., colonial protectorates, trusteeship mandates, development organizations):

- it (international administration) is not established and operated by a single country, but by an international organization (League of Nations, United Nations, Organization for Security and Co-operation in Europe, European Union) or by a forum with broad international participation;
- it is involved in governance, not just in monitoring and assistance (e.g., distinguishing it from election monitoring);
- the territorial administration’s “international” spatial identity is distinct from the “local” identity of the territory and the population living there (distinguishing international territorial administration from other international bodies like the European Union, which share the same spatial identity with the states and people affected by their governance);
- it asserts responsibility for governmental functions, and this responsibility can be limited to a few functions (e.g., security policy in the case of UNTAC in Cambodia) or it can be all-embracing (for example UNMIK in Kosovo) (Zaum [2007] pp. 51–52.)

In the post Cold War era the number and significance of international administrations increased, and furthermore, the scope and the depth of international involvement expanded significantly. We should consider some of the concepts with which the practice of international involvement has been associated, including the peace-keeping, peace-building, nation-building, state-building, failed states etc. In the following we look through the most commonly used narratives within which the examples of international territorial administration are usually considered.
1.2. Discursive strategies of international territorial administration

According to Wilde the representation of the administration of territory by international organizations is realized through four different discursive strategies including “progressivist historical” narrative, “purposive simplification”, “failed states” paradigm and “techocratic” approach. (Wilde [2004])

The representatives of the “progressivist historical” narrative use to describe certain models of territorial administration (most frequently Kosovo and East Timor) as unprecedented in history, the pinnacle of an evolutionary process having unique characteristics. The historical narrative is often connected to the exceptionalist portrayal, mainly when the international territorial administration is described as a form of a peace operation. In this case the dichotomy between simple and complex peace operations is described in terms of “old” versus “new”, “first generation” versus “second generation”. According to some scholars, (Gray [2008] p. 159., Kondoch [2001] p. 246.) the complexity of the the international territorial administration models in Kosovo and in East Timor has reached such a level that we can talk about a third or even a fourth generation of peacekeeping.

Nonetheless, according to Wilde, the complex international peace operations are not exclusively late twentieth century phenomena, and one can find several examples with accentuated civilian involvement in the entire 20th century: for example the League administration in the Saar is a “second generation peacekeeping before it’s time”. (Ratner [1997] p. 91.) It is a positive fact that the post Cold War era witnessed an upsurge in the use of complex peace operations, but 1988–1989 is a quantitative, rather than a qualitative turning point. (Wilde [2004] p. 79.)

The second discursive strategy (the “purposive simplification” approach) unifies the international administration models through a simplified presentation of their purposes. This presentation usually imply two things about international territorial administration: firstly that it is used in the post-conflict context, secondly that it is addressing the negative consequences of conflict (this is often labeled as “state-building”). According to Wilde there is several problems with this approach: in the first place the “post-conflict” label suggests that international territorial administration is always used after conflicts (for example, in the West Irian the UN administration in 1962–1963 aimed at ensuring the smooth transfer of territorial control from the Netherlands to Indonesia, not at handling the problems of a “worn-torn” territory). (Wilde [2004] p. 82.) In the second place it is also an oversimplification to describe the goal of international administrations as merely addressing the consequences of an armed conflict. In Bosnia an important purpose of setting up the civil international administration was to promote a liberal political and economic order (a democratic rule of law and a functioning market economy), and also a support for the new state in the overdue regime change. Similarly, in Kosovo the launching of UNMIK was necessary because according to the Security Council Resolution No. 1244 the Serb and Yugoslav officials have left Kosovo and that created a governmental vacuum. Thus the vacuum was not the direct consequence of the war, but it was a part of the settlement that
provided for UN administration. The “purposive simplification” approach is also misleading because while concentrating on a specific goal (e.g. eliminating the negative consequences of an armed conflict), it obscures the full range of purposes with which international territorial administration has been associated. (Wilde [2004] p. 96.)

The third discursive narrative, the so-called “failed states” paradigm is a subject of quite a lot of criticism. Using the label “failed state” is misleadingly simplistic, since it is almost exclusively concentrates on the governmental collapse, while ignoring other, also relevant factors and structural causes of the problems. We should highlight another feature of the “failed state” concept, namely the asymmetrical conception of responsibility. It refers to the fact that in most cases this concept is focusing exclusively on indigenous factors rather than also taking account the exogenous factors (such as the burdensome legacy of the former colonizers, the negative effects of international financial institutions and multinationals etc.)

The fourth discursive strategy (the “techocratic” approach) presents international territorial administration in a wholly or primarily technocratic manner, focusing only on practical issues, such as the question of the applicable law, while ignoring the political aspects such as the problem of accountability of international administration. (Wilde [2004] p. 96.)
2. RESULTS OF THE THESIS

In the thesis we presented the historical examples of international territorial administration and examined in detail the models of Bosnia and Kosovo. Then we may conclude that our first hypothesis proved to be true.

Compared to the previous or current examples of international territorial administrations, the Balkan models operating in Bosnia and Herzegovina and in Kosovo do not constitute special cases having significantly different characteristics. We may not claim that any of the Balkan examples represent a “new generation” of the international territorial administration.

