

DOING DEMOCRACY  
A DISSERVICE:

1998 Elections in  
Bosnia and Herzegovina

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## DOING DEMOCRACY A DISSERVICE: 1998 Elections in Bosnia and Herzegovina

### EXECUTIVE SUMMARY

The stakes in Bosnia's forthcoming elections, the fifth internationally-supervised poll since the end of the war, could not be higher, for Bosnia and Herzegovina (Bosnia) and also for the international community. Having invested enormous financial and political capital in the peace process, the international community expects a return on its investment. That is why leading international figures including US Secretary of State Madeleine Albright have entered the Bosnian political fray, urging Bosnians to back parties which "support Dayton" and threatening to withdraw aid if they do not. The elections will bring some changes so the event will be hailed as a triumph. However, they will not lay the ground for a self-sustaining peace process. That can only be achieved by political reform and, in particular, a redesign of the electoral system to guarantee Bosnians ethnic security.

Democratic elections are all too often simplistically put forward in the West as a panacea, as if by itself the act of voting will all cure ills within a society. Here it is worth bearing in mind that both Bosnia and the rest of the former Yugoslavia had already held democratic elections when they fell apart in war. Indeed, their disintegration can, in part, be attributed to the nature of the democracy which emerged. In Bosnia the 1990 election amounted to a poor ethnic census and as politicians exclusively represented the narrow interests of their own ethnic group and not the entire electorate, Bosnian society polarised and politics degenerated into a zero-sum affair.

The issue of democracy in a multi-ethnic state has generated a great deal of academic debate. Early political philosophers such as John Stuart Mill were sceptical about the prospects for democracy in a multi-ethnic state arguing that "free institutions are next to impossible in an country made up of different nationalities". Contemporary political scientists have a more optimistic view and look to designing democratic institutions in such a way that they reconcile legitimate interests of different communities based on local conditions. In

Bosnia, therefore, the environment for democracy, the conditions and the political and electoral systems are critical.

Though elections formed the cornerstone of the Dayton Peace Agreement (DPA), the conditions in which any kind of fair poll could take place simply did not and could not exist without a major restructuring of Bosnian society. Before giving the go-ahead to Bosnia's 1996 elections, the OSCE's then Chairman-in-Office Flavio Cotti warned that if minimal prerequisites were not met before polling day, the vote ought not to take place as it would lead to "pseudo-democratic legitimisation of extreme nationalist power structures". His words were prophetic. The elections simply ratified the status quo, conferring mandates on the nationalists who had prosecuted the war who continued to pursue the same policies. The result was further zero-sum politics. The current elections will again ratify the status quo. They will not of themselves take the peace process forward. However, today's Bosnia is very different from that of 1996.

The changes which will be hailed as electoral breakthroughs should not be attributed to the flowering of democracy in Bosnia. They are instead the result of the way in which the international community has ridden roughshod over Bosnia's democratic institutions. The status quo has been forcibly changed by interventionist policies aimed at loosening the grip of the political parties which emerged victorious in the 1996 poll. Snatch operations against indicted war criminals, robust SFOR intervention in Banja Luka in the summer of 1997, SFOR seizure of Bosnian Serb television's transmitters in October 1997, destroying the financial base of hard-line politicians, dismissing officials and striking candidates from electoral lists have created a new Bosnian reality.

The greatest changes will be among Serbs in Republika Srpska where support for the SDS is likely to disintegrate. The SDS already lost control over the entity's National Assembly in November 1997, has seen its financial base disappear, and has been deprived of access to media. In recent months the power struggle has spilled over into violence with one assassination and another attempted assassination. The post-electoral alliances may prove interesting.

Among Bosniacs, the changes will be less dramatic. The main opposition party, the SDP, is likely to do better because there should be no repetition of the fraud which marred the 1996 poll, electors who backed Haris Silajdzic in 1996 will probably switch allegiance, and the party has waged a successful campaign. At the presidential level, however, the SDP did not bother even to put up a candidate against the incumbent Alija Izetbegovic. This throws up an interesting possibility in the battle for the Croat member of the Presidency because of a quirk in the electoral system. Electors in the Federation have one vote at the presidential level and can choose whether to use it for a Bosniac or a Croat candidate. Since Izetbegovic's election is a foregone conclusion, a large number of Bosniacs in the Federation may opt to vote for the Croat member of the Presidency, in which case the HDZ's candidate and favourite Ante Jelavic could be defeated. Otherwise, the NHI, the new Croat party of Kresimir Zubak is likely

to make modest inroads which could, nevertheless, transform politics in certain cantons.

Despite the changes in parties and personnel in power, the elections will not have much impact on the logic of Bosnian politics. Having been elected on the basis of votes of a single community, ethnically-based parties will only represent the interests, or what they deem to be the interests of that one ethnic group and feel no obligation to the rest of Bosnia's population. Instead of seeking accommodation, these parties will view every political issue as a "zero-sum" game in which there will inevitably be a winner and a loser and thus fail to reach compromise. The fundamental flaw is the lack of ethnic security. This is the underlying reason for conflict within the country as well as for the lack of trust between ethnic groups. Moreover, the lack of ethnic security undermines everything the international community is attempting to achieve and fails to offer Bosnians a future. As a result, many young, educated Bosnians are voting with their feet and emigrating.

In every country, the electoral system has a profound effect on political life, influencing the way parties campaign and political elites behave. In multi-ethnic societies the choice of system is especially important. Depending on the system selected, it can either provide incentives for parties to be broad-based and accommodating, or it can achieve the opposite, namely to encourage parties to form around narrow appeals to ethnicity. ICG has proposed a radical reform of the electoral system requiring candidates to seek the support of all ethnic groups, not just their own. Moreover, a permanent electoral law is currently being drawn up for Bosnia which should be passed by the end of the year. For democracy to thrive in Bosnia, for Bosnians to have a future and the peace process to become self-sustaining in the absence of today's colossal international presence, it is critical that the new law builds in ethnic security.

