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Good fences make good neighbours?

A comparison of consociational and integrative conflict regulation strategies in Post-Dayton Bosnia.

ABSTRACT: Based on conflict regulation in post-Dayton Bosnia, it will in this paper be analysed whether an integrative or a consociational approach is more effective in fostering stability following an ethnic war. I will compare the effectiveness of the approaches in fostering stability in post-Dayton Bosnia, and from this analysis seek to identify the empirical conditions that affect the effectiveness of the approaches and hence the conditions under which they should be prescribed. Whereas the ethnic groups in Lijphart’s consociational approach constitute the basic units on which the political structure is built, Horowitz contends in his integrative approach that political structures must transcend the ethnic divisions, they must obliterate the divide. The Dayton Agreement that ended the war in Bosnia contains elements of both approaches and the balance between them has been changing in the course of its implementation. The case, therefore, constitutes a very suitable case for an empirical test. I will argue that due to the depth of divisions, the numerical balance between the groups, and the maximalist objectives of the parties, the consociational model has been more effective in fostering stability in Bosnia. Presently, a change to an integrative structure seems premature, but a mix of the approaches has been demonstrated to be able to foster moderation and the way forward could be a continued incremental change of the balance of this mix.

1. Introduction

Which institutions are most effective in fostering stability following an ethnic war? This question increasingly has to be answered by international policy makers since international interventions in ethnic wars have become more commonplace. International presence will often limit the options on the agenda to inclusive solutions, i.e. democratic rule within the existing state that does not serve one group at the expense of another.¹ However, within this category the options differ significantly and the right choice of an approach can make the difference between continued warfare and gradual development of peace and stability.

In the literature on democratic regulation of ethnic conflicts, Arend Lijphart's consociational model, as presented in e.g. *Democracy in Plural Societies*, and Donald Horowitz's integrative model, as presented in e.g. *Ethnic Groups in Conflict*, have become the focal point of both empirical and theoretical debate.² The models are both based on the assumption that a lasting settlement must be built on inclusive rule. But where the ethnic groups in Lijphart's approach constitute the basic units on which the political structure is built, Horowitz contends that political structures must transcend ethnic divisions and the political structure must obliterate the divide. The approaches thus differ significantly and the choice between them will have consequences for the ability to foster stability. Unfortunately, the discussion is very weakly founded: Both approaches are criticised for lacking empirical support and the debate between them has, to my knowledge, never been

¹ Sisk, T (2001) "Peace Making in Civil Wars" Kroc Institute Occasional Paper 20:2 March 2001: p. 26

² Lijphart, A. (1977) *Democracy in Plural Societies*. New Haven: Yale University Press. Horowitz, D. (1985) *Ethnic Groups in Conflict*. Berkeley: University of California Press

the object of an empirical test. The need for an empirical test is compounded by the under-specification in the approaches of the conditions under which they are effective and the mechanisms by which they may be made to work. Thereby, the approaches do not give much guidance to policy makers trying to find the most effective ways of ensuring stability.

The debate is very pertinent in the case of Bosnia and Herzegovina (henceforth referred to as BiH or Bosnia) where it is debated whether to change the political structure in a more integrative direction. The Dayton Agreement that ended the war contains elements of both Lijphart's and Horowitz's approaches, and the balance between them has changed in the course of its implementation. The case, therefore, constitutes a very suitable case for an empirical test: the approaches can be tested in a within-case comparison which makes it possible to hold constant a number of variables.

In this paper, I will compare the effectiveness of the approaches in fostering stability in post-Dayton Bosnia. From this analysis, I will seek to identify the empirical conditions that affect the effectiveness of the approaches and hence the conditions under which they should be prescribed.

The research question of the paper is, therefore *'Have the conflict regulation devices that follow from Lijphart's approach or the devices that follow from Horowitz' approach been more effective in fostering stability in Bosnia and Herzegovina after Dayton? Has their effectiveness varied in different phases of the post-war situation? Which empirical conditions affect whether Lijphart's or Horowitz's approach to ethnic conflict regulation is more effective in fostering stability following an ethnic war?'*

I will argue that in the Bosnian case, the consociational model has been more effective in fostering stability. This is due to the depth of divisions, the numerical balance between the groups, and the maximalist objectives of the parties. Presently, a change to an integrative structure seems premature, but a mix of the approaches has been demonstrated to be able to foster moderation and the way forward could be a continued incremental change of the balance of this mix.

1.1 Definitions and delimitations

Ethnic conflict: Ethnic conflict is an oft-used though contentious concept. In my usage, it does not signify anything inherent or permanent. What is decisive are the labels used, the way in which the intra-state conflict is legitimised. E.g. if the conflict is cast in terms of a war between Croats and Serbs, and national and ethnic symbols are used in the propaganda, then I will characterise it as an ethnic conflict regardless of whether this ethnicity is of recent origin, is imposed, or is lacking “tangible” characteristics such as language. That way, the concept is narrower than ‘identity conflict’, which could regard other identities.

Ethnic war: An ethnic war is defined as a violent ethnic conflict in which at least 1,000 people are killed in a year. As I am only studying one case, the actual cut-off point is not essential, but it is a standard definition used by e.g. the Correlates of War Project in their International and Civil War Data.³

³ Mason, T.D.; Fett, P. J. (1996) “How Civil Wars End: A Rational Choice Approach”. *Journal of Conflict Resolution* 40:4 pp. 556

Conflict regulation strategies: A conflict regulation strategy is a strategy for *regulating* a conflict. It is thus less ambitious than a conflict *resolution* strategy that aims to remove entirely the causes of the conflict. In the short to medium term this is usually unrealistic and regulation is, in my opinion, all that can be hoped for. The strategies are medium-term in that they deal with the post-war situation and not just the immediate cessation of hostilities and signing of an agreement.

Stability: Long-term stability is defined as a self-sustaining and consolidated peace without international presence, where all significant actors accept the political structure and the borders. Ethnicity may still be of importance, but it does not risk tearing the country apart. Shorter term *stability* in the consociational and integrative approaches hinges on inter-ethnic cooperation and elite moderation. Elite moderation is to be understood as willingness to compromise and to rule inclusively rather than exclusively, and it will be identifiable in both actions and rhetoric. Elite moderation is affected by, but is not an automatic effect of, *mass moderation*.

The focus of the paper will be limited to ethnic wars, as both Lijphart and Horowitz purport the applicability of their approaches to these types of conflict, and as it constitutes the litmus test for them.

2. Lijphart's and Horowitz's approaches

Lijphart's consociational approach and Horowitz's integrative approach have become the two most advocated models of conflict regulation.⁴ Timothy Sisk and others have argued that the approaches can be seen as opposite ends of a spectrum of inclusive solutions to ethnic conflict, that is

⁴ Kettley, C.; Sullivan, J, Fyfe, J. (2001) "Self-Determination Disputes and Complex Power Sharing Arrangements: A Background Paper for Debate" Workshop February 9 & 10 2001,

solutions based on inter-ethnic accommodation, bargaining, and reciprocity.⁵ Both Lijphart and Horowitz agree that successful accommodation of ethnic differences depends on inter-ethnic co-operation and that political engineering can help bring this about.⁶ Furthermore, they both agree that ethnic conflict can be managed in a common state, but that ethnic differences cannot be wished away. In addition, neither of them limits their approaches to cases of moderately divided societies; they also purport their applicability in cases of ethnic war. They are, however, *opposite* poles as they deeply disagree on whether the institutional structure should be built on the ethnic groups or should transcend and obliterate them.

2.1 Lijphart's theory of consociational democracy

Since Lijphart first formulated his theory of consociational democracy in 1969, the theory has been intensely debated and it remains one of the most controversial and contested theories in political theory.⁷

2.1.1 Basic principle and basic assumptions

The theory of consociational democracy is based on the assumption that successful political accommodation of ethnic differences is only possible through inter-ethnic elite co-operation in institutions that explicitly recognise the ethnic divisions and make them the basis of the rules for decision-making, territorial division of power, and public policies. It is a “guarantee

Pembroke College, Cambridge University. p. 8. “Model” and “approach” will be used interchangeably.

⁵ Sisk, T. (1996) *Power Sharing and International Mediation in Ethnic Conflicts*. Washington D.C.: United States Institute of Peace, p. x; Harris, P.; Reilly, B. (1998) *Democracy and Deep-Rooted Conflict: Options for Negotiators*. Stockholm: Handbook Series International IDEA, p. 141. They use the term power-sharing to refer to both approaches, but since it can be questioned whether Horowitz's approach is indeed a case of power-sharing and since the concept is usually associated with Lijphart, I will prefer only to use it when referring to Lijphart's approach.

⁶ Horowitz, 1985: 576. Horowitz describes this as the general theme of conflict management

⁷ Kettner et al. 2004: 9

model” that guarantees the protection of minority rights and group rights and recognises the legitimacy of claims to national self-determination within the existing state. These guarantees will allow the groups not to fear each other and genuine trust can develop over time.

The elite co-operation that is the defining feature of consociational democracy is argued most often to be based on a “self-negating prophecy,”⁸ the idea that the ethnic leaders can realise the grave dangers posed by the ethnic differences and therefore choose to transcend mass antagonism through co-operation.

2.1.2 Institutional mechanisms

Consociational democracy is characterised by four institutional devices: 1) a power-sharing government; a so-called grand coalition with representatives from all primary groups. 2) mutual veto, 3) proportionality in the electoral system and in the civil service, 4) segmental autonomy.⁹

Decision making rules

The most important part of the consociational approach is the power-sharing government; a *grand coalition* with representatives from all significant groups. This is to ensure that decision-making will be for all groups, i.e. that it will be inclusive. However, as minorities could still be outvoted in such a coalition another safeguard is necessary: All groups must be able to *veto* decisions that would infringe on their vital interests. One way of ensuring this is by “concurrent majority” provisions, according to which a majority in all groups must support a decision for it to be valid. To

⁸ Lijphart, A. (1994) ‘Prospects for Power-Sharing in the New South Africa’ In Reynolds A. (ed.) *Election '94 South Africa: The Campaigns, Results and Future Prospects*. p. 228

⁹ Lijphart, 1977: 25-44

ensure the influence of all groups and the legitimacy of the system, Lijphart argues that the representativity of Parliament is crucial, and he therefore prescribes the use of a *proportional* (PR) electoral system, so that the strength of the most numerical groups is not augmented by the system. Another recommended option, which is even further from the majoritarian model, is *parity* in representation.¹⁰

Territorial division of power

In addition to the power-sharing government, Lijphart also prescribes “*segmental autonomy*”, i.e. the groups are self-governing in issues that are not of common interest. This can be ensured both by a territorial and a non-territorial division of power. If the ethnic groups are geographically concentrated, Lijphart prescribes a form of ethnic federalism; a system in which federal units that are largely ethnically homogeneous are given extensive autonomous powers. Thereby, claims to self-determination will be accommodated and a degree of self-protection will be provided.

Public policies

If the ethnic groups are geographically inter-mixed, Lijphart prescribes a form of non-territorial federalism, or functional autonomy. On issues such as schools and language, the ethnic groups are given autonomy and are therefore provided with the means for protecting their identity. In addition, proportionality is to be applied in civil service employment, especially in sensitive areas such as the police and the military.

2.2 Horowitz: co-operation between electorally motivated politicians

Horowitz developed his integrative approach as a reaction to Lijphart’s model, and especially as a reaction to what he saw as the failure of the

¹⁰ Lijphart, 1977: 44

consociational theory to specify how the institutional arrangements affect the incentives for co-operation that the elites face. Horowitz asserts that the elites cannot be presumed to always want accommodation, and good will is simply not enough to base a theory of conflict regulation on. This is compounded by Horowitz's argument that due to intra-ethnic party competition, the elites will lack the freedom of action to co-operate.¹¹ Therefore, one of the most important factors in Horowitz's prescriptions concerns the link between the mass population and the elites: the electoral system.

