



**BREAKING THE MOULD:  
ELECTORAL REFORM IN BOSNIA  
AND HERZEGOVINA**

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ICG Balkans Report N° 56  
04 March 1999

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# BREAKING THE MOULD: ELECTORAL REFORM IN BOSNIA AND HERZEGOVINA

## EXECUTIVE SUMMARY

Electoral reform is on the agenda this year in Bosnia and Herzegovina. For too long the country has been ruled by leaders who draw support from only one of the three main ethnic groups. These leaders have been unable to co-operate on even the simplest matters, inhibiting the implementation of the Dayton Peace Agreement (DPA) and forcing the international community to micromanage the country. Electoral reform offers one promising way to allow Bosnians to choose less confrontational leaders, and so start to accept responsibility for their own future.

Some Bosnians vote for nationalist parties simply because they want Bosnia to remain divided. But others feel obliged to vote nationalist for defensive reasons, out of fear of extremists in other groups. The effects of the 'fear vote' maintain the strength of all three national party structures. If this fear were removed voters might be more willing to vote for more moderate parties. The existing electoral system offers them no incentive to do this, nor is there any way to tell how numerous these hidden moderates are. A sensitive approach to election reform could liberate their wishes for better government.

The DPA formulae impose limits on the scope of reform. For example there is no election in which all the voters of BiH vote together for an overall result – even the BiH Presidency is at least two separate elections which happen to occur at the same time. But the system of party-list proportional representation, used for all elected assemblies, can be changed, and should be changed, for it bears much of the responsibility for election outcomes to date.

Different voting systems favour different outcomes. Voters with different political views may support various types of reform depending on their own agenda. Systems can be designed which will favour any of a range of broad results.

For example, the most direct way to penalise parties which appeal to only one ethnic group of voters is to give voters of all ethnic groups a say in who are elected as leaders of each ethnic group. This implies some form of multiple-vote system. Either the parties could be divided up into ethnic lists, and each voter vote on each list; or the voters could be invited to declare their ethnic affiliation, and each party required to attract a minimum of support from each group. An Annex to the main paper demonstrates the striking results which can be achieved using a multiple-vote system.

But the immediate task is not to design a perfect system. If electoral reform is to be effective as a means of bringing better government to Bosnia, the Bosnians themselves need to be involved in the process. Otherwise they are likely to regard the reform with indifference or hostility, as just another foreign imposition.

The Madrid Peace Implementation Council has already tasked the OSCE with conducting a public outreach campaign. This means that the debate needs to spread beyond the circles of urban intellectuals where it has been conducted so far. It is important that this campaign should:

- be conducted in terms that people can understand;
- take place not only on television and radio but also in public places all over the country;
- have a Bosnian face, avoiding as far as possible the use of foreigners with interpreters;
- be monitored with regular polling, both of awareness of the issues and of shifts in attitudes (if any).

If the debate is successful it should both produce ideas which can contribute to the electoral model to be adopted, and generate a wave of support for reform. Popular support will be vital if a new system is to be introduced which will threaten the power of Bosnia's current leaders. Referenda may have a role to play in expressing that support, but the way forward will only become clear in the light of the public debate.

**Sarajevo, 04 March 1999**

# BREAKING THE MOULD: ELECTORAL REFORM IN BOSNIA AND HERZEGOVINA<sup>1</sup>

## I. INTRODUCTION

Electoral reform is on the agenda in Bosnia and Herzegovina (BiH). The Declaration of the Peace Implementation Council (PIC), meeting at Madrid on 16 December 1998, lists among its aims:

- working with the people of BiH and their representatives to develop a new electoral law which will promote a democratic and multi-ethnic political process and make the elected officials accountable to the voters<sup>2</sup>.

This passage carries forward a debate which began during 1998 on the need for electoral reform. The background to this debate is that every election held in Bosnia since 1990 (with a few exceptions at municipality level) has resulted in victory for parties whose appeal is exclusively to voters of a single ethnic group. The very names of parties such as the Croat Democratic Community (HDZ) and the Serb Democratic Party (SDS) show that the parties themselves are not trying to appeal to voters from other ethnic groups. The name of the dominant party among the Bosniacs, the Party of Democratic Action (SDA) is an exception, but the platform and policies of the party show that its appeal is mainly to Bosniacs.

These parties have repeatedly shown themselves incapable of co-operating to implement the 1995 Dayton Peace Agreement. No factor has appeared on the political horizon to make it seem likely that this will change in the future. So the debate on electoral reform is, at least in part, an attempt to promote political forces which might govern Bosnia in the interests of the people of Bosnia, rather than fail to govern it for the sake of defending sectoral interests.

## II. ELECTIONS AND PERVERSITY: LOCKED INTO FAILURE?

Election systems can produce perverse results. For example, it may happen that all voters sincerely express their preferences, yet the final result is one that not one single voter likes. Consider the following simple case where each voter has one vote:

- Every voter shall receive \$20 if 75% of voters vote for this option
- Every voter with brown eyes shall receive \$50

If all voters are sufficiently naïve and selfish, and 26-49% of voters have brown eyes, then the first option wins but with less than 75%, and everyone loses the chance of \$20.

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<sup>1</sup> This paper builds on the ideas presented in the ICG paper *Changing the Logic of Bosnian Politics: Discussion Paper on Electoral Reform* of 10 March 1998. It also draws on several sources, including *Beyond the Tyranny of the Majority* and discussions with its author, P J Emerson of the de Borda Institute, Belfast; and an unpublished paper *Le 'double vote' ou le 'vote multiple'* by Professor Francis Delpérée of the Catholic University of Louvain, Belgium.

<sup>2</sup> Section 12.4. Text available from the OHR web-site and many other sources.