**Sarajevo, 9 September 1998**

# DOING DEMOCRACY A DISSERVICE: **1998 Elections in Bosnia and Herzegovina**

## I. INTRODUCTION

Bosnians go to the polls on 12 and 13 September 1998 in the second post-war general elections. The vote takes place almost two years to the day after the first polls and nearly three years after the signing of the Dayton Peace Agreement (DPA). The stakes could not be higher, for Bosnia and Herzegovina (Bosnia), but also for the international community which has invested so much financial and political capital in the peace process and is looking for a return on that investment. Indeed, in the weeks running up to the vote a series of leading international figures -- notably US Secretary of State Madeleine Albright who visited Bosnia at the end of August 1998 -- have entered the Bosnian political fray, on the one hand, urging Bosnians to back parties which "support Dayton" at the polls, and, on the other, threatening to withdraw economic aid in the event that they do not.

This paper examines the nature of Bosnian democracy, the post-war environment in which elections have taken place, the legacy of the flawed elections of 1996 and resulting political failings as well as attempts to overcome those failings; it considers the various elections which are taking place and the likely outcomes and consequences of each poll; and it analyses the fundamental flaws in the existing political system with proposals for the kind of change which could help place Bosnian democracy on an even keel and make the peace process self-sustaining.

## II. THE NATURE OF BOSNIAN DEMOCRACY

Democratic elections are all too often simplistically put forward in the West as a panacea for all former Communist countries, irrespective of their political heritage and constituency, as if by itself the act of voting will cure all ills within a society. Here, however, it is worth bearing in mind that both Bosnia and the rest of the former Yugoslavia had already held democratic elections when they fell apart in war. Indeed, the disintegration both of the former Yugoslavia and of Bosnia can, in part at least, be attributed to the nature of the democracy which emerged. In Bosnia, for example, in the 1990 elections, which by most accounts were held to a high standard and were as free and fair as could be hoped, the voting corresponded to a poor ethnic census. Bosniacs voted for the Bosniac party, Serbs for the Serb party and Croats for the Croat party. Moreover, although the three ethnically-based parties were ostensibly in coalition, they rapidly fell out with each other after the poll. As politicians exclusively represented the narrow interests of their own ethnic group and not the entire electorate, Bosnian society polarised and politics degenerated into a zero-sum affair.

Given Bosnia's unfortunate experience of democracy to date, observers must inevitably wonder how it may be made to work more successfully, or whether it can work at all. The issue of democracy in a multi-ethnic state has over the past hundred and fifty years generated a great deal of academic debate. Interestingly, 19th century political philosophers were sceptical about the prospects of democracy in ethnically-divided societies. John Stuart Mill, for example, argued that democracy was incompatible with the structure of a multi-ethnic state, as "free institutions are next to impossible in a country made of up different nationalities".<sup>1</sup> At the time, there were few democracies in the world and therefore a dearth of empirical evidence from which to draw definitive conclusions. In the intervening period, democratic government has spread across the world with the result that today there are instances of multi-ethnic societies which are also functioning democracies. In the light of these developments, the academic debate has also moved on. Contemporary political scientists have a more optimistic view of the prospects of democracy in multi-ethnic societies and look to designing democratic institutions in such a way that they reconcile legitimate interests of different communities based on local circumstances.<sup>2</sup> In Bosnia, therefore, the environment for democracy, that is the conditions and the political and electoral systems, are critical.

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<sup>1</sup> John Stuart Mill, *Considerations on Representative Government*, Liberal Arts Press, New York, 1958 [1861].

<sup>2</sup> For an excellent summary of potential system design, see *The International IDEA Handbook of Electoral System Design*, International IDEA, Stockholm, 1997.

## A. Environment

In December 1995, the starting point for Bosnia's post-war democratic experiment, the country was effectively divided into three mutually-hostile ethnic territories. The population was largely destitute and therefore heavily dependent on their own ethnic authorities whose rule was based on a mixture of the rigid, all-powerful party structure inherited from the Communist system and informal, even less transparent arrangements which had been improvised during the war. Though elections formed the cornerstone of the DPA, the conditions in which any kind of fair poll could take place simply did not and could not exist without a major restructuring of Bosnian society. Many of those responsible for the greatest atrocities committed in the conflict, some formally indicted for war crimes, most not, occupied key positions of authority; media were under control of the ruling ethnically-based political parties and served as conveyor belts for their views; and there was hardly any basis upon which even to begin to construct civil society.

The division of Bosnia into two entities and the terms of the DPA concerning elections made the task of building a democratic system in Bosnia yet more difficult. Common institutions are formed on the basis of the results of mutually-exclusive polls. Moreover, the rights of Bosnians to stand as candidates for elections is curtailed according to their ethnicity.<sup>3</sup>

## B. Post-War Electoral Experience

Since the end of the war there have already been four internationally-supervised polls in Bosnia and Herzegovina. This includes a special poll in Mostar in June 1996<sup>4</sup> and municipal elections in September 1997,<sup>5</sup> as well as the September 1996 general elections at national, entity and cantonal levels, and the November 1997 extraordinary National Assembly elections in Republika Srpska. In the DPA, the Organisation for Security and Co-operation in Europe (OSCE) was only scheduled to supervise the first general elections.

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<sup>3</sup> All electoral provisions stipulated in the entity constitutions and the DPA are contained in an appendix at the end of the ICG report *Changing the Logic of Bosnian Politics* of 10 March 1998.

<sup>4</sup> The Mostar poll took place under the auspices of the European Union Administration of Mostar. For a comprehensive study, see ICG papers *Elections in Mostar: Political Analysis* and *Elections in Mostar: Technical Analysis* of July 1996.

<sup>5</sup> For a comprehensive study of the 1997 Bosnian municipal elections, see ICG papers *Beyond Ballot Boxes: Municipal Elections in Bosnia and Herzegovina* of 10 September 1998 and *ICG Analysis of 1997 Municipal Election Results* of October 1997.



However, as Bosnia's domestic institutions have failed to come together in a manner which would enable them to organise their own elections, the OSCE's mandate has repeatedly been extended.<sup>6</sup> The same mechanisms originally designed for the 1996 poll, with some refinement, remain in place. In advance of the 1996 poll the OSCE was to "certify whether elections can be effective under current social conditions in both Entities".<sup>7</sup> No such pre-certification process was mandated for the polls in 1997 or for the upcoming elections.

## 1. Legacy of Flawed 1996 Elections<sup>8</sup>

When the OSCE's then Chairman-in-Office Flavio Cotti gave the 1996 elections the go-ahead, he warned that if certain minimal prerequisites were not met before polling day, the vote ought not take place as it would lead to further tensions and "pseudo-democratic legitimisation of extreme nationalist power structures".<sup>9</sup> His words were prophetic. In the interests of supervising the elections according to the time limits imposed by the DPA,<sup>10</sup> the then head of the OSCE's mission to Bosnia, Ambassador Robert Frowick, chose to work exclusively with the ruling ethnically-based parties. In the event, the polls simply awarded a democratic mandate to many of those people who were themselves responsible for the outbreak of war in the first place.