2.2.1 Basic principle and basic assumption

Whereas the consociational model is focused on the substance of a conflict regulation strategy, Horowitz's approach is a minimalist approach which is focused on the dynamics of interaction that can foster accommodative attitudes. What matters to Horowitz is that the elites through the institutional structure are given strong incentives for ethnic accommodation, but the specific content of this accommodation is not crucial.¹² Group protection is therefore not a priori guaranteed in the approach. The aim of the mechanisms prescribed is to obliterate the ethnic divide, to foster inter-ethnic co-operation and intra-ethnic competition and thereby integrate the groups. The approach is based on an assumption of fluidity; identities are not rigid and non-ethnic cleavages can be made salient.

¹¹ Horowitz, 1985: 574-579

¹² Horowitz, D. (2000) "Some Realism in Peacemaking" Center for Development Research: Facing Ethnic Conflicts (14-16 December 2000): 8-9

2.2.2 Institutional mechanisms

The institutional mechanisms are designed to create incentives for moderation. Their value lies in the dynamics they create; the groups are not thought to value them in themselves, as is the case in Lijphart's approach.

Decision making rules

Horowitz argues that the consociational model is necessarily unstable as the inter-ethnic coalition will be pulled apart either by self-interested elites who can benefit from playing the ethnic card or because elites are constrained by their followers and will lose power if they concede too much to opposing groups.¹³ The institutional structure must take into account the self-interested nature of the elites as well as their lack of freedom. What is needed is instead an electoral system which gives the ethnic parties incentives to moderate their position and engage in cross-ethnic appeal - moderate behaviour must be electorally rewarded.¹⁴ Such a system, Horowitz argues, is a preferential system, a system in which a candidate's election depends on attracting votes from outside his/her ethnic group and it therefore forces the candidate to moderate. Horowitz asserts that the incentives built into this system will foster the creation of pre-electoral inter-ethnic coalitions in order to ensure election. The basic idea is that in deeply divided societies voters will most likely cast their first preference vote along ethnic lines; however they may be swayed to cast lower preferences across the ethnic divide.

¹³ Horowitz, D. (1991a) 'Ethnic Conflict Management for Policymakers' In Montville, J. (ed.) *Conflict and Peacemaking in Multiethnic Societies*. New York: Lexington Books. p. 127; Horowitz, D. (1991b) 'Making Moderation Pay: The Comparative Politics of Ethnic Conflict Management' In Montville, J. (ed.) *Conflict and Peacemaking in Multiethnic Societies*. New York: Lexington Books. p. 142

¹⁴ Horowitz, D. (1991c) *A Democratic South Africa? Constitutional Engineering in a Divided Society*. Berkeley: University of California Press. p. 144

Territorial division of power

Federalism or devolution is seen as another institutional device which also provides incentives for inter-ethnic co-operation and intra-ethnic conflict.¹⁵ Contrary to Lijphart, Horowitz does not prescribe federalism as a means to ensure ethnic self-government. Federalism in Horowitz's approach should preferably be based on ethnically heterogeneous political units, which is argued to foster integrative dynamics. Thereby, the structure is based on a denial of national self-determination.¹⁶

The idea is that people living in the same federal unit will develop common interests and have an incentive in co-operating with each other and competing against the other federal units. Thus, Horowitz's expectation is that attitudes in heterogeneous federal units will be more moderate and identities more fluid than in homogenous units.¹⁷

Public policies

This dimension is not prominent in Horowitz's work, especially not in his later work, as it prioritises substance over process. Contrary to Lijphart he favours "ethnically blind" public policies that can help obliterate the divide rather than augmenting it.¹⁸ He favours the creation of greater socio-economic equality between the ethnic groups, but this should be done by investing in e.g. specific regions rather than through strict proportionality provisions.¹⁹ Public policies should be based on individual rights and counter discrimination, and not be based on group rights.

¹⁵ Horowitz, 1985: 601-602, 1991b: 122-124

¹⁶ If the geographic distribution makes impossible the formation of ethnically heterogeneous units – without population transfers or other questionably approaches – then the units should divide the ethnic groups, thus again denying claims to ethnic autonomy.

¹⁷ Horowitz, 1985: 617-621

¹⁸ Harris & Reilly, 1998: 141

¹⁹ Horowitz, 1985: 676-680

2.3 Brief analysis of the approaches

Whereas the consociational approach is based on the ethnic groups and on the good will of elites, the integrative approach aims to obliterate the divide and is based on electorally motivated elites. The consociational approach is based on the importance of identity and security in ethnic conflicts. It gives the ethnic groups the means to protect themselves against domination and recognises their claim to self-determination. The integrative approach, on the other hand, intends to foster the breakdown of ethnic divisions, not their replication. It is not a guarantee or a rights model: self-protection, minority rights, self-determination etc. are not guaranteed a priori, but depend on the bargaining fostered by the institutions.

Both approaches can be criticised for an under-specification of the necessary conditions on which they are built and of the mechanisms affecting these contextual variables. In addition, each approach has been criticised for specific short-comings. Lijphart's approach has been criticised for freezing and entrenching the ethnic divisions and for being an ineffective system of governance due to its propensity for deadlock.²⁰ The consociational structure addresses many of the demands and motives of the nationalist parties to an ethnic war and the political structure becomes squarely based on ethnicity which can be argued to make it an ineffective system of governance. Horowitz's approach has mainly been criticised for being an essentially majoritarian system which has inadequate protection of minority rights.²¹ Therefore, it has been argued that it is not appropriate in case of deeply divided societies where mistrust and hostilities are deep-

²⁰ E.g. Brass, P. (1991) *Ethnicity and Nationalism: Theory and Comparison*. London: Sage Publications. p. 10; Reynolds, A. (1999) 'Majoritarian or Power-Sharing Government'. Paper prepared for the Kellogg Institute Conference: Constitutional Design 2000: Institutional Design, Conflict Management, and Democracy in the Late Twentieth Century. p. 34

²¹ Reynolds, 1999: 5, Lijphart, A. (2000) "Definitions, Evidence, and Policy: A response to Matthijs Roodenrys' critique". *Journal of Theoretical Politics* 12:4 p. 427

seated.²² In my view, the main shortcoming of the theory is its lack of explanation of why the parties to the conflict would accept the system in the first place: Why would leaders of a minority group just emerging from an ethnic war accept a system which gives them no reassurances other than inbuilt incentives which will make it likely that larger groups will be accommodative?²³ Why would nationalist parties accept a system designed to undermine their bases of power? Such criticisms may imply that the integrative approach is only effective in fostering stability in case a strong moderate core exists in the population or if the structure can be imposed from the outside.

In the empirical analysis, I will compare the consociational and integrative conflict regulation strategies used in post-Dayton Bosnia and analyse whether the shortcomings just mentioned have been prevalent as well as the conditions affecting the effectiveness of the approaches in fostering stability.

3. The two approaches in Bosnia and Herzegovina

In order to assess the conflict regulating strategies used in Bosnia, one must not only analyse the Dayton agreement as it is written but also the implementation of it.²⁴ Several authors have pointed to the ambiguities in

²² E.g. Reilly, B. (2001) *Democracy in Divided Societies: Electoral Engineering for Conflict Management*. Cambridge: Cambridge University Press. p. 181, Sisk, 2001: 30, Reynolds, 1999: 19, 27

²³ Horowitz argues that his approach will be more readily accepted as it favours majority groups. Horowitz, D. (2002) "Constitutional Design: Proposals Versus Processes". In: Reynolds, A. (ed.) *The Architecture of Democracy*. Oxford: Oxford University Press. p. 20. However, following a violent ethnic conflict not only the sentiments of the largest group need to be considered in order for stability to be possible.

²⁴ The official name of the Dayton Agreement is The General Framework Agreement for Peace in Bosnia and Herzegovina.

the agreement and the resulting burden placed on implementation.²⁵ And during the course of the implementation the relative weight of the different parts of the agreement has changed thus altering the balance between consociational and integrative elements.

3.1 Consociational elements

The most visible elements of the Dayton agreement are consociational, and initially the consociational elements were clearly the strongest. First and foremost are the joint institutions as described in annex 4 of the Dayton Agreement. These central institutions are composed of the three-person Presidency, the Council of Ministers, and the two-chamber Parliament with House of Representatives (HoR) and House of Peoples (HoP). The Presidency is elected according to ethnic quotas in the two entities, while the representation in the HoP is based on parity of the three ethnic groups and elected by the HoR. A minority veto provision exists in both institutions. The HoR is not based on ethnic quotas but solely on the entities: 2/3 of the members are elected from FBiH and 1/3 from RS. The Council of Ministers is the least consociational institution although deputy minister posts are awarded to persons of a nationality other than the minister. The power-sharing government which is the most important part of the consociational structure is therefore institutionalised in the Bosnian structure.²⁶ The

²⁵ E.g. Cousens, E.; Cater, C. (2001) *Towards Peace in Bosnia: Implementing the Dayton Accords*. London: Lynne Rienner Publishers. p. 15; Ni Aolain, F. (2001) "The Fractured Soul of the Dayton Peace Agreement". In Sokolovi, D.; Bieber, F. (eds.) *Reconstructing Multiethnic Societies: The Case of Bosnia-Herzegovina*. Aldershot: Ashgate. p. 68; Cohen, L. (1998) 'Whose Bosnia? The Politics of Nation Building' *Current History*, March 1998. p. 112.

²⁶ Interestingly, the collective Presidency strongly resembles the pre-war collective Presidency which, while bigger, was also composed using ethnic quotas. The consociational system is thus by no means alien to Bosnia. Bieber, F. (1999) "Consociationalism – Prerequisite or Hurdle for Democratisation in Bosnia? The Case of Belgium as a Possible Example". *South-East Europe Review* 00/2. p. 70.

electoral system is primarily proportional which also follows the consociational model.²⁷

Ethnic autonomy is another important feature of the consociational model. Bosnia is composed of two entities with considerable autonomous powers. Republika Srpska is predominantly Serbian and therefore in accordance with the ethnic autonomy provision, while the Federation is bi-national with both Bosniaks and Croats. Within the Federation, a complex system of power-sharing exists with minority veto and parity of representation in the HoP.²⁸ In addition, the Federation is, as its name suggests, a federation with cantons with considerable autonomy. Eight of the ten cantons are largely ethnically homogeneous and they therefore, like Republika Srpska, constitute cases of ethnic autonomy. In the two mixed cantons, a special regime operates, this creates power-sharing within the canton and grants autonomy to municipalities that are more homogeneous.²⁹ This complex system thus provides for a large degree of ethnic autonomy which follows the consociational model. It is however important to note that this autonomy is based on a congruence of territory and ethnicity, thus the right to national self-determination is not explicitly acknowledged in the Constitution and, more importantly, integrative provisions in the agreement to a certain degree undermine the relation between ethnicity and territory.

3.2 Integrative elements

A brief glance at the consociational structures in Bosnia may lead to the mistaken belief that it is a purely consociational system. This however

²⁷ The specific electoral system was until the adaptation of the permanent electoral law in 2001 decided by the PEC (i.e. the OSCE).

²⁸ This is regulated in the Federation's constitution which was first adopted in 1994 but later amended to be in line with the Dayton Agreement.

²⁹ The latter provision also exists in homogenous cantons if a municipality is dominated by another ethnic group.

misses the important integrative elements. As I noted above, ethnic autonomy is based on the congruence of ethnicity and territory and *not* on ethnicity itself. There are no provisions for cultural autonomy, no group rights separate from territory.³⁰ This is important as two integrative elements undermine the relation between territory and ethnicity. First of all, the right of return is an integral part of the agreement and has been an important part of the implementation as well. As Bosnia was prior to the war ethnically intermixed, the return of significant numbers of refugees and internationally displaced persons (IDPs) to their pre-war residence will dilute the ethnic autonomy identified above.³¹ As returns progress, the result will thus increasingly be heterogeneous units instead of the homogenous consociational ones. Another element which dilutes ethnic autonomy is found in annex 3 on elections. Art. 4 reads that voters are expected to vote in their 1991 residence. This means that while the actual demographic patterns reflect displacements and killings during the war, the voting pattern was not to. However, when implementing the annex in 1996, the OSCE decided that voters could also choose to vote in their current residence, thus cementing the ethnic composition created by the war. Even so, the option of voting in the 1991 residence – in absentee polling stations – means that heterogeneity in voting terms is greater than the actual heterogeneity.

