

Democratization of post-civil war societies: A mission impossible?

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Abstract

Democratization is a standard strategy for building peace in ethnically divided post-civil war societies. In order to succeed, democratization requires existing state structures and the acceptance of the common state by all parties to the conflict. Therefore, following wars on secession, democratization has to master the double challenge of state-building and nation-building, the latter meaning a process, which brings about the acceptance of the common state. As both tasks have to be undertaken simultaneously, democratization seems to be impeded by a vicious circle: A lack of democratic state institutions hinders nation-building, and if the parties to the conflict do not accept the common state, the institutions cannot function. A case study of Bosnia and Herzegovina demonstrates that a certain progress of democratization can be achieved despite the asserted vicious circle. The efforts of democratization, however, failed to establish a fully-fledged democracy.

Introduction

Democratization plays a prominent role in the peace-building efforts of the United Nations, the Organization for Security and Cooperation in Europe (OSCE), as well as many Western states (Carothers 2004; Newman/Rich 2004). After the Cold War, almost all peace agreements, which were to end civil wars, prescribed democracy-building (Paris 2004, 5). However, the strategy “peace by democratization” has been challenged by worries that democratization can endanger intra-state peace (e.g. Hegre et al. 2001). This critique triggered discussions on making post-civil war societies safe for democratization (Gromes 2007, 95-134; Paris 2004, 179-211). This article is about an even more fundamental objection against the dominant peace-building policy: after a war on secession, democratization cannot work because it is impeded by a vicious circle of state-building and nation-building. If this objection

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can be substantiated, peace-building missions in post-civil war societies have to be re-conceptualized.

Democratization Studies see the existence of a state and its acceptance by all relevant parties to the conflict as necessary conditions for successful democracy-building. Yet, societies after a war on secession often lack state institutions, which include all former warring parties. Moreover, the common state usually remains contested. Therefore, democratization in post-civil war societies needs state-building and nation-building, the latter meaning a process leading to the acceptance of the common state. As both challenges have to be addressed simultaneously, democratization is blocked by a vicious circle: A lack of democratic state institutions prevents nation-building, and in default of nation-building the democratic state institutions do not function.

In this article, a theoretically instructed case study examines, whether this vicious circle has jammed the efforts of democratization in post-war Bosnia and Herzegovina. In the selected case, the alleged vicious circle did not exist in a strict sense, as democratization partly succeeded. However, the vicious circle of state-building and nation-building was given in a milder form: Despite extensive efforts Bosnia and Herzegovina was no fully-fledged democracy even thirteen years after the war. Nevertheless, these findings do not imply that the democratization efforts in Bosnia and Herzegovina and in other post-civil war societies should be abandoned.

The vicious circle of state-building and nation-building

Democratization means a change towards democracy. It partly succeeds, if it brings about some elements of democracy. Democratization means a complete success, if it establishes a fully-fledged democracy. It is a classical topic of Comparative Politics to explore facilitating or necessary conditions of democracy and successful democratization (Diamond 1989; Lipset 1994; Pennock 1979, 206–259; Potter et al. 1997; Rueschemeyer et al. 1992; Sørensen 1993; Vanhanen 1997; Whitehead 2002). Democracy must not be equated with democratization. What is seen as necessary condition for a functioning democracy, however, is as well perceived as necessary condition of successful democratization. If there are necessary conditions at all, the existence of a state is one of them. “No state, no democracy”, claims Gerardo Munck (2004, 72). Leading to a definition of democracy, Charles Tilly (2007, 11) writes that “we start with a state”, as democracy needs a state in order to

implement political decisions. Summing up the state of the art in Democratization Studies, Dirk Berg-Schlosser (2004, 14) rates the existence of a state and progressed nation-building as prerequisites of a successful democratization. According to the dominant view (Bendel/Krennerich 2003; Merkel 1999; Schmitter 1994; Shain/Linz 1995), democracy only works, if all relevant groups accept the boundaries of the political community and the definition of the demos. Government by the people requires that it is widely recognized who actually constitutes that people. Dankwart Rustow (1970, 353) concluded that national unity is the sole background condition of democracy. Such a unity is given when the vast majority of citizens "have no doubt or mental reservations as to which political community they belong to" (Rustow 1970, 350).

Often, state institutions still exist after a civil war between ethnically defined parties to the conflict. At least one side, however, does not perceive these institutions as common and acts primarily from outside these structures. Therefore, democratization requires the establishment of state structures, in which all parties to the conflict operate. I refer to this task as state-building. For the purpose of this article, this notion does not include all state-building activities in every context. Instead, the term is limited to state-building as a sub-task of democratization in ethnically divided post-civil war societies.