Has every election held in Bosnia and Herzegovina since 1990 in fact had an outcome of this type? Voters have heavily preferred parties whose political platform is based on appeal to the ethnic identity of the voter, rather than on any different ideas on policy. The main effort of 'government' has then concentrated on struggling with the other winning ethnic parties, who also have no policy except to represent their own group. This is unfortunate for those parties which genuinely want to escape from ethnic politics: so overwhelming is the ethnic issue that the very fact that they are not ethnic parties becomes their main platform, and their main attraction to voters. This is surely the case with the Social Democrats in the Federation. In Republika Srpska (RS) the phenomenon is less obvious, because there are no multiethnic parties. But among the 7% of the electorate who voted for Milorad Dodik in 1998 must have been those Serbs who had most nearly tired of Serbhood as the only political issue.

Ethnic nationalism in each area of Bosnia reinforces its counterparts in the other areas. Most Bosnians believe that many voters are voting not For but Against, driven by fear/hatred/distrust of the Other.

What has happened in the Federation has been a division into two separate electorates. The HDZ and SDA stand in the same elections at the same time but do not compete against one another. Rather they compete against other, smaller, Croat and Bosniac parties for the Croat and Bosniac vote. The HDZ expects no votes from Bosniacs; the SDA expects no votes from Croats.

In RS the situation is different. A comparatively large number of medium-sized parties compete for power, and none looks likely to gain enough seats to govern without a coalition. But the vast majority of voters and parties are Serb, and most voters in RS are still voting for parties which offer one or other brand of Serb nationalism. This may be partly because RS is still voting within the broader context of BiH, and there is still a very deep sense of 'hostile other' felt between RS and the Federation. But the strongly nationalist atmosphere in Serbia itself is also a factor. The situation is further complicated by absentee Bosniac and Croat voters who have rights to vote in RS – predictably they vote in a way which reflects the situation in the Federation.

At a later stage of development, once the voter's electoral environment is free of the need to set his ethnic identity against someone else's, then it is relatively easy for real politics to take over. Croatia provides a good example where this process is now happening, although the path by which it has been achieved – ethnic cleansing of Serbs from Croatian territory – is deplorable and must be reversed if ever a just settlement is to be made for the whole region. It will be ironic if the Croatian electorate now eject the HDZ precisely because there is no longer an Other to fear.

Do the people of Bosnia really believe that mutually hostile single-issue ethnic parties are the best government for Bosnia? Or are they not rather in the situation of the unfortunate voters in our initial example: the choice they make is right for them, but the end result is bad for everyone. Worse, they are actually locked into making the choice they do, and so willing the bad result, by the certainty that voters in the other ethnic groups are thinking the same. It might make sense to vote differently if everyone is going to vote differently, but it does not make sense to change my vote if no one else is going to change.

### III. WHAT KIND OF GOVERNMENT WOULD BE BEST FOR BOSNIA?

However one defines the interests of Bosnia (peace, prosperity, good relations with its neighbours), they are not being met by the current division into hostile camps. As a minimum, Bosnia needs (a) the two entities to do day-to-day business; (b) the Federation to do day-to-day business; (c) the central institutions of the country to discharge their functions. But for years now Bosnia has had experience only of governments which cannot fulfil even these basic minima.

Westerners sometimes approach this topic by wishing that the people of Bosnia would learn to vote for issues rather than ethnicity, and to look for issues which might be useful to promote 'genuine' politics in the Western sense. This approach does not appear to be working. As long as ethnicity is the issue, all other political questions become overshadowed by it. Perhaps there is a future for Bosnia in which people vote on issues, but it looks as though Bosnia needs some help finding that future. A way out of nationalist government might help, as a perhaps necessary first step.

### IV. WHAT KIND OF GOVERNMENT DO BOSNIANS WANT?

This is a subtler question. The ethnic equation obviously has a role to play in the answer. Some Serbs want to be part of Serbia. Other Serbs want to live in a Serb entity with as little connection as possible to other parts of Bosnia. Some Croats want to be part of Croatia. Other Croats want to live among Croats in self-governing areas of Bosnia. Bosniacs have no alternative homeland outside Bosnia, but still some may now prefer to live in Bosniac-only territory, or only in territory where there is a heavy Bosniac majority. For voters like these the election of mutually hostile ethnic parties really is the result they want. For them the problem is having to belong to Bosnia at all. For the moment there is no way of assessing how numerous and intransigent are such voters. There are only the political parties which represent them, with every appearance of democratic legitimacy.

On the other hand, there may be many Bosnians who see that the present system is not working, but feel themselves powerless to change it. These are the voters who have not the courage to vote for moderate or multiethnic parties. They feel it is more important to defend their ethnic identity, and not risk being overwhelmed by hardliners of other groups, than to take a plunge for a more moderate government which they might actually prefer.

And there are some Bosnians who have openly rejected government by polarisation, by voting for parties which have tolerance as a main plank of their platform. But they have so far been too few in number to give such parties a hope of breaking the mould of Bosnian politics.

Although some or many voters may indeed support separatism, in fact all political parties in Bosnia are committed, at least in public, to the Dayton Peace Agreement which guarantees the borders of BiH and does not provide for partition.

So, accepting that Bosnia is the stage on which this debate must take place, what kind of government would suit Bosnians best? Perhaps one in which their own group identity were respected, but fear of other such identities were removed. A government where the dreary and predictable division into hostile ethnic camps did not characterise every issue, where there could be some debate on what was actually the right thing to do.

If an election system could be devised which was at least more likely to produce this result than the present, it could offer a significant prospect of political progress.

## V. THE EXISTING SYSTEM

A discussion of possible electoral systems for Bosnia and Herzegovina has to start from the Dayton Peace Agreement (DPA), which laid down a number of formulae.

