

The Graduate Institute of International Studies, Geneva

The Role of the OSCE in Bosnia and Herzegovina



Former front line in Mostar, 1999. Picture by Marcel Stoessel.

Submitted to Professor Victor-Yves Ghebali
January, 2001

By Marcel Stoessel
Email: marcel@stoessel.ch

Abbreviations

BiH	Bosnia and Herzegovina (Bosna i Hercegovina)
DPA	Dayton Peace Accord (General Framework Agreement for Peace in Bosnia and Herzegovina)
EASC	Election Appeals Sub-Commission
FBiH	Federation of Bosnia and Herzegovina (Muslim-Croat Entity)
FRY	Federal Republic of Yugoslavia
HDZ	Croat Democratic Union (Croat nationalist party)
HR	High Representative
HRO	Human Rights Officer
ICG	International Crisis Group (think tank)
IFOR	Implementation Force
IMF	International Monetary Fund
IPTF	International Police Task Force
MEC	Media Experts Commission
NDI	National Democratic Institute for International Affairs
NGO	Non-governmental organization
OHR	Office of the High Representative
OSCE	Organization for Security and Co-operation in Europe
PEC	Provisional Election Commission
PIC	Peace Implementation Council (intergovernmental body overseeing the peace process)
RS	Republika Srpska (Serb Entity)
SBiH	Party for Bosnia and Herzegovina (moderate Muslim party)
SDA	Party for Democratic Action (Muslim nationalist party)
SDS	Serbian Democratic Party (Serb nationalist party)
SFOR	Stabilization Force
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNMiBH	United Nations Mission to BiH

TABLE OF CONTENTS

INTRODUCTION.....	1
THE DAYTON PEACE ACCORDS _____	1
THE OSCE’S DAYTON MANDATE _____	4
BOSNIA AND HERZEGOVINA AFTER DAYTON _____	5
IMPLEMENTATION OF THE OSCE’S DAYTON MANDATE.....	6
DEMOCRATISATION _____	6
CIVIL SOCIETY ACTIVITIES _____	7
POLITICAL PARTIES PROGRAMME _____	8
GOVERNANCE PROGRAMME _____	9
RULE OF LAW PROGRAMME _____	9
EVALUATION _____	10
ELECTIONS _____	10
THE 1996 GENERAL ELECTIONS _____	11
1997 MUNICIPAL ELECTIONS _____	13
SPECIAL ELECTIONS IN RS _____	14
1998 GENERAL ELECTIONS _____	14
DRAFT PERMANENT ELECTION LAW _____	14
APRIL 2000 MUNICIPAL ELECTIONS _____	15
NOVEMBER 2000 GENERAL ELECTIONS _____	16
IMPLEMENTATION OF ELECTION RESULTS AND OSCE INTERVENTIONS _____	16
HANDING OVER OF RESPONSIBILITY TO BiH CITIZENS _____	17
EVALUATION _____	18
HUMAN RIGHTS _____	19
HUMAN RIGHTS MONITORING AND REPORTING _____	20
PROMOTING RETURNS _____	20
EVALUATION _____	21
MEDIA AFFAIRS _____	21
CONTACTS AMONGST JOURNALISTS _____	22
MEDIA MONITORING _____	22
PRESS AND PUBLIC INFORMATION _____	23
EVALUATION _____	23
REGIONAL STABILIZATION _____	23
CONFIDENCE- AND SECURITY-BUILDING MEASURES _____	23
MILITARY FORCE REDUCTIONS _____	24
EVALUATION _____	25
CONCLUSION: DEMOCRACY AND HUMAN RIGHTS AGAINST THE WILL OF THE PEOPLE(S)?	25
BIBLIOGRAPHY	28
ANNEXES	32

Introduction

Five years after Dayton, Bosnia and Herzegovina (*BiH*¹) has little in common with a sovereign state. As Daalder and Froman point out correctly: “Whatever progress has been achieved in Bosnia is due to the untiring efforts of foreign soldiers, diplomats, and aid workers to provide security for all individuals, to cajole and persuade the country’s leaders to move forward one small step at a time, and to assist in the rebuilding of the physical and psychological infrastructure that was devastated by more than three years of war.”² While the primary goal of stopping the fighting has been achieved, the international community and the people of Bosnia and Herzegovina are still confronted with the more difficult task of building a unified state. State-building means more than building or supporting the development of public institutions. It means creating the political, economic, military, and even cultural environment for sustainable peace.

The Organization for Security and Co-Operation in Europe (*OSCE*) has played – and is still playing – a major role in that process. With the United Nations (*UN*) largely discredited during the 1992 – 1995 war, the OSCE took up a broad responsibility for the peace process. Most significantly, it has organized and supervised six rounds of elections (and implemented election results). It has also worked to foster sustainable democratic institutions, human rights, regional military stabilization, as well as independent and pluralistic media.

The purpose of this paper is to analyse and evaluate the role of the OSCE in BiH. Firstly, the General Framework Agreement for Peace in Bosnia and Herzegovina (also: Dayton Peace Accord, *DPA*) and the OSCE’s mandate will be presented. Secondly, a round up of the current political, economic and social situation should provide the necessary background to understand the immense task before the OSCE and the international community in general. Thirdly, the implementation of the OSCE’s mandate will be evaluated in five sections: Democratisation, elections, human rights, media affairs, and regional stabilization. Even no they are separated for analytical purposes, some of these issues are strongly linked. We should also not forget that the OSCE is part of a much larger political, military and humanitarian involvement of the international community – which includes notably the Office of the High Representative (*OHR*) and the Stabilization Force (*SFOR*). However, in this paper, the focus will be on the OSCE.

Some of the conclusions are bound to be subjective. I have learned during a field trip to BiH³ that it is impossible to remain neutral in the continued presence of ultra-nationalism and a recent history of genocide. This paper concludes that there is no *realistic* alternative to the current *de facto* international semi-protectorate.

The Dayton Peace Accords⁴

The DPA, initialled on 21 November 1995 in Dayton and formally signed on 14 December 1995 in Paris, brought 43 months of war in BiH to an end. During the conflict, more than 250’000 people were killed, more than 1.1 million people fled the country⁵, and more than 800’000 were internally displaced. Systematic ethnic cleansing⁶, imprisonment in concentration camps, mass rape and massacres of civilians made it the most brutal conflict

¹ Bosna i Hercegovina.

² Daalder and Froman, 1999:106-107.

³ July – September 1999. The visit included, to equal parts, Muslim (Bosniak), Serb and Croat areas of BiH.

⁴ Parts of the DPA are included in the Annex.

⁵ Pozan, 2000.

⁶ For example, the town of *Drvar* was 99% Croat before the war, 97% Serb after the war. Source: Graham, 1998:205. It is worth noting that ethnic cleansing was not a by-product of the war, but the whole *purpose* of it.

on European soil since the Second World War. More than a third of the housing was destroyed.⁷

After NATO bombardment of Serb positions in the fall of 1995, none of the three ethnic groups came out as a clear victor of the war. The DPA, signed by the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia⁸ (*FRY*), is a compromise between the Serb and Croat war goals of dividing BiH and the Muslim war goal – and that of the international community – of keeping a unified state⁹.

The state of BiH was recognized as a sovereign state in its existing international borders, but sub-divided into two “Entities” with an extremely high degree of autonomy¹⁰: The *Federation of Bosnia and Herzegovina*¹¹ (*FBiH*), mainly inhabited by Muslims and Croats, occupies 51% of the territory; the *Republika Srpska* (*RS*), mainly inhabited by Serbs, makes up 49% of the territory. The *FBiH* with its 10 cantons is in itself largely decentralized, which means that *de facto*, three Entities exist: a Muslim, a Serb and a Croat Entity. This reality largely confirms the results of ethnic cleansing. However, an important provision of the DPA allows all refugees and displaced persons to return.¹²

Each ethnic group has its own army¹³ and police¹⁴. The US built up the theoretically joint army of the *FBiH* through a “train and equip” program; around 100 mio US \$ were spent to buy modern weaponry and to provide tactics training¹⁵ in order to achieve a balance of power with Serb forces. All *de facto* Entities also have their own telecommunications network, education, health care and pension system. The Central government only has authority over external affairs¹⁶ and a limited number of inter-Entity matters like trade, customs, monetary policy, inter-Entity law enforcement, refugee policy and transport¹⁷. The Entities are competent in all matters not explicitly assigned to the state government¹⁸. As former High Representative (*HR*) Carl Bildt stated: “The two Entities will probably be the most decentralised state in the world.”¹⁹ In all state bodies, such as the three-member collective Presidency²⁰, each of the three Constituent Peoples²¹ has a veto power. So the state of BiH is extremely weak²². Real power lies in the municipal and Entity-level, in

⁷ Knaus and Cox, 2000.

⁸ The Annexes were also signed by the two Entities of BiH, the Federation of Bosnia and Herzegovina and the Republika Srpska. The FRY signed both on behalf of its own and on behalf of the “Republika Srpska”.

⁹ Article I of the DPA make reference to the UN Charter, the Helsinki Final Act and “other Documents of the Organization for Security and Co-operation in Europe”.

¹⁰ For an overview of ethnic distribution in pre-war BiH and the new administrative borders, see Figure 1 and 2 in the Annex.

¹¹ The Federation was created by the Washington Agreement of 18 March 1994 as an alliance against the Serbs. It was incorporated into the state of BiH, but remains largely a theoretical diplomatic construct. The conflict between Muslims and Croats is far from over.

¹² DPA, Annex 7.

¹³ For each square meter of BiH territory, it is possible to determine which of the three armies is in control.

¹⁴ The DPA allowed only *two* armies and police forces, corresponding to the two Entities.

¹⁵ Schindler, 2000:19.

¹⁶ The Entities are allowed to have some external relations with neighbouring states, meaning the Bosnian Croats with Croatia and the Bosnian Serbs with the FRY.

¹⁷ *Constitution of Bosnia and Herzegovina*, Annex 4 to DPA, <http://www.ohr.int/gfa/gfa-an4.htm>.

¹⁸ Annex 4, Article II:3(a).

¹⁹ Bildt, Carl (1996). Response to Henry Kissinger’s Article in the *Washington Post* of 8 September 1996 entitled, “In the Eye of a Hurricane”, OHR Article by the HR, 14 September.

<http://www.ohr.int/articles/a960914a.htm>

²⁰ The state *legislative* branch has a two-house system: Parliamentary Assembly, House of Peoples.

²¹ The Preamble to Annex 4 mentions the three constituent nations of Serbs, Croats, and Bosniaks (Muslims) as well as “Others”.

²² Cox, 2000:4.

parallel structures, and in the hands of the international community. A NATO-led IFOR force of more than 60'000 troops was sent to BiH²³, and the Office of the High Representative (OHR) was entrusted with the civilian implementation of the DPA. The *Peace Implementation Council* (PEC) is the intergovernmental authority overseeing and coordinating international involvement. It also provides instructions to the HR. Table 1 provides an overview of how large international involvement in BiH is.

Annex	Area of Authority	International Body
1-A	Military Aspects	NATO (IFOR, later SFOR)
1-B	<i>Regional Stabilization</i>	<i>OSCE</i>
2	Inter-Entity Boundary	NATO (IFOR, later SFOR)
3	<i>Elections</i>	<i>OSCE</i>
Article II.3	<i>Provisional Election Commission PEC</i>	
4	Constitution	High Representative (HR)
Article IV	Constitutional Court	European Court of Human Rights
Article VII	Central Bank	IMF
5	Arbitration	(Entities)
6 Part B	<i>Human Rights Ombudsperson</i>	<i>OSCE</i>
Part C	Human Rights Chamber	Council of Europe
7	Refugees and Displaced Persons	UNHCR
8	Commission on Public Corporations	European Bank for Reconstruction and Development
10	Civilian Implementation	High Representative (HR)
11	International Police Task Force	UN

Table 1 The Dayton Annexes. Source: *The General Framework Agreement for Peace in Bosnia and Herzegovina, 1995*. Other important international bodies include: Council of Europe, European Union, United Nations Mission to BiH (UNMiBH), World Bank.