Benedict Anderson (1988, 15-17) defined the nation as an imagined political community. In accordance with Michael Hechter (2000, 7) and Eric Hobsbawm (1990, 9), Anderson saw a nation as characterized by its striving for a state of its own. Consequently, after intrastate wars between ethnically defined parties to the conflict, several nations exist, as the former warring parties pursue antagonistic concepts of a political community. They demand a separate state of their own or they want a state, which serves merely their interests. Thus, the democratization of ethnically fragmented post-civil war societies requires nation-building. Nation-building brings about that the parties to the conflict perceive and accept both their own group and their adversary as part of the demos. After successful nation-building, the parties to the conflict do not see the state as exclusively theirs or as the enemy's instrument. Instead, they conceive the state institutions as common structures. The former warring parties put up with imagining that they constitute a single political community. This narrow understanding of nation-building does not imply that the distinct ethnic identities have to be abandoned

in favor of an overarching sense of belonging. However, these ethnic identities must lose relevance. The narrow notion of nation-building used in this article differs from an understanding, which defines nation-building as synonymous with state-building, democratization, peace-building, or military intervention (Bendaña 2005; Dobbins 2003; Haller 2002; Hippler 2004; Ignatieff 2003). Moreover, my notion of nation-building only partly overlaps with the traditional understanding, which, after the era of decolonization, defined nation-building as generic term for modernization, social and political mobilization, and state-building (Deutsch 1962; Eisenstadt/Rokkan 1973; Emerson 1967; Fanon 1969; Tilly 1975).

Looking at the alleged necessary conditions of successful democratization and the starting conditions of ethnically divided post-civil war societies, democratization requires mastering the double task of state-building and nation-building. Three options seem available to tackle this challenge:

One way is to pursue only nation-building in order to subsequently construct a common democratic state. Even so, it is unlikely that the imagination of a single political community can emerge, while ethnic groups encounter each other with cemented identities, fear, hatred, and distrust. In many historic cases the state demonstrated that different groups shared the same societal space. Gradually, these groups started to perceive themselves as a single political community. Yet, after civil wars between ethnically defined groups, the common state is the central item of conflict and cannot function as nation-builder. Nation-building is to precipitate the acceptance of the common state and cannot be based on state-building.

A second way is to establish democratic state institutions first and thereby to pave the way for nation-building in a second step. However, without the participation of all parties to the conflict democratic institutions will remain irrelevant. The willingness to take part in the work of these democratic institutions depends on the acceptance of the common state and the acceptance of how the demos is defined by the institutions. Thus, state-building as a sub-task of democratization needs progressed nation-building but cannot cause that progress.

In a third way, state-building and nation-building have to be pursued at the same time. History gives various examples that state-building can

further a national sense of belonging, which can make the state institutions function (Breuilly 1994; Reinhard 2000; Schulze 1994). However, under the starting conditions of ethnically divided post-civil war societies and with the objective of democratization these interactions seem to result in a vicious circle: A lack of democratic state institutions impedes progress in nation-building, while insufficient acceptance of a common state inhibits state-building.

According to Claus Offe (1991), the need of multiple transitions constitutes a “dilemma of simultaneity.” Post-civil war societies have to master the transitions from warfare to non-violent conflict, from war economy to peace economy, and from autocracy to democracy. The vicious circle of state-building and nation-building blocks democratization and thereby aggravates the dilemma of simultaneity. Though, a lack of democracy in ethnically fragmented post-civil war societies may not only result from this vicious circle of state-building and nation-building but may be caused by other factors.

The type of the democracy-to-be-built influences the willingness of the parties to the conflict to accept the common democratic institutions. The more democracy is based on the principle of “the winner takes it all”, the more likely it is that one of the former warring parties monopolizes political power, thereby winning in peace time what it could not achieve during the war. Its enemy, in contrast, loses the war belatedly and rejects the common democratic state. Power-sharing provisions intend to include all relevant groups in the political process and to make sure that all sides accept the common state institutions. Even such types of democracy, however, depend on progressed nation-building and cannot compensate for the rejection of the common state. According to Arend Lijphart (1977, 53), a consociational democracy, for instance, requires that the political elites commit themselves to the unity of the state and to democratic principles.

On alternatives to democratizing a common state

In the last two decades, building a democracy in a common state was the dominating approach for consolidating peace in ethnically divided post-civil war societies. Even if the parties to the conflict rejected the idea of democracy, they had to accept the prescription of democracy-building, as many international organizations and states and therefore many donors insisted on democratization. However, due to the asserted

vicious circle of state-building and nation-building, it seems appropriate to discuss alternative options.

One alternative establishes a state without democratic characteristics at first. Some authors advocate “stateness first” (Fukuyama 2005; Haller 2002) or demand that the monopoly on violence has to be the first priority (Perthes 2000). The state shall facilitate nation-building and only after that democratization would start. Through traffic routes, statewide media, curricula, and laws a common but non-democratic state does structure where people can go and with whom they get in contact and establish permanent relationships (Hobsbawm 1990, 86; White 2004, 66, 79–83). In the long run, distinct groups may experience the state as shared social space and finally accept this state as common. However, without institutionalized feedback loops between the government and those governed, as provided by democracy, a powerful incentive for integrative politics is missing. Thus, it can turn out that without democratic participation at least one party to the conflict rejects the state institutions – no democracy, no state (cf. Whitehead 2002, 252, 269).

