

Democracy in Bosnia and Herzegovina: Post-1995 Political System and its Functioning¹

VICTOR D. BOJKOV

London School of Economics and Political Science, UK

ABSTRACT:

The article analyses the political system of Bosnia and Herzegovina and based on its experience develops the concept of controlled democracy. After 1995 Bosnia and Herzegovina was constructed as a single political unit by the Dayton Peace Agreement. Through the latter's provisions, local politicians were placed in a framework of permitted and encouraged action, within which they could re-establish the political cohesion of the country and engage on the much needed reform programme. In this process, the two most important international organisations involved in the political life of the country had diverging functions. This article argues that there is a relation between the relaxation of control at one end, the electoral cycle in the country, and enhancing it at the other, the ensuing political process, by analysing the outcomes of this control. In addition, it assesses whether its implementation has been conducive to consolidating democratic political practice in the country. The conclusion reached is that, precisely because of the way it has been imposed and has been functioning, controlled democracy is undermining its own justification in the sense that sustainable peace and cohesion will hardly ever be achieved if not owned by the Bosnian people themselves. The employed methodology is that of a case study at a certain level of detail defined by available space and empirical material.

Introduction:

“Bosnia and Herzegovina shall be a democratic state, which shall operate under the rule of law and with free and democratic elections.”

Constitution of Bosnia and Herzegovina, Article 2.1

The subject matter of this article is the political system of Bosnia and Herzegovina - an ex-Yugoslav republic that was torn among its pro- and anti-independence citizens in the early 1990s, went through a devastating armed conflict that further distanced its population and emerged in 1995 as a

reconstructed federal polity with numerous political, social and economic difficulties to be overcome. Bosnia and Herzegovina faced a transition from ethnic warfare to multiethnic peace and from socialism to democratisation (Rogan, 2000: 183), the first logically taking over as the unquestioned priority and primary necessity. A third parallel process cutting through the above is that of reconstructing coexistence in another territorial dimension. The view is not uncommon that Bosnia and Herzegovina after 1995 is a miniature version of former Yugoslavia in the sense that it combines multiple levels of governance in a polity composed of different ethnic and religious groups. In 2003, Bosnia and Herzegovina is a new state, with a very short experience in statehood and political independence. The struggle whether to remain or not under the umbrella of Yugoslavia is now replaced by the intricate and often unreadable struggle for more domestic responsibility and power in policy decision-making. This struggle is intricate and unreadable because of the inconsistency in its following by the different local political actors. Depending on their interest at any given moment they may support, as well as oppose, the large and powerful international presence in the country.

The article makes the case that the current political system of Bosnia and Herzegovina is a controlled democracy and assesses the outcomes of its functioning to date by referring to the powers, stated intentions and actions of domestic and international political actors. It does not aim at producing a generalisable theoretical claim replicable across the board in an indefinite number of cases. The analysis and the findings are country specific and as such do not pretend to capture in its totality the phenomenon of imposing external control over a political system, defined as democratic. The article evaluates whether the control imposed over the political system of Bosnia and Herzegovina has been conducive to consolidating the democratic enterprise throughout the polity. It is structured in three parts starting with a presentation of the case-oriented concept of controlled democracy and its elements. It continues with describing the post-1995 political system of Bosnia and Herzegovina, making reference to the state of affairs in the early 1990s in order to discern political continuity and rupture and to provide explanatory background for the country's current political development. It is demonstrated that there exists a rich fabric of national politics that, however, needs to escape narrowly and exclusively defined objectives and programmes, in order to disentangle itself from a steadily confirmed image of its incompatibility with, and perceived antagonism to, democratic political practice. The third part of the article turns its attention to how the international community has managed the political affairs of the country and whether it has been able, willing and facilitated to relax the grip of control that it has entrusted itself with.

The political system of Bosnia and Herzegovina exhibits an essential feature of a hybrid regime where democratic institutions and mechanisms co-exist with non-democratic ones and where both have important functions in governing the polity and in doing so have to take account of each other. In the case of Bosnia and Herzegovina the non-democratic element of the regime is the more powerful one backed up by a commendable pool of international actors whose primary aim

to date appears to be to keep the country together at all costs. Apparently objectives are prioritized, which makes it important to reveal their interplay and assess whether the result is conducive or not to firmly embedding democracy as the only viable option of political organisation. The result of such assessment is both positive and negative depending on the area at focus. It is obvious that, as regards elections, there is a withdrawal of the international actors involved, combined with sustained efforts in creating conditions for successful handing over the process to domestic institutions. Multitude of reasons can be identified to explain why in this area control has been relaxed. In any case elections were never contested by any significant political actor as the only means for selecting the governing elite of the country. However, and this is the main claim of the article, as a result of this expected transfer of responsibilities over elections, the powers of control have been increased, highly concentrated and indeed exercised extensively at the other end – the ensuing political process. Based on the following discussion and analysis, the conclusion of this study is that control over democracy structured and implemented in the conditions of, and in the way it is being done in, Bosnia and Herzegovina is not conducive in the long run for its consolidation.

The functioning of the so constructed political system of Bosnia and Herzegovina exhibits a number of contradictions with regard to democratic practice. Taking a recent one is exemplary – the attempt on the part of the High Representative (HR) of interpreting the Electoral Law (EL)². It highlights a symptomatic conundrum that is inherent in any such international interference in domestic political life and indeed inherent in most of the empirical examples from Bosnia and Herzegovina quoted in this article. It can be reasonably argued that giving parliamentary mandates to smaller parties that did not pass the five percent threshold, required for allocating assembly mandates at all levels of legislative authority by the EL of Bosnia and Herzegovina (see for example articles 9.9 and 13.5), is beneficial to democracy. This is in line with Basch's empirically proven argument that, if the ethnic separation in a country is considerable, all political institutions must be overtly pluralist for a democratic state to persist (1998). Tampering with the EL would then ensure representation beyond the exclusionary nationalist lines of the three winning parties, each of which appeals exclusively to a single mindset within a single ethnic and religious group. More so when for the first time since 1996 the electoral cycle is four, instead of two years³. However, in the sense that it can be seen as breach of the rule of law, democracy is being afforded a bad service. In this particular case the HR refrained from taking a decision violating the EL of the country, an act much to the liking of the three winners in the general elections of 2002. Previously, however, this has not been the case. Employing the discourse of reconciliation seen as essential for democratic politics, the HR in an obviously undemocratic manner kept the moderate prime minister Milodrag Dodik in office against the wishes of the Assembly of Republika Srpska.

There are numerous examples of such conundrums of interpretation as regards democracy in Bosnia and Herzegovina and the involvement of the

international community in its political life. Thus the assessment of the effect of international decisions trumping domestically generated outcomes as positive or negative is always open to debate. The claim is particularly strong that the very existence of structures that do not comply with widely accepted democratic principles such as accountability, representation and division of powers makes everything else in the political life of the country undemocratic as well. Such argument is very reasonable and particularly relevant in the case of Bosnia and Herzegovina. Indeed any democratic form that is subjected to the control of non-democratic mechanisms could hardly have any democratic content. However, it can still be asserted that the domestic political life in Bosnia and Herzegovina represents democracy even in the face of the controlling international presence. One evidence supporting such assertion is the Dayton-stated objective, which no one really sees as a merely empty rhetoric, to lead the country on the path to democracy. Based on that, the following article engages in an assessment of the functioning of so structured a polity and does not strive for definitive answers. Its most important claim is that non-democratic control is still an unwavering part of the intentionally democratic political system of Bosnia and Herzegovina because of the way domestic actors define their positions and implement their political ambitions. In such conditions, if it is expected to be relaxed at one end, the momentum immediately arises to compensate at the other.