The elections also helped cement the ethnic divide in Bosnia. The DPA stipulated: "A citizen who no longer lives in the municipality in which he or she resided in 1991 shall, as a *general rule*, be expected to vote, in person or by absentee ballot, in that municipality," and continued, "Such a citizen may, however, apply... to cast his or her ballot elsewhere."<sup>11</sup> It is clear that most displaced Bosnians were expected to be voting in the municipalities in which they were living in 1991 in order to start the process of reintegration. However, this did not happen. Instead, Republika Srpska's authorities abused the option to vote in the current place of residence or even in a future intended place of residence, making

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<sup>6</sup> At its Bonn meeting on 10 December 1997, the Peace Implementation Council concluded: "Underlining the importance of international involvement in future elections in Bosnia and Herzegovina, the Council expects the authorities in Bosnia and Herzegovina to invite the OSCE to supervise elections in Bosnia and Herzegovina in 1998. It therefore requests the OSCE to extend the mandate of its Mission in Bosnia and Herzegovina accordingly."

<sup>7</sup> DPA, Annex 3, Article 1(2).

<sup>8</sup> For a comprehensive analysis of the 1996 elections, see ICG paper *Elections in Bosnia and Herzegovina* of 22 September 1996 and *Addendum to the 22 September 1996 ICG Report on Elections in Bosnia and Herzegovina* of 30 October 1996.

<sup>9</sup> Certification of the Elections in Bosnia and Herzegovina, Declaration of the Chairman-in-Office, Federal Councillor Flavio Cotti, at the Permanent Council of the OSCE, 25 June 1996.

<sup>10</sup> The DPA specified that: "Elections shall take place on a date six months after entry into force of this Agreement or, if the OSCE determines a delay necessary, no later than nine months after entry into force." (Annex 3, Article II(4)).

<sup>11</sup> DPA, Annex 3, Article IV, emphasis added.

it the rule rather than the exception. They were thus able to engineer a situation in which displaced Serbs voted in the municipalities to which they had fled, thus ensuring a Serb majority in that entity and minimal Serb political representation in the Federation. The abuse went unpunished and, despite comprehensive voter registration before the September 1997 municipal elections, the ethnic division has become a permanent feature of Bosnian politics. The only displaced Serbs who have registered to vote in substantial numbers in their home municipalities in the Federation are those from Drvar, Glamoc and Grahovo, where they formed the overwhelming majority of the population before the war.

## **2. Political Failings**

Having received democratic mandates in the September 1996 elections, the various ruling ethnically-based parties behaved predictably. They all persisted with the same policies they had pursued both before and during the war, defending what they interpreted as the narrow interest of their community in a zero-sum game. After massive and sustained international pressure, Bosnia's joint institutions did eventually come together in January 1997. However, it is no exaggeration to state that to date they have failed to function, that every issue has been viewed in zero-sum terms, and that almost all "breakthroughs" have required disproportionate, indeed often ridiculous, amounts of time, effort and concessions on the part of the international community. Moreover, in practice, the political impasse has created a position in which, on the one hand, most public offices have to be filled simultaneously by three Bosnians (a Serb, Croat and Bosniac); and, on the other hand, these Bosnians do less and less work of any substance because they cannot reach accord.

## **C. Attempts to Overcome Failures of the Political System**

As it became clear that Bosnia's rival ethnic leaders would never live up to their DPA commitments of their own accord, the international community changed tack. The new approach has effectively involved taking over the running of the country. It has also meant taking on the three ruling ethnically-based parties. And it has included a series of changes to the electoral law designed to make politicians more accountable to their electorate.

### **1. Creeping Protectorate**

The original legislation designed to knit Bosnia loosely back together in line with the DPA, known as the quick-start package, including, for

example, the central bank law, was drawn up by the Office of the High Representative (OHR). After some nine months of cajoling and watering down, it was adopted by Bosnia's House of Representatives on 20 June 1997. In order to speed the process in future, the Peace Implementation Council (PIC) augmented the powers of the High Representative at its Bonn meeting of 10 December 1997. As a result, the High Representative now has the authority to dismiss any officials, elected or otherwise, who oppose the peace process and to impose solutions in intractable disputes.

With his new authority, the High Representative has pushed through a series of key measures aimed at bringing communities together. These include a common vehicle licence plate, which has made it possible for Bosnians to travel throughout the country with a reasonable degree of security (knowing that their ethnic identity is not on public display), a new Bosnian flag and passport. He has also dismissed obstructionist officials, including the deputy mayor of Drvar and the mayor of Stolac. And increasingly he is appointing special envoys in strategic parts of the country. In addition to the international supervisor in Brcko, there is now an international special envoy in Drvar and an international chairman of the interim municipal board in Srebrenica. Moreover, the PIC threatened at its latest meeting in June 1998 in Luxembourg that further envoys might be appointed.<sup>12</sup>

## **2. Attempts to Loosen the Grip of the Ruling Ethnically-based Parties**

In effect, almost everything the international community does in Bosnia upsets the existing order within the country and thus works against the interests of the ruling, ethnically-based parties. The most significant moves to date have been the arrests of persons indicted by the International Criminal Tribunal for the former Yugoslavia (ICTY), and in particular the 10 July 1997 snatch operation in which the UK's elite Special Air Services killed Simo Drljaca and arrested Milan Kovacevic, both so-called "sealed indictees", i.e. both had been indicted for war crimes, indeed for genocide, in unpublished indictments. With that one swoop, the cycle of impunity which had hitherto characterised the wars of Yugoslav dissolution was broken. Although the most notorious indictees,

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<sup>12</sup> Paragraph 74 of the declaration from the PIC Steering Board's Luxembourg meeting said: The Steering Board requests the High Representative to establish an evaluation system drawing on existing data and resources, of peace implementation in individual cantons and municipalities and indicate to the Steering Board what steps need to be taken. Options would include the appointment on an ad hoc basis of a Special Envoy to co-ordinate local and international activity in non-compliant municipalities."

