ARTICLE

LESSONS FROM BOSNIA'S ARIZONA MARKET: HARM TO WOMEN IN A NEOLIBERALIZED POSTCONFLICT RECONSTRUCTION PROCESS

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I would like to thank Martha Fineman for inviting me to present the first version of this Article at her Feminist Legal Theory conference and for the excellent feedback that I received from the participants at that conference, in particular Fionnuala ni Aolain and Naomi Cahn, who have since become my coauthors for a forthcoming book on gender and postconflict reconstruction. I would also like to thank my Research Assistant, Mary Chicorelli, for her invaluable assistance.

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INTRODUCTION

In Bosnia and Herzegovina,[1] there is a vast and sprawling marketplace that sprang up just as the peace accords were going into effect, bringing to some conclusion three-and-a-half years of bloody ethnic fighting. The place is called Arizona Market, and it was created, fostered, and supported by the international community (IC)[2]—hyped as a shining example of capitalism and evidence of the positive impact of the particular type of political and economic engineering that takes place with internationally assisted postwar reconstruction. But even while Arizona Market was supported by the IC, it was also a place where men from the region would bring women to be bought and sold like chattel alongside drugs, weapons, bootleg media, and knock-off athletic gear.

The proliferation of narratives about what Arizona Market truly represents belies the market's short and unglamorous existence—the market is a mere thirty-five acres in size, only fourteen years old, and host to thousands of flea-market stalls. Many of the internationals present during the early days after the Dayton Peace Accords—mostly military, diplomatic, and humanitarian actors—pointed to Arizona Market as the one place in Bosnia where Serbs, Croats, and Bosniaks[3]

[1] The name of the country is Bosnia and Herzegovina, abbreviated BiH, but this Article will use the shorthand "Bosnia" to refer to the entire country.

[2] The term "IC" is often used to describe internationals working for military, diplomatic, humanitarian, or other international nongovernmental organizations (NGOs) working on and funding postconflict reconstruction programs.

[3] The term "Bosniak," also spelled "Bosniac," is used to refer to a Bosnian citizen who is neither ethnically Serb nor Croat and who may be, but is not always, Muslim.

peaceably interacted. As they protected the market and funded its expansion, these internationals spun stories about their hopes for its ability to bring about peaceful relations between warring ethnicities through the neutrality of commerce, notwithstanding the fact that peace was hard to come by in the rest of Bosnia. The international actors then extrapolated from this perceived success, stating that the success of Arizona Market in achieving interethnic harmony was an example of how the free market could overcome ethnic disharmony in greater Bosnia and perhaps anywhere in the world. For quite some time, the IC ignored the fact that women were being sold in the marketplace, like slaves at auction, to be sent to brothels all over the region and beyond. The IC turned a blind eye to the trafficking, even though (or perhaps because) some of its members were themselves purchasing and selling women for sex and other indentured services. When stories began emerging outside of Bosnia about human trafficking emanating from the hub of Arizona Market, the narrative abruptly changed. Suddenly, Arizona Market was described as a dark and seedy place, full of corruption and hidden, nefarious criminal activity.

The narratives surrounding Arizona Market are conflicting, but perhaps they all hold some truth. Arizona Market was in fact a place to buy the goods necessary for daily survival when there were none to be found elsewhere in decimated postwar Bosnia, but it was also a place to buy human beings to satisfy the sexual demands of the internationals. It remains a dark place, laden with black market activity and organized crime, even after the eventual taxation of goods passing through Arizona Market funded the democratic success story of Brcko, the town in whose shadow Arizona Market sits.

This Article employs the example of Arizona Market to illustrate some of the harms that emanate from the politico-economic engineering that takes place in early phases of postconflict reconstruction, in particular the harms that befall women. Part I examines the creation of Arizona Market, exploring the intentions of the various actors involved. Part II analyzes the activities that took place in Arizona Market and how the market's evolution was affected by local, regional, national, and international politics. Part III examines the negative impacts of those activities on women, the emergence of human trafficking, and the general disregard for women in the peacemaking, peacebuilding, and reconstruction processes in Bosnia. It also looks more deeply at the effects of neoliberal policies and projects on women. Part IV concludes with some observations about the problems inherent in postconflict reconstruction and internationally assisted eco-

nomic transition. It also questions the soundness of practices that assume capitalism and free market ideology as necessary or inherent components of democratization, human rights, and the rule of law, especially when one result is the disempowerment of women and the creation of a market for trafficking in human beings.

I. ARIZONA MARKET IN CONTEXT

As the war ended and the IC descended upon Bosnia, the country was not only transitioning from war to peace; it was also transitioning from communism to democracy and from a socialist to a privatized, capitalist (some would say neoliberalized) economy.[4] Admittedly, this combination of circumstances is somewhat rare in the postconflict reconstruction context. Nonetheless, this Article illustrates the risks of assuming that democratization and market liberalization are de facto the best postconflict transitional options, regardless of what the preconflict political and economic systems were.

A. *Postwar Bosnia*

The war in Bosnia formally concluded in December 1995 with the signing in Dayton, Ohio, of the General Framework Agreement for Peace in Bosnia and Herzegovina.[5] The Framework is a document reflecting the modern interventionist prescription for peacemaking and postconflict reconstruction. It set forth not just the conditions for securing peace but also specified the programs deemed essential to sus-

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[4] Prewar Bosnia had a socialist economy in which most firms were owned and controlled by the workers and not the state. But the IC, via the World Bank and the International Monetary Fund (IMF), had already begun imposing economic liberalization requirements on the Federal Republic of Yugoslavia (FRY) after the death of Tito in 1980. Similarly, Bosnia had already begun taking steps toward holding free and democratic elections before the start of the war. *Cf.* CHRISTINE BELL, PEACE AGREEMENTS AND HUMAN RIGHTS 116-17 (2000) (discussing how international intervention in conflicts leads to sustained international involvement and imposition of international views of governance). *See generally* Dina Francesca Haynes, *The* Deus ex Machina *Descends: The Laws, Priorities and Players Central to the International Administration of Post-Conflict Bosnia and Herzegovina* (outlining the pervasive changes imposed by international forces following the war), *in* DECONSTRUCTING THE RECONSTRUCTION 3, 4-6 (Dina Francesca Haynes ed., 2008); Stef Jansen, *"Home" and Return in the Foreign Intervention in Bosnia and Herzegovina: An Anthropological Critique* (arguing that neoliberal and capitalist structures imposed upon Bosnia were both destabilizing to the preexisting culture and "woefully incomplete"), *in* DECONSTRUCTING THE RECONSTRUCTION, *supra*, at 29, 41-44.

[5] General Framework Agreement for Peace in Bosnia and Herzegovina, Bosn. & Herz.-Croat.-Yugo., Dec. 14, 1995, 35 I.L.M. 75 (1996) [hereinafter Framework].

taining peace.[6] It went far beyond a mere cease-fire agreement, creating roles for the short- and long-term involvement of the IC in the litical, legal, and economic institution building of the country after the conflict.

The four-year war in Bosnia decimated its fledgling economy, which had begun making the economic transition from socialism to capitalism after the death of Tito,[7] before the war began. In 1990, two years before the siege of Sarajevo began, Bosnia had a GDP of $11 billion and per capita income of $2400.[8] By 1995, at the time of the cease-fire, GDP had fallen to $2 billion and per capita income was estimated at $500.[9] By the end of the war, between seventy and eighty percent of the population was unemployed.[10] Those who did work were employed by governmental entities (e.g., police, schools, and municipal governments)—jobs awarded according to political party affiliation and ethnicity.[11] Of the unemployed at the conclusion of the war, some were fortunate enough to find employment with international organizations over the following few years. But reliance on the IC for employment created an extremely polarized economy and labor market in which most people worked either for the local government or the international administrative government.[12] It also created an economy falsely supported and driven by the international presence.

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[6] *See generally* Haynes, *supra* note 4, at 5 (explaining that the IC wanted to ensure through the Dayton Accords that all refugees and displaced persons could return home).

[7] *See supra* note 4 and accompanying text.

[8] *See* Int'l Progress Org., Rebuilding Bosnia-Herzegovina: Achievements and Difficulties, http://i-p-o.org/rebuilding-bosnia.htm (last visited Apr. 15, 2010).

[9] *See id.*; *cf.* THE WORLD BANK, BOSNIA & HERZEGOVINA—COUNTRY BRIEF 2009 (2009), http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/BOSNIAHERZEXTN/0,,menuPK:362036~pagePK:141132~piPK:141107~theSitePK:362026,00.html.

[10] *See* Int'l Progress Org., *supra* note 8; *see also* VESNA BOJICIC-DŽELILOVIC ET AL., BOSNIA AND HERZEGOVINA—UNDERSTANDING REFORM 3 (2004), *available at* http://www.wiiw.ac.at/balkan/files/GDN_UnderstandingReform_BosniaHerzegovina.pdf.

[11] *See* BUREAU OF DEMOCRACY, HUMAN RIGHTS & LABOR, U.S. DEP'T OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: BOSNIA AND HERZEGOVINA (2000), *available at* http://www.state.gov/g/drl/rls/hrrpt/1999/321.htm ("[M]any viewed membership in the leading party of any given area as the surest way . . . to obtain, regain, or keep . . . jobs in the state-owned sector of the economy.").

[12] In an odd gender twist, the majority of locals hired by international organizations were women. This was not only because women were perceived to have better administrative or "secretarial" skills but also because more women had studied the social sciences and the English language, skills that were particularly sought after by international organizations, the United Nations (U.N.), and the military. This disparity in the types of jobs held by men (international men held the large majority of high-level positions within international organizations) and women (the majority of whom

The black market had thrived during the war, with black marketeers selling illegal arms, cigarettes, food staples, and identity documents, and engaging in all types of smuggling. It was not dismantled after the Dayton Framework was signed. Rather, the black marketeers and smugglers employed the same skills and smuggling routes they had devised during the war[13] and simply began dealing in different goods—from flour, track suits, and cigarettes to drugs, weapons, and human beings.[14]

B. *The First Myth of the Free Market: Achieving Ethnic Harmony Through Market Forces*

> [The Arizona Market] became the model for the rest of Bosnia for stimulating economic activity and establishing a potential for economic reintegration.
>
> Colonel Greg Fontenot, U.S. Army (Ret.)[15]

> At the Arizona Market, stall owners and patrons come from all of Bosnia's ethnic groups, and even across borders from neighboring Croatia and Serbia to sell goods and find deals. . . . On a daily basis, Bosniaks, Serbs, and Croats interact, socialize, exchange information and sometimes discover how similar they really are.
>
> U.S. Agency for International Development[16]

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were local administrative staff) created inflated potential for sexual harassment and an extreme power differential. For more on the gender disparity in hiring among international organizations and attendant sexual harassment problems, see Dina Francesca Haynes, *Ethics of International Civil Service: A Reflection on How the Care of United Nations' Staff Impacts the Ability to Fulfill Their Role in "Harmonizing" the World*, 30 HAMLINE J. PUB. L. & POL'Y 175, 209-12 (2008), and Madeleine Rees, *International Intervention in Bosnia-Herzegovina: The Cost of Ignoring Gender*, *in* THE POSTWAR MOMENT: MILITARIES, MASCULINITIES AND INTERNATIONAL PEACEKEEPING: BOSNIA AND THE NETHERLANDS 51, 57-58 (Cynthia Cockburn & Dubravka Zarkov eds., 2002). In fact, I recall more than one meeting at which I and Rees were the only international women in senior positions at a table full of men, with local Bosnian women sitting in chairs around the edges of the walls, serving as administrative assistants.

[13] These routes had arguably existed for hundreds of years. *See* Aida A. Hozic, *The Balkan Merchants: Changing Borders and Informal Transnationalization*, 5 ETHNOPOLITICS 243, 245-49 (2006) (documenting the origin of the trade routes during the Ottoman Empire and their resurgence at various points over the centuries).

[14] NATO Parliamentary Assembly, Subcomm. on Democratic Governance, *Organized Crime—Drug and Human Trafficking in Europe*, paras. 11-13, 15-16, 141 CCDG 03 E. rev. 1 (Nov. 9, 2003) (*prepared by* Christine Boutin), *available at* http://www.nato-pa.int/Default.asp?SHORTCUT=368 (recording trafficking of narcotics, including heroin, ecstasy, and cannabis, and human trafficking on a large scale throughout Europe).

[15] Greg Fontenot, *The Urban Area During Stability Missions Case Study: Bosnia-Herzegovina* (pt. 1), *in* CAPITAL PRESERVATION: PREPARING FOR URBAN OPERATIONS IN THE 21ST CENTURY app. F at 211-12 (Russell W. Glenn ed., 2001).

> The ethnic hatred all share is put aside in the interests of need and economic gain, both powerful counteractive agents when it comes to prejudice.
>
> Charles G. Boyd, U.S. Air Force (Ret.)[17]

In this atmosphere—with black market activity rampant—Arizona Market sprang to life, fueled by a need for the goods necessary for daily survival and by the economic, political, and legal vacuum that existed in the days and months after the cease-fire. At first, the market consisted of a handful of ramshackle stalls situated along a road known by the international military as Arizona Route. Named by the American unit of the international Stabilization Forces (SFOR) who primarily used and patrolled it,[18] Arizona Route linked the towns of Doboj in the Serb entity (the Republika Srpska)[19] and Tuzla in the Bosnian-Croat entity (the Federation), where the U.S. forces were headquartered.[20]

While the IC may or may not have actually created Arizona Market,[21] it certainly emboldened the marketeers who were setting up shop there. The IC initially ignored the marketeers' presence despite regularly patrolling the area and later encouraged their presence through passive protection and by spending wages in the market. Finally, the IC burnished the international reputation of the black market activity taking place within Arizona Market until it took on a luster of free market legitimacy that it had not earned. From the beginning, the international refrain was that while the rest of Bosnia was mired in ethnic hatred, men (not women) of different ethnic groups happily interacted in Arizona Market with business as their neutral ground.[22]

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[16] BENJAMIN FEIT & MICHAEL MORFIT, A NEUTRAL SPACE 3 (n.d.) (on file with author).

[17] Charles G. Boyd, *Making Bosnia Work*, FOREIGN AFF., Jan.–Feb. 1998, at 42, 52.

[18] For the first two to three years after the war, roads that crossed former frontlines or divided entities were not frequented by civilians, who feared attack and reprisal when their license plates identified them as being from particular parts of the country and therefore potentially linked to particular ethnic groups. Many of these roads were used primarily or only by internationals.

[19] The "Republika Srpska" was "created" in early 1992 by indicted war criminal Radovan Karadžic's party, the Serbian Democratic Party (SDS), and then proclaimed itself to be part of Yugoslavia (Serbia) rather than Bosnia. *See* LAURA SILBER ET AL., THE DEATH OF YUGOSLAVIA 218 (rev. ed. 1996).

[20] *See* Associated Press, *U.S. Troops Mark End of Mission in Bosnia*, WASH. POST, Nov. 25, 2004, at A19.

[21] *See infra* notes 23-27.

[22] *Cf.* Fontenot, *supra* note 15, at 211-12.

In fact, the IC got it wrong in many respects. Although men of different ethnic groups did do business there, as often as not they were not even from Bosnia, undermining the claim that the market would create interethnic harmony amongst Bosnians. Rather, Serbs from Serbia; Croats from Croatia; and internationals from Romania, Moldova, and Bulgaria were the groups actually taking advantage of the unregulated market by engaging in mutually beneficial organized crime and smuggling. The myth that Arizona Market was the venue in which Bosnian citizens were finally interacting peaceably after years of warring with one another is at best an extreme exaggeration. But this is not the only myth surrounding Arizona Market.