Controlled Democracy: Theoretical Considerations

Most authors would agree that the concept of democracy is uncontested (Beetham, 1994: 55-7) and as such is based upon several underlying principles that form the fundamentals of any political system we can reasonably label as democratic. The implementation of democracy, however, has evolved over time to engender numerous debates as to what exactly it involves in a given context. Besides direct, representative and liberal democracy, it has now become possible to talk of consociational democracy (Lijphart, 1977, 1984), deliberative democracy (Miller, 1994), associational democracy (Hirst, 1994), multiethnic democracy (Sambanis, 2000)⁴ and multicultural democracy (Van den Berghe, 2002)⁵. At another level of analysis, and accepting the claim that geographical regions indeed exhibit certain cultural patterns based on common historical, political, linguistic and religious experiences (Inglehart and Carballo, 1997: 35), it also makes sense to talk about Eastern European democracy (Lewis, 1994), Latin American democracy (Whitehead, 1994), Asian democracy (Potter, 1994) and African Democracy (Young, 1999; Bratton and van de Walle, 1997). An informative metaphor offered by Nodia exemplifies the above. He made the useful analogy between crafting democracy and the art of shoemaking. Shoes, Nodia observed, may be produced in different fashions, from different materials, with different tools, for different markets, and by different shoemakers, who can vary widely in skill, motivation and work habits. In fact, he continued, the quality of the shoes may be so poor that they barely deserve the glorious name of shoes (1996: 16).

The point being, and well taken here, that democratic designs will necessarily differ from one country to another. And they will necessarily be

aimed at addressing the most acute problems a given society faces. Undoubtedly the problems faced in Bosnia and Herzegovina are ones of security and, relatedly, the lack of political will and sense of responsibility needed to reconcile and unite the country back together. Discussing the Balkans in general, Krastev (2002: 45-52) proposed addressing insecurity, corruption, weak states and the lack of issue politics, rather than accepting unquestioningly the integrationist paradigm that strive for integration in the European Union will discipline politics into the desired mould. Particularly for Bosnia and Herzegovina, he identified as the major source of insecurity the expectation that the Dayton peace may not hold, presumably endangered by domestic political discourse (Krastev, 2002: 44-5).

Addressing such a point, Weale (1999: 44) discussed the notion of protective democracy stemming from the Hobbesian assumption that governments are necessary in order to avoid civil war and social breakdown. Relatedly, Zolo (1992) rethought the idea of democracy in the light of his realistic approach to social complexity. For him the general function of modern political systems, including that of democracy, is to reduce fear. He did not argue that generally democracy is incompatible with order, however laid the foundations to claim that there is a trade-off between the two. Zolo reassessed the paradigm of democracy in a 'post-classical' fashion and reconstructed it in a way that would more properly define as *differentiated* and *limited autocracies* many democracies of the world today (1992: 181). An analysis of the political system of Bosnia and Herzegovina as controlled democracy is in line with Zolo's thinking precisely because of the trade-off he helps identify. In such conditions control imposing order co-exists easily with the democratic enterprise.

In multiethnic polities, for example, control is often exercised with regard to internal ethnic groups, the so-called hegemonic model (Lemarchand, 1995), in order to suppress ethnic challenges to the government of the state or to the state itself. Employing a mixture of rewards and sanctions, or co-optation and coercion (Lustick, 1997) is the key feature of this model. This presupposes a dominant ethnic group controlling the state apparatus in terms of political, economic, military and ideological power to borrow Mann's categories (1993) as the case is, for example, with the Israeli-Palestinian conflict. Providing an alternative, Hislope (1998) talked of 'moments of generosity', an indispensable factor towards peaceful and unifying transition in multiethnic societies, whereby an inclusive and liberal approach to ethnic minorities is adopted within the county, at which point the chances are higher that they will feel the same level of ownership to democracy as the majority. Neither model is, however, a fair representation of how the current ethnic, social and political relations are structured in Bosnia and Herzegovina.

For the purposes of the present discussion, it is more appropriate to remain on the international plane where control, but also moments of generosity, are coming from outside the boundaries of the polity. In Bosnia and Herzegovina there is no dominant ethnic group, neither politically, nor economically, nor militarily. The war of the 1990s served as justification for outside intervention, firstly, for bringing peace and, secondly, for preventing recurrence of war through controlling the political development of the

country. The professed aim of such outside control is its withdrawal after the establishment and consolidation of peace and democracy. Hence the importance, in this respect, of the school of thought interested in the international dimension of democratisation, which after the end of the Cold War and the resulting political developments in Eastern Europe acquired renewed legitimacy. Two of its positions are relevant for the purposes of this argument – control and conditionality. By definition they are most effective in terms of cost and result when applied to a small country.

When talking of control, which constitutes an external non-defiable influence over the political developments in a country, the essential point expressed by Whitehead (1996a: 252) is that two-thirds of currently existing democracies owe their origins, at least in part, to deliberate acts of imposition or intervention from without that were, moreover, undertaken within living memory. Whitehead presupposed the unilateralism of control (1996a: 257) and stressed the importance of foreign policy consent in the dominant actor. His insistence that foreign policy consent is essential is well taken, but in view of the case at hand it is proposed to broaden the idea of unilateralism. In Bosnia and Herzegovina there exist a multiplicity of actors involved in controlling the polity. This is important to stress because their objectives not always coincide and interaction is often tainted by institutional pride. The mandates of the two most relevant ones, the OSCE and the HR for example, create potential lines of conflict. The former must respect Paragraphs 7 and 8 of the 1990 Copenhagen Document regarding the election and the serving of full time in office by elected officials, while the latter acquired in 1997 the powers to remove them.

Conditionality, on the other hand, is the ‘deliberate use of coercion, by attaching specific conditions to the distribution of benefits to recipient countries, on the part of the relevant actors’ (Schmitter, 1996: 30) and clearly links economics and politics. In Europe, the European Community started using conditionality as early as 1988 in its relations to its trading partners. Through offering economic incentives to Eastern European countries, it looked to engender domestic political outcome within a certain pre-defined framework (Smith, 1999: 43-65). It is claimed (Ethier, 2003) that conditionality is a much more effective democracy promotion strategy than incentives, for example, because it offers a different, enhanced calculation of costs and benefits. This is precisely the reason why control is seen as more effective than conditionality – it makes this calculation even more immediate.

Both, control and conditionality constitute a ‘blatant disregard for traditional notions of national sovereignty’ (Schmitter, 1996: 42). A basic distinction between the two is that the latter leaves the approved democratic regime unconstrained in its policy choices provided agreed criteria for democratic performance are not violated. Both involve a two-way flow of influences and presuppose a dynamic of mutual adjustment. Conditionality’s success depends on the receptiveness of political and social forces in the targeted country. The generation of consent is important in two aspects: a) defining the territorial limits of the polity, and b) the ways in which the national actors of democratization are constituted inside it (Whitehead, 1996a: 264-5). If neither of these is satisfactory to the actors of influence, conditionality increasingly becomes supported by control. In other words, if

the internal drive for democracy is non-existent and the two above aspects of consent not satisfactory, control takes over. At this point conditionality's success will necessarily be compromised.

