

III SECURITY BUILDING – THE FIRST PHASE OF STATE BUILDING (1995 – 1997)

“Peace is best thought of not as a single or simple good, such as the absence of war or violent conflict, but instead as a complex and variable process. Especially once one looks for a long- term peace, real peace requires more than an absence of violence. On the one hand, a temporary peace can be achieved through efficient coercion by a police force, but it is unlikely to last. Longer lasting peace involves aspects of legitimacy, political participation, social integration and economic development.”²³⁷ Post-conflict societies are usually at a higher risk of renewed conflict during the first decade after conflict has ended. There is, however, much that can be done both by post-conflict governments and by the international community to reduce these risks.²³⁸

This chapter opens up with an overview of the situation that preceded the 1995 intervention in Bosnia-Herzegovina, namely the international response to the Bosnian war that culminated with peace talks at Dayton. The arrival of the international military and civilian force following the signing of the Dayton Agreements represents the first phase of the post-war international involvement in Bosnia-Herzegovina. As explained in the theoretical chapter, the security-building phase defines the creation of the security framework in which civilian implementation can move forward. The NATO force was responsible for the military aspects, while a host of different organizations and agencies was responsible for the civilian aspects of peace implementation. The crux of this chapter is thus devoted to the analysis of the role of these forces in the period 1995-1997.

²³⁷ Kenneth Boulding, “Toward a Theory of Peace” in Roger Fisher (ed.), *International Conflict and Behavioral Science* (New York: Basic Books, 1964), pp. 70-87.

²³⁸ See Paul Collier, “Policy for Post-Conflict Societies: Reducing the Risks of Renewed Conflict”, paper prepared for The Economics of Political Violence Conference, March 18-19, 2000, Princeton University; available at www.wb.org.

III-1 BOSNIA-HERZEGOVINA AND TRANSATLANTIC RELATIONS

The decade-long Yugoslav crisis had two phases and two sorts of Western response. In the first phase, between 1990 and 1995, Europe led international initiatives to find a solution to the war in Bosnia-Herzegovina. However, the gradual, hesitant and unevenly distributed assumption of responsibilities in the face of ethnic cleansing caused considerable unease on the other side of the Atlantic. None of the Yugoslav conflicts threatened the core security of Western countries, but the fact that they were directed against civilians threatened values such as universal human rights, democratization, and globalization that gained in importance once the Soviet threat had disappeared.

The Bosnian war's corrosive effect on transatlantic unity was one important factor that led to a more effective American and NATO-led intervention in 1995. Bosnia's agony challenged the assumption of shared values and common interests. It mocked Europe's ambitions for unity and a greater presence on the global stage. And it raised a stark question about the continued seriousness of U.S. military engagement in Europe. Thereafter, a determined effort was made to preserve alliance unity on Balkan matters. The transatlantic partners had come to appreciate the high cost of disunity and their positions on the challenges posed by the war did eventually converge.

Three themes in particular dominated transatlantic debates on the war in Bosnia-Herzegovina.²³⁹

- The use of military force. Critics of the European response to Bosnia-Herzegovina argued that the West's greatest Balkan error was a disinclination to use military force to stop the war against civilians.
- The balancing of 'exit strategies' against the need for a sustained and open-ended engagement. In this case it was Europeans who got the better part of the argument – they were less reluctant to pledge commitment for the long-term engagement.

²³⁹ Cf. Dana H. Allin, *NATO's Balkan Interventions*, Adelphi Paper 347, The International Institute for Strategic Studies (Oxford: Oxford University Press, July 2002).

- The problem of ethnic coexistence versus national self-determination in a multiethnic setting. Americans systematically criticized peace plans offered through several European-led diplomatic initiatives arguing that they rewarded ethnic cleansing. After the Dayton Agreement came into force as a result of the U.S.-led diplomatic initiative, some European diplomats concluded that Dayton ethnic solutions did not differ significantly from some, previously criticized, European proposals.²⁴⁰

Constitutional, historical and cultural factors on both sides of the Atlantic had the practical effect of making transatlantic policies converge around an ineffectual lowest common denominator. In time, the U.S. approach proved effective in bringing the war to an end. The most consciously planned strategic element was the 1994 Washington Agreement between Bosniaks and Bosnian Croats, which ended the war between these two groups and laid the basis for a reconstituted anti-Serb alliance. If the United States was more successful in its strategic approach than the Europeans, it was partly because of its preponderant power and prestige, and also because its 'default' attitudes were more appropriate to the crisis. These included using force and taking sides. The UN template of 'impartiality' was not just morally problematic, but also the source of strategic incoherence. A settlement proved possible only after the Croat-Bosniak side gained the offensive on the ground; and after the Serb actions (the seizure of UNPROFOR hostages and the Srebrenica massacre) provoked NATO into joining the war as an ally, in effect, of the Sarajevo government.

As much as the intervention was crucial to the Bosnians in ending the war, it was of comparable importance to the interveners themselves. The intervention was a first in many different aspects. The NATO-led operation in Bosnia-Herzegovina, *Joint Endeavor*, was NATO's first-ever ground force operation, its first-ever deployment "out of area", and its first-ever joint operation with NATO's Partnership for Peace partners and other non-NATO countries, including the Russians. This was a first-ever for the French in support of a NATO-led operation.

²⁴⁰ See Carl Bildt, *Misija mir* (Sarajevo: Zid, 1998).

[T]he 32-country IFOR has brought France back to NATO, launched the Combined Joint Task Force, integrated Russian soldiers into the U.S. division, and become a trial run for all former Warsaw Pact countries aspiring to NATO membership. The goals attached to this operation are of such consequence – for U.S. leadership, for a new, transformed, and credible NATO, for European security arrangements adapted to post-cold war circumstances... that it cannot afford to fail.²⁴¹

The salience of the intervention to the interveners was a factor counted on by those who wanted to see the intervention succeed. The post-Cold War experience, although limited, implied that interveners would maintain a very short time span of interest in a target state. Commitment, although emphasized by scholars as the essential element of a successful intervention, was lacking because the interveners could not artificially produce the salience of an intervention that would require their extensive commitment.

In the case of Bosnia-Herzegovina, the war took place in Europe and this was perhaps the most important single reason why the interveners judged the intervention as being of greater salience than some other conflicts that were probably more destructive, but were not as close to them as Bosnia-Herzegovina was. Even under conditions of the high proximity of the conflict and the positive value attached to the development of internal relations among the interveners, the commitment oscillated. Interventions are fertile ground for advancing partisan interests among the interveners and for continuous internal wrestling to wield power.

III-1a Setting the stage

The peace process in Bosnia and Herzegovina²⁴² began with the signing of the General Framework Agreement for Peace, also known as the Dayton Peace Agreement (DPA) as it was negotiated at the Wright-

²⁴¹ Susan Woodward, “Policy Brief # 2”, The Brookings Institution (July 1996); available at www.brookings.org

²⁴² While ‘Bosnia and Herzegovina’ is the official name of the state, I use Bosnia-Herzegovina, or simply Bosnia, in this thesis unless otherwise required by the text.

Patterson Air Force Base in Dayton, Ohio. At the initialing ceremony on November 21, Richard Holbrooke, the architect of the Agreement, made a cautionary remark:

The agreements and territorial arrangements initialed here today are a huge step forward... But ahead lies an equally daunting task: implementation. On every page of the many complicated documents and annexes... lie challenges to both sides to set aside their enmities, their differences, which are still raw with open wounds. On paper, we have peace. To make it work is our next and greatest challenge.²⁴³

The Agreement was officially signed in Paris on December 14, 1995 by Alija Izetbegović on behalf of the Republic of Bosnia-Herzegovina, Franjo Tuđman on behalf of the Republic of Croatia, and Slobodan Milošević on behalf of the Federal Republic of Yugoslavia.

As an inducement to the parties to sign the Agreement and as a proof of its commitment, the international community pledged extensive military, political, and economic assistance. At the time, the international community was already present in Bosnia-Herzegovina under the United Nations, whose forces had been deployed in the peace-keeping mission since 1992 along with a number of governmental, inter-governmental and non-governmental organizations that had operated in Bosnia-Herzegovina for years. The 1995 post-Dayton intervention was launched with the goal of (re)creating the Bosnian space in such a way as to lay down conditions for a lasting peace both in the country and in the region at large.

In order to mobilize support for the peace process, the international community decided to establish the Peace Implementation Council (PIC) composed of states, international organizations and agencies who expressed the will to facilitate the implementation of the DPA. While the PIC was to meet annually to review progress in peace implementation, a Steering Board of the PIC, composed of representatives of Canada, France, Germany, Italy, Japan, Russia, United Kingdom, the United States, the Presidency of the European Union, the

²⁴³ Richard Holbrooke, *To End a War*, p. 312.

European Commission, the Organization of the Islamic Conference (OIC), as well as representatives of relevant international organizations,²⁴⁴ under the chairmanship of the High Representative, was to meet on a monthly basis and guide the peace implementation.