In Bosnia, there are conflicting narratives about most things having to do with the war—who started it, when, where, how, and why[23]—and the story of how Arizona Market was created is no exception. One narrative says that the market sprang up spontaneously in the months after Dayton as a motley collection of vendors servicing North Atlantic Treaty Organization (NATO) peacekeeping troops.[24] The International Forces (IFOR), supplied by NATO countries and a precursor to SFOR, patrolled the area and established security checkpoints, which were critical given the location of the market where Bosnian, Bosnian Croat, and Bosnian Serb interests—and territories—converged.[25] Because the area was relatively safe thanks to the IFOR patrols, people began coming to "exchange cows and other goods."[26] Another version of the narrative says that the American unit of IFOR affirmatively established the market as a secure trading area during the conflict based on the belief that it would be crucial to the stability of the region.[27]

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[23] *See* Dina Francesca Haynes, *Introduction* to DECONSTRUCTING THE RECONSTRUCTION, *supra* note 4, at xv-xviii (introducing some of the variations in the narratives of the war).

[24] *See, e.g.*, PETER ANDREAS, BLUE HELMETS AND BLACK MARKETS: THE BUSINESS OF SURVIVAL IN THE SIEGE OF SARAJEVO 133-34 (2008) (stating that the market emerged near peacekeeping troop stations and a former NATO checkpoint as well as several brothels).

[25] The strategic importance of the location of the market is discussed further below. *See infra* notes 44-50 and accompanying text.

[26] *See* ANDREAS, *supra* note 24, at 133 (quoting a spokesperson for the Brcko District Office of the High Representative (OHR)).

[27] *See* Alex Jeffrey, *Building State Capacity in Post-Conflict Bosnia and Herzegovina: The Case of Brcko District*, 25 POL. GEOGRAPHY 203, 216 (2006) (claiming that IFOR troops established the market during the conflict and that it was subsequently privatized in 2001 by an Italian-Bosnian company (citing Peter Andreas, *The Clandestine Political Economy of War and Peace in Bosnia*, 48 INT'L STUD. Q. 29, 46 (2004))); *see also* ANDREAS, *supra* note 24, at 134 ("The market was encouraged . . . . One way to move forward in the post war

Regardless of how it actually started, because of its proximity to Brcko and America's investment in the Dayton Framework and later Brcko itself, the market was immediately hailed as a sign of multiethnic cooperation. The hyperbole was then further exaggerated by the international actors, who were primarily experts in military operations and political science, not economics. They saw a link between commerce and multiethnic interaction and quickly determined that warring ethnicities would set aside old animosities in favor of making money—it was the neoliberal free market concept embodied in the perfect microcosm of Arizona Market.[28]

The United States provided financial support for the market, with the Pentagon donating $40,000 toward its establishment.[29] In recognition of its contribution, a plaque thanking the U.S. Army was posted publicly at Arizona Market, where it remained until it later became an embarrassment and was removed. By 1998, three years after the formal conclusion of the war, Arizona Market offered DVDs pirated in China, goods looted from the ransacked homes of ethnically displaced persons, building materials stolen from intergovernmental organizations (IGOs) that had donated them to rebuild homes, fake Nike running shoes, heroin, and human slaves.[30]

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years was to use business as a foundation. To use an American phrase, the market was in 'everyone's interest.'" (quoting Michael Montgomery of the Brcko District OHR)).

[28] This myopia can be ascribed, as David Kanin puts it, to "the mythology of the benign, universal applicability of democracy and free markets." David B. Kanin, *Big Men, Corruption, and Crime*, 40 INT'L POL. 491, 492 (2003). Although he goes on to argue that by endorsing this mythology, the IC fails to seriously confront corruption and economic criminal activity, he characterizes this mythology as created by western imperialism because "Europeans (and Americans) believe themselves to be 'ahead' of the rest of the world and authorized to judge how far behind others happen to be." *Id.* at 493.

[29] *See* Gina Cavallaro, *The Lessons Learned in Bosnia and How They Apply to Iraq*, AIR FORCE TIMES, Dec. 13, 2004, *available at* http://www.airforcetimes.com/legacy/new/1-292925-543796.php (quoting Major General William Nash, who explained that the Pentagon had paid some of the Arizona Market start-up costs because "the area was secure so Serbs, Croats and Bosniacs could all come and do business without fear of ethnic violence . . . . Over the years the Arizona Market has had an up and down existence with some issues of black marketing, trafficking in literally drug [sic], sex and rock and roll.").

[30] *See* Philip Sherwell, *Guns, Girls, Drugs, Fake Track Suits—It's All Here in the Wildest Market in the World*, SUNDAY TELEGRAPH (London), Nov. 19, 2000, at 35, *available at* Factiva (explaining that Arizona Market "has become a byword not just for business but also for crime"); *see also* HUMAN RIGHTS WATCH, HOPES BETRAYED: TRAFFICKING OF WOMEN AND GIRLS TO POST-CONFLICT BOSNIA AND HERZEGOVINA FOR FORCED PROSTITUTION 62-63 (2002), *available at* http://www.hrw.org/legacy/reports/2002/bosnia/Bosnia1102.pdf (providing sworn testimony of U.S. government contractors who purchased prostitutes at Arizona Market); Dina Francesca Haynes, *Used, Abused, Arrested and Deported: Extending Immigration Benefits to Protect the Victims of Trafficking and to Secure*

The nefarious market became so well-known in the region for being both unregulated and protected that Albanians, Moldovans, Romanians, and others also came there to conduct their business. Arizona Market had gone international, becoming "a cross-communal trading place in no-man's land where ethnic belonging and citizenship mattered little and everything was for sale."[31]

Even if the IC did not literally create the market, they funded it and imbued it with a powerful myth—that the market was a microcosm of how all of Bosnia could be, with the free market correcting even the sort of ethnic hatred that leads to violent war. The people on the ground—primarily military actors presumably present for their military, and not their economic, skills—held to the belief that

> [i]n the microcosm the Arizona Market represents may lie a clue to building a functioning multiethnic society in Bosnia. At least for now, people feel secure only when surrounded by their own kind. But as economic opportunity invites interaction, these same people will gradually become confident that they can live again in a mixed society.[32]

There were multiple problems with this Pollyanna view of Arizona Market. In addition to being economically flawed, particularly because it ignores the female portion of the population,[33] this view ignores the fact that many of the market's activities were both illegal and extraordinarily abusive. Even the relatively "victimless" black market sales were harmful because they avoided taxation in a country that sorely needed a tax base.[34] Worse still, the market was tolerated by precisely the people whose job it was to guide Bosnia toward a fair, structured, and rehabilitated rule-of-law system—the IC.

In the years following the peace accords, the example of Arizona Market continued to be trotted out by the IC to bolster support for continued funding of projects related to economic liberalization and the return and reintegration of displaced persons, and to stave off the growing arguments that Bosnia might be better off as an ethnically di-

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the Prosecution of Traffickers, 26 HUM. RTS. Q. 221, 222 (2004) (describing the plight of a sixteen-year-old Moldovan girl who was sold as a prostitute at Arizona Market).

[31] Florian Bieber, *Local Institutional Engineering: A Tale of Two Cities, Mostar and Brcko*, 12 INT'L PEACEKEEPING 420, 421 (2005).

[32] Boyd, *supra* note 17, at 52-53.

[33] *See infra* Section III.C (considering the exclusion of women from reconstruction efforts).

[34] *See* R. Jeffrey Smith, *Bosnian Mart Becomes Den of Criminal Enterprise*, WASH. POST, Dec. 26, 1999, at A33 (explaining that by 1999, Bosnia was losing "an estimated $30 million a year from untaxed sales of legal goods" in Arizona Market).

vided country.[35] Eventually, this belief that market forces would prevail and correct years of ethnic hatred led the IC to turn a blind eye to the gruesome activity taking place within the market.[36] Human beings, in this case exclusively women and children,[37] were being sold. Buyers purchased not just the services of prostitutes but human beings wholesale—people were sold as slaves. Human beings were treated as mere commodities. Was this to be viewed as an acceptable collateral consequence of the unregulated market at work?

While human rights and the rule of law were discussed and planned for in other parts of Bosnia,[38] they were blatantly violated in Arizona Market with the full acquiescence of the IC, which insisted that the market represented the highest expression of free market ideals. Eventually it was publicly acknowledged that women and girls were being trafficked through Arizona Market. Later still, it was recognized, if not formally acknowledged by the IC at large, that some of the perpetrators purchasing and even selling women at Arizona Market were themselves members of the IC.[39] The presence of the IC in Bosnia, their endorsement of the market, and their activities within the market had contributed significantly to the problem by creating the demand for black market dealings and human trafficking within the region.

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[35] *See* Boyd, *supra* note 17, at 52-53 (supporting the view that Arizona Market showed how market forces and market needs would slowly allow people to set aside hostility in favor of making money); *see also* Kanin, *supra* note 28, at 513 (arguing that Arizona Market is "the prototype of both the problem [of corruption and criminal economic activity] and its solution" but also noting that "'rule of law' . . . more likely would emerge from spontaneous, informal economic activity than from externally imposed administration"). *But see* Timothy William Waters, *Assuming Bosnia: Taking Polities Seriously in Ethnically Divided States* (controverting the view of Bosnia as a paradigm of justice, and providing arguments for an open dialogue about future ethnic divisions in the country), *in* DECONSTRUCTING THE RECONSTRUCTION, *supra* note 4, at 53, 69-78.

[36] *See* John McGhie, *Women for Sale*, RED PEPPER (U.K.), Aug. 2000, at 16, 17 ("Apart from one or two anti-traffickers there is little sense that this is a major issue. And if the U.N. chiefs know what is going on, there is hardly a feeling of urgency in combating it.").

[37] No evidence has surfaced that men or boys were trafficked through Arizona Market.

[38] Many international actors were involved in this planning: the OHR (acting as international administrative agency); the OSCE; and multiple U.N. agencies, including the UNHCR, the Office of the High Commissioner for Human Rights (UNHCHR), the U.N. Development Programme (UNDP), and the Office for the Coordination of Humanitarian Affairs (OCHA).

[39] *See* Sherwell, *supra* note 30; discussion *infra* note 64.

C. *Politico- and Socioeconomic Engineering: The Story of Brcko and Its Relationship to Arizona Market*

The story of Arizona Market cannot be told without an understanding of the unique town of Brcko. The Dayton Peace Accords brought to the table indicted war criminal Slobodan Milosevic from Serbia (who died before the conclusion of his trial), Franjo Tudjman from Croatia (who might well have been indicted had he lived), and Alija Izetbegovic from Bosnia (often criticized, but never indicted) to negotiate cessation of hostilities.[40] The final sticking point at Dayton, which threatened to undo all of the preceding negotiations, was what should be done with the town of Brcko.[41]

Strategically located along both the Zagreb-Belgrade highway and the Sava River, in the northeast of Bosnia, the town of Brcko joins Bosnia to the rest of the former Yugoslavia and Europe. It is an extremely important geographic location from any economic standpoint but was especially important to the Bosnian Serbs.[42] Despite being a majority Bosniak (and Muslim) town before the war, Brcko was the geographic link connecting the eastern and western parts of the Republika Srpska. Without control over Brcko, the Serb Republic would be divided in two parts, which would amount to any military strategist's nightmare.[43]

In order to gain control over this territory during the war, the Bosnian Serbs, led by "Arkan,"[44] decimated the town. Bosnian Serbs forcibly expelled Bosniaks and Croats, and many were tortured, raped,

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[40] There were other men at the table—international diplomats—but of course no women, a situation that has been described as a failure to "reimagine gender relations and to provide a contemporary model of citizenship and democracy for women." Christine Chinkin & Kate Paradine, *Vision and Reality: Democracy and Citizenship of Women in the Dayton Peace Accords*, 26 YALE J. INT'L L. 103, 112 (2001); *see also* Rees, *supra* note 12, at 54-55 (reporting that the individuals who negotiated the Dayton Accords "were almost all men"); Cynthia Cockburn, *The Postwar Moment: Lessons from Bosnia Herzegovina*, WOMEN & ENV'TS INT'L MAG., Spring 2003, at 6, 6-7 (explaining the lack of female representation). This gender disparity was lost on the negotiators and parties but not on the women's NGO Kvinna till Kvinna, which sent a letter to Madeleine Albright on the day of the signing of the Accords without result. Rees, *supra* note 12, at 55; *see also infra* Parts III-IV.

[41] Muhamed Sacirbey, *Brcko Poker*, EUR. COURIER, Mar. 17, 2009, http://www.europeancourier.org/171.htm.

[42] *See* Fontenot, *supra* note 15, at 201 ("The city was the center of gravity both in military and economic terms; it was the place at which success had to be obtained.").

[43] *See id.*; *see also* Sacirbey, *supra* note 41.

[44] Arkan, whose real name was Zeljko Raznatovic, was indicted for war crimes after the war but never tried because he was gunned down in the lobby of Belgrade's Intercontinental Hotel in January 2000. Steven Erlanger, *Suspect in Serbian War Crimes Murdered by Masked Gunmen*, N.Y. TIMES, Jan. 16, 2000, at 1.

and killed.[45] There were said to be twenty camps around the town of Brcko during the war, in which many of those who had been forcibly expelled were subsequently held captive.[46]

As a consequence of the war and expulsions, the town split into three submunicipalities after the war: Ravne-Brcko (the Croat section, which would initially host Arizona Market), Brcko Grad (housing the Serb population in the town center), and Brcko-Rahic (the Bosniak section).[47] During the war, as Bosnian Serbs were displaced from Sarajevo, other parts of Bosnia, and Croatia,[48] they were provided with housing (both homes and socially owned apartments) that had formerly belonged to the expelled or imprisoned Bosniaks and Croats. This sort of ethnic displacement was taking place all over Bosnia, Croatia, and Serbia and affected all ethnic groups. As each ethnic minority group was forced out or fled, a newly arrived ethnic group would be given their "abandoned" homes, creating new ethnic majorities.[49] In Brcko, the wartime ethnic violence[50] and displacement created a strategic Serb majority.[51]

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[45] *See id.*; Jeffrey, *supra* note 27, at 205 ("The importance of Brcko . . . translated to a series of atrocities against the Bosniak and Croat inhabitants of the town . . . .").

[46] *See* Peter Popham, *Winning the Peace in the Balkans: Risen from the Ashes of War*, INDEPENDENT (London), Nov. 18, 2005, at 30, *available at* LEXIS (discussing how over 30,000 Bosniaks and Croats were driven to prison camps outside Brcko). The most notorious of these camps was the *luka* (port) camp, where such brutal crimes and massacres took place that camp leaders Goran Jelisic and Ranko Cešic were indicted for crimes against humanity. *See* Jeffrey, *supra* note 27, at 206 (situating these massacres within a larger attempt by Serbian forces to destroy all symbols of cultural heterogeneity and replace them with Serbian historical and cultural markers).

[47] *See* Jeffrey, *supra* note 27, at 215.

[48] Between 150,000 and 200,000 Krajina Serbs were expelled from Croatia over a thirty-six-hour period during "Operation Storm" in August 1995, when the Croatian army, trained by a U.S. military firm in an arrangement approved by the U.S. government, forcibly expelled ethnic Serbs and killed many. *See Impunity for War Crimes Must End*, GLOBAL POL'Y F., Mar. 16, 2005, http://www.globalpolicy.org/component/content/article/168/29343.html (linking the EU's delay of accession negotiations with Croatia to murders and other crimes committed during Operation Storm); Srdja Trifkovic, *The Really Bad Dogs of War*, CHRONICLES, Oct. 11, 2007, *available at* http://www.globalresearch.ca/index.php?context=va&aid=7052 (identifying MPRI as the American firm that trained Croat forces in preparation for Operation Storm); Neven Crvenkovic, Home Again: 10 Years After Croatia's Operation Storm (Aug. 5, 2005), http://www.unhcr.org/42f38b084.html (noting the large influx of Serbs into Yugoslavia and the expulsion of non-Serbs in 1991 preceding Operation Storm's expulsion of Serbs).

