

Bedrudin Brljavac*

ETHNO-NATIONALIST WELTANSCHAUUNG IN BOSNIA AND HERZEGOVINA ON THE ROAD TO THE EUROPEAN UNION

Despite the fact that Bosnia and Herzegovina have been going through a deep and thorough Europeanisation process since the late 1990s it is interesting and puzzling as well that the country still has not achieved the expected level of democratic consolidation. Especially, it is of utmost importance to pay attention to the increasing political domination of ethnic-nationalist political forces in the post-war Bosnia which tend to institutionally marginalize citizens of the minority groups and those who declare themselves as non-nationalists. Such a discriminatory process clearly opposes the country's aspirations towards European Union membership. Thus, in this article I investigate the process of the post-war ethno-nationalist paradigm which has brought about deep discrimination against the so-called Others as they are defined in the Constitution of Bosnia and Herzegovina. The article comes with the conclusion that post-war Bosnian democracy has included a number of institutional shortcomings and serious deficiencies thus resulting in an ethnocratic regime which excludes everyone who does not feel part of such a regime. Thus, the current process of an ethno-nationalisation has clearly blocked further progress of the country towards the future European Union membership.

Key words: Democracy, Dayton Agreement, Ethno-nationalism, European Union, Minority Groups, Constituent Nations

1. THE DOMINATION OF ETHNO-NATIONALIST POLITICAL PARTIES

In the aftermath of a widespread democratization processes in Eastern and Central Europe, in November 1990 the first multi-party elections were held in Bosnia and Herzegovina (hereinafter, Bosnia or BiH). These elections were among the first signs which marked the democratic transition of the country from the communist regime to liberal democracy. However, political parties in the country were allowed to be organized along ethnic lines resulting in the nationalist parties together collecting 84% of the vote (Arnautović 2007: 7). Thus, an organization of the first democratic elections in the country marked the start of the political hegemony of nationalist political parties as majority of the electorate voted for nationalist parties, that is, Bosnians voted for the Party of Democratic Action (SDA), Bosnian Serbs for the Serbian Democratic Party (SDS), and Bosnian Croats for the Croatian Democratic Union (HDZ) (Freedom House 2010: 122). Furthermore, even the post-election

* University of Sarajevo; bedrudin07@yahoo.com

distribution of power was based upon ethnic principles so that the President of the Republic of Bosnia and Herzegovina was a Bosnian, the of the Parliament was a Serb, while the prime minister was a Croat representative. What is more, the war that broke out in 1992 further increased ethnic hatreds and mutual intolerance resulting in ethnicity and ethnic solidarity as a dominant social and political cleavage. Thus, political competition for votes has been based mainly on nationalist rhetoric, and the so-called politics of outbidding has continuously taken place in post-war BiH as nationalist parties have cemented their early seize of power in successive elections (Jarstad 2006: 16).

Thus, the conflict between the three ethnic groups intensified inter-ethnic polarization and massively strengthened the political domination of ethno-nationalist political parties in the decision-making processes. What is more, the Dayton Peace Agreement, signed in 1995 and brought the war to the end, not only created an extremely cumbersome policy process that would frequently result in deadlock, it also left unresolved the conflicts that had come to the fore in the 1992–1995 war and enshrined the ethno-nationalist principle as the foundation of public discourse (Vogel 2006: 2). While the DPA brought the war to an end and laid the foundation for consolidating peace, many observers also believe that the agreement as a document that reflects wartime circumstances cannot by itself ensure BiH's future as a functioning and democratic state (Ashdown 2005). As Kurt Bassuener points out, the Dayton constitution makes leveraging fear politically profitable and politicians unaccountable. Bosnian politicians pursue their self-aggrandizing, maximalist goals at the expense of the general welfare (Bassuener 2009: 1). Thus, the post-war political and social space has been largely been dominated by three ethnic groups leading to institutional marginalization of minority groups and each citizen who does not identify with the dominant ethnic communities. In addition, the goal of the nationalistic philosophies in Bosnia is not to initiate some kind of physical conflict. Their goal is to maintain a certain level of frustration among ordinary citizens and thereby to maintain a logic of exclusiveness and distrust toward the other ethnic groups and in such a way to extend their rule (Kukic 2005: 15).