Studying hybrid regimes through several elements of elections, Diamond (2002) conducted an empirical analysis involving a big number of countries, proving that many of them have adopted the form of democracy with little of its substance. Further down this line of thought, Pridham offered the concept of expanded hybrid regimes, where minimal standards of democracy are met but these co-exist with structures of retained authoritarian elements (2000: 13-4). In a historical perspective hybrid regimes are assessed as dangerous for democracy. Gallagher claimed that after the First World War dissatisfaction with political systems that contained mixtures of autocracy and formal democracy led to the breakdown of parliamentary government and the imposition of fully authoritarian rule (1995: 339). It is claimed here that controlled democracy represents a hybrid regime as a specific concept within a generic one. The distinction being that, in its context, for avoiding the danger of slipping back into authoritarianism or conflict, the non-democratic elements could well be external. Without claiming generalisability, Bosnia and Herzegovina exemplifies such a regime. Given the choice, the agents of control within the state would prefer domestic politicians to follow the line prescribed by the Dayton Peace Agreement without the need of employing authoritarian powers. In such a hypothetical case, the leading role within the hybrid regime would belong to local political actors. To the extent that this remains a hypothetical case, because for example the responsiveness to the prescribed *modus operandi* of political and social forces in the country is limited, the leading role is being taken by international actors. Especially when the generated consent is not conducive to democratically a) define the territorial limits of the polity, and b) constitute the national actors of democratisation inside it.

Controlled democracy is part of the wider framework of democracy promotion which suffers from two inter-related shortcomings – 1) there are no permanent implementing agencies to operate under international conventions and supervision, and hence 2) the inherent danger that this activity, perceived as permissive and altruistic, may increasingly derive from the self-regarding and centralising logic of power-politics (Whitehead, 1996: 9-10). If the first were addressed, it could convert promotion of democracy from a foreign policy fad into a binding structure of international obligations (Whitehead, 1996a: 270). Perhaps this is a reliable indication of the lack of commitment and willingness on the part of Western liberal states to commit themselves to consistency and strategy through establishing rules of democracy promotion, although in the late 20th and early 21st century they have accorded a high priority to the establishment of democratic political processes and the creation of responsible institutions, especially in war-torn societies (Pugh, 2000: 1). Additional shortcoming, which Carothers saw as one of its biggest problems, is that the activity of democracy promotion is dominated by a small number of basically like-minded North American and West European organisations (2002: 36). Related, Crawford criticised the logical framework approach to assessing the effectiveness of democracy promotion for adopting positivist experimental approach to evaluation and

adjustment thus ineffectively attempting to solve political problems with technically generated data (2003: 79-88). Continuing this line of thinking, Kümmel held that, for the lack of reliable empirical indicators, the international dimension to democratisation must be treated in a more qualitative way employing categories, among which the maintaining of the international security and the prevailing politico-ideological order (1998: 257-61).

In the case of Bosnia and Herzegovina the activity of democracy promotion has acquired distinctive elements of control over its political development, in the sense that the implementing institutions and mechanisms have been directly inserted in the country and, in view of the priorities of keeping it together, addressing fear and insecurity and maintaining order and inclusiveness, have become a currently indispensable part of the domestic political system. They are a powerful and immediate factor looming large in all other political actors' considerations. Often, the mere fact of their existence and prerogatives defines the behaviour of local politicians. With regard to that, without claiming an attempt at generalisation, the analysis of the political system of Bosnia and Herzegovina would elicit the following definition of controlled democracy – a compact of external democracy promotion whose non-democratic elements, often inconsistent with each other, are directly inserted in the target country and enjoy far-reaching powers of control, constituting a direct, non-defiable, and certainly non-justiciable, influence over its political development. For the reasons given above, such mode of democracy promotion will necessarily be perceived as non-altruistic and self-serving. As reply to potential critics, the idea of controlled democracy is no more controversial than Zakaria's advocacy for liberal constitutionalism (1997) in cases where liberal democracy as understood in the West is simply not feasible. Shoup claimed that Bosnia and Herzegovina was totally unprepared for democracy when it was thrust upon it in 1990, the country's *achilles heel* being the absence of indigenous institutional traditions and the fact that it had been governed from without throughout its entire history (1995: 51). It was certainly not more prepared for democracy in 1995 after an antagonising conflict that further drew its people apart.

Based on the above, several points that self-evidently pertain to the current political reality in Bosnia and Herzegovina can be identified. They constitute the main elements of the concept of controlled democracy as employed here:

1. Imposition of controlled democracy is legitimised through reference to the security and welfare of the citizens of the polity and the inability of local politicians to achieve those objectives;
2. Controlled democracy is most cost-effective in small states – and hence more likely to be attempted within a small state;
3. Control, together with conditionality, is exerted and sanctioned by Western liberal democracies;
4. There are domestic institutions of decision-making that meet fundamental procedural requirements for democracy;
5. There exists a framework of permitted domestic action. If it is respected, control becomes monitoring, and vice versa. Unlike in the

case of conditionality, *l'exhibitionisme symbolique de la norme démocratique*, which Milačić (1998: 22-7) observed in most countries in Central and Eastern Europe, is not possible⁶;

6. There is no universally agreed international norm or implementing mechanism. Consistency is logically lacking because power politics and foreign policy considerations often trump altruism;
7. The exerted control is not unilateral. There is agreement on basic principles of action among the actors involved, however institutional conflict is not precluded;
8. Paradoxically, the ultimate goal of controlling democracy is to strengthen domestic democratic political mechanisms and institutions and to engender mutual trust on the part of politicians and citizens that the only viable way to adjust differences is through a political process within the rule of law and through respect for human rights;
9. Stability and security is an equally, at times even more, important goal and a potent guiding principle of action.

The last point closes the circle to the first one on legitimating the imposition of controlled democracy. Following is a discussion of the political development of Bosnia and Herzegovina in the 1990s analysing how and why controlled democracy came into being and was sustained.

Bosnia and Herzegovina in the 1990s:

The increasing disagreement among the politicians of several of the Republics of former Yugoslavia, the accompanying nationalist fervour and resulting war led to the November 1991 opinion of the EC Arbitration Commission that 'the SFR of Yugoslavia is in the process of dissolution'⁷, designating the Republics as the main sub-federal units. The Parliament of Bosnia and Herzegovina, elected one year earlier, was already severely divided between its Croat and Muslim members on one side and its Serb members on the other. There are numerous explanations why the parties promoting exclusive nationalist agenda (SDA, SDS, HDZ)⁸ won in November 1990, one perhaps combining them all is what Chandler identified as the 'prisoner's dilemma' in voting (1999: 30). At the end of 1991 Muslims and Croats held a referendum on the independence of Bosnia and Herzegovina⁹, while Serbs held a referendum for remaining in the Federation.

Subsequent events in Bosnia and Herzegovina eventually led to the outbreak of war. It resulted in around two million refugees and displaced persons and in three, more or less, territorially concentrated ethnic groups. Outside actors, such as Russia, Western European countries and the USA, were actively involved in negotiating its end. In none of the consecutive peace plans, worked out by different teams and known by different names, was there any idea of splitting the Republic. They employed different ways of constructing its administration but were not at the least considering secession of any territorial unit (see Bougarel, 1996: 146-55). Peace came with the General Framework Agreement for Peace (GFAP)¹⁰ signed on December 14, 1995 in Paris and negotiated earlier in Dayton, Ohio. The agreement is best described as one balancing the competing demands resulting from the war

(Bieber, 2002: 206-7) and hence as the best possible solution under the circumstances.