[49] *See infra* Section IV.D (discussing further the laws used to implement this property-based ethnic cleansing). In Croatia, this was further complicated by then-President Franjo Tudjman's invitation to Bosnian Croats to move to Croatia and take up residence in homes and flats "abandoned" by Krajina Serbs. *Id.* These displace-

At the very end of the Dayton peace negotiations, when all else had been agreed upon save the fate of Brcko, Milosevic told negotiator Richard Holbrooke that he would "walk the final mile for peace"[52] by giving up on the stalemate, which in any case would have benefitted Bosnian Serbs rather than his country, Serbia. Milosevic suggested submitting the Brcko issue to arbitration.[53] Holbrooke accepted this solution, and an American along with entity representatives from Bosnia were appointed to arbitrate the issue of Brcko. Brcko was then filled with American troops, and a U.S. Department of State diplomat was appointed to "supervise" the town.[54] Eventually, in 1999, Brcko was made an autonomous district and a full protectorate under the authority of an American international administrator, who appointed (contrary to the democratic principles of electing local officials) all local authorities until 2004.[55]

The rehabilitation of the town was fully engineered by the IC, which was heavily influenced by the Americans. Despite this outside influence, or more probably because of it, Brcko has been praised ultimately as a success story, even by such notoriously critical watchdogs as the International Crisis Group.[56] Still, when understanding how

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ment and housing issues cannot be understood without also looking at Croatia, Serbia, and even Kosovo. *Id.*

[50] This was arguably only nationalist violence because most Bosnian Croats, Bosnian Serbs, and Bosniaks share a common ethnic Slavic origin.

[51] Jeffrey, *supra* note 27, at 205-06.

[52] Popham, *supra* note 46, at 30-31 (quoting Slobodan Milosevic).

[53] *See id.* (suggesting that "Dayton succeeded because Brcko . . . was set aside to be decided later").

[54] *See* Haynes, *supra* note 4, at 13 & n.17 (arguing that the international political arrangement in Brcko emulated somewhat General MacArthur's governance in Japan after World War II); Jeffrey, *supra* note 27, at 209.

[55] Even the word for the new protectorate, *distrikt*, was based on the American governance and electoral concept of "districts," while the rest of Bosnia was organized in *opstinas*. This linguistic anomaly is further evidence of the total U.S. control of Brcko and its postwar administration.

[56] *See* Mark Landler, *Strong Hand and a Little Cash Can Help Revive Ethnic Peace: Nation-Building/Success Story in Bosnia*, INT'L HERALD TRIB., June 20, 2003, at 2, *available at* LEXIS (quoting Mark Wheeler, director of the Bosnia Project at the International Crisis Group, as stating that Brcko was "the worst place you could imagine in Bosnia . . . . But the international community equipped people with enough authority to get their jobs done."); *see also* Bieber, *supra* note 31, at 431 ("Brcko has been and probably will be a model for institutional design in other regions . . . ."); Jeffrey, *supra* note 27, at 204 ("The experience of Brcko encourages reflection on the ways through which international and local state organisations have worked together to create sustainable practices of multi-ethnic government in post-conflict Bosnia."). *But see* INT'L CRISIS GROUP, BRCKO: WHAT BOSNIA COULD BE 1 (1998) (explaining that, at the time of the

economic and political engineering in Brcko helped create Arizona Market, it is important to note that the terms of arbitration that created Brcko also yielded a tax and customs structure independent from Bosnia's. This imbued the town with instantly attractive neoliberal economic advantages and infinitely better economic possibilities than the rest of Bosnia.[57] A considerable amount of the tax base for Brcko eventually came from Arizona Market, and still does.

Because the United States had such influence over the reconstruction of the Brcko District,[58] it is not a stretch to imagine how the idea of something like Arizona Market arose. Situated right outside of Brcko and ostensibly stimulating the multiethnic harmony for which the IC strived and for which the United States negotiated at the Dayton Peace Accords, the creation of the market was only natural.

If Arizona Market was an experiment in capitalism, then Brcko was an experiment in democratization. The early narrative surrounding Brcko's "governance by fiat" model was often harshly critical of the model for purporting to create a democracy, even while relying upon autocracy.[59] By contrast, Arizona Market tended to be praised as a freewheeling, free market, harmonizing force.[60] And the positive "free market fosters ethnic harmony" narrative persisted, even once the market's seedy underbelly was exposed.[61]

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report's publication, the International Supervisor had only seen "mixed" results in his plans to revitalize Brcko).

[57] *See* EUROPEAN STABILITY INITIATIVE, GOVERNANCE AND DEMOCRACY IN BOSNIA 17-18 (2004) (noting that although, like the rest of Bosnia, Brcko was under international supervision, Brcko "had by far the highest level of public salaries in the whole country"). Brcko differed from the rest of Bosnia in many respects, but in being subject to international supervision, it was similar. The rest of Bosnia was being "supervised" by the High Representative, who represented the member states that comprised the Peace Implementation Council, a group of interested states primarily affiliated with NATO. Unlike other peace operations, the U.N. played a lesser role and the primary role of reconstruction was given to the OHR. Brcko was also being reconstructed by the Supervisor, appointed through the Dayton-initiated arbitration.

[58] For example, in addition to the fact that Brcko's supervisors were American diplomats, the organization created to run Brcko's institutions was the U.S. Agency for International Development (USAID)–funded "District Management Team," which was assisted by U.S. consulting firms. *See* Jeffrey, *supra* note 27, at 215-16 (highlighting the Supervisor's essentially unchallenged power in designating the instruments of democratization).

[59] *See* DAVID CHANDLER, BOSNIA: FAKING DEMOCRACY AFTER DAYTON 1-3 (1999) ("Three years of intensive involvement by the world's most powerful states . . . has done little to create viable institutions of self-government in the state.").

[60] *See, e.g.*, ANDREAS, *supra* note 24, at 132-33 (calling Arizona Market "the most impressive evidence" of "the ability to overcome ethnic divides" within a "clandestine economy").

[61] Political scientists have made interesting arguments about why the dark, inscrutable, and private nature of the market would suit the locals adequately, even aside

The democracy of Brcko was a strange sort of democracy, a sort of autocratic democracy wherein the International Supervisor appointed all local officials. Even Bosnia's high school history books ended with World War II, as no one was prepared to take on the task of developing a text describing the more recent regional war that might be satisfactory to all three ethnicities.[62] Similarly, the capitalism of Arizona Market was a strange sort of capitalism in which recently warring Serbs, Croats, and Bosniaks joined together in nefarious business ventures, including the sale of human beings for profit.

D. *Human Trafficking at Arizona Market*

There are no nice human trafficking stories, but at Arizona Market, human trafficking was particularly grim and came closest to matching the now-pervasive moniker "modern day slavery." At Arizona Market, women, and often girls, were "order[ed] to take off all their clothes and . . . stand[] [in] the road naked . . . like cattle."[63]

The presence of 50,000 or more international men in Bosnia as part of the peacekeeping and reconstruction efforts, usually without their female partners, created a demand for women who could be hired for sex.[64] The black marketeers, who had already become

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from a desire to prevent their illegal black market and private-sphere activity from coming to light. *See* JAMES C. SCOTT, SEEING LIKE A STATE: HOW CERTAIN SCHEMES TO IMPROVE THE HUMAN CONDITION HAVE FAILED 53-54 (1998) (explaining that developing an inscrutable infrastructure protects the governing elites against invasion by newcomers who do not understand how to get around, literally or figuratively, and thus fail both to see what is truly happening right under their noses and to take control of and change it to suit their tastes).

[62] *See* Landler, *supra* note 56 (quoting a Brcko high-school student who said, "[W]e don't know anything about the war . . . . Our history class ends with World War II.").

[63] Michael Voss, 'Slave Trade' Thrives in Bosnia: High Unemployment Makes Women Easy Prey (Mar. 8, 2001), http://www.uri.edu/artsci/wms/hughes/ukraine/slavebosnia.htm (quoting Mara Radovanovic). This has led some to refer to Arizona Market, without irony, as a "women market." *Id.*; *see also* Michael Harris, *Horror Under the Covers*, OTTAWA SUN, Oct. 24, 2003, at 15 (reviewing VICTOR MALAREK, THE NATASHAS: INSIDE THE NEW GLOBAL SEX TRADE (2003)); McGhie, *supra* note 36, at 16-17 (calling Arizona Market "the biggest slave market in Europe," and stating that "[i]nternational police based in Brcko said women are often put on stage in a backroom bar, pirouetting in different costumes while buyers inspect their flesh and look into the women's mouths before making a bid. The more attractive ones fetch DM2,000-DM4,000 (£650-£1,300).").

[64] *See* McGhie, *supra* note 36, at 17 (quoting Madeleine Rees, then head of the UNHCHR in Bosnia, as saying, "'If you look at the patterns of trafficking world-wide, essentially you only get it where you're going to have a market,' says Rees. 'It's a demand-led thing, and basically in 1993 we had the presence of Unprofor (UN Protec-

skilled at operating across borders and outside of the law, quickly satisfied that demand with a supply of women and girls who had few other economic prospects.[65] The traffickers lured these women out of their communities almost always under false pretenses. The traffickers usually told the women that they would be taken into Western Europe to work as hostesses, nannies, or hotel staff.[66]

Instead, the women were bought and sold like chattels. Once put to work in brothels, the women were trapped in debt peonage, under which they were forced to pay off the "debt" of their own purchase and transport.[67] The women, who came primarily from Moldova, Ukraine, and Romania, were available in large part due to the collapsing socialist economies in their home countries.[68] This economic turmoil was arguably exacerbated by the neoliberal economic policies that the IC imposed on these collapsing economies. According to the UNDP, more than 10,000 women and girls (and possibly some men and boys) were trafficked through Arizona Market in the year 2000 alone. Traffickers used Arizona Market as a hub for women trafficked into the rest of the Former Yugoslavia and on to Western Europe, Israel, and Turkey.[69] The elements of organized crime that coordinated the trafficking were extremely dangerous.[70] Traffickers fre-

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tion Force—the military predecessor of the Stabilisation Force, Sfor), and undoubtedly that was one of the pull factors.'").

[65] *See also infra* Part IV (arguing that the IC also played a role in creating the supply of women through creation of regional economic policies that increased unemployment and particularly the unemployment of women).

[66] *See, e.g.*, Haynes, *supra* note 30, at 222 (relating the story of a Moldovan girl whose brother-in-law promised to find her a job as a hostess in Italy but then sold her into slavery in Bosnia); Rees, *supra* note 12, at 57.

[67] *See* David Binder, *In a Postwar Zone, the Sex Trade Flourishes*, MSNBC.COM, http://www.msnbc.msn.com/?id=3071976 (last visited Apr. 15, 2010) ("[Women are] bought and sold constantly. At the 'Arizona Market' . . . they sell women like animals. They have to pay off the cost of their own sale. [The women] earn from $50 an hour to $500 a night [for the brothel owners], but are paid between $100 and as little as $13 a month." (quoting Nidia Casati of the International Organization for Migration)).

[68] *See, e.g.*, Denise Horn, *Bringing Moldova's Women into the Democratization Process*, RADIOFREEEUROPE/RADIOLIBERTY, Jan. 12, 2010, http://www.rferl.org/content/Bringing_Moldovas_Women_Into_The_Democratization_Process/1927570.html (discussing trafficking during the economic transition in Moldova).

[69] *See* U.S. DEP'T OF STATE, VICTIMS OF TRAFFICKING AND VIOLENCE PROTECTION ACT 2000: TRAFFICKING IN PERSONS REPORT 31 (2002), *available at* http://www.state.gov/documents/organization/10815.pdf; *see also Grave problème de traite des femmes en Bosnie selon l'ONU*, AGENCE FRANCE PRESSE, May 19, 2000, *available at* WL.

[70] *See* NATO Parliamentary Assembly, *supra* note 14, at 2 ("[T]he conflict in the Balkans facilitated heroin transit to Europe through that region . . . [such] that the flood of refugees and migrants from the combat areas towards the EU [saw] the emer-

quently beat their victims, and as of 1999, authorities had found ten women murdered, ostensibly by their traffickers. One of these murder victims was discovered with her mouth taped shut with tape bearing the symbol and name of the OSCE, a bold statement that the traffickers felt free to operate as brutally as necessary. This was not only in spite of the international presence but largely because the international security and development personnel economically supported and drove the illicit market in women.[71]

By 1999, it was well-known that peacekeepers and other internationals were spending time in Arizona Market—purchasing sex, buying women, and sometimes even selling them.[72] Nevertheless, when High

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gence of the formidable Albanian mafias, whose role in several cases involving narcotics, illegal immigration and prostitution has been demonstrated.").

[71] McGhie argues that the tape on the murder victims' mouths was also a message to women that

> organised crime . . . will not tolerate women speaking out.
>
> The problems in fighting trafficking are legion. Corruption is endemic; there is a prevailing culture where it is all right to visit brothels and most local police are unwilling to tackle the 'low priority' problem.

McGhie, *supra* note 36, at 17.

[72] With the arrival of internationals creating demand for women who could be hired for sex, brothels sprang up all over the region, not just in Arizona Market. It was estimated that thirty percent of the clients and eighty percent of the traffickers' revenue came from the IC. Rees, *supra* note 12, at 63. Although some members of the IC were instrumental in successfully liberating trafficked women, "there [were] numerous allegations that members of the international police force were involved in the trafficking." *UN Police Officers Resign After Raid*, U.N. WIRE, Nov. 30, 2000, http://www.unwire.org/unwire/20001130/11995_story.asp. For example, an American U.N. officer was dismissed after buying a Moldovan woman for $2900. Colum Lynch, *Misconduct, Corruption by U.S. Police Mar Bosnia Mission*, WASH. POST, May 29, 2001, at A1. Military subcontractors were also involved in illegal activity. By 1998, eight employees of a large subcontracting firm, Dyncorp, had been relieved of their duties in Bosnia after allegations of their participation in sex trafficking arose. Antony Barnett & Solomon Hughes, *British Firm Accused in UN 'Sex Scandal,'* OBSERVER (London), July 29, 2001, at 4; *see also* Haynes, *supra* note 30, at 236-37 (discussing the complicity of peacekeepers and international workers in prostitution and trafficking). NATO soldiers and Italian, Portuguese, and Egyptian SFOR troops were accused of forcing twelve- to fourteen-year-old girls to have sex with them, although NATO dismissed the allegations after it conducted its own internal investigation. Nancy L. Torner, *No Evidence of Crimes by SFOR Troops*, UPI, Aug. 25, 1998, *available at* LEXIS. *But see* McGhie, *supra* note 36, at 17 (listing evidence supporting the claim that U.N. and NGO personnel used trafficked women for sex). McGhie catalogues the evidence in this way:

- [A] UN report, unpublished outside Bosnia, [spoke] of "compelling evidence of complicity" of local and international police and Sfor in 14 cases [as of 1999];
- four other cases [as of 1999], one involving Sfor and three the International Police Task Force (IPTF), where men had trafficked women;

Representative Wolfgang Petrisch belatedly tried to shut down Arizona Market, calling it a "lawless wasteland," an American colonel argued to keep it open, pointing out by way of comparison that Times Square in New York City was far from perfect with its own host of pimps and prostitutes.[73] Such statements suggest that a "boys will be boys" mentality was accepted by some as a justification for the improper behavior of military and international personnel participating in postconflict reconstruction work. The reasoning was that military personnel who were involved in risky and demanding work so far from home ought at least to be allowed the comfort of sex.[74] This acceptance of prostitute use among internationals was bolstered by the misconception that the women had freely chosen their "profession" and wanted to be involved in the illegal activities taking place at Arizona Market.[75]

However, even once it became apparent that the prostitutes were actually trafficked women and that the brothels held women against their will, no crackdown was immediately forthcoming. The myth of the free market insulated Arizona Market from being seen for what it was—a place where the worst kind of human behaviors were perpetrated against women and girls, with the complicity and involvement of the very internationals tasked with bringing about peace and security. The belief that anything that normalized Bosnia was helpful and that trade is as normal as it gets justified the activities that took place in the market. This belief trumped proof that criminal, abusive, coer-

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- in one small IPTF base two officers admitted to us they regularly visited brothels where they knew trafficked women were held;
- five IPTF officers were recently sent home for being caught in raids on brothels;
- a number of staff (unconfirmed reports say six) from the Office of High Representative—the most senior UN body in Bosnia—were also recently caught in a brothel raid;
- we saw, and filmed, European Union vehicles parked outside a well known Sarajevo brothel, and saw UN vehicles outside other brothels;
- we secretly filmed a senior US member of the international community in a brothel boasting about how easy it was to buy a woman "as property."