The purpose of the London Peace Implementation Conference, held on December 8-9, 1995 at which the PIC was established, was to “mobilize the international community behind a new start for the people of Bosnia and Herzegovina.”²⁴⁵ The Conference concluded that the peace should result in:

- the creation of a climate of stability and security in Bosnia-Herzegovina and the achievement of a durable and lasting political settlement;
- the establishment of new political and constitutional arrangements for Bosnia-Herzegovina that would bring the country together within a framework of democracy and the rule of law;
- the protection and promotion of human rights and the early return of refugees and displaced persons;
- the establishment of an open, free-market economy in Bosnia-Herzegovina;
- a kick start to economic reconstruction;
- the normalization of relations between Bosnia-Herzegovina and her neighbors, the region and the rest of the international community;
- the creation of a direct and dynamic contractual relationship between Bosnia-Herzegovina and the European Union within the framework of a regional approach;
- the fostering of important economic opportunities for countries neighboring the former Yugoslavia.

The realization of these objectives was to involve an initial phase of peace implementation during which the international community, including a wide range of international and regional organizations and

²⁴⁴ Regularly present in these meetings have been the United Nations, the United Nations High Commissioner for Refugees, the Organization for Security and Cooperation in Europe, and the North Atlantic Treaty Organization.

²⁴⁵ “Conclusions of the Peace Implementation Conference Held At Lancaster House, London, 8-9 December 1995”, pp. 1-2.

agencies, would be deeply involved in assisting in the implementation of the tasks flowing from the Peace Agreement.²⁴⁶ Over the years, the PIC countries and agencies supported the peace process in many different ways - by assisting it financially, by providing troops for IFOR/SFOR, or by directly running operations in Bosnia-Herzegovina. Since the London Conference, the PIC came together at ministerial level five times to review progress and to define the goals of peace implementation for the coming period: in June 1996 in Florence; in December 1996 for a second time in London; in December 1997 in Bonn; in December 1998 in Madrid; and in May 2000 in Brussels.²⁴⁷

Responsibility for reconstruction, the Conference concluded, was to lie primarily with the authorities of Bosnia-Herzegovina, but at the same

²⁴⁶ Ibid., underlining mine.

²⁴⁷ PIC members and participants are: Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, China (resigned in May 2000), Croatia, Czech Republic, Denmark, Egypt, the Federal Republic of Yugoslavia, Finland, Former Yugoslav Republic of Macedonia, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Jordan, Luxembourg, Malaysia, Morocco, Netherlands, Norway, Oman, Pakistan, Poland, Portugal, Romania, Russian Federation, Saudi Arabia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, the United Kingdom and the United States of America; the High Representative, Brčko Arbitration Panel (dissolved in 1999 after the Final Award was issued), the Council of Europe, the European Bank for Reconstruction and Development (EBRD), the European Commission, the International Committee of the Red Cross (ICRC), the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Monetary Fund (IMF), the North Atlantic Treaty Organisation (NATO), the Organisation for Security and Co-operation in Europe (OSCE), the United Nations (UN), the UN High Commissioner for Human Rights (UNHCHR), the UN High Commissioner for Refugees (UNHCR), the UN Transitional Administration of Eastern Slavonia (UNTAES; disbanded in January 1998) and the World Bank.

PIC observers are: Australia, the Central Bank of Bosnia and Herzegovina, the European Investment Bank (EIB), Estonia, the Holy See, the Human Rights Ombudsperson in Bosnia-Herzegovina, Iceland, the International Federation of Red Cross and Red Crescent Societies (IFRC), the International Mediator for Bosnia-Herzegovina, the International Organization for Migration (IOM), Latvia, Lithuania, New Zealand, Liechtenstein, South Africa and the Special Co-ordinator of the Stability Pact for South Eastern Europe.

time donors, including international financial institutions (IFIs), were “prepared to make a substantial contribution on the basis of appropriate burden-sharing within the international community of the overall effort needed to secure and implement the peace.”²⁴⁸ With regards to the reconstruction efforts, the Conference underscored that the views of the major donors were to be of particular importance. Frequent meetings of aid donors were necessary to achieve wide and equitable participation in the international aid effort and to enhance coordination between programs and projects. Such meetings were to inform the work of the Steering Board. The first such meeting took place in Brussels on December 20-21, 1995 and was co-hosted by the European Commission and the World Bank.

The Conference also stressed the importance of creating effective central institutions capable of adopting responsible fiscal and monetary policies; conducting business with the international community and in particular the IFIs; and contracting and servicing debt on behalf of Bosnia-Herzegovina. Moreover, the Bosnian authorities were to assume the responsibility of pursuing policies which fostered the creation of a market economy and an open trading system.

Mr. Javier Solana, the President of the EU Council of Ministers, stressed that “legitimate and effective political structures in Bosnia-Herzegovina were needed in order to be able to establish strong relations with the European Union.”²⁴⁹ He also stated that long-term stability required a normalization of relations within the region and between the states of the former Yugoslavia and the rest of the international community.

The initial military and civilian implementation tasks, such as the disengagement of the parties, arrangements to promote the return of refugees and displaced persons, and the holding of free and fair elections for new democratic structures, were planned to be the basis from which

²⁴⁸ “Conclusions of the Peace Implementation Conference Held At Lancaster House, London, 8-9 December 1995,” *OHR Document* at <http://www.ohr.int/docu/d951208a.html>; accessed March 5, 2001, p. 13.

²⁴⁹ “Conclusions of the Peace Implementation Conference...”, p. 13.

the peoples of Bosnia and Herzegovina would take over the task of the long-term development.

III-1b Elements of the security framework

The Dayton Peace Agreement provided the foreign powers – as represented by the NATO-led Implementation Force (IFOR), the Office of the High Representative (OHR), the Organization for Security and Cooperation in Europe (OSCE), the United Nations and other bodies – with broad authority over civilian, military and political activities in the territory of the Bosnia-Herzegovina. It also provided for a fundamental social, military and political transformation of the former Republic of Bosnia-Herzegovina, which was to be replaced by the new state of Bosnia-Herzegovina. The state was to consist of two entities: the Federation of Bosnia-Herzegovina (FBH) and Republika Srpska (RS).

NATO was given a mandate by the UN, on the basis of UN Security Council Resolution 1031, to implement the military tasks of the Peace Agreement. The NATO-led multinational force was called the Implementation Force – or IFOR – and the operation, code-named *Joint Endeavor*, began on December 16, 1995. The Dayton Agreement granted IFOR virtually complete discretion to control any military activity and to carry out policing activity in Bosnia-Herzegovina. IFOR's authority to use force primarily concerned the enforcement of a no-fly zone over Bosnia-Herzegovina and the separation of forces along the 'zone of separation' between the FBH and RS. The DPA did not provide guidelines or means of enforcement of their military provisions after IFOR had terminated its mission. The DPA also did not explicitly provide for the stationing of troops at any point on Bosnia's international borders.

Fifty-one percent of the Bosnian territory (including all of Sarajevo) was allotted to the FBH. The remaining forty-nine percent was allotted to Republika Srpska. Control of the narrow 'Brčko area', which links the RS's eastern and western territories, was to be resolved through international arbitration.²⁵⁰ The Federation and Republika Srpska could mutually agree to further territorial exchanges.

²⁵⁰ See Chapter I.

The DPA's constitutional arrangements provided for the legal continuation of the Republic of Bosnia-Herzegovina as Bosnia-Herzegovina and provided for the preservation of the state's sovereignty, unity and territorial integrity. The central government's powers, however, were few in number while those of the entities corresponded more closely to those of internationally recognized states. Actions by the central government could be vetoed by a minority of parliamentary deputies voting as an ethnic bloc. In addition, the government was given neither the means nor the authority to enforce compliance with any aspects of its constitution or other parts of the DPA.

The Office of the High Representative was to be the leading international civilian agency in Bosnia-Herzegovina. The High Representative was given the task of overseeing the civilian aspects of the Agreement. He was to be the final authority in the theatre regarding the interpretation of the DPA and was charged with coordinating the activities of other international civilian agencies. Subsequently, the High Representative was authorized to impose legislation and dismiss obstructive local officials. Thus, the High Representative was appointed to "monitor the implementation of the peace settlement," facilitate the local parties' own efforts, and "coordinate the activities of the civilian organizations and agencies in Bosnia and Herzegovina."²⁵¹ However, "the High Representative shall have no authority over the IFOR and shall not in any way interfere in the conduct of military operations or the IFOR chain of command,"²⁵² although cooperation and consultation between the High Representative and the IFOR Commander was required.²⁵³

²⁵¹ General Framework Agreement for Peace in Bosnia and Herzegovina, Annex 10, Article II, Item 1.

²⁵² General Framework Agreement for Peace in Bosnia and Herzegovina, Annex 10, Article II, Item 9.