Post-conflict international involvement has evolved considerably. Marcus Cox²⁴ distinguishes three phases:

- 1) 1995 – beginning of 1998: *Containment and Reconstruction*.
- 2) Beginning of 1998 – beginning of 2000: *Growing Protectorate*²⁵. The HR got the power to “take actions against persons who are found ... to be in violation of legal commitments made under the Peace Agreement or in terms of its implementation.”²⁶ Because the Bosnians could not agree on essential measures to implement the DPA, the HR imposed a national anthem, a common flag, common vehicle licence plates²⁷, a common passport, and a common currency²⁸. He has dismissed dozens of obstructive public officials and imposed almost 90 laws and binding decisions on

²³ In December 1996, IFOR was renamed Stabilization Force (SFOR) and reduced to 31'000. Today's SFOR strength is about 20'000 troops.

²⁴ Cox, 2000:11-19.

²⁵ The powers of the international community have been amended at periodic Peace Implementation Council Meetings: in Florence (June 1996), Paris (November 1996), Sintra (May 1997), Bonn (December 1997), and Luxembourg (June 1998). The new governor-like powers of the HR are also dubbed “Bonn powers”.

²⁶ Peace Implementation Council, *Bosnia and Herzegovina 1998: Self-Sustaining Structures*, Bonn, 10 December 1997, Annex, Article XI, paragraph 2.

²⁷ Very important for the free circulation of vehicles between the Entities.

²⁸ The “Konvertible Mark” with a 1 : 1 ratio to the DM, is in circulation since July 1998 and has mostly replaced Croatian and Yugoslav currencies.

issues like the media, industry, property rights²⁹ and refugee return³⁰. The increasing involvement of the international community is partly due to the disillusionment with the electoral process and obstructionist policies, mainly from Serbs and Croats. The most “undemocratic” move of the HR so far has been the removal, in 1999, of the elected President of the RS, Nikola Poplasen, from office.

- 3) 1999 – to date: *State Building*³¹. Creating effective state institutions.

The OSCE’s Dayton Mandate

The CSCE/OSCE has played a role in speaking out against atrocities and acts of aggression right from the beginning of the dissolution of Yugoslavia³². But it is the role given to the OSCE in the DPA that has opened a new chapter in the organization’s history. “...Dayton’s drafters gave the OSCE – a body both untested and untainted by prior experience in Bosnia – the Herculean task of supervising the first nation-wide post-war elections.”³³ The Secretary General of the OSCE wrote in his 1996 Annual Report: “The Budapest Ministerial decision³⁴ on OSCE involvement in Bosnia and Herzegovina posed the greatest challenge ever confronted by the CSCE/OSCE. It tested the degree of preparedness of the Organization to take on the most complex tasks in the post-Cold War multi-institutional set-up.”³⁵

So Bosnia was to be something of a test case of the OSCE’s capabilities of large-scale post-conflict rehabilitation. The mandate comprised three essential elements:

- 1) To organize general elections³⁶ and “to lay the foundation for representative government and ensure the progressive achievement of democratic goals”³⁷;
- 2) To monitor, alongside with other organisations, human rights and to report on violations³⁸;
- 3) To encourage confidence and security building measures as well as disarmament.

As the involvement of the international community increased, the OSCE got more powers as well: for example, to install multi-ethnic administrations and stipulate the allocation of governing responsibility. It is noteworthy that the OSCE’s responsibilities involve both *top-down* processes like the conduct of elections as well as *bottom-up* processes like fostering political culture through civil society building.

So the DPA is much more than a traditional peace treaty. It is an act of “political-engineering”³⁹ – out of the ruins of war, a state had to be created. Some, like David Chandler, claim that this was done against the will of the Bosnian people: “Under the guise of a negotiated peace settlement, [the DPA] sought to create a new political entity which was not a product of popular consensus or popular involvement and was seen by many Bosnians as an external imposition.”⁴⁰ In fact, all ethnic groups have at some point accused

²⁹ In September 1999, of 123’000 claims to repossess property, only 5% of claimants had been able to repossess their property. In September 2000, 21% of claimants in the Federation and 9% of claimants in RS have been able to repossess their homes. Joint OHR, OSCE, UNMiBH, UNHCR and CRPC press release, Sarajevo, 28 September 2000.

³⁰ Full list of HR decisions: <http://www.ohr.int/decisions.htm>.

³¹ Annex to the PIC Declaration: Required Actions, Brussels, 23-24 May 2000.

³² Ghebali, 1996:387-425.

³³ Goldston, 1997:14.

³⁴ 8 December 1995.

³⁵ OSCE, 1996:1.

³⁶ DPA, Annex 3.

³⁷ DPA, Annex 3, Preamble.

³⁸ DPA, Annex 6.

³⁹ Solioz, 2000.

⁴⁰ Chandler, 2000:43.

the HR and leading international institutions of breaking the DPA guarantees of ethnic autonomy.

But BiH was not supposed to become a *de facto* semi-protectorate. The OSCE was only expected to supervise the first state-level elections. But with the victory of nationalist parties and massive obstruction of the peace process, the OSCE stayed on.

The best test for Dayton's success is sustainability. For the moment, we have reason to believe that an international withdrawal would mean more violence, potentially another war, and certainly the breakdown of the few common structures that exist. So these structures should be strengthened. "Institutions which are not capable of effective governance are unlikely to become the building blocks of a lasting peace."⁴¹

Bosnia and Herzegovina after Dayton

The security situation has vastly improved since the end of the war thanks to the presence of IFOR/SFOR and the International Police Task Force (*IPTF*). People feel safe and are not afraid of renewed warfare as long as international troops are present. Crossing the inter-Entity boundary line is daily business. However, many Muslims, Croats and Serbs only feel safe living in their "own" *de facto* Entity. There is massive discrimination and human rights abuse on ethnic grounds. Particularly Serbs and Croats obstruct the return of refugees and displaced persons to their pre-war homes. Most returns have been to areas where the ethnic group of the returnees is in the majority. Encouraging signs only came in the first half of the year 2000 when the UNHCR registered 19'751 minority returns⁴², a dramatic increase compared to the same period in earlier years.

Many indicted war criminals, such as former Bosnian Serb leader Radovan Karadzic and his General Ratko Mladic, remain at large.

Equally disappointing are election results. The main nationalist parties, the Muslim *Party for Democratic Action (SDA)*, the *Serbian Democratic Party (SDS)* and the *Croat Democratic Union (HDZ)* have scored victories. If they have not been able to win a specific election, it was not mainly because they were nationalist, it was because they were corrupt. These parties continue to try to achieve in peace what they have failed during war⁴³. One of the rare signs of moderation came with the relatively moderate Muslim vote in the November 2000 elections. But the daunting conclusion is that "in essence, two of the three ethnic groups work actively against the creation of a unified state."⁴⁴ This poses a great problem to the OSCE, as it greatly depends on local assistance to accomplish its goals.

The economic situation is crucial for sustainable peace in BiH. The country has to face not only reconstruction, but also the transition from Yugoslav-style communism to a market economy. Little foreign direct investment finds its way to BiH. As much as 30% of official GDP depends on foreign aid⁴⁵, which will inevitably decrease in the years to come. Unemployment is above 40%⁴⁶.

⁴¹ Cox, 2000:6.

⁴² UNHCR, 2000 Mid-Year Progress Report. <http://www.unhcr.ch/fdrs/my2000/bih.pdf>.

⁴³ Each party has its own intelligence service, and some public utilities are dependent on the parties. The nationalist parties have therefore no incentive to transfer control to new institutions, which they are not sure of controlling. See ICG, 1999:20.

⁴⁴ ICG, 1999:20.

⁴⁵ ICG, 1998:2.

⁴⁶ OHR Economic Newsletter, Vol. 3, No. 6, October 2000: <http://www.ohr.int/newsletter.htm>

In short, “Nationalist politics and ethnic differences continue to dominate every aspect of daily life”⁴⁷. Five years after the DPA, absence of war has not yet been transformed into sustainable peace.

Implementation of the OSCE’s Dayton Mandate

“The Dayton process is an experiment in supporting democratisation through externally imposed strategies.”⁴⁸ The subject of *democratisation* is a guiding thread through the activities of the OSCE in Bosnia. Defined in a broad sense, almost all of the OSCE’s activities are destined to foster democracy. While the OSCE is known for its foremost task of organizing and supervising “democratic” elections, this is part of a rather formal understanding of democracy. *Prerequisites* to elections are, for example, the rule of law, the separation of power, freedom of expression, association and movement, independent media, and an active civil society. Christophe Solioz says that “democratic consolidation is related to the *sustainability* of democratic institutions.”⁴⁹ Some even talk about a “culture” of democracy. Francis Fukuyama sees four levels of democracy: normative beliefs⁵⁰; the institutional level; the level of civil society; and the level of culture.⁵¹

The current OSCE Mission was established on 18 December 1995 and started working on 29 December 1995, initially relying on structures of the already existing but much smaller Mission in Sarajevo⁵². On 30 January 1996, the Provisional Election Commission⁵³ (*PEC*), chaired by the OSCE Head of Mission, was established. Within a short period of time, an international staff of more than 200 started to work under difficult conditions.

The Mission to BiH is one of the largest field missions of the OSCE. It has its head office in Sarajevo. The Head of Mission has the overall responsibility for Mission policy, planning and operations. One of the key assets of the OSCE is its strong presence in the field: It has today five regional centres⁵⁴ and 27 field offices. In sensitive areas such as Capljina, Trebinje and Velika Kladusa, the OSCE is often one of only a few organizations on the ground.

In the following sections, each aspect of the OSCE’s mandate will be analysed. “*Democratisation*” – as treated in the first section – is understood in the sense of promoting democratic values and structures as pre-conditions for free and fair elections. The *elections* themselves are treated extensively, as they are the almost exclusive domain of the OSCE. The organization also has taken a large but not exclusive responsibility in the domain of *human rights*. The *Media* are important not only in the context of elections, but also more generally for a democratic society. Finally, the OSCE’s contribution to *regional stabilization* will be briefly discussed.

Democratisation⁵⁵

The immediate focus of the Mission was on the elections. After the first elections in 1996 and its disappointing results, more attention was given to bottom-up processes. The OSCE is supposed to “foster suitable conditions for elections, and ... strengthen the development of

⁴⁷ Daalder and Froman, 1999:106.

⁴⁸ Chandler, 2000:36.

⁴⁹ Solioz, 2000:9. [emphasis added]

⁵⁰ A belief in the legitimacy of democracy.

⁵¹ Fukuyama, Francis (1995). “The Primacy of Culture”, in *Journal of Democracy*, vol. 6, no. 1, 1995, Baltimore, pp.7-14.

⁵² It was established in October 1994.

⁵³ I will come back to this important body in the *elections* section.

⁵⁴ Banja Luka, Mostar, Sarajevo, Tuzla, and Brcko.

⁵⁵ A map of OSCE democratisation activities is provided in Figure 3 of the Annex.

democratic institutions.”⁵⁶ These conditions include a well-functioning civil society, political parties, good governance, and the rule of law.

Civil Society Activities⁵⁷

Shortly after the war, inter-ethnic contacts and especially inter-Entity contacts were still rare. The OSCE tried to develop some confidence-building measures by installing a dialogue between ethnic groups and across the Entities. It organized, for example, roundtables of Bosnian intellectuals on themes such as “Democratic Development”.

Liberal political theory holds that civil society is the site of the formation of values, which make democracy possible. Civil society – represented in non-governmental organizations (NGOs) – is seen as a “third force” between the government and the economy. The OSCE also tries to encourage the *political* and advocacy role of NGOs. “There is a growing consensus today that elections without civil society do not produce democracy.”⁵⁸ The OSCE provided support and training for local NGOs, supported the development of youth centres⁵⁹, and worked for the promotion of women in politics.