Id.

[73] Bruce R. Scott & Edward N. Murphy, *Brcko and the Arizona Market*, HARV. BUS. REV., Aug. 4, 2006, at 1, 17.

[74] For more discussion of this attitude, see generally NAOMI CAHN, DINA FRANCESCA HAYNES & FIONNUALA NI AOLAIN, ON THE FRONTLINES: GENDER AND POST CONFLICT RECONSTRUCTION (forthcoming 2010).

[75] *See* McGhie, *supra* note 36, at 17 (observing the sentiment of many internationals in Bosnia that the trafficked women "look happy enough and if they get their money, what's the fuss about?").

cive, and exploitative activity—not "normal" trade—was taking place in Arizona Market.

Many gender scholars from the Former Yugoslavia, aware of the gravity of human trafficking in Bosnia, frame the problem as a horrific derivative of development and neoliberalism:

> There are many sovereign exceptions a variety of state agents can and do grant themselves/ourselves routinely, with horrible consequences for local development and for humanitarian/human outcomes. There are also brutal local transitions that defy any sense that the world is moving in generally democratic directions. It is important to . . . see and address more of the troubling biopolitics of our times.[76]

Human trafficking in and through Bosnia was a derivative of development in that the massive influx of predominantly male military personnel, peacekeepers, humanitarian officers, and supply teams charged with reconstructing Bosnia after the war created the market for trafficked women and girls. Arizona Market is likewise derivative of neoliberalism because those very same military personnel, peacekeepers, and humanitarian officers trusted the market to create a place of social justice and to correct for any abuses.[77] Thus, the forces that created Arizona Market and allowed it to thrive were also the consumers of its abusively obtained human "goods."

In December 2001, Arizona Market was privatized, falling in line with the rest of the Bosnian capitalist progress plan. The winning bid for the market came from an Italian-Bosnian company called ItalProjekt.[78] Despite the move to privatize, however, the market remained rife with lawlessness, attracting bad actors and bad activities that sometimes spilled over to areas surrounding the market.[79] The organized-

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[76] Christine Sylvester, *Bare Life as a Development/Postcolonial Problematic*, 172 GEOGRAPHICAL J. 66, 75-76 (2006).

[77] *See infra* Section III.B (discussing neoliberalism and some of its definitions, as well as some aspects of development theory).

[78] *See* Jeffrey, *supra* note 27, at 215-16 ("*ItalProjekt* reopened [Arizona Market] in 2004 as [sic] out-of-town mall and tourist attraction."); *see also* Peter Moertenboeck & Helge Mooshammer, *Trading Places,* NETWORKED CULTURES, http://www.networkedcultures.org/index.php?tdid=85 (last visited Apr. 15, 2010) ("[Arizona Market is now said to host] 2,500 stalls and shops sprawling over 25 hectares of land, 3 million visitors per year and some 20,000 people employed by the market.").

[79] In October 2001, I was driving back to Belgrade from Sarajevo with another international in his organization's vehicle, which was white with diplomatic plates. As we neared Arizona Market at night, a body went flying up into the air, landing in the road in front of our car. The car in front of us, which had hit this person, pulled over momentarily and then sped away. We stopped and I held the man as he died barefoot, having literally been thrown out of his shoes, which my colleague found further up the road. Although the area was populated with bars, brothels, and cafés, only a few

crime bosses running the market were not happy with its purchase by ItalProjekt, as they lost a substantial amount of money via increased taxes to the municipality of Brcko-Ravne.[80] The stall owners continued to pay the same amount they had always paid to operate their stalls, but the money was no longer being directed to the shadow bosses; it was now a formal tax.[81] Despite any loss of profits from the reorganization and privatization, as of 2003, the market was still referred to as "a sprawling, seedy collection of hawkers who have set up stalls on the edge of town."[82] By 2008, although "commercialized" and privately operated, Arizona Market was still thriving as a hub for criminal activity, black marketeering, and money laundering.[83]

II. MAJOR FLAWS IN POSTCONFLICT RECONSTRUCTION

The postconflict reconstruction process is as much to blame for the creation of a place like Arizona Market as much as are the particular people present at the cessation of hostilities. Critiques of postconflict reconstruction include that it is too reactive and not thoughtful or reflective enough; that the entire process lacks clear doctrine; that the players on the ground tend to make decisions far beyond their skill levels or outside their areas of expertise; and that the entire process risks being driven by the interests of available donors and financiers rather than by any coherent developing doctrine, local needs assessments, or lessons learned in prior postconflict reconstruction scenarios.

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people came to the scene of the accident to see what had happened. Cars approaching behind us slowed down but then pulled around us and continued on. Eventually, one man approached on foot but before coming too near us said in an urgent tone, "Get out of here! Someone will come and blame you." We replied that we had not hit the victim and that the man was a witness to that fact. Nonetheless, the man responded, "But there is no way we will talk to police about this," and he left. We eventually drove on and reported the incident at the nearest police station. The police shrugged and said that there were always drunks and people wandering around Arizona Market looking for trouble, as if this death were inconsequential.

[80] *See* Landler, *supra* note 56 (explaining that the developers planned on transforming Arizona Market from a "Third World bazaar into a first-world shopping center"); *see also* Sherwell, *supra* note 30 (quoting an OHR spokesperson as saying that the OHR had "created a monster" in depriving Brcko of its tax revenue by allowing the black market economy to persist).

[81] Landler, *supra* note 56; Sherwell, *supra* note 30.

[82] Landler, *supra* note 56.

[83] *See, e.g.*, Željko Rogošic, *Hunt for the Pale Gang: Search for the Split Robbers*, NACIONAL (Zagreb, Croat.), May 12, 2008, *available at* http://www.nacional.hr/en/clanak/45428/search-for-the-split-robbers (explaining that after robbing the Croatian postal service in Split, one of the thieves involved was arrested trying to exchange 350,000 kuna at the Arizona Market).

A. *Lack of Postconflict Doctrine Addressing Women*

In postconflict reconstruction, there are no playbooks save the agreements that may have been drafted during peace negotiations. In Bosnia, the Dayton Framework served as a sort of legal working document for aiding organizations and signatories in moving from the cessation of hostilities to sustainable peace and security. Because the guiding documents, like the Dayton Framework, are often broad and vague, the people assigned to carry out the practical tasks of reconstruction have tremendous power to shape the entire dynamic of the country being reconstructed.[84]

Since there are no set rules for handling postconflict reconstruction,[85] those leading reconstruction efforts must navigate anew, usually with little consideration of what has come before. There is some wisdom in this approach, since peace negotiations and postconflict reconstruction plans must be country specific, taking into account the country's culture, history, and past conflict. Despite the flexibility afforded by approaching such situations with a blank slate, there is one reason to be highly critical of this method: the air of extreme urgency that inevitably surrounds such uncharted negotiations. The lack of a clear path to follow creates a sense that the peace terms need to be locked in immediately and urgently, while the details can be revised later. As the Dayton Framework demonstrates, however, far more than the simple peace terms are at stake in this process. In Dayton, the entire plan for the long-term reconstruction of Bosnia, including the plan to create a market economy, was set in motion. In the rush to create a plan, the negotiators failed to consider gender issues and did not address the particular needs of women in the aftermath of the conflict.

Gender "mainstreaming,"[86] a concept which began making its way into development parlance and official U.N. resolutions at the turn of the century, has failed to become a meaningful part of postconflict reconstruction plans. Too often, individualized conflict negotiations, filled with a sense of urgency, leave gender mainstreaming in the lurch and focus instead only on what is needed to secure peace in the immediate short term. After the horrific gender-based crimes carried out in Bosnia during and after the war, this approach is simply unacceptable.

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[84] *See* Haynes, *supra* note 4, at 25-27 (arguing that the IC has too much power and not enough expertise or guidance in carrying out effective postconflict reconstruction).

[85] Documents such as U.N. Security Council Resolution 1325 arguably constitute an exception. *See infra* notes 86-89 and accompanying text.

[86] *See, e.g.*, S.C. Res. 1325, at 2, U.N. Doc. S/RES/1325 (Oct. 31, 2000) (acknowledging "the urgent need to mainstream a gender perspective into peacekeeping operations").

Surely, the security of equity and rights for women deserves at least equal consideration with the creation of a market economy, a project considered by negotiators to be crucial for immediate peace in Bosnia.[87]

The term "gender mainstreaming" is now used quite commonly among U.N. agencies and in democratization efforts, particularly with regard to the development of so-called "hard" civil and political rights.[88] A concentration on civil and political rights means that, at best, women will be inserted into public office—by quota if necessary—or included in electoral and party lists. In some instances, facilitators of gender mainstreaming recognize that in order for women to access their political and civil rights, they may have to be educated on the voting process, and alternative voting processes may need to be provided where women are largely illiterate.[89] In general, however, gender mainstreaming fails to be included broadly or regularly in peacemaking and peacebuilding plans.[90] Even though gender equity is now officially required by international organizations, it will continue to be ignored until it is included in a formula for post-conflict reconstruction.

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[87] This is evidenced by the fact that the drafters of the Dayton Framework Agreement for Peace included these provisions within the document. *See infra* note 126 and Section III.B (discussing the Framework provisions with regard to market liberalization); *see also* CAHN, HAYNES & NI AOLAIN, *supra* note 74 (arguing that inclusion of gender considerations is crucial to longer-term postconflict stability).

[88] "Hard" rights are civil and political rights that are both enforceable by law and emphasized in practice. By contrast, "soft" rights are economic, cultural, and social rights that are neither emphasized nor enforced by law—particularly in transitional states. *See, e.g.*, Savitri Goonesekere, A Rights-Based Approach to Realizing Gender Equity, http://www.un.org/womenwatch/daw/news/savitri.htm (last visited Apr. 15, 2010) ("It is sometimes argued that there is a hierarchy of rights according to which some rights (civil and political) are more important than others, guaranteed and immediately realizable. According to the same argument, other rights (socio-economic and cultural rights) are not immediately realizable . . . .").

[89] *See* S.C. Res. 1325, *supra* note 86, para. 8(c) (calling on actors to adopt "[m]easures that ensure the protection of and respect for human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary"). In 2003, the Secretary-General also highlighted the important role of national election commissions in promoting women's political participation in post-conflict countries, including "the need to ensure that peace agreements contain provisions for the conduct of elections" and the establishment of "an independent and neutral national electoral commission that includes an equal number of women and men and whose membership and mandate is the result of consultations with civil society groups, including women's organizations." *See* The Secretary-General, *Report of the Secretary-General on Women's Equal Participation in Conflict Prevention, Management and Conflict Resolution and in Post-Conflict Peace-Building*, para. 42, *delivered to the Commission on the Status of Women*, U.N. Doc. E/CN.6/2004/10 (Dec. 22, 2003).

[90] *See* CAHN, HAYNES & NI AOLAIN, *supra* note 74.

B. *Postconflict Reconstruction Is Too Reactive*

In the aftermath of war, the individuals who define the programs and initiatives of the reconstruction tend to be the same individuals who were originally tasked with keeping the peace and securing the cessation of hostilities. As a result, too many of these early postconflict programs and initiatives risk being devised by military personnel and diplomats accustomed to operating in emergency mode. A primary tenet of military service is obeying command directives and mandates to secure the peace. Military personnel are simply trained to achieve very different objectives than reconstruction requires. Reconstruction focuses on securing sustainable rights and equality and requires a different set of professional skills for successful implementation. It is also of note that the vast majority of people on the ground and at the organizational headquarters of the various international institutions responsible for securing the peace are male.

Few of the people on the ground at the end of a war are the right people to be making decisions about long-term political and economic reform.[91] However, because military actors are almost inevitably on the scene at the end of the war, they often become involved in decisionmaking processes to resolve postconflict issues, even those that fall far outside of the scope and capacity of military expertise. For example, one such military actor in Bosnia noted that

> [w]e understood that, by necessity, the brigade would become involved in setting the conditions necessary for achievement of the civil aspects of the treaty as well as those military. The leadership did not view this as mission creep but understood that civil-military cooperation was an essential, implied task of the mission.[92]

They act as if *recognizing* a need, whether it be for economic or rule-of-law reform, automatically implies their suitability to respond to it.[93] These military personnel also tend to take one idea, like winning the locals over by offering protection at Arizona Market, as carte blanche

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[91] One retired U.S. Army Colonel expressed the view that it was "essential for our military force to assume critical civil tasks" in Bosnia because "the civil support elements were slow to deploy." Fontenot, *supra* note 15, at 199.

[92] *Id.*

[93] *See id.* ("Successful execution of the military tasks set the conditions for peace by removing the immediate threat of actual combat, but only by achieving routine compliance, restoring the economy, and starting down the road to reconciliation could lasting peace be achieved.").

to go forward with other recommendations about that activity, such as championing the market as a way to eradicate ethnic hostility.[94]

Many of those who engage in postconflict work arrive in the field well before the cessation of hostilities. Many more arrive shortly after the formal cessation of hostilities. In this environment, when the theater is not yet secure,[95] those preparing short- and long-term postconflict strategies and programs tend to operate as if they are in emergency response mode. As time passes, however, operating in emergency mode becomes self-perpetuating, as if internationals are identifying conflict in order to respond to it.[96]

Responding in a reactive manner appropriate to an emergency has negative consequences for many aspects of postconflict reconstruction and is particularly detrimental for women. First, male military and protective figures tend, in this emergency mindset, to see women as hapless victims who need to be rescued, or occasionally, as was the case in Bosnia, to be further victimized. Second, when the internationals believe they are dealing with emergencies, requiring urgent emergency responses, they are not usually inclined to consider "mere" women's issues to be immediate priorities.[97] One of the consequences of working in the postconflict theater, employing military jargon on a daily basis and reflexively reacting rather than planning, is that the IC may remain in emergency mode for years after the conflict. Even when things settle—when there is less reason to treat everything as an emergency and every incentive to be thoughtful in creating long-term strategies, programs, and plans—the IC continues to operate in reactive mode.[98] The postconflict personnel on the ground are often not best suited for manag-

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[94] *See, e.g.*, *id.*

[95] For example, well into 1999, the main road between Banja Luka (capital of the Serb entity) and Sarajevo (capital of Bosnia and Herzegovina) crossed the Inter-Entity Boundary Line, which marked a line of confrontation. It was unrepaired, mined in many places, and those of us who used the road assumed a certain amount of risk in doing so. People with license plates from one entity did not travel to the other for fear of physical harm. Land mines were common, and war criminals indicted by the International Tribunal for the Former Yugoslavia were still at large. All of these factors lent a certain amount of tension to the postconflict work, which resulted in living and working on edge. A certain amount of that defensive behavior inevitably affected the preparation of our programs in the area.

[96] *See also* Haynes, *supra* note 4, at 22 (arguing that agencies in postconflict situations continually expand their mandates in order to ensure that sufficient work continues to exist for them in the developing nation).

[97] *See* Rees, *supra* note 12, at 58 ("[T]he circumstances did not appear to offer the latitude to think about 'mere' sex equality . . . .").

[98] *See* Haynes, *supra* note 4, at 26-27.

ing economic or social policy, nor for making long-term decisions about sustainable rule-of-law or human rights institutions. This normally does not prevent them from doing so, but it should. Sadly, in this mode, women's issues consistently lose out as a priority.

C. *The Donor-Driven Reconstruction Process*

Those who provide the funds set the tone for postconflict reconstruction.[99] When it comes to economic engineering, this is especially true. Nation-states have multiple potential incentives for funding programs in postconflict Bosnia: (1) improving conditions within Bosnia to prevent further refugee flows across their own borders; (2) creating safe and stable neighbors with less likelihood of future war; (3) rendering markets and resources within the transitioning country available for interstate business transactions or purchases by companies within their own countries; and (4) creating a country that speaks the same political and economic language, so that negotiations can take place on terms with which the donor state is familiar and in which the donor state has confidence.

