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**Državnost Bosne i Hercegovine u XX i XXI stoljeću:
historijski izazovi i dostignuća u razvoju državnosti
Bosne i Hercegovine: ZAVNOBiH**

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PROMULGATION OF THE 1946 CONSTITUTION OF THE PEOPLE'S REPUBLIC OF BOSNIA AND HERZEGOVINA AS THE FINAL STAGE OF THE PEOPLE'S LIBERATION STRUGGLE

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Abstract: The People's Liberation Struggle in Bosnia-Herzegovina, led by the Communist Party of Yugoslavia (KPJ) but incorporating a broader section of Bosnian society, was a Bosnian-Herzegovinian national-liberation struggle. It was waged under Bosnian-Herzegovinian patriotic slogans, organised administratively through a Bosnian-Herzegovinian framework and aimed ultimately at establishment of Bosnian-Herzegovinian statehood within a federal Yugoslavia. The promulgation of the constitution of the People's Republic of Bosnia-Herzegovina represented the culmination of this movement. Although the KPJ ensured this constitution would accord with its goals and policy, it had not worked out its goals beforehand in its entirety. Nor was it able to choreograph the process of promulgation seamlessly. Disagreements and tensions in the movement therefore emerged, reflecting its heterogeneity and the wider tensions in Bosnian-Herzegovinian society.

Keywords: antifascism, statehood, Bosnia-Herzegovina, ZAVNOBiH

The promulgation of the constitution of the People's Republic of Bosnia and Herzegovina in 1946 represented the culmination of the state-building process of the Bosnian Partisans. This was part of a revolution that was led by the Provincial Committee of the Communist Party of Yugoslavia for Bosnia and Herzegovina. But it was a revolution and not a putsch. The Communists could not completely control it, even when they had effectively defeated all their political opponents. At its beginning, they did not know where their revolution was heading. This uncertainty remained until the promulgation of the Bosnian constitution. The People's Liberation Struggle in Bosnia and Herzegovina was a Bosnian-Herzegovinian national liberation struggle. The Bosnian patriotic strategy had its roots before the war, in the Communists' support for the liberation of the non-Serb nations from Belgrade's oppression. However,

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the necessity for this strategy was confirmed by the conditions for resistance. Support for Bosnia and Herzegovina and opposition to Great Serbia were necessary to win the Bosnian Serb population away from the Chetniks. Bosnian Serb soldiers in the Partisans had to be taught that Bosnia and Herzegovina was the common homeland of Serbs, Croats and Muslims.¹ A Bosnian patriotic strategy was also necessary to win the mass support of Muslims in Bosnia, and to a lesser extent of Bosnian Croats. On this basis, the People's Liberation Movement grew into a genuine revolution. Although it was led by the Communist Party, it incorporated a broader section of Bosnian society.

The resistance was waged under Bosnian patriotic slogans, organised administratively through a Bosnian framework. Partisan propaganda referred to their army as the People's Liberation Army of Bosnia and Herzegovina. This army was commanded by the General Staff for Bosnia and Herzegovina. The movement culminated in the First Session of ZAVNOBiH in November 1943. It was only on the eve of this assembly that the Yugoslav Communist leadership definitely decided that Bosnia and Herzegovina would be a republic and a state equal in status to Serbia and Croatia. The intervention of the leading Bosnian Communists, Rodoljub Čolaković and Avdo Humo, was crucial in this decision. That month they had been presented by the Yugoslav Communist leadership with a constitutional draft, according to which Bosnia and Herzegovina would have the status of an autonomous province linked directly to the Yugoslav Federal centre. As Humo recalls, 'this draft directly conflicted with our new conception.' There had followed a discussion between members of the Provincial Committee of the KPJ for Bosnia and Herzegovina and of the Central Committee of the KPJ of Yugoslavia. Humo and Čolaković, supported by Slovenia's Edvard Kardelj, argued that Bosnia and Herzegovina should be made a full republic within the Federation, while Serbia's Moša Pijade and Sreten Žujović-Crni and Montenegro's Milovan Đilas argued that it should only be made an autonomous province. The Serbian and Montenegrin Communists had reasoned that only nations had the right to republics and that there was no Bosnian nation. They did not believe in the existence of a Muslim nation. By contrast, Humo and Čolaković argued that Bosnia and Herzegovina was a historical land whose three peoples had lived intermingled for centuries and shared many common elements of a unique culture, and whose right to equality with others therefore required a republic of their own. According to Humo: "We emphasised that the complete