Ethnic autonomy is thus diluted by returns and by voters voting in their pre-war residence. This creates more heterogeneous units both in actual terms and in voting terms. From Horowitz's perspective heterogeneous units are

³⁰ The Yugoslav "ethnic key" system has thus not been continued. Bieber, F. (2001) "The Challenge of Democracy in Divided Societies: Lessons from Bosnia – Challenges for Kosovo". In Sokolovi, D.; Bieber, F. (eds.) *Reconstructing Multiethnic Societies: The Case of Bosnia-Herzegovina*. Aldershot: Ashgate. p. 113-115; Bieber, 1999: 91

³¹ As an OSCE official put it: if annex 7 was fully implemented, "Humpty Bumpy would be put back together"

important as they give parties and candidates incentives to moderate *and* as living in the same unit will create a greater degree of fluidity and moderation.

The second integrative element in the agreement is found in the existence of some more integrative institutions, i.e. institutions that while they are based on ethnic parity have no veto provisions and decide by simple majority. These institutions include: the Constitutional Court, the Central Bank, the Joint Interim Commission (Annex 4 of the Dayton Agreement), the Human Rights Chamber and Commission (Annex 6), the Commission for Displaced Persons and Refugees (Annex 7), the Commission to Preserve National Monuments (Annex 8), and the Commission on Public Co-operations (Annex 9). Although these are not legislative institutions, they are institutions of considerable power. Interestingly, these institutions are for the first five years to be composed of the three constituent peoples *and* internationally appointed representatives who hold the chairmanship and often the deciding vote.

Despite these integrative elements, the political structure in Bosnia was initially predominantly consociational. However, during the course of its implementation this has begun to change.³² Especially since the High Representative³³ (henceforth referred to as HR, and the institution as OHR) had his powers strengthened, the International Community (henceforth referred to as the IC) has increasingly pursued a more integrative course. An election law was drafted which was to create incentives for cross-ethnic appeals and voting, and since the first election, the IC has consistently

³² Sharp, J. (1997/8) 'Dayton Report Card' *International Security* vol. 22, no. 3, p. 15

³³ The High Representative is responsible for the civilian implementation of the Dayton Agreement

sought to undermine the electoral base of the nationalist parties and has supported more moderate and especially non-nationalist parties. The dominance of nationalist parties is seen as a hindrance to stability which it is not necessarily in the consociational model. The IC has also tried to increase the powers of the joint institutions and this can be seen as an attempt to strengthen the integrative elements as it reduces ethnic autonomy.³⁴ In July 2000, the BiH Constitutional Court ruled that Serbs, Croats and Bosniaks should have equal status in both entities. This has by some parties been interpreted as a need for “civic”, i.e. non-ethnic, amendments to the entity constitutions.³⁵

Thus, even though the political structure in Bosnia may initially have been primarily consociational, this was from the beginning mixed with elements from the integrative approach, and in the later years these elements have become increasingly emphasised. The case therefore constitutes a genuine mix of the approaches, and offers ample opportunity to analyse both the responses to a more integrative turn and the effect of the already existing integrative and consociational elements.

4. Developments in post-Dayton Bosnia

The consociational and the integrative model differ in the importance they attach to identity and to the depth of divisions they seem capable of managing. Both rigidity of identity and depth of division could be argued to decrease given time as the most vivid memories of the war will subside. Therefore, the phase of (de)escalation of a conflict may influence the

³⁴ It will be contrary to the consociational model if it significantly reduces ethnic autonomy.

³⁵ Weller, M, Bieber, F.; Christiansen, E. M. (2001) “Power-sharing in Bosnia and Herzegovina: Strengthening implementation of the Dayton Peace Accords”. ECMI Report. Flensburg: ECMI p. 3 describe the Constitutional Court Decision and the establishment of the constitutional committee as “significant changes in the structure of power sharing”

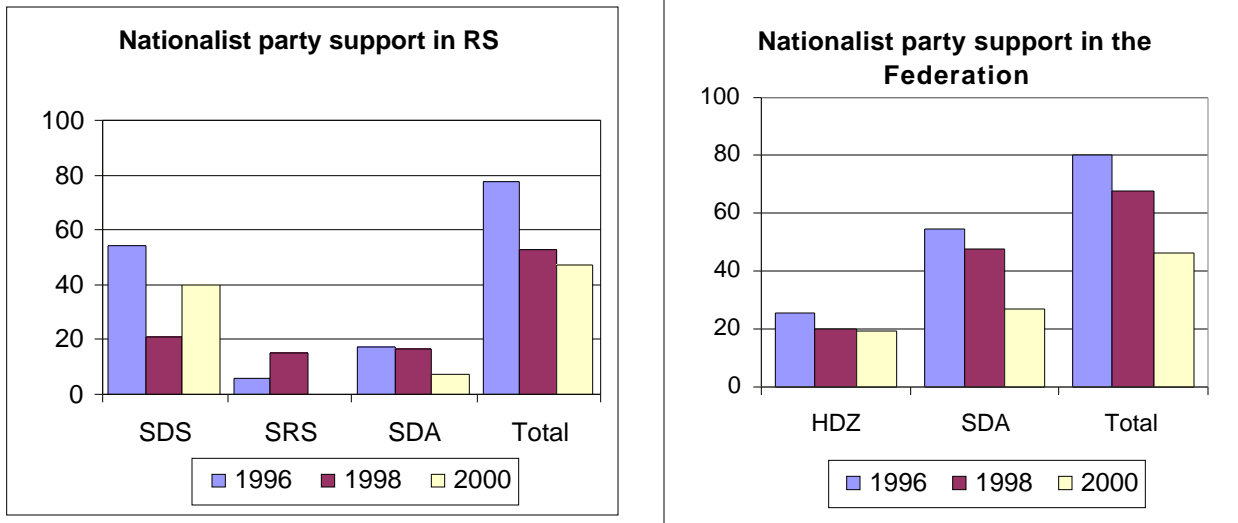
effectiveness of the approaches in fostering stability. In addition, the international presence and the implementation strategy must be expected to affect the willingness and ability of the parties to co-operate. An international dimension is, however, absent from both the consociational and the integrative approach. To assess the effect of phases of (de)escalation and of the changing nature of the international implementation strategy in Bosnia, I will divide the analysis into two phases: 1) 1996-1997: The first two years with Dayton when the IC performed the role of an assistant to the local implementation of the agreement. 2) 1998 – the present: In December 1997 the HR got his powers strengthened with the so-called “Bonn Powers” and the strategy for implementation changed markedly. This has by some observers been described as a creeping protectorate or as a trusteeship.³⁶

If we look at the overall development in depth of division some changes can be registered. The electoral support for the nationalist parties has dropped, which suggests that public attitudes have moderated. An analysis of the overall development, however, also shows that moderation is not irreversible. Thus, the moderation of the Bosnian Croats seems to have been reversed or at least halted.³⁷

³⁶ E.g. Cox, M (2001) “State Building and Post-Conflict Reconstruction: Lessons from Bosnia”. Paper for the project The Rehabilitation of War-Torn Societies, Centre for Applied Studies in International Negotiations, Geneva. p. 12; Cousens, Cater 2001: 129

³⁷ E.g. In 1995, 65 pct. of the Croats supported BiH as a single state, in 1998 only 36 pct. held this opinion. Likewise, in 1995, 41 pct. of the Bosnian Croats held a favourable opinion of the Bosniaks, but in 1998 this had dropped to 15 pct. US Information Agency Survey, quoted in HDZ

Votes in per cent for the BiH House of Representatives



Source: Official Election results from the OSCEBiH website.³⁸

How is this overall development in attitudes related to the two approaches? How have the elements of the consociational and integrative approach fared in fostering moderation and stability? This will be analysed in the following section.

5. Effect of the approaches on stability

In this section, I will compare the effect on stability of the elements of the two approaches. I will firstly compare heterogeneous and homogeneous units, and then compare consociational and more integrative institutions.

5.1 Comparison of heterogeneous and homogeneous units

In order to compare the effect of heterogeneous and homogeneous units, I start out by comparing the nationalist vote share in heterogeneous and

(2000) *Response: from the Croat Leadership on the Process of Deconstituization of the Croats in BiH*. Sarajevo: Presidency of the BiH, Office of the Croat Member. p 62.

³⁸ I have included Seselj's SRS among the nationalist parties, as it must be considered even more extreme than the SDS

homogeneous municipalities and also analyse whether the degree of ethnic violence could be a hidden variable. Thereafter, I will analyse the extent of inter-ethnic co-operation in heterogeneous municipalities in the two phases, and in this include a discussion of the effect of the mix of the two approaches. I.e. I will analyse the effect of the approaches on depth of divisions and on stability.

I have categorised the municipalities by taking advantage of the fact that voting in Bosnia is almost exclusively along ethnic lines. Apart from the SDP, all parties of significance are mono-ethnic according to all surveys, and even the SDP predominantly attracts Bosniak voters.³⁹ As Horowitz has pointed out, elections in deeply divided societies often amount to a census.⁴⁰ Thus, by calculating the vote shares of the ethnic parties, I can estimate fairly accurately the ethnic composition of the voting population, and thereby identify homogeneous and heterogeneous municipalities.⁴¹

A heterogeneous municipality is defined as a municipality in which the largest group constitutes less than 66 pct.⁴²

³⁹ Early Warning System (2000) Report June 2000. UNDP. p. 38

⁴⁰ Horowitz, 1985: 326

⁴¹ This method has the added benefit that it will be possible to distinguish between ethnic heterogeneity in residential terms, and heterogeneity in electoral terms since electoral results are divided into "in municipality votes" and "out of municipality votes" ("in municipality" being the residential composition).

⁴² Please see Annex 2 for further details on the method used and for more specific results.

5.1.1 Comparison of support for nationalist parties

Phase 1:

Based on the results of the 1997 municipal elections, I identified 31 municipalities out of 135 as being *electorally* heterogeneous. *Residential* heterogeneity was found in 6 municipalities.

The homogeneous and heterogeneous municipalities differ significantly in terms of nationalist support coded as support for the SDA, the HDZ, the SDS, and the SRS. For the electorally heterogeneous municipalities, the average nationalist vote share was 85 pct, while it was 73 pct. for the homogeneous municipalities. For the 6 residentially heterogeneous municipalities, the difference is even more marked with an average of 92 pct compared to a 75 pct. average in the residentially homogeneous municipalities.

Phase 2:

In 2000, municipal elections were held in 146 municipalities.⁴³ The results illustrate the overall development as the average nationalist vote share fell to 52 pct. Fewer voters chose to vote in their 1991 residence and this apparently outweighs the increased returns, since only 12 municipalities were electorally heterogeneous. Out of these 12, 5 were also residentially heterogeneous.

Despite these changes, the same general pattern as in phase one can be identified. In the electorally heterogeneous municipalities, the average nationalist vote share is 62 pct. compared to 52 pct. for the homogeneous

⁴³ The elections in Srebrenica were not held until November that year, but I have included the results in the analysis. The larger number of municipalities in 2000 is due to the creation of new municipalities. OSCE/PH Implementation Office

ones. For the residentially heterogeneous municipalities, the average is 60 pct. compared with 51 pct. Thus, the average nationalist support has decreased *faster* in residentially heterogeneous municipalities than in other municipalities.

Thus, heterogeneity still correlates with deeper divisions. However, the nationalist vote share has decreased considerably in residentially heterogeneous municipalities which indicates that while it still causes greater extremism, moderation may develop faster.

5.1.2 Ethnic violence as the hidden variable?

One must naturally ponder whether the correlation between heterogeneous municipalities and support for nationalist parties is spurious; whether the variable accounting for the difference is actually experience of ethnic violence during the war? However my analysis does not support a correlation between degree of ethnic violence and nationalist support, neither in 1997 nor in 2000. The average nationalist vote share is almost identical if one compares municipalities that have experienced much ethnic violence with municipalities that have experienced less.⁴⁴

What accounts for the lack of correlation? My coding of municipalities could of course be flawed. It is based on the eight *“Reports on War Crime in the Former Yugoslavia Pursuant to UN Security Council Resolution 771”* which cover the war until June 1993 and for the period afterwards I have included Srebrenica and Rogatica (Zepa) that were the scenes of horrible atrocities. While this method is not complete, it covers all well-known cases of ethnic mass killings, such as Zvornik, Foca, Prijedor, Brcko, Srebrenica, Visegrad, and Zepa, without this resulting in a correlation. Another possibility could be

⁴⁴ Please see appendix 4 for the method used and for more results.

that people of the ethnicity that was targeted in these municipalities no longer live there, which was precisely the strategy behind the policy of ethnic cleansing. And indeed none of the municipalities which experienced a very high degree of ethnic violence were residentially heterogeneous in 1997. However, displaced persons did vote in these municipalities: in 1997, out of the 20 municipalities that were coded as having experienced a very high degree of ethnic violence, 9 of them were electorally heterogeneous, but the average vote share of the nationalist parties was less than 1 percentage point higher than in electorally heterogeneous municipalities that experienced less ethnic violence.