Another option within the idea to give precedence to state-building over democratization is that the leaders of all parties to the conflict take charge of the state institutions, which are to be built. This undemocratic power-sharing, however, only functions, if these leaders accept the common state, i.e. that nation-building is progressed at the level of the political elites. It is unlikely that this prerequisite is fulfilled after a civil war over secession.

In order to avoid the vicious circle of state-building and nation-building, there is an alternative beyond postponing democratization: One may drop the objective of a common state for the parties to the conflict. According to Chaim Kaufmann (1996), the key to sustainable peace in ethnically divided post-civil war societies is avoiding an intra-state security dilemma. Therefore, he recommends the spatial separation of ethnic groups and the partition of the contested state into two or more states. However, after wars over secession, which were ended by a settlement, partition leads to a similar consequence as a majoritarian democracy: It means a peacetime triumph of one side over the other. Under these circumstances, it is likely that the transfers of population, which are needed for the separation, lead to renewed escalation.

The brief overview over alternatives to building a common democratic state has demonstrated that it seems prudent to reject autocratic options. While international politics did not rule out partition as consistently as undemocratic approaches, democracy-building in a common state turned out as first choice. Therefore, it is highly relevant for international politics of peace-building, whether the asserted vicious circle of state-building and nation-building really exists and how it can be overcome.

The vicious circle in post-war Bosnia and Herzegovina

For four reasons Bosnia and Herzegovina is an excellent case to examine the asserted vicious circle:

1. The General Framework Agreement for Peace in Bosnia and Herzegovina (GFAP), which ended the war in December 1995, prescribed democratization. The accords, signed in Dayton, stated “that democratic governmental institutions and fair procedures best produce peaceful relations within a pluralist society” (GFAP 1995, annex 4, preamble).
2. As the war was over the existence of a common state, democratization faced the double challenge of state-building and nation-building. Initially, the conflict item was the secession of Bosnia-Herzegovina from the Socialist Federative Republic of Yugoslavia. While most of the ethnic Muslims or Bosniacs (44% of the 4.4 million inhabitants in 1991) and a vast majority of the Croats (17%) favored independence, most of the Serbs (31% of the population) rejected secession. As the Republic of Bosnia and Herzegovina had gained international recognition at the beginning of the war, the topic of the conflict changed: Most Bosniacs preferred to maintain the republic as a single state, but were opposed by most of the Serbs and, at some points, by the majority of the Croats. The Serbs, backed by Serbia, and the Croats, with the support of Croatia, tried to split off parts under their control in order to join the rest of Yugoslavia or Croatia respectively (Burg/Shoup 1999; Woodward 1995). The war claimed about 100,000 lives.² The peace accords fulfilled neither the Bosniacs’ call for a unitary system aligned to the principle “one man, one vote”, nor the Serbs’ separatist ambition. Instead, Bosnia and Herzegovina,

² Data provided by Research and Documentation Center Sarajevo: www.idc.org.ba/presentation/index.htm 2009, Jan. 17.

the state’s name since then, remained a single state but was organized as a federation composed of two extremely powerful federal units called the Entities: the Federation of Bosnia and Herzegovina and Republika Srpska.

3. It can be assumed that efforts of external actors can overcome the vicious circle of state-building and nation-building. If the vicious circle can be overcome at all, it should have happened in Bosnia and Herzegovina. The reason for this is that here, as well as in Kosovo, peace missions had a stronger military and civilian presence and spent more resources per resident than in all other post-civil war societies (cf. Dobbins et al. 2005, 227–240).
4. Even in 2009, Bosnia and Herzegovina was still an important issue for European politics. At the same time, the selected case offers a considerable period to investigate the progress of democratization, as the war ended more than thirteen years ago.

Assessing democratization

In order to assess post-war democratization until 2008, the article evaluates to what extent three defining elements of democracy were given. Four additional criteria shall show how much democratic institutions influenced the conflict between the ethnic groups. A multitude of primary and secondary texts were plotted to measure democratization in Bosnia and Herzegovina. In the following table the left column presents the seven criteria of democracy, while the right column identifies the most important sources for each criterion. In the next sections, the respective criterion I refer to is written in italics.

Table 1: Assessing the state of democratic institutions in Bosnia and Herzegovina

Criterion	Main sources
<i>Defining criteria</i>	
1. Governments and parliaments result from competitive, frequent, and fair elections; (almost) all adults can vote and run for office; their votes possess the same weight.	Reports by OSCE election observers ³ , constitution ⁴ , electoral regulations and laws.

³ www.osce.org/odihr-elections/documents.html?lsi=true&limit=10&grp=209, 2009, Jan. 17.