Radovan Karadzic and Ratko Mladic, remain at liberty, to date 27 out of 57 public indictees have been removed to The Hague.<sup>13</sup>

In addition to arresting indictees and dismissing Bosnian officials from their posts, the international community, via the Election Appeals Sub-Commission (EASC) of the OSCE, has been striking increasingly numbers of candidates from the ruling parties' electoral lists in response to clear, egregious and usually repeated violations of electoral rules and regulations. In the most recent instance, the EASC struck 15 members of the ruling Croat party, the *Hrvatska demokratska zajednica* (Croat Democratic Union or HDZ), from the party list on Friday 4 September 1998.<sup>14</sup>

The international community has also begun the systematic restructuring of the Bosnian media. Control of the key state-owned television stations in both entities has been wrested from the ruling parties, international supervisors have been placed in the stations, and a new regulatory framework under an Independent Media Commission (IMC) has been introduced. Meanwhile, the HDZ has been punished by having candidates struck from the party list for the on-going biased coverage of the Croatian state network HRT which broadcasts to most of Bosnia. The internationally-funded television station, the Open Broadcast Network, which was launched one week before the September 1996 poll, has evolved into a much-watched, highly influential medium. And the OHR has since May 1998 been running a public information campaign on all Bosnian television stations with 10-minute features explaining key issues to the Bosnian public backed up by a series of well-produced advertisements showing the benefits of ethnic tolerance and reconciliation.

Since many leading figures in the ruling ethnically-based parties have personally benefited from the informal financial practices established during the war, the international community has moved to limit the opportunities for such abuse. The European Union's Customs and Fiscal Assistance Office to Bosnia (CAFAO) has been especially effective in this field. Whereas revenues due to the state once invariably ended up in private pockets, now an increasing proportion is making its way via official channels into state coffers. For example, the government of Republika

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<sup>13</sup> Of the 30 who remain at large, 25 are Bosnian Serbs, three are citizens of rump Yugoslavia and two are Bosnian Croats. Six indictees have died or been killed (including Drljaca) and 18 indictments have been withdrawn.

<sup>14</sup> The striking of candidates followed repeated warnings to HRT, the Croatian broadcaster, to stop its highly unbalanced and often misleading news and editorial programmes, re-transmitted throughout much of Bosnia, and to stop using Bosnian Croat soldiers to intimidate HDZ officials and voters who indicated that they might switch allegiance to a more moderate Croat party. The striking of 15 candidates will mean that these 15 individuals, including some of the HDZ's top officials, will lose their elected positions (although they will, presumably, continue to exercise power within the HDZ), and that the HDZ may lose several seats in the canton 2 (Posavina) legislature.

Srpska has recently begun to receive tax revenue from at least some of the cigarettes consumed within the entity.

Ever since the end of the war in December 1995, international donors, non-governmental organisations, the OHR and the OSCE's democratisation wing have been working to build civil society within Bosnia. While the results of the many projects in this field have often been disappointing, an indigenous non-governmental sector, including, for example, the Coalition for Return, the association of displaced persons organisations from throughout the country, now exists. Moreover, opposition political parties have benefited and continue to benefit from the expertise of western democracy-building groups such as the National Democratic Institute. And although they do not receive financial subsidies as in previous polls, opposition political parties have benefited from a network of OSCE-funded public resource centres around the country where they are able to print election materials and use facilities for campaigning.

### **3. Changes to Electoral Law**

In an attempt to open up the electoral process and make politicians more accountable to the electorate, the Provisional Election Commission (PEC),<sup>15</sup> the OSCE's rule-making body, changed several aspects of the electoral system. Political parties in these elections were obliged to produce a programme expressing their views on return, minority rights, economic reform, reconstruction and social services. Every political party was obliged to place a mix of men and women on the party list in such a way that no more than seven of the top ten candidates could be of the same sex. All candidates were obliged to declare their personal assets. The PEC also limited the mandate conferred by the elections to two years at all levels, except the three members of Bosnia's Presidency whose terms are required by the DPA to be four years. And the OSCE attempted to organise a series of live television debates between the presidential candidates.

In practice, the party programmes have generally been so bland it is difficult to tell one party from the other. The personal assets declarations, by contrast, have generated a series of interesting comparative analyses in the media. The presidential debates failed to come off as SDA candidate for the Bosnian seat on the Presidency, Alija Izetbegovic, refused to appear besides Fikret Abdic, the renegade Bosniac war-time leader. And HDZ candidate Ante Jelavic boycotted the event in protest against the striking of HDZ candidates from the party list.

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<sup>15</sup> In 1996 the PEC comprised four international members and three Bosnian members, each of whom effectively represented one of the ruling ethnically-based parties. In 1998 its composition was changed to include additional members representing opposition parties and civil society.

### III. THE VARIOUS POLLS AND THEIR LIKELY OUTCOMES

With so many candidates and parties, six separate polls taking place on the same day, as well as the prospect of many hundred thousand absentee ballots, the Bosnian political scene is inevitably confusing. The following section attempts to focus on the key candidates, the main factors influencing the results of the elections as well as the quirks of the system which are relevant to understanding potential outcomes and the possible implications. It does not refer to this year's registration figures because insufficient data are currently available for a comprehensive analysis. Nor does it consider the various opinion polls which have been carried out. This is because they are inevitably unreliable, given the geographic dispersal of the electorate and a pervasive fear that responses to pollsters' questions will not be kept secret from the ruling parties.

One factor which must additionally be taken into consideration in all polls is voter apathy. After so many polls, and such great promises at the time of the 1996 elections, and yet no obvious change in the conditions in which most displaced persons live or their prospects for return, many Bosnians, and especially the refugee community abroad, may not bother to vote. An additional consideration which may influence the voting decision, at least for non-Serb refugees from Republika Srpska, is that election literature was only sent out in Cyrillic script. That said, the OSCE has been running a massive election-awareness campaign both in the country and abroad to ensure as large a turn-out as possible.

#### A. Elections to the Common Institutions

##### 1. Three-Member Presidency

According to the Constitution, Bosnia's three-member Presidency consists of one Serb one Croat and one Bosniac. The Croat and the Bosniac are each directly elected from the territory of the Federation and the Serb is directly elected from the territory of Republika Srpska. Further, they "shall be directly elected in each Entity (with each voter voting to fill one seat on the Presidency)".<sup>16</sup> Serbs from the Federation and Croats and Bosniacs from Republika Srpska cannot become president of their country, nor can Jews, Roma and other minorities. The Serb member is elected by direct ballot from Republika Srpska in a simple First-Past-The-Post vote. The Croat and Bosniac members are elected by direct ballot in the Federation in such a way that both Croat and Bosniac candidates are listed on the same ballot paper and voters are only able to make one choice. They therefore have to choose whether to vote for the Bosniac or the Croat.