A short reference list of bodies to which election is fixed by Annex 4 to the DPA, or by constitutional provisions in one or other entity, reads:

### 1) **Bosnia and Herzegovina state bodies (DPA):**

- (a) House of Peoples. 5 Croats from the Federation, chosen by the Croat members of the Federation House of Peoples. 5 Bosniacs from the Federation, chosen by the Bosniac members of the Federation House of Peoples. 5 Serbs from Republika Srpska, chosen by the RS National Assembly.
- (b) House of Representatives. 28 members elected from the territory of the Federation, 14 elected from the territory of the RS.
- (c) Presidency: 1 Bosniac and 1 Croat directly elected from the territory of the Federation. 1 Serb directly elected from the territory of RS.

### 2) **Federation bodies (Constitution of the Federation):**

- (a) House of Peoples. 30 Bosniacs, 30 Croats and a proportionate number of Others, elected from members of Cantonal legislatures.
- (b) House of Representatives. 140 members elected by single-vote secret ballot from published party lists.
- (c) Presidency: 1 nominee from the Bosniac delegates in the House of Peoples, 1 from the Croat delegates. The two nominees to be jointly approved by majority vote in both Houses, including majority of Bosniacs and majority of Croats.
- (d) Cantonal legislatures. Subject to separate legislation.
- (e) Municipal authorities. Subject to separate legislation.

### 3) **Republika Srpska bodies (Constitution of RS):**

- (a) National assembly. 83 deputies directly elected by secret ballot
- (b) Presidency. Direct secret ballot. President and Vice-president elected together from same list of candidates.
- (c) Municipal elections. Subject to separate legislation.



This is a mixed bag. Cases (a), (d) and (f) are secondary elections, where the only voters are themselves elected representatives. Note that there is no provision for any national election at all. Elections (b) and (c) are explicitly two elections taking place at the same time for places on a common body ((c) is actually three elections). Election (c) is clearly anti-democratic in that it forbids any person in RS who is not a Serb from becoming a member of the BiH presidency, even should such a person succeed in being elected. Similarly any Serb living in the Federation, or any person anywhere who declines to identify with any one group, is ruled out.

But for now the three-man presidency is little more than a political platform, from which each member can address his own constituents; and the Houses of Peoples and Representatives are less important than they should be because of the failure so far to make anything of the state of BiH. The key centres of power are the bodies elected in (e), (g), (h) and (i-k).

The election system in use for these key elections (except (j)) is Proportional Representation by party list. The voter votes for the party rather than the individual. This system ensures that the balance of parties in an assembly accurately reflects the first choices of the whole electorate. Its weaknesses are that a party which is everyone's second choice will have no representation at all, and that a candidate who is low down on a party list may not be elected, even if that candidate is more popular than candidates higher up the list. These weaknesses have combined in Bosnia to penalise moderate parties and candidates at the expense of parties with a vigorous ethnic identification, with the unworkable results already noted.

It is clear that the DPA formulae are not ideal. Still, no doubt calculating that it is dangerous to tamper with any part of the DPA, the December PIC in Madrid concluded:

- ...the Election Law must be consistent with the relevant provisions of Annexes 3, 4 and 7 of the Peace Agreement<sup>3</sup>.

At least for now, therefore, the debate will proceed within the limits of the DPA texts.

## VI. SYSTEMS DESIGNED TO PRODUCE DETERMINATE OUTCOMES

There do exist lobbyists for particular election systems, who point to the beauty or fairness of their preferred solutions and advocate them in all cases. There also exist politicians who have lived so long with one system that they can see no virtue in any other<sup>4</sup>. But an electoral system should be suitable to the body to be elected. The

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<sup>3</sup> Annex V.6, Declaration of the Peace Implementation Council, Madrid, 16 December 1998.

<sup>4</sup> The British Conservative governments of the 1980s were fond of attacking e.g. the Dutch PR system on the ground that it produced weak coalitions, whereas the British system guaranteed strong government, even with a minority of the vote. This argument looked weaker by 1992, when the John Major government

problem is to identify what is 'suitable'. For Bosnia, perhaps, it is necessary to find a system to reflect the concealed wishes of the electorate, if it is in fact true that these wishes have not been accurately expressed in election results so far.

### **Can a system be designed to do this for Bosnia?**

How would we know if this had been achieved? We have to return to the wishes and needs of Bosnians again. We might for example weigh various systems against the expressed positions of various hypothetical voters.

- Voter 1: I want a strong national party and I don't care about the other sides.

This is the point of view typical of those Croat voters whose ambition is to merge the Croat parts of Bosnia into Croatia, or at least to live in ethnically-pure Croat areas whose ties to Croatia are so close that they do not need to pay much attention to what happens elsewhere in Bosnia. It is a view that may be quite common in western Herzegovina, where this situation prevails already. It appears a simple viable political agenda for those who believe it, but it tends towards the break-up of Bosnia and is deeply contrary to the spirit of the DPA.

It is also the point of view of voters in RS who want to merge with Serbia, or at least live in a Serb state. Their wishes are already satisfied more than those of the Croats mentioned above, since the RS entity already gives them much of what they want<sup>5</sup>.

These views are best served by the existing electoral system. Indeed, it is hard to imagine a system which would do more to encourage them, since separatist feelings of this nature thrive best when there is some perceived enemy to react to, and the existing system guarantees the survival of two such enemies for every voter.

- Voter 2: I want a strong national party, but I also want the other sides not to have strong national parties.

This position is emotionally appealing to the voter, but unlikely to prevail. Every voter would feel safer if the forces ranged against him were weaker, while his own defences were just as strong as before. But for any given voter this can only happen if his own nationalist group remains strong but support for other nationalist groups collapses. Since the three groups are mutually supportive, it is hard to see how this could happen. Nonetheless, many voters may be found who hold this position, perhaps without examining it very carefully, particularly Bosniacs who hold that all the troubles of Bosnia are due to the SDS and HDZ, and that the SDA has played a relatively benign role. True or not, it is hard to see what combination of forces could keep the SDA strong, while weakening the HDZ and Serb nationalism.