In post-Dayton Bosnia the majority of citizens are in a position of homo duplex or a divided human since their in a struggle between being a genuine human being and loyal ethnic being. While transition to democracy should bring about participation and inclusion of diverse groups into public policy-making the post-war Bosnian public sphere has been increasingly dominated by an ethno-political matrix causing discrimination against each citizen in the country who does not declare himself as a member of the three biggest ethnic groups. As Fareed Zakaria claims:

In countries not grounded in constitutional liberalism, the rise of democracy often brings with it hypernationalism and war-mongering. When the political system is opened up, diverse groups with incompatible interests gain access to power and press their demands. Political and military leaders, who are often embattled remnants of the old authoritarian order, realize that to succeed they must rally the masses behind a national cause. The result is invariably aggressive rhetoric and policies, which often drag countries into confrontation and war (Zakaria 2003: 114).

Keeping in mind that the process of ethnic-nationalist political paradigm has become central social and political parameter in the post-war Bosnia and Herzegovina it is puz-

zling to understand how such a discriminatory political model has influenced the country's aspirations of European Union membership. Thus, this research explores just that and is based around the fundamental question of the extent the ethno-nationalist political Weltanschauung has slowed down the European integration-related reforms in post-war Bosnia and Herzegovina?

2. BALKANISATION VERSUS EUROPEANIZATION

In addition, such a discriminatory political system is in clear conflict with the country's efforts to enter the European Union in the foreseeable future. In fact, in the end of 1990s through the newly initiated Stabilization and Association Process (SAP) the European Union has aimed to encourage the path of the region's states, including BiH, integration into the political and economic structures of the Bloc (Becker 2008: 20). Thus, the SAP became the centerpiece of the EU's long-term strategy towards the region of Western Balkans. Additionally, in June 2000 in the Feira European Council it was decided that all the SAP countries, including Bosnia, are potential candidates for EU membership. Following a difficult reform process Bosnia and Herzegovina has signed the Stabilization and Association Agreements (SAA) with the EU in June 2008 which was the first pre-accession tool for this Balkan country towards its eventual EU membership. The previous EU enlargement commissioner Olli Rehn called the SAA a milestone that marks a new stage in our relations and a gateway for [EU] candidacy (Vucheva 2008). Thus, for BiH and for the whole of the Western Balkans, the EU-related reform process means adjustment to advanced western models as well as security and prosperity for the future (Anastasakis 2005: 80). In other words, the so-called Europeanization process has influenced the political, economic, administrative, and social policy-making in the country.

Thus, Kubicek (Kubicek 2005: 374) claims that the process of Europeanization not only guarantees new opportunities for societal forces that had been previously excluded from policy-making but also it contributes to the transformation of other structural elements such as a political ideology (identity politics), a legal framework, and a party system, and triggers changes in them all, finally resulting in internal reforms. Furthermore, Ladrech (Ladrech 1994) mentions the transformative power of the Europeanization process putting emphasis on citizenship and national identity. However, it is highly debatable to what extent the Europeanization process in Bosnia has influenced the idea of citizenship since minority groups and non-national members are widely marginalized both at the state and societal level. Although there have been a number of difficult problems slowing down Bosnia's EU reform process, widespread ethnic polarization and omnipresent ethnic domination over the public sphere have become the most staggering challenges to the country's route to Brussels. That is, the current Bosnian ethno-political arrangement has limited realization of citizens' individual identity that should be an essential part of the Europeanization process. Post-war Bosnia has mostly been closer to the process of 'Balkanization' that is viewed as contrary to what may be 'western' values and norms (Todorova 1994).