²⁵³ It is interesting to see how this civil-military relationship came about. "Negotiations about civilian implementation structures were deeply influenced... by two crucial assumptions of U.S. policy. The first reflected congressional and perceived public sentiment against the United Nations... Accordingly, U.S. officials insisted that the UN could not have the leading role in the civilian or military effort... Second, the military operation had to be under sole NATO command, completely separate from, and

The UN High Commissioner for Refugees (UNHCR) was to develop a plan for the repatriation of refugees and displaced persons. The plan was to be implemented by the local sides. The UNHCR, the International Committee of Red Cross (ICRC) and other organizations were to be provided full freedom of movement and access to facilitate their activities relating to refugees and displaced persons. The local sides were obliged to abolish laws, eliminate structures and discourage activities that interfered with the return of the refugees or displaced persons, and to remove or prosecute authorities responsible for human rights violations. Property was to be returned to its lawful owners. Lawful owners were to be compensated if they so requested or if the property could not be returned, although the DPA did not define the criteria for legitimate reasons why property could not be returned.

Annex 3 of the Dayton Agreement gave the OSCE powers of regulation and control over the electoral process. The OSCE was to supervise – but not conduct – elections throughout Bosnia-Herzegovina between six and nine months after the signing of the DPA. However, this supervision was broadly defined since the OSCE was given powers far beyond the supervisory role it had in other Eastern European states. Refugees and internally displaced citizens could vote in places where they were residents before the war. They could also apply to vote elsewhere. A Provisional Election Commission was established, chaired by the Head of the OSCE mission, who was to have the final word in the interpretation of provisional electoral rules. Also involved in the work

certainly not subordinate to, the civilian implementation effort.” (Daalder, pp.153-4). The discussion on the role of the High Representative started thereafter and here U.S. policy went through an interesting evolution. The U.S. negotiating team believed that the High Representative would be an American and they developed a draft annex that contained a strong mandate for the HR who would have direct authority over the international organizations. “... [T]he Europeans made clear that if Washington expected them to pay the lion’s share of reconstruction and other economic assistance, the civilian coordinating effort would have to be in Europe’s hands. Once it was clear that a European rather than an American would be the first HR, ... American negotiators worked hard to *limit* the authority and responsibility of the High Representative, for fear that a powerful person whom Washington could not control might fumble the implementation effort or, worse still, interfere with the military effort.” Daalder, p. 157.

of the Commission was the High Representative, Bosnian representatives and any other invitees of the OSCE Head of Mission. In case of disagreement within the Commission, the OSCE Head of Mission had the power to adopt electoral rules and regulations regarding the registration of political parties, the eligibility of candidates and voters, the role of election observers and the nature of electoral campaigning. The OSCE Head of Mission, whose post was from the beginning filled with different U.S. diplomats, regularly exercised this power vested in him. With every round of elections there was division on a number of issues with Bosnian representatives, but there were also divisions between the OSCE and other international agencies, particularly the OHR.

Annex 9 of the DPA established the Commission on Public Corporations to examine creating joint public corporations for the benefit of both entities, including their appropriate internal structure, the conditions necessary to ensure their permanent operation, and the best means of securing long-term investment capital. These were to include utility, energy, postal, and communications facilities. The Commission comprised five members, two appointed by the Federation, and one by Republika Srpska. The President of the European Bank for Reconstruction and Development was charged with appointing the remaining two members and designating the Chair.

One of the first tasks of the Commission was to establish a Transportation Corporation to organize and operate transport facilities such as roads, railways and ports. The Board of Directors of this corporation, chosen by the Commission, was to appoint in turn its own officers and staff. The Transportation Corporation, if the Commission decided, was to serve as the model for other joint public corporations. However, the job of the Commission was wrought with difficulties and years after the signing of the DPA the process of establishing joint public corporations was yet to be launched.

While the Bosnian constitution and political system would ostensibly be democratic, ethnic quotas and ethnic veto powers were institutionalized at several levels (at the level of the central state, in the entities, in mixed cantons, in Brčko, Mostar and Sarajevo). At the same time, the DPA

provided for the elimination of political elements that actively undermined Bosnia's sovereignty, territorial integrity and political independence through the work of the UN War Crimes Tribunal for the former Yugoslavia in the Hague. No individual indicted by or serving a sentence imposed by the Tribunal was to be allowed to hold any appointive, elective or other public office, including military offices and offices related to the implementation of the DPA. The local sides were to cooperate with the Tribunal, although this cooperation was largely undefined except that the local sides were to comply with any request by the Tribunal for the arrest, detention, and access to military prisoners or civilians held in relation to the conflict who were indicted by the Tribunal.

However, the DPA did not define the mechanisms by which this provision was to be implemented, nor did it provide for enforcing compliance, although other provisions granted IFOR the authority (but did not oblige it) to use necessary force to facilitate the conditions for international personnel (as opposed to the local personnel) to conduct tasks associated with the DPA, including the apprehension of the indicted war criminals.

Annex 11 defined the role of the UN International Police Task Force (IPTF) whose task in essence was to police the police. Thus, the IPTF was not authorized to conduct police work itself, but to supervise the conduct and the work of the local police force. It had the power to monitor and inspect law enforcement activities and to provide training, advice and assistance to the local police. Bosnian representatives were to provide the IPTF with full information about their police structures, employment and service records. They were also to make personnel available for IPTF training. The IPTF mission was part of the UN mission in Bosnia-Herzegovina (UNMBIH) that was established by the DPA. The mandate of the UNMBIH ended on December 31, 2002 after which the IPTF job was taken over by the EU police force.

The first year of the implementation largely concentrated on security issues. From 1997 the focus started to shift to the civilian tasks. Although aspects of civilian implementation started right away, i.e. as of January 1996, they were perceived as marginal in comparison to the

tasks of military implementation.²⁵⁴ The reason was that both the people of Bosnia-Herzegovina and the interveners alike waited for a while to see whether the fighting was really over before starting to carry out civilian tasks in earnest. A number of ceasefires in the previous three and a half years that did not hold, and although this time the situation was different because the ceasefire did not depend on the goodwill of the belligerents to honor their signatures but on the will and the capacity of the NATO-led force to neutralize any potential threat to the established ceasefire, it took some time for people to get used to the enduring silence of guns.

The OHR was charged with political, economic and legal tasks in advancing the implementation. The Organization for Security and Cooperation in Europe (OSCE) was to be responsible for conducting elections, democratization, civil society and human rights. The UN retrained and supervised the local police. A range of NGOs implemented various projects from housing reconstruction to book publishing to micro credit to setting up creative development curricula in schools.

The peace process brought about some dramatic changes in the security area. However, the lack of progress in political and economic areas led to a general sense of dissatisfaction with the peace implementation. An assessment by an influential NGO at the end of the fifth year of the peace implementation stated:

The key test for the international community in Bosnia is self-sustainability. To date it has failed this test. Five years and five billion dollars after the signing of the Dayton Peace Agreement, it's time for the international community to take a more systematic approach to implementing the Dayton Peace Accords... The investment of time and money must not be lost. Pulling out of Bosnia is not a viable option, as it would certainly

²⁵⁴ OSCE started very early in the year with preparations for general elections that took place in September 1996.

lead to renewed conflict and probably renewed intervention at a later time.²⁵⁵

An implementation strategy that would guarantee success does not exist. The interveners adopted an approach based on trial and error, as there existed little prior knowledge on how to create the internal structure of another state. A clear problem in the intervention is its experimental character and the uncertainty about an outcome which predisposes a large part of the intervening force towards becoming extremely risk averse. The result is a slow, incremental progress.²⁵⁶

III-2 MILITARY IMPLEMENTATION

The security-building phase of the international intervention in Bosnia-Herzegovina was primarily associated with the presence and operation of NATO-led troops whose overwhelming military power guaranteed (or so it was hoped) the observation of the ceasefire. The essential role of the NATO troops was to serve as a credible guarantor of safety for civilian international agencies and local people to proceed with peace implementation. The psychological effect of having NATO troops to keep the peace instead of UN troops was immense. NATO military structure differs from that of UN peacekeeping forces in its organization

²⁵⁵ "Bosnia's November Elections: Dayton Stumbles," *ICG Balkans Report No. 104* (Sarajevo/Brussels: 18 December 2000).

²⁵⁶ In understanding the problematique of peace implementation it may be of help to delve into the fields of learning theory and behavioral psychology, which offer an insight into the process of attitude formation. These fields provide us with the following insights: the more frequently a particular stimulus prompts a response that is rewarded, the greater the probability that this response will be repeated in the future when the same stimulus appears. In relation to the experience of learning new things, another proposition can be made: a new stimulus produces unknown responses, which is the cost that has to be incurred in order to increase knowledge. There are two corollaries to these statements: a response tends to become repetitive to the extent that future stimuli are similar (or perceived to be similar) to past stimuli; and repetitive responses are positively related to the value placed upon the reward. These statements can be used to explain the learning process of the interveners in implementing the state building agenda in Bosnia-Herzegovina.

and ground operations. The intervention gained credibility because it was safeguarded by an overwhelming ready-to-combat military force.