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survived with a small majority and was then constantly harassed by potential rebels from within its own ranks. Despite this, the British Conservatives remain opposed to election reform in the UK.

<sup>5</sup> And this helps to explain why HDZ politicians have recently launched a debate calling for a 'third entity' for Croats.

- Voter 3: I will still vote for my national party, but I do not mind whether it wins, provided the other nationalist parties are weakened as well.

This is the voter whose main motivation is fear, who would welcome a new style of government but cannot bring himself to believe it is possible, and so cannot abandon his 'own' party because he knows about the logic which locks all sides into the nationalist vote.

This voter would probably welcome a system which looked certain to penalise extremism. Many such systems are available, and the next section of this paper will deal with some of them.

- Voter 4: I don't vote for a nationalist party myself, and I think it would be better if no one else did either.

This voter might support an election law in which one of the preconditions for party registration was that all parties should be multiethnic and offer a raft of candidates of mixed origin<sup>6</sup>. This approach would be indeed a breakthrough reform, since it would mean banning most of the strongest parties now in existence, or forcing them to change beyond recognition. It would be vulnerable to sabotage from dummy candidates who could be bribed to stand on party lists in order to give them a false appearance of multi-ethnicity, and this risk would need to be taken into account. But it is an idea worth examining in public debate, to see whether it gains much popular support.

Voter 4 might also accept some forms of solution satisfactory to voter 3. The chief wish of voter 4 is to bring moderate parties to power; the chief wish of voter 3 is group security.

- Voter 5: I care less about parties than people. I want to vote for an individual candidate.

At first sight the easiest way to satisfy voter 5 is to abolish the party list system and make all candidates subject to direct election. But nothing in Bosnia is simple. Without party lists, two approaches are possible:

- All representatives elected in single-seat constituencies. This is the British system. In present-day Bosnia this would simply result almost always in a victory for the single candidate of the nationalist party of the largest ethnic group in the constituency. Voter 5 would be worse off than before.
- Multiple-seat constituencies, as now, but with named candidates rather than parties. The voter can vote for as many candidates as there are seats. Thus an SDA voter might see the individual candidates something like this, and vote as indicated:

Bad candidate (SDA)	
Good candidate (SDA)	X
Average candidate (SDA)	X

<sup>6</sup> As proposed by the Social Democratic Party of BiH for some contests, in Section 1.4 of their 'Teze za Stalni Izborni Zakon' of 4 January 1999.

Good candidate (Other party)	X
Average candidate (Other party)	

This satisfies voter 5, and encourages candidates to widen their appeal to attract his vote. Voters 1-3 simply vote for the three SDA candidates. Voter 4 votes for the two 'Other party' candidates, and either casts no third vote or else supports the 'Good' SDA candidate. The balance of parties is not seriously altered, so this is not a radical reform, but the personalities elected will better reflect the wishes of the electorate. Certain paradoxical results need to be avoided, but will not be treated in detail here<sup>7</sup>.

- Voter 6: I don't care about politics, I just want a job.

This voter and his friends may turn out to be the most numerous category of all, but electoral reform alone cannot help them decide how to vote. They do have an interest in the subject, since better government ought to mean more jobs. However, they are unlikely to care very much what system is adopted unless they believe that one or other party is more likely to get them a job. This raises questions of party patronage (gifts and promises), and these are aspects not of the election system but of the political culture of the country. 'Pork-barrelling' is a danger in every democracy.

## VII. SYSTEMS DESIGNED TO PENALISE EXTREMES AND PROMOTE MODERATION

Voter 1 already has the system he wants, but it has proved ineffective as a means of producing governments which can function properly. The wishes of voter 2 are logically incoherent if everyone else is a voter 2 as well. A modest reform will satisfy voter 5, but will probably not lead to very different overall results. The best chance for radical electoral reform, in Bosnia as it is now, seems to be to find something to satisfy voters 3 and 4. This paper will examine only multiple voting, as the most promising choice among many possible systems<sup>8</sup>.

### **MULTIPLE VOTE 1: SIMPLEST VERSION**

Multiple votes can be either of equal strength or in order of preference. Thus, if a voter has three votes, faced with a ballot paper with six alternatives, he can either have three equal choices:

Party A	X
Party B	
Party C	
Party D	X

<sup>7</sup> Notably the danger that a party's vote can split in unpredictable ways, leaving it with fewer seats than its popular support deserves.

<sup>8</sup> For a detailed review of such systems, and reasons why they will not work well in Bosnia, see ICG: *Changing the Logic of Bosnian Politics*, Chapter V.

Party E  
Party F           X

In this case Parties A, D and F will each receive one point towards their final total.

Or he can select an order of preference:

Party A           1<sup>st</sup> choice  
Party B  
Party C  
Party D           3<sup>rd</sup> choice  
Party E  
Party F           2<sup>nd</sup> choice

In this case, typically party A will receive three points, party F two and party D one. The parties with the highest totals gain the available places. A feature of this system is that a party like F, which may be everyone's second choice but no one's first, can win at the expense of parties which are very popular with some voters but very unpopular with others. To take an extreme case, ten voters might vote as follows ('3' indicates that the candidate is a first choice and so received 3 points):

Party A	3 3 3 3 3	15 points
Party B	1 1 1 1 1	5 points
Party C	1 1 1 1 1	5 points
Party D		0 points
Party E	3 3 3 3 3	15 points
Party F	2 2 2 2 2 2 2 2 2 2	20 points

So party F, which everyone quite likes and no-one dislikes, wins. The drawback with this simple version in the Bosnian case is that there is probably no party F. Instead something like the following example would take place. The voting pattern in Bosnian elections to date would suggest that in effect there would be three separate elections as before:<sup>9</sup>

Bosniac A	3 3 3 3 2	14 points
Bosniac B	2 2 2 2 3	9 points
Bosniac C	1 1 1 1 1	5 points
Croat A	3 3 3 2	11 points
Croat B	2 1 2 1	6 points
Croat C	1 2 1 3	7 points
Serb A	3 3 3 3 2	14 points
Serb B	2 1 2 1 1	7 points

<sup>9</sup> It should be stressed that this example is for illustration only. As discussed above, the main Bosniac and Serb parties never have to face each other before the same electorate.