Therefore, it seems that direct experience of a high degree of ethnic violence does *not* make people vote more nationalistic, while living or voting in a mixed municipality *does* make people more likely to vote nationalistic.

5.1.3 Inter-ethnic co-operation in heterogeneous municipalities

In order to analyse inter-ethnic co-operation in the heterogeneous municipalities, I will rely on reports from OSCEBiH's implementation department, i.e. the department that oversees the implementation of election results.⁴⁵ After the 1997 elections, power-sharing was required in municipalities in which a minority group won more than 20 pct of the seats, and inter-ethnic co-operation has thereby been imposed in all heterogeneous municipalities.⁴⁶ However, this has not been without tension.

⁴⁵ Inter-ethnic co-operation is not as available to quantification as nationalist support and it is furthermore obviously not registered to the same extent as election results.

⁴⁶ The power-sharing requirements hold that mayor and speaker positions be allocated to individuals from different ethnic groups.

Phase 1:

The power-sharing requirements were rejected or ignored in many municipalities, and the OSCE therefore imposed awards of multiethnic representation and appointed mayors.⁴⁷ In some cases this led to tensions and in others the requirements were still rejected. In Srebrenica, the OSCE suspended the Assembly following violent demonstrations and imposed an interim executive board run by an international representative who was to rule by decree.⁴⁸ The problems were according to David Chandler most severe where heterogeneity was due to absentee votes, i.e. votes from IDPs as is the case in Srebrenica.⁴⁹

Phase 2:

The implementation process went a lot smoother in 2000 and no municipalities were denied certification based on failure to comply with the power-sharing requirements.⁵⁰ The implementation fostered inter-ethnic alliances as well as intra-ethnic ones, and even the SDA, the HDZ and the SDS on several occasions offered coalition agreements to parties from the other ethnic groups.⁵¹ OSCE assesses that three years with minority representation has contributed immensely to confidence building among the ethnic groups.⁵² Another development that must be taken into account is the increasingly pluralistic party system caused by the overall moderation and increasing intra-ethnic competition. This has forced the parties to make alliances in order to secure power, and the power-sharing provisions make

⁴⁷ Manning, C. (2001) "Warlords into Democrats? Elections and Moderation in Post-War Bosnia and Hercegovina" Paper prepared for the annual meeting of the American Political Science Association, San Francisco, August 30 – September 1, 2001. p. 27

⁴⁸ Chandler, D. (2000) *Bosnia: Faking Democracy after Dayton*. London: Pluto Press. p. 88; Manning, 2001: 32

⁴⁹ Chandler, 2000: 88

⁵⁰ Internal OSCEBiH report; Manning, 2001: 27

⁵¹ The SDS was even keen to give the SDA more representation than entitled to. Internal OSCEBiH report.

it necessary for these alliances to cross the ethnic divide, which may have made the parties moderate. The development can thus be seen as a mix of development of trust and electoral ambitions. Still, no inter-ethnic alliances between significant parties were created before the elections and apart from the SDP, which attracts a small number of Croat voters, no cross-ethnic appeals were made by any significant parties.⁵³

Interplay between the elements

Can the lack of cross-ethnic appeals and pre-electoral alliances in heterogeneous municipalities be explained by the mix of the two approaches? I will argue that the power-sharing provisions have not reduced the incentives for multi-ethnicity. Firstly, no cross-ethnic appeals were made in the 1997 municipal elections even though power-sharing provisions were not introduced until after the elections. The only significant multiethnic party, the SDP, was weak at the time. Secondly, representation is not pre-determined the way the power-sharing requirements are formulated: there is no monolithic representation and several alliance combinations will therefore often be possible ways of fulfilling the power-sharing requirement. Furthermore, the power-sharing provisions require representation of *candidates* not parties, and the parties could therefore benefit from being multiethnic as they then would not have to share power. Therefore, cross-ethnic appeals, multiethnic slates, pre-electoral alliances and moderation would all be strategies encouraged by the system. These incentives could be one reason for moderation in the 2000 campaign, since the parties already knew that they had to share power; that they were dependent on alliances. This indicates that the combination of elements from the two approaches can actually foster moderation, and they can gain

⁵² Internal OSCEBiH report

⁵³ Personal communication with OSCEBiH official

acceptance even though imposed. However, the incentives for multiethnic appeals are still too weak compared with the incentives for mono-ethnic nationalist appeals.

5.1.4 Conclusion

The heterogeneous units do not seem to foster moderation to the extent needed for an integrative solution: the monoethnic parties still have considerable support *especially* in heterogeneous units. However, the analysis did indicate that residential heterogeneity may in the longer term lead to moderation, especially since it does not seem to foster the same political resistance as electoral heterogeneity when combined with power-sharing provisions.

Degree of ethnic violence in a municipality was not found to affect the depth of division. This does, however, not mean that ethnic violence and the intensity of a conflict does not have any effect on the depth of division. It may have an effect on the depth of divisions going beyond the people who personally witnessed the most gruesome atrocities by creating a general climate of fear.

In the first phase, inter-ethnic co-operation was very difficult in heterogeneous units, especially in units that were electorally but not residentially heterogeneous. Inter-ethnic co-operation became more widespread and problem-free in the second phase. This seems to have been both due to increased trust and due to altered electoral incentives. Thus, while the incentives for cross-ethnic appeals and pre-electoral inter-ethnic alliances were not sufficiently strong, the mix of consociational and integrative elements seems to have fostered greater moderation.

5.2 Comparison of consociational and more integrative institutions

One could argue that consociational institutions should be easier to establish than more integrative institutions, as they will meet less resistance, but their functioning will be hampered by immobility to a larger extent than integrative institutions. Has this indeed been the case in Bosnia?

The initial establishment of the consociational institutions, i.e. the joint institutions, was not without its problems, as the Serb representatives initially boycotted the newly formed Parliament.⁵⁴ This may seem contrary to expectations of a relatively smooth establishment. However, it must be remembered that the Dayton Agreement was partly imposed, and a short-lived boycott of the state's main institution is therefore not too surprising.

What may be surprising is the fact that the establishment of the more integrative solutions was so relatively easy. The Joint Interim Commission, the Human Rights Chamber and Commission, the Commission for Displaced Persons and Refugees, the Commission to Preserve National Monuments, and the Commission on Public Co-operations, were all established within the first year after Dayton, and before the holding of the first elections. The national members were appointed by the parties, and the establishment seems to have been problem-free.⁵⁵ The establishment of the Constitutional Court and the Central Bank awaited the September 1996 elections. The Constitutional Court was established without significant problems while the Central Bank was somewhat more contentious. The

⁵⁴ HR (1996c) Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 4th report.

⁵⁵ HR (1996a) Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 1st report. HR (1996b) Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 2nd report.

nationalist parties were initially bitterly opposed to yielding monetary sovereignty to an independent Central Bank, and the HDZ and the SDS delayed the passing of the necessary law on the Central Bank.⁵⁶ Apart from the Central Bank, the establishment was then remarkably easy, and even the Central Bank was established without boycotts. But how did the consociational and integrative institutions function once established?

Consociational institutions in phase 1:

The joint institutions were created after the first elections in 1996, and came into function in the beginning of 1997. Agreeing on necessary legislation turned out to be very difficult, due to the concurrent majority and veto provisions in the Constitution.⁵⁷ Thus, in the first year of the State Parliament's existence, 10 laws were passed.⁵⁸ This is not impressive for a state that lacked even the most basic legislation.⁵⁹

Consociational institutions in phase 2:

The situation did not change markedly in the second phase, despite the adoption of the "Bonn Powers". On the contrary, in 1998-2000 an average of 5 laws a year were passed by Parliament! After the new multiethnic government came to power in February 2001, things, however, began to change. Despite continued obstruction by the Serb caucus in Parliament, 19 laws were adopted in 2001.⁶⁰ The passing of the Election Law in August

⁵⁶ ESI (2000) "Reshaping international priorities in Bosnia and Herzegovina: Part two, International Power in Bosnia" 30 March 2000. p. 51

⁵⁷ According to the Constitution, legislation can be blocked by 2/3 of the representatives of one ethnic group in BiH House of Representatives or by a majority of the representatives of one ethnic group in the House of Peoples

⁵⁸ Calculations based on HR's reports to the UN Secretary General. See Annex 2 for a full list of laws.

⁵⁹ Even though BiH is a very decentralised state.

⁶⁰ Based on list from the OHR Political Department last updated 25 March 2002, OHR (2000) Press Release, "BiH Parliament Adopts Freedom of Access to Information Law" 24 October

2001 after numerous failed attempts was seen as a breakthrough: not only the moderate parties but also the HDZ, the SDA and the SDS were willing to compromise.

Integrative institutions in phase 1:

Almost from the very beginning, the HR notes how effective the institutions function.⁶¹ One problem was, however, the lack of co-operation from the political authorities. Especially, the Human Rights institutions continuously faced problems with local authorities refusing to implement their decisions and recommendations.⁶² In addition, funding from the state and entity authorities was lacking for these three institutions as well as for the Constitutional Court. Funding instead had to be provided by the IC. Due to the mixing of consociational and integrative institutions, it was possible for the parties to block the implementation of decisions from the integrative institutions and make them function more or less separately from politics in general. Thus, while the internal workings of the institutions were smooth their effectiveness was nevertheless hampered.

Integrative institutions in phase 2:

Co-operation with local authorities improved in the second phase. Funding was forthcoming, and implementation was no longer the exception rather than rule, e.g. the implementation of decisions from the Human Rights Chamber increased from 33 pct in 1999 to 73 pct. in 2001.⁶³ When the

2000, and BiH Media round-up 24 May 2001. On Serb obstructionism see e.g. OHR (2001) "Press release: SDHR Matthias Sonn meets BiH House of Peoples' Serb Caucus" 31 July 2001.

⁶¹ E.g. HR (1996c) Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 4th report.

⁶² HR, 1996c, HR (1997a) Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 5th report.

⁶³ HR (2001) Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 19th report. The Human Rights Chamber and Commission and the Commission for Displaced Persons and Refugees primarily deal with

Constitutional Court in July 2001 made its important decision on the constituent peoples there was severe critique from Croat and Serb parties, since the Serb and Croat judges had voted against the decision. However, the decision was accepted and the parties take part in its implementation. I see this as another sign that the integrative institutions are no longer functioning separately from politics.

5.2.1 Conclusion

Thus, for both consociational and integrative institutions, their effectiveness has increased in the second phase. This is no coincidence as the effectiveness of most of the integrative institutions depended on the cooperation of consociational structures, which in the first phase hampered otherwise well-functioning institutions. What does this along with the remarkably easy establishment of the integrative institutions tell us? Firstly, it must be remembered that all the integrative institutions are run under international supervision.⁶⁴ To this day, none of them have been transferred to local authority. Secondly, while dealing with important issues, the integrative institutions lack the legislative power and the symbolic importance of the consociational institutions which may make their establishment easier. However, even when these two points are considered, the comparison of integrative and consociational institutions does indicate that the introduction of more integrative institutions may meet with less resistance than expected and they may function very effectively.

return-related issues and the more co-operative attitude probably reflects a general moderation on this issue (see below).

⁶⁴ In Dayton, the agreement on an international head of the Central Bank was necessary in order to ensure acceptance. Holbrooke, R. (1998) *To End a War*. New York: The Modern Library. p.