The military mission, as defined in Annexes 1 and 2 of the Dayton Agreement, was carefully planned and limited to a certain number of specific tasks: marking boundaries and enforcing compliance with the cessation of hostilities agreement, the separation of forces, and the withdrawal of forces to agreed territories.²⁵⁷ In addition to these primary tasks, IFOR could consider supporting other tasks within the limits of its capabilities, such as: securing conditions for the conduct by others of other tasks associated with the Peace Agreement; assisting in the observation and prevention of interference with the freedom of movement of civilian populations, refugees, and displaced persons; assisting in monitoring the clearance of minefields; and providing assistance to the UNHCR and other international organizations in their humanitarian missions.²⁵⁸ IFOR's mission was thus to be circumscribed to strictly military issues, although it could undertake other non-military engagements upon its discretion.²⁵⁹

As part of the military implementation of the Peace Agreement, UNPROFOR (the United Nations Protection Force) was to be replaced by IFOR (the NATO-led Implementation Force). This came to be the first NATO military operation since it was established in 1949. The

²⁵⁷ See Annex 1 and Annex 2 of the General Framework Agreement for Peace in Bosnia and Herzegovina. Also, Ivo H. Daalder, *Getting to Dayton*, p. 142.

²⁵⁸ "Conclusions Of The Peace Implementation Conference...", *OHR Document*.

²⁵⁹ An explanation of how the role of the military was designed is provided by Ivo Daalder in *Getting to Dayton*. "The debate about IFOR's role was driven to a considerable extent by political considerations of what the Congress and the public were likely to support a year before presidential elections. It was also characterized by a typical bureaucratic politics, pitting a Pentagon bent on minimizing the military's involvement against a State Department that looked to the military to force – on enforce – what its diplomacy could not achieve alone." (p. 144). General John Shalikashvili, the Joint Chief of Staff, repeatedly emphasized that IFOR would have the authority – but not the responsibility – for these supporting tasks. "IFOR will not be responsible for the conduct of humanitarian operations. It will not be a police force. It will not conduct nation building. It will not have the mission of disarming, and it will not move refugees." Statement by Shalikashvili, *Situation in Bosnia*, Senate hearings, October 17, 1995, p. 332; quoted in Daalder, p. 148.

military force was to number sixty thousand troops, one third contributed by the U.S., who had been pledged earlier as an incentive to the Bosnian parties to sign the peace agreement. The rest of the troops were already present in the country and switched from UN to NATO command. A small contingent of Russian soldiers was also deployed, officially under NATO command.

The United Nations had grown weary of the Bosnian war in which its forces were sent as peacekeepers to keep a peace that was not there. With the mandate and resources that UNPROFOR had been given, its influence was severely limited. UNPROFOR could not make a difference and it could not control the direction or the intensity of fighting. However, much had been expected from the UN forces and the discrepancy between such great expectations and the limited scope of their mandate led to an inevitable sense of frustration.

Initially UNPROFOR was deployed to Croatia in 1992 to monitor the ceasefire arrangements between the Croatian and the Croatian Serb forces. Authorized for a period of one year, its mandate was subsequently extended several times over the next few years until it eventually transferred its peacekeeping authority to NATO on December 20, 1995. During this time it grew in size and its area of responsibility. In particular, UNPROFOR was deployed to Bosnia-Herzegovina to support the delivery of humanitarian relief and to monitor 'no fly zones' and 'safe areas' there, after this republic too had degenerated into war. When the conflict spread to Bosnia-Herzegovina, the UNPROFOR Headquarters, initially located in Sarajevo, was relocated to Zagreb.

UNPROFOR developed into the largest, most expensive, and most complex peacekeeping operation in the history of the UN. By March 1994, it had expanded to more than 38,000 troops from 37 countries, the largest contributions coming from the United Kingdom, France, and Pakistan. No U.S. ground forces were committed to the operation; the U.S. role in UNPROFOR was limited to logistical and other support, including a medical hospital.²⁶⁰ In addition to its military forces, the

²⁶⁰ As of July 1993, a small contingent of U.S. troops took part in the UNPROFOR mission to Macedonia. In December 1992, UNPROFOR was also deployed in

UNPROFOR had a civil affairs department that dealt with political, legal, and humanitarian issues. Chief among these were securing the passage of supply convoys, arranging for the fair treatment and release of prisoners of war, and most importantly, mediating between the warring parties. The UN High Commissioner for Refugees (UNHCR) has been entrusted to ensure the international protection of refugees in the Yugoslav conflict since 1991. UNHCR, in line with the DPA, has been the lead agency with regard to the implementation of the Annex 7, that is the return and reintegration of Bosnian refugees and internally displaced persons.²⁶¹

The UN Bosnian experience gave rise to deep disillusionment about the potential of the UN to play a constructive role in situations of serious conflict.²⁶² The Bosnian case confirmed the realist-school maxim that the most effective tool against those with arms is to use more powerful arms to counter them. Those who speak the language of guns understand best the language of guns.

Of course, we must take care not to simplify the historical record and ignore developments such as the more active multilateral diplomacy, the concern for human rights violations, etc. that contributed to the signing of the Dayton Agreement. However, without a strong military presence the international community would not have been able to carry out the

Macedonia to monitor her borders and the general situation as a measure of preventive action. On March 31, 1995 the Security Council decided to restructure UNPROFOR, replacing it with three separate (Bosnia-Herzegovina, Croatia and Macedonia) but interlinked peacekeeping operations.

²⁶¹ More information available at the UN website under the heading Peacekeeping Operations (www.un.org), at UNMBIH website (www.un.org/Depts/dpko/missions/unmbih), and at the UNHCR website (www.unhcr.ba).

²⁶² The Report of the Panel on United Nations Peace Operations (A/55/305-S/2000/809, released August 2000), generally known as the Brahimi Report, summarizes the dilemmas and the shortcoming of the UN peacekeeping experience and offers a list of crucial steps that has to be taken if the UN peacekeeping is to become an effective tool in contributing to the world peace. The Report does not address the question of whether the UN should become involved in specific situations. It deals exclusively with how the UN can improve its performance once a decision has been made to undertake a specific operation. Available at www.un.org.

numerous tasks that come as part of the post-war peace package. The overwhelming military presence came to serve as the best guarantor of peace. The military operation in the post-Dayton Bosnia was entrusted to the NATO-led and American-commanded Implementation Force (IFOR). Its mandate was for one year only, and in December 1996 it was reconstituted into the Stabilization Force (SFOR) that remained on the ground throughout the peace process.

III-2a The IFOR Command Arrangements

The most important physical feature of Bosnia-Herzegovina as a scene of military operations is its wild terrain. The rugged mountain landscape, craggy peaks, and roadless forest areas offer troops numerous places to hide, opportunities to shift forces unseen from the air, and locations for ambush. The major transportation routes are by road, rail, and inland waterways. The country covers a land mass of 51,197 sq km and its pre-war population consisted of roughly 44 percent Bosniaks, 31 percent Serbs, 17 percent Croats, 5.5 percent Yugoslavs (those who did not define themselves according to any ethnic affiliation), and 2.5 percent others.²⁶³ The estimated figures after the war were 40 percent Serbs, 38 percent Bosniaks and 22 percent Croats.²⁶⁴

A large part of the in-country infrastructure, such as power, water, and telecommunications, was destroyed by the war. Consequently, IFOR forces had to bring with them most of what they needed to execute the peacekeeping operation. In addition, minefields were numerous and added a certain danger factor to all deployed personnel.

In accordance with the DPA, IFOR had the following primary military tasks:

- to ensure continued compliance with the ceasefire;

²⁶³ These figures are from the 1991 census. See Federalni zavod za statistiku (the Federal Bureau for Statistics); available at www.fzs.ba.

²⁶⁴ The CIA cautions that all data dealing with population estimates in post-war Bosnia-Herzegovina are subject to considerable error because of the dislocations caused by military action and ethnic cleansing. See "The World Factbook 2002"; available at www.odci.gov/cia.

- to ensure the withdrawal of forces from the agreed ceasefire zone of separation back to their respective territories, and to ensure the separation of forces;
- to ensure the collection of heavy weapons into cantonment sites and barracks and to ensure the demobilization of remaining forces;
- to create conditions for the safe, orderly, and speedy withdrawal of UN forces that have not transferred to the NATO-led IFOR; and
- to maintain the control of airspace over Bosnia-Herzegovina.²⁶⁵

IFOR operated under Chapter VII of the UN Charter (peace enforcement). Its rules of engagement provided for the robust use of force, if necessary, to accomplish its mission and to protect itself. NATO and NATO member states assumed primary funding responsibility for IFOR, which was a mix of common and national funding.

In the beginning, the highest attention was given to IFOR and the possible problems it could face. However, it turned out that the military aspect of the intervention was the easiest to handle. The reason for this came from the fact that IFOR had a clear mandate limited to specific military issues and those were its primary tasks. The supporting tasks IFOR was to fulfill were “within the limits of its assigned principal tasks and available resources”.²⁶⁶ These supporting tasks were the creation of secure conditions “for the conduct by others of other tasks associated with the peace settlement, including free and fair elections.”²⁶⁷ However, for years secondary mandates were to be very much secondary. The secondary tasks could be implemented only with the provision that they did not divert IFOR from its primary mandate.