¹ Marko Attila Hoare, *Genocide and Resistance in Hitler's Bosnia: The Partisans and the Chetniks, 1941-1943*, Oxford University Press, Oxford, 2006.

freedom, sovereignty and equality of our nations, as well as their individual and common socio-political development, could most effectively be expressed only in a shared but also independent state arrangement of a multinational republican community. And that meant also that the nations of Bosnia and Herzegovina, like the other Yugoslav nations, must found a federal unit or republic that would, like the other national sovereign republics, devolve one part of its sovereign rights to the federation as the common state of all Yugoslav nations and nationalities.”² The protagonists thereupon consulted Tito, who decided in favour of the Bosnians, whose arguments chimed with his own view on the matter as expressed since the 1930s. This resolved the argument. From then on, the movement aimed at the establishment of Bosnian statehood within a federal Yugoslavia. The promulgation of the constitution of the People’s Republic of Bosnia and Herzegovina represented the culmination of this movement. The path to the Bosnian constitution, however, was not completely smooth. The Communists were unable to absolutely control the process.

In the debates in the constitutional assembly for Yugoslavia in late 1945, a representative for Bosnia, Husaga Ćišić, a former mayor of the Mostar municipality, demanded that the Yugoslav coat-of-arms be altered to recognise the Bosnian people. Instead of a coat-of-arms with five flames representing the Serbs, Croats, Slovenes, Macedonians and Montenegrins, Ćišić demanded that a sixth flame be added, representing the Bosnians. In an extended written appeal to the Minister for the Constituent Assembly on 5 December, Ćišić argued: “According to the conclusions of AVNOJ, every federated unit, by its act of declaration, has won the right to its own national name; this right has only been withheld from the Bosnian federated unit; a unit which namely, by explicit statement, is exceptionally founded upon national equality - of the Serbs, Croats and some such.” Consequently: “By this, presumably accidental oversight on AVNOJ’s part, a severe injustice has been committed against our immediate homeland Bosnia and Herzegovina - a Bosnia and Herzegovina which, by virtue of its history and of the role that it has played in the People’s Liberation Struggle, as well as of the losses incurred in this war, has the right to its national self-determination; in other words, to its national name, certainly as much as does every other federated unit mentioned above.” Ćišić saw in this omission the legacy of Bosnia and Herzegovina’s history of oppression

² Humo, contribution to discussion in AVNOJ i narodnooslobodilačka borba u Bosni i Hercegovini (1942-1943), Institut za istoriju - Sarajevo, Belgrade, 1974, pp. 758-759.

and partition in the interwar Yugoslav kingdom, and a lack of a guarantee that such would not reoccur in the future.

Ćišić focused on the failure of the new Yugoslav state coat-of-arms to accord a place to Bosnia and Herzegovina. The coat-of-arms consisted of five torches representing the five Yugoslav nations recognised by the Communists and by AVNOJ: Serbs, Croats, Slovenes, Macedonians and Montenegrins. For Ćišić, if each of these nations had been granted their own national republic, then the same was due to the Bosnians: "From the above-mentioned, it follows logically that the Bosnian-Herzegovinian federated unit can rest on the principle: Bosnia and Herzegovina for the Bosnians." To symbolise this, he proposed that "in the third clause, in the fourth clause of that sentence, make the change: instead of five, 'six torches placed at an angle...', and so forth, so that the right be in fact respected." Ćišić did not once mention the word 'Muslim' in his text, instead arguing for the recognition of a Bosnian nationality embracing all religious communities: "Above all, it is difficult to believe that there is a single true Bosnian to whom it would be objectionable to be called by that name, and if anyone still wants to be called something different, may he be forgiven."³ In a second appeal to the Minister for the Constituent Assembly on 16 January, Ćišić repeated his arguments about Bosnian particularity, but this time specifically attacked the concept of a 'Muslim' national denomination as a 'terrible humiliation' for nationally conscious Bosnians. The Ministry for the Constituent Assembly duly recorded Ćišić's demand in its list of suggested amendments to the constitution, though distilling it simply to the demand: "in the third clause, in the fourth clause of that sentence, make the change: instead of five, 'six torches placed at an angle...', and so forth."⁴