A textual analysis of the Agreement would prompt one to conclude that Bosnia and Herzegovina is a state with a democratic political system that features certain involvement of foreign actors and a certain framework and guidelines for political action. The domestic political actors are given ample space to reconstruct the polity in a way compatible with the framework of the GFAP. For understandable reasons, control was firstly exercised by way of interim administration before elections took place. Within the electoral process itself, control was also present in an electoral engineering aimed at promoting political parties expressly in favour of the GFAP. OSCE, mandated under Annex 3 to the Agreement, banned overtly nationalist candidates, censored the broadcasting of political campaigns employing ethnic hatred and manipulated electoral rules to the disadvantage of the three powerful nationalist parties. All efforts proved to be futile in the end as these parties managed to resurface and outsmart any forbidding move on the part of the international community.

The claim exists that holding elections in Bosnia and Herzegovina was a priority for two main reasons. Firstly on a general level, elections in post-war societies have been justified conceptually in terms of the democratic peace thesis and the assumed power of the ballot box to negate the attraction of political violence (see Pugh, 2000: 4). Secondly, in the particular case of Bosnia and Herzegovina, the huge international presence needed to provide its legitimacy through establishing contacts with officially elected domestic politicians. The first supports the idea that there are indeed elements of democracy in the political system of the country, the second negates this by stressing the primary importance of the protectorate-like non-democratic structure of governance imposed from without. The fact that elections were held, even under the circumstances of strict electoral control, is not irrelevant. In addition to the widely held paradigm that elections are the cornerstone of democracy, the need for legitimate domestic partners is also an indication of the intentions of the international community. If their non-democratic presence in Bosnia and Herzegovina obviates any democratically generated outcome, why bother pretending to play the democratic game, which is indeed a costly enterprise.

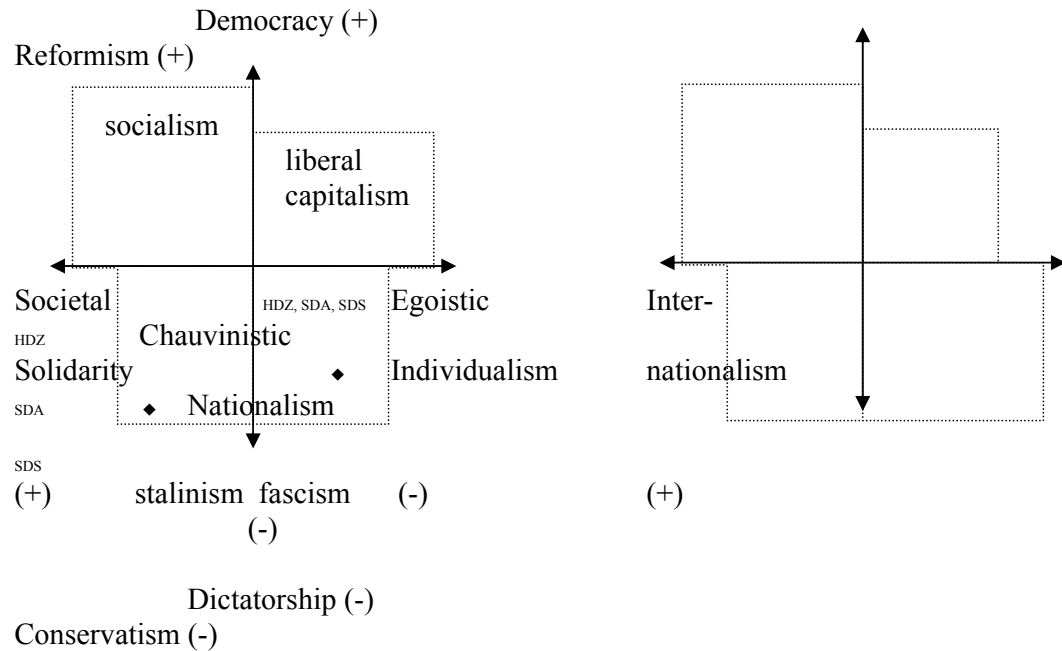
A competing explanation sounds more likely. The two external institutions given explicit political competence in the country had complementary tasks. The OSCE had to ensure that political representation in Bosnia and Herzegovina meets the criteria of inclusive nationalism, reconciliation, support for reforms, respect for GFAP and, where possible, return to a non-conflictual political *modus operandi* extant before the discourse of secession took hold. The HR, on the other hand, was charged by Annex 10 of GFAP with the functions of monitoring, maintaining contacts, coordinating activities and periodically reporting (Article 2.1). It did not take long before the realisation was brought home that such spread of control and monitoring functions is unworkable. What ensued, and undoubtedly provoked by the set framework of relaxation of control over the electoral process, was the granting of more robust powers at the other end – the post-

electoral political process itself. The following paragraphs shed light on how exactly this worked out in practice.

General elections under the supervision of the OSCE were held in 1996, 1998, 2000 and 2002. Three out of four times the parties that will historically be blamed for not being able to reconcile their positions and thus politically responsible for the war¹¹ won the majority of votes. The SDA, SDS, and HDZ emerged in 1995 with a clear idea how to most effectively and speedily rally supporters and with no scruples in employing fear, ethnic enmity and exclusive nationalism in their electoral campaigns. Thus the main national political actors of democratization in post-Dayton Bosnia and Herzegovina were to be the nationalist parties locked in territorially separated constituencies and posed to prevent their de-homogenisation through exclusionary campaigning and obstructing return of refugees and displaced persons¹². As late as 2000 their electoral slogans are still exemplary of that¹³. The most evident feature of the dominant political parties in Bosnia and Herzegovina is that, in their structure, approach to politics and employed organizational strategies they resemble mass movements; most of them base their programmes on the protection of interests of their respective ethnic groups, which makes it very difficult to classify them as parties of the centre, the left or the right (Herceg and Tomić, 1999: 245-72).

In Horvat's classification (2001: 19-21), the three parties in power would be positioned in the double negative quadrant III of the diagrammes of Figure 1. According to it, *Democracy* and *Reformism* can only reach their full potential when combined with *Societal Solidarity* and *Internationalism* respectively, and are handicapped by *Egoistic Individualism* or *Chauvinistic Nationalism*. On the other hand, *Conservatism* and *Chauvinistic Nationalism* co-exist very well in order to promote the full accomplishment of each other. In a pretty strong language the three parties fall within the quadrant defined as *fascism*. The analysis behind such classification is open to question, however, the positioning of the three political parties is indicative of their platforms, electoral campaigns and politics.

Figure 1: Horvat's coordinate system of Bosnia and Herzegovina nationalist political parties:



Source: Adapted from Horvat (2001: 20-1).

Parties whose programmes address and propose to solve on a state-wide basis political, economic and social issues, and which would thus fall into the more positive quadrants I and II are in the minority. The split in both SDS and SDA, and the split of the HDZ of Bosnia and Herzegovina from the Croatian HDZ did not result in a decreased appeal of party advocated nationalism. Parties such as SNSD (the Party of Independent Social Democrats) of Milodrad Dodik, the Party for Bosnia and Herzegovina of Haris Silajdžić and the Social Democratic Party of Zlatko Lagumdžija¹⁴ that are moderate in their platforms and stand for reconciliation and reconciliatory inclusive nationalism, have only managed to secure short and unsustainable access to political power. In addition, they have been unable to attract mass membership and to establish substantial party infrastructure. Hence the conclusion that in post-Dayton Bosnia and Herzegovina the exclusive nationalist approach to politics had managed to gain the upper hand over the reconciliatory one (Bianchini, 2000: 79).