Most energy and concern was devoted to the draft of the military annex in which every sentence was analyzed. Foreign ministries in London, Paris and Bonn sent their representatives who, just as their colleagues from the Pentagon, took every precaution to

²⁶⁵ Larry K. Wentz (ed.), *Lessons From Bosnia. The IFOR Experience*, Chapter 2, p. 8.

²⁶⁶ Annex 1A, Article VI.3.

²⁶⁷ Ibid.

ensure that their forces did not receive any responsibility that was not clearly defined and for which full resources were not secured. I saw how in the military annex that was becoming much longer and with much more details, the resources of the military forces, which were named the Implementation Force – IFOR, were maximally enlarged, while their responsibilities maximally reduced.²⁶⁸

The Dayton Agreement contains two annexes that deal with military aspect of the peace process – Annexes 1A and 1B. The first Annex (i.e. 1A) stipulated the arrangements and the timetable for the separation of forces and the deployment of the Implementation Force (IFOR), the NATO-organized military peace implementation force that would be responsible for ensuring the military parts of the DPA. The IFOR commander was to take over the authority from UNPROFOR and the force would operate under the authority of and subject to the direction and political control of the North Atlantic Council (NAC) through the NATO chain of command. All foreign forces “including individual advisors, freedom fighters, trainers, volunteers, and personnel from neighboring and other states” were to be withdrawn from the territory of Bosnia-Herzegovina.²⁶⁹

The second Annex (i.e. 1B) addressed issues of regional stabilization. The parties to the conflict were to establish “progressive mechanisms for regional stability and arms control”, which were essential to creating a stable peace in the region.²⁷⁰ Annex 1B specified that to create stability, the parties must agree on the importance of devising new forms of cooperation in the field of security aimed at building transparency and confidence, and achieving balanced and stable defense force levels at the lowest numbers consistent with the parties’ respective security and the need to avoid an arms race in the region.²⁷¹ The military part of the Dayton Agreement envisaged neither the abolition of the rival forces nor their unification, and a decision on the future of the military force in

²⁶⁸ Carl Bildt, *Misija mir*, p. 183.

²⁶⁹ Annex 1A, Agreement on the military aspects of the peace settlement, Article II.2.

²⁷⁰ Annex 1B, Article I.

²⁷¹ Ibid.

Bosnia-Herzegovina was left to the subsequent civilian implementation. However, since none of the parties to the conflict had a viable option for returning to armed hostilities in the near future, the implementation of this military aspect was also relatively straightforward.

The three framework nations (the United States, United Kingdom, and France) formed the basis for the multinational divisions (North, South West, and South East, respectively). OPCON (the operational control) and OPCOM (the operational command) of the divisions were also assigned to the Allied Rapid Reaction Corps (ARRC). IFOR headquarters was split between Naples and Sarajevo and ARRC headquarters was located at Ilidža near Sarajevo. The U.S.-led Multinational Division North [MND(N)], with its headquarters in Tuzla, was the largest division and included brigades from Turkey, Russia, and a third non-U.S. brigade referred to as the NordPol brigade (made up of troops from Finland, Sweden, Norway, and Poland). The British-led MND(SW), with its headquarters located in Banja Luka, was built around a British brigade along with troops from Canada, the Netherlands, and Denmark. Finally, the French-led MND(SE), with its headquarters in Mostar, was the smallest division and was comprised of troops from France, Italy, and Portugal. Both the British and French already had a large number of troops in Bosnia in support of UNPROFOR and the Rapid Reaction Force. Hence, the bulk of the deployment activities for IFOR involved the NATO command unit forces, the U.S. forces, and the forces of the other participating nations.

The Allied Forces Southern Command (AFSOUTH) headquarters served as the operational-level headquarters for the operation, due in part to the success of *Operation Sharp Guard* (maritime control in the Adriatic sea during the war in the former Yugoslavia) and the need to use air bases on Italy's territory. AFSOUTH, located in Naples, is a 45-year-old NATO headquarters, which had the mission to watch over naval deployments in the Mediterranean Sea during the Cold War. AFSOUTH was neither staffed nor equipped to lead a land force into combat. Had IFOR encountered more combat in this operation, the headquarters structure probably would have failed without much additional U.S./NATO staff support and equipment.

NATO's ability to influence events during early preparation for IFOR helped to avoid the problems that had been encountered by UNPROFOR and to ensure a clear definition of military tasks under a unified chain of command. This is largely attributable to the close involvement of NATO military planners with Contact Group negotiators prior to and during negotiations at Dayton to ensure that the security tasks that could be accomplished realistically, i.e. those for which NATO wanted to assume responsibility, were incorporated into the Agreement.

UN Security Council Resolution 1031 provided NATO with the mandate and the necessary political authority to direct NATO and non-NATO forces under IFOR. However, NATO's robust military terms of reference contrasted with the paucity of authority for the civil activities of the High Representative—the weak link in the implementation of the Dayton Agreement.

In the first year, apart from its primary mandate, IFOR also gave support to the Organization for Security and Cooperation in Europe (OSCE) in preparing and conducting the September 1996 elections. By the end of the first year, the assessment was that IFOR had successfully completed its mission in implementing the military annexes of the Dayton agreement. However, it was clear that much remained to be accomplished on the civilian side and that the political environment would continue to be potentially unstable and insecure. This led to the reassessment of the role of the military in implementing the DPA, which ended with the creation of the Stabilization Force.

III-2b SFOR mandate

The week after the Bosnian elections, NATO Defense Ministers at a meeting in Norway concluded that the Alliance needed to reassess how it might continue to provide support for the establishment of a secure environment after the end of IFOR's mandate in December 1996. One month later, the North Atlantic Council approved detailed political guidance for a study to be undertaken by the NATO military authorities of post-IFOR security options. This resulted in drafting a two-year consolidation plan that was endorsed by the PIC. On the basis of this plan, the number of NATO troops was reduced to the level necessary for consolidating peace.

The mission of the Stabilization Force – SFOR - has been to “deter hostilities and stabilize the peace, contribute to a secure environment by providing a continued military presence in the Area of Responsibility (AOR), target and coordinate SFOR support to key areas including primary civil implementation organizations, and progress towards a lasting consolidation of peace, without further need for NATO-led forces in Bosnia and Herzegovina.”²⁷² This desired end-state is assessed against the following criteria:

- All parties adhere to the requirements of the Dayton Peace Agreement on a sustained basis.
- All parties demonstrate commitment to continue negotiations as a means to resolve political and military differences.
- Established political structures are sufficiently mature to assume responsibilities to continue monitoring compliance with the DPA.
- Conditions have been established for the safe continuation of ongoing state-building activities.²⁷³

While the SFOR mandate expanded, the size of the force shrunk from over 60,000 troops in 1995-96 to some 18,000 in 2002.²⁷⁴ The contribution of the United States fell from 20,000 troops at the outset to less than 3,000 in 2002 – from roughly one-third to one-sixth of the total, despite the fact that America spearheaded the intervention in 1995, and has continued to exercise overall command of SFOR. On the other hand, the U.S. still provided the single largest contingent. In Kosovo, by contrast, the American contribution of some 7,000 troops to the Kosovo Force (KFOR) in 2001 was twice as large, but constituted just 14 per cent of the total.

²⁷² “SFOR Mission” at www.nato.int/sfor [Accessed June 5, 2002].

²⁷³ Ibid.

²⁷⁴ Out of 18,000 troops, in 2002 there were 17,500 SFOR personnel in Bosnia-Herzegovina and about 400 in Croatia. Approximately 2,000 personnel worked in the National Support Elements (NSEs).

As of 1998, CIMIC (Civil-Military Cooperation) was established as the means by which the military command could forge formal relations with national and local authorities, the civilian population, international organizations and non-governmental organizations. It represents a vital link in the efforts to implement provisions of the Dayton Agreement that are not strictly military in nature. Thus, CIMIC represents a channel that connects the civilian implementation force with its military counterparts. It is an essential connection in respect to fulfilling the tasks laid down by the DPA, because the military has provided a safe framework in which the civilian implementation is taking place.