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<sup>16</sup> DPA, Annex 4, Article V.

Both the Bosniac with the most votes and the Croat with the most votes, irrespective of the proportion of the overall poll, are elected to the Presidency.

**a. Serb Member of the Presidency**

The contest for the Serb member of the Bosnian Presidency is effectively between the incumbent Momcilo Krajsnik of the former ruling *Srpska demokratska stranka* (Serb Democratic Party or SDS) and a close ally of Radovan Karadzic, and Zivko Radisic, the president of the *Socijalisticka partije Republike Srpske* (Socialist Party of Republika Srpska SPRS) and representative of the *Sloga* coalition which brings together his party, Biljana Plavsic's *Srpski narodni savez* (Serb People's Alliance or SNS) and Milorad Dodik's *Stranka nezavisnih socijaldemokrata* (Party of Independent Social-Democrats or SNSD). The SPRS is generally viewed as a branch of Slobodan Milosevic's Socialist Party in Yugoslavia. That said, Radisic has during the past year, pursued a line independent of Belgrade and at key junctures defied Milosevic.

In the 1996 election Krajsnik polled 690,646 votes or 67.3 percent of the total and his closest rival Mladen Ivanic 307,461 votes or 30 percent. Of Ivanic's support, roughly two-thirds probably came from the absentee votes of Bosniacs and Croats. In 1996 Radisic stood as a candidate for the Presidency of Republika Srpska against Plavsic, then of the SDS, and polled 168,024 votes, or 15.6 percent of the turn-out. In the forthcoming poll, Radisic, as the more moderate candidate, is again likely to benefit from some 200,000 absentee Bosniac and Croat votes. Radisic will also benefit from a radically-altered balance of power in Republika Srpska which has seen the SDS's authority disintegrate during the past 15 months. Indeed, the elections are, above all, likely to ratify the existing political reality so that although Krajsnik is the incumbent, Radisic is the favourite.

The authority of both Krajsnik and the SDS began to decline after the 10 July 1997 snatch operation (see Section II.C(2) above). Moreover, in the wake of the snatch operation, the Stabilisation Force (SFOR) intervened in Banja Luka in July and August 1997 to shore up the position of Biljana Plavsic, the more co-operative president of Republika Srpska, and prevent her harder-line, Pale-based SDS rivals and former colleagues ousting her. On 4 October 1997, after repeated warnings, SFOR intervened to seize the transmission towers of SRT, the Bosnian Serb state television network which had hitherto served as a mouthpiece for the opinions of the SDS. An international supervisor was placed in SRT

ostensibly to stop incitements to violence, DPA obstruction, ensure balance in the network's coverage and raise professional standards. In practice, however, the station simply switched allegiance and now serves largely as a conveyor belt for Plavsic's views, albeit without the worst abuses of the former management.

In extraordinary elections Plavsic called for Republika Srpska's National Assembly in November 1997, which were again supervised by the OSCE, the SDS and their even more extreme allies the *Srpska radikalna stranka* (Serb Radical Party or SRS) failed narrowly to win an absolute majority. The massive erosion of their support was in large part due to the new media scene in which the ruling party had minimal access to the main broadcaster. Nevertheless, the SDS and SRS won a clear majority among Serb voters in Republika Srpska, and it was the absentee votes of Croats and Bosniacs which tipped the balance. Moreover, on 18 January 1998 in the wake of the poll, the High Representative engineered the appointment of the moderate Serb Milorad Dodik, whose party holds only two out of the 83 seats, as prime minister with the support of Bosniac and Croat deputies. The crucial vote took place in the absence of the SDS and SRS whose representatives had walked out of the parliament.

Since Dodik's appointment, Republika Srpska has begun to receive large amounts of international aid. Indeed, the OHR even arranged a financial lifeboat to keep the new government afloat and pay civil servants and teachers in the first months. Moreover, international advisers have been working with the new government to restructure Republika Srpska's finances in such a way that the entity benefits from all tax revenue to which it is entitled and that such money is no longer siphoned off into private pockets, thus striking at the SDS's financial base. Although Republika Srpska has effectively been divided for the past year, the Banja Luka authorities have increasingly grown in confidence. Shortly after coming to power, Dodik purged the entity's industry removing SDS loyalists and in July and August 1998 he did the same in the media, changing key personnel in local radio stations throughout Republika Srpska and closing the official news agency SRNA, which had been based in Pale.

The Banja Luka authorities have also launched police investigations into the financial crimes of the former Pale-based regime, issuing some 35 indictments to date. As the investigations homed in on Krajisnik himself, events turned nasty. On 9 July 1998 Bijeljina police chief and a key investigator Ljubisa Savic-Mauser escaped assassination when his would-be killers blew themselves up placing a bomb under his car. And on 7 August 1998, Pale's deputy police chief Srdjan Knezevic was gunned down in front of



his home. Knezevic had earlier arrested a director of Centrex, the company through which Krajisnik and Karadzic are believed to have organised the smuggling operations which deprived Republika Srpska of tax revenues on cigarettes, alcohol, fuel and coffee. Krajisnik intervened to spring his colleague from prison and, according to the Bosnian press, threatened that: "They would kill him [Knezevic] like a dog." Following the killing, police loyal to Plavsic have effectively taken over Pale. Meanwhile, careerists in the SDS have been watching which way the wind is blowing and switching allegiance accordingly.

**b. Bosniac Member of the Presidency**

In the 1996 election Alija Izetbegovic of the *Stranka demokratske akcije* (Democratic Action Party or SDA) polled 730,592 votes or 80 percent of the total cast, and his closest rival Haris Silajdzic polled 124,396 or 13.6 percent. This time around Izetbegovic has no serious opponent and the result is therefore a foregone conclusion. Silajdzic has effectively rejoined the ruling party and is therefore not a candidate. And the most powerful opposition party, the *Socijaldemokratska partija* (Social Democratic Party or SDP), chose not to contest the poll.