Since donors have particular interests in the way the reconstructed state will look and act, they often place restrictions on the purposes for which their monies may be used. These restrictions are often criticized for being earmarked for "sexy" issues rather than those that are sorely needed but not as chic or "of the moment."[100] As discussed above, women's issues have, unfortunately, not yet attained this trendy status in reconstruction.[101] Unless this changes and gender issues become "of the moment," it is exceedingly unlikely that they

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[99] *See id.* at 21 ("[D]onor countries and entities . . . considered their own political or economic motivations for a particular funding emphasis . . . .").

[100] What is "sexy" or "of the moment" is usually time and place specific. For instance, between 1999 and 2001, many people working on property repossession and (refugee and displaced-person) return urged donors to fund programs such as improving laws and policies to encourage nondiscrimination. Observing that encouraging displaced persons and refugees to return to their prewar communities was an IC priority, we understood that refugees were reluctant to return until they knew that they would not face danger and discrimination and that they would be able to find work, send their children to school, and go about their daily lives without fear. Nevertheless, most donors insisted on spending their money constructing houses. The donors felt that building houses was concrete, quantifiable, and identifiable. The result was that much money was spent on houses that remained empty because displaced persons did not feel comfortable returning. In this example, constructing houses was deemed "sexy" and "of the moment" by donors.

[101] *See supra* Section II.B (discussing the failure of gender mainstreaming to catch on in the postconflict reconstruction arena).

will garner the attention of the donor states whose monies and interests drive the postconflict reconstruction process.

III. THE DEMOCRATIZATION/NEOLIBERALISM/GENDER TRIFECTA

Arguably, the entire postwar State of Bosnia and Herzegovina is a construct of the IC and its liberal economic order. The Preamble to the Constitution of Bosnia and Herzegovina, annexed to the General Framework Agreement for Peace, sets forth the democratic principles believed to be necessary for reconstructing the country and securing sustainable peace within it.[102] These include engaging in "democratization" and the "promotion of a market economy."[103] Placing a market economy's promotion in a central, foundational position was neither an afterthought nor merely one piece in an overarching plan for reconstruction. It was one of the fundamental goals of the process.

A. *Democratization in the Postconflict Reconstruction Agenda*

Democratization has become the transitional governance norm in postconflict reconstruction and international interventions.[104] For better or worse, every postconflict reconstruction administration since the end of the Cold War has made democratization a priority.[105] While honed during the so-called third-wave transition, when a multitude of countries were transitioning politically from fascism or socialism,[106] all postconflict reconstruction operations now contain a strong democratization component. This is evidenced by the fact that the term "democratization" has become virtually synonymous with the es-

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[102] CONSTITUTION OF BOSNIA AND HERZEGOVINA pmbl.; *see also* Framework, *supra* note 5, Annex 4.

[103] CONSTITUTION OF BOSNIA AND HERZEGOVINA pmbl.

[104] *See* Georgina Waylen, *Women and Democratization: Conceptualizing Gender Relations in Transition Politics*, 46 WORLD POL. 327, 330 (1994) (addressing the postconflict focus on democracy and the process of transition from authoritarian to democratic governance); *see also* ANU PILLAY, GENDER, PEACE AND PEACEKEEPING: LESSONS FROM SOUTHERN AFRICA 4 (Inst. for Sec. Studies, Paper 128, 2006) (calling democratization one of the "four main inter-related components" of peacebuilding, along with demilitarization, social reconstruction, and development).

[105] *See* Jean d'Aspremont, *Post-Conflict Administrations as Democracy-Building Instruments*, 9 CHI. J. INT'L L. 1, 7 (2008) ("[T]he establishment of democratic institutions has been systematically included in the mandate of all post-conflict administrations since the end of the Cold War."); *see also* Waylen, *supra* note 104, at 330 (calling democratization "unashamedly normative").

[106] *See* Waylen, *supra* note 104, at 330.

tablishment or reestablishment of functioning and stable political-governance mechanisms and infrastructure.[107]

The IC in Bosnia prioritized the establishment of democracy in the postwar nation. Many scholars have subsequently critiqued this prioritization. One such critique argues for the organic growth of democracies, questioning the very notion of international administration[108] and, specifically, the unwillingness of the IC to relinquish control. The critique holds that even if the incipient democracy brims with the mistakes of uneducated, corrupt, nationalistic, or self-interested officials, such officials are nevertheless *elected* officials.[109] Another position critiques the IC idealization of elections as a vehicle for instant democracy, arguing that elections can give the stamp of democratic legitimacy to the very people responsible for the war by entrenching them in power, thus exacerbating conflict.[110] A third cri-

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[107] *See* d'Aspremont, *supra* note 105, at 5 ("[D]emocracy has become a fundamental criterion for the legitimatization of governments in the sense that, nowadays, a new government hardly qualifies as the legitimate representative of a state if it has not been democratically elected.").

[108] Some postconflict reconstruction scenarios—Bosnia, the District of Brcko within Bosnia, Kosovo, East Timor, and Afghanistan—have the additional element of international administration, whereby the IC, with the sanction and legal endorsement of the United Nations, becomes a partial or total governance body during part of the postconflict political-transition process. *See, e.g.*, CONSTITUTION OF BOSNIA AND HERZEGOVINA art. IX (obliging parties to "cooperate fully" with any future Annexes to the Dayton Framework authorized by the U.N. Security Council); S.C. Res. 1483, para. 9, U.N. Doc. S/RES/1483 (May 22, 2003) (supporting the Iraqi people in forming an international administration run by Iraqis); S.C. Res. 1383, at 1, U.N. Doc. S/RES/1383 (Dec. 6, 2001) (endorsing the establishment of provisional "arrangements in Afghanistan pending the reestablishment of permanent government institutions"); S.C. Res. 1264, para. 3, U.N. Doc. S/RES/1264 (Sept. 15, 1999) (authorizing international forces to restore peace in East Timor); S.C. Res. 1244, para. 10, U.N. Doc. S/RES/1244 (June 10, 1999) (placing Kosovo under U.N. administration to ensure development of democratic institutions); The Secretary-General, *Report of the Secretary-General on the Situation in East Timor*, para. 26, *delivered to the General Assembly*, U.N. Doc. S/1999/1024 (Oct. 4, 1999) (proposing a transitional U.N. administration for East Timor); *see also* Haynes, *supra* note 4, at 21-25 (providing detailed descriptions of the nature of international administration in war-torn nations).

[109] *See* CHANDLER, *supra* note 59, at 199 (arguing that true democracy may come from the inside without international intervention); *see also* Haynes, *supra* note 4, at 13 (critiquing the incidence of "governance by fiat"); Sebastian van de Vliet, *Addressing Corruption and Organized Crime in the Context of Re-establishing the Rule of Law* (discussing the High Representative's practice of removing democratically elected officials from office for failing to carry out Dayton Framework principles and objectives), *in* DECONSTRUCTING THE RECONSTRUCTION, *supra* note 4, at 205, 212-14.

[110] *See* Nancy Bermeo, *What the Democratization Literature Says—or Doesn't Say—About Postwar Democratization*, 9 GLOBAL GOVERNANCE 159, 172 (2003) (discussing how the process of democratization must overcome the "challenge of reforming or neutralizing the problematic parties that already exist"). In the case of Bosnia, however, one would

tique cautions that the process of rendering or requiring democracy can be rightly perceived as deeply paternalistic, which should give pause to those hoping to avoid charges that international administration is a new Colonialism.[111] A final critique, most important for women, is that the IC's emphasis on superficial procedural identifiers of democracy often comes at the expense of substantive democratic rights such as equality.[112] Under this critique, democratization alone fails to achieve gender equity and likely even fails to achieve sustainable peace.[113] Where people are insecure and do not have equal rights and opportunities, strife is likely.

A more cynical critic might also note that democracy's intimate links with capitalism pose a further problem, particularly when the society in question is transitioning both politically and economically, as was the case in Bosnia. Donor states, and the multinational corporations within them, prefer a certain amount of political stability before they invest in rebuilding efforts. But when democratization and market liberalization are so closely intertwined, democracy is susceptible to being seen as nothing more than a thinly disguised mechanism for establishing a capitalist free market as quickly as possible. This linkage has also the tainted feel of a sociopolitical engineering project designed to create a safe new nation-state. Only here, safety is synonymous with sharing political and economic principles with the donor states. A safe state is thus one open to investment and exploitation through donor states' preferred economic and political mechanisms.

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have to acknowledge that the nationalists in question had already been legitimized: first by popular support during the war and second by their inclusion in the Dayton negotiations. *See* Haynes, *supra* note 4, at 14-20.

[111] *See* Mats Berdal & Richard Caplan, *The Politics of International Administration*, 10 GLOBAL GOVERNANCE 1, 3 (2004) ("When does 'benign' administration become neocolonialism and how is it to be avoided?"); Matteo Tondini, *From Neo-Colonialism to a "Light-Footprint Approach": Restoring Justice Systems*, 15 INT'L PEACEKEEPING 237, 238 (2008) ("Whatever the role of international agencies in reforming the legal systems of post-conflict countries, it has inevitably implied a form of cultural influence and/or imposition.").

[112] For instance, observers of the reconstruction process in Bosnia now widely believe that holding elections in 1996 was a mistake. The "elections legitimized the nationalists who rose to power in the wake of purged ethnicities," and the elections themselves were rife with fraud. *See* Haynes, *supra* note 4, at 14; *see also* Waylen, *supra* note 104, at 332 (noting that classical democracy scholars concentrated narrowly on "democracy as simply an institutional arrangement [such that] wider definitions of democracy couched in terms of the real distribution of power in society are considered illegitimate").

[113] *See, e.g.*, Waylen, *supra* note 104, at 327, 335 (remarking that "a narrow focus on democratization is insufficient for understanding its interaction with gender relations, as institutional democratization does not necessarily entail any wider changes," and noting that, until recently, the democratization literature made little mention of gender).

B. *Neoliberalism in the Postconflict Reconstruction Agenda*

The emergence of a number of new—and newly independent—states in the last half century,[114] many of which were ripe for both political and economic transition, has led the IC to conflate postconflict reconstruction and development with economic liberalization. Neoliberalism has been critiqued heavily in the South and East, often in the context of postcolonial scholarship. Neoliberalism's opponents describe it as "[t]he policies of privatization, austerity, and trade liberalization accepted willingly or unwillingly by the governments of dependent countries as a condition of approval of investment, loans, and debt relief by the International Monetary Fund and the World Bank."[115] Those more favorably inclined describe it as "[a] view of the world that favors social justice while also emphasizing economic growth, efficiency, and the benefits of free markets."[116]

During the post–Cold War period of economic and political transition, it became standard practice for Western countries and Western-dominated institutions to urge the market liberalization of socialist states.[117] This practice had harsh gender consequences throughout the former Soviet Union. After all, one of the primary components of the great communist experiment had been gender equity.[118] Women's participation in the labor markets in former Soviet states, in particular within industrial and technical fields, had risen to levels surpassing the West.[119] In the FRY,[120] as the communist regime collapsed and the

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[114] These states include Bosnia, Chad, the Democratic Republic of the Congo, the Republic of the Congo, Croatia, the Czech Republic, Latvia, Lithuania, Macedonia, Montenegro, Rwanda, Serbia, Slovakia, and Slovenia.

[115] BENJAMIN KEEN & KEITH HAYNES, A HISTORY OF LATIN AMERICA, at xiii (8th ed. 2009); *see also* Joseph E. Stiglitz, Op-Ed., *The End of Neo-Liberalism?*, NEW EUROPE, July 20-26, 2008, at 3 ("The world has not been kind to neoliberalism, that grab-bag of ideas based on the fundamentalist notion that markets are self-correcting, allocate resources efficiently, and serve the public interest well. It was this market fundamentalism that underlay Thatcherism, Reaganomics, and the so-called 'Washington Consensus' in favor of privatization, liberalization, and independent central banks focusing single-mindedly on inflation.").

[116] ALAN V. DEARDORFF, TERMS OF TRADE: GLOSSARY OF INTERNATIONAL ECONOMICS 188 (2006).

[117] *See* Sean Gervasi, *Germany, U.S., and the Yugoslav Crisis*, COVERTACTION, Winter 1992–1993, at 41, 42.

[118] *See* R.W. CONNELL, GENDER 23 (2002) ("One of the great experiments in gender equality was undertaken by the Soviet Union.").

[119] *See id.* ("Women's participation in industry and other forms of technical employment rose to levels never matched in the capitalist 'West.'").

[120] Before the war and its dissolution, FRY consisted of present-day Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia, and Slovenia.

West began pushing liberal market policies, women disappeared from the political scene. As the IMF and World Bank pressured FRY to privatize state-owned companies and reduce the workforce, women disappeared from the workforce as well.[121]

Some scholars, however, argue that the gains made by women under communism were only superficial. For example, while women held more seats in parliament in the USSR than ever before in history, more even than women in other western legislative bodies, the USSR parliament had no power.[122] The fact that such gains were hollow lends credence to the critique that a focus on political and procedural rights often comes at the expense of considering substantive economic and social rights.[123] In the postconflict reconstruction context, this provides a strong empirical argument for going beyond mere inclusion of women in the political process. The USSR example shows that male patriarchies could pretend to make women equal by placing them in political institutions while withholding real power and substantive gains. That this occurred in a communist system rather than in a democratic system tends only to support the feminist argument that it is the state itself—not the particular political or economic philosophy employed by the state—that is patriarchal.[124] Both communist states and capitalist democratic states have equal potential for limiting women's gains.

Bosnia is unique among former socialist states in that it also suffered a war. It is unique among postconflict states in that it also suffered a transitioning economy. While many ex-Soviet and Eastern European economies that experienced difficulty transitioning from communism and socialism to more liberal political and economic sys-

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[121] *Cf.* Haynes, *supra* note 30, at 226 n.17 (citing statistics showing that about seventy percent of the unemployed in Russia were women).

[122] *See* CONNELL, *supra* note 118, at 25 ("Women won a higher proportion of seats in Soviet parliaments than in almost any other part of the world—but the Soviet parliaments had no power."); *see also* Tatjana Djuric Kuzmanovic, *Introduction to Feminist Economics: Household, Market and State*, J. FOR POL. THEORY & RES. ON GLOBALIZATION, DEV. & GENDER ISSUES, http://www.globalizacija.com/doc_en/e0017ram.htm (last visited Apr. 15, 2010) (arguing that in Serbia, although women were supposed to be equal partners under the prewar socialist economy, "[i]n reality, patriarchal gender regimes dominated women's lives inside the household, and gender inequalities remained present both in the private and public spheres . . . . Women were more commonly employed in poorly paid industries . . . [and] received 15% lower salaries.").

[123] *See* CONNELL, *supra* note 118, at 104 ("Theories of the state tend to forget that the state is only one of society's centres of power.").

[124] *See id.* at 103-04 (describing the "obvious" reasons why feminists have viewed the state as a patriarchal institution).

tems can provide useful points of comparison to Bosnia, these transitional difficulties were hugely exacerbated in Bosnia by the war. Its nascent, transitioning economy was destroyed. Even before Bosnia became a state or the war began, the IC—in the guise of the IMF—was pressuring FRY to begin liberalizing its markets.[125] After the war, market liberalization became a primary tenet of the reconstruction—embedded in the very Constitution of the new country.[126] The market liberalization that was underway became conflated with the postconflict reconstruction process.

C. *Gender in the Postconflict Reconstruction Agenda*

1. Failure to Consider Gender Issues in Bosnia

Women were certainly highlighted as unique victims of the war in Bosnia,[127] but they were not included at the peace negotiations, and their particular needs and interests were not considered in any part of the Dayton Framework.[128] Women were ignored by the international entities purporting to reconstruct the country, despite the frequent invocation of the heinous crimes committed against women as a basis and legal justification for international intervention during the war.[129]

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[125] *See* Gervasi, *supra* note 117, at 43. *See generally* BELL, *supra* note 4, at 91-117 (discussing the role of the IC in the history of Bosnia and Herzegovina).