At the same time there were calls from Western countries for the withdrawal of forces because the intervention was slow in achieving the desired results. There were strong voices in the West who argued that the mission should be abandoned, because the objectives were not reached and progress was not substantial. If NATO withdrew, it was argued, the locals would have to assume the responsibility for finding solutions to their own problems. However, the regular calls for pulling out from Bosnia-Herzegovina were countered with arguments that a period of robust implementation, focusing on concrete benchmarks, was necessary if progress was to be made and the opportunity seized. Abandoning the Dayton agenda would mean consigning the country to a state of simmering unrest requiring near-permanent military occupation or, at worst, to a renewal of hostilities following its desertion by the international community. Moreover, it is naïve to think that the region could be sealed off to prevent a spillover effect in case of a renewed conflict. In May 2000, a UNMBIH (UN Mission in Bosnia and Herzegovina) report stated: “Four years since the Dayton Peace Accords, an objective assessment of the overall situation in Bosnia and Herzegovina is that the international community is at the beginning, not the middle, of self-sustaining peace implementation.”²⁷⁵

An article in a Bosnian weekly magazine in October 1998 brought a story of SFOR building a huge military complex speculating that such an investment would not be made if NATO had not had plans to stay for the next fifty years. Lieutenant Lesperance, a Canadian SFOR officer for

²⁷⁵ UNMBIH Report, 9 March 2000.

engineering, was quoted giving the following explanation for the building the military base:

One could also call this the consolidation of our headquarters which will house all offices in one place from which SFOR operations throughout Bosnia-Herzegovina will be conducted and controlled. NATO extended its stay in Bosnia-Herzegovina, after which we decided that it would be more effective if we centralized our various offices. All our bases so far have been of temporary character, while this base will be permanent. When we leave we shall return the land to the local authorities who gave us permission to build on this land now.²⁷⁶

After the NATO mandate in Bosnia-Herzegovina was extended indefinitely, the sense of permanence released the pressure on civilian actors to operate within strict time limits and made it possible for them to initiate long-term policies.

III-2c Indicators of progress in security building

In the first phase of the peace process the international community focused on preserving and enforcing the cessation of hostilities. The 60,000 troops in the NATO-led Implementation Force (IFOR) were able to stabilize the security situation with impressive efficiency. IFOR managed in the first few months to establish a 4-kilometer buffer zone separating opposing armies along the cease-fire lines, the total length of which exceeded 1,000 kilometers. It also supervised an exchange of territories between the two entities, which in effect led to the creation of an inter-entity boundary line, as envisaged in Annex 2 of the Dayton Agreement. It also succeeded in establishing a 10-kilometer free zone by moving soldiers and weapons away from the borders of the entities into designated areas.

IFOR maintained a presence all over the country, providing for security and carrying out a number of other tasks: securing sensitive areas; repairing roads, bridges and railways; tearing down illicit checkpoints; and facilitating greater freedom of movement for civilians. In accordance with precise requirements and timetables set out in the

²⁷⁶ *Slobodna Bosna* No. 98 (Sarajevo, October 3, 1998), pp. 14-15.

Dayton Agreement, heavy weapons were destroyed or moved into designated sites, which were subject to regular inspection by international forces. The three armies were demobilized to peacetime levels, and their deployment in the field was controlled by IFOR so as to reduce tensions. The 'Train and Equip' program, carried out by U.S. contractors outside the NATO chain of command, built up the Bosniak and Bosnian Croat armies to achieve a balance of power with Bosnian Serb forces.

The NATO-led military force was over the years increasingly drawn into performing a range of security-related tasks. The purpose of this shift from 'implementation' to 'stabilization' is described in NATO's own language.

By successfully accomplishing [its] principal military tasks, SFOR will contribute to a secure environment within which civilian agencies can continue to carry out the process of economic development, reconstruction, political institutions, and overall climate of reconciliation for Bosnia-Herzegovina and its citizens. (...) SFOR will work closely with the High Representative, the International Police Task Force, the UN High Commissioner for Refugees, the OSCE, and the International Criminal Tribunal for the Former Yugoslavia (ICTY) ... to assist their efforts ... which are essential to the long term consolidation of peace in BH.²⁷⁷

Under the Dayton Agreement, SFOR has had authority to provide security in support of the "free movement of civilian populations, refugees, and displaced persons, and to respond appropriately to deliberate violence to life and person."²⁷⁸ Prior to 1999, SFOR refused to assume a significant measure of responsibility for protecting returnees. Since then, coordination between international organizations dealing with returns and SFOR improved markedly, through the work of

²⁷⁷ Supreme Headquarters Allied Powers Europe (SHAPE), *Information Booklet on NATO, SHAPE and Allied Command Europe*, September 2000, p. 42.

²⁷⁸ Annex 1A of the General Framework Agreement for Peace, Article VI, paragraph 3d.

both the joint Return and Reconstruction Task Force (RRTF) and the Property Law Implementation Plan (PLIP). This was one of the reasons why 2000 saw significant minority returns throughout the country, including ‘breakthrough’ returns to areas of eastern Republika Srpska where some of the worst crimes had been committed and which were, as a result, considered impervious to return.²⁷⁹

While there were many examples of SFOR units successfully providing security to returnees, it had to be recognized that SFOR support was inconsistent, and that there were striking differences in the willingness of SFOR’s various components to make use of their authority under the Dayton Agreement.²⁸⁰ The increasing incidence of attacks on minority returnees was a matter of serious concern. At the same time, however, it was the evidence that Dayton was succeeding and that the enemies of Dayton were resorting to desperate and violent strategies to stem the refugee flow. As was the case with so many other aspects of Dayton implementation, the situation was wrought with promise and menace in roughly equal measures.

Parallel to securing military stability in the country, the international community started a comprehensive reconstruction program, driven by urgent humanitarian considerations and the need to kick-start the economy. “Jointly coordinated by the World Bank and the European Commission, the priority reconstruction program attracted over US\$5 billion in international aid. At the time of the Dayton Agreement, more than 2,000 kilometers of roads, 70 bridges, half the electricity network and more than a third of houses were destroyed. Despite the logistical difficulties, by 1999 the reconstruction program had repaired a third of the housing, and most urban infrastructures had been restored to pre-war

²⁷⁹ Cf. “Bosnia’s Refugee Logjam Breaks: Is the International Community Ready?”, *International Crisis Group*, Balkans Report No. 95 (Sarajevo/Brussels: May 30, 2000).

²⁸⁰ The Russian and Italian troops who stood by as mobs attacked Bosniaks in Bratunac and Janja in the summer of 2000 were cases in point. The opening of a small U.S. SFOR base in Bratunac in April 2001 sent a signal of encouragement to would-be returnees that SFOR would secure their right to return.

levels, from telephone lines to electric power generation, from water services to primary schools.”²⁸¹

However, the reconstruction program was implemented at the expense of institution building. Whenever the international community needed quick action to solve particular problems, it demanded action directly from the nationalist parties ignoring proper constitutional channels and reinforcing parallel structures. Thus, the first phase of the international intervention, i.e. the security-building phase, led in effect to the consolidation of the wartime regimes. The international community disbursed assistance without conditioning this disbursement on the active support of the parties to the Dayton Agreement. The international reconstruction program was carried out in such a way that there was no financial or political cost to obstructing the state building process. It was only in the subsequent years that the international community realized its mistakes and started to tie the financial assistance to the implementation of the peace agreement.²⁸²

III-3 CIVILIAN IMPLEMENTATION

Although almost entirely associated with the role and the operations of the military force, the security-building phase also concerned the civilian aspects of the Peace Agreement. The ultimate goal of the international intervention has been to create a framework in which the local people would take over the peace process and continue building the society and the state upon the foundations set down by the international community. The strong military presence, the imposition of laws, the frequency of conducting elections – these were means by which the international community would create the state-building framework.

²⁸¹ Marcus Cox, “State Building and Post-Conflict Reconstruction: Lessons from Bosnia” (Geneva: January 2001), p. 11. The paper is part of the project *The rehabilitation of war-torn societies*, coordinated by the Center for Applied Studies in International Negotiations (CASIN), Geneva. See also European Commission and World Bank, *1996-1998 Lessons and Accomplishments – Review of the Priority Reconstruction Program*, May 1999.

²⁸² Ibid.

The beginning of the work of the High Representative was rough. The first High Representative, the former prime minister of Sweden, Mr. Carl Bildt, described the difficulties he faced in defining the role of the High Representative and the reasons why limited powers were entrusted with the civilian implementation agencies.

As regards the civilian coordination, the Americans still did not want to show us the document they had prepared, which did not stop us from obtaining it. They did their utmost to undermine the 'High Representative.' He was to receive a lower, bureaucratic title – 'the first implementation coordinator.' He was given no authority to solve anything and would be nothing more than a simple decoration to the military headquarters in Sarajevo. They did not want to hear of the idea of giving the High Representative a coordinating and a robust political role, which Europe deemed necessary.²⁸³

Opinions of the role of the High Representative and, more generally, of the overall importance of the civilian implementation differed on the two sides of the Atlantic. The Administration in Washington was under pressure from the Congress, the Pentagon and NATO not to enlarge the possible role for the military forces. The U.S. negotiating team made a strong case for strengthening civilian implementation, but the military remained firm.

At first, Carl Bildt, now the High Representative, had so little money and support that he was forced to operate without an office or telephones, and used his personal cellular telephone as his primary means of communication. After appeals to the European Union, he received enough funding to open his offices in Sarajevo, where he presided like an elegant squatter over a building filled with wrecked rooms, broken toilets, shattered windows, and almost no staff.