⁴ www.ohr.int/print/?content_id=372> 2009, Jan. 17.

2. Freedom of speech, information, assembly, and organization; access to media, which are independent from the state.	Reports by OSCE election observers, by the Helsinki Committee for Human Rights in Bosnia and Herzegovina ⁵ , “Nations in Transit” by Freedom House. ⁶
3. Rule of law and separation of powers (cf. Dahl 1999, 37–40).	“Nations in Transit” by Freedom House, Progress reports by the European Commission. ⁷
<i>Additional criteria</i>	
4. In political contestation violence is neither used nor threatened.	Reports by the High Representative ⁸ , reports by the newspapers Nezavisne novine, Oslobođenje and Dnevni avaz. ⁹
5. The democratic institutions function independently from external actors.	Reports by the High Representative, Progress reports by the European Commission.
6. The democratic institutions make decisions and are not boycotted.	Reports by the High Representative, website of the Parliamentary Assembly ¹⁰ , reports by Nezavisne novine, Oslobođenje and Dnevni avaz. ¹¹
7. Extra-constitutional structures do not exist.	“Nations in Transit” by Freedom House, Reports by the High Representative, papers by the European Stability Initiative. ¹²

The state of nation-building is derived from two indicators.

⁵ www.bh-hchr.org/reports.htm 2009, Jan. 17.

⁶ www.freedomhouse.org/template.cfm?page=17&year=2008> 2009, Mar. 10.

⁷ ec.europa.eu/enlargement/potential-candidate_countries/bosnia_and_herzegovina/key_documents_en.htm> 2009, Jan. 17.

⁸ www.ohr.int/other-doc/hr-reports> 2009, Jan. 17.

⁹ www.nezavisne.com, www.oslobodjenje.ba, www.dnevniavaz.ba, 2009, Jan. 17.

¹⁰ www.parlament.ba/files/user/docs/raniji_zakoni, 2009, Jan. 17.

¹¹ References without page number: refer to the newspaper’s online edition.

¹² www.esiweb.org/index.php?lang=en&id=17, 2009, Mar. 10.

Table 2: Assessing the state of nation-building in Bosnia and Herzegovina

Criterion	Sources
1. Do the political elites in all ethnic groups accept the common state?	Political parties' platforms, semi-structured interviews with politicians, reports by Nezavisne novine, Oslobođenje or Dnevni avaz on statements during election campaigns or on the occasion of other events.
2. Do the citizens of all ethnic groups accept the common state?	Opinion polls.

The question, whether the political leaders accepted the common state, cannot only be answered with a simple “yes” or “no.” A party to the conflict, for instance, can reject the internal structure of Bosnia and Herzegovina, although it recognizes the state. Likewise it is possible that the political elite of an ethnic group only accepts the common state, if certain conditions are fulfilled. The attitude of an ethnic group’s elite is derived from the majoritarian attitude within this group. Who represents this majority results from the last elections. The vast majority of political parties in Bosnia and Herzegovina can be assigned as belonging to an ethnic group entirely or prevailingly.

Opinion polls reveal the attitude of the citizens on the common state of Bosnia and Herzegovina. Due to different questions in the surveys, I have to find general categories, which can consider all data. Thus, the article examines, whether the ethnic groups demanded a state of their own or the accession of certain territories to other states or whether they accepted the common state and its borders. Each ethnic group is treated separately.

In the following, the case study compares the state of democracy in 1996, i.e. immediately after the war, with the situation in 2008. As will be shown, democracy-building has partly succeeded, although both the elites and citizens of the second-largest ethnic group rejected the common state most of the time. Major parts of the case study examine how this was possible.

The starting position in 1996

Immediately after the war, there were no *democratically elected governments and parliaments*, in which all parties to the conflict operated. The “institutions of Bosnia and Herzegovina”, as the Dayton Agreement called the federal level, were planned to be established only after the first post-war elections. Bosnia and Herzegovina was disintegrated into three autocratic regimes, called “warrior states” (Bildt 1998, 249). The ethno-nationalist (Bosniac) Party of Democratic Action (SDA) dominated the institutions of the Republic of Bosnia and Herzegovina, from which the Serb and Croat ethno-nationalists had backed out during the war. The ethno-nationalist Serb Democratic Party (SDS) almost possessed a monopoly of power in Republika Srpska, recognized in Dayton as an Entity of Bosnia and Herzegovina. The ethno-nationalist Croat Democratic Community (HDZ) had an even tighter grip on its illegal statelet Herceg-Bosna.

With these *extra-constitutional regimes* the respective ruling ethno-nationalist party controlled almost all spheres of society: the armed forces, militias, police, secret services, courts, the most important media, the distribution of humanitarian aid, and the economy including the payment system and the black market (European Stability Initiative 1999 and 2000; Kurspahić 2003). Democratic *freedoms* existed at best only partly. *Rule of law and separation of powers* were not given.