[126] *See* CONSTITUTION OF BOSNIA AND HERZEGOVINA pmbl. The Constitution and another Annex to the Dayton General Framework Agreement for Peace hand control of much of Bosnian economic policy to Bretton Woods institutions and the London-based European Bank for Reconstruction and Development (EBRD). *Id.*; Framework, *supra* note 5, Annex 9. Article VII of the Constitution of Bosnia and Herzegovina stipulates that the first governor of the Central Bank of Bosnia and Herzegovina is to be appointed by the IMF. CONSTITUTION OF BOSNIA AND HERZEGOVINA art. VII, § 2. The EBRD appoints the chairman of the Bosnian Commission on Public Corporations, which supervises operations of all public sector enterprises and restructuring, including the sell-off of State and socially owned assets and the procurement of long-term investment funds. Framework, *supra* note 5, Annex 9, art. I.

[127] The horrific practice of systematically raping women in Bosnia gave rise to a new understanding of rape as a war crime under international law. *See generally* MASS RAPE: THE WAR AGAINST WOMEN IN BOSNIA-HERZEGOVINA (Alexandra Stiglmayer ed., Marion Faber trans., 1994) (collecting essays on the systematic rape of women in postconflict Bosnia that argue for recognition of mass rape as a war crime).

[128] *See* Rees, *supra* note 12, at 55-58 (arguing that it was shocking that so many international players and institutions failed to include a gender dimension when setting forth the rules by which an entire country would be reconstructed and that this omission was particularly egregious given the gendered dimension of some of the most heinous crimes committed during this war).

[129] *See, e.g.*, General Assembly, Comm. on the Elimination of Discrimination Against Women, *Annual Report to the Secretary-General*, paras. 732-757, U.N. Doc. A/49/38 (Apr. 12,

The IC established a mission to reconstruct and democratize Bosnia.[130] The mission, however, was strong on procedural democracy (free and fair elections) and weak on substantive democracy (equality and fairness), particularly during the first five years after cessation of hostilities. Due to the strong emphasis on procedural democracy and the heavy criticism of the IC for having organized elections too early, the IC left itself open to charges that its "democratization" was really just a cover for "capitalism."[131] The link between democracy and human rights only emerged later, when the IC got around to creating and strengthening human rights institutions (e.g., the Human Rights Chamber and the Ombudsmen) and the rule of law (e.g., the Constitutional Court and the vetting of judges appointed under the old regimes). By then, however, so much had been made of liberalizing Bosnia's market, and so little of the substantive inequities in that market, that there was almost no place for discussion of social and economic rights.

The same pattern occurred with regard to human rights. It was the "hard" procedural rights most familiar to western neoliberal states (political and civil rights embodied in election laws and criminal codes) that took precedence, while the "soft" rights (social, cultural, and economic) received little or no attention.[132]

The IC is best at the procedural and visible aspects of gender mainstreaming, for example, putting women into elected office.[133]

1994) (discussing the atrocities perpetrated against women and the need to help these women on an international level). *But see* Yugoslavia: Whose Bloody War?, http://flag.blackened.net/revolt//ws93/yugoslavia.html (last visited Apr. 15, 2010) (arguing that although women needed assistance, they could not hope to get it from foreign militaries, which have their own histories of rape and sexual exploitation).

[130] *See* Haynes, *supra* note 4, at 7-12 (discussing the IC's goals and efforts in reconstruction).

[131] *Cf.* Elizabeth H. Crighton, *Beyond Neoliberalism: Peacemaking in Northern Ireland*, 25 SOC. JUST. 75, 75 (1998) (noting that, in contrast with many other places, Northern Ireland avoided neoliberal social and economic engineering); Paul Williams & Ian Taylor, *Neoliberalism and the Political Economy of the 'New' South Africa*, 5 NEW POL. ECON. 21, 26 (2000) (remarking that, with respect to having market liberalization foisted upon South Africa, "representatives of big business continued their educational 'charm offensive' on the ANC elite," saving the country from suffering Bosnia's fate).

[132] Ironically, the American Supervisors of Brcko were slightly more attentive than the rest of the IC in Bosnia to soft rights and substantive democracy. *See, e.g.*, Jeffrey, *supra* note 27, at 216 (discussing the Supervisor's priority of imposing "multi-ethnic schooling" in Brcko despite deep local opposition).

[133] *See* Martha Walsh, *Aftermath: The Impact of Conflict on Women in Bosnia and Herzegovina* 10 (Ctr. for Dev. Info. & Evaluation, U.S. Agency for Int'l Dev., Working Paper No. 302, 2000), *available at* http://pdf.usaid.gov/pdf_docs/PNACJ322.pdf ("After the first postconflict elections in 1996, there was a massive retrenchment of women from

Unsurprisingly, many have argued—as was argued above with regard to the USSR—that the federal politicians in both Bosnia and Kosovo have little, if any, real power.[134] If those electoral bodies have no real political authority, then women's participation in those institutions is largely meaningless.

Some gender scholars argue that women can actually exercise more power from within NGOs and other "alternative" institutions or in economic, cultural, and social, rather than political, spheres of power.[135] In Bosnia, women were virtually invisible in the initial Dayton-based negotiations regarding political and governance structures, but they dominated civil society, both with respect to their representation in numbers and the fact that women created and ran many of the NGOs that sprang up after the war.[136] Potentially motivating institutional emphasis on women's political or civil involvement in Bosnia is the ever-present desire for accession to the Council of Europe and ul-

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public life. In the BiH House of Representatives (which represents both entities), only one woman was elected to the 42-seat chamber (2.38 percent). In the Federation, women were elected to 7 seats out of 140 (5 percent), while in the RS Parliament only 2 out of 106 seats (1.89 percent) were won by women.").

[134] *See, e.g.*, *id.* ("As part of the socialist egalitarian system, there was a quota for women's representation in government. In 1986, women constituted 24.1 percent of the Assembly of the Republic of BiH and 17.3 percent of representatives of municipal assemblies. However, a number of Bosnian women commented that women elected to office under this system were politically connected and the relatively high rates of women's participation *did not reflect commitment to visibility of women in politics*." (emphasis added) (citations omitted)); *see also* Waters, *supra* note 35 (arguing that in postconflict Bosnia, the entities (RS and Federation) hold the real power while the IC-created federal government holds little).

[135] *See, e.g.*, Kathleen O'Reilly, *Women Fieldworkers and the Politics of Participation*, 31 SIGNS 1075, 1094-95 (2006) (discussing changes that women working for NGOs cause to be implemented); Cockburn, *supra* note 40, at 8 ("[L]ocal women's NGOs must be consulted, befriended, made partners with the international community and have equal rights in the process."); Andrea Cornwall, *Pathways of Women's Empowerment*, 50.50, July 30, 2007, http://www.opendemocracy.net/article/pathways_of_womens_empowerment (explaining that the means to empower women have changed in recent times to a focus on personal power, agency, and making choices). This is also consistent with my experience interacting with postwar Bosnian NGOs. In Bosnia, NGOs and even the Bosnian government were far more adept at recognizing the importance of gender in postwar reconstruction than the IC was. *See* Rees, *supra* note 12, at 51; *see also* CAHN, HAYNES & NI AOLAIN, *supra* note 74 (arguing that women may make more gains within and through civil society rather than within formal electoral power structures).

[136] *See* CAHN, HAYNES & NI AOLAIN, *supra* note 74. Alternatively, some argue that women organize through civil society and seek to reclaim the home as a space, in order to recover from the trauma of war. They do so precisely because it is outside of the political and public spheres. *See* Walsh, *supra* note 133, at 4 ("[W]omen in the immediate aftermath of the conflict sought . . . the life they led before the war.").

timately entry into the European Union.[137] This underlying motivation gives rise to a real question whether women's involvement is meant to bring women onto the playing field as equal power holders or merely to allow Bosnia to check off a "gender mainstreaming" box toward accession.[138]

Gender scholars in the Balkans also question the inconsistent attention of the western interveners who sometimes treat women in Bosnia as "'a blind spot' . . . prevalent [only for their] non-presence, 'footnote' presence or 'case study' presence," and other times as "everyone's case study" and the "face/body of (post)war trauma" in Bosnia.[139] Women, along with their pain and suffering, are used not only by internationals but also by their own nationalist brethren. The Bosnian woman has gone "[f]rom being the idealised working woman of socialist rhetoric [to] . . . the equally idealised 'mother of the nation.'"[140]

When rare efforts are made to include women in postconflict development concepts, the women in question are often essentialized—reduced to their victimhood—with postconflict redress limited to potential criminal prosecution of their brutalizers.[141] Despite primarily political efforts at gender mainstreaming, activities like human trafficking take place in Bosnia because women in Bosnia (not just Bosnian women) are not spoken to, consulted, or truly seen. Bosnian women who feel, as stated above, that they represent the "face/body" of postwar trauma, when coupled with newfound postprivatization unemployment, might reasonably feel that they are pawns in a neoliberal enterprise.

Bosnian women are struggling to find their own voices. In so doing, they have had to peel off layer upon layer of narratives foisted upon them by the IC, many of which fail to take them into account or exist only to satisfy the required gender-mainstreaming components of the various reconstruction programs. Gender is important to consider in the reconstruction of a country because "[a] gender perspec-

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[137] *See* CAHN, HAYNES & NI AOLAIN, *supra* note 74.

[138] *See infra* Part IV; *cf.* CAHN, HAYNES & NI AOLAIN, *supra* note 74 (pointing out that with respect to women's equality, "de facto change is not [a] simple consequence of de jure change").

[139] Dr. Jasmina Husanovic, Associate Professor in Cultural Studies, Univ. of Tuzla, Remarks at Gender, Empire, and the Politics of Central and Eastern Europe: A Gender Symposium (May 17-18, 2007).

[140] Wendy Bracewell, *'Mothers of the Nation,'* WAR REP., Sept. 1995, at 27, 27.

[141] *See* CAHN, HAYNES & NI AOLAIN, *supra* note 74 (discussing the limited response of most postconflict processes, which reduce women to victims who are only useful in the prosecution of their abusers when the abuse is deemed to rise to the level of war crimes or crimes against humanity).

tive makes the differences in power between women and men from different communities visible. This requires highlighting the experiences of women because, relative to men's experiences, they have been largely invisible."[142]

Women in the Balkans can lead the way in thinking about the impacts of economic policy on women because of their unique vantage point in experiencing simultaneous economic and political transition, war, and reconstruction. As postcolonial feminists argue, for Bosnian women to move forward, they must resist the neoliberal agenda. They must, in the words of one postcolonial feminist, "[create an] anticapitalist transnational feminist practice—and on the possibilities, indeed on the necessities, of cross-national feminist solidarity and organizing against capitalism."[143]

One line of scholarly inquiry links the subservient nature of the postwar state of Bosnia with its fledgling yet complicated federal sovereign structures and its internationally supported economy. Indeed, some have referred to the country of Bosnia as a "courtesan state," prostituting itself and sublimating the will of its people in order to secure essential international economic assistance.[144] Bosnia is thus enslaved to the West by its need for money and global acceptance—mirroring the enslaved condition of some of its women. The problem of the "courtesan state" is not limited to Bosnia but is shared by all the countries of the former Yugoslavia that were involved in the war and that lack direct access to European and world markets.[145]

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[142] SUZANNA DENNIS & ELAINE ZUCKERMAN, GENDER GUIDE TO WORLD BANK AND IMF POLICY-BASED LENDING 2 (2006), *available at* http://www.genderaction.org/images/GA%20Gender%20Guide%20to%20World%20Bank%20and%20IMF%20FINAL.pdf.

[143] Chandra Talpade Mohanty, *"Under Western Eyes" Revisited: Feminist Solidarity Through Anticapitalist Struggles*, 28 SIGNS 499, 509 (2002); *see also* Ambreena Manji, *'The Beautyful Ones' of Law and Development* (critiquing market-oriented development models and suggesting that the continuity of the global capitalist order be scrutinized), *in* INTERNATIONAL LAW: MODERN FEMINIST APPROACHES 59, 169-71 (Doris Buss & Ambreena Manji eds., 2005).

[144] *See, e.g.*, James H. Mittelman & Robert Johnston, *The Globalization of Organized Crime, the Courtesan State, and the Corruption of Civil Society*, 5 GLOBAL GOVERNANCE 103, 117 (1999) (explaining the problems inherent in the courtesan state "in which the state does not provide social protection for its young women and men . . . but rather tacitly forsakes safeguarding the local culture in favor of global market forces"). In particular, Bosnia offers services to wealthy foreign interests while ignoring the need for social services for its own lower class. In place of the state, organized crime steps in to bridge this gap. *Id.* at 117-18.

[145] Examples of other courtesan states include Serbia and Montenegro. For instance, Global Balkans, a research network, in discussing the scope of reconstruction issues, states, "The post-intervention period . . . is known as the 'tranzicija' or 'transi-

There are also broader critiques of economic liberalization. One is that internationals use the label "economic empowerment" to suggest that their goal is to assist the country in gaining economic power. In reality, the aim is to help the country so that it can engage in the world market to the benefit of those very internationals. The "economic empowerment" model thus serves as a means of legitimating western hegemonic notions of a market economy without having to confront the underlying conditions of social inequality that cause poverty.[146] Indeed, though this model might advocate increased employment for women, such a simplistic emphasis could backfire, resulting in cheap labor, exploitation, or even more human trafficking.

Among the local populations, not everyone finds the new economic order beneficial to them or their country.[147] Women who have lived through economic transitions and have experienced assistance (or interference) from the IC have been thinking about the gendered aspects of economics for some time,[148] and the IC would do well to listen and incorporate some of those thoughts into their postconflict reconstruction programs.

2. Lessons from Development Theory

That the IC would sponsor a market for men engaged in black market activities and assume that it would engender interethnic harmony calls to mind "appropriate technology" stories from the international-development world. Many such technology stories, like this

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tion' in Serbia. What we are witnessing now is an accelerated privatization program, mass unemployment, massive impoverishment following upon ten years of war, the highest number of refugees and internally displaced people in Europe." Interview by Global Balkans with Tariq Ali (Oct. 5, 2007) [hereinafter Interview with Tariq Ali], *transcript available at* http://www.counterpunch.org/gb02262008.html.

[146] *See, e.g.*, Deborah M. Weissman, *Gender and Human Rights: Between Morals and Politics* (discussing the World Bank's economic policy toward women and arguing that it is "unrelated to themes of justice and equality"), *in* GENDER EQUALITY: DIMENSIONS OF WOMEN'S EQUAL CITIZENSHIP 409, 426 (Linda C. McClain & Joanna L. Grossman eds., 2009).

[147] *See, e.g.*, Interview with Tariq Ali, *supra* note 145 ("I don't think that transition to a neoliberal state run on neoliberal lines with the market determining everything can help the citizens of that state, whatever it is. So it is going to be and it is being—as we know—a messy and one-sided transition which will not benefit the bulk of the population.").

[148] *See, e.g.*, Sandra Harding, *Can Feminist Thought Make Economics More Objective?*, 1 FEMINIST ECON. 7, 20-23 (1995) (explaining that gender is expressed in the economy and society in three ways: (1) through economic structures such as segregated markets, wage discrimination, and division of labor; (2) through symbolic differences such as masculine and feminine job characteristics and paid versus unpaid work; and (3) through identity expressed in preferences, beliefs, and metaphors).

one, have a gender angle. In 1990, a development organization passed through a town in Chad, spoke with the local leaders, and ultimately presented every household with a new, efficient wood-burning stove. The goal was to reduce the amount of wood burned, as people (women and girls) were walking farther each day to find firewood with which to cook. The stoves were lovely. They sat low to the ground and had three openings so that logs could be inserted from three sides and pushed in as they burned inside the stove. The stoves were so efficient that three logs would last for days. The development organization in question spent $1 million on the project. Over the year following their distribution, however, the stoves were used instead as stools to sit on when guests came to visit at friends' houses. When the development agency returned a year later to evaluate the success of the project, they discovered the stoves being used as stools. At this point, and only at this point, did they consult the women of the town, asking them why they were not using the stoves for cooking. The women informed them that they always kept fires burning inside their houses to keep the bugs and snakes out. Had the organization ever asked a woman whether she would use a stove created for outdoor use, they would have learned that their project was worthless. But they never asked.