This demand was rejected on the advice of Milovan Đilas, who was a long-standing opponent of the recognition of the Bosnian Muslims as a nation. In his rejection of Ćišić's proposal, Đilas did not reject the idea of Muslim nationhood in principle, but dissembled, arguing that 'parliament cannot discuss the question of whether the Muslims are a national group or not, because at the end of the day, whether something is a national group or particularity does not depend on the People's Parliament, for it is the way it is. This is a theoretical question in which people can argue one way or the other, but in no case can it be resolved by a decree.' Đilas argued that if the proposal had suggested adding a sixth torch to represent the six units of the federation, then it

³ Šaćir Filandra, *Bošnjačka politika u XX. stoljeću*, Sejtarija, Sarajevo, 1998, pp. 202-204.

⁴ Archive of Yugoslavia, Collection 9 (Ministry for the Constituent Assembly), folder 11, doc. 2.5.

could be a subject for discussion, 'but since we are holding the viewpoint that every nation is to receive its torch, then in every case there should be only five torches.' Dilas hastened to add that 'I do not intend to negate the particular line among the Muslims, that exists today.'⁵ Čišić was consequently the only delegate to vote against the Yugoslav constitution.⁶

In April 1946, Čolaković, as Bosnian prime minister, appointed a commission to prepare the Draft Constitution of the People's Republic of Bosnia and Hercegovina. In reviewing the draft that the commission produced, the government's reviewer - who may have been Čolaković himself - criticised the draft for overemphasising the sovereignty of the People's Republic of Bosnia and Hercegovina. In particular, the reviewer rejected a clause specifically guaranteeing Bosnia's right to secede from the Yugoslav federation. According to the draft Clause 3, 'The People's Republic of Bosnia and Hercegovina retains the right to withdraw from the Federative People's Republic of Yugoslavia.' The reviewer noted that Clause 1 of the Yugoslav constitution made clear that the FNJR had been formed on the basis of the right to self-determination, including the right to self-determination, so 'it could be concluded that the right to secede is not excluded.' However, the reviewer argued, 'it is known that the framer of the Constitution used as its source the text of the Constitution of the USSR, in which Clause 17 *expressis verbis* formalises the right of the republics to secede from the union. The framers of the Constitution were, beyond any doubt, aware of this fact, and still did not decide to prescribe this right specifically.' The reviewer concluded, therefore, that "the framer of the Constitution introduced the words 'On the basis of the right to self-determination, including the right to secession', purely as a historical reminiscence on the birth of the state, but did not intend to formalise the right to secede or to withdraw."

The reviewer did not dispute the right of republics to secede; he merely believed that they should not be allowed to exercise this right, and in this way he justified the difference between the Soviet and the Yugoslav constitutions on the question of secession: 'Stalin's Constitution, which dates from 1936, was promulgated at a time when socialism in the Soviet Union had triumphed, and when the cohesive forces of the state had grown to the extent that it was possible, without any fear for the integrity of the state, to formalise the right to withdraw.' By contrast:

⁵ Zasedanje ustavotvornog skupštine, 29 novembar - 1 februar 1946. godine, Izdanje Prezidijuma Narodna Skupštine FNRJ, Belgrade, n.d., p. 187.