According to observers, the first post-war *elections* in September 1996 took place in an atmosphere, which in some cases missed the minimal criteria of the OSCE (OSCE-ODIHR 1996a; 1996b, 4–5). Others reported a guerrilla war of hooliganism and intimidation (Institute for War & Peace Reporting and Media Plan 1996a, 1). Thus, *violence* was a means of political contestation. Freedom of movement was very limited. An estimated number of 120,000 citizens could not find their names on the electoral roll (ICG 1996, 22).

After the elections, the SDS, HDZ, and SDA tried to maintain the *extra-constitutional structures* of their “warrior states.” The institutions of Bosnia and Herzegovina were malfunctioning, if functioning at all. In 1997 and 1998, the Parliamentary Assembly *made few decisions* and adopted only 18 laws in its first legislative period.¹³

¹³ www.parlament.ba/files/user/docs/raniji_zakoni/Usvojeni_zakoni_u_PSBiH_1996_1998_B.pdf> 2009, Feb. 2.

After the war, the Serb *elite* still demonstrated a lack of *acceptance of the common state*. Prior to the first post-war elections, Momčilo Krajišnik, the SDS candidate for the Presidency of Bosnia and Herzegovina, claimed that Republika Srpska was no Entity but a state (Institute for War & Peace Reporting and Media Plan 1996c, 2). The SDS president, Biljana Plavšić, said: "We want the unification of all Serbs in one state, which will be called Serbia" (Institute for War & Peace Reporting and Media Plan 1996b, 3–5). In Republika Srpska the SDS won more than the half of the votes.¹⁴

Opinion polls in December 1995, April 1996, and August 1996 examined, whether the *citizens* supported a unified Bosnia and Herzegovina. 97 to 99 percent of the polled Bosniacs did so. The support for a unified Bosnia and Herzegovina by the Croats decreased from 65 to 31 percent¹⁵, while only four to seven percent of the Serbs supported a unified Bosnia and Herzegovina (US General Accounting Office 1998, 75).

In sum, immediately after the war, the parties to the conflict did not operate in common democratic state institutions. A majority of the Serb political leaders and Serb citizens rejected a state shared with Bosniacs and Croats. Thus, if the asserted vicious circle of state-building and nation-building really exists, democratization should not have progressed since then.

The state of democracy in 2008

Bosnia and Herzegovina does not support the strict assumption of a vicious circle, which impedes any progress of democratization. In 2008, the contested state was much more democratic than in 1996 or 1997. However, Bosnia and Herzegovina could not be assessed as completely democratic. This finding may support the milder interpretation that the vicious circle of state-building and nation-building impedes the establishment of a fully-fledged democracy.

Since 2002 at the latest, have the *elections* largely fulfilled democratic standards. According to observers, the election campaign in 2002 was in substance free of violence and intimidation. The political parties did not

¹⁴ All election results from 1996 to 2006 in: Gromes 2007.

¹⁵ Later, a majority of the Croat citizens supported the common state again.

complain about being restricted by their competitors. Reports by electronic media were assessed as appropriate, impartial, and balanced (OSCE-ODIHR 2002, 1-5). The progress of democratization was highlighted by several changes in the composition of the government both at the federal level and in the Entities. These turnovers demonstrated that *extra-constitutional structures*, i.e. the “warrior states” of SDS, HDZ, and SDA, had lost most of their power. No election after Dayton, however, fully complied with democratic standards. The federal tri-partite Presidency and the House of Peoples of the Parliamentary Assembly reserved seats to Bosniacs, Serbs, and Croats. Citizens with other affiliations could not run for these offices (GFAP, Annex 4, Art. V). The elections missed democratic standards as well due to the High Representative, who was charged by the Dayton Agreement with coordinating efforts to implement the ‘civilian’ parts of the peace agreement. Since December 1997, the High Representative has been entitled to remove elected politicians (Peace Implementation Council 1997, XI).¹⁶

Compared to the legislative period 2002-2006, the Parliamentary Assembly has reduced the number of *decisions* in the ongoing legislative period. While it adopted 229 laws from 2002 to 2006, it has adopted 79 laws from then until the end of 2008. However, in the legislative period from 1996 to 1998, it agreed over 18 laws only.¹⁷ In sum, the federal parliament was more active in 2008 than in 1997. This also holds considering that the federal level has received additional competencies.

The functioning of the common democratic institutions seemed *dependent on the presence of external actors* but to a lesser degree than ten years before. The High Representative had the power not only to dismiss officials but to change or to enact laws as well. Even though he has drastically reduced the use of this power since 2005, Bosnia and Herzegovina cannot be assessed as democratic as long as these powers are in place. In 2008, the external actors still considered peacekeeping troops to be necessary. The European Union Force in Bosnia and Herzegovina consisted of about 2,000 soldiers in 2008, while the initial Implementation Force comprised more than 60,000 troops. Another

¹⁶ Until the end of 2008, the High Representative dismissed more than 190 officials. S. the data available at: <<http://www.ohr.int/decisions/archive.asp>> 2009, Feb. 5.