Exemplary of the nature of political life in Bosnia and Hezegovina is as well the exclusionary discourse of nationalist parties ruling the separate territorial units evident in the way in which they define the peoples. The Constitution of the Federation of Bosnia and Herzegovina was adopted in

June 1994¹⁵ and declared only Bosniaks and Croats as its constituent peoples (Article 1.1). It contained further provisions on language, citizenship, composition of political institutions, etc. exclusionary to the Serb population of the country. The same was true in Republika Srpska, whose Constitution, adopted in 1992, declared it to be the state of Serb people (Article 1) and included similar discriminatory provisions on languages, citizenship, etc. Quite clearly in the case of Bosnia and Herzegovina, the political cultures of exclusive nationalism and democracy have proven to be irreconcilable.

Precisely such are the conditions in which control spilled over the electoral process to take hold of the ensuing political process as well. At its Bonn meeting in 1997 the Peace Implementation Council (PIC) revised significantly Annex 10 of GFAP to give the HR the mandate to make 'binding decisions, as he judges necessary, on the following issues: (a) timing, location and chairmanship of meetings of the common institutions; (b) *interim measures to take effect when parties are unable to reach agreement, which will remain in force* until the Presidency or Council of Ministers have adopted a decision consistent with the Peace Agreement on the issue concerned; (c) other measures to ensure implementation of the Peace Agreement throughout Bosnia and Herzegovina and its Entities, as well as the smooth running of the common institutions. Such measures may include *actions against persons holding public office or officials who are absent from meetings without good cause or who are found by the High Representative to be in violation of legal commitments made under the Peace Agreement or the terms for its implementation*' (Article 11.2, emphasis added)¹⁶.

For the sake of comparison, before 1997 the mandate of the institution of the HR stemming from Article 2.1 of GFAP's Annex 10 included the *mere* powers of: a) *monitoring* the implementation of the peace settlement; b) *maintaining close contact* with the Parties¹⁷ to promote their full compliance with all civilian aspects of the peace settlement and a high level of cooperation between them and the organisations and agencies participating in those aspects; c) *coordinating the activities of the civilian organisations and agencies* in Bosnia and Herzegovina to ensure the efficient implementation of the civilian aspects of the peace settlement. The HR *shall respect their autonomy within their spheres of operation while as necessary giving general guidance to them about the impact of their activities on the implementation of the peace settlement*; d) *participate in meetings* of donor organizations; and e) *report periodically* on progress in implementation of the peace agreement concerning the tasks set forth in this Agreement. Clearly before 1997, the HR did not have a far-reaching mandate and significant political power, and it was the disappointment of the involved international community and the lack of political progress in Bosnia and Herzegovina that led to the Bonn decisions.

After the Bonn PIC Conference a single person with no formal accountability to the people most influenced by his decisions concentrated in his office legislative, judicial and executive authority. Moreover, this authority cut across all levels of government in Bosnia and Herzegovina producing an extraordinary pool of horizontal and vertical power and if only the HR was considered, it would be correct to suggest that Bosnia and

Herzegovina is indeed an international protectorate (Freedom House, 2001: 96). Rather than talking of protectorate, however, it is more useful to see its political system as controlled democracy and this is for four interrelated reasons. The term protectorate is problematic, firstly, because it belongs to the completely different historical context of colonialism. After the Colonial Conference of Berlin in 1885, it was used to indicate the relation of a European power to a territory inhabited by native tribes and not recognised as a state¹⁸. The basic feature of a protectorate is that it retains control over its internal affairs but has its protector in charge of its international representation, the exact relationship depending on the terms of the instrument establishing it (Akehurst, 1982: 56).

Further developing the concept, after the Second World War, protectorate political systems were said to have been established in Germany and Japan, which were required to lay the basis for democracy, but for a long time did not have governments composed of national politicians. Other terms were also used, however, indicating the inadequacy of the protectorate paradigm. Referring to Germany and Japan, Stepan talked of externally monitored installation (1986:71-5), while Rosenau (1990) preferred to call Germany's political system between 1945 and 1955 penetrated - one in which non-participants of a national society participate directly and authoritatively in its political life through actions which are conceived together with members of this society. He claimed such penetration would only be accepted as legitimate if it suited the goals of the target society. Comparable are also the current events in Iraq, where an interim administration led by a former US general and supported by a heavy military presence is expected to oversee a constitutional conference involving many of the country's politicians and which, in its turn, can open the road for elections but not in the immediate future¹⁹.

A major difference between these cases and Bosnia and Herzegovina is that the level of social and political cohesion in the latter is severely diminished as result of the war and that there is an ensuing lack of reconciliatory potential in politics. In addition, the country's post-war existence is defined by a peace agreement which, given the selective interpretation of history and its acquisition of a functional status of existential necessity, the three constituent peoples of Bosniaks, Serbs and Croats are not yet ready to live by (Pirjevec, 1998: 112). Bosnia and Herzegovina was treated as an exception to the practice of treating post-war emergence of new states²⁰. It was given a Constitution defining a detailed institutional setting which, although it was never reviewed and formally approved by any domestic body (see Pajić, 2001: 58), contains the mechanisms of its amendment. Bearing in mind Akehurst's definition of protectorate, this fact necessitates the search for a better term to describe post-Dayton Bosnia and Herzegovina. The fact remains that, as early as 1996, the domestic politicians of the country, already defined as a polity, engaged in an electoral competition for filling up the its institutions.

Secondly, and leading from the last point, the GFAP gave to the HR the powers of monitoring; maintaining close contact; coordinating the activities of the civilian organizations and agencies and periodically reporting on a political process that was expected to be reconciliatory and have a

domestic ownership. Why would the parties involved otherwise create so inclusive an institutional setting for national politics and charge it with the obligation to ensure the highest level of internationally recognised human rights and fundamental freedoms (GFAP, Annex 4, Article 2.1). The most important element of analysis here is that the powers of the HR were subsequently developed to include his Bonn mandate only after elections failed to produce and sustain reconciliation. His mandate for imposing interim measures for example kicks in when domestic parties are unable to reach agreement. It is thus not ruling for the sake of ruling itself, rather a correction mechanism in case of deviation from GFAP-defined framework of action. The former would indeed be more in line with the idea of protectorate than the latter.

The third reason for rejecting that term is that it would indiscriminately conflate different approaches to peace building in a regional context. Kosovo, under Security Council Resolution 1244 of 1999, is more deserving of being called protectorate. It features limited and provisional self-government that does not diminish or affect the ultimate authority of the Special Representative of the UN Secretary General (Dal Borgo, 2003). Macedonia, on the other hand, represents another end of the spectrum of international involvement in domestic political life. It features intensive brokering of the August 2001 Ohrid Agreement between Macedonians and Albanians, but preserves full domestic political sovereignty. In addition no foreign authority has been directly placed and operative within the country.