3. THE EUROPE UNION'S NON-DISCRIMINATION PRINCIPLE

What is more, one of the main objectives of establishing the European Community, later called the European Union, was to reduce disintegrative and harmful influences of nationalists and thus integrate the European countries into a peaceful, prosperous, and secure community. That is, a peaceful and harmonious coexistence between different national, linguistic, religious, sexual, and racial groups have been encouraged in the EU institutional framework (Zofia Wilk-Woë 2010: 79). In particular, at the outset of the 1990s the EU intensified its activities in the field of minority protection prior to the enlargement of the Central and Eastern European countries. Thus, in June 1993 the European Council held in Copenhagen agreed on the so-called Copenhagen Criteria that, among other things, emphasizes the protection of minority groups. That is, the EU's Copenhagen political criteria require candidate countries to achieve "stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities" (Harryvan, van der Harst 1997: 285). This being said, the applicant countries are supposed to implement necessary reforms and pass laws that will effectively protect members of minority groups.

Thus, the Copenhagen Criteria has considerably contributed to the extension of individual rights because it cemented the agreement that "persons belonging to national minorities can exercise and enjoy their rights individually as well as in community with other members of their group" (OSCE 1990). Additionally, Article 12 of the TEC had prohibited discrimination based on national identity. Following the Amsterdam Treaty, the Article 13 of the TEC forbids discriminatory acts on the basis of eight following grounds, namely, sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Most importantly, in the Treaty of Lisbon the minority groups were legally recognized in the text of EU primary law (FRA 2010: 46). Thus, in the Article 1a it was stated that the rights of persons belonging to minority groups have become the central values and principles that the EU protects. Furthermore, the EU Fundamental Rights Charter paves the way to the principle of the non-discrimination and encourages member states to protect religious, cultural, and linguistic diversity (Vouters 2001). This brought the EU much closer to its visionary ideal of "Unity in diversity".

4. POLITICAL PARTICIPATION OF CITIZENS

On the other hand, contemporary Bosnian public life has been marked by extensive exclusive political modus vivendi based on extreme violation of fundamental human rights marginalizing citizens that do not sympathize with nationalist political projects. Thus, the post-Dayton political model has been concerned with the extent and nature of political participation of the citizens belonging to the three largest nations in the country. In order to thoroughly comprehend and analyze the process of political participation of the citizens in the country Jurgen Habermas's notion of citizen recognition provides an adequate theoretical framework as a basis for constructive debate. For instance, Habermas examines cases where the cultural or national identity of citizens prevents their political participation in

the public sphere with the rest of society denying them basic human rights. According to Habermas, the public spaces characterized by serious violations of basic human rights by other citizens there exists “an incomplete or unequal inclusion of citizens, to whom full status as members of the political community is denied” (Habermas 2005: 16). Simply put, Habermas supports the thought that democracy is only possible with widespread presence of inclusive participation in a society. Also, in the view of discursive theorists it is important to maintain not just maximal inclusion but also equality of effectiveness in the exercise of communicative freedom among all the citizens who participate in the democratic process (Knight, Johnson 1995: 302). To be sure, Habermas also admits that “collective rights are not suspicious *per se*” (Habermas 2005: 19). Similarly, Taylor has argued that possible clashes between individual and collective rights are resolved by supporting the inherent values in cultures that respect the idea of fundamental rights (Taylor 1994).

That is why, Habermas has strongly defended democratic principles such as popular sovereignty, rule of law, constitutionally guaranteed rights, and civil liberties as an indispensable component of the open and democratic regime. Therefore, Habermas argues that constitutions are the basis for creating a peaceful and democratic society in a heterogeneous contexts. In this regard, he also points out that it is the constitutional principles based on a rule of law that unite and integrate the citizens of a society in which there is a wealth of social, cultural, national, philosophical values, and ideas (Habermas 2003). That is, inclusive constitution is the basis of democratic order in every free and open society. As O’Neill points out: “no citizen, or group of citizens, should be excluded from a democratic process of legitimation. Relevant interests and needs, values and aspirations, convictions, and conceptions of identity, must somehow all be factored into our law-making procedures” (O’Neill 2000: 1). Therefore, societies perceiving themselves as democratic can not set up their political order on exclusionary or discriminatory constitutional principles or a marginalizing social mindset. In the context of Bosnia where there are the three dominant ethnic groups and several minority groups it is of utmost importance to design a political system which will be able to accommodate all these existing diversities. As Marshall and Gurr point out it is critical to “provide some combination of political recognition, greater rights and regional autonomy to the populations represented by [separatist] movements” (Marshall, Gurr 2003: 26).