¹⁷ For laws adopted until 2006 s. www.parlament.ba/sadrzaj/1/47/6.html> 2009, Feb. 2. For laws adopted since 2006 s. www.parlament.ba/uzakoni/1/46/1.html> 2009, Feb. 2.

indicator of dependence was the fact that many decisions of the Parliamentary Assembly fulfilled the conditions demanded by the European Union (EU) for steps towards the membership in its organization.

The citizens of Bosnia and Herzegovina were granted the *freedom* of speech, information, assembly, organization, and movement. A multitude of political parties and civil society organizations characterized the political system. Moreover, the citizens had access to a plurality of electronic and print media. In the Press Freedom Index 2008, Bosnia and Herzegovina was on the same rank (36th) as Spain and the USA.¹⁸

Rule of law and separation of powers remained a matter of concern. The High Representative (2008, para. 26, 35) complained about attempts by politicians to undermine the judiciary's independence. An expert explained: "The judiciary has been successfully reformed. However, a lot of problems remain. Today, it is not completely independent. This assessment does not refer only to individuals but to the system."¹⁹

Violence and threats to use violence stopped playing a prominent role between the political parties. In the last years, major eruptions of collective politically motivated violence occurred rarely. After Kosovo had declared its independence, a manifestation in Banja Luka, the capital of Republika Srpska, turned violent (Nezavisne novine, 2008, Feb. 23). In June 2008, the soccer match Croatia vs. Turkey gave occasion to clashes of Bosniac and Croat juveniles (Oslobođenje, 2008, Jun. 23).

How the vicious circle could be partly overcome

The rest of the case study will show that the outlined democratization took place in three steps: First, a combination of sanctions and supervision compensated for the lack of nation-building. These factors made the elections more democratic, established the common institutions, and expanded democratic freedoms.

In the second step, as the extra-constitutional "warrior states" had been pushed back and alternatives to the Dayton institutions were blocked, the Serb elite started to accept the common state. This change, supported

¹⁸ www.rsf.org/article.php3?id_article=29031 > 2009, Jan. 8.

¹⁹ Interview with an expert on rule of law, Sarajevo. 2008, Nov. 10.

by the inclusive political system, facilitated further democratization. A similar process took place with regard to the prospect of joining the European Union. Progressed democratization was necessary to give that prospect a stronger influence on Bosnian-Herzegovinian politics. When the approximation towards the European Union played a prominent role in the political debates, it furthered the functioning of the common institutions.

In the third step, the higher legislative output of the Parliamentary Assembly gave occasion to reducing the number of dismissals and impositions by the High Representative.

The first step: sanctions and supervision

The Dayton Agreement prescribed that Bosnia and Herzegovina should strictly implement the principles of consociational democracy (Lijphart 1977, 25–47). This type of democracy ensures that all relevant groups take part in the executive and possess veto rights to protect their vital interests. Seats in the government and parliament, positions in the civil service, and state resources are allocated according to proportionality or parity. The parties to the conflict have autonomy, which may be put into practice through federalism.

The constitution of Bosnia and Herzegovina guaranteed the representation of all three major ethnic groups directly in the tripartite Presidency and indirectly in the Council of Ministers. An ethnic veto was anchored within the Presidency and even more so within the House of Peoples, one of the two chambers of the Parliamentary Assembly of Bosnia and Herzegovina. In that federal parliament, both Entities possessed a kind of veto. Many provisions warranted proportionality or parity of the three ethnic groups or of the Entities. The peace accords prescribed a federalist system, in which the responsibilities of the federal level encompassed foreign policy, customs policy, monetary policy, and minor issues such as air traffic control. All other responsibilities including defense were reserved to the Entities (GFAP 1995, annex 4).

Bosnia and Herzegovina confirms that an envisioned democracy with power-sharing does not mean a way out of the vicious circle of state-building and nations-building. In 1997 and 1998, despite all power-sharing provisions the common democratic institutions malfunctioned. The ethno-nationalist parties preferred to maintain nearly unlimited power in their “warrior states” over sharing power with their

adversaries in consociational institutions. In order to enable democratization to progress, the Dayton institutions had to become the main arena for political conflicts. The peace missions had to block alternatives to the common state and to make sure that the institutions of Bosnia and Herzegovina mattered. Peacekeeping troops prevented anew attempts of secession or ambitions to impose a unitary system. The extra-constitutional “warrior states”, however, were mainly tackled by the High Representative. With his powers to dismiss politicians and to impose laws the High Representative pushed back illegal structures, enforced democratic freedoms, and made the consociational institutions more relevant.²⁰