⁶ Ibid., pp. 771-772.

Our Constitution was promulgated not even a full year after the establishment of the state, at a time when our state had still not even signed a treaty with our former enemies. However strong the tendency of our peoples was for a unification for which they had sacrificed millions of lives, nevertheless our state life was in its initial phase; its cohesive strength had still not grown to the extent that it could wholly paralyse the centrifugal forces which could arise through historical inertia. There is no doubt that our state, too, will in the course of its development reach the level of consolidation and stability that the Soviet Union achieved in 1936, because there exist objective conditions for this, but at the time of the promulgation of our Constitution, it was perhaps too early expressly to formalise the right of republics to secede from the federation, although this right undoubtedly stems from the right of self-determination.

This somewhat cynical argument - that the right to secede should be recognised only when there was no chance that it would actually be exercised - represented the traditional Marxist-Leninist strategy of recognising 'bourgeois-democratic' rights in principle, while overriding them whenever the interests of the revolution were at stake. The reviewer made the additional argument: "Insofar as the framer of the Constitution recognised the right to self-determination and secession in Clause one, he recognised it for the nations and not for the republics."⁷ This was tendentious, for although it was true that Clause 1 of the Yugoslav Constitution had described the Yugoslav nations, rather than the republics, as having 'on the basis of the right to self-determination, including the right to secession, expressed their desire to live in a federative state', yet the Constitution of the Republic of Bosnia and Herzegovina, in the form in which it was eventually promulgated, made clear that this Republic was a 'People's State' that 'expressing, on the basis of the right to self-determination including the right to secession and to unification with other nations, the free will of its people regardless of nationality and religion, unites on the basis of the principle of equality with the People's Republic of Serbia, the People's Republic of Croatia, the People's Republic of Montenegro, the People's Republic of Macedonia and the People's Republic of Slovenia in a common, federal state - the Federative People's Republic of Yugoslavia.'⁸

⁷ Archive of Bosnia-Herzegovina, Collection 'Government of the People's Republic of Bosnia-Herzegovina (1945-1953): Presidency of the Government of Bosnia-Herzegovina', yr 1944/45, box. 1, docs 1/4.

⁸ 'Ustav Narodne Republike Bosne i Hercegovine', *Službeni list Narodne Republike Bosne i Hercegovine*, yr 2, no. 1, p. 2, 31 December 1946.

The commission had drafted the constitution on the basis of legal principles and constitutional norms. The government's reviewer, however, wished to downplay the expression of Bosnian sovereignty in the constitution. This was for political reasons, linked to the policy of the Communist leadership at the Yugoslav level. Nevertheless, in the Constitutional Assembly of the People's Republic of Bosnia-Herzegovina in December 1946, Vaso Butozan, President of the Constitutional Council of the Constitutional Assembly, stated:

'Our Republic, like the other People's Republics, has expressed its desire to live in an equal union of nations in the Federative People's Republic of Yugoslavia.

This program and this unity are of vital importance to the happier future of the Serbs, Muslims and Croats and other Yugoslav peoples.

In such a federation, every nation is guaranteed its national development and flowering.

In a federation of this kind, sovereignty and the independent exercise of government are guaranteed to every Republic, except those rights that are voluntarily transferred to the Federative People's Republic of Yugoslavia.

The peoples of Bosnia and Herzegovina express, on the basis of this Constitution, their statehood and sovereignty. "

The Communists consistently emphasised Bosnia's sovereignty, but at the same time, they did not wish explicitly to acknowledge that Bosnia and Herzegovina had the right to secede from Yugoslavia. Emphasis on Bosnia's sovereignty, and emphasis on Bosnia's inclusion in Yugoslavia, had to be balanced, and the Communists themselves were not always sure where the balance lay.