5. ETHNO-NATIONALIST RATIONALE OF THE DAYTON AGREEMENT

Although more than fifteen years since the Dayton Agreement was signed political tensions are still omnipresent across Bosnian society and national leaders are challenging the Peace Accord more openly and more harshly than ever before. That is, in post-Dayton Bosnia an exclusive ethno-nationalist approach to politics has managed to gain the upper hand over reconciliation and consensus (Bianchini 2000: 79). Better to say, the Constitution of Bosnia and Herzegovina is a constitution of the Peace Agreement, not of a democratic country. It is an attempt to provide an internal framework to the administrative, territorial division of Bosnia and Herzegovina as well as to construct an institutional structure based

on ethnic principles. Founded on ethnic representation, this constitution prefers by virtue of its inner logic political parties of the same, ethnic principle. These parties form a ruling coalition that has been unable to set up effective institutions; in fact, the lack of functioning of institutions is a natural way the government of these parties function (Pacic 2005: 34). Thus, BiH is still far from a functioning and democratic state that the accord had envisioned. Today, the country still consists of de facto three mono-ethnic territories, three education systems, and a national government where ethnic key is the rule of the game. In fact, the whole state structure is built according to an omnipresent ethno-nationalist model. Therefore, the three majority ethnic groups dominate the public discourse in every aspect of life, excluding minorities and non-nationalists. The best example is the Bosnian rotating presidency consisting of three members: one Bosnian, one Croat, and one Serb, each of whom must be directly elected in their respective entity. That is, the Bosnian constitution treats non-ethnic members of its community as aliens or apostates.

In other words, as stated in the Dayton Agreement the Constitution of BiH prevents candidacy of “others”, which are minority groups, to the Presidency and the House of Peoples on the ground of their ethnic origins because these positions are guaranteed for the so-called ‘constituent’ peoples, i.e. Bosnians, Serbs, and Croats. However, from an historical and legal point of view, such an aspect of constituency is impossible to explain. Its background is definitively politically motivated (Imamovic 1998: 114). The term ‘constituent people’ is used to mean a nation, a particular national identity, and not to mean the people (*populus*) as the sum of individuals, citizens of a state... This term is used in the case of multinational political communities or states without a clear majority. In conditions of a mixture of nations, the relation between a constituent people as a collective and an individual member of that collectivity is personal and not territorial (Trnka 2000: 49). However, Trnka’s explanation of why there is this ‘constitutional category’ at all is paradoxical:

The establishment and realization of specific rights of constituent peoples is justified until the economic, social, political, cultural, and other conditions for realization of international standards of human rights and freedoms are established, that is until local and international protection mechanisms of these rights and freedoms are established. Therefore, this is a transitory solution until society and state without discrimination among the peoples on the ground is established (Trnka: 2000: 57).

In addition, “the ethnic principle generally determines the constitutional procedures and functioning of the central government of the Dayton Constitution” (Sarcevic 1997: 53). Thus, ethnic groups are represented as communities in different power-sharing levels institutionalizing ethnic nationalism as a dominant political objective. The hegemony of ethno-politicians has been perpetuated by the vague and manipulative idea of “constituent peoples”. As a result, minority groups and non-ethnic members of Bosnian society are completely excluded from the current power-sharing model. It is a kind of heresy to declare yourself non-ethnic or a sympathizing minority identity. As Touquet and Vermeersch argue:

These people have now been excluded from mainstream accounts of the outcomes of the recent conflict: it is not possible to be a Yugoslav, a Bosnian or an Eskimo in a situation in which ethnic nationalism has transcended all else and in which there are intensely localized variations in identity and ‘national’ sentiments (Touquet and Vermeersch 2008: 280).