Finally, and incorporating the above, beyond the institution of the HR in Bosnia and Herzegovina there exists a rich fabric of national politics, which is legally based on, and supposed to function according to, democratic principles. A clear aim is set for this body politics - bringing the country back together and initiating a wide range of reforms. A framework of action is constructed, outside which tolerance on the part of the international actors involved in the political life of the country is close to zero. What we are witnessing is thus a hybrid co-existence of democracy and non-democracy, the latter being more powerful, nevertheless, not representing the entire political system of the country. The powers of the HR are indeed extensive, which leads Pugh to write of protectorate democracy in Bosnia and Herzegovina (2000), but he then left his concept largely undefined.

As noted above, the authority given to the external presence in the country is *only* exercised when domestic politicians demonstrate they are unable to reach agreement. Although formally power is in the hands of the HR, it is the domestic politicians that are expected to make use of it in the first place. If they fail to agree on its exercise in a GFAP-consistent manner, the HR has the option to impose what his office perceives as the right action. This functional posture is demonstrated in a number of reports by the HR to the UN Secretary-General²¹. Report number fourteen, covering the period April-June 1999, contains the clearest statement in support of that - ‘...were it not for the powers granted at Bonn, there would have been almost no progress. Some Bosnian leaders still seem to see Dayton implementation as a continuation of the war by other means’. Hence the conclusion that ‘the HR’s powers are *still indispensable*. They should continue to be used without hesitation *whenever* local institutions and authorities *fail to support* Dayton

or impede the work of putting Bosnia and Herzegovina back on its feet and enable it progress towards European integration'. Indeed, how would it be possible to explain otherwise the enormous efforts undertaken by the HR in the first months of 2001 aimed at promoting political dialogue leading to reforming the entity Constitutions in line with Annex 4 of GFAP. Zucconi, for example, recognised that it has become commonplace to refer to the present institutional and political condition of Bosnia and Herzegovina as protectorate only because of want of a more suitable definition (2001: 169).

As stated above controlled democracy is a hybrid regime where democratic political structures co-exist with non-democratic ones. In this vein, a very important focus of attention is the mode of interaction between the two. In the case of Bosnia and Herzegovina, power is obviously on the side of the non-democratic political elements in the face of the OSCE and the HR. The employed mode of interaction thus ranges from unilateral imposition of decisions to the bilateral process of dialogue and persuasion aimed at internalising a prescribed line of political behaviour. Drawing back on the theoretical discussion, the former represents control *par excellence*, the latter instead makes use of conditionality. The last part of the article assesses the employed mode of interaction between national and international actors, and the way controlled democracy in Bosnia and Herzegovina has been functioning, through several examples from its political reality.

Controlled Democracy in Bosnia and Herzegovina

One of the key elements of controlled democracy is its transitional character. Although seemingly paradoxical, its justification and ultimate goal is to strengthen democratic political institutions and to engender mutual trust on the part of politicians and citizens that the only viable way to adjust differences is through a political process within the rule of law and through respect for human rights. Linz and Stepan (1996: 6) offer three elements that help judge when democracy is consolidated:

- *Behaviourally* – a democratic regime in a territory is consolidated when no significant national, social, economic, political or institutional actors spend significant resource attempting to achieve their objectives by creating a non-democratic regime or turning to violence or foreign intervention to secede from the state;
- *Attitudinally* - a democratic regime is consolidated when a strong majority of public opinion holds the belief that democratic procedures and institutions are the most appropriate way to govern collective life in a society such as theirs and when the support of anti-system alternatives is quite small or more or less isolated from the democratic forces;
- *Constitutionally* - a democratic regime is consolidated when governmental and non-governmental forces alike, throughout the territory of the state, become subjected to, and habituated to, the resolution of conflict within the specific

laws, procedures, and institutions sanctioned by the new democratic process.

In the following part, through several examples of the political life in the country, the functioning of controlled democracy is demonstrated as not conducive in most cases to consolidating the polity and transferring ultimate responsibility to national politicians. The examples are the three post-1995 general elections, several acts of the HR and the process of constitutional reform.

General Elections:

Parallel to running the elections in the country, in accordance with Annex 3 of the GFAP, the OSCE has been working towards transferring its implementing responsibilities to a domestic body. This has been a stated objective and an expected outcome ever since OSCE assumed its functions in Bosnia and Herzegovina in 1995. This process was completed before the elections in 2002. The draft Electoral Law (EL)²² was prepared by international OSCE staff and legitimised firstly as national project through the involvement of the seven-strong Independent Experts Commission appointed by the HR and, secondly, as an internationally sanctioned document through the approving comments of the Council of Europe's Venice Commission. The EL took long time to pass through Parliament. One of the main reasons was that the OSCE meant for it to clearly favour in the electoral competition non-nationalist parties that have multiethnic leadership and membership, that respect the GFAP provisions, that stand for issue politics and reconciliation and reject separatism and politics of exclusion. The final version was considerably toned down from this ambitious intention, containing only the uncontested provision banning ICTY-indicted war criminals to hold any functional position in the candidate parties (Article 1.6), and nothing in its Chapter 4 (Certification and Candidacy for Elections) requiring parties to present reconciliatory platforms or to have multiethnic membership. With regard to this the outcome of the last general elections is a hardly surprising indication of both the strength of the exclusive nationalist appeal within the country and the lack of potential for attracting politicians capable of mustering voter's support under the banner of reconciliation and civic nationalism.

Prior to 2002, in the area of elections control has been ubiquitous. OSCE has been the major player, appointing commissions, training local staff, carrying out the counts, producing the reports and reviewing appeals. There has been as well a veritable process of learning. Through the years, Bosnia and Herzegovina has acquired the expertise to run its elections for itself. The elections of October 2002 were the first to be run with an unprecedented national involvement in the face of the newly appointed Election Commission and regulated by an EL approved by the Parliament of Bosnia and Herzegovina. The mandate of the newly elected politicians will again for the first time since 1995 be four, instead of two years. This fact represents a significant relaxation of control in an area crucial for democracy,

but after a period of clearly unsuccessful attempts to encourage inclusive politicians and disadvantage exclusive nationalist ones. The OSCE objectives are thus achieved at one end, but missed at the other. Again the symptomatic conundrum of the article's introduction is at play. On one hand, fostering the expertise to run elections within the country is doubtlessly a huge help towards rooting democracy in its political development. On the other, if elections keep filling the institutions of the country with parties not even remotely concerned with unification and reconciliation, instead aiming to consolidate their positions in power based on division and ethnic animosity, then democracy is afforded a bad service. Such outcome of OSCE's work in the country, perhaps expected ever since the first elections in 1996, is what prompted the endeavor for establishing more robust control at the other end – over the ensuing political process. Neither Carl Bildt, nor Wolfgang Petritsch²³, for example, was satisfied with the results produced by OSCE run elections. In such conditions the temptation was high to impose further restraints on the body politics of Bosnia and Herzegovina by placing the institution of HR in the centre of events with practically unlimited powers. Below follows a short review of how these powers were actually used.