Since the member of the Presidency who polled the highest number of votes in 1996 would also become its chairman for the first two years, it was important for Izetbegovic to secure as much support as possible. Indeed, his tally of 730,592 votes was suspiciously high. This time around, however, Izetbegovic cannot be chair of the Presidency since, according to the Constitution, the position should rotate every six months and the incumbent must therefore give way to one of his colleagues. As a result, he does not require an especially high turn-out and, ironically, this opens up interesting permutations for the Croat member of the Presidency.

**c. Croat Member of the Presidency<sup>17</sup>**

Since electors in the Federation are able to vote for either the Croat member or the Bosniac of the Presidency and there is no real contest for the Bosniac seat, many Bosniac voters, as well as those Serbs who are able to cast ballots in the Federation, may choose to vote for the Croat member of the presidency. Moreover, because Bosniacs form a much greater proportion of the Federation's population than Croats -- in the 1996 poll 913,277 valid ballots were

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<sup>17</sup> For a comprehensive analysis of Bosnian Croat politics in the run-up to the elections, see ICG paper *Changing Course?: Implications of the Divide in Bosnian Croat Politics* of August 1998.

cast for the Bosniac member of the Presidency compared with 372,466 for the Croat member -- this makes the outcome difficult to predict. It is clear, however, that there will be change. Either the Croat member of the Presidency or the party holding that position will be different after the polls as a result of the break-away of Kresimir Zubak from the HDZ to form his own party, the *Nova Hrvatska inicijativa* (New Croat Initiative or NHI).

In addition to Zubak the candidates who may draw significant support are Ante Jelavic, the new president of the HDZ, who is widely considered the favourite, Gradimir Gojer of the SDP and Senka Nozica of the *Republikanska stranka* (Republican Party). Both Gojer and Nozica are looking, in particular, to pick up Bosniac and Serb votes and may, in practice, undermine Zubak's challenge. That said, other factors play to Zubak's advantages. Zubak is the incumbent and therefore benefits from name recognition. Moreover, since he has based his campaign on a vigorous defence of the rights of Croats throughout Bosnia, including their right to return to territory controlled by other ethnic groups, he is appealing to a very large pool of generally disgruntled Croat voters. Indeed, before the war, some two-thirds of Bosnia's Croats lived outside the HDZ's Herzegovinian heartland. It is clear by the intimidatory tactics the HDZ has pursued, for which the party has also been punished, that it is taking the Zubak threat seriously.

## 2. House of Representatives of Bosnia and Herzegovina

The House of Representatives of Bosnia and Herzegovina has 42 members, 28 of whom are elected from the Federation and 14 from Republika Srpska. In 1996 the SDA formed the largest party with 19 deputies, 16 elected in the Federation and 3 in Republika Srpska. The SDS formed the second largest party with 9 deputies, all elected in Republika Srpska. And the HDZ formed the third largest party with 8 deputies, all elected in the Federation. The remaining 6 seats, 4 in the Federation and 2 in Republika Srpska, went to opposition parties. This time around the results are likely to mirror those of the two entity assemblies, namely radical change in Republika Srpska and some gains for the opposition parties in the Federation (as discussed below).

## B. Republika Srpska Elections

### 1. President

In 1996 Biljana Plavsic polled 636,654 votes or 59.2 percent of the total. At that time, Plavsic was a member of the SDS and her closest rival was the Bosniac Adib Dozic of the SDA who polled 197,389 votes or 18.4 percent of the total. Since the position of president of Republika Srpska is not ethnically specified, Bosniacs and Croats may also stand for election. That said, in 1998 the SDA has chosen not to put forward a candidate and the only Bosniac, Zulfo Misic, on the ballot represents a minor party.

The key battle this time around is between Plavsic and Nikola Poplasen, the leader of the SRS. While Plavsic may benefit from Bosniac and Croat votes, she cannot count on them in the way that Radisic can. This is because of the Bosniac on the ballot and, more importantly, her own past and, in particular, her war record as a leading member of the SDS. Nevertheless, the control she now exerts over Republika Srpska (see Section III.A(1) above) and in particular the media should guarantee her a comfortable victory.

### 2. National Assembly

The forthcoming Republika Srpska National Assembly election is the third poll at this level since the DPA came into force. In the first election in September 1996, the SDS won an absolute majority with 45 of the 83 seats, and its ally the SRS picked up another 6. After the second extraordinary election of November 1997, the SDS remained the largest party in the parliament with 24 seats, but even together with the SRS, which took a further 15, failed to win an absolute majority. The SDA-led *Koalicija za cjelovitu i demokratsku Bosnu i Hercegovinu* (Coalition for a Whole and Democratic Bosnia and Herzegovina or KBiH) won 16 seats. And the SDP won 2 seats, bringing the number of Bosniac and Croat deputies in the parliament elected by absentee voters to 18. Meanwhile, Plavsic's newly-formed SNS picked up 15 seats, Radisic's SPRS 9 and Dodik's SNSD 2. The result (as discussed in section III.A(1a) above) was the formation of a Dodik-led government with the support of the Bosniac and Croat deputies.

Given that the SDS lost the November 1997 elections, that the party has since been excluded from power and its financial base has collapsed, and that the *Sloga* coalition has shown that it can attract substantial foreign aid, there are no prospects of an SDS recovery. That said, several factors make for an interesting poll and must be taken into consideration.

It is not clear, at this stage, the extent to which various parties will benefit most from the SDS's demise or, critically, how they will behave after the poll. Although Plavsic, Radisic and Dodik have formed a coalition at the presidential levels, each party is fighting the parliamentary election separately. Moreover, despite the alliance, the three parties are very different. Plavsic makes it clear that her SNS exists to defend Serb interests in the party name. Dodik, by contrast, refuses to place an ethnic prefix in front of his party's name, with the result that many Serb voters assume that it represents Bosniac or Croat interests. As long as displaced Bosniacs and Croats vote, there should be a similar number of Bosniac and Croat deputies elected by absentee ballots. Otherwise, Serb commentators anticipate gains for those Serb parties with strong nationalist credentials which are, at the same time, not perceived to be corrupt. The likelihood, therefore, is that Plavsic's SNS will be the major beneficiary, though Poplasen's SRS may also pick up additional votes, and some of the smaller Serb electoral coalitions may win the odd seat. Although Dodik hopes to boost his representation to 10 seats and has presented himself as the man best able to deliver international aid, in practice he will be doing well to achieve half that.