Three examples should make these concepts more concrete:

- The OSCE established, in 1998, six *Democracy Centers*⁶⁰, in which people can meet, gather information, have access to a variety of media, and in which local NGOs are supported in different manners. Interestingly, five of the six centres now have independent funding.
- A one-day seminar “How to Establish an NGO” in Velika Kladusa in 1997 targeted teachers, students, political party representatives, women, intellectuals and local journalists.⁶¹
- The OSCE coordinated, together with the National Democratic Institute for International Affairs (NDI), the training of more than 3’000 domestic election observers from 159 local NGOs. This meant that between the 1997 municipal elections and the 1998 general elections, the number of local observers increased ten-fold⁶². After the elections, some of these groups made concrete proposals to the OSCE that were later implemented, like better training, earlier distribution of voter lists, less complicated ballot design, and earlier voter education.

Groups such as *Circle 99* or the *Coalition for Return* received logistical support and training. The OSCE’s selection method is as follows:

- 1) Identifying individuals or groups open to external support and influence⁶³;
- 2) Providing training and assisting in agenda-setting within these groups;
- 3) Mobilising active NGOs as *political* voices. Implicitly, this means supporting “civil” opposition against nationalist parties.

⁵⁶ OSCE, 1997:13.

⁵⁷ The *media* are also an important part of civil society. They will be treated in the media section.

⁵⁸ Chandler, 2000:136.

⁵⁹ Especially in the RS.

⁶⁰ Also called “reading rooms”.

⁶¹ Chandler, 2000:140.

⁶² OSCE, 1998:16.

⁶³ The OSCE is predestined to do this through its extensive presence on the field. Targeting was coordinated through five regional centres of operation in Mostar, Bihac, Banja Luka and Sokolac.

Any cross-Entity activities are likely to be supported by the OSCE because of their challenge to ethnic segregation. One of the problems is that these groups (more than 450 NGOs exist in BiH⁶⁴) are often run by intellectuals, and that common people feel more in touch with nationalist parties. Another problem is that members of NGOs are often afraid to speak out in public. In the FBiH, the OSCE encountered less problems than in the RS. It therefore intensified the development of NGOs in neglected areas such as the eastern part of the RS.

It is very difficult to evaluate the OSCE's civil society activities. The OSCE clearly understands that these activities have to involve the Bosnian people to a large extent. The organization was able to involve the local population to a large extent in order to *further* the goals of locally-created NGOs by providing assistance. But there is an underlying assumption that somehow, the Bosnians are not yet confident or skilled enough after the war to do this by themselves.

On the positive side, it has to be said that NGOs *do* exist and increasingly make their voices heard in BiH. Demonstrations and even street blockades are frequent, and so are NGO appeals to international organizations. Activities such as international youth exchanges give some counter-weight to the ethnically inspired school curricula.

On the negative side, particularly in the first post-war years, NGO assistance was often ineffective and funded for too short a period⁶⁵, the reason being the emphasis laid on elections and the obstruction by government officials. Furthermore, there still is no legal framework for the work of statewide NGOs⁶⁶. But the OSCE's NGO activities increased significantly in 1996 and 1997 and also included statewide NGOs.

The OSCE should also bear in mind that cross-Entity activities do not necessarily turn into a political movement. Chandler says: "People want to cross the Inter-Entity Boundary Line, and in some cases to return to their pre-war homes, but without drawing attention to themselves and without their actions being seen as threatening the security of others."⁶⁷ While this *may* be true in some cases, Chandler's claim⁶⁸ that NGOs tend to be *less* effective the more support is given to them is completely unfounded.

Furthermore, in an extremely weak state like BiH, there is a chance that NGOs become Para-Governmental Organizations (PMOs), meaning a cheap delivery service for donors. Building civil society should not mean outsourcing essential activities of the central government.

In concluding, I agree with Solioz that "OSCE experience proves that it is possible to involve regional and local NGOs not as subcontractors but as partners and as legitimate participants in a democratisation and regional integration process."⁶⁹

Political Parties Programme

This is a much more controversial programme of the OSCE. It aims to develop and assist viable multi-ethnic political parties through training, networking, by supporting voter

⁶⁴ Quoted in Solioz, 2000:16.

⁶⁵ Solioz, 2000:19,

⁶⁶ *Ibid.*

⁶⁷ Chandler, 2000:151.

⁶⁸ *Ibid.*

⁶⁹ Solioz, 2000:28.

contact events and by fostering access to media. It also seeks to advance the role of women in politics⁷⁰.

The *Democracy Centres* have already been mentioned. The *Political Party Service Centres*, established in 1998, provide to all parties free access to office equipment, meeting space and information⁷¹. During the 1998 campaign, almost 300 press conferences were held in these centres⁷².

Training and assistance focused on the “most viable political parties supporting multi-ethnic democracy.”⁷³ In other words: The OSCE was not only organizing, supervising and certifying elections, but also saying which parties it would prefer to get elected. Moderate, democratic, multi-ethnic and – most importantly – pro-Dayton parties are likely to get support⁷⁴. In view of the OSCE, the Bosnian people should be offered a “moderate political alternative”⁷⁵. But other than the carrot, there is also a stick. All political parties have to be “checked” by the OSCE before being allowed to stand candidates. Party Presidents must even sign a statement that the party will abide by the DPA, the electoral code of conduct as well as other PEC rules and regulations⁷⁶. Many Bosnians – especially Serbs and Croats – perceive this as paternalistic.

Other activities of the *Political Parties Programme* include promoting political research and civil education, providing tribunes during campaigns, etc.

There are good reasons for continuing the Political Party Programme. The three main nationalist parties have an important informal network, which gives them a strategic advantage over new alternative parties. Very often, what the SDA, the SDS or the HDZ say is simply the law of the land.

Governance programme

This programme provides intensive training for municipal officials on financing and implementing sustainable municipal infrastructure projects. The *Municipal Infrastructure Finance and Implementation Programme* is supposed to help municipalities in better day-to-day administration. In 1998, training on democratic local governance for new councillors in 107 municipalities was organized. This brought many of the councillors together for the first time since the war⁷⁷. After the April 2000 elections, more than 50 Mayors and Senior Municipal Administrators were trained in the principles of municipal administration and the functioning of good governance. The programme included seminars and visits to Germany and Spain.

Rule of Law programme

The rule of law is one of the basic democratic principles. The OSCE's is involved, amongst other things, in the creation of what is to be a self-sustaining *Legal Aid Network*. It

⁷⁰ In 1998, a coalition of women's groups and politicians successfully campaigned with OSCE assistance to change PEC rules and regulations. Three out of the top nine candidates of each list now have to be female. In the April 2000 Municipal elections, 18% of elected officials were woman. This is a higher percentage than at any local election ever in BiH.

⁷¹ OSCE, 1998:16.

⁷² *Ibid.*

⁷³ OSCE, 1999:14.

⁷⁴ Financial and otherwise.

⁷⁵ OSCE, 2000:13.

⁷⁶ The OSCE also has the power to remove candidates from election lists or to ban whole parties from standing for election. I will discuss this in the election section.

⁷⁷ OSCE, 1998:16.

organized, for example, training sessions for legal professionals on the European Convention for the Protection of Human Rights and Fundamental Freedoms. But as of mid-1999, 7'663 cases were pending before the Legal Aid Network and only 304 legally resolved. The OSCE also contributed to judicial training, the provision of materials to courts, the production of a commentary on BiH laws, the formulation of a judicial reform strategy for BiH, etc. It also convinced Entity judges to adopt a common code of ethics.⁷⁸

Corruption is a huge problem in BiH⁷⁹. The OSCE has anti-corruption projects in all of its programme areas. A public anti-corruption campaign from 15 September to 15 December 2000 tried to raise the public's awareness notably of the involvement of the nationalist parties in corruption.

The rule of law in BiH is not credible, and the international community itself acts as a bad example. How can people ever have confidence in the rule of law if the DPA remains largely unimplemented, and if indicted war criminals remain at large?

Evaluation

There are two implicit ideas behind the OSCE's democratisation strategy in BiH that are problematic. The first is the "assumption that democracy can be taught or imposed by international bodies on the basis that some cultures are not rational or civil enough to govern themselves."⁸⁰ We may respond to this critique that the 1992 – 1995 was not a good example of civilised behaviour, and that the conflict has left deep wounds that can only be healed with outside assistance. The second implicit idea is the general assumption that ethnic hatred *can* somehow be countered through democratisation. As we will see in the elections section, democracy can, in fact, *re-enforce* ethnic segregation. We may respond to this critique that there are no feasible alternatives to democracy. Both a complete international protectorate and complete international withdrawal are politically unacceptable for the West.

A critique, which is to be taken seriously, focuses on the central position of international institutions. The further "democratisation" progresses in BiH, the more power passes from the Bosnians to the international community. The international Mission has become more assertive, "to the point where the Office of the High Representative (OHR) and the Organisation for Security and Cooperation in Europe (OSCE) have become central pillars of the constitutional order"⁸¹. In other words: Democratisation has not been done in a very democratic way. While this can be perfectly justified, it means that people feel they have little to say in the peace process, and that responsibility for all problems can be delegated to unaccountable international bodies.

Elections

The OSCE was given the primary responsibility for organizing and supervising elections⁸². The task was unprecedented both by the range of responsibilities and its sheer scale. So far, the OSCE organized six rounds of elections⁸³: general elections on 14 September 1996, 12-13 September 1998 and 11 November 2000; municipal elections on 13-14 September 1997

⁷⁸ OSCE, 1999:14.

⁷⁹ The figure of 1 billion US \$ of aid money wasted by corrupt officials is often quoted. This is probably an exaggeration, but gives an idea about the scale of the problem.

⁸⁰ Chandler, 2000:5.

⁸¹ Knaus and Cox, 2000.

⁸² DPA, Annex 3, Article II and III.

⁸³ Even so the DPA just foresees the organization and supervision of the first state-wide elections.

and 8 April 2000; as well as special elections for the RS national assembly on 22-23 November 1997⁸⁴. This was probably the most complex series of elections in history.

The OSCE had to “*certify* whether elections can be effective under current social conditions in both Entities ... and, if necessary, to provide assistance to the Parties in creating these conditions”⁸⁵. The OSCE considers these conditions to be: “a politically neutral environment, the right to vote in secret without fear of intimidation, freedom of expression and of the media, freedom of association and freedom of movement”⁸⁶. Furthermore, the organization was asked, “to supervise ... the preparation and conduct of elections”⁸⁷. This includes the registration process. Finally, the OSCE certifies election results and helps to implement them.

Provisional Election Commission (PEC)

One of the first acts of the OSCE Mission to BiH was the establishment of the Provisional Election Commission⁸⁸ (PEC). This mixed local-international body is chaired and dominated by the OSCE Head of Mission and is responsible for regulating the electoral process. The PEC established rules and regulations regarding the registration of political parties, the eligibility of candidates and voters, the role of election observers, the nature of electoral campaigning, and the handling of results. Its decisions are final. The political opposition is not represented in the PEC. The first set of regulations was adopted on 22 February 1996. PEC rules and regulations have since evolved significantly. The PEC is the longest-running, continuously functioning multi-ethnic institution in BiH since the signing of the DPA. It continues to operate until a Permanent Election Law is adopted.

Election Appeals Sub-Commission (EASC)

The PEC established the EASC in May 1996. While the sub-commission had a late start and suffered from insufficient resources in the first year, it has grown into a powerful body to investigate and adjudicate violations of electoral rules and regulations. It can impose – and has imposed – effective sanctions, including the disqualification of candidates and the de-certification of parties. It used its powers in a number of cases to remove candidates and identify, remedy and punish election-related fraud.

Out of Country Voting

Any voter whose name appears on the 1991 census is eligible to vote, regardless of where that person currently resides⁸⁹. It is an important responsibility of the OSCE Mission to BiH to organize out of country voting.

International Election Observers

The OSCE trained and deployed international election observers throughout BiH to supervise the process.

The 1996 General Elections

Swiss foreign minister Flavio Cotti, the Chairman-in-Office during the crucial year 1996, had to take one of the most difficult and wide-ranging decisions ever on behalf of the OSCE. He had to decide whether conditions were sufficient for holding elections in BiH.

⁸⁴ In chronological order: September 1996: national elections; September 1997: municipal elections; November 1997: special RS elections; April 2000: municipal elections; November 2000: general elections

⁸⁵ DPA, Annex 3, Article I, paragraph 2 [emphasis added]

⁸⁶ OSCE, 1998:8-9.