Serb C

1 2 1 2 2

8 points

So the most strongly supported parties in each ethnic group still win, even if they are extremely unpopular with voters of other groups, because they still do not need to draw votes from any ethnic group but their own. We have already seen that nationalist parties win in such circumstances.

### **MULTIPLE VOTE 2: DIVIDE UP THE PARTIES**

One solution which can produce a result acceptable to voter 4, who wants to 'penalise extremism and promote moderation', in the specific Bosnian environment where lines of division are ethnic and well-understood, is to encourage voters to exert an influence on what happens outside their own ethnic area. This leads to the suggestion that the parties might be divided up into separate lists, and every voter invited to vote for a party on each list.

Again this can be done in two ways (with many variations) – multiple equal votes and order of preference.

If each voter has three votes and must cast one in each ethnic category, his ballot paper might look like this<sup>10</sup> (assume that the voter is a Bosniac, and that all A parties are nationalist, and all C parties moderate):

Bosniac A	X
Bosniac B	
Bosniac C	
Croat A	
Croat B	
Croat C	X
Serb A	
Serb B	
Serb C	X

This system produces startling results, which are developed in detail in Annex A to this report, as a demonstration of how much can be achieved with successful radical reform. If voters 3 and 4 in the original example want to make maximum possible change in the complexion of leaders elected in any election, this is the quickest and simplest way to do it.

Multiple votes cast with order of preference according to this system produce a milder result – this is easy to demonstrate mathematically.<sup>11</sup>

<sup>10</sup> See preceding footnote.

<sup>11</sup> If the voter gives 3 points to Bosniac A, 2 to Croat C and 1 to Serb C, he obviously has less influence on the Serb result than a Serb voter who gives 3 points to Serb A. This weakens the mechanism, which is designed to encourage political parties to show moderation and try to attract votes outside their own ethnic

Three main classes of objection to a system of this sort need to be addressed:

- Do voters of ethnic group A really want to give voters of other ethnic groups such an influential voice in who shall be the political leaders of group A?

It might be that this proved too much for Bosnians to accept (i.e. voters 3 and 4 are really voter 2 when the time comes to decide). On the other hand, the system is fair to all groups and is guaranteed, at the very least, to dilute nationalism among the political leadership in any election where one-group nationalists are not an overwhelming majority.<sup>12</sup>

- What role is to be allotted to multiethnic parties?

It is natural that political parties making a genuine effort to appeal to a broad spectrum of voters across ethnic lines should object to being placed into lists according to ethnic categories. But the multiethnic parties stand to gain greatly from this sort of multiple-vote system, as the worked examples in Annex A show. And, despite the best and sincere intentions of the parties in question, it remains a fact that in Bosnia almost all parties draw the bulk of their support from one ethnic group. No Federation party is strongly organised in RS, nor vice versa. Most parties will fit naturally into the three lists: they must decide for themselves whether they are willing to co-operate in the interests of genuine reform.

- How do you stop dummy parties being established?

This is a serious problem. If a political party of ethnic group A is able to bribe some members of ethnic group B to form a political party simply as a front for party A, the group B party will attract votes from supporters of party A, and these votes will simply be extra votes for party A, but on the B list. The only way to prevent this is through an impartial electoral commission, with powers to prevent dummy parties from standing. This should be effective enough, since the existence of such dummy parties cannot be kept a secret (if it were they could not attract the votes of party A's supporters).

### **MULTIPLE VOTE 3: DIVIDE UP THE VOTERS**

Another way to give voters of group A a say in who is elected from groups B and C is to divide the voters into ethnic categories, and stipulate that a party must attract a certain degree of support from each group. Such a system is expounded in detail in the ICG paper *Changing the Logic of Bosnian Politics*; and a paper recently presented to the Bosnian group Circle 99 also proposed this method<sup>13</sup>.

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group. Moreover, if voters choose to vote tactically, by giving their 3 point vote to a party outside their own group, the results become very unpredictable.

<sup>12</sup> 'Overwhelming' means over 70% - see the worked examples in Annex A

<sup>13</sup> *Some Suggestions and Proposals for Drawing Up the Election Law*, by Dr Vlatko Dolecek and Dr Zinaid Rajlevic, 21 February 1999. But the authors adopt this system only for elections to the BiH Presidency.

This approach satisfies voter 3 but leaves voter 4 feeling uneasy. International organisations tend to share voter 4's reservations, and regard the idea as a step backwards, away from pluralism and towards ethnic retrenchment. But it should not be ruled out of the public debate: this may after all be the way Bosnians want to go.

## VIII. WILL ELECTORAL REFORM REALLY MAKE A DIFFERENCE?

Even if a new generation of political leaders is elected as a result of changes to the electoral system (or for any other reason), will it make a difference to how Bosnia is run? Plenty of Bosnians have become sceptical. Is the political culture locked into conflict, so that simply changing the faces at the top will not help? Or do the existing parties have such a strong hold on economic life and the structure of society that new elected authorities would be impotent and unable to function?

It seems too pessimistic to be so negative. Elected representatives have visible decision-making powers, and guaranteed access to the media. Even if some of the structures inherited by new leaders were resistant to change and the policies of those leaders, at least there would be opened up a climate in favour of change, and the opportunity to start to make changes. This has already begun to happen in RS, where the SDS retains a strong network of local organisations, but holds nothing like the power it did when it governed the entity.