6. POLITICAL COMPETITION BETWEEN ETHNIC GROUPS

In addition, a number of scholars regularly point out that DPA was negotiated by the nationalist actors, who actually were one of the main causes of the war, and thus it just extended the power of the ethnic-nationalist parties and their leaders (Kaldor 1997: 28–30). Bosnian citizens that do not belong to the so-called “constituent peoples” were forgotten during the negotiations in Dayton and later completely excluded from the institutional framework. Thus, the so-called “Others” in the Bosnian constitution, namely Jews, Roma and all others who do not declare affiliation with the three ethnic groups have become citizens without institutional space to exercise their political and social rights. Given such unlawful provisions of the Bosnian constitution the country has faced a deep institutional and constitutional crisis which openly threatens the idea of democratic participation. As post-war Bosnia was designated to become an “ethnic state” in the eyes of ethno-nationalist leaders the national minorities as an argument of genuine multi-national Bosnia have been marginalized from public space. Thus, such a legal and political basis imposes the “permeation of national identity at all institutional levels” and produces a massive “ethnicization of the political system” (Bieber 2004: 84).

Thus, through extensive institutionalization of ethno-nationalization Bosnia has become a place where only citizens declaring themselves to be nationalist have a right to take part in the country’s policy-making processes. In fact, the category of “others” and non-nationalists are openly perceived as a threat to the power-sharing model of rotation where three ethnic groups chose their representatives, respectively. The “rotation model” is a clear mechanism of political engineering in order to achieve the objective of an ethnically-divided Bosnia. Thus, democratic participation in the country is a competition between ethnicities or ethnic communities rather than a race of equal personalities having the right to vote. As a result, the post-war hegemony of ethno-nationalists has paradoxically resulted in increasing the democratic deficit of the country. Consequently, all those that belong to the category of “Others” who number 17 in BiH, namely, Albanians, Montenegrins, Czechs, Italians, Jews, Hungarians, Macedonians, Germans, Poles, the Roma, Romanians, Russians, Ruthenians, Slovaks, Slovenians, Turks, and Ukrainians (Hammarberg 2010: 6) are just playing a role of mere spectators during democratic elections. As a result, the “Others” and non-nationalists among the Bosnian population have become “strangers in their own country”.

7. SYSTEMIC MARGINALIZATION OF THE MINORITY GROUPS

The Dayton Agreement resulted in a power-sharing structure dividing Bosnia into two “ethnic” entities, the Bosnian Serb-populated Republika Srpska, and Bosnians and the Croat-populated Federation of Bosnia and Hercegovina. In addition, at the state level there is a rotating presidency consisting of three ethnic representatives respectively, and a state parliament which are superior to the entity institutional structures. Nevertheless, as stated in the Dayton Agreement the Constitution of BiH prevents the candidacy of “Others”, which

are minority groups, to the Presidency and the House of Peoples on the ground of their ethnic origins because these positions are guaranteed for the so-called 'constituent' peoples, i.e. Bosnians, Serbs, and Croats. This includes national minorities who have lived in Bosnia and Herzegovina for centuries" (Claridge 2010: 1). This power-sharing arrangement has considerably contributed to the process of ethno-nationalization since non-ethnic elements are completely excluded from political participation in the country where they were born. Although BiH joined the Council of Europe on 24 April 2002 there has been increasing discrimination against minorities in the country.

Thus, the Constitution of BiH institutionalizes some new type of ethnic democracy that challenges the values of the European Enlightenment, of the individual as an abstract citizen (Sarcevic 1997: 55). By forbidding minority members the right to run for office the Bosnian constitution violates fundamental human rights though in 2002 its government ratified the ECHR and its Protocols. Thus, Jakob Finci and Dervo Sejdić who are respectively Jewish and Roma by their ethnicity, contested these provisions before the ECHR since they were banned from running for office. On December 2009 the Court ruled that the exclusion of minority groups from Bosnia's highest elected offices constituted unjustified discrimination. Thus, "the European Court has made it clear that race-based exclusion from political office has no place in Europe," said Clive Baldwin, senior legal advisor at HRW (Guardian 2009). If correctly implemented, the decision of the ECHR will assist in breaking down ethnic and religious divisions in Bosnia and Herzegovina by encouraging political participation and representation, and promoting social cohesion. (Claridge 2010: 2). However, two years have passed since the Court decision and the country's politicians have not yet removed discriminatory provisions from the constitution due to their different ethnic interests. As a result, Bosnia is still profoundly an undemocratic country. While most of Europe is going towards multi-national structures Bosnia is still pushing ethno-nationalization.