In November 1946, the Constitutional Assembly of Bosnia and Herzegovina put the draft Bosnian constitution for discussion before the Bosnian-Herzegovinian public. As the newspaper *Sarajevski dnevnik* argued, in its announcement of the public discussion: "The people that creates its own fundamental law will be the best guardian and most faithful defender of those tenets contained in the Constitution. On the day that our Constituent Assembly ratifies our Constitution - it will be able to say with justice that it is carrying out the people's will; that the Constitution is such as is desired by

⁹ Zasjedanje Ustavotvorne skupštine Narodne Republike Bosne i Hercegovine, 11 novembra 1946 - 31 decembra 1946 -stenografske bilješke, Izdanje Narodne Skupštine Narodne Republike Bosne i Hercegovine, Sarajevo, 1947, pp. 45-46.

the broadest popular masses of our Republic.”¹⁰ The Communist regime tried to control this public debate over the constitution, but it struggled to find a flag and coat of arms for Bosnia and Herzegovina that it considered acceptable. A provisional coat of arms featured a torch held by three hands representing Bosnia’s three constituent peoples. It was published in *Oslobođenje* and *Sarajevski dnevnik*, but was then abandoned. According to the account of Dušan Josipović, who was Secretary of the Constitutional Council, it was subsequently decided that the provisionally selected version of the coat-of-arms was unsatisfactory: “The torch held by three hands, as a symbol of the union of Serbs, Muslims and Croats, was liked by many. But in further discussions, feelings cooled toward it - not because of the dilemma that then existed over the national identity of the Muslims, but specifically because the conclusion was reached, that it was not usual for something like that to be on the state coat-of-arms. It was noticeable that in no other republic did a tendency exist to express something similar on the coat-of-arms.”¹¹

There followed considerable vacillation, in which a coat-of-arms featuring the Austro-Hungarian symbol for Bosnia and Herzegovina - a hand holding a scimitar - was seriously considered. Eventually, the coat of arms of the People’s Republic of Bosnia and Herzegovina was only decided on the last day of the Constitutional Assembly, New Year’s Eve 1946. The final choice of coat of arms - a symbol with two factory chimneys and the shadow of the city of Jajce in the background - was objectively ugly but chosen in the absence of acceptable alternatives. On behalf of the People’s Government of Bosnia and Herzegovina, Dušan Šakota explained: “In the coat-of-arms, it was necessary to express the enormous natural wealth of the Republic; our industry; our agriculture; and our forests. The new proposal of the Government is satisfactory in this respect.” He explained that the branches surrounding the central motif represented Bosnia-Herzegovina’s wealth in forests.¹² According to the constitution as it was published in the *Official Gazette of the People’s Republic of Bosnia and Herzegovina* at the start of 1947: “*The state coat-of-arms of the People’s Republic of Bosnia and Herzegovina represents a field bounded on the left side by branches of deciduous trees, and on the right side by branches of coniferous trees, which are tied at the bottom with a ribbon. In the field above the ribbon are two factory chimneys, and in the foreground*

¹⁰ ‘Opšte narodnu diskusiju o nacrtu Ustava treba provesti što temeljite’, *Sarajevski dnevnik*, 2 December 1946, p. 1.

¹¹ Duško Josipović, ‘Sadašnji amblemi Socijalističke Republike Bosne i Hercegovine (grb i zastava), sa posebnim osvrtom kako su utvrpeni’, *Pravna misao*, 9-10, Sarajevo, 1971, pp. 6-7.

¹² Zasjedanje Ustavotvorne skupštine NRBiH, p. 115.

lie two sheafs of corn. In the background is traced the shadow of the town of Jajce."¹³ This still turned out to have been too hastily drafted, and a month later, a 'correction' to the constitution was officially published to add a red star to the coat-of-arms, which was consequently now defined as follows: *"The state coat-of-arms of the People's Republic of Bosnia and Herzegovina represents a field bounded on the left side by branches of deciduous trees, and on the right side by branches of coniferous trees, which are tied at the bottom with a ribbon. Between the tips of the branches lies a five-pointed star. In the field above the ribbon are two factory chimneys, and in the foreground lie two sheafs of corn. In the background is traced the shadow of the town of Jajce.*"¹⁴