This lag in civilian implementation troubled us enormously, although we shared in the blame for it. While the military, sixty thousand strong, met every early deadline, the civilian side, functioning out of Carl Bildt's cellular telephone, met almost

²⁸³ An observation of the negotiations at Dayton, Carl Bildt, *Misija mir*, p. 185.

none, and fell steadily behind the schedule. For this Bildt was personally criticized, but the fault was more in the structures we had imposed on him, particularly the failure to give him sufficient funding or stronger backing from IFOR.²⁸⁴

III-3a The Office of the High Representative

The Office of the High Representative is the chief civilian peace implementation agency in Bosnia-Herzegovina. The mandate of the High Representative was set out in Annex 10 of the Dayton agreement. It declared him (or her) the final authority in the theatre to interpret the agreement on the civilian implementation of the peace settlement and to coordinate and facilitate civilian aspects of the peace settlement, such as humanitarian aid, economic reconstruction, establishment of political institutions, protection of human rights, return of displaced persons and refugees, and the holding of free elections.²⁸⁵ The High Representative was to chair a Joint Civilian Commission comprised of senior Bosnian political representatives, the military commander, and representatives of civilian organizations. However, he/she was to have no authority over the military forces. The Peace Implementation Council subsequently elaborated on the High Representative's mandate.²⁸⁶ The Steering Board of the PIC nominates the High Representative, who is then endorsed by the United Nations Security Council.

The first High Representative was Carl Bildt (December 1995 – June 1997), the former Prime Minister of Sweden and the European Union's Special Negotiator at the end of the war in Bosnia-Herzegovina. He was succeeded by Carlos Westendorp (June 1997 – July 1999), former Spanish Secretary of State for European Affairs and Minister of Foreign Affairs. The third High Representative was Wolfgang Petritsch (July 1999 – June 2002), Austrian diplomat. As from June 2002, the High Representative has been Paddy Ashdown, a former leader of the Liberal Democratic Party in the UK, an MP and a diplomat.

²⁸⁴ Richard Holbrooke, *To End a War*, p. 324.

²⁸⁵ Annex 10, Agreement on civilian implementation of the peace settlement, Article I.

²⁸⁶ More on December 1997 Bonn PIC conference later.

The High Representative has three deputies, the Principal Deputy High Representative, a post that has been occupied by a U.S. diplomat from the beginning, and two Senior Deputy High Representatives, posts that have normally been occupied by European diplomats. Article II of Annex 10 of the Dayton Peace Agreement directs the High Representative to:

- Monitor the implementation of the peace settlement;
- Maintain close contact with the parties to the Agreement, to promote their full compliance with all civilian aspects of the Agreement;
- Co-ordinate the activities of the civilian organizations and agencies in Bosnia and Herzegovina to ensure the efficient implementation of the civilian aspects of the peace settlement. The High Representative shall respect their autonomy within their spheres of operation while giving general guidance to them about the impact of their activities on the implementation of the peace settlement as the need arises;
- Facilitate, as the High Representative he or she judges necessary, the resolution of any difficulties arising in connection with civilian implementation;
- Participate in meetings of donor organizations;
- Report periodically on progress to the United Nations, the European Union, the United States, the Russian Federation and other interested governments, parties and organizations;
- Provide guidance to the United Nations International Police Task Force.

In contrast to the initial conditions in which the High Representative operated, the conditions seven years later were dramatically different. The Office of the High Representative in 2002 was situated in a newly built large, white, modern building, surrounded by a high fence in the center of Sarajevo. Sarajevo residents call it 'the Presidency.' The staff of 60 in 1996 grew to 681 at the end of 2000 and remained at around 700 for the next two years. The OHR opened 18 offices throughout Bosnia-Herzegovina plus one representation office in Brussels. The Bosnian OHR's offices are five regional offices – in Banja Luka, Mostar, Brčko, Tuzla and Sarajevo Region – and thirteen field offices.

The OHR's involvement in Bosnia-Herzegovina's political life has also expanded over time. At the beginning of the peace process, the High Representative chaired a number of joint bodies that brought together representatives of the wartime parties and took care of the initial requirements of the peace process. The state and entity institutions envisaged in the constitution were set up after the first post-Dayton elections in September 1996, but it took some time before they started meeting regularly. Afterwards, one of the OHR's key tasks has been to ensure that the institutions function effectively and in a responsible manner.

In the economic field, the High Representative initially coordinated the repair and reconstruction of the Bosnian infrastructure, including its roads, bridges, airports, telephone networks and utilities. The reconstruction phase, financed under a \$5.1 billion World Bank/European Commission program, was largely completed by the year 2002 and the emphasis shifted on revitalizing the economy through reform.

Among the most important milestones in the peace implementation process was the PIC Conference in Bonn in December 1997. Elaborating on Annex 10 of the Dayton Peace Agreement, the PIC requested the High Representative to remove from office public officials who violate legal commitments and the Dayton Peace Agreement, and to impose laws as he sees fit if Bosnia-Herzegovina's legislative bodies fail to do so.

Nonetheless, the governing principle of the OHR's engagement in Bosnia and Herzegovina has been the concept of ownership. This concept calls on the officials and citizens of Bosnia-Herzegovina to take ownership of the peace process and the problems that their country faces, and not to rely on the international community to the degree that they had in the beginning, both in terms of financial assistance as well as political interventions.

Since 1998, the OHR has focused its efforts on three priority areas - the effective functioning of the institutions of a modern state, in particular

Bosnian state institutions, economic reform, and refugee return.²⁸⁷ Other important issues are judicial and legal reform; the protection of human rights; reform of the education system; media reform, in particular the establishment of independent public service broadcasting; and Bosnia-Herzegovina's integration into Europe.²⁸⁸

The High Representative, his Principal and Senior Deputies and their cabinets are all based in the OHR's headquarters in Sarajevo. In addition, the Sarajevo Office accommodates the Political, Economic and Legal Departments, the Anti-Fraud Department, the Return and Reconstruction Task Force (RRTF), the Department of Human Rights and Rule of Law, the Department of Media Development, the Military Cell, the Press Office, the Personnel, Administration and Finance Departments, and the Special Envoys Co-ordinator.

Under the Office of the High Representative there were a number of special task forces. The Economic Task Force concentrated on reconstruction and was seen as a key instrument for influencing the reintegration of the country.²⁸⁹ Control of economic reconstruction was organized through OHR coordination of the economic development agencies – the World Bank, the European Commission, the European Bank for Reconstruction and Development, the International Monetary Fund and the International Management Group – through meetings in Brussels and weekly meetings in Sarajevo. After the London PIC Conference in December 1996, the OHR Economic Department was strengthened by the establishment of the Deputy High Representative for Economic Issues.

The Human Rights Task Force was chaired by the High Representative and consisted of the key international organizations involved in human rights issues – the OSCE, the European Community Monitoring Mission, UNHCR, the Council of Europe, IPTF, the International

²⁸⁷ See Chapter IV.

²⁸⁸ Cf. "General Information", *Office of the High Representative* at www.ohr.int [accessed June 11, 2002].

²⁸⁹ "PIC London Conference: Summary of Conclusions", December 05, 1996, *OHR Documents*; available at www.ohr.int/pic.

Committee of the Red Cross, IFOR, the Helsinki Citizens' Assembly and the UN Mission in Bosnia-Herzegovina. This forum was of particular importance in developing and implementing policy because the area of human rights was broadly defined to include vital issues in government, such as institution building and the rule of law.²⁹⁰

The Freedom of Movement Task Force was established to develop and implement mechanisms to promote freedom of movement for people, goods, and services.²⁹¹ This Task Force included representatives of the OHR, UN, IPTF, SFOR and interested countries.

After restructuring in 2002, the OHR was left with eight departments, of which the economic pillar, the rule of law pillar, and the resources department were recreated by incorporating projects that were previously spread among several departments.

Under Annex 10, the OHR has the status of a diplomatic mission to Bosnia-Herzegovina, although its activities expand the traditional role of a diplomatic mission. It is made up of diplomats seconded by the governments of the PIC countries, international experts hired directly, and national staff. A representation office in Brussels liaises with international organizations outside Bosnia-Herzegovina. The Brussels-based units for Political Affairs and Policy Planning were established with the aim of developing policies for discussion at Peace Implementation Council level; policies which then, after consultation, were to be implemented by the High Representative on the ground. However, the Brussels office, physically removed from daily events, was not able to design a strategy, but has served mainly as a coordinative body. In order to develop closer coordination of policy, the Human Rights Coordination Center and the Economic Task Force are based both in Sarajevo and Brussels. The OHR is funded by the Peace Implementation Council. Its budget in 2002 was 25,1 million Euros. Contributions to the OHR budget break down as follows: EU 53 %, USA 22%, Japan 10%, Russia 4%, Canada 3.03 %, OIC 2.5%, others: 5.47%.²⁹²

²⁹⁰ Ibid.

²⁹¹ Ibid.

²⁹² See OHR General Information at www.ohr.int

Assessments of the role of the international community have oscillated between two types of criticism. On the one hand, the international community was criticized for its lack of commitment and will to get more deeply engaged in peace implementation, while on the other it was criticized for interfering too much in the internal affairs of Bosnian politics. Those who wanted to see faster progress in peace implementation accused the international community of wasting resources by refusing to tackle difficult but essential issues and by allowing imprudent inter-agency competition.