This example illustrates many things about culture, gender, and the dynamics of giving and receiving aid.[149] It also parallels the Arizona Market experience, in that internationals did not ask what their support for Arizona Market would be used to achieve.[150] Ensuring that the neo-

[149] It also illustrates the concept of *metis*, the notion that the best instincts about a place—the best understanding and knowledge—will be held by the locals, who should be consulted before investments of time and money are made. *See* SCOTT, *supra* note 61, at 319 ("[A]ny formula that excludes or suppresses the experience, knowledge, and adaptability of *metis* risks incoherence and failure; learning to speak coherent sentences involves far more than merely learning the rules of grammar." (italics added)). Development theory has, therefore, become much more "ground up" and less "top down" in recent decades. But another level of understanding has yet to be adopted by those in the field of postconflict reconstruction. "Only by grasping the potential achievement and range of *metis* is it possible to appreciate the valuable knowledge that high-modernist schemes deprive themselves of when they simply impose their plans," and capitalism kills *metis*. *Id.* at 323, 335 (italics added).

[150] In fact, as to Bosnia as a whole, no one asked what work had already been done on the topic of women in war. No one even considered women. *See* Rees, *supra* note 12, at 54 ("Gender issues never surfaced in the [General Framework] drafting process."). As Rees points out, a World Conference on women had been held in the very year the General Framework Agreement was drafted. *Id.* at 56. At the World Conference, a *Platform for Action* was drawn up, which developed, in a section entitled "Women and Armed Conflict," plans as to what the U.N. and NGOs should do to take

liberal dream and the myth of the free market materialized in the form of an actual market was the beginning and end of the inquiry. Whereas those in the development world have arguably learned from past failures to take women into consideration and have rectified the situation by developing doctrine and policies to take gender into account,[151] it is not at all clear that those lessons have been normalized and incorporated into postconflict reconstruction discourse.

In the context of international intervention and postconflict reconstruction, the conditions imposed upon acceptance of the neoliberal agenda may have undesirable consequences. In order to receive financial assistance or EU accession, for example, Bosnia must continue to privatize, downsize, and liberalize its economy, even if those policies have a negative impact on social justice in the polity. Put differently, the interveners mistakenly assume that the free market is a *force majeure* with the potential even to correct for social injustice. In a country rife with ethnic conflict, the international interveners should instead be setting social justice as the primary goal, not just assuming that the market will correct for economic, ethnic, and social inequities. Those supporting Arizona Market appeared to operate according to the mistaken belief that the free market would correct for ethnic disharmony, creating a business space in which strife would fall away in favor of money making. This belief presupposed the certainty of free market economics. But economics is not science, even when practiced by economists.[152]

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into account the impact of war on women. *Id.* at 57. Nevertheless, none of that thinking and planning was considered when developing plans for the reconstruction of Bosnia. *Id.* at 57.

[151] *See, e.g.*, Elizabeth Durbin, *Towards a Gendered Human Poverty Measure*, 5 FEMINIST ECON. 105, 105 (1999) (advocating alternative gender indicators for measuring the human dimensions of development in terms of the choices and opportunities women and men face); *see also* Naomi R. Cahn, *Women in Post-Conflict Reconstruction: Dilemmas and Directions*, 12 WM. & MARY J. WOMEN & L. 335, 338 (2006) ("Integrating gender in the post-conflict process specifically includes . . . proceeding upon the recognition that sustainable development requires gender equity."); Maria Eitel, *For the First Time in History, Girls Were All over Davos*, HUFFINGTON POST, Feb. 2, 2009, http://www.huffingtonpost.com/maria-eitel/for-the-first-time-in-his_b_163362.html (quoting U.S. Representative Nita Lowey (D-NY), who remarked, "I'm hoping there will continue to be a focus on girls because they are really so key to successful development and progress").

[152] *See* Ass'n for Women's Rights in Dev., *Ten Principles for Challenging Neoliberal Globalization*, J. FOR POL. THEORY & RES. ON GLOBALISATION, DEV. & GENDER ISSUES, http://www.globalizacija.com/doc_en/e0024neo.htm (last visited Apr. 15, 2010) ("Economics is often represented as technical and scientific, based on 'truths' from mathematics or statistics. However, economic policy is profoundly political and represents a certain set of subjective assumptions about power and the distribution of resources.").

IV. THE IMPACT OF NEOLIBERALISM ON WOMEN

When the IC arrives to work on "traditional" postconflict reconstruction programs, it also begins to regulate—sometimes persuasively and sometimes through direct intervention—the political and economic systems and the political and economic rights ultimately adopted within these transitioning and postconflict states.[153]

Neoliberal economic strategies include deregulating markets, reducing taxes and government services, and privatizing business and property. These economic policies often have extremely gendered outcomes that are almost always detrimental to women.

A. *Privatization of Business*

One of the first steps of economic liberalization is to privatize any business owned or run by the government or the workers. The gendered impact of this policy is immediately evident. Resources are shifted into male-dominated corporations and market mechanisms.[154] As businesses and factories are privatized, the neoliberal agenda requires business streamlining. Not every member of the polity can be employed in a nonsocialist state. Some people have to be fired to make operations more efficient and competitive in the new, free market. This was a basic prerequisite of IMF and World Bank financial assistance to Bosnia. One of the most marked human costs of economic transition from socialism to capitalism across the former Eastern Bloc has been the rise of gender inequity in the composition of the labor force. Women are the first to be downsized or laid off.[155]

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[153] *See* d'Aspremont, *supra* note 105, at 1 (arguing that democracy building is a positive trend, as stable democratic states within the IC take an interest in reining in the "most erratic and unpredictable manifestations" of new statehood).

[154] *See* CONNELL, *supra* note 118, at 149-50 ("Men control almost all market-based institutions, such as corporations, and acquire most of the income distributed through markets, such as salaries and wages. Neo-liberalism, in exalting the power of markets, has thus tended to restore the power and privilege of men."); *see also* Waylen, *supra* note 104, at 327 (noting that the effects of democratization on women have not been adequately explored).

[155] In Hungary, when 30% of jobs disappeared, women's employment levels declined by nearly 24% between 1990 and 2001. In Poland, women's employment levels declined by nearly 8% over the same period. In Argentina, where women comprised only 12.1% of the total workforce, women lost their jobs during economic transition at a much higher rate than men. GEORGINA WAYLEN, ENGENDERING TRANSITIONS 181-82 (2007); *cf.* Haynes, *supra* note 30, at 226 n.17 (citing sources stating that between seventy and eighty percent of the unemployed in Russia are women). Similarly, many jobs were reserved for former military members, all of whom were men, effectively eliminating women from being hired postconflict and postprivatization.

Privatization changes employment patterns, and where jobs are downsized, women are the first to go.[156] For example, in some countries where women were hugely underrepresented in the pretransition formal labor force, women's participation in paid privatized employment can slightly increase with market reforms.[157] In other instances, however, where women had been fully employed as part of the socialist policies of the pretransition state, those women lost across the board as a result of privatization.[158]

The problem is that labor itself is gendered. Not only are men in greater positions of earning power within privatized businesses, but in these new private markets the work done by women often goes unrecognized and undervalued.[159] There are usually more men employed in the formal market than women.[160] Further, more women are employed in public sector jobs than in private, and men dominate the private sector. When public sector jobs are eradicated pursuant to neoliberal policies dictated by internationals, women lose jobs while men gain them as attention and funding are channeled into the private sector. Women are typically underrepresented in the private sector, unless the particular private sector job is not particularly respected; as soon as it becomes desirable, men take over.[161] Where women do make it into the private

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[156] Kuzmanovic, *supra* note 122 (stating that Serbia's Law on Privatization, passed in 2001, had the simultaneous negative effect of increasing the supply of available female laborers and decreasing the demand for women laborers); *see also* TAMAR SABEDASHVILI, GENDER AND DEMOCRATIZATION: THE CASE OF GEORGIA 1991–2006, at 12 (2007) (noting that women were most likely to be made redundant or have their pay cut during privatization in Georgia and that subsequent wages were so low that they would not cover the transportation costs of getting to and from the job).

[157] For example, in Brazil, the percentage of women in the workforce increased from 42.5% in 1990 to 44.5% in 1997 after market reforms were instituted; in Chile, the figure was 35.2%, up from 28%. These increases came at the expense of male employment, which decreased. WAYLEN, *supra* note 155, at 181.

[158] *Id.* at 181-82; *see also* Haynes, *supra* note 30, at 221 (noting that after the collapse of the Soviet Union, Russian women contributed significantly to the supply side of trafficked women, due in part to the lack of employment alternatives).

[159] *See* UNITED NATIONS DEV. PROGRAMME, HUMAN DEVELOPMENT REPORT FOR CENTRAL AND EASTERN EUROPE AND THE CIS 1999, at 73 (1999).

[160] *See, e.g.*, Faranak Miraftab, *Neoliberalism and Casualization of Public Sector Services: The Case of Waste Collection Services in Cape Town, South Africa*, 28 INT'L J. URB. & REGIONAL RES. 874, 877-78 (2004) (noting that women in South Africa dominate the informal sector of domestic service).

[161] *See* WAYLEN, *supra* note 155, at 181-82 (citing statistics supporting the assertion that women in transitioning states bear higher unemployment rates); *id.* at 183-84 (citing the fact that women dominated the financial sectors in East Central Europe and Russia under socialism, but when those economic systems opened up and financial-services jobs became desirable, men moved into the highest positions, surpassing women who had held those positions); Waylen, *supra* note 104, at 345.

sector, it is largely within the service industry.[162] Women in higher socioeconomic strata tend to retain or find employment, while women of lower socioeconomic status do not.[163]

B. *Welfare Reforms*

Welfare reforms central to market liberalization also have a highly gendered impact. Because women tend to rely more heavily on public services, the dismantling of socialism was particularly detrimental to them.[164] This reliance results from women's role as caretaker in most societies.[165] Additionally, women and children make up the bulk of refugees and internally displaced persons, groups that depend most heavily on public services.[166]

When state spending is cut at the behest of the internationals leading the governance reforms, women lose out.[167] Most socialist (or even social democratic) regimes subsidized childcare, maternity leave, and parental leave.[168] Under market reform, those programs get

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[162] WAYLEN, *supra* note 155, at 183.

[163] *Id.* at 184.

[164] At the end of the war in Bosnia, around two-thirds of the population in that region was female. *See, e.g.*, SABEDASHVILI, *supra* note 156, at 11 (stating that women comprise fifty-five percent of all internally displaced persons). According to the Women's Refugee Commission, four out of five of the world's nearly 45 million displaced people are women, children, and young people. Women's Refugee Comm'n, Gender, http://www.womensrefugeecommission.org/programs/gender (last visited Apr. 15, 2010).

[165] WAYLEN, *supra* note 155, at 6-7; *see also* Julie Cupples, *Counter-Revolutionary Women: Gender and Reconciliation in Post-War Nicaragua*, GENDER & DEV., Nov. 2004, at 8, 9 ("[T]he new government promised to promote more traditional gender identities for women, and called for women to return to the home to be good wives and mothers . . . .").

[166] *See* CHRISTINE CHINKIN, THE PROTECTION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS POST-CONFLICT 10 (2009), *available at* http://www2.ohchr.org/English/issues/women/docs/Paper_Protection_ESCR.pdf (discussing the particular vulnerability of women and refugees to violations of social and economic rights).

[167] *See* Cupples, *supra* note 165, at 9 (arguing that the structural adjustment programs regularly required by the World Bank have a "distinctly gendered impact" in that the attendant reduction of social services that accompanies a liberalizing economy drastically increases the burdens on women, who become the caretakers for those formerly cared for in part by the government); Manji, *supra* note 143, at 169-71 (critiquing market-oriented development models, asking for analysis, and suggesting that the continuity of the global capitalist order be scrutinized).

[168] *See, e.g.*, Heidi Gottfried, Report, *In Defense of Socialized Child Care: A Comparison of Child-Care Policy in the United States and Sweden*, 1 NWSA J. 336, 337 (1988) (discussing subsidies); Valerie Polakow, *Who Cares for the Children?: Denmark's Unique Childcare Model*, 78 PHI DELTA KAPPAN 604, 604 (1997) ("In Denmark . . . the government has assumed the cost of subsidizing a high-quality, comprehensive child-care system . . . .").

cut.[169] The result is that women, due to their traditional roles in the family—and in the case of the former Soviet countries, these were roles that were immediately resurrected after lying dormant for two to three generations—stay home to care for children and sick family members. Finally, under market reform, wages are often decreased as positions become competitive, rendering it financially nonsensical for both parents to work when additional wages would not meet the costs of childcare.[170]

C. *Other Social and Labor Reforms*

Under market liberalization, workers' social security benefits are restructured. This has a tremendously gendered outcome. As state systems transition, social benefits accrue to the primary breadwinners, who tend to be men, because of the increasingly unfavorable wages for women. Women contribute less to social security because they are paid less and tend to be employed for fewer years, as they stay home to care for children and aging relatives. As a consequence, men's eligibility for social security typically vastly surpasses that of women.[171]

D. *Privatization of Property*

One of the primary tenets of the neoliberal agenda is the privatization of formerly socially held properties. For the free market to work, businesses and homes may no longer be owned by the state. Privatization began in Bosnia even before the war: The government would provide vouchers based on criteria such as age and military service. Recipients could exchange the vouchers for shares in privatized companies or sell them for cash.[172] Similarly, after the war, the former socially owned apartments could be purchased under a complex scheme whereby people who had been displaced in the war could ap-

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[169] State funding for food subsidies and prenatal-nutrition programs is also cut under market reform, which disproportionately impacts women. WAYLEN, *supra* note 155, at 185-88.

[170] *Cf.* SABEDASHVILI, *supra* note 156, at 12 (stating, by way of comparison, that women in Georgia, during a similar market-liberalization process, were most likely to be made redundant or have their pay cut, and that subsequent wages were so low that they would not cover the transportation costs of getting to and from the job).

[171] *See* WAYLEN, *supra* note 155, at 191-92 (discussing social security restructuring).

[172] *See* Walsh, *supra* note 133, at 6 (noting that the "complicated" privatization system in Bosnia uses vouchers that compensate for payments withheld during the war).

ply to repossess their former apartments, occupy them briefly, and then sell them.[173]

After the war, both of these systems were corrupted by the continued pursuit of the wartime goal of ethnic cleansing. Croatia, for instance, refused to allow displaced minorities to repossess their socially held apartments during and immediately after the war.[174] This effectively prevented all Croatian Serbs who had been ejected during Operation Storm from claiming ownership of their apartments.[175] The apartments were then declared "abandoned" by the Croatian government and given to Bosnian Croats, who had been invited by then-President Franjo Tudjman to leave Bosnia and populate the formerly Croatian Serb–held sections of Croatia in the Krajina.[176] Despite the blatant manipulation of the privatization process to carry out wartime objectives of ethnic cleansing in Croatia, the IC barely objected. It was as if privatization itself was the only goal. The creation of the market economy was all that mattered, regardless of whether those market processes were used to exclude people on the basis of race and therefore to effectively complete ethnic-cleansing objectives. In Bosnia, too, the various entity leaders attempted to pass laws that would prevent ethnically undesirable people from reclaiming their property. But in Bosnia these laws were overturned by the High Representative once the members of the IC who were responsible for protecting human rights explained the undemocratic nature of the laws and insisted they be overturned.[177]

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[173] For more on privatization laws in the Balkans, see generally Charles Philpott & Rhodri C. Williams, *The Dayton Dialectic: The Significance of Property Deprivation and Repossession in the Context of Ethnic Cleansing*, *in* DECONSTRUCTING THE RECONSTRUCTION, *supra* note 4, ch. 6. For more on the impact of privatization generally, see, for example, SABEDASHVILI, *supra* note 156, at 15-16. For more on socially owned property and corruption in the return of that property, see generally Massimo Moratti, *Tackling Obstruction to Property Rights and Return: A Critical Assessment of the Practice of Removing Housing Officials in Bosnia and Herzegovina*, *in* DECONSTRUCTING THE RECONSTRUCTION, *supra* note 4, at 149, 150-52.