5.3 Conclusion on the effect of the approaches on stability

The elements of the two approaches were found to have different effect on stability and on depth of divisions. The comparison of homogeneous and heterogeneous municipalities showed that deeper divisions are fostered by heterogeneous municipalities although residentially heterogeneous municipalities have a faster rate of moderation in the second phase. Living in the same municipality may over time lead to more moderate attitudes, but in the period immediately after the cessation of hostilities, heterogeneous units foster instability. The degree of ethnic violence was not found to affect the propensity to vote nationalistic. This does not mean, however, that it cannot have an overall effect on depth of divisions. Co-operation in heterogeneous municipalities has increased in the second phase and the interplay between the approaches seems to have been important in this moderation. The incentives for multiethnic appeals and parties were, however, not sufficiently strong to counter the incentives for mono-ethnic appeals.

More integrative institutions were found to work more effectively than consociational institutions and their establishment was also relatively problem-free. However, their transfer to purely local authority is still pending, and their effectiveness in fostering stability seems to have been dependent on the ultimate international control. Thus, integrative elements have help foster stability but the international dimension seems to be crucial.

6. Possibility for turning implementation in a more integrative direction

The above analysis indicated that the integrative approach may be more effective in fostering stability in later phases of de-escalation when divisions are less deep. When one also considers the problems associated with the

consociational approach such as immobility and freezing of identities, an interesting question is whether it is possible to change from a primarily consociational approach to a more integrative approach and whether they can therefore be said to constitute a continuum. In this section, I will firstly analyse the responses to integrative measures, and what this says about willingness to accept integrative approaches. Secondly, I will analyse the effect of the international strategy and the possibility for changing to a more integrative structure.⁶⁵

6.1 Response to integrative measures

During the course of the implementation of the Dayton Agreement the IC has tried to turn the Bosnian power structures in a more integrative direction. The integrative elements within the agreement have been emphasised and new measures have been sought introduced. In this section, I will analyse responses to integrative elements already in the Dayton Agreement and to new integrative elements. I will also at some length analyse the discussion on the implementation of the Constitutional Court Decision from 2000, which is an interesting example of a “locally born” integrative attempt.⁶⁶

6.1.1 Minority returns

One of the most important elements if Dayton is to be turned in a more integrative direction is minority returns, as this will help create the

⁶⁵ Not all of these analyses will be performed in two phases as some of the measures have only been sought implemented in the second phase.

⁶⁶ In 1998, Izetbegovic initiated proceedings to determine whether the Entity constitutions were consistent with the BiH Constitution. Perry, V. (2002) “Constitutional Reform and the Spirit of Dayton”, EGM issue brief, p. 2

necessary heterogeneity.⁶⁷ Significant developments have occurred in this field.

Phase 1:

In the first year after Dayton, it was decided by the IC to prioritise majority returns since it was argued to be too early for minority returns due to the still volatile security situation and the deep divisions. In the first year, the number of minority returns was therefore offset by further post-war movements of continued ethnic separation.⁶⁸ The number of minority returns increased slightly in 1997, but was still very low.⁶⁹

Phase 2:

As of 31 August 1999, minority returns numbered merely 100,714 people, but in the last quarter of 1999 the long-awaited breakthrough appeared, and despite return-related human rights violations minority returns even took place in areas that had experienced genocidal violence.⁷⁰ In 1999 the number of registered minority returns was 41,007, in 2000 it was 67,445, and in 2001 it was 92,061.⁷¹ This does not mean that minority returns are now unproblematic, but outright obstruction has waned, the security situation has improved considerably, and people are now returning despite the still existing political resistance.⁷²

⁶⁷ Minority returns are returns to areas where a different ethnic group retains military control and population majority.

⁶⁸ HR, 1996a

⁶⁹ HR (1997b) Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 6th report.

⁷⁰ ICG (2000a) "Bosnia's Refugee Logjam Breaks: Is the International Community Ready?" Bruxelles: International Crisis Group. p.8

⁷¹ Numbers from UNHCR's homepage, <http://www.unhcr.ba>

⁷² HR (1999) Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 15th report. HR (2000a) Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 16th report. HR (2000b) Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 17th report. HR (2000c) Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 18th report.

6.1.2 A more integrative electoral system?

One of the main elements in Horowitz's theory is the electoral system and the incentives that this can create for multiethnic appeals. After the nationalist win in the 1996 and 1997 elections, debates soon began over the possibility for changing the electoral system in a way which would foster moderation and multi-ethnicity. The problem was that the law should be passed by the Bosnian Parliament and the nationalist parties were far from interested in an electoral system designed to undermine their power base.⁷³ Different draft laws were rejected three times before a law was finally adopted in August 2001. The issues that have proven contentious have been exactly the articles introducing some form of preferential system and watering down of the consociational structures. Most controversial have been suggestions to adopt a preferential system for the election of the Bosnian Presidency, the RS and Federation Presidents, and the suggestion to allow all representatives to vote for delegates for the House of People and not only Croats for Croats etc.⁷⁴ The HDZ argues that the introduction of a preferential system would abolish the Croat veto, as they would not exclusively elect their representatives and they argue that this would establish the FBiH as a majority Bosniak entity. The HDZ saw the draft election law as promoting the "*for Croats... absolutely unacceptable voting principle of one man one vote*".⁷⁵ Since a permanent election law had not been adopted for the 2000 elections, OSCE Head of Mission, Ambassador Barry, adopted the draft election law for the election of delegates for the

Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 21st report.

⁷³ Other obstacles to an integrative system include lack of heterogeneity, but with returns, and right to vote in 1991-residence heterogeneity could be increased, and a preferential system in multimember districts could also be used.

⁷⁴ BiH Media Round-up 22 August 2001.

⁷⁵ HDZ 2000: 50, 60.

House of Peoples, and this caused a prolonged crisis between the HDZ and the IC and fostered intransigence among the Bosnian Croats.

Like the HDZ, the Serb parties have expressed opposition to the introduction of integrative elements in the electoral system.⁷⁶ The Bosniak parties, on the other hand, voted against the draft law in June 2001 due to *lack* of integrative measures, and they regard as discriminatory the consociational provisions with representation based on territory.⁷⁷

The election law that was eventually adopted was essentially a consociational law that left empty the procedures for the election of the Presidency, the House of Peoples, and the Presidents of RS and FBiH pending the implementation of the Constitutional Court Decision (see below).⁷⁸ Changes of e.g. the rules for election of the Presidency will require amendment of the Constitution and hence 2/3 majority which is unlikely to materialise. Thus, the rejection of the integrative elements and the crisis spurred by the HoP Decision do not bode well for the introduction of more integrative elements.

6.1.3 Strengthening the central institutions

Legislation that would increase the powers of the central state institutions has ever since the signing of the Dayton agreement been resisted by Serb and Croat nationalist forces. Especially the Serb parties have continuously obstructed such legislation, as they fear that it will reduce their ethnic

⁷⁶ Internal OSCEBiH report

⁷⁷ Internal OSCEBiH report

⁷⁸ BiH Election Law, BiH Media Round-Up 22 August 2001. On 19 April 2002, the HR imposed changes to the Election Law that would bring it in line with the amended Entity Constitutions. However, apart from the ethnic quota requirements, the changes are minor. OHR (2002a) "Decision amending the BiH Election Law in accordance with the new Entity Constitution", 19 April 2002

autonomy in RS. These sentiments are still very much alive which is demonstrated by recent obstruction by Serb delegates: in the first six months of the existence of the Alliance Government, the Serb caucus of the BiH Parliament blocked at least 6 laws arguing that they were unconstitutional in that they undermined the powers of the entities.⁷⁹ Thus, Serb resistance to legislation that would reduce the autonomy of RS is not a thing of the past and it also extends to more moderate RS parties.

One of the laws blocked by the Serb representatives was the Law on the Council of Ministers (CoM). This law would end the practice of rotation within the CoM, and make it into a government of BiH; a function currently performed primarily by the Presidency. It is thus a law which would reduce the consociational elements of the power structures, and it was rejected by all Serb parties.⁸⁰

The Croats are not guaranteed the same degree of autonomy and have thus been less vehemently, but still consistently, opposed to the strengthening of state institutions. The strengthening of the central institutions is less to the detriment of the Croats, especially as they argue that the Federation is increasingly dominated by the Bosniaks. The Bosniak parties on the other hand have been very supportive of measures to strengthen the central institutions. The SDA in its Declaration states the strengthening of the central power as one of its priorities.⁸¹

⁷⁹ OHR, 2001

⁸⁰ The Serb parties argued the law to be unconstitutional, but actually the principle of rotating positions is not in the constitution. OHR, 2001.

⁸¹ SDA (2001) "Declaration" The Third SDA Congress, Sarajevo 12 October 2001, p. 2

6.1.4 The Constitutional Court Decision

A ruling in July 2000 by the BiH Constitutional Court forced the issues of group rights, individual rights, consociational and integrative structures on the Bosnian political agenda. In its decision on the constitutionality of the Entity Constitutions, the Court found elements of both Constitutions to be unconstitutional, as the Constitution of BiH designates Bosniaks, Serbs, and Croats as *constituent peoples* throughout the territory of BiH. They must therefore have political equality in both entities.⁸² Following this decision, the HR in January 2001 established two entity Constitutional Commissions charged with drawing up necessary amendments for the entity constitutions which were then to be passed by the entity parliaments.⁸³

The decision is very interesting since it regards territorially-defined ethnic autonomy and a debate between consociational and integrative solutions. One of the problems with defining ethnic autonomy in territorial terms is the lack of rights bestowed on people of different ethnicity living within the unit. Thus, Bosniaks and Croats in RS found themselves living in a “State for the Serb People”. When territorial ethnic autonomy is combined with a highly publicised goal of minority returns and the development of a multiethnic Bosnia, then a schism will arise as an increasing number of people find themselves without adequate protection of their rights. The decision therefore involves the legitimacy of the two-entity system and specifically the legitimacy of RS as an ethnically-defined quasi-state.⁸⁴

⁸² Perry, 2002: 2. E.g. the Court found the wording in the preamble of the RS Constitution “State of the Serb people” to be unconstitutional.

⁸³ The Constitutional Commissions are composed of four members of from each constituent people and from the group of “others”.

⁸⁴ Perry, 2002: 11. Tomac from the Croatian Parliament recently stated that this is the “last chance to abolish RS”. Bosnia Daily (2002) “Amendments: February 26 Deadline”. 20 February 2002.

The interpretations of the decision can be divided according to their consociational and integrative elements. Interestingly, the discussions have been sharply divided along ethnic lines, and this says a lot about the possibility for changing to a more integrative structure.

All-party talks were held in order to reach agreement on the implementation, and on 27 March the so-called Sarajevo Agreement was signed by the SDP, the SBiH, and the NHI, with four RS parties signing parts of it. The agreement maintains the consociational structure in the Federation, but with representation of Serbs and “others”. In the Federation Government there are to be quotas for representation of each constituent people. The consociational guarantees have however been reduced as the use of the minority veto has been limited.⁸⁵ In RS, a Council of Peoples is to be established. This is not a second chamber as in the Federation, but a Council with veto rights when vital national interests are concerned. In addition, ethnic quotas in Government are required, although majority rule is possible to a larger extent than in the Federation.⁸⁶ The ethnic quota requirement can be seen as a mix of the consociational and integrative approach: ethnic representation, but with majoritarian decision-making and it would give the parties incentives to run on multiethnic slates.⁸⁷ Essentially then, the agreement suggests to make the Federation less consociational, and more integrative, while RS is made less majoritarian and more integrative and consociational. On 19 April 2002, the HR decided to impose completely the amendment of the Federation Constitution as the necessary

⁸⁵ As the use of the “vital national interest clause” has been somewhat restricted. Agreement on the Implementation of the Constituent Peoples’ Decision of the Constitutional Court of BiH. 27 March 2002, art. 4, 5.

⁸⁶ In both entities vice-presidents have to come from a different constituent people than the President. However, vice-presidents have more authority in the Federation than in the RS.

⁸⁷ HR Interview in Sarajevo, 9 February 2002.

2/3 majority was made impossible by HDZ and SDA obstructionism and the amendments of the RS Constitution made by the RS Assembly were partially altered.⁸⁸ Below, I will briefly analyse the positions of each constituent people.