In an open letter to the Bosnian public on February 8, 2001, the High Representative responded to some of the criticism. He went on to clarify the roles of the diplomatic corps, on the one hand, and the international community – including Ambassadors of PIC Steering Board Member Countries – on the other.

Traditional diplomatic relations are regulated under the Vienna Convention and exercised in Bosnia-Herzegovina as they are elsewhere in the world. However, various members and representatives of the international community are present in Bosnia-Herzegovina not only on behalf of their governments, but also, and more importantly, on behalf of the Peace Implementation Council. In that regard, interference in the internal affairs of the Bosnian state is permitted under the Dayton Agreement and applies to the activities of the international community in Bosnia-Herzegovina. This is not the case with the activities of the diplomatic corps that are regulated only by the Vienna Conventions.

It is simply beside the point to apply the traditional concept of non-interference in internal affairs to the present situation in Bosnia-Herzegovina. The citizens and the peoples of Bosnia-Herzegovina may rest assured that the international community shall continue to exercise its role as required by the Peace Implementation Council until the political leadership of Bosnia-

Herzegovina is going to take over in a suitably constructive fashion.²⁹³

III-3b The Organization for Security and Cooperation in Europe

Under the auspices of the Dayton Agreement, the OSCE Mission to Bosnia-Herzegovina has been one of the key implementing agencies responsible for helping Bosnia-Herzegovina make a transition to democracy. To meet this goal, the Mission has implemented programs to promote the development of a stable, open and dynamic civil society and democratic political institutions from the municipal to the state level.

The OSCE Mission covers the entire territory of Bosnia-Herzegovina, and includes a Sarajevo-based Head Office; regional centres in Banja Luka, Mostar, Sarajevo, and Tuzla; 24 field offices and the so-called Team Brčko. The Mission's departments for Democratization, Elections/Implementation, Human Rights and Security Co-operation work in the development and implementation of mission-wide policies and programs.

For the first five years the Mission had primary responsibility for organizing and supervising Bosnian post-Dayton elections, including national elections in 1996, 1998, and 2000, municipal elections in 1997 and April 2000, as well as the 1997 extraordinary elections for the Republika Srpska National Assembly.²⁹⁴ The Mission oversaw the implementation of municipal election results, and continued to monitor the work of municipal assemblies throughout the country. Following the adoption of the election law the OSCE is supporting the work of the Secretariat of the Bosnia-Herzegovina Election Commission.

After the adoption of the election law in 2000, the OSCE has continued to be engaged in transferring the administration of the election process to

²⁹³ "OHR Press Release: The Role of Peace Implementation Council Steering Board Ambassadors in BiH", February 8, 2001 at www.ohr.int

²⁹⁴ The 2002 general elections were organized by the Bosnian Independent Election Commission set up under close supervision by the OSCE and the international community after the 2000 elections.

the national authorities. In particular, attention has remained focused on three functional areas:

- Monitoring the compliance of elected officials with the electoral Rules and Regulations under which they were elected;
- Promoting and sustaining the establishment of an independent and permanent Election Commission accountable to Parliament and its operational Secretariat;
- Providing legal, technical and political advice to the Municipal Election Commissions on all electoral matters.²⁹⁵

Within Human Rights the Mission worked to advance civil, legal and economic rights for all Bosnian citizens. It reported on and investigated allegations of human rights violations and, when necessary, intervened in individual cases.

Much of the Mission's human rights work focused on facilitating the return of refugees and displaced persons to their pre-war homes and on enabling returnees to re-claim their property. The Mission also promoted safe and sustainable return by assisting, monitoring, and pressing local authorities to ensure this; it also aimed to prosecute any perpetrators of violence against returnees, to provide non-discriminatory access to utilities and to implement an educational curriculum that was not ethnically biased. Finally, the Mission worked on establishing a sustainable and functioning ombudsman structure, which would support national reconciliation.

As regards security cooperation, in order to promote stability in the region the OSCE monitored and implemented various military aspects of the Dayton Agreement. Specifically, the OSCE was mandated to undertake activities that promoted transparency, cooperation and confidence building among the armed forces of both entities, and to also carry out activities aimed at limiting the equipment and manpower of the armies of Bosnia-Herzegovina, Croatia, and the Federal Republic of Yugoslavia.

²⁹⁵ Information on the OSCE mission in Bosnia-Herzegovina at www.oscebih.org

III-3c Consolidation of peace implementation

From the above description of the two main civilian peace implementation agencies in Bosnia-Herzegovina (the OHR and the OSCE), as well as the long list of other international agencies²⁹⁶, it is obvious that the mandates of all these organizations overlapped causing frictions between various institutions. Their lack of coordination slowed down the peace process.

The international community has established an extremely diffuse institutional structure in Bosnia, and problems of coordination and joint strategy development have been endemic to the mission. There is a tendency of the international community to acquire ever more objectives without any corresponding increase or rationalization of resources, with the result that international efforts have become less intensive over time. (...)

296 Since the beginning of the peace process, there were numerous international agencies that opened their offices in Bosnia-Herzegovina and took part in the process. Apart from those already mentioned, there were the UN Development Program (UNDP), the UN Educational, Scientific, and Cultural Organization (UNESCO), the UN High Commissioner for Human Rights, the UN Children's Fund (UNICEF), the UN Mine Action Center, the World Health Organization (WHO), the World Food Program (WFP), the Advocacy Institute, the Association of Election Officials in Bosnia-Herzegovina, the International Foundation for Electoral Systems (IFES), the International Institute for Democracy and Electoral Assistance (IDEA), the National Democratic Institute for International Affairs (NDI), the National Endowment for Democracy, the Open Society Fund, SIGMA (a joint initiative of the OECD and the EU's Phare Program for the support of good governance in Central and Eastern Europe), CIVNET (an international NGO focusing on civic education and civil society), Delphi International, the US Agency for International Development (USAID), the Human Rights Watch, Amnesty International, CARE International, the European Community Humanitarian Office (ECHO), the International Committee of the Red Cross (ICRC), the International Federation of Red Cross and Red Crescent Societies, the International Management Group (IMG), International Rescue Committee (IRC), Medecins sans frontiers (MSF), OXFAM (an NGO that works to end poverty), Save the Children, SOS Kinderdorf International (an NGO voluntary organization caring for orphaned and destitute children), the United Methodist Committee on Relief, the American Refugee Committee, the Danish Refugee Committee, the International Organization for Migration (IOM), the Repatriation Information Center, the Center for European Policy Studies, the International Crisis Group, International Research and Exchanges Board (IREX), the United States Institute of Peace (USIP), and many others.

Lacking alternatives, international organizations find themselves repeating with variations the programs of the past four years. In the year 2000, the Organization for Security and Co-operation in Europe (OSCE) will conduct still more elections, the United Nations (UN) will once again screen local police for misconduct, while the Office of the High Representative (OHR) will continue to chastise, instruct and occasionally dismiss local politicians who fail to support the international agenda. (...) Most international efforts in Bosnia are unfocused and reactive in nature. Many of them centre on political developments within a narrow Bosnian elite (playing the “moderates” against the “extremists”), while structural problems are neglected. International officials become distracted by the crisis of the day, in effect allowing local politicians to dictate the international agenda. Rapid rotation of seconded personnel and poor information management inhibit institutional learning. Too often, the decision-making processes within international organizations are no more transparent than those of the Bosnian power structures. (...) The international community has never conducted a thorough analysis of resource allocation, instead throwing human resources and funding at the same problems from one year to the next, even where no strategy has been identified for resolving them.²⁹⁷

The ministerial meeting of the Steering Board and the Presidency of Bosnia-Herzegovina a year after the peace implementation began adopted the consolidation plan of civil implementation. The progress made in the first year was judged positive, opening the way to “a lasting military and civilian stabilization of the country.”²⁹⁸ The Bosnian authorities were once again denoted as the prime implementers of the Peace Agreement, but the international community reiterated its will to assist the local efforts during the peace process. The participants

²⁹⁷ “Reshaping International Priorities in Bosnia and Herzegovina”, Part Two, April 2000, *European Stability Initiative* at www.esiweb.org [accessed April 18, 2000].

²⁹⁸ “Conclusions: Guiding principles of the Civilian consolidation plan”, Paris, November 14, 1996, *OHR Document*; available at www.ohr.int/pic.

emphasized that “the consolidation of peace in Bosnia-Herzegovina [was] integral to stabilization of the region.”²⁹⁹

The priorities of the consolidation plan were listed under thirteen headings: regional stabilization, security, human rights, democratization, elections, freedom of movement, refugees and displaced persons, war crimes, reconstruction, market economy, reconciliation, education and mine removal. The two-year consolidation plan, as initially envisaged, was divided into action plans of twelve months each, with a review at the mid-term.

Therefore, at the end of 1996 the international community decided to move from immediate security problems onto a broader agenda of engagement in Bosnia-Herzegovina. It took another year, 1997, to define policy areas and to develop mechanisms to implement new projects. As of 1998, institution building moved to the center of attention for the peace implementers.

²⁹⁹ Ibid.