[174] *Cf.* Bogdan Ivanisevic, *Legacy of War: Minority Returns in the Balkans*, *in* HUMAN RIGHTS WATCH, HUMAN RIGHTS WATCH WORLD REPORT 2004, at 351, 361-62 (2004).

[175] *Id.* at 361.

[176] My first UNHCR post was that of Protection Officer in Knin, Croatia, the heartland of the Krajina Serb routing. It served as a clear vantage point for viewing the impact of the laws being passed in Croatia on the entire region in terms of displacement of persons.

[177] *See generally* Philpott & Williams, *supra* note 173 (discussing the property laws and the IC's attempts to rewrite them).

Another consequence of privatizing apartments was that many women lost out.[178] Prewar, the socially owned flats had been held as "occupancy rights," something more than a lease but less than ownership. Occupancy rights provided a permanent or long-term right to remain without a right to sell. Before the war, state enterprises owned many apartments, which they gave to workers or those who had served in the military. After the war, with a housing shortage attributed to war damage and massive ethnic displacement, establishing an occupancy right became extremely complex and was regularly subjected to manipulation by nationalists.

The property laws that were rewritten multiple times in Bosnia, Croatia, and Serbia, often with negative consequences for the "undesirable" ethnic minority in that particular region, also had negative consequences for women. This was particularly true for single women. For example, the Law on the Sale of Apartments in Bosnia allowed for a reduction in the purchase price of an apartment based on the number of years the buyer had worked.[179] It also allowed spouses to combine their years of work to increase the deduction, but it did not allow a surviving spouse to combine working years with those of a deceased spouse.[180] Women, both by virtue of longer life spans and the wartime death toll among men, constituted the majority of surviving spouses.[181] Young widows, with few if any working years of their own, and unemployed single women were disproportionately disadvantaged by this system, as they had few preliberalization work years to count.[182]

Furthermore, the occupancy right went to the former soldier or factory worker, not to the family as a whole, which again left women at a disadvantage in acquiring their own flat on the privatizing market. Women often held no legal title.[183] For a woman to claim a right to property in a divorce, for instance, without her name on the title, she

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[178] In Bosnia and Mozambique, for instance, women had the most difficulty acquiring and holding on to land during the privatization process. MARCIA E. GREENBERG & ELAINE ZUCKERMAN, THE GENDER DIMENSIONS OF POST-CONFLICT RECONSTRUCTION 6-6 (2009), *available at* http://www.genderaction.org/images/GenderDimensionsPCR_2009.pdf; *see also* Walsh, *supra* note 133, at 7.

[179] Law on Sale of Apartments with Occupancy Rights, Official Gazette of the Federation of Bosnia and Herzegovina nos. 27/97; 11/98; 22/99; 27/99; and 7/00, art. 21 (Bosn. & Herz.).

[180] Walsh, *supra* note 133, at 7.

[181] *Id.*

[182] *See id.* ("This particularly affects young widows, who have few if any working years of their own.").

[183] *Id.*

was required to prove that she contributed substantial income during the marriage.[184] "Moreover, men can transfer title to others (other family members, for example) so that women had no claim."[185] Given these practices, property privatization, the lynchpin of the neoliberal agenda in transitioning Bosnia from socialism to capitalism and communism to democracy, exacerbated gender inequality.

The total impact of economic liberalization has been devastating for women. As one Serbian feminist economist asked, "How much does it cost when a woman really earns as much as a man? How expensive is it not to take into consideration women's leadership and total potential?"[186]

V. USING HUMAN RIGHTS "BENCHMARKS" AS A VEIL TO ACHIEVE A NEOLIBERAL MARKET

In order for Bosnia to be invited into the world community on equal terms with other sovereign nations, it must overcome its courtesan-state status. And yet, the terms that the IC has given Bosnia for entrance to the world community, and in particular to the European Community, are provided in the form of a checklist toward accession to the European Union.[187] The list is created by the Council of Europe, a European organization concerned with human rights, and therefore consists primarily of human rights concerns.[188] Bosnia's task in ridding itself of pawn status while slavishly following a checklist is a troubled one.

Notably, to check off a box on the list requires not the *actualization* of the human right in question (minority rights or gender equity, for instance), but the *appearance* of such protections, typically in the form of laws requiring the protection of such rights. Bosnia must pass the requisite laws; however, no one checks to ensure that the laws are sub-

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[184] *Id.*

[185] *Id.* There are also arguments, beyond the scope of this Article, that war itself disproportionately impacts women and that this was particularly true of the Balkan conflict. The primary impact areas, in addition to human trafficking, concerned displacement, because women locate so much of their lives around "the home," because of the increase in domestic violence, and because of girls dropping out of school in higher numbers than men. *See* Walsh, *supra* note 133, at 3.

[186] Kuzmanovic, *supra* note 122.

[187] *See* European Comm'n, Accession Criteria, http://ec.europa.eu/enlargement/enlargement_process/accession_process/criteria/index_en.htm (last visited Apr. 15, 2010).

[188] *See* ALLEN F. TATHAM, ENLARGEMENT OF THE EUROPEAN UNION 214-18 (2009) (describing the role of the Council of Europe in formulating human rights criteria for accession to the European Union).

sequently implemented or enforced. Of course, the fact that the list merely asks for a law, without enforcement, does not in and of itself mean that this is a bad approach. On the contrary, the incentive to join the European Union has probably been more of a catalyst for the protection of the human rights of citizens and guests of Croatia, Bosnia, and Serbia than any other carrot or stick.

The other goal of the accession list is the economic liberalization of the states in question. This is due in part to most sovereign states in today's world community believing in a link between the protection of human rights and a liberal economy, despite ample evidence that severe labor exploitation and labor discrimination are staples of many liberal economies. The insistence on economic liberalization is also in part because the liberal states of the world community are in the business of promoting their own companies and industries. They hope to quickly enter the newly privatizing countries and be the first on the ground to exploit whatever business opportunities and natural resources might exist.[189] Ironically, liberalized states share this behavior with notably less liberalized states, like China and Russia, which also rush in to fill the vacuum with their industries and snatch up any natural resources that might be for sale. In this respect, the common factor is economic self-interest, not the goal of liberalizing the economy of the transitioning state. The people being transitioned are caught in the middle.[190] Finally, western states impose the checklist because they see a

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[189] For example, Western governments believed that there were oil deposits in parts of Bosnia and made sure that those regions were under U.S. control—Amoco was on the ground in 1996 to make assessments. Additionally, the World Bank verified "substantial petroleum fields in the Serb-held part of Croatia." Michel Chossudovsky, *Dismantling Former Yugoslavia, Recolonising Bosnia*, 7 DEV. PRAC. 375, 382 (1997) (quoting Frank Viviano & Kenneth Howe, *Bosnia Leaders Say Nation Sits atop Oil Fields*, S.F. CHRON., Aug. 28, 1995, at A1). Western governments have shown greater interest in gaining access to potential strategic natural resources than in committing resources for rebuilding Bosnia. When the World Bank loaned money to Croatia after it seceded from the former Yugoslavia, it "demanded a Croatian capital market structured to heighten the penetration of Western institutional investors and brokerage firms." *Id.* at 379. "[T]he occupation of Yugoslavia suited the global strategic needs of the United States once it saw that the Europeans had made a big mess, breaking up a country and not being able to deal with it. Then they went to show the Europeans that 'we are still around and we are the power here.'" Interview with Tariq Ali, *supra* note 145.

[190] *See* Interview with Tariq Ali, *supra* note 145 ("[N]eoliberal economic policies are being implemented at a vastly accelerated pace throughout the Balkans. Most of the population, whatever their political orientation, are caught between what in Serbia are now called the 'tajkuns' (tycoons), that is the new term for these local tycoons who have profited off of all the instability, and, on the other hand, foreign multinational capital."); *see also* Chossudovsky, *supra* note 189, at 379 (noting that a precondition for the massive loans Croatia borrowed from the IMF just after it seceded from the Former

link between politically safe neighbors, political partners, and liberalized economies. Capitalist states are safe to deal with and engage with in world politics, they believe; socialist states are not.[191]

When the IC negotiated the peace at Dayton, it ensured that its economic interests would be protected. Feminists and antineoliberal thinkers have identified the self-interest of the donor countries imposing the standards as a problem, arguing that women's rights discourse, when it was discussed at all, was being manipulated by the most zealous proponents of the free market.[192] In fact, gender and "gender mainstreaming" are regular components of the accession checklists.[193] The premise of the neoliberal doctrine is to combine the notions of social justice and a free market economy. At its best, the goal would be to bring about social justice—creating or fostering a free market economy would merely be one possible tool in carrying out that mission of securing social justice. Instead, the tail is wagging the dog. The goal, as seen by the IC in Bosnia, is the free market economy—sometimes renamed "democratization"—intimating that, to most western donor countries, democracy and a free market economy are synonymous.

Filtered through the thinking of the IC around the creation of and support for Arizona Market, social justice, or "human rights," became a nice by-product of the free market. It was believed that "if we build this market, ethnicities might get along." Later, some members of the IC carried it further and began to act as if the free market had the power to actually *correct* for social injustice or human rights viola-

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Yugoslavia was a series of "economic reforms" that resulted in plant closures and bankruptcies, driving wages to abysmally low levels). The unemployment rate increased from 15.5% in 1991 to 19.1% in 1994, while Croatia dismembered its large formerly state-owned utilities. *Id.*

[191] *See* Chossudovsky, *supra* note 189, at 376 ("Despite Belgrade's political nonalignment and extensive trading relations with the USA and the then European Community, the Reagan Administration had targeted the Yugoslav economy . . . 'to promote a "quiet revolution" to overthrow Communist governments and parties', while reintegrating the countries of Eastern Europe into the orbit of the world market." (quoting Gervasi, *supra* note 117, at 42)). Chossudovsky further argues that the economy of Yugoslavia failed before the war because of the success of western policies. *Id.*; *see also* U.S. AGENCY FOR INT'L DEV., FROM TRANSITION TO PARTNERSHIP: A STRATEGIC FRAMEWORK FOR USAID PROGRAMS IN EUROPE AND EURASIA 2 (1999) ("Americans benefit as the economies of nations in transition become more open.").

[192] *See, e.g.*, ZILLAH EISENSTEIN, SEXUAL DECOYS: GENDER, RACE AND WAR IN IMPERIAL DEMOCRACY 97-99 (2007) (describing neoliberal imperial feminism).

[193] *See* Marina Blagojevic, *Gender in Serbia* (connecting the process of providing a formal framework for gender inclusion and the process of accession, or "closeness," to the European Union), *in* DEVTECH SYS., INC., USAID/SERBIA & MONTENEGRO GENDER ASSESSMENT AND RECOMMENDATIONS FOR A DRAFT GENDER ACTION PLAN 8 (2005), *available at* http://pdf.usaid.gov/pdf_docs/PDACG119.pdf.

tions. At that point, the thought was, "the liberalized economy in Arizona Market will create peace and harmony." When accession checklists were created, full of human rights goals, it no longer mattered whether those goals were implemented or carried out, only that the laws were written. Now, the belief among the IC of postconflict interveners seems to be, "if you create a free market, human rights will follow." Unsurprisingly, feminists and antineoliberal thinkers disagree.

CONCLUSION

Of the unsavory and often criminal activity taking place in Arizona Market, particularly of the sale of women for sex, one American Colonel observed, "[U]nregulated capitalism is a pretty rude sort of activity."[194] It is unclear whether, in so saying, he was sanctioning such activity as inevitable or critiquing it as an unsavory byproduct of a liberalizing economy. In either case, his words suggest some of the simpler recommendations for different approaches to postconflict reconstruction.

The first is that the longer-term postconflict sustainability projects should be carried out by people with specific training in the area, who are mindful of how to achieve their goals without sacrificing women's human rights, dignity, and physical as well as psychological integrity in the process. This means that highly masculine military structures must overlap and consult with persons whose agendas are not limited to immediate physical security but rather are attuned to framing the issues as human rights and rule-of-law concerns.

Second, the assumption that capitalism is always the right system and that liberalizing the economies of warring countries is always the right goal must be questioned. The present lack of postconflict reconstruction doctrine, together with the push by interested governments and their diplomatic and military representatives to prioritize free market and military objectives, are leading to the unnecessary sacrifice of human rights and women's rights in the aftermath of war.

Perhaps it will turn out to be true that market liberalization is key to sustainable security. At present, however, those unskilled in making such assessments are operating on the assumption that capitalism will correct human rights abuses. Regulation serves a purpose, offering protection against those who exploit newly developing markets. It also serves to protect against criminal exploitation of labor, including

[194] ANDREAS, *supra* note 24, at 134.

human trafficking. Consequently, market regulation should be considered a key component of postconflict reconstruction, even if it does not square with market liberalization.

Moreover, it is not clear that market liberalization must be a component of postconflict reconstruction. While it is clear that those international nation-states undertaking the role of contributing to the postconflict reconstruction in Bosnia were primarily capitalist economies, this demonstrates only that those nations have an interest in engineering a new state to invite into the economic fold of free market economies. It does not necessarily prove that an unregulated free market economy is key to Bosnia's development into a country where the rights of all are respected. Given this, the regulation of developing markets must be discussed, even when creating informal neoliberal market projects and experiments.

Democratization as a priority should be similarly questioned. Striving for democratization as a goal in and of itself can mask the true objectives of postconflict construction, which should be to achieve stability by fostering the components of a democratic society. The focus should be on de facto, not just de jure, equality for women and minorities. The IC's fixation on democratization, with its preference for the procedural trappings of democracy, would serve women far better by focusing instead on promoting and making central the primary characteristic of a democracy—equality of participation. Promoting principles of equality—equality of participation, equality of political voice, equality of representation, and equality of consideration—would be far more beneficial to ensuring long-term and sustainable peace than development of "democratization" per se, with its current focus on political rights, electoral systems, and institution building. An IC truly interested in sustainable peace should focus on including all persons, particularly those who were previously denied or were without a true political voice, by including them in formal and informal power structures, markets, the labor force, and educational opportunities. It should also work on guaranteeing truly equal property and inheritance legal rights and maintaining social-welfare structures upon which women, particularly refugee and displaced women, are dependent.

Democratization and neoliberalism on paper are not substitutes for securing human rights any more than the creation of a free market automatically serves to achieve human rights protections. Instead, human rights and the rule of law must be viewed as both the fundamental building blocks of postconflict reconstruction as well as the

umbrella under which all programs and practices are conceived and created. Placing a neoliberal agenda and democratization at the pinnacle of the reconstruction agenda inappropriately distorts the goals of creating and maintaining a safe, secure, and sustainable peace.

More concretely, it must be acknowledged and squarely confronted that international interventions create the perfect storm for human trafficking. The sudden influx of thousands of international men, far away from home, with both power and money far surpassing that of locals, can create a demand for women to be trafficked into the country for sex. At the same time, economic-liberalization policies create a supply of women who are un- or underemployed in the economically and politically transitioning country and are therefore uniquely susceptible to middlemen willing to exploit their desire to contribute to the family income. The conditions creating both the supply of and the demand for trafficked women are the responsibility of the IC, which therefore must not only work on prosecuting traffickers and protecting victims but must also be cognizant of how its policies and programs give rise to these conditions in order to check them before trafficking is carried out.

The IC must acknowledge and take responsibility for the fact that its very presence creates a demand for abusive activities like human trafficking, while its neoliberal objectives create the supply. It must not only acknowledge that this situation has occurred in the past, in places like Bosnia and the Congo, but it must also anticipate that such a confluence of circumstances will arise in the future and accordingly seek solutions and preventative measures in the present.