A realignment among Serb parties must be expected after the elections. Moreover, since the SDS will no longer be the force it used to be, it is possible that a new government can be formed based on a new coalition of Serb parties without recourse to the support of Bosniac and Croat deputies. In such an event, it is not clear whether Dodik would remain as prime minister. That said, the international community may decide to make future economic aid conditional on his continued presence in government.

## **D. Federation of Bosnia and Herzegovina**

### **1. House of Representatives**

In 1996 the SDA easily formed the largest group in the 140-member assembly with 78 seats. The HDZ picked up 36, a coalition of ex-communist parties 11, Haris Silajdzic's *Stranka za Bosnu i Hercegovinu* (Party for Bosnia and Herzegovina or SBiH) party 10 and two minor parties the remaining 5 seats. Given that Silajdzic rejoined the fold when his party and three others merged with the SDA to form the *Koalicija za cijelovitu i demokratsku Bosnu i Hercegovinu* (Coalition for a Whole and Democratic Bosnia and Herzegovina or KBiH), the ruling KBiH would expect to obtain about 90 seats, if its support was to hold up. However, several factors militate against this. In the first instance, the SDA turn-out was suspiciously high in the 1996 poll which, as a result of a thorough and

carefully-monitored voter registration, is unlikely to be repeated.<sup>18</sup> Secondly, many electors who voted for Silajdzic's party in 1996 were, above all, looking for an alternative to the SDA and have switched allegiance since Silajdzic's about-turn. Many of Silajdzic's 1996 supporters voted for the SDP in the 1997 municipal elections and are likely to continue voting in the same manner. Thirdly, the SDP has waged a vociferous sniping campaign against the SDA government and its perceived failings and has also benefited from the support of western democracy-building, non-governmental organisations. The opposition is therefore likely to boost its showing, though not so much as to threaten the SDA's hold on power in any way.

The emergence of Kresimir Zubak's NHI is certain to have an impact on the HDZ's share of the vote. That said, the NHI is unlikely to gain as many votes as a party as Zubak himself in the election for the Croat member of the Presidency. Inroads both by predominantly-Bosniac opposition parties and the NHI may, ironically, make governing the Federation even more difficult than it has been to date. Hitherto, controversial issues have generally been resolved by agreement between the SDA and HDZ in negotiations outside the normal democratic institutions. In future, it may be necessary to seek accommodation in parliament.

## 2. Cantonal Elections

In the ten cantonal elections in 1996 the SDA took 6 cantons and the HDZ 4. The combined votes of the two ruling ethnically-based parties ranged from a low of 65 percent in canton 9 (Sarajevo) to highs of 93 percent in cantons 6 and 7 (Central Bosnia and Neretva). The closest battle between the two parties was in canton 6 (Central Bosnia) where the SDA polled 49.7 percent and the HDZ 43.5 percent. This time around, the emergence of Kresimir Zubak's NHI as an alternative to the HDZ and the increasing influence of the predominantly-Bosniac opposition to the SDA could generate interesting results in certain key cantons and possibly even radically alter politics there. If, for example, the NHI makes inroads into the HDZ's support in canton 6 (Central Bosnia), the entire environment for refugee return could be transformed. Otherwise, the HDZ and SDA are likely to lose most ground in canton 9 (Sarajevo) and canton 3 (Tuzla-Podrinja). And the absentee votes of displaced Serbs should have an impact on the results in canton 10.

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<sup>18</sup> See ICG paper *Addendum to the 22 September 1996 ICG Report on Elections in Bosnia and Herzegovina*.

#### IV. FUNDAMENTAL FLAWS AND POTENTIAL SOLUTIONS

While the elections will generate a certain amount of change in parties and personnel in power in Bosnia, they will not have much impact on the logic of Bosnian politics. It will not, for example, be possible for the international community to withdraw from Bosnia confident that the new democratically-elected authorities will be able to govern the country in such a fashion that it does not slip back into war. The failure of political reconstruction can be interpreted in two ways. It may be viewed as proof that Bosniacs, Croats and Serbs cannot live together and that therefore Bosnia should be partitioned into ethnic ghettos. Or it may be interpreted as the reflection of a flawed political system, and that, therefore, the political system itself should be reformed in such a fashion that Bosniacs, Croats and Serbs can live together. This analysis assumes the latter interpretation. The following section examines the flaws in the system and their consequences for the future of Bosnia. And it proposes the kind of radical reform required to turn the current cease-fire into a self-sustaining peace process.

##### A. **Absence of Ethnic Security**

The fundamental flaw in the existing political system is that it fails to provide ethnic security. This is because political parties are ethnically-based and politicians only have to seek support from one ethnic group to win office. Bosniacs can be elected without receiving a single vote cast by a Serb or a Croat. Serbs can be elected without receiving any Bosniac or Croat support. And Croats can be elected without receiving a single Bosniac or Serb vote. Moreover, when political parties representing the interests of a single community win the support of 50 percent of the electorate plus one vote, they have absolute authority. The ethnic group in power is therefore in a position to dictate to the other ethnic groups in such a way that Bosnians who do not belong to that ethnic group have no political rights. In effect, numbers are everything. A Bosniac majority means Bosniac ethnic rule. A Serb majority means Serb ethnic rule. And a Croat majority means Croat ethnic rule. Everybody wishes to live under their own ethnic authorities, but fears the ethnic rule of any other community.

Although the electoral system currently in place approximates to many which are used in Western Europe, it is inappropriate in Bosnia because of the nature of Bosnian society. When Western Europeans vote for their political representatives, it is never clear which party or candidates they have supported, and, in any case, elected office-holders automatically work on behalf of the entire electorate in the hope that in future polls they will also win the support of voters who did not back them last time around. In Bosnia, by contrast, politicians know by the clearly-distinguishable

names of Serbs, Croats and Bosniacs who has not voted for them and who, under the current system, will never vote for them.

The key to the success of democratic government in Western Europe and the West in general is its inclusive nature and the dependency relationship between politicians and the entire electorate. With the ethnic divisions in Bosnia and the current electoral system, politics is by definition exclusive and politicians are only dependent on a part of the electorate. As a result, it will always be easier and more rewarding for politicians to outbid each other on ethnic issues, rather than to preach moderation.

## **B. Consequences of Flaws**

Ethnic security is the key issue in Bosnia. The absence of ethnic security is the fundamental, underlying reason for conflict within the country as well as for the lack of trust between ethnic groups. Moreover, on the one hand, it undermines everything the international community is attempting to achieve in the country and, on the other, it fails to offer Bosnians a future. Without attempting to address this issue, the international community has no hope of withdrawing from the country with the satisfaction of having laid the groundwork for a stable democracy. Instead, it faces the prospect of an indefinite presence.