## IX. HOW TO INTRODUCE ELECTORAL REFORM

The best approach to electoral reform would be for the Bosnian parties and parliaments themselves to come up with a new system acceptable to all. However, this is not likely. Firstly, the Bosnian parties find it hard enough to agree on anything at all. They would have even more reasons than usual to disagree in an area where the likely result is to loosen their hold on power. They might possibly be prepared to collaborate on a result which would strengthen that hold, but that would be unlikely to produce better government in Bosnia as a whole.

At the other extreme, the international community might simply decide that a certain new system is better for Bosnia, and would work so well that the electorate would see its benefits and welcome it. The powers of the High Representative could then be used to impose this new voting system. This quick approach has its attractions. Although it would be an unusually daring exercise of the HR's powers, it might genuinely make a breakthrough such that life would never be the same again, and a new era of progress and co-operation could begin with the resulting authorities. Still, perhaps wisely, that authoritarian approach has not been tried. There is too lively a danger of wily and violent obstruction from the parties now in power, and a great likelihood that the electorate

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For other elected bodies they appear content to advocate abolition of the Party list system (voter 5's preference).



would greet the new system with indifference, as yet another attempt to manipulate them. The gap between 'What Bosnians Want' and 'What is Best for Bosnians' would remain too wide.

An easy approach to electoral reform would be to do nothing at all. There are some in the international community who would be happy with this. For them the plot reads: sooner or later, the Bosnians are going to tire of electing these same parties all the time, and are going to turn to politicians who can offer them proper government. But the September 1998 elections gave the advocates of inaction little comfort, and there is plenty of reason to believe that they will have a long time to wait for the result they want, because of the reinforcing effect that each brand of nationalism has on the other two.

A more active strategy is to launch a public debate. ICG, following its initial discussion paper in March 1998, worked with the Bosnian Centre for the Protection of Minority Rights on a series of round tables during the year. On 1 August 1998 a Working Group on Electoral Reform started to meet, under the chairmanship of OHR, with members from international organisations and Bosnian specialists. The public debate has by now become rather low-key, but at least it has kept the issue alive. In 1999 the same thing must be done on a much larger scale.

## X. GETTING PEOPLE TO BELIEVE THINGS CAN BE BETTER

Most Bosnians do not believe they can make any difference to what happens, nor are they used to being asked what they want: they are only given a rather pre-packaged choice at the ballot box every so often. The debate has to spread out from intellectual and foreign groups, where it now takes place, into the general public. It needs to spread out of the cities into small towns and villages.

It will be a big job. Bosnians have little faith in their political system. Many feel apathetic towards their own leaders and hostile towards those from the 'other' sides. Rural voters, beyond the reach of independent media, continue to vote along traditional lines because they simply see no alternative – though their real interests have more to do with electricity and pensions than with who sits in Parliament.

The Madrid PIC has already tasked OSCE with raising public interest:

- The Council requests the OSCE to develop a public outreach programme to introduce the permanent election law and aid in its passing through the BiH parliamentary assembly<sup>14</sup>.

In fact the debate needs to take place before a model for the law is adopted, and the choice of a model will need to be informed by the debate. If Bosnians really are locked into disastrous voting patterns against their will, and would welcome a way out, now is their chance to say so. From television and radio (which are mostly one-way media) to village-hall meetings, people need to be given the facts and asked what they think.

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<sup>14</sup> Annex V.8, Declaration of the Peace Implementation Council, Madrid, 16 December 1998.

Ambassador Robert Barry, Head of the OSCE delegation in Bosnia, seems to be thinking along these lines. He announced his intention to re-launch the debate in a speech at Circle 99 on 21 February 1999<sup>15</sup>.

## XI. RECOMMENDATIONS: MOBILISING POPULAR SUPPORT

In promoting such a debate, the following tactics should be considered:

- Keep it simple. Couching the debate in terms of 'Do you want electoral reform?' is too abstract. It will be more productive to ask people 'Are you happy with the kind of government Bosnia has?' or even 'Which of these statements best reflects your position?' using for example the cases of voters 1-6 in this paper. Once people understand the debate in these practical terms, there might arise a meaningful exchange of views.
- Allow room for views which at the start appear wholly impracticable but just might build a popular following, such as insisting that all parties should be multi-ethnic.
- In any organised event, always include the local governing party among the speakers. The debate must be free and fair, and will benefit from hearing the arguments of those who have interests to protect. All boycotts should be publicised.
- Spearhead the debate with television and radio coverage, certainly, but also take it to local communities. It might well be hard to get village people interested in a national debate on a remote topic, but if the attempt were successful the results would be worthwhile. OSCE has a wide network of regional offices, and it might also be possible to tap the resources of willing Bosnian and foreign NGO's, whose network is even wider and who already have contact with local populations.
- In television debates, try to have the argument for reform put by a Bosnian. Even apart from the language problems expatriates face on live media, it is important that the audience should not feel this is just some new idea the foreigners want, that the future of Bosnia is really at stake, and that it matters to Bosnians.
- Measure the success of the debate with regular polls of two sorts: (a) political polls to indicate what reform is suitable – in effect, to find out how numerous are voters 1-6 in the cases examined in this paper; (b) polls to measure awareness of the electoral reform issue, which will probably start with very low levels of awareness which should gradually rise as the information campaign takes effect.

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<sup>15</sup> Reported in a rather routine manner by the media, e.g. *Dnevni Avaz*, 22 February, six column inches at the bottom of page 2. The subject is still low down on Bosnians' political agenda.

## XII. CONCLUSION: ACHIEVING REFORM

It might turn out that, at this stage in Bosnia's development, most voters really are Voter 1, who is happy with separatism. If so then the road to be travelled in Bosnia is indeed a long one – if it can ever be travelled to the end. But even this choice is better made against a background of knowledge than of ignorance.

If, on the other hand, a careful campaign of public education discovers that most people really are tired of all the squabbling, and want to make something of their country, this could give the advocates of reform the strength they need to persuade the politicians in power – who stand to lose most by reform – that change is needed.