The parties with a Croat pre-fix submitted a joint proposal in February 2002 which was supported by the Croatian Government.⁸⁹ However, the HDZ did not sign the Sarajevo Agreement, while the more moderate NHI did. The HDZ rejected the agreement based on the limits put on the minority veto, i.e. the weakening of the consociational structure, and the integrative elements in the Government structure. As HDZ President Jelavic put it: *“If the Croats get some ministerial positions ...practically, it will be the Ministers who suit the Serb and Bosniak parliamentary majority.”*⁹⁰

The Serb parties have not opposed changing the part of the RS Constitution that designates RS as a “State for the Serb people”, but they wish to change the Constitution in a *civic* direction; based on majoritarian and formally non-ethnic principles.⁹¹ However, the RS parties did not sign the parts of the agreement pertaining to the definition of vital national interests which was considered to be too broad, i.e. the structure was too consociational. In addition, the provisions on ethnic quotas in Government were not signed. When the Serb parties of the RS Assembly unanimously

⁸⁸ OHR (2002b) Press release: “Process of Constitutional Change in Bosnia and Herzegovina's Entities is completed”, 19 April 2002. OHR (2002c) “Decision amending the Constitution of the Republika Srpska” 19 April 2002. OHR (2002d) “Decision amending the Constitution of the Federation of Bosnia and Herzegovina” 19 April 2002

⁸⁹ Bosnia Daily, 18 February 2002. The proposal proposed that Croat HoP delegates continued to be elected by Croat representatives only, that the ability to use the vital interest clause was not restricted, and that parity of representation was introduced also in the executive. Principles adopted at the Croat political parties meeting on 12 February 2002

⁹⁰ Interview in Vecernji List, 28 March 2002. BiH Media Round-up

amended the RS Constitution these elements departed from the Sarajevo Agreement. The Serb parties have declared themselves willing to accept multiethnic representation but not to the extent suggested.⁹²

Contrary to the proposals from the Croats parties and from RS, the proposal from the FBiH Constitutional Commission emphasised the civic nature of the FBiH and de-emphasized the concept of collective rights.⁹³ Thus, where Bosniaks are a majority, a more integrative structure is advocated. In RS, on the other hand, the Bosniak parties have put more emphasis on the protection of national interests.⁹⁴ There is an interesting difference between the SDA and the SDP on the issue. What matters to the SDA are symmetrical solutions in the entities, and the party rejected the multiparty agreement due to its asymmetry.⁹⁵ One could argue that this is because such symmetry would make the entities redundant and make Bosniaks most powerful as the largest group overall.⁹⁶ To this end, the party will accept solutions that reduce the consociational elements.⁹⁷ The SDA thus argues for a more civic or integrative structure and they argue for

⁹¹ E.g. Simic from the SNSD commented on the agreement that he was dissatisfied because it emphasised the "concept of the nation rather than that of man and his liberties". Quoted in BiH Media Round-up 3 April 2002.

⁹² Commenting on ethnic quota proposals which would give the Serbs 49 pct. representation in the RS Government, Dodik said: "I do not want to participate in the abolishment of the RS". BiH Media Round-up, 20 March 2002. See also BiH Media Round-up 20 December 2001 and Reporter (2002) "Entity-experimental rabbit", 19 February 2002. RS Prime Minister Ivanic has announced that the Government should be made more multiethnic than it is now. BiH Media Round Up, 26 December 2001.

⁹³ Internal OSCEBiH report .The FBiH Commission also had Croat, Serb and 'other' members. However, Bosniaks dominated it due to HDZ's boycott and the Croat members chose to submit their own proposal.

⁹⁴ The SDA criticised the RS NA constitutional amendments for being discriminatory and ensuring Serb domination. BiH Media Round-up 15 April 2002. The HDZ has argued that the SDA wants the Bosniaks in the Federation to have the same position that Serbs have in RS. BiH Media Round-up 8 April 2002.

⁹⁵ BiH Media Round-Up 28 March 2002.

⁹⁶ Perry, 2002: 12 argues that it would make the entities redundant.

⁹⁷ The SDA has e.g. suggested that they would accept non-legislative bodies in both entities as mechanisms for the protection of vital national interests. Bosnia Daily, 20 February 2002.

representation based on the 1991 census which would give the Bosniaks a clear majority in the Federation and significant influence in RS.⁹⁸

It may be surprising that the SDP has been clear in its rejection of majoritarian institutions. Leader of the SDP Lagumdžija stated: “*majorization of any nation should be avoided*”,⁹⁹ and while the SDP also supports the use of the 1991 census for government formation in both entities, they moderated this rule’s majoritarian tendencies by asserting that no group should be represented with more than 40 pct. or less than 20 pct.¹⁰⁰ This may be because the SDP as a multiethnic party would actually be able to present such a multiethnic slate. In addition, the rule would undermine ethnic autonomy in the entities and thereby also the ethnically-defined elections of delegates to the central institutions.

6.1.5 Conclusion on responses to integrative measures

The analysis of the responses to integrative measures showed that on the central level, the Croat and the Serb representatives prefer consociational structures whereas the Bosniak representatives prefer a more integrative structure. This seems to support the assertion that minority groups support a consociational structure, especially parties that also have espoused secessionist ideologies and may indeed still harbour secessionist aspirations. The Bosniaks although they are the largest group, do not constitute a majority. The Bosniak parties’ preference for an integrative solution should be seen in the context of their integrative goal, intra-ethnic

⁹⁸ SDA spokesman, Džaferović has said that any compromise on representation based on the 1991 census is impossible. BiH Media Round-Up 28 January 2001. One may speculate that the SDA would actually prefer not to have ethnic quotas in the Federation. Personal communication with OSCEBiH official.

⁹⁹ Quoted in Nezavisne novine, BiH Media Round-Up 28 January 2002.

¹⁰⁰ Bosnia Daily, 20 February 2002. In the proposal from the FBiH Constitutional Commission the largest group is to be represented with no more than 40 pct. in the entity Government.

competition which has forced the SDA to moderate, and an attempt to undermine the existence of ethnic autonomy in RS. Thus, the variable numerical balance interacts with depth of division and maximalist goal. On the local level, the preferences are different, but also based on minority-majority positions. The Serb parties are opposed to a consociational structure in RS, whereas the Bosniak parties support such a structure in RS but a more integrative structure in the Federation. The Croat parties demand a more consociational structure, and the HDZ argues that the implementation of the Dayton Agreement has already undermined the Croat ability for self-protection: “*The IC has taken steps to limit the powers of the Croat community and in effect deconstitute the Croats*”,¹⁰¹ and perceives integrative measures as Bosniak domination “*under the guise of civic majority*”.¹⁰²

It is interesting to note that despite clear divisions along ethnic lines, the integrative elements already in the Dayton Agreement have met with less resistance in the second phase.

In the next section, I will analyse the international strategies used to implement the Dayton Agreement and the possibility for turning it in a more integrative direction.

6.2 Effect of the international dimension on the implementation

One of the more surprising things about the implementation strategy is that the use of a more coercive strategy has generally *not* backfired. There has actually been remarkably little opposition to imposition of legislation, removal of obstructionist officials, dismantling of parallel power structures,

¹⁰¹ HDZ, 2000: 48

¹⁰² Vucemilic interview with HDZ President, Jelavic, BiH Media Round Up, 20 April 2004

and arrest of indicted war criminals.¹⁰³ It could have been feared that such a strategy would have backfired and that it could have been used by nationalist forces to solidify their positions by playing the “ethnic card”.¹⁰⁴ However, despite the depth of divisions, reactions have mostly been complacent.

It is, however, not unproblematic to start using a more coercive strategy at this stage of peace implementation. Instead of starting out with a coercive strategy one was only chosen after the assistance and reconstruction strategy had proved inadequate. Thus, the IC adopted a coercive strategy when democratic institutions were already in place thereby signalling that overriding these institutions is a possibility if the IC is not satisfied.¹⁰⁵ This creates an uncertainty that is problematic when peace has to be consolidated and possibly turned in a more integrative direction. The IC has become party to the conflict and this may hinder the parties in coming to agreement by themselves.¹⁰⁶ To counter these negative effects, not only sticks but also carrots should be used and involvement of the local parties should be prioritised higher than it has been. One could argue that the lack of negative reactions to the coercive strategy demonstrates that such a strategy could beneficially have been used at an earlier stage when democratic institutions were not in place and when spoilers were completely unwilling to compromise.¹⁰⁷ However, using a more coercive strategy at an earlier stage could have backfired since the current mostly complacent

¹⁰³ As Cox argues, “it is remarkable how little opposition has been offered...to the new role of the High Representative”. Cox, 2001: 13. See also ESI, 2000: 33

¹⁰⁴ As Baldwin argues, negative sanctions may cause stress and resistance and convey an image of hostility, Baldwin, David A. (1971) "The Power of Positive Sanctions," *World Politics*, Vol. 24, No. 1 (October), p. 32

¹⁰⁵ Cousens; Cater, 2001: 133

¹⁰⁶ ESI (2002) “Imposing Institutional Reform? The case for Ownership”. A Discussion Paper. Sarajevo: ESI. p. 9.

reactions may reflect that divisions are less deep, that moderation has indeed taken place.

6.2.1 Implementation of integrative elements

As regards the integrative elements contained in the Dayton Agreement, that is returns and the integrative institutions, the passing of time and the more forceful international strategy have led to improvements. But the situation seems to be quite different when it comes to the introduction of new integrative measures. When the OSCE in 2000 decided to change the rules for the election of the Federation House of Peoples, it fostered negative reactions not seen with other coercive strategies. The HDZ used the crisis to consolidate their electoral base that had otherwise been slipping, and this suggests that the moderate core needed for an integrative solution does not exist presently. As ICG argues, rhetoric to the effect that Croats' nationalist interests are under threat has enormous resonance even among moderate Croats.¹⁰⁸ Therefore, the attempt to impose an integrative solution backfired.

Few other attempts have been made at directly imposing integrative elements, but the process surrounding the adoption of the election law and the amendments of the entity constitutions has clearly demonstrated that significant integrative elements will not be voluntarily agreed to, as long as the Croat and Serb nationalist parties still hold sufficient voting power. The question is so important for their continued power that incentives cannot be expected to work. Could they then be imposed? In theory they could, but the question is whether the IC is prepared to face such a battle with not only

¹⁰⁷ For the term spoilers see Stedman, Stephen John (1997) "Spoiler Problems in Peace Processes," *International Security*, Vol. 22, No 2 (Fall), pp. 5-53.

¹⁰⁸ ICG (2001b) "Turning Strife to Advantage: A Blueprint to integrate the Croats and Bosnia and Herzegovina" Brussels: International Crisis Group, p. 5.

the HDZ but with almost all the Serb parties as well. If they were imposed more incrementally so that a balance between consociational and integrative elements still existed this may make it more likely. It is interesting to note, that Croat parties in the Alliance Government were reportedly hesitant to join the coalition, until guarantees against Bosniak domination were provided by the creation of the constitutional committees.¹⁰⁹ Guarantees are absent from the integrative approach, but they may be the carrot needed to make it acceptable. In order to create a self-sustaining peace, the integrative elements should preferably not be imposed. At present time a change in a more integrative direction will therefore be difficult, but it may be possible if the integrative change is incremental, if it takes advantage of the possible combinations with the consociational approach and if it is accompanied by large carrots and possibly also sticks.

The question is then whether the two approaches can be said to constitute a continuum in Bosnia? The integrative elements in the Dayton Agreement have been easier to implement as time has passed since the war, as divisions have become less deep and as the IC has adopted a more assertive strategy. In addition, the consociational structure cannot be said to have failed: though problem-ridden it has helped reduce the intensity of the ethnic cleavage. However, as long as the nationalist parties are still powerful, a change to a fully integrative system will not occur voluntarily. And the nationalist parties have proven themselves capable of reform within the predominantly consociational structures, and their demise is not likely to be imminent. Only very gradual or imposed integrative elements are therefore possible.

¹⁰⁹ IWPR (2001) "Bosnian Moderates Oust Nationalists". Balkan Crisis Report no. 211, 22 January 2001.

6.2.2 Conclusion on implementation of integrative measures

The resistance to new integrative measures has been marked and the HDZ was able to use this resistance for electoral gains and it has thereby fostered renewed extremism. A voluntary change to an integrative approach is at the moment unlikely, and an imposition of such a change would seem unwise considering the improved dialogue, and the need for building a sustainable peace. However, an incremental change which utilises the possible positive interaction between the two approaches may be possible.