⁸⁷ DPA, Annex 3, Article II, paragraph 2.

⁸⁸ DPA, Annex 3, Article III:2.

⁸⁹ DPA, Annex 3.

The DPA requested for elections to be held between six to nine months after signature⁹⁰, but the deadline was not considered “untouchable”.

At the time of the certification decision, freedom of movement was limited, voter intimidation and fraud attempts were widespread, and nationalist propaganda was diffused through ethnically controlled media. Cotti warned that unless minimal requirements were met, the elections could degenerate into a “pseudo-democratic legitimisation of extreme nationalist structures and ethnic cleansing”⁹¹. In fact, nationalist parties wanted elections as soon as possible because this would, according to Carl Bildt, “lead to the legitimisation of existing structures – in particular the Republika Srpska – and that they would thus acquire a permanence that they had not possessed hitherto...”⁹²

The international community was overwhelmingly in favour of elections as soon as possible. Especially US President Bill Clinton, who was in an election year and had promised a “quick fix” for the Bosnia problem, exercised pressure on the OSCE. It became clear that the certification decision was a balance between factual and political considerations. The nine-month deadline “proved unrealistically short – reflective more of the drafters’ desire to secure a rapid transition to formally democratic government than of conditions on the ground.”⁹³ But despite his reservations, Cotti concluded that there was “no convincing alternative to the holding of Presidential and Parliamentary elections”⁹⁴. The 27 August 1996 decision by the Head of the Mission and PEC Chairman Robert Frowick to postpone *municipal* balloting implicitly acknowledged the absence of suitable conditions in some regions⁹⁵.

James Goldston called the power to delay elections until conditions improved “the most powerful weapon at the OSCE’s disposal to improve human rights prior to Election Day”⁹⁶. From the moment the decision was taken to hold the national elections, tactics of the international community had to change. The OSCE and the OHR now had to seduce the nationalists into cooperation instead of pressuring them into implementation.

The OSCE had the power to exclude indicted war criminals from elective or public office⁹⁷. It negotiated the resignation of Radovan Karadzic from the chairmanship of the SDS. He was also banned to appear in public, on radio or TV. The OSCE election regulations made it illegal to mention his name in public rallies or to have his picture on election material⁹⁸. The negotiations didn’t succeed without a threat by OSCE Head of Mission Frowick to disallow the SDS for the elections. Furthermore, on 10 September 1996, the EASC ruled that SDS should forfeit 50’000 US \$ for statements interpreted to threaten the territorial integrity of BiH.⁹⁹

On 14 September 1996, the elections took place. More than 1200 OSCE supervisors and observers from participating states were present all over BiH. On 29 September, the PEC certified that the elections had taken place “in accordance with internationally accepted

⁹⁰ DPA, Annex 3, Article II, paragraph 4

⁹¹ Flavio Cotti, „Declaration at Permanent Council of OSCE“, 25 June 1996.

⁹² Bildt, 1998:254.

⁹³ Goldston, 1997:8.

⁹⁴ OSCE, 1996:9.

⁹⁵ Municipal elections would be postponed a total of three times.

⁹⁶ Goldston, 1997:25.

⁹⁷ DPA, Annex 4, Article 10.

⁹⁸ Chandler, 2000:102.

⁹⁹ Cited in Chandler, 2000:122.

standards of eligibility, access, participation, and transparency.”¹⁰⁰ The absence of the words “free, fair and democratic” has to be noted. The three main nationalist parties won about 86% of the seats in the Bosnian state Parliament. The SDS won the Serb member of the BiH collective presidency and a comfortable majority in the national assembly of the RS.

Considering the limited time, resources and experience to organize the elections, some shortcomings were inevitable. Participating states failed to provide sufficient personnel, which delayed the voter registration process. As a result, thousands of refugees were unable to vote. The Media Experts Commission (*MEC*) also lacked of personnel and experience. And most embarrassingly, the OSCE was unable to explain a voter turn out reported to be over 100%¹⁰¹, which raised the possibility of massive fraud. One week after certification, the OSCE destroyed the ballots.¹⁰²

A very controversial PEC decision concerned displaced voters. While the DPA held that “A citizen who no longer lives in the municipality in which he or she resided in 1991 shall, as a general rule, be expected to vote in person or by absentee ballot, in that municipality”¹⁰³, the PEC ruled that displaced persons may *choose*, with various criteria, where they wanted to vote. This ruling made it possible to pack post-war majorities into ethnically cleansed communities. In Srebrenica, for example, 19’746 Serbs registered to vote.¹⁰⁴

1997 Municipal elections

Municipal elections were postponed three times¹⁰⁵, and despite last minute tensions, they were held on 13-14 September 1997. The OSCE’s primary objective was to “achieve a higher standard of accountability and transparency”¹⁰⁶. It further elaborated rules and regulations to formalize definitive criteria for voter eligibility as well as procedures relating the registration of parties, coalitions, and candidates. The registration of 2.5 million voters took eight weeks and included registration centres in FRY, Croatia as well as mail registration from throughout the world¹⁰⁷.

Voters were allowed to choose their pre-war municipality or their current place of residence, if some established criteria could be met. In the RS, 65% of displaced voters preferred their *current* municipality; in FBiH it was 45%¹⁰⁸. They did this, in their majority, to nullify the results of other absentee votes¹⁰⁹. So the DPA’s “general rule” to vote in the original municipality was not respected. The OSCE again had to respond to charges that it helped to legitimise ethnic cleansing by its interpretation of the DPA.

A record number of 2’500 international supervisors were present in “polls that, in many municipalities, demonstrated a move towards political pluralism and new trends”¹¹⁰. In 42 municipalities, displaced voters won between 20 and 49% of council seats¹¹¹. Absentee

¹⁰⁰ OSCE, 1996:8.

¹⁰¹ Rathfelder, 1996:3.

¹⁰² ICG, 1999:13.

¹⁰³ DPA, Annex 3, Article IV.

¹⁰⁴ ICG, 1999:58, footnote xlix.

¹⁰⁵ Bougarel, 1997.

¹⁰⁶ OSCE, 1997:11.

¹⁰⁷ *Ibid.*

¹⁰⁸ ICG, 1999:14.

¹⁰⁹ A hypothetical example: A Muslim is displaced from his original municipality in RS to a formerly mixed municipality in FBiH. He expects displaced Serbs to vote by absentee in his new municipality. So he’s afraid to waste his vote for his original municipality where he doesn’t expect to be able to return.

¹¹⁰ OSCE, 1997:11.

¹¹¹ Pugh, 2000:10.

majorities¹¹² were only elected in five municipalities in the FBiH and one in the RS¹¹³. The ruling nationalist parties scored victories in the overwhelming majority of municipalities that they controlled militarily¹¹⁴ – despite 1.5 mio US \$ of support for opposition parties.

The conduct of the elections was less difficult than the implementation of the results. This will be discussed in the relevant section.

Special Elections in the RS

As a consequence of the split within the SDS between the extreme Karadzic faction and the more moderate Plavsic faction, a constitutional crisis developed in the RS. The OSCE supported Plavsic's decision to dissolve the national assembly of the RS and supervised new elections on 22-23 November 1997. However, "while the election was well administered, it had been grafted onto a political environment which falls short of democratic standards."¹¹⁵

The SDS scored poorly in the elections, and thanks to 18 seats won by Muslim and Croat absentee votes, a moderate government was installed in the RS.

1998 General Elections

The 12-13 September general elections were yet another victory for the nationalist parties. There was only a slight decline in the nationalist vote. In the RS, the extreme wing of the SDS came back to power, with "the international community's open support for ... Plavsic being as much a factor in Poplasen's victory as any other"¹¹⁶. Nikola Poplasen, the newly elected President of the RS, was displaced by the HR¹¹⁷ in February 1999¹¹⁸.

The OSCE-produced voting lists contained massive errors. Technical problems also delayed the opening of some polling stations. But voting was reported to be peaceful.

On 24 June 1999, the PEC decided to postpone municipal elections scheduled for November 1999 "because of a combination of political, administrative and legal reasons"¹¹⁹. The PEC again implicitly admitted that fundamental conditions were not suitable for elections.

Draft Permanent Election Law

A Permanent Election Law was supposed to be formulated by the Entities for all future elections beyond 1996¹²⁰. Since they failed to do so, the OHR and the OSCE started drafting an election law in April 1999¹²¹. On 5 August 1999, the first draft permanent election law was announced¹²². The most important changes compared with provisional rules include: Candidates now need the sponsorship from voters or a municipality in a different Entity (a different *ethnicity* is not specified); furthermore, voters are able to choose from an open list of candidates¹²³. The latter change was requested by a large number of voters during the

¹¹² Pugh, 2000:11.

¹¹³ In Srebrenica.

¹¹⁴ ICG, 1999:14.

¹¹⁵ OSCE, 1998:3.

¹¹⁶ ICG, 1999:15.

¹¹⁷ Friedman, 2000:28.

¹¹⁸ NATO troops occupied public buildings in Banja Luka in what many described a *coup d'Etat*.

¹¹⁹ OSCE, 1999:12.

¹²⁰ DPA, Annex 3, Article 5.

¹²¹ OSCE, 1999:13.

¹²² ICG, 1999:17.

¹²³ A third of which must be women.

OSCE's Permanent Election Law Public Information Campaign¹²⁴. But political parties still play the major role in the new election system.

In February 2000, the BiH Parliament rejected the draft permanent election law. Throughout 1999, the PEC adopted its provisional rules to be in conformity with the law. An important change in rules was a new residency requirement under which candidates can't occupy accommodation owned by a refugee or displaced person. Because of the rejection, the OSCE extended its role in the preparation and conduct of the April and November 2000 elections.

April 2000 Municipal Elections

Before the April 2000 Municipal elections, the Serb Radical Party (*SRS*) refused to remove several obstructionist officials from positions of party leadership. As a consequence, the PEC, on 25 October 1999, took the unprecedented step of *banning* the SRS from participating in this round of elections¹²⁵. It also de-certified another small Serbian party from the elections.

During Election Day on 8 April, no major incidents were reported. There were a few technical problems with voter registration lists and voters unable to find their polling station¹²⁶.

OSCE Head of Mission Robert Barry and High Representative Wolfgang Petritsch spoke of "free and fair"¹²⁷ elections.

However, as it was the case with all other elections, the problem was not technical, but political. "An underlying theme of all the Mission's activities was the question as to whether support for nationalist parties, which advocate a future dominated by issues of ethnicity and nationality, will continue, or whether other parties, which advocate the primacy of economic development over ethnic issues, and stand for pragmatism rather than irreconcilable nationalist dreams, will be able to clip the nationalists' wings."¹²⁸

The hopes of the international community were partly fulfilled by the defeat of the Muslim nationalist SDA. The gains went to the multi-ethnic Social Democratic Party. However, this development was limited to municipalities in which Muslims were in the majority. Nationalists continued to dominate most of the municipalities. Equally disappointing was the re-emergence of the SDS in 49 out of 61 RS municipalities¹²⁹.

Some criticized the OSCE for not having postponed the elections¹³⁰ due to democratic changes in neighbouring Croatia. The voter registration lists were closed in 1999 before the defeat of nationalist Croatian President Tudjman was known. However, as the November 2000 elections will show, the Bosnian Croats were not very impressed with the diminishing support from Zagreb.

¹²⁴ ICG, 1999:17.

¹²⁵ ICG, 1999:18.

¹²⁶ ICG, 2000a:10.

¹²⁷ Cited in ICG, 2000a:9.

¹²⁸ OSCE, 2000:11.

¹²⁹ ICG, 2000a:14.

¹³⁰ ICG, 2000a:7.

November 2000 general elections

On 11 November 2000, the optimists were disappointed. To the surprise of many observers, the election of new Yugoslav President Kostunica has, like the election of Mesic in Croatia, not had an effect on BiH. If anything, the change in neighbouring countries seems to have energized extremists in BiH. The SDS and the HDZ scored victories, while in the Muslim areas, the big winner was the Party for Bosnia and Herzegovina (*SBiH*) with its leader, war-time prime minister Silajdzic, who energetically demands DPA implementation. “Silajdzic is the first Bosnian politician to hold the international community to account for its share of the responsibility for the non-implementation of Dayton”¹³¹.