As for Kosovo, the fact that for a transitional period all the administrative functions were taken over by the international administration does not mean that it has not been the case with other models. Right from the very early examples, international involvement has taken the form of direct administration of the respective territories, for example the Saar Basin was one of the first territories to be administered by the League of Nations. Similarly, in the case of Bosnia we may not talk about a “new generation”, because there was a more pronounced international involvement in other models. A good example is the East Timorese case, where right after the independence the entire state administration has collapsed since 8000 public servants and government officials left the country immediately. On the other hand, the international administration in Bosnia constitutes a special case since it has changed its nature quite peculiarly: over time, the local component in administration has weakened while the international involvement has became more pronounced. A common pattern is that the powers of the international level delegate gradually to the local level, in Bosnia the opposite happened: the High Representative has been given more authority according to the Bonn decisions.

As for the “generation” debate, it should be noted that this “old versus new” dichotomy presents the history of international administrations as a progressive evolution through successive generations of ever-increasing complexity. Beyond the misleading effect of this representation we should underline that the success of the international territorial administration depends primarily on its adaptive capacity to the local environment.

We can also justify our second hypothesis:

After comparing the two examined international administration of the Balkans we suggest that in Kosovo the international community both in terms of structural and operational characteristics have benefited from the lessons of other models (especially from the Balkans). The international territorial administration therefore has the organizational learning ability, but only to the extent that is compatible with the interests of international actors, from which the mandate originates.
The international territorial administration in Kosovo thus benefited from the experiences of previous models, mainly that of Bosnia and Herzegovina. It was an important ambition at the time of setting up the international administration in Kosovo to create a pillar structure directed and coordinated by the United Nations. In this pillar structure of UNMIK the contributing organizations had the opportunity to preserve their independence, at the same time they were forced upon coordinating their efforts with other international actors operating wholly or partially on the same field.
3. CONCLUSIONS

In the following we collect the requirements of a successful international administration which apply to the Balkan models as well.

A) Well-defined aims before setting up the international administration mission: it could be problematic if the goal is not or only a vague and ambiguous way is defined, for example in the case of Kosovo, when the international community has not made clear the preferred solution to the final status of the entity. The clear objective is also essential from another viewpoint: the more obvious is the vision, the less tensious is the public mood. As an example we can refer again to Kosovo, where the 2004 events have shown: a little spark is enough for the ethnic frays to break out and to escalate rapidly into armed conflicts. As a legitimizing factor, it is also important that the majority of the local population do support the pursued goal.

B) Consistent application of the concept of “earned sovereignty” based on realistic conditions: as it is seen from the above mentioned examples, international institutions often set up different conditions in exchange for certain benefits (e.g. for obtaining full sovereignty or gaining full membership in an international organization), but eventually they do not insist on the full compliance. In most cases it is due to the fact that international organizations fail to assess what could be expected form the given country. A good example is again Kosovo, in the case of which the “standards before status” approach during the status negotiations proved to be badly chosen: it became obvious that Kosovo is not ready to fulfill the collection of democratic criteria which only some of the mature democracies are able to meet. The international community finally decided to give up this approach in 2005.

C) Accountability: the lack of accountability created by the broad immunity clauses in the case of international actors (administration institutions and employees) is not justifiable. International territorial administration do not correspond to important standards of democratic governance and rule of law: as a result on the one hand it calls forth the phenomenon of democratic deficit, and on the other hand it entails virtually no separation of power, in particular it lacked a means of judicial control of the executive power. Besides, the lack of accountability communicates the wrong message to the local population that the international actors must not themselves comply with and be accountable under the same obligations and standards that they are obliging others to meet.

D) Excessively strong international dependence is contraproductive: under these circumstances the atmosphere of responsible politics-making cannot be consolidated, the local political leaders can use demagogue– populist political rhetoric in order to increase their own popularity without the risk of facing the consequences of their actions. In this context we can also mention the concept of ownership, which refers to the power and responsibility sharing of the international and local components in governance, and it means
that the goal of the international involvement was to allow locals to gradually regain full control and sovereignty over their country.

D) Ability to discernment: we can refer to this principle in relation to the international community (or its certain members) behind the international territorial administration, or also to the local population. Before launching the international territorial administration, the members of international community usually lays down the norms and principles which are considered to be important for stabilizing the given entity. According to the general practice this normative framework is almost never or very rarely is subject to change, not even if the circumstances change significantly or it turns out that the original approach is doomed to failure. Relating to the Balkan international administration models, one can enlist a number of norms (and quite a few cogent norms), we should underline three of them: inviolability of frontiers, prohibition of secession, sovereignty or territorial integrity. The three related norms, completed with the internal factors hampering the efficient functioning of a state, altogether obstruct the Bosnian stabilization process. The international community is afraid of the precedent that entities with secessionist intentions similar to Kosovo may choose a similar solution as well (e.g., unilateral declaration of independence) and thus violate the territorial integrity of the state they split from. These entities constitute a threat to international peace and security, may become hot spots of armed conflicts and impose new tasks for the United Nations and other members of international community. It is a fact that Kosovo proclaimed its independence unilaterally on 17 February 2008, and even if high-ranking diplomats and politicians of the international fora overemphasize that this act was an exemption not a precedent, the precedential value of such an action under international law cannot be established at the time of the action, but rather is determined by how the action is interpreted and used in the future.
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