7. Conclusion

In this paper, I have compared the use of consociational and integrative conflict regulating strategies in post-Dayton Bosnia in order to develop a contingent generalisation of their effectiveness in fostering stability following an ethnic war. Such a generalisation is highly policy relevant since it aims to identify the conditions under which one or the other approach should be prescribed and whether a possible mix between them would be even more effective. The argument is that contextual variables influence the effectiveness of the approaches in fostering stability. However, the international implementation strategy can to some extent compensate for a difficult conflict situation.

The comparison of the effectiveness of the approaches in the two phases showed that they had quite different effects on both stability and depth of division. Following the immediate cessation of hostilities, the integrative approach may increase antagonisms and foster instability rather than stability. In later phases of de-escalation this effect, however, seems to wane off and in the longer term, the integrative approach may foster more fluid attitudes and identities and create incentives for inter-ethnic co-

operation. The incentives for multiethnic appeals and parties were, however, not sufficiently strong to counter the incentives for mono-ethnic appeals. More integrative institutions work more smoothly than consociational institutions and their establishment was remarkably problem-free. However, it did seem to depend on the ultimate international control. Thus, in the first phase, integrative measures fostered instability rather than stability; divisions were too deep for integrative structures to be effective in fostering stability. However, integrative structures may in time foster greater fluidity, and in second phase, when divisions were less deep, integrative elements already in the Dayton Agreement were accepted to a larger extent, and integrative institutions worked more smoothly than consociational institutions.

While the integrative elements came to work better in the second phase, the introduction of new integrative elements has been rejected by the Croat and Serb parties. The positions on consociational and integrative solutions are sharply divided along ethnic lines, and furthermore also follow local majority-minority constellations. Thus, the numerical balance matters along with the maximalist objectives of the parties.

The use of a more coercive international implementation strategy has generally not backfired, and it has enabled changing the spoiler types to more manageable types, and has thereby helped foster stability. Using a more coercive strategy at this point is, however, not unproblematic when a self-sustainable peace is sought fostering. On the other hand, if it had been used at an earlier stage it could very well have backfired since the complacent reactions to the change in strategy may be due to divisions being less deep.

One exception, as regards responses to coercive measures is reactions to the imposition of integrative measures not in the Dayton Agreement. I will therefore argue that the introduction of integrative measures has to be gradual. That the approaches constitute a continuum cannot be rejected, but the change still appears to be too early. If it is to happen gradually, then the interaction of the two approaches has to be taken into consideration. The analysis of power-sharing in heterogeneous municipalities showed that the formulation of power-sharing requirements in a way that does not guarantee representation to specific parties can create incentives for moderation, and the approaches can thus supplement each other. The approaches can, however, also counteract each other as with the integrative institutions in a consociational framework. Finally, the mix can lead to new schisms as showed in the case of territorially defined ethnic autonomy and right of return. This has created a new debate which opens up the possibility for flexibility but also creates uncertainty.

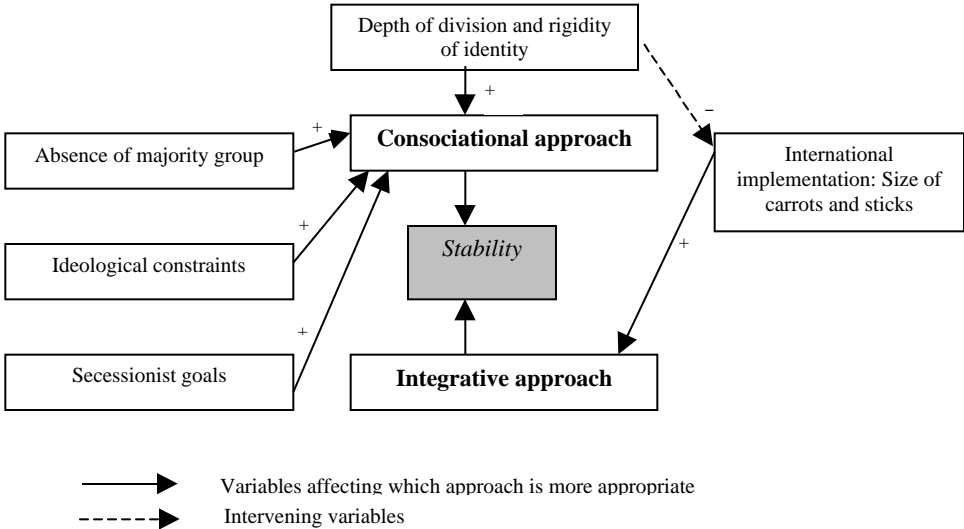
A question bids itself: would a more integrative solution have been possible at Dayton? I would say no; even the integrative institutions without legislative power could not have been agreed on without placing them under international supervision. And the divisions were too deep after the war for inter-ethnic vote transfers to have been realistic. This does, however, not mean that the structure chosen was the best possible. The approaches could have been combined in a better way, e.g. by making representation less predetermined, greater incentives for moderation could have been fostered, as in the case of the heterogeneous municipalities.

Thus in the Bosnian case, the consociational model has been more effective in fostering stability, despite the international dimension. This is due to the depth of divisions the numerical balance between the groups

and the maximalist objectives of the parties, Presently, a change to an integrative structure seems premature, but a mix of the approaches has been demonstrated to be able to foster moderation and the way forward could be a continued incremental change of the balance of this mix.

In terms of a general conclusion, the contingent generalisation of the effectiveness of the approaches can be illustrated graphically:

Which approach is more effective in fostering stability:



The lesson that can be drawn from this case is that the consociational model will be better able to foster stability after an ethnic war. If a strong majority group exists this may make the acceptance of the integrative model higher, but it will also function more as a majoritarian system to the detriment of minority groups. The international strategy can assist in the creation of stability, and unless divisions are too deep coercive measures should be used at the earliest stage possible to remove parallel structures and marginalise total spoilers. However, if the elites begin to be more willing to compromise a less coercive strategy should be used with a greater

degree of involvement of the local parties. Finally, by combining the approaches, more effective strategies can be created, and this analysis can thereby form the basis for the development of more effective conflict regulation: ways of building fences low enough for good neighbourliness to develop.

Annex 1: List of acronyms and abbreviations

Bosnian power structures:

BiH: Bosnia and Herzegovina

Bosnia: Synonymous with Bosnia and Herzegovina

FBiH: The Federation of Bosnia and Herzegovina, the Bosniak-Croat entity

The Federation: Synonymous with The Federation of Bosnia and Herzegovina

RS: Republika Srpska, the Serb entity

HoP: House of Peoples

HoR: House of Representatives

CoM: Council of Ministers

FHoP: Federation House of Peoples

CoP: Council of Peoples (RS)

International organisations etc.

HR: The High Representative

IC: The International Community

OHR: Office of the High Representative

OSCE: Organisation for Security and Co-operation in Europe

OSCE BiH: OSCE's Mission to Bosnia

PIC: Peace Implementation Council. The PIC comprises 55 countries and agencies that support the peace process - by assisting it financially, providing troops for SFOR, or directly running operations in Bosnia and Herzegovina. The Steering Board is the executive arm of the PIC.

SFOR: Stabilisation Force

UNHCR: UN's High Commissioner for Refugees

International commentators

CPS: Complex Power-Sharing

ECMI: European Centre for Minority Issues

ESI: European Stability Initiative

ICG: International Crisis Group

IWPR: Institute for War and Peace Reporting

Bosnian parties

HDZ (BiH): Hrvatska Demokratska Zajednica. Croat party, party leader Ante Jelavic who is unrecognised by the IC. Bosnian branch of the HDZ founded by Franjo Tudjman, formally however they are independent.

NHI: Nova Hrvatska Inicijativa. Croat party, founded by Kresimir Zubak in 1998 when he left the HDZ

PDP: Partija Demokratskog Progresna. Serbian party, founded by Mladen Ivanic who is the current Prime Minister of RS.

SBiH: Stranka za BiH. Predominantly Bosniak party, founded by Harry Siladzic in 1996 as a protest to SDA's extremism.

SDA: Stranka Demokratske Akcije. Bosniak party, founded by Alija Izetbegovic and Harry Silajdzic in 1990

SDP: Socialdemokratska Partija. Multiethnic party but dominated by Bosniaks. Successor to the Communist party. Party leader: Zlatko Lagumdzija

SDS: Srpska Demokratska Stranka. Serbian party, founded by Karadzic and Kraiisnik in 1990 Party leader: Sarovic

SLOGA: Serbian coalition made up of SNSD, SNS, and SPRS

SNS: Srpski Narodni Savez. Serbian party. Founded by Biljana Plavsic when she left the SDS.

SNSD: Stranka Nezavisna Socijalitica Demokratska. Serbian party, founded by Milorad Dodik in 1992.

SPRS: Socialisticka Partija Republike Srpska. Serbian party, founded by Radisic

SRS: Srpska Radikala Stranka. Serbian party, founded by Vojislav Seselj. Banned in 2000

Other

IDPs: Internationally displaced people

FRY: Federal Republic of Yugoslavia

Annex 2: Laws passed by the BiH Parliament

Year	<i>Legislation passed</i>
1996	Joint Institutions not yet formed
1997	Law on Central Bank Law on Foreign Debt Law on Foreign Trade Law on Customs Policy Law on Customs Tariffs, Law on Immunity Law on Budget/Budget Execution Law on the Official Gazette of BiH Law on the Council of Ministers Law on Travel Documents
1998	Law on Customs Tariffs State Budget for 1998 * Law on Foreign Investments Law on Customs Policy * Law on the Seal of the BiH Law on Travel Documents (amendment)
1999	Law on Immunity (amendment) State Budget for 1999 Law on Asylum and Immigration Law on Refugees and Displaced Persons * Law on Telecommunications
2000	Laws on Party Financing Law on the Council of Ministers. Law on Succession (amendments imposed by HR) Law on State Treasury Freedom of Access to Information Law
2001	Election Law Law on Competition Ombudsman Law Law on ID Card of BiH Citizens Law on Data Protection Law on Permanent and Temporary Residence of BiH Citizens Law on Central Registry and Exchange of Data Law on Personal ID Number * Plus: 11 Laws that had formerly been imposed by the HR, incl. Laws on BiH Coat of Arms, Flag, National Anthem.

Source:: Reports of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the UN, List of legislation provided by the OHR Political Department last updated 25 March 2002,

OHR Press Release, “BiH Parliament Adopts Freedom of Access to Information Law”, 24 October 2000, and BiH Media round-up 24 May 2001.

* = legislation that has previously been imposed by the HR on an interim basis

Annex 3: Method used for comparing nationalist support in homogeneous and heterogeneous municipalities.

Identification of municipalities as homogeneous or heterogeneous:

This was based on the voting patterns in the municipalities as voting is almost exclusively along ethnic lines. Most parties have an ethnic pre-fix e.g. SDS (Serb Democratic Party) and could therefore be coded without any problems. A few parties caused problems but almost all could be assigned one ethnic group after a bit of research. The only significant party with some multiethnic appeal is the SDP, however in 1997 its support base was weak and in 2000 its appeal beyond Bosniak voters was still assessed to be limited. The party was therefore coded as Bosniak.

Nationalist parties

Nationalist party support was coded as support for SDA, HDZ, SRS (only 1997), and SDS. However, both in 1997 and in 2000 the SDA would also run in coalition with SBiH, which is usually considered to be a more moderate Bosniak party. The coalition was nevertheless coded as nationalist support, as SDA was the dominating party. Other extreme nationalist parties may have run in some municipalities, for instance the Croat HSP, however their support is negligible and has not been included in the nationalist vote share.

Parties and independent candidates included

In 2000, 68 parties and 18 independent candidates took part in the elections. Due to this vast number, only parties and independent candidates with a vote share of at least 3 pct. were included. The totals therefore amounted to less than 100 pct but when the ethnic composition

was calculated, the remaining percentages were distributed proportionally, i.e. if the parties included translated as e.g. 75 pct. Serb and 20 pct. Bosniak, it was assumed that the parties and independent candidates receiving less than 3 pct. of the votes would predominantly (but not exclusively) be Serb. This way, these parties and candidates are included in the figures and not simply ignored.