Until 2000, the OSCE-led Provisional Election Commission was another institution in which external actors were mandated to supervise and sanction. This commission organized the electoral process thereby making fraud less likely and ensuring that the elections increasingly fulfilled democratic standards. It ruled that only those political parties could take part in the elections, which signed a declaration of commitment to the Dayton Agreement, the common state and to supporting free and peaceful competition. When political parties violated these principles, the election commission was allowed to impose fines or to drop candidates from the ballot papers (Provisional Election Commission, art. 46, 122, 137-142, 145-150).²¹

The second step: The Serb elite’s acceptance of the common state and the prospect of European integration

The decline of the extra-constitutional structures and the increased relevance of the common consociational institutions induced the SDS, the largest Serb party, to change its attitude on Bosnia and Herzegovina. In December 2000, its leaders, Mirko Šarović and Dragan Čavić, stated that they will support the Dayton Agreement and commit to consolidating the institutions of Bosnia and Herzegovina (Nezavisne

²⁰ In 1998, to mention only one example, the High Representative established the Independent Media Commission in order to weaken the ethno-nationalists’ dominance over the media. In the case of non-compliance with its regulations, the Independent Media Commission was entitled to demand public apologies, to fine the media, to suspend or annul the license, and to seize equipment (High Representative 1998).

²¹ Prior to the first post-war elections, the election commission hesitated to use these instruments. Afterwards, it set about making use of them. For instance, before the early election to Republika Srpska’s National Assembly in 1997, the election commission dropped three of five SDS top candidates from the ballot papers (Dnevni nezavisne novine, 1997 Nov. 22-23, 3).

novine, 2000, Dec. 14, 5). With that declaration the SDS recognized the common state and accepted that the independence of Republika Srpska seems so unrealistic that it was inappropriate to claim or to demand such independence.²² It seems plausible that the declarative acceptance of Bosnia and Herzegovina by the biggest Serb party had a positive impact on the course of democratization. Subsequently, the Parliamentary Assembly adopted more laws than before.

Due to the progress of democratization until 2000 the politicians became increasingly dependent on the support of the voters. According to opinion polls, vast majorities of each ethnic group supported a prospective accession of Bosnia and Herzegovina to the European Union.²³ Owing to democratic feedback loops the politicians could not afford to act openly against integration. The EU had not offered full membership to Bosnia and Herzegovina, Serbia and Montenegro, Croatia, Macedonia, and Albania before May 1999 (Hadžikadunić 2005: 58). The EU emphasized that steps of approximation were subject to conditions.²⁴ Throughout the following years, the prospect of integration into the European Union contributed to further democratization and induced the higher legislative output of the Parliamentary Assembly. Many laws, which have been passed since 2000, were related to the approximation process.

The prospect of EU accession furthered the acceptance of Bosnia and Herzegovina. The parties to the conflict had to recognize that only the common state would have the chance to join the European Union. Thus, in 2004, the President of Republika Srpska, Dragan Čavić (SDS), said that this Entity must “go to Europe through Bosnia and Herzegovina” (Večernje novosti, 19 January 2004). The prospect of integration seemed

²² Without such a declaration the peace missions would not have accepted the SDS' participation in the new government of Republika Srpska. After the early election in 1997, the SDS had been excluded from the government in that Entity.

²³ European Commission's Delegation to Bosnia & Herzegovina: Public Opinion Poll in B&H about the European Union:

www.delbih.cec.eu.int/en/newsletter/public_poll2.ppt > 2005, Dec. 10.

²⁴ In March 2000, the Road Map (EU 2000) demanded inter alia the establishment of a permanent secretary in the Presidency. In November 2003, the EU's Feasibility Study insisted on significant progress towards a single economic space and on police reform (Commission of the European Communities 2003: 11, 40-42). Police reform had also been one focal point during the negotiations on the Stabilization and Association Agreement, which the European Union and Bosnia and Herzegovina signed in June 2008 (Nezavisne novine, 2008, Jun. 17).

to mitigate the conflict over the common state. As a member of the EU, the borders of Bosnia and Herzegovina would play a less prominent role, in particular if Serbia and Croatia would also be part of the European Union. Bosnia and Herzegovina could remain an independent state and offer its Serb and Croat citizens a political union with Serbia and Croatia respectively.

The third step: Less protectorate, more reforms, but no fully-fledged democracy

The work both of the Council of Ministers and the Parliamentary Assembly benefited from the fact that the Serb leadership had declared its acceptance of the common state. Moreover, the prospect of EU integration improved the functioning of the common institutions. Nevertheless, as the functioning of the democratic executive and legislative was still troubled, the High Representative continued to push for reforms. In May 2002, for instance, he initiated a reform of the judicial system, which included that all positions for judges and prosecutors were tendered anew. The candidates had to prove their qualification, give an account of their activities during the war, and reveal their personal estate and liabilities (Independent Judicial Commission 2004, 4, 54–64). Not before 2005, the High Representative reduced the number of dismissals and impositions and started to review and undo former decisions. In January 2006, reacting to the higher legislative output of the Parliamentary Assembly and the approximation to the European Union, he announced that his office might be closed in the near future (High Representative 2006). Although Bosnia and Herzegovina did not become fully sovereign, the elected institutions have less depended on external actors since then.