A possible methodology might be a variation on the practice adopted in New Zealand in 1992.<sup>16</sup> “They first held a non-binding ‘indicative referendum’ to see which of four possible electoral systems, if any, was likely to be the most popular, and then used a binding two-option ballot one year later”. In Bosnia the course to be adopted should be decided only in the light of the public debate. But a two-stage referendum might be held: (1) ‘Do you want the election system to be changed?’ (a positive vote will drive the process forward and remove the option of things remaining as they are) (2) ‘What change should there be?’

Once a degree of popular support for reform has been mobilised and made too obvious to ignore, then may come the time to use the powers of the High Representative to impose the will of the people on their unwilling leaders. But that is a question for a future debate.

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<sup>16</sup> The quotation is taken from *Beyond the Tyranny of the Majority* by P J Emerson, page 98.

## ANNEX A:

### OUTLINE OF ONE POSSIBLE NEW ELECTORAL SYSTEM FOR BOSNIA AND HERZEGOVINA

*Note:*

*This system is here developed to show how much can be achieved simply by a change in voting rules. It ensures minimum possible success for political forces which are attractive to one group in society but very unattractive to other groups. As such it deserves attention. But the actual system to be adopted will need to reflect the wishes of Bosnians as they emerge in open debate.*

The feeling of being a Croat, Serb or Bosniac runs deep. The individual feels pride in a cultural past and present, and this pride can be a source of strength and diversity. In principle there is no reason why it should inevitably produce negative effects on the running of the country. But the fact is that the parties who have gained power in Bosnia have proved completely incapable of co-operating with one another. This fact produced the war of 1992-5, and has not changed since then. If Bosnia is to be re-established as a multiethnic state where the three main groups can live side by side, it seems advisable to find a means of breaking the dominance of political parties who cannot work together.

There do exist parties whose appeal is pitched at the voter who wishes to distance himself from the interests of a single ethnic group, and who attempt to pursue politics along lines resembling those in societies which are not socially divided. But, in the special circumstances of Bosnia, these parties have to date failed to make a national impact. Civic parties in the Federation (SDP, Republicans etc) have had a little success in attracting votes from all ethnic groups within the Federation but have failed to organise or attract votes from voters in RS<sup>17</sup> despite their best efforts; and civic parties in RS (Social Liberal Party and perhaps Milorad Dodik's Independent Social Democrats) receive no electoral support in the Federation and do not even campaign there.

So every election held in Bosnia is actually up to three independent elections going on at the same time. Overwhelmingly, Croats vote for Croat parties, Serb for Serb and Bosniac for Bosniac.

Take a hypothetical Bosnian voter. He does not consider himself an extremist, but fears extremists in other ethnic groups, and feels he needs someone to defend him against them. On the ballot paper in front of him he sees:

- Nationalist party of my ethnic group
- Moderate party of my ethnic group
- Nationalist party of alien ethnic group
- Nationalist party of another alien ethnic group
- Moderate party of alien ethnic group which contains some people of my ethnic group

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<sup>17</sup> They do get votes in Srpska, just as the SDA and HDZ do, but only from Bosniac and Croat voters who, by right of pre-war residence, are able under existing laws to vote in Srpska.

His response to this choice is likely to be:

- Party 1 will fight for my interests
- Party 2 are good people but they will bargain my interests away and be too conciliatory
- I would never vote for party 3
- I would never vote for party 4
- Party 5 are good people but who is going to fight for my interests?

Thus in every case party 1 wins, HDZ, SDA or Serb party depending on the voter. Parties 2 and 5 pick up votes from the minority of voters who do not see their interest as primarily ethnic. This schema crudely describes the process which has taken place in every Bosnian election. The outcome is a representation within elected bodies of nationalist parties in exact proportion to the ethnic composition of the electorate, skewed slightly by the minority of party 2 and 5 voters.

The ground covered so far is familiar to anyone who has examined the recent history of Bosnian elections. The novelty of the proposal now to be advanced rests on the familiar proposition that political parties in Bosnia can indeed mostly be divided into three ethnic groups. Let us proceed to do just that. We will be left with:

- a Croat list: HDZ, HSS, NHI, any other party with 'Hrvatska' in its name and maybe a few others);
- a Bosniac list: SDA, MBO, LBO, etc by the same rule;
- a Serb list: all the parties with 'Srpska' in their names.

We still have the Federation civic parties and a couple of others in Srpska. They may object to being placed on lists of ethnic parties, because it is a basic item of faith with them that they are non-ethnic and multicultural. But assume for the moment that this objection can be overcome - this assumption does not have to bear much weight: as the explanation of the system is developed it should become clear how it works in the interest of multi-ethnic parties, even when placed together with ethnic parties on the three lists. Let us then assign them to one of the three lists according to the following rule: whatever board, committee or council governs the party by its own statutes, the majority ethnic group on that body should determine into which list the party goes. We might consider an appeal in cases where a party considers it has been treated unfairly, or where the ethnic composition of its board is so mixed as to be indeterminate, but in the end every party must join one of the three lists. In fact, in the present situation in Bosnia, we will be faced with few difficult cases, if the above rule is fairly applied.

An election is coming up, municipal, cantonal or general. In every case we know that the constituency is divided up in a certain proportion among the three ethnic groups. In a case where there are X% Croats, Y% Bosniacs and Z% Serbs, seats on the body for which the election is being held would be divided in advance in the proportions X-Y-Z, so that Croat/Serb/Bosniac voters know in advance that Croats/Serbs/Bosniacs will hold an ethnically equitable proportion of seats. Such an advance determination of the outcome of an election would be unacceptable in most countries, but in the specific case of Bosnia it allows voters to vote in the secure knowledge that their ethnic interests (which, ex hypothesis, are the factor most important to them) are already safeguarded in a manner which they will accept as fair.

Now, every voter is awarded three votes, one to be cast on each of three ballot papers he receives (or on one paper divided into three sections). The parties standing on the three ballot papers are the Croat, Bosniac and Serb lists outlined above.