When calculating the nationalist vote share, I have however not adjusted the vote shares for the 3 pct. threshold as the nationalist parties in no instance received less than 3 pct. of the votes.

Coding of Mostar

One set of municipalities caused some difficulty. Mostar is divided into six largely homogeneous municipalities, but it also has a joint city administration which is heterogeneous. Thus, while the groups live and vote separately in their municipalities, they are also part of the same unit. In the quoted figures, the Mostar municipalities are coded as homogeneous for coherence, however even if they were coded as heterogeneous this would merely strengthen the tendency of more extreme attitudes in heterogeneous units: In 2000, the average nationalist vote share increases from 62 per cent to 68 per cent.

Statistical significance:

As I have included the whole population (i.e. all municipalities in the analysis), tests of statistical significance do not make any sense and have therefore not been conducted.

Heterogeneity based on power-sharing regulations

I have analysed heterogeneity defined according to the OSCE power-sharing requirements. This reads that minority representation in the municipal executive is required if minority representatives receives over 20 pct of the *seats*. I have however for simplicity coded this as 20 pct. of the *votes*. I have done so for two reasons: Firstly, the electoral system is proportional and the discrepancy will therefore be minor. Secondly, a few moderate parties may run candidates from another ethnic group even though their cross ethnic appeal is marginal. This cannot be inferred from the electoral results and the distribution of seats will therefore not be a perfect estimate either.

The general threshold for power-sharing is 20 pct, however, some cantonal constitutions stipulate a 10 pct. threshold, e.g. in Sarajevo. I have nevertheless not included this additional measure of heterogeneity for simplicity and as it is not a general rule.

More data:

1997:

If a twenty pct threshold is used as a definition of heterogeneity, the same pattern materialises. In the electorally heterogeneous municipalities the average nationalist vote share is 83 per cent, while it is 72 pct in homogeneous ones.

The positive correlation between heterogeneity and nationalist support is furthermore supported by the *negative* correlation between size of the largest ethnic group and nationalist vote share. The size of the largest ethnic group explains 6.6 pct of the variance and the standardised coefficient is -0.3.

2000:

For the municipalities that in 1997 had a minority group with the size of at least 20 pct., the average nationalist vote share is 60 pct. compared with 47 pct. in municipalities without such representation. The experience of power-sharing has thus not led the electorate to move away from the nationalist parties significantly faster.

Annex 4: Method used for analysing the effect of ethnic violence

My coding of municipalities is based on the eight *“Reports on War Crime in the Former Yugoslavia Pursuant to UN Security Council Resolution 771”*. The municipalities which were coded as having experienced a higher degree of ethnic violence were areas that were mentioned more than once under the heading “wilful killings”. In addition, I included Visegrad and Kotor Varos that were reported as being the scenes of mass killings. As the reports only cover the war until June 1993, I have additionally included Srebrenica and Rogatica (Zepa) that were the scenes of horrible atrocities. This gave a total of 19 locations and 24 municipalities (Doboj, Foca, Gorazde, and Sanski Most are divided into more than one municipal unit). The total list is as follows:

Banja Luka, Brcko, Doboj, Foca, Gacko, Gorazde, Konjic, Kotor Varos, Kljuc, Kozarac, Prijedor, Rogatica, Sanski Most, Srebrenica, Travnik, Visegrad, Visoko, Vitez, Zvornik

While the method is not full-proof, it does cover all well-known cases of ethnic mass killings

Results:

In 1997, the average nationalist vote share in municipalities coded as having experienced a higher degree of ethnic violence is 77.7 pct. In the remaining municipalities it is 75.4 pct.

In 2000, the figures are 51.7 pct. in municipalities with a higher degree of ethnic violence and 50.9 pct. in the remaining municipalities.

If only the heterogeneous municipalities are compared, in 1997 the average for municipalities with a higher degree of ethnic violence was 85.7 pct, compared to 85.3 pct in the other heterogeneous municipalities. In 2000, the numbers are 62.9 pct and 62.1 pct.

Bibliography

Agreement on the Implementation of the Constituent Peoples' Decision of the Constitutional Court of Bosnia and Herzegovina. 27 March 2002. From <http://www.ohr.int>.

Baldwin, David A. (1971) "The Power of Positive Sanctions," *World Politics*, Vol. 24, No. 1 (October).

Bieber, F. (1999) "Consociationalism – Prerequisite or Hurdle for Democratisation in Bosnia? The Case of Belgium as a Possible Example". *South-East Europe Review* 99/3.

Bieber, F. (2001) "The Challenge of Democracy in Divided Societies: Lessons from Bosnia – Challenges for Kosovo". In Sokolovi_, D.; Bieber, F. (eds.) *Reconstructing Multiethnic Societies: The Case of Bosnia-Herzegovina*. Aldershot: Ashgate.

BiH Media Round-Ups, Daily news reviews provided by the OHR. <http://www.ohr.int>

Bosnia Daily (2002) "Amendments: February 26 Deadline". 20 February 2002

Brass, P. (1991) *Ethnicity and Nationalism: Theory and Comparison*. London: Sage Publications

Chandler, D. (2000) *Bosnia: Faking Democracy after Dayton*. London: Pluto Press

Cohen, L. (1998) "Whose Bosnia? The Politics of Nation Building" *Current History*, March 1998.

Cousens, E.; Cater, C. (2001) *Towards Peace in Bosnia: Implementing the Dayton Accords*. London: Lynne Rienner Publishers.

Cox, M (2001) "State Building and Post-Conflict Reconstruction: Lessons from Bosnia". Paper for the project The Rehabilitation of War-Torn Societies, Centre for Applied Studies in International Negotiations, Geneva.

Early Warning System (2000) Report June 2000. UNDP

ESI (2000) "Reshaping international priorities in Bosnia and Herzegovina: Part two, International Power in Bosnia" 30 March 2000. <http://www.esiweb.org>

ESI (2002) "Imposing Institutional Reform? The case for Ownership". A Discussion Paper. Sarajevo: ESI.

Harris, P.; Reilly, B. (1998) *Democracy and Deep-Rooted Conflict: Options for Negotiators*. Stockholm: Handbook Series International IDEA.

HDZ (2000) *Response: from the Croat Leadership on the Process of Deconstituization of the Croats in BiH*. Sarajevo: Presidency of the BiH, Office of the Croat Member.

Holbrooke R (1998) *To End a War* New York: The Modern Library

Horowitz, D. (1985) *Ethnic Groups in Conflict*. Berkeley: University of California Press

Horowitz, D. (1991a) "Ethnic Conflict Management for Policymakers" in Montville, J. (ed.) *Conflict and Peacemaking in Multiethnic Societies*. New York: Lexington Books

Horowitz, D. (1991b) "Making Moderation Pay: The Comparative Politics of Ethnic Conflict Management" In Montville, J. (ed.) *Conflict and Peacemaking in Multiethnic Societies*. New York: Lexington Books

Horowitz, D. (1991c) *A Democratic South Africa? Constitutional Engineering in a Divided Society*. Berkeley: University of California Press.

Horowitz, D. (2000) "Some Realism about Peacemaking". Center for Development Research: Facing Ethnic Conflicts (14 – 16 December 2000)

Horowitz, D. (2002) "Constitutional Design: Proposals Versus Processes". In: Reynolds, A. (ed.) *The Architecture of Democracy*. Oxford: Oxford University Press.

HR (1996a) Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 1st report. From <http://www.ohr.int>

HR (1996b) Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 3rd report. From <http://www.ohr.int>

HR (1996c) Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 4th report. From <http://www.ohr.int>

HR (1997a) Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 5th report. From <http://www.ohr.int>

HR (1997b) Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 6th report. From <http://www.ohr.int>

HR (1999) Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 15th report. From <http://www.ohr.int>

HR (2000a) Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 16th report. From <http://www.ohr.int>

HR (2000b) Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 17th report. From <http://www.ohr.int>

HR (2001) Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 19th report. From <http://www.ohr.int>

HR (2002) Report of the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations. 21st report. From <http://www.ohr.int>

ICG (1999) "Is Dayton Failing? Bosnia Four Years after the Peace Agreement". Bruxelles: International Crisis Group.

ICG (2000a) "Bosnia's Refugee Logjam Breaks: Is the International Community Ready?" Bruxelles: International Crisis Group.

ICG (2001b) "Turning Strife to Advantage: A Blueprint to integrate the Croats and Bosnia and Herzegovina" Bruxelles: International Crisis Group.

IWPR (2001) "Bosnian Moderates Oust Nationalists". Balkan Crisis Report no. 211, 22 January 2001

Kettley, C.; Sullivan, J, Fyfe, J. (2001) "Self-Determination Disputes and Complex Power Sharing Arrangements: A Background Paper for Debate" Workshop February 9 & 10 2001, Pembroke College, Cambridge University. <http://www.ecmi.de/cps/download/background1.pdf>

Lijphart, A. (1977) *Democracy in Plural Societies*. New Haven: Yale University Press.

Lijphart, A. (1994) "Prospects for Power-Sharing in the New South Africa" In Reynolds A. (ed.) *Election '94 South Africa: The Campaigns, Results and Future Prospects*.

Lijphart, A. (2000) "Definitions, Evidence, and Policy: A response to Matthijs Bogaards' critique". *Journal of Theoretical Politics* 12:4 pp. 425-432

Manning, C. (2001) "Warlords into Democrats? Elections and Moderation in Post-War Bosnia and Hercegovina" Paper prepared for the annual meeting of the American Political Science Association, San Francisco, August 30 – September 1, 2001.

Mason, T.D.; Fett, P. J. (1996) "How Civil Wars End: A Rational Choice Approach". *Journal of Conflict Resolution* 40:4 pp. 546-568.

Ni Aolain, F. (2001) "The Fractured Soul of the Dayton Peace Agreement". In Sokolovi_, D.; Bieber, F. (eds.) *Reconstructing Multiethnic Societies: The Case of Bosnia-Herzegovina*. Aldershot: Ashgate.

OHR (2000) Press Release, "BiH Parliament Adopts Freedom of Access to Information Law", 24 October 2000

OHR (2001) "Press release: "SDHR Matthias Sonn meets BiH House of Peoples' Serb Caucus" 31 July 2001.

OHR (2002a) "Decision amending the BiH Election Law in accordance with the new Entity Constitution", 19 April 2002.

OHR (2002b) Press release: "Process of Constitutional Change in Bosnia and Herzegovina's Entities is completed", 19 April 2002.

OHR (2002c)"Decision amending the Constitution of the Republika Srpska" 19 April 2002.

Perry, V. (2002) "Constitutional Reform and the Spirit of Dayton" ECMI issue brief.

OHR (2002d)"Decision amending the Constitution of the Federation of Bosnia and Herzegovina" 19 April 2002

Principles adopted at the Croat political parties' meeting on 12 February 2002 in Sarajevo

Reilly, B. (2001) *Democracy in Divided Societies: Electoral Engineering for Conflict Management*. Cambridge: Cambridge University Press.

Reporter (2002) "Entity-experimental rabbit", 19 February 2002.

Reynolds, A. (1999) "Majoritarian or Power-Sharing Government". Paper prepared for the Kellogg Institute Conference: Constitutional Design 2000: Institutional Design, Conflict Management, and Democracy in the Late Twentieth Century

SDA (2001) "Declaration", The Third SDA Congress, Sarajevo 13 October 2001.

Sharp, J. (1997/8) 'Dayton Report Card' *International Security* vol. 22, no. 3, pp. 101-137

Sisk, T. (1996) *Power Sharing and International Mediation in Ethnic Conflicts*. Washington D.C.: United States Institute of Peace

Sisk, Timothy (2001) "Peace Making in Civil Wars" Kroc Institute Occasional Paper 20:2 March 2001. http://www.nd.edu/~krocinst/ocpapers/op_20_2.PDF

Stedman, Stephen John (1997) "Spoiler Problems in Peace Processes," *International Security*, Vol. 22, No 2 (Fall), pp. 5-53.

Weller, M, Bieber, F.; Christiansen, E. M. (2001) "Power-sharing in Bosnia and Herzegovina: Strengthening implementation of the Dayton Peace Accords". Initial Workshop Sarajevo, 13-15 July 2001. ECMI Report. Flensburg: ECMI