### **1. Obstacle to Peace Process and Especially Refugee Return**

The logic behind the existing system is especially frightening. Having been elected on the basis of votes of a single community, an ethnically-based party will only represent the interests, or what they deem to be the interests, of that one people and feel no obligation to the rest of Bosnia's population. Instead of seeking accommodation in common institutions, these parties view every political issue as a "zero-sum" game in which there will inevitably be a winner and a loser and thus fail at all times to reach compromise. Worse still, the way to get ahead in politics is clearly to defend the interests of one's own community in the most robust manner possible. The consequence is a vicious cycle of fear and insecurity.

While it is possible, for example, for SFOR, to create a sufficiently secure environment for so-called "minority" returnees to make their way home to territories controlled by the military of a different ethnic group, it is virtually impossible for that community to reintegrate itself into the society. The problem is that returnees are obliged to live in a system in which authority exclusively represents the interests and culture of a different ethnic group and they have little or no influence over that authority. It is difficult to have confidence in the durability of such a solution in the absence of a

permanent SFOR presence with foreigners micro-managing all aspects of the country's affairs.

## 2. Voting with Feet

The most indicative sign of the failings of the political system is the attitude of young, educated Bosnians. While the OSCE urges them to use their vote wisely for a better future, many are voting with their feet and leaving the country in search of that elusive goal. Establishing the extent of the exodus is difficult. The Office of the United Nations High Commissioner for Refugees (UNHCR) compiles total figures for Bosnians who have found durable solutions abroad, of whom there were 504,000 by the end of 1997,<sup>19</sup> but does not collate information about those who have left the country since the DPA came into force. The United States have accepted more than 25,000 Bosnian refugees each year for the past two years, most of whom were living in Croatia and Yugoslavia. Young Bosnians also look to Canada and Australia as possible destinations. Moreover, the press regularly carries information notices for Bosnians concerning emigration. The latest issue of the Sarajevo weekly *Svijet*, for example, contains a half-page advertisement on page 45 on emigration to Australia promising help acquiring visas and financial support, pointing out that priority was given to candidates from mixed marriages. Since citizens of Republika Srpska only received Bosnian passports in August 1998, the exodus may just be beginning.

## C. Permanent Electoral Law

Under the DPA, the Provisional Election Commission is supposed to hand over its authority to a Bosnian-run Permanent Election Commission to conduct future elections.<sup>20</sup> At the same time, the future election laws have to be drawn up and adopted by Bosnia's Parliamentary Assembly.<sup>21</sup> This legislation is currently being drawn up in the OHR and should be ready by the end of the year. It offers the best chance remaining to construct a political system which builds in ethnic security.

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<sup>19</sup> UNHCR, *Bosnia and Herzegovina Repatriation and Return Operation 1998*.

<sup>20</sup> DPA, Annex 3, Article V.

<sup>21</sup> DPA, Annex 5, Article IV and Article V.



#### D. ICG's Electoral Proposal<sup>22</sup>

ICG first proposed a radical reform of Bosnia's electoral system building in incentives for ethnic co-operation in its paper examining the September 1997 municipal elections which was followed with a more comprehensive analysis in March 1998. The key to the proposal is the requirement that candidates are obliged to seek the support of all ethnic groups and not just their own, thus making them answerable to the entire electorate. The proposal is controversial to some western eyes, however, in that it would require the compilation divides of separate ethnic rolls.

Key features of the system are setting the *ethnic* results of the elections in advance so as to build in security; dividing the Bosnian electorate into Serb, Croat, Bosniac and "Other" voters and then giving each community an equal say in the election of members of other communities via "weighted", multiple votes; considering ballots spoiled unless all sections are filled in to encourage electors to vote in all categories; and setting a minimum threshold of support from a candidate's own community to ensure that "straw men" are not elected.

Ironically, it is by dividing the Bosnian electorate in the above fashion that it is possible to replicate in Bosnia the interest-based coalitions that form the basis of democratic politics in the West. The system would not and does not make Bosnians love each other. Instead, it aspires simply to force Serbs, Croats and Bosniacs to deal with each other constructively and protects each community from the ethnic rule of the other.

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<sup>22</sup> For a comprehensive analysis of electoral systems and their appropriateness for Bosnia, see ICG Paper *Changing the Logic of Bosnian Politics: Discussion Paper on Electoral Reform*, 10 March 1998.

## V. CONCLUSION

This paper is rather provocatively called *Doing Democracy a Disservice* for two reasons. Firstly, because in reality Bosnian democracy is a charade. And secondly, and more importantly, because the current political system fails to provide Bosnians with the ethnic security they require for their society to evolve in a healthy manner.

In order to get the peace process moving in Bosnia, the international community has had to ride roughshod over the country's democratic institutions. This is because in the absence of all pre-conditions for democratic government and an inappropriate electoral system, those institutions have predictably failed to function. In order to begin constructing the environment for a healthy democracy to take root, the international community has been obliged to dismantle the existing power structure and break the ruling ethnically-based parties. This task has been easiest where those parties have been most corrupt and will surely bear some fruit in the forthcoming elections. That said, the polls are only likely to ratify the results of changes which have already taken place on the ground. They will not of themselves take the peace process forward as such and will not alter the zero-sum nature of Bosnian politics. Moreover, the advances are likely to crumble once the international community begins to back off from its interventions by fiat. Bosnian society still requires massive restructuring which, as with all other advances to date, cannot be achieved by democratic means and are unlikely to be sustainable without a NATO presence.

In every country, the electoral system has a profound effect on the evolution of political life, influencing the way parties campaign and political elites behave. In multi-ethnic societies the choice of system is especially important. Depending on the system selected, it can either provide incentives for parties to be broad-based and accommodating, or it can achieve the opposite, namely to encourage parties to form around narrow appeals to ethnicity. Bosnia's current system corresponds to the latter. For the country and its citizens to have a future and the peace process to become self-sustaining, it has to conform to the former. It is critical now, via the permanent electoral law, to construct a system which builds in ethnic security and provides incentives to Bosnia's communities to work constructively together, building institutions which can function in the absence of today's colossal international presence.

**Sarajevo, 9 September 1998**