During the election campaign, the EASC found the HDZ campaign slogan “Determination or Extermination” to foster ethnic hatred. The HDZ had to remove all election material containing the slogan.¹³² Some in the international community also began debating banning the SDS for the elections, on the grounds that Karadzic continued to influence the party’s day-to-day activities.¹³³ The ICG argues that “long-term, sustainable peace in Bosnia will remain impossible as long as the SDS is permitted to participate in the political process”¹³⁴. The OSCE decided not to ban SDS, arguing that this would represent a significant disenfranchisement of potential SDS voters.¹³⁵ But the EASC removed a number of candidates.

The Brussels Peace Implementation Council instructed the OSCE-chaired PEC to change electoral rules.¹³⁶ As mentioned before, voters could now specify *candidates* and not just parties. The organization continued to enforce rules prohibiting candidates from illegally occupying property from refugees and displaced persons, striking a number of individuals from parties across the entire political spectrum. The PEC also required parties to submit a financial disclosure form.¹³⁷

The OSCE “Vote Down Corruption” campaign had only limited success with the electorate.

Implementation of Election Results and OSCE interventions

An additional source of frustration within the international community is the poor implementation of election results. In numerous instances, elected officials are obstructed to take office or are sidelined in decision-making when they are able to occupy office.

The OSCE has the power to de-certify results when implementation is not sufficient. It can decertify any municipality for breach of rules up to six months after certification. Certification is conditional on co-operation between majority and minority parties and the respect of some “basic democratic principles”. For example, threats against elected councillors or ethnic oaths of office may give reason to decertify a municipality.

The OSCE made increasingly use of its power. In 1996, some authorities that failed to form interim municipal assemblies no longer received financial resources from shared taxes or reconstruction aid. In 1997, the OSCE *de facto* annulled the election results of Brcko, where the Serbs won a majority. An OHR supervisor established one of the most ethnically balanced staffs of any city in BiH. In 35 disputed towns like Novi Travnik, Gornji Vakuf,

¹³¹ ICG, 2000b:iii.

¹³² ICG, 2000b:6.

¹³³ ICG, 2000b:7.

¹³⁴ ICG, 2000b:17.

¹³⁵ ICG, 2000b:8.

¹³⁶ Declaration of the Peace Implementation Council, Brussels, 23-24 May 2000.

¹³⁷ ICG, 2000b:2.

Zepce, Foča, and Srebrenica, the OSCE also created multi-ethnic interim administrations with greater parity¹³⁸. After the 1997 municipal elections, there was a power-sharing agreement in 126 municipalities; 10 underwent OSCE/OHR arbitration.

The only town in the RS where displaced persons won a majority in the first municipal elections was Srebrenica, where most Serbs had boycotted the election. An “Interim Executive Board” was set up under OSCE chairmanship, “but its functioning has been hampered by continued recalcitrance, particularly on the part of the Serbs”¹³⁹. The OSCE ruled by decree.¹⁴⁰ It was only in May 1999 that the OSCE was able to win Serb acquiescence for a multi-ethnic administration in Srebrenica. In June 1999, a multi-ethnic municipal council was installed.¹⁴¹

Three points of critique have been addressed to the OSCE. Firstly, the disregard of majority opinion¹⁴²; secondly, “even disruptive councils managed to gain certification for a time, notably in Drvar where Croats beat up Serb councillors and rioting led to a second flight of Serbs and withdrawal of international agencies”¹⁴³; thirdly, that the imposed power-sharing did little to challenge nationalist politics¹⁴⁴.

Handing over of Responsibility to BiH citizens

“The complexities of post-war conditions and an externally imposed system mean that the elections had no secure foundations in local society”¹⁴⁵. This foundation was to be created by the hand over of the election administration to the Bosnians. The idea was to get to a point where election administration can be efficient, effective and *sustainable* within the capacity and resources of the governments of BiH. “Once the new election law is adopted and the Bosnian institutions ready to take off, the OSCE Mission will significantly reduce its role”¹⁴⁶. However, the OSCE would retain the power to intervene in the process if necessary. But due to the rejection of the draft permanent election law, the transfer of responsibilities to Bosnian nationals was limited.

The OSCE has laid one of the most important foundations for the handover through the creation of a nation-wide voter register maintained through a centralized database. It also worked with Local Election Commissions to provide the foundation for the nationalisation of electoral infrastructure. It increasingly recruited BiH citizens to key staff positions and financed training in the Programme in Electoral Administration Process offered by the University of Essex. In 1998, a Bosnian national was recruited as Head of Political Party Services¹⁴⁷. In 1999, the position of “Associate Director General for Elections” was passed to a Bosnian. Since 1999, the main focus was on preparing local staff and providing resources for an effective and sustainable hand-over. Formal and operational training was provided to selected national staff members. Furthermore, a “Bosnian Association of Election Officials” was established.

¹³⁸ Pugh, 2000:11.

¹³⁹ OSCE, 1998:14.

¹⁴⁰ *Economist* (1998b).

¹⁴¹ OSCE, 1999:14.

¹⁴² Chandler, 2000:89.

¹⁴³ Pugh, 2000:12.

¹⁴⁴ Chandler, 2000:125.

¹⁴⁵ Pugh, 2000:8.

¹⁴⁶ Solioz, 2000:22.

¹⁴⁷ OSCE, 1998:15.

Evaluation

Nobody envied the OSCE for organizing post-war elections in Bosnia. The organization had to deal with extremely difficult circumstances, especially the active and passive obstruction efforts by Serb and Croat nationalists. One can say that the very fact that elections *did* take place and generally saw a high voter turnout is a major success. Some 200 parties, excluding independents, stood for the municipal elections of 1997 and 2000.¹⁴⁸ Technical irregularities have to be seen as part of the OSCE's inexperience.

The problem lies not with the elections but with the results. The elections provided the monolithic nationalist parties with an extra-source of legitimacy. "Research in BiH supports the argument that the link between elections and ultra-nationalism is ... strong"¹⁴⁹. The basic dynamics of the Bosnian conflict remain unchanged. Does the OSCE have to take part of the responsibility?

The decision to hold the first post-war "democratic" elections even no conditions were bad probably gave the nationalist parties an unfair advantage. But the voters didn't change their basic patterns when later the opposition parties got massive support from the international community.

One also has to accept that the DPA is a compromise partly built on the idea of ethnicity. If you want to get elected in BiH, there is no need to get the support of another ethnic group than your own. For example, the RS member of the collective BiH Presidency has to be a Serb¹⁵⁰; even no today's territory of the RS was mixed before the war. But that is the price that had to be paid for ending that war.

Much more problematic are the PEC's rules and regulations regarding absentee votes. "In a move that still haunts Bosnian elections, the OSCE-led Provisional Election Commission (PEC) rewarded the ethnic cleansers during the writing of the 1996 and 1997 election rules, by permitting the ruling parties to ethnically gerrymander and pack voting districts where they only had a minority presence prior to the war"¹⁵¹. To put it in simple words: If you vote where your military is in control, you can be almost sure "your" nationalists win. Had the "general rule" in Annex 3, Article IV been fully implemented, large ethnic minority blocks would have spread throughout both Entities. This may have forced political compromise and may have facilitated minority returns.

Some critics favour a "more consistent and frequent use of powers vested in the OHR as well as a clearer application of the OSCE's power to ban parties and individuals from office who demonstrably work against the implementation of the Dayton Peace Accords."¹⁵² We may respond that the banning of the nationalist parties would significantly disenfranchise voters of their democratic rights and make democracy little more than a farce.

Finally, the elections *as such* might have been over-emphasized by the international community to the detriment of creating the necessary *conditions* for elections. But attacking the "economic and political causes of the tenacity of Bosnian nationalism"¹⁵³ is easier said than done. Today, it seems that parts of the international community regard the election

¹⁴⁸ Pugh, 2000:5.

¹⁴⁹ Pugh, 2000:4.

¹⁵⁰ DPA, Annex 4, Article II:5.

¹⁵¹ ICG, 1999:12.

¹⁵² ICG, 2000b:17.

¹⁵³ ICG, 2000b:iii.

process as “more or less a necessary exercise rather than a *bona fide* opportunity for the Bosnians to exercise their mandate for self-determination”¹⁵⁴.

As Michael Pugh points out correctly, the elections have not created a state¹⁵⁵.

Human Rights

The protection and promotion of human rights is generally seen as an essential prerequisite for a democratic society. This is especially true in a country that has probably seen the most flagrant violations of human rights on European soil since the Holocaust.

Never before has there been so much emphasis on human rights in a peace treaty. The DPA ensures the citizens of the Bosnian state of “the highest level of internationally recognised human rights and fundamental freedoms”¹⁵⁶. No less than 16 international human rights agreements are incorporated into Bosnian law¹⁵⁷. The most important of these international instruments is the European Convention on Human Rights (*ECHR*), which is applicable as domestic law in BiH and the Entities, even though BiH is not yet a member of the Council of Europe. Of these agreements, the USA has only agreed to be fully bound by 3, the UK by 10. Needless to say, practise in BiH is different. The primacy of ethnicity over all other aspects of life runs contrary to the very idea of human rights.

Monitoring and furthering the development of Human Rights in BiH is not the exclusive task of the OSCE. It is a shared responsibility together with the UNHCR, the UN High Commissioner for Human Rights, and other intergovernmental or non-governmental human rights organizations and missions.

The OSCE works to advance civil, legal and economic (especially property) rights, reports on Human Rights violations and, when necessary, intervenes in individual cases with relevant authorities.¹⁵⁸ It also helps to create an independent judiciary. Today, 30 Human Rights Officers (*HROs*) and twelve National Human Rights Monitors are present in five Regional Centres and 27 Field Offices throughout the country. That represents the “largest cadre of human rights experts on the ground”¹⁵⁹.

The organization also assists national HR institutions. The leading body for promotion of human rights is the *Commission on Human Rights*. It is a national body with temporary international character and is invited “to assist (the Parties) in honouring their obligations under the Agreement”¹⁶⁰. The Commission has two parts:

- 1) *Office of the Ombudsperson*¹⁶¹. It investigates individual allegations of HR violations by state organs, issues findings and reports, and refers cases to the Human Rights Chamber. The Ombudsperson is appointed by the Chairman-in-Office for a period of five years. He or she cannot be a citizen of BiH or a neighbouring state. The Ombudsperson has access to all official documents. Its findings carry less weight, since they rely on local authorities to comply out of good will¹⁶².

¹⁵⁴ Friedman, 2000:27.

¹⁵⁵ Pugh, 2000:7.

¹⁵⁶ DPA, Annex 4, Article II, paragraph 1.

¹⁵⁷ DPA, Annex 4, Article I, and appendix to Annex 6.

¹⁵⁸ <http://www.oscebih.org/missionoverview/overview-programmes-hr.htm>

¹⁵⁹ <http://www.oscebih.org/humanrights/eng/hr-property-people-eng.htm>

¹⁶⁰ DPA, Annex 6.

¹⁶¹ It started to work as a whole on 26 March 1996.

¹⁶² ICG, 1999:28.

Compliance with its recommendations is difficult to check, because the Ombudsperson operates mostly in secret.

- 2) *Human Rights Chamber*. This is a judicial body under the auspices of the Council of Europe that can issue final and binding decisions.

Human Rights Monitoring and Reporting

The OSCE started reporting regularly already before the first elections. A particular focus then was on election-related human rights such as freedom of movement, freedom of expression and freedom of association. However, in 1996, there was a scramble for resources within the young OSCE Mission. “Most election Officers preferred to view human rights and elections as related but separate issues, for fear that ongoing human rights violations would delay the elections can cause the Mission to fail to meet the September 1996 deadline.”¹⁶³ As Election Day approached, Mission vehicles, interpreters and staff were increasingly absorbed to prepare the elections. After the first elections, human rights monitoring was given a prominent place inside the Mission. The organization continues to issue regular reports and to intervene with authorities when necessary. The normal procedure is for HROs of the IPTF to transfer a case to a HRO of the OSCE. Occasionally, OSCE HRO don’t direct complaints further to the Human Rights Chamber, because that body can take years to decide a case¹⁶⁴.