The flag ultimately adopted was similarly banal and chosen because there were no alternatives that could be agreed upon, although it was chosen more easily than the coat of arms. The flag was red, with the Yugoslav flag in its top left-hand corner. It contained nothing that was distinctively Bosnian. In the case of the other five Yugoslav republics - Serbia, Croatia, Slovenia, Macedonia and Montenegro - the coats of arms contained traces of their historical national identity. This was barely true for Bosnia, because the Communists had difficulty agreeing or deciding what elements of its historical identity were acceptable. The final choice of this flag was, it appears, a compromise solution for a country whose nationalities held conflicting national ideologies, and in which explicitly Communist imagery may have appeared the safest option. Of course, the Communists sought to rationalise the composition by attributing to the red flag an important tradition in Bosnian history. At the Constituent Assembly of the People's Republic of Bosnia and Herzegovina on 29 December, Šefket Maglajlić, President of the General Council of United Trade-Unionists, traced the use of the red flag by Bosnian revolutionaries since the Bosnian Uprising of the 1870s, via the birth of the Bosnian labour movement, through the Young Bosnia-Herzegovina organisation and the Husino miners' uprising of 1920 and up to the NOP. Maglajlić concluded: "Therefore, the Yugoslav flag in the top corner of our republican red flag precisely expresses the historical and present sides of our reality: That Bosnia and Herzegovina was established as a sovereign republic through the struggle of the people under the red flag, and that it is today continuing to develop in the free union of equal Yugoslav peoples."¹⁵

¹³ 'Ustav Narodne Republike Bosne i Hercegovine'.

¹⁴ 'Ispravka', *Službeni list Narodne Republike Bosne i Hercegovine*, yr 2, no. 6, p. 80, 4 February 1947.

¹⁵ Zasedanje Ustavotvorne skupštine NRBiH, pp. 61-62.

The Communists attempted to completely control the constitutional process. But they themselves were not absolutely sure of what they were doing. The revolution had its own dynamic that the leadership could not wholly control, that carried them along. In the course of this, they had to work things out as they went along, which they often found difficult. This was, after all, a revolution not a putsch, and a genuine revolution cannot be wholly planned or controlled. Nevertheless, the constitutional process, into which the revolution grew, completed the establishment of the People's Republic of Bosnia and Herzegovina as a constituent member of the Federative People's Republic of Yugoslavia. Bosnia and Herzegovina's statehood therefore became a fact, but with certain practical limitations that would remain up until the proclamation of Bosnian independence in 1992.

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PROGLAŠENJE USTAVA NARODNE REPUBLIKE BOSNE I HERCEGOVINE IZ 1946. GODINE KAO ZAVRŠNA FAZA NARODNOOSLOBODILAČKE BORBE

Sažetak: Narodnooslobodilačka borba u Bosni i Hercegovini, koju je predvodila Komunistička partija Jugoslavije (KPJ), ali koja je uključivala širi dio bosanskohercegovačkog društva, bila je borba za nacionalno oslobođenje Bosne i Hercegovine. Vođena pod patriotskim sloganima Bosne i Hercegovine, administrativno je organizovana kroz bosanskohercegovački okvir, s krajnjim ciljem uspostavljanja bosanskohercegovačke državnosti unutar federalne Jugoslavije. Proglašenje ustava Narodne Republike Bosne i Hercegovine predstavljalo je vrhunac ovog pokreta. Iako je KPJ osigurala da ovaj ustav bude u skladu s njenim ciljevima i politikom, nije unaprijed u potpunosti razradila svoje ciljeve. Također, nije uspjela besprijekorno koreografirati proces proglašenja. Zbog toga su se pojavili nesporazumi i tenzije unutar pokreta, odražavajući njegovu heterogenost i šire tenzije u bosanskohercegovačkom društvu.

Ključne riječi: antifašizam, državnost, Bosna i Hercegovina, ZAVNOBiH.