The High Representative:

A number of decisions imposed by the HR are indicative of the state of political affairs in Bosnia and Herzegovina. They are numerous²⁴ and since the Bonn meeting of the PIC all of them contain explicit reference to its revision of Annex 10 of GFAP that gave the HR such far-reaching mandate. Because of the apparent inability of state and entity authorities to agree on these issues, perhaps as a result of the GFAP devised consociational system of politics (see Bieber, 1999: 90) but also, highly likely, as result of their adopting and sticking to irreconcilable and non-negotiable positions, the HR has had to impose laws important for creating conditions for reconciliation and for the functioning of a multiethnic state administration. Among the laws imposed by the HR, presented here because of their obvious importance for reconstructing a democratic political life in the country, are:

1. The Law on Conflict of Interest in Governmental Institutions in Bosnia and Herzegovina (23 May, 2002)
2. The Law on Civil Service in the Institutions of Bosnia and Herzegovina (23 May, 2002)
3. The Law on the Human Rights Ombudsman of Bosnia and Herzegovina (14 December, 2000)
4. The Law on State Border Service (13 January, 2000)
5. The Law on the National Anthem of Bosnia and Herzegovina (25 June, 1999)
6. The Law on the Flag of Bosnia and Herzegovina (3 February, 1998)
7. The Law on Citizenship of Bosnia and Herzegovina (16 December, 1997)

The HR has also taken numerous decisions on removals and suspensions from office. By October 2002 there are more than 100 such

decisions taken. Removals and suspensions have been effected at state-level, entity-level and municipality-level legislative, executive and judicial authorities. Most of these decisions are indicative of the lack of will on the part of the suspended or removed officials to abide by the framework for political action defined by the GFAP. Among the most prominent removals are that of Nikola Poplašen from the Office of President of RS, because of abuse of power²⁵; of Ante Jelavić from his position as the Croat member of Bosnia and Herzegovina Presidency because of obstruction of the implementation of GFAP²⁶; and of Nikola Grabovac from his post as Federation's Minister of Finance because of alleged lack of control over his ministerial department²⁷. In both instances, the imposition of laws and removals from office, the apparent mode of interaction between the HR and domestic politicians is that of unilateral forceful action within relations of superiority-subordination. The following example of constitutional reform, however, reveals that this is not the only mode of interaction adopted by the HR.

Constitutional Reform:

In 1998 Alija Izetbegović, the then chairman of the Presidency, initiated proceedings at the Constitutional Court to determine whether the entity Constitutions are consistent with Annex 4 of the GFAP. In 2000, the Court²⁸ found some of their provisions quoted earlier in the article to be unconstitutional and recommended reforms aimed at equal protection of the rights of all three constituent peoples throughout the territory of Bosnia and Herzegovina²⁹. The decision provided several options for action (Perry, 2002: 3-10) but was never really taken up for consideration by national politicians in both entities. Evidently, the provisions of entity Constitutions were against any logic of reconciliation and indeed against any common sense apart from narrow political interests. Sejzović rightly pointed out that 'bosniakhood', 'croatianhood' and 'serbianhood' cannot be reasonably limited to only part of the territory of the country (2002: 1). It is thus beyond doubt that only political interests of securing unwavering electoral support defines the motive for preserving such exclusionary and, what is striking, unconstitutional provisions.

In a bid to foster internal political dialogue, the HR took the initiative to establish Constitutional Commissions in each entity to begin the process of reform. In 2002, due to several factors³⁰, this process began to attract increasing attention on the part of international actors in Bosnia and Herzegovina. The Sarajevo Agreement³¹ was reached at the end of March and outlined the main principles of constitutional reform in the two entities. Among these are (a) the definition of vital interests of each constituent peoples; (b) the distribution of key political functions; (c) minimal representation in the government of the Federation of Bosnia and Herzegovina and Republika Srpska; and (d) proportional representation in all public authorities, including courts. It can be reasonably argued that the Agreement on Constitutional Reforms furthers and deepens (i.e. brings them down at the entity level) the elements of consociationalism in democratic politics in Bosnia and Herzegovina already inherent in the GFAP in the sense

outlined by Bieber (1999: 83-8) and based on the theoretical model of Lijphart (1977). Bieber, however, argued that the absence of cleavages, which cut across national lines exacerbates the national division, making a consociational system more difficult to succeed. In any case, the effort on the part of the HR is evidently to make domestic politicians agree to a more accommodating and reconciliatory political system.

The process of negotiations held firmly the public attention³² and it was obvious how the role of the HR was instrumental in agreeing on the Constitutional changes. There were signs that the HR was willing to shift the mode of interaction from unilateral imposition to dialogue and persuasion. In the end he had to resort to his Bonn authority and impose the Constitutional amendments that were not already adopted by the entity assemblies³³.

Conclusions

Turning to the first of Linz and Stepan's points of consolidation of democracy, it can be reasonably concluded that *behaviourally* democracy in Bosnia and Herzegovina is far from being consolidated. This is not to imply that any major political, national, economic or social group is aiming at creating a non-democratic regime. But it is to imply that the political class of Bosnia and Herzegovina, divided and supported by different national, economic and social groups, maintains largely non-operative and ineffective the mechanisms for reaching consensus, compromise and agreement on state-important issues. This transpires as well in the first two quoted decisions by the HR regarding removal from office of high-ranking domestic politicians. The alleged behaviour of Nikola Poplašen and Ante Jelavić demonstrates no allegiance to the constitutional framework of Bosnia and Herzegovina. On the other hand, the fact that such high-ranking politicians could be removed from office by a non-elected authority is a huge structural hindrance to consolidation of democracy. The very presence and powers of the HR would, in the framework of Linz and Stepan's criteria, be seen as non-democratic regime. Controlling democracy as it is being done in Bosnia and Herzegovina thus provides a no-win set of expectations on its consolidation.

The process of Constitutional reform, more than anything else, is a clear indication of the failure of democracy in Bosnia and Herzegovina. The International Community sided with the idea that popular sovereignty throughout Bosnia and Herzegovina is the desired outcome, but left it to national politicians to agree on the precise mechanism of achieving it. Apparently, the latter were unable to subject and habituate themselves to the resolution of that particular conflict within the laws, procedures and institutions of the Dayton-constructed framework. Hence, democracy in Bosnia and Herzegovina cannot be said to be *constitutionally* consolidated either. Especially bearing in mind the data of Table 1 indicating that most of its people supported the idea of country-wide popular sovereignty.

Table 1. *Popular Sovereignty in Bosnia and Herzegovina.*

Do you agree that Bosniaks, Serbs and Croats should be sovereign people in both entities and in all Bosnia and Herzegovina?

	Bosniak majority areas	Croat majority areas	Serb majority areas
Agree (%)	94.0	84.6	56.2
Do not agree (%)	6.0	15.4	43.8

Source: Adapted from Early Warning Quarterly Report (2000: 10).

The main argument of this article has been that instead of seeing the state of Bosnia and Herzegovina as a protectorate, it is more properly and accommodatingly defined as controlled democracy. To resort to the former label would ignore the existing fabric of national politics and the framework of available options it has been given to democratically reconstruct the polity. The fact that it has failed to do so, thus legitimising increased outside involvement in domestic politics, should not obviate the fact of its existence and potential. Outright control can be seen as a function of the lack of reconciliatory politics. It can, and indeed is, relaxed where conflict is channeled into a constructive dialogue and agreement. On the contrary, it is tightened in the case of failure to produce such an outcome.

Essential in this regard is the employed mode of interaction within the hybrid regime of Bosnia and Herzegovina and the accumulated institutional memory of its advantages and disadvantages. The elections results of October 2002 make it highly likely that a mode of interaction involving unilateral imposition of reconciliatory measures will remain a preferred option. The new HR keeps demonstrating his willingness and preparedness to resort to his Bonn powers time and again. This in turn continues to sidetrack the importance and responsibility of domestic politics. As long as there is no clear indication as to the point of relaxation of control, local politicians will refrain from unpopular decisions, not least for the reasons of preserving electoral support. As much as OSCE has been unsuccessful in denying nationalist parties such support, and after the transferral of its responsibilities to domestic authorities, control over the ensuing political process is being enhanced.