Promoting returns

From 1997 until today, a major focus of the OSCE’s Human Rights Branch are *property issues*, which are connected to the return of displaced persons. The Mission contributed greatly to the passage of property legislation in the FBiH, which allows hundreds of thousands of persons to reclaim apartments. “Monitoring of implementation of the legislation, however, has revealed significant obstruction by municipal authorities, requiring intervention by the human rights officers in the field.”¹⁶⁵ Also in the RS, a new property law was passed, but housing and other authorities obstructed implementation¹⁶⁶. In 1999, “double occupancy commissions” were established to identify illegal occupants and make prioritised lists for eviction. A public awareness campaign sought to make the new property legislation directly known to affected people. The Human Rights Department intervened in thousands of cases to rectify human rights violations¹⁶⁷. However, as HRO have “no power to enforce human rights, they are to a large extent ignored”¹⁶⁸. A lot of what they have achieved is due to their personal talent. The OSCE is *the only organization to receive property claims on the field*¹⁶⁹. “The most significant remaining obstacle ... is the difficulty experienced by pre-war occupants in repossessing their houses and apartments”¹⁷⁰. Fewer than 56’000 of the 211’055 claims filed have been adjudicated¹⁷¹. And in those cases that have been resolved, less than 11% resulted in return of accommodation to the pre-war occupant.

In view of more refugee and displaced persons returns, the OSCE also sought to improve access to identity cards, utilities, pensions and employment. As the return picked up

¹⁶³ Lupis, 1999:21.

¹⁶⁴ *Ibid.*, p.29.

¹⁶⁵ OSCE, 1998:15.

¹⁶⁶ *Ibid.*

¹⁶⁷ *Ibid.*

¹⁶⁸ ICG, 1999:31.

¹⁶⁹ OSCE, 2000:2.

¹⁷⁰ OSCE, 2000:12.

¹⁷¹ *Ibid.*

momentum¹⁷², violence increased in locations where refugees and displaced persons were returning.

For returnees, discrimination in employment and education is a major problem. HROs intervened in many individual cases. “This works is bearing fruit only now in a few municipalities where minority returnee children have been able to attend local schools without having to be taught according to the curriculum of another ethnicity”¹⁷³.

The OSCE closely works with the OHR to prepare a legislative response to property issues. It also supports and cooperates with other human rights mechanisms.

Evaluation

Human rights are still widely abused in all of BiH. Government officials and institutions systematically discriminate against people on the basis of ethnicity. Obstruction to the return of refugees remains a big problem. David Chandler and others question if human rights violations are really that bad – they may also be over-reported because BiH is so well monitored. “There was little evidence to suggest the strategic or locally organised political use of state institutions such as the police to abuse the HR of minorities”¹⁷⁴. However, most scholars don’t question the reality of human rights abuse, which are flagrantly obvious to every visitor.

As the Ombudsperson has more symbolic than real power, compliance with its recommendations is rather weak. However, there is some evidence that compliance with the Human Rights Commission in general has increased since 1999¹⁷⁵. This may be related to BiH’s attempts to accede to the Council of Europe. An additional problem is the lack of involvement of Bosnian nationals in human rights work. Lawyers and politicians are often even unaware of what is law. The OSCE has contributed a lot to make laws and rights known to the public.

One may wonder if the multiplicity of human rights institutions is effective. Maybe it would make more sense to concentrate everything in one body that can make judicially binding decisions. Another suggestion is for intergovernmental organizations to completely drop out of the politically sensitive area of human rights monitoring and instead fund NGOs like Amnesty International or Human Rights Watch to do the job.

Media affairs

Almost everything in BiH is still divided according to ethnic lines. That includes the perception of the historical truth¹⁷⁶. Even today, a lot of citizens don’t know what really happened during the war and perceive their political counterparts through the lenses of ethnic media, including those from the FRY and Croatia. So the development of a pluralistic, independent media is an important long-term democratisation objective.

There is, of course, a connection between the media and elections. While the DPA does not give explicit competences over the media to the OSCE¹⁷⁷, the organization has had its powers of regulation over the media environment expanded. The PEC established, in 1999, the *Standards of Professional Conduct for the Media and Journalists*. They require fair

¹⁷² OSCE, 2000:11.

¹⁷³ *Ibid.*

¹⁷⁴ Chandler, 2000:98.

¹⁷⁵ ICG, 1999:32.

¹⁷⁶ Stoessel, 1999.

¹⁷⁷ DPA, Annex 3, Article 1, paragraph 1 and 2.

reporting, avoiding inflammatory language, as well as accurate and balanced information. The OSCE also helps in the professional development of journalists, in management training and assistance, and it gives small grants to independent media outlets to improve their ability to produce high quality, professional programmes and become self-sustainable in the long-term.

The OSCE was also substantially involved in the evolution and expansion of the only independent radio station covering the whole of BiH territory, the “Free Exchange Radio Network” (FERN). It was launched in July 1996 with the assistance of the Swiss government. Several international bodies, including the OSCE, are present in the steering committee. But despite generous funding and a high level of professionalism, audience figures are disappointing.

The same is true for the Open Broadcast Network (OBN), an internationally funded TV programme. Of the viewers surveyed in the capital of the RS, Banja Luka, fewer than 5% of people watched OBN or listened to FERN regularly.¹⁷⁸

The reason is clear: All the international community does is regarded with great suspicion. Its activities in the media domain are seen as yet another attempt to press citizens into voting for multi-ethnic parties.

In 1999, the OSCE started a Media Law initiative with the aim of developing a body of law, and a corps of lawyers, able to promote and protect the rights of journalists, to ensure freedom of expression, and permit establishment and operation of transparent and independent media outlets.¹⁷⁹ The OSCE also oversees the drafting of a freedom of information law.

Contacts amongst journalists

Immediately after the war, inter-Entity contacts were scarce. The OSCE organized seminars, assisted in the development of journalists associations, in the creation of a BiH Press code, etc. It also made sure that copies of newspapers and magazines were delivered to other journalists and influential people across the former front line. An inter-Entity Journalists’ Conference in October 1997 brought over 100 journalists together to discuss common concerns and problems of their profession¹⁸⁰. A Free Media Help Line was established in November of 1999 with the aim of fostering the protection of journalists’ rights and promoting freedom of expression. The help line registered and reported incidents and provided direct assistance to journalists. Until October 2000, 101 incidents were reported.¹⁸¹ They included threats, physical attacks, and the denial of access to information.

Media monitoring

To enforce the PEC’s code of conduct regarding the media, a *Media Experts Commission* (MEC) was established in May 1996, chaired by the Head of Mission. It attempts to ensure fair reporting and free and equitable access to the media for all parties¹⁸². During the election campaigns, the MEC monitored all the media. “Daily close monitoring of the media during the political campaigns proved to be a genuine deterrent to the kind of inflammatory language used in the past by media associated with extreme nationalist parties”¹⁸³. The

¹⁷⁸ ICG, 1997:20.

¹⁷⁹ OSCE, 1999:17.

¹⁸⁰ OSCE, 1997:13.

¹⁸¹ <http://www.oscebih.org/pressreleases/january2000/14-01-prior00.htm>

¹⁸² OSCE, 1998:16-17.

¹⁸³ OSCE, 1998:17.

OSCE writes that in the run-up to the 1998 elections, MEC interventions “contributed significantly to the most neutral pre-election media environment yet seen in post war Bosnia and Herzegovina”¹⁸⁴.

A body to create an indigenous structure with the legal means to deal with freedom of the media cases is the Media Ombudsman.¹⁸⁵

Another example of intervention in the media domain: In June 1997, a TV station broadcast an inflammatory speech by a former Bosnian Croat police commander. An EASC investigation found that the HDZ supported that TV station ideologically and financially. As punishment, the first names on HDZ party lists in several Mostar counties were removed. In May 1997, the Sintra Declaration gave the OHR the power to curtail or suspend any media network or programme whose output contravened the spirit or letter of the DPA. In September 1997, a Pale-based Serb Radio and TV network was pressured to sign agreements, which undermined the influence of President Plavsic’s opponents¹⁸⁶.

Press and Public Information

This department is responsible for public information campaigns like the “Vote for Change” campaign before the April 2000 municipal elections or the recent “Vote Down Corruption” campaign. It also informs local and international media about the OSCE’s activities in BiH.

Evaluation

The increasingly open and independent media, especially in the print sector¹⁸⁷, provide new parties with more opportunities to broadcast their message. Unfortunately, print media are out of the financial reach of most people. The new independent national media are highly professional, but remain marginal. Most Bosnians only trust “their” ethnic media for the truth. Whether the international community’s active and passive censorship is able to break that mistrust of the public is an open question. But less involvement is not feasible for the moment.

Regional Stabilization

All OSCE activities discussed so far concerned non-military aspects of security defined in a broad way. But the DPA also charged the OSCE with implementing some military aspects of the accords. In Annex 1-B, the OSCE is asked to assist implementation of Confidence and Security Building Measures¹⁸⁸ (CSBMs) and to assist the Parties with Arms Control¹⁸⁹. The overall goal is to “to establish the conditions in which military force can be eliminated as a means of resolving conflicts in Bosnia and Herzegovina”¹⁹⁰.

The OSCE works in close cooperation with a range of international organizations in this field.

Confidence- and security-building measures

Under the auspices of a Special Representative of the Chairman-in-Office, the “Agreement on Confidence and Security-Building Measures in Bosnia and Herzegovina” was concluded in January 1996 (Vienna) between BiH, the FBiH and the RS. It foresees “a series of

¹⁸⁴ *Ibid.*

¹⁸⁵ *Ibid.*

¹⁸⁶ Chandler, 2000:126.

¹⁸⁷ But most people can’t afford newspapers.

¹⁸⁸ DPA, Annex 1-B, Article II.

¹⁸⁹ DPA, Annex 1-B, Article IV.

¹⁹⁰ <http://www.oscebih.org/regstab/eng/regstb-main.htm>

measures to enhance mutual confidence and reduce risk of conflict, drawing fully upon the 1994 Vienna Document of the negotiations on Confidence and Security-Building measures of the OSCE”¹⁹¹. Military activities on both sides are limited. Local forces should not take any action that can’t be suppressed by international troops on the ground. The three Parties of the Agreement met in 1998 for a review of implementation. They agreed on an updated version of the protocol on existing types of conventional armaments and equipment. At the second review conference in 1999, “The parties noted with satisfaction that the exchange of information had improved, and the protocol on visits to weapons manufacturing facilities was approved”¹⁹².

Amongst the activities to promote transparency, co-operation and confidence building between the armed forces of both Entities¹⁹³ are: the facilitation and execution of arms control verification inspections (with the participation of OSCE experts), verification of information, and communication between the Entity Armed Forces. The OSCE contributed to various seminars, including about the democratic control of the armed forces. It also assisted to introduce a code of military conduct for mid and senior-level officers.

The *Joint Consultative Commission* (JCC) is chaired by the Chairman-in-Office and supervises the information exchange on military structures, budgets and activities between the Entity armed forces. In June of 1999, the 20th session of the JCC submitted an “extraordinary data exchange”¹⁹⁴. The Parties provided detailed information on their respective military budgets and the support they receive from foreign sources. This is the first time such information had been exchanged in a public forum. OSCE representatives visited inspection teams, verified information and provided expert assistance in arms reduction.

The OSCE played a key role in establishing *Military Liaison Missions* (MLMs) between the chiefs of the armed forces in 1996, which undertakes activities promoting transparency, cooperation and confidence building. However, serious difficulties stood in the way of deploying the MLMs. A permanent exchange of MLMs took place only in June of 1998¹⁹⁵. In December 1998, standard operating procedures were exchanged. The MLMs continued to work even when other bilateral relations were suspended, for example during times of tension over Brcko and the dismissal of Poplasen.