8. PREJUDICES AND DISCRIMINATION AGAINST THE ROMA POPULATION

For instance, the Roma problem in the country is the most illustrative case. Although in 2008 Bosnia and Herzegovina adopted the Action Plan to Address the Problems of Roma in Employment, Housing and Healthcare, this minority group is still highly marginalized. Similarly, both in pre-war and the post-war Bosnia Roma have been one of the most marginalized and repressed social groups. According to the Roma NGOs, 75–100 thousand Roma are living in BiH and they are considered to be one of the largest national minorities in the country. Although the country is on the way to the European Union there has been profound discrimination against Roma within the sector of employment, health, and political representation. For instance, Roma are the most numerous ethnic group amongst the homeless in BiH. More than 70 % of Roma do not have a house, while the rate of Roma returnees is very low (2009). According to a 2007 report by UNICEF, up to 80% of Roma children in Bosnia and Herzegovina do not attend school, only 20% of Roma participate in secondary education, and less than 1% in higher education (2007). The pro-

portion of Roma employed within the public sector in Bosnia and Herzegovina is estimated at 2–3%. Thus, they are discriminated against even in the terms of basic human rights.

In addition, even in the media the Roma members are degraded and describing them as “problematic”, “violent”, “dangerous” etc. For instance, when an incident involving the Roma happens, their full names are given in sensational headlines, even if they are minors, with almost an obligatory remark that they belong to the Roma minority (Turcilo 2009). In addition, the Council of Europe Commissioner for Human Rights, Mr Thomas Hammarberg, and his delegation visited Bosnia and Herzegovina, from 27 to 30 November 2010 in order to evaluate the living conditions of minority groups in BiH. As far as the Roma minority is concerned, the Delegation summarized that their lifestyle prevented the State from including them in statistics. The government knows they live in difficult situations and is serious about this issue. But the delegation said that the question was more one of prejudice than discrimination (Hammarberg 2011). Further, the Delegation recommends to the Bosnian government to intensify efforts in order to improve the social and economic conditions the Roma community drawing upon the Council of Europe Committee of Ministers’ Recommendation on the Policies for Roma and/or Travellers in Europe (CM 2008).

9. INSTITUTIONALIZATION OF ETHNO-NATIONALIST ELITES

In addition, the education system has been widely utilized by the ruling ethno-nationalists to strengthen their ethnic hegemony. In fact, ethnic leaders have not demonstrated necessary the political will and commitment to establish genuine multi-ethnic schools. As the European Commission pointed out in its 2009 Progress Report for BiH: “Divisions in the education system through continuous development of mono-ethnic schools in both entities are still a matter of concern and result in de facto segregation of pupils from the very beginning of their schooling” (European Commission 2009). Also, Curak argues that:

Education in Bosnia and Herzegovina is our crucial failure. In the long run we are rearing the new children of future nationalism. I cannot believe that there is no civic outrage about this. We are living in educational apartheid and we have become used to it. Education is the key evidence that the international community, together with local political entrepreneurs, is producing a virtual Bosnia and Herzegovina and a real Rhodesia. The people who produce ethnic segregation among children deserve nothing but absolute contempt. However, this kind of education is a mere reflection of this country’s construction. Should such a construction prevail in the near future we will continue to have children who would be incapable of any agreement and consensus (Curak 2005: 66).

For instance, the educational system in the Federation of BiH is built on the model of “two schools under one roof” where children from two ethnic groups, Croats and Bosnians, attend classes in the same building, but are physically separated from each other and taught a separate curriculum. Today, there are 57 such schools in this part of Bosnia. Some ethnic politicians oppose integrated multi-ethnic schools free from political, religious and any other discrimination arguing they would lose their ethnic identity mixing with others. Ethno-nationalists have used education for the systematic indoctrination of their respective ethnic group.