Up to now, this article did not say anything about the reasons why Bosnia and Herzegovina was no fully-fledged democracy even 13 years after the war. One reason was that democratization continued to be hampered by a lack of nation-building. Only in 2005, did the majority of Serb citizens accept Bosnia and Herzegovina as their state. At that time, 52 percent of them fully supported the statement that the Dayton solution should remain in force (Kostić 2007, 295). Since May 2006, the government of Republika Srpska, led by the Alliance of Independent Social Democrats (SNSD), has frequently threatened to organize a referendum on independence, if the Bosniac parties continued to insist on abolishing Republika Srpska. Additionally, Bosnia and Herzegovina was burdened with a long authoritarian past. Thus, even in 2008, the

political culture was characterized by intolerance and thinking in collective terms. In a certain sense, the extensive powers of the High Representative contributed to reproducing the authoritarian tradition. His dismissals and impositions demonstrated that “the argument of power is stronger than the power of arguments”, as Dragan Mikerević, a former Prime Minister of Republika Srpska, once said.²⁵

Conclusion

In ethnically divided post-civil war societies democratization has to master the double task of state-building and nation-building. As both challenges have to be addressed at the same time, democratization seems blocked by a vicious circle: A lack of democratic state institutions hinders nation-building, and if the parties to the conflict do not accept the common state, the institutions cannot function.

In a strict interpretation, the vicious circle impedes even a partial success of democratization. Bosnia and Herzegovina, however, disproves this assumption. In this case, extra-constitutional structures were pushed back and democratic institutions and freedoms have been established although the Serb side rejected the common state. To a certain extent, comprehensive and powerful peace missions have compensated for the lack of nation-building. They prevented alternatives to the common state and ensured the significance of the consociational institutions. After some years, the Serb leadership recognized that Bosnia and Herzegovina was a fact. This change was also brought about by the popular prospect of becoming a member of the European Union. After the Serb elites ceased to openly reject the common state for some years, the Serb citizens followed and accepted Bosnia and Herzegovina as their state – but only in 2005. Since May 2006, nation-building has suffered a setback, which afflicted the work of the common democratic institutions.

Even at the peak of nation-building in 2005, the institutions of Bosnia and Herzegovina were malfunctioning and depending on inputs by the High Representative and the European Union. Even then, Bosnia and Herzegovina could not be considered a fully-fledged democracy. These findings seem to prove a moderate understanding of the vicious circle: The efforts of democratization in ethnically divided post-civil war societies may bring about a certain progress. However, even when they are combined with a very inclusive political system, powerful peace

²⁵ Interview, Dobož, 2005, Apr. 9.

missions and a prospect of integration, they do not lead to a state, which deserves to be assessed as fully democratic.

Democratization Studies claim that a *successful* democratization needs both a state and that all relevant groups accept this state. The case study on Bosnia and Herzegovina confirms this assumption, if success is defined as bringing about a fully-fledged democracy. However, if a limited progress towards democracy is deemed as a success, the findings by seminal studies on democratization have to be qualified.

The case study on Bosnia and Herzegovina allows not only deriving implications for the theory on democratization but also leads to a number of policy-related conclusions: After wars on secession, democratization is inhibited by a vicious circle of state-building and nation-building. Nevertheless, at least a partial success of democratization is possible, as external actors can compensate for a lack of nation-building through blocking alternatives to the common democratic institutions and through tackling extra-constitutional structures. Looking at the experience in Bosnia and Herzegovina, it seems plausible to assume that a party to the conflict less likely resists such efforts, if the constitution guarantees its participation in decision-making. However, the vicious circle cannot be overcome only by envisioning democracy with power-sharing.

Bosnia and Herzegovina demonstrates that for peace missions it is easier to establish or enlarge freedoms than to induce the parliaments' and governments' functioning. In the selected case strong elements of a protectorate were needed to enforce the establishment of democratic freedoms and institutions. As of a certain point, however, the semi-protectorate turned out as an obstacle of further democratization.

As the prospect of integration into the European Union has alleviated the conflict in Bosnia and Herzegovina, it can be assumed that such a prospect of accession to an established zone of peace and prosperity may prompt the parties to the conflict to put up with a common state. A prospect of integration, however, does not effectuate that a conflict over the common state disappears. After wars on secession, the conflict over the mere existence of the common stonewalls democratization. As Bosnia and Herzegovina suggests, neither consociationalism nor peacekeeping troops, a protectorate, a prospect of integration nor a

combination of all these tools effectuate can resolve a conflict over the common state.

These findings do not imply that democracy promotion after wars over secession should be stopped. Perhaps democratization simply needs more time than the thirteen years it had after the war in Bosnia and Herzegovina. It is even more important that for most cases such alternatives as postponing democratization or partition seem to be much worse than democratization.

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