One of the successes is the large number of inspections that has taken place. However, the inspections have to be previously announced, and the Parties agreed only in 1998 on how to inspect weapons *manufacturing* facilities. Another – more intangible – success is the increasingly relaxed atmosphere during meetings and seminars between members of the three *de facto* armies. On the downside, the parliamentary control of the FBiH armies is not sufficient, which is one of the declared OSCE objectives.¹⁹⁶

Military force reductions

Another Special Representative of the Chairman-in-Office led the negotiations that led to the conclusion of the “Agreement on Sub-regional Arms Control” in Florence in June 1996 between BiH, the FBiH, the RS, Croatia, and the FRY. As foreseen by Article IV of the DPA, it aimed at establishing a stable military situation through a numerical balance

¹⁹¹ DPA, Annex 1-B, Article II.

¹⁹² OSCE, 1999:16.

¹⁹³ *De facto*: of the three Entities.

¹⁹⁴ OSCE, 1999:16.

¹⁹⁵ OSCE, 1998:17.

¹⁹⁶ ICG, 1999:9.

between the armed forces of the region. Equipment and manpower of the armies of BiH, Croatia, and the FRY should be reduced. The Agreement only asked for “general compliance”¹⁹⁷. The Special Representative assisted the Parties in establishing numerical limits at the lowest level conform with their respective security needs, establishing restrictions of the location of certain types of weapons, withdrawing forces and weapons to designated locations, etc.

In 1997, the Parties agreed on the destruction of almost 6’600 items in accordance with Article IV.¹⁹⁸ The next year, further progress in arms reduction was made. The review conference of the Agreement in June 2000 asked for the start of negotiations on regional stabilization as foreseen in Article V of the DPA (regional arms control). The Copenhagen Ministerial Meeting appointed another Special Representative of the Chairman-in-Office for the negotiations. The aim of the negotiations under way in Vienna is to establish a regional balance around the former Yugoslavia.

Evaluation

Progress has been made in inspections, the democratic control of the military, transparency in defence budgets, and some arms reduction. However, the ICG sees an “unwillingness of [the] parties to work together”¹⁹⁹. The FBiH army is still not integrated; even no the financial support from the state of Croatia for the Croat part of that army has ceased. A unified army for all of BiH is utopian for the moment. However, three armies who have fought each other as little as five and a half years ago can only be expected to take small steps at a time.

Conclusion: Democracy and Human Rights against the Will of the People(s)?

The OSCE is the only European organization that makes a strong link between democracy and security. As such, it is pre-destined to fulfil its broad democratisation objectives in BiH. Democracy is not only elections, but there can be no democracy without elections. The OSCE Mission succeeded in organizing elections less than a year after the fighting in BiH had stopped. The extensive program of the Democratisation Branch helped to build the foundations for democracy, even no these foundations are still very weak. These activities have certainly made very positive contributions, but cannot be evaluated after five years; they have to be seen in a long-term perspective. Independent pluralistic media are an essential part of civil society. The fact that human rights continue to be violated speaks for a continued OSCE presence in the field, not the contrary.

Unfortunately, the OSCE and the international community in general can’t ban nationalism. “Elections can confer on the institutions and occupants of a new government no more legitimacy than their democratic – or less democratic – nature warrants”²⁰⁰. Muslims, Serbs and Croats are still very bitter about the war and continue to vote for the wartime nationalist parties. A large majority of people I talked to stated that they would vote for non-nationalist parties *if they could be assured the other ethnic groups would do the same*. This would confirm the theory that the three ethnic groups find themselves in a “prisoner’s dilemma” situation. The international community, so far, has been unable to solve that dilemma by seducing or forcing the people to vote differently.

¹⁹⁷ ICG, 1999:10.

¹⁹⁸ OSCE, 1998:3.

¹⁹⁹ ICG, 1999:7.

²⁰⁰ Goldston, 1997:33.

Democratisation is a necessary prerequisite for sustainable peace. But what if people continue to democratically elect nationalist leaders who are in favour of continuing ethnic cleansing with other means? What if the majority of people (Serbs and Croats) is against minority protection (of Muslims)? What if, even worse, a formal democracy *legitimises* ultra-nationalism, as it seems to have been the case in the past 5 years?

That is one of the critiques that has to be addressed both to Dayton's drafters and the OSCE. Early elections cemented nationalist power. Robert Kaplan goes so far as to say that "...in Bosnia democracy legitimised the worst war crimes in Europe since the Nazi era"²⁰¹. While I consider that an overstatement, there is some truth to it.

Given the obvious undemocratic nationalist tendencies, the OSCE-chaired PEC should have made it much more difficult to vote in another municipality than the one voters were forced to flee to. This would have been consequent if the international community had been serious about the return of refugees and displaced persons. The ICG goes even further: "The [present] system of voting and ethnic gerrymandering renders the concept of a multi-ethnic society a farce"²⁰².

Another critique addressed to the OSCE is that it is not impartial. "[It] is obvious that [the] OSCE was not acting as an impartial international referee envisioned by [the] DPA ... [but] acting involved in the international community's efforts to unseat the SDA, HDZ and the Serb nationalist block ..."²⁰³ This is undoubtedly true. While the OSCE administered elections in a more or less professional manner, it clearly had its preferences as to their outcome. This is especially true in the RS. "Instead of supporting the nascent process of democracy, allowing the people the right to choose their own representatives, the West opposed certain leaders who were tied to the nationalists in Republika Srpska. This created a philosophical problem for the West as it sought to install democracy through manipulation of the democratic process"²⁰⁴. As true as that may be, we have to ask what the alternatives are.

There are two kinds alternatives – I will call them the "Liberal Alternatives" and the "Conservative Alternatives"²⁰⁵:

- *Liberal Alternatives*: An even stronger mandate for the international community. Possibly installing a formal international protectorate with a governor at its top. Either suspend further elections or make time-spaces between polls longer to avoid permanent campaigning. Banning nationalist parties. More innovative election system where not only support from your own ethnic group is needed to win²⁰⁶.
- *Conservative Alternatives*: Withdrawal or massive downscaling of international involvement in order to let "the Bosnian people to begin to work out their own way forward"²⁰⁷. Hope for a renewed perception of a common culture, but accept the fact that it is impossible to force three ethnic groups to live together. Recognize ethnicity as the main criterion for identification. Abolish absentee voting where returns are not realistic. Stop pressuring for refugee return because of ethnic tension it can create.²⁰⁸

²⁰¹ Kaplan, 1997:58.

²⁰² ICG, 1999:12.

²⁰³ ICG, 1999: Annex 3.E.

²⁰⁴ Friedman, 2000:26.

²⁰⁵ Both sets of alternatives may or may not involve changes to the DPA.

²⁰⁶ ICG, 1998:3-4.

²⁰⁷ Chandler, 2000:198.

²⁰⁸ Chandler, 2000.

These alternatives have in common that they hold liberal democracy to be an unrealistic short-term goal for Bosnia and Herzegovina. They also have in common that they are politically unrealistic. The liberal alternatives would *de jure* install a kind of benign colonial regime. This runs contrary to the fundamental right of auto-determination. The conservative alternatives risk the renewal of violence; the reversal of the progress achieved so far, and – most importantly – the acceptance of the result of ethnic cleansing.

Apartheid, brought about by acts of genocide, is unacceptable if the international community wants to retain any credibility. Muslims, Croats and Serbs share a common language, ethnic origin, and lifestyle. The ethnic composition of pre-war BiH²⁰⁹ makes segregation only possible through force. And such forceful changes are not only illegal, but also illegitimate.

Part of the present difficulties in creating a multi-ethnic Bosnia certainly lies within the DPA itself. The Dayton Peace Accords are sometimes dubbed “The Holy Book” in Bosnia. But I think it should stay that way. I advocate continuing the present course of an international *de facto* semi-protectorate where international authorities intervene *when necessary*. It is true that if “protectorate powers are seen as a solution in their own right, rather than a tool for promoting institutional development, they may be counterproductive”²¹⁰. The OSCE actively works for the creation of such institutions. As long as they are not working, the OSCE and the international community should make more aggressive attempts to implement the DPA. With the recent trend change in returns, a change in the PEC’s absentee rules would be a good first step.

At the end of the day, one has to face the very hard truth that there is a conflict in BiH between formal democracy and human rights. In this conflict, there is continued need for international arbiters like the OSCE.

²⁰⁹ See Figure 1 in the Annex.

²¹⁰ Cox, 2000:18.

Bibliography

Sources

Dayton Peace Accords and Subsequent Agreements

The General Framework Agreement for Peace in Bosnia and Herzegovina, initialled in Dayton on 21 November 1995, signed in Paris on 14 December 1995.

<http://www.ohr.int/gfa/gfa-frm.htm>

Agreement on Regional Stabilization, Annex 1B to *The General Framework Agreement for Peace in Bosnia and Herzegovina*, initialled in Dayton on 21 November 1995, signed in Paris on 14 December 1995. <http://www.ohr.int/gfa/gfa-an1b.htm>

Agreement on Elections, Annex 3 to *The General Framework Agreement for Peace in Bosnia and Herzegovina*, initialled in Dayton on 21 November 1995, signed in Paris on 14 December 1995. <http://www.ohr.int/gfa/gfa-an3.htm>

Agreement on Human Rights, Annex 6 to *The General Framework Agreement for Peace in Bosnia and Herzegovina*, initialled in Dayton on 21 November 1995, signed in Paris on 14 December 1995. <http://www.ohr.int/gfa/gfa-an6.htm>

Peace Implementation Council (1998). *Bosnia and Herzegovina 1998: Self-Sustaining Structures*. Bonn, 10 December 1997. <http://www.oscebih.org/documents/bonnpic.htm>

Declaration of the Peace Implementation Council, Madrid, 16 December 1998, <http://www.oscebih.org/documents/madrid.htm>

Annex to the Madrid Declaration of the Peace Implementation Council, <http://www.oscebih.org/documents/madrid-annex-eng1.pdf>

OSCE Documents and Reports

Barry, Robert (1999a), "Report by Head of Mission Robert Barry to the Permanent Council of the OSCE". Sarajevo, 9 December 1999.

http://www.oscebih.org/events/barry_report-10-12-99.htm

Organization for Security and Co-Operation in Europe (1999). *OSCE Handbook*. Vienna: OSCE. pp. 48-51.

Organization for Security and Co-Operation in Europe (OSCE), "OSCE Releases Technical Certified Results for November 2000 BiH General Elections". Press Release. Sarajevo, 27 November 2000. <http://www.oscebih.org/pressreleases/november2000/27-11-finale1.htm>

Organization for Security and Co-Operation in Europe (OSCE), The Secretary General (2000). *Annual Report 2000 on OSCE Activities*. OSCE: Vienna. pp. 11-16.

http://www.osce.org/external_co-operation/docs/annual_report.pdf

Organization for Security and Co-Operation in Europe (OSCE), The Secretary General (1999). *Annual Report 1999 on OSCE Activities*. OSCE: Vienna. pp. 12-17.

<http://www.osce.org/docs/english/misc/anrep99e.pdf>

Organization for Security and Co-Operation in Europe (OSCE), The Secretary General (1998). *Annual Report 1998 on OSCE Activities*. OSCE: Vienna. pp. 14-18.

<http://www.osce.org/docs/english/misc/anrep98e.pdf>

Organization for Security and Co-Operation in Europe (OSCE), The Secretary General (1997). *Annual Report 1997 on OSCE Activities*. OSCE: Vienna. pp. 11-13.

<http://www.osce.org/docs/english/misc/anrep97e.pdf>

Organization for Security and Co-Operation in Europe (OSCE), The Secretary General (1996). *Annual Report 1996 on OSCE Activities*. OSCE: Vienna. pp. 8-10.

<http://www.osce.org/docs/english/misc/anrep96e.pdf>

Books

- Bildt, Carl, *et. al.* (1998). *Peace Journey: The Struggle for Peace in Bosnia*. London: Weidenfeld and Nicolson. 423 pages.
- Chandler, David (2000). *Bosnia: Faking Democracy After Dayton*. Second Edition. London: Pluto Press. 254 pages.
- Ghebali, Victor-Yves (1996). *L'OSCE dans l'Europe post-communiste, 1990-1999. Vers une identité paneuropéenne de sécurité*. Bruxelles: Etablissements Emile Bruylant. 741 pages.