The main conclusions of the present study can thus be summed up as follows. Procedural democracy in Bosnia and Herzegovina exists. It is ridden by structural contradictions that are, however, correctable. The biggest among them is that, because of the proven track-record of inability to produce reconciliatory outcomes, domestic politics is controlled by external actors positioned in the centre of the country's political life. When and how this contradiction will be solved is hard to predict. Clearly, however, the fact of its existence, combined with the lack of a uniting political project within the political space of the country, are the most serious hindrance to consolidating democracy in Bosnia and Herzegovina.

Endnotes

¹ An earlier and much longer version of this article has been presented within Panel 64 'Ethnicity and Democracy in Bosnia and Herzegovina' of the Special Convention 'Nationalism, Identity and Regional Cooperation: Compatibilities and Incompatibilities' held in Forlì, Italy in June 2002. I thank all the participants in the panel for their valuable comments and suggestions. The article has subsequently been published as an Occasional Paper of the Institute for Central, Eastern and Southeastern Europe of the University of Bologna. I wish to express my gratitude to Stefano Bianchini, Florian Bieber and to a reviewer for Southeast European Politics for commenting on the earlier draft.

² See any daily newspaper or weekly journal in the period following the elections in October 2002 for review of related events.

³ The institution of the Presidency of Bosnia and Herzegovina is the only exception. It was already elected for four years in 1998.

⁴ Sambanis challenged the claim that ethnic diversity leads to war. For him 'the political dangers of ethnic diversity are imperfectly understood. Instead of partition, he advocated 'enhancing ethnic diversity, while strengthening political institutions' as most beneficial to democratisation (2000: 479-80).

⁵ Van den Berghe conceptualises multicultural democracy as placed between liberal and consociational democracy. It differs from the former in that it decouples the concepts of nation and state and from the latter in that it avoids the political institutionalisation of ethnicity at the sub-state level (2002: 437).

⁶ Politics in Bosnia and Herzegovina add up a fourth to the three paths identified by Nodia (2002: 14) of failing to genuinely democratise - 1) try more or less sincerely to adopt the democratic model but fail, 2) make a pretence of trying, and 3) engage in a mixture of both good-faith failure and bad-faith pretence. In Bosnia and Herzegovina democracy is compromised because of the desire to antagonise each other in order to keep electoral support.

⁷ See Opinion 1, Art. 3 reproduced in Ramcharan (1997).

⁸ The very origins of these parties in 1989-90 prompted irreconcilable platforms in which issue politics gave way to politics of fear, distrust and ethnic exclusion (see Bougarel, 1996: 39-47). SDA is the Muslim organized Party for Democratic Action; SDS is the Serb Democratic Party; HDZ is the Croatian Democratic Union.

⁹ In some areas of predominantly Croat populated Herzegovina, the idea was discussed to amend the referendum question in a way that would link the approval of independence for Bosnia and Herzegovina with an approval of its cantonisation into three communities (i.e. Croats, Muslims and Serbs) organised on a territorial principle. Confusion still exists as to whether in these areas the referendum question was actually amended to this effect or not. I am thankful to Stefano Bianchini for this remark.

¹⁰ The full text of the Agreement is available at the official Internet Site of the Office of the High Representative - http://www.ohr.int/dpa/default.asp?content_id=379

¹¹ Andjelic claimed that the 'renaissant' civil society in Bosnia and Herzegovina in 1991 felt strongly in opposition to any armed conflict to which the country was geared by its political elite. Intellectuals, students, media activists and other groups of citizens made it clear that they did not want war. Journalists resisted every attempt by the governing parties to divide the media into exclusively ethnic radio or TV channels. Several women's organisations opposed army conscription. Children at schools switched from collecting film and football stars photos to collecting signatures for peace. In January 1991 a multi-ethnic group of 92 Bosnian intellectuals signed 'Charter 92' which among other things challenged the claims of

ethnic leaders for representation, arguing instead for the sovereignty of citizens and not of ethnic groups. When in March 1992 barricades were erected in Sarajevo, people took on to the streets in protest (see Andjelic, 1998: 305-11).

¹² According to Bieber, decentralized territorial units that are defined primarily in ethnic terms tend to accelerate their homogenization, to delay the re-mixing of the population and to result in non-democratic outcomes (2002: 210).

¹³ HDZ featured the slogan ‘Selection or extermination!’, SDA, which at its origin was defined as the ‘political organisation of the people from Muslim cultural-historical origin’, invited the electorate to ‘Vote for [their] own people!’, and SDS employed similarly non-conciliatory electoral strategies. All three electoral strategies fed quite successfully on each other.

¹⁴ The SDP is perhaps the only party in Bosnia and Herzegovina that can be placed in the double-positive quadrant I – *Reformism* combined with *Internationalism* and *Democracy* combined with *Societal Solidarity* - of the coordination system.

¹⁵ With the Washington Agreement, which ended the armed conflict between Croats and Muslims.

¹⁶ Available at http://www.ohr.int/pic/default.asp?content_id=5182#11

¹⁷ The Republic of Bosnia and Herzegovina, the Republic of Croatia, the Federal Republic of Yugoslavia, the Federation of Bosnia and Herzegovina and Republika Srpska.

¹⁸ *Encyclopedia Laws Eng.*, 1908, XII.42 quoted in Zucconi (2001: 170).

¹⁹ In the words of a senior British diplomat broadcast by BBC World Service, 21 April 2003.

²⁰ The Peace Treaty of Versailles, for instance, left it to the countries (the Kingdom of Serbs, Croats and Slovenes, Hungary, Austria, etc.) that emerged from the First World War to adopt their own constitutions according to the established procedures at the time (Pajić, 2001: 58).

²¹ Available by year at <http://www.ohr.int/other-doc/hr-reports/archive.asp>

²² Available in English at <http://www.oscebih.org/elections-implementation/pdf/el law-eng.pdf>

²³ See Bildt (1996) and Petritsch (2002: 159).

²⁴ Available by category at <http://www.ohr.int/decisions/archive.asp>

²⁵ http://www.ohr.int/decisions/removalssdec/default.asp?content_id=267

²⁶ http://www.ohr.int/decisions/removalssdec/default.asp?content_id=328

²⁷ http://www.ohr.int/decisions/removalssdec/default.asp?content_id=8974

²⁸ Composed of nine judges, of which three are not citizens of Bosnia and Herzegovina.

²⁹ The decision is available at OHR’s official Internet Site. It contains as well the proceedings before the Court. An interesting argument advanced by a representative of the Federation is that the proposed constitutional reforms will bring the country back to 1991 and ‘it is not necessary to repeat how this finished’ (see Para 46).

³⁰ Pending general elections, accession of Bosnia and Herzegovina to the Council of Europe, entry of new High Representative (Perry, 2002: 2).

³¹ Available at http://www.ohr.int/ohr-dept/legal/const/default.asp?content_id=7274

³² See the March issues of any national newspaper. *Oslobodenje* of 28 March 2002, pp 4-5 offered a good overview.

³³ See HR decisions of 7 October 2002 amending the Constitutions of the Federation of BiH and of Republika Srpska.

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