Now consider the choice facing the voter, whose political views have not altered since page 1. On the first paper he sees:

- Nationalist party of my ethnic group
- Moderate party of my ethnic group

Reasoning as before, he votes for party 1. On the second and third papers he sees:

- Nationalist party of alien ethnic group
- Moderate party of alien ethnic group which contains some people of my ethnic group

He votes for party 2. The trend result, multiplied across thousands of cases, is two votes for moderate parties and one for a party whose appeal is purely nationalist. Some voters may choose not to vote on the second and third papers: such abstainers will be helping to elect the parties they fear most, by failing to cast a vote against them. The logic of the system is against abstention.

Consider the result of this election in two cases. In both cases the electorate is assumed to vote uniformly according to the schema above without abstentions.

Case 1: Electorate: 40% Serb, 40% Bosniac, 20% Croat. 100 seats at stake, 10,000 voters

Election result: Serb list:

Serb nationalist parties	4,000 (all Serb votes on Serb list)
Serb moderate parties	6,000 (all Bosniac and Croat votes on Serb list)
Serb nationalist parties 16 seats, Serb moderates 24 seats.	

Bosniac list:

Bosniac nationalist parties	4,000
Bosniac moderate parties	6,000
Bosniac nationalist parties 16 seats, Bosniac moderates 24 seats	

Croat list:

Croat nationalist parties	2,000
Croat moderate parties	8,000 (all Bosniac and Serb votes on Croat list)
Croat nationalist parties 4 seats, Croat moderates 16	

The parties then settle into coalition building. No party is ruled out of power, but no party can dictate terms to any other party. And remember this is a worst-case scenario, with every voter exercising maximal nationalist choice.

Case 2: Electorate: 70% Serb, 20% Croat, 10% Bosniac. 100 seats at stake, 10,000 voters

Election result: Serb list

Serb nationalists:	7,000 (49 seats)
Serb moderates	3,000 (21 seats)

Croat nationalists:	2,000 (4 seats)
Croat moderates:	8,000 (16 seats)

Bosniac nationalists:	1,000 (1 seat)
Bosniac moderates	9,000 (9 seats)

If the Serb nationalists can find a single coalition partner they will be in power. But under a straightforward system of one-vote Proportional Representation they would have swept the board, and moderates would have no votes and no seats.

The results are even clearer in the case of national elections for members of the rotating Presidency of Bosnia and Herzegovina<sup>18</sup>. Assuming that every voter has three votes and must place one for a Croat, one for a Bosniac and one for a Serb, then as long as no one ethnic group holds a majority in the country as a whole it follows that no candidate can succeed who cannot command support from other ethnic groups.

It should now be clear why civic parties, who might on principle object to being obliged to join a list of nationalist parties, should in fact welcome this system. It allows them to draw strong support from all voters in all groups who acknowledge and welcome their multiethnic or moderate character.

## **A. STRENGTHS OF THE SYSTEM**

- It penalises parties whose appeal is purely to one ethnic group
- It gives incentives to parties to broaden their appeal outside their own ethnic group. The best result of all will be obtained by a party which can attract a strong vote from a broad range of voters including its own group.
- Every person holding elected office will have been elected by the total constituency of voters, unlike now when office-holders are elected by a mini 'nationalist v civic' contest within their own ethnic group.
- Generally-not-unpopular parties will be favoured over parties which are very popular in some places and very unpopular in other places. The result should be a generally-not-unpopular government, which would have a much better chance of doing business than the present system which has merely produced entrenched positions on all sides.
- Look at Case 2 above. The larger the built-in ethnic majority, the more the system tends to favour moderate parties among the minority ethnic groups (look at the Bosniac result), providing an extra natural mechanism to balance extremism among the majority population with moderation among the minorities.
- It avoids dividing voters themselves into ethnic groups. Every voter, whoever he is, is faced with the same choice.

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<sup>18</sup> This example is not in accord with Dayton provisions, and is purely illustrative. Under the DPA there are, of course, no national elections: the Serb member of the BiH Presidency is chosen by the electorate of RS. In any election where only one place is at stake, the system proposed in this paper cannot function.

## **B. PROBLEMS WITH THE SYSTEM AND APPROACHES TO THEIR RESOLUTION**

- The parties now in power will see it not as an opportunity to broaden their appeal across the country (as they rightly should, if a cohesive united Bosnia is really the aim), but as a threat to their hold on power, which the present system perpetuates as long as the people fear to let go of nationalism. Such parties should be invited publicly to explain why they fear to expose their popularity to a poll of all the people of Bosnia rather than just to part; or alternatively why they think the future of Bosnia is best served by keeping power in the hands of three mutually hostile power-blocs.
- Given the deep identification of voters with their ethnic group before any consideration of policies, voters of group A may well find themselves represented by members of group A who in fact draw most of their support from groups B and C. It needs to be understood that groups B and C are in precisely the same position, until such time as the voters become aware that the more co-operative government they now enjoy is in the common interest. If the moderate parties themselves prove unable to co-operate, then Bosnia is doomed anyway.
- Theoretically, puppet parties could be created to distort results. Ethnic group A persuades or bribes a number of members of ethnic group B to form a paper party to stand on the group B list. This paper party then attracts heavy voting from group A and so packs the elected body with extra votes for the party of group A, detracting from the vote which would have gone to moderate parties of group B. In effect, nationalist party A has found a way of standing on lists A and B. But this could hardly happen in secret, without the knowledge of most of the electorate and observers. The practice should be regarded as an abuse of the system and outlawed like any other abuse.
- Similarly, voters in group A might be tempted to vote for 'no-hoper' parties on lists B and C in order to produce the weakest possible opposition to their own preferred party from list A. But this would be a wasted vote, and would tend to strengthen the 'worst' parties on lists B and C.