Articles

- Abadjian, Vahran (2000). "OSCE long-term missions: Exit strategy and related problems", in: *Helsinki Monitor* 1/2000. pp. 22-36.
- Bloed, Arie (1996). "The OSCE and the Bosnian Peace Arrangement", in: *Helsinki Monitor*. 1/1996. pp. 73-85.
- Boyd, Charles G. "Making Bosnia Work", in: *Foreign Affairs*, January/February 1998. pp. 42-55.
- Calic, Marie-Janine (1997). „Der Beitrag der OSZE zur Demokratisierung Bosnien-Herzegowinas“, in: *OSZE-Jahrbuch 1997*, Baden-Baden: IFSH. pp.143-156.
- Cox, Marcus (2000). *State-building and post-conflict reconstruction: Lessons from Bosnia*. http://www.isn.ethz.ch/4isf/4/Papers/ISF_WS_II-1_Cox.pdf. 24 pages.
- Daalder, Ivo H, and Froman, Michael B.G. (1999). "Dayton's Incomplete Peace", in: *Foreign Affairs*. November/December 1999. pp. 106-113.
- du Pont, Yannick (1999). „Der Chancengleichheit den Boden bereiten: Demokratisierung durch Förderung eines pluralistischen und gemäßigten Parteiensystems in Bosnien und Herzegowina“, in: *OSZE-Jahrbuch 1999*, Baden-Baden: IFSH. pp. 345-364
- Friedman, Francine (2000). "Dayton, Democratization and Governance: Electoral Dilemmas in Bosnian Peace and Security", in: *International Relations*, Volume XV/1, 2000/04. pp. 23-29.
- Goldston, James A (1997). "The role of the OSCE in Bosnia: Lessons from the first year", in: *Helsinki Monitor*. 3/1997, pp. 6-36.
- Graham, John (1998). "Black past, grey future?", in: *International Journal*, Spring 1998. pp. 204-220.
- International Crisis Group ICG (1996). *Elections in Bosnia and Herzegovina*. 22 September 1996. http://www.crisisweb.org/projects/balkans/bosnia/reports/A400148_22091996.pdf. 62 pages.
- International Crisis Group ICG (1997). *Beyond Ballot Boxes: Municipal Elections in Bosnia and Herzegovina*, 10 September 1997. http://www.crisisweb.org/projects/balkans/bosnia/reports/A400154_19111997.pdf. 16 pages.
- International Crisis Group ICG (1999). *Is Dayton Failing? Bosnia Four Years after the Peace Agreement*, 28 October 1999. http://www.crisisweb.org/projects/balkans/bosnia/reports/A400058_28101999.pdf. 74 pages.
- International Crisis Group ICG (2000a). *Bosnia's Municipal Elections 2000: Winners and Losers*. 28 April 2000. http://www.crisisweb.org/projects/balkans/bosnia/reports/A400060_27032000.pdf. 16 pages.
- International Crisis Group ICG (2000b). *Bosnia's November Elections: Dayton Stumbles*. 18 December 2000. http://www.crisisweb.org/projects/balkans/bosnia/reports/A400116_18122000.pdf. 22 pages.

- International Crisis Group ICG (2000c). *Bosnia's Refugee Logjam Breaks: Is the International Community Ready?*. 31 May 2000. http://www.crisisweb.org/projects/balkans/bosnia/reports/A400061_31052000.pdf. 18 pages.
- Kaplan, Robert D. (1997). „Was Democracy just a Moment?“, in: *Atlantic Monthly*, December 1997. pp. 55-80.
- Knaus, Gerald and Marcus Cox (2000). „Whither Bosnia?“, in: *Nato Review*, Web Edition, Vol. 48, Winter 2000 – 2001. <http://www.nato.int/docu/review/2000/0003-01.htm>.
- Lupis, Alexander (1999). „Assessing the mandate of the OSCE Kosovo Verification Mission proposed at Rambouillet: An insider's perspective from the OSCE Mission to Bosnia and Herzegovina“, in: *Helsinki Monitor*. 1999/3. pp. 18-29.
- Meyer, Berthold (2000). „Unendliche Geschichten?: Zwischenbilanz der Langzeitmissionen“, in: *OSZE-Jahrbuch 2000*, Baden-Baden: IFSH. Pp.159-172.
- Požun, Brian J. (2000). "Scars Still Run Deep. 2000: The year in review for Bosnia", in: *Central Europe Review*, 11 December 2000 Vol. 2, No. 43. <http://www.ce-review.org/00/43/roundup43bosnia.html>
- Pugh, Michael (2000), „*Protectorate Democracy' in South-East Europe*. Copenhagen Peace Research Institute. <http://www.copri.dk/copri/downloads/10-2000.doc>. 20 pages.
- Soloz, Christophe (2000). *Prospects for Balkan Stability: Ownership, Transitional Process and Regional Integration in Bosnia and Herzegovina*. November 2000. Geneva: PSIO Occasional Paper. http://www.isn.ethz.ch/4isf/4/Papers/ISF_WS_III-3_Soloz.pdf. 41 pages.
- Stoessel, Marcel (1999). „Auch die Wahrheit ist ethnisch geteilt“, in: *vielfalt*, September 1999. Bern: Gesellschaft für bedrohte Völker. pp. 4-6.

Media reports

- Barry, Robert (1999b). „Put OSCE in Charge of Balkan Policy“, in: *Wall Street Journal*, 3 May 1999.
- Bougarel, Xavier (1997). "Bosnie réelle et Bosnie virtuelle", in: *Le Monde Diplomatique*, September 1997, p. 4-5.
- Economist* (1998a). „Bosnia, the Protectorate“, in: *The Economist* (US Edition), editorial, 14 February 1998.
- Economist* (1998b). „Bosnia, Councils of Despair“, in: *The Economist* (US Edition), editorial, 11 April 1998.
- Hedges, C. (1997). „For Bosnia, Peace Is Coming Up Empty-Handed“, *The New York Times*, 18 May 1997.
- Kovac, Nikola (1997). "Mauvaise paix en Bosnie-Herzégovine", in: *Le Monde Diplomatique*, March 1997, p. 13.
- Naegle, Jolyon (2000). „Bosnia-Herzegovina: Muslims Returning To Their Homes in Srebrenica“, on: *Radio Free Europe / Radio Liberty*, 7 December 2000.
- O'Connor, M. (1998). „On local Level, Bosnians are learning to get along“, in: *New York Times*, 4 May 1998.
- Raffone, Paolo (1996). „Derrière la façade électorale: Le cauchemar des réfugiés bosniaques“, in : *Le Monde Diplomatique*, September 1996, p. 19.
- Rathfelder, Erich (1996). „Stimmbeteiligung: 110 Prozent“, in: *Tages-Anzeiger*, 23 September 1996, p. 3.
- Reuters* (2000). „Bosnian Serb PM-Designate Sees West's Backing“. 25 December 2000.
- Schindler, John (2000). „Bosnia: five years after Dayton“, in: *Jane's Intelligence Review*. Volume 12, Number 5, May 2000. pp. 18-21.

Internet Resources

Bosnia Institute. <http://www.bosnia.org.uk/>

Centre for Applied Studies in International Relations (CASIN). <http://www.casin.ch/>

International Crisis Group (ICG). <http://www.crisisweb.org/>

International Security Forum (ISF). <http://www.isn.ethz.ch/4isf/>

Office of the High Representative (OHR). <http://www.ohr.int/>

OSCE Mission to Bosnia and Herzegovina. <http://www.oscebih.org/>

OSCE. <http://www.osce.org/>

Stabilization Force (SFOR). <http://www.nato.int/sfor/>

United Nations Mission in Bosnia and Herzegovina (UNMiBH). <http://www.unmibh.org/>

Annexes



Figure 1 Ethnic Majority Areas in Bosnia and Herzegovina in 1991. Source: Jeremy Crampton. <http://www.cco.caltech.edu/~bosnia/status/census.html>



Figure 2 The two Entities of Bosnia and Herzegovina after the Dayton Peace Accords. White = Federation of Bosnia and Herzegovina. Black = Republika Srpska. Source: US Department of Defence. <http://www.dtic.mil/bosnia/bosniemap.html>

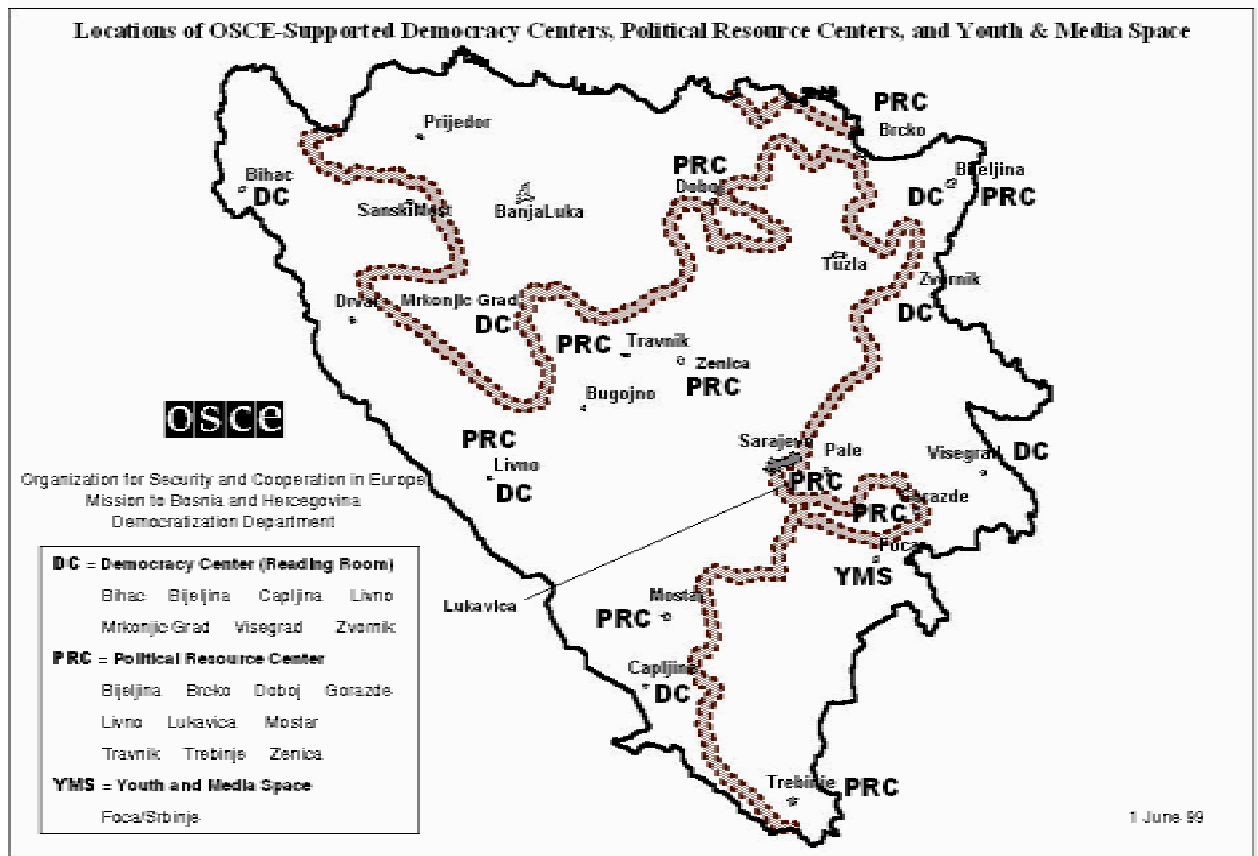


Figure 3 Activities of the Democratization Department. Source:
<http://www.oscebih.org/picshome/maps/demcenters17-6-99.gif>

Excerpts from the Dayton Peace Accords

<http://www.ohr.int/gfa/gfa-fm.htm>