What is more, the education system in BiH instead of playing a role of integrative platform in which democratic values and norms are being thought it has been under the vehement influence of ethno-nationalist political elites resulting in serious discrimination of minority groups. On the other hand, the OECD stresses in its report published in September 2001 that “education systems should not just be ‘fair’ to minorities – they should promote a spirit of equality and tolerance among ethnic and cultural groups” (OECD 2007). However, in the post-Dayton Bosnia minorities have become “invisible” in the education system which is hammering out the ethno-nationalist paradigm. As Valery Perry argues:

Let us take a look at language. The official language in the Republika Srpska is Serbian, and in the Federation the official languages are Bosnian or Croatian, depending on the canton. The ‘others’ learn the language that is dominant in their particular surrounding. It is worth stressing that we have three official languages in one country. ‘Others’ have been assimilated into an official language, but only the language of their specific territory, which in my opinion is not in accordance with their human rights (Perry 2002: 27).

10. IS A CONSOCIATIONLIST MODEL GOOD FOR BOSNIA?

Probably the marginalization of minority groups from the Dayton negotiations and from the agreed accord conception was a result of a speedy reaction to end the war and find a difficult compromise solution. The most important thing was to end the horrible war and find a power-sharing model in which each ethnic group will take part without being discriminated and dominated by the other two groups, respectively. That is, the main objective of the Dayton negotiations was peace rather than equality, thus discriminating against non-nationalist groups. As the European Court of Human Rights (ECHR) concluded in their ruling concerning the Sejdic-Finci case:

(...) a very fragile cease-fire was in effect on the ground. The provisions were designed to end a brutal conflict marked by genocide and ‘ethnic cleansing’. The nature of the conflict was such that the approval of the ‘constituent peoples’ (...) was necessary to ensure peace. This could explain, without necessarily justifying, the absence of representatives of other communities ... at the peace negotiations and the participants’ preoccupation with effective equality between the ‘constituent peoples’ in the post-conflict society (ECHR 2009: 34).

As a result, BiH has become a bi-cameral legislature where the three so-called “constituent peoples”, Bosnians, Serbs and Croats, are represented in parity (5:5:5) in the second chamber, the House of Peoples (Marko 2005: 6). In addition, both the state presidency and the national government with ministers and their deputies are composed according to the ethnic power-sharing. Thus, the post-Dayton institutional framework is to a large extent based on the consociationalist model of power-sharing (Lipjhart 1994). Consociationalism is a form of power-sharing whose main purpose is the reconciliation of diverse social preferences along ethnic and religious lines (Schneekener 2002: 203–206). In other words, the Dayton Agreement has resulted in an institutional framework in which the largest three ethnic groups are officially recognized in the constitution and which take equal part at all

administrative decision-making levels, and also enjoying the same right of veto when their respective “vital national rights” are endangered (Bieber 2004). However, the consociationalist model of power-sharing in Bosnia has not brought about the necessary democratic transformation and reconciliation even after the fifteen years of transition period. While envisaged to keep the equilibrium between three ethnic groups the Dayton-based consociationalist model completely excluded minority members and non-nationalists from the decision-making process.

11. THE PRIMACY OF COLLECTIVE IDENTITY

The post-war power-sharing order in Bosnia and Herzegovina has heavily relied on the constituent ethnic groups. However, the weak performance of democracy and ethnic tolerance under the current rules reveals the limits of institutional engineering (Manning, Antić 2003, 55–56). It is of crucial importance to apply institutional engineering in post-conflict societies in order to bring peace and stability among warring fractions. In fact, institutional engineering is the art of providing for rules and institutions in order to pursue political goals – such as creating a functioning multi-ethnic democracy (Reilly 2001; Grofman, Stockwell 2003). Nevertheless, the war in Bosnia was thought to end through the ethnic balance of power-sharing which resulted in a political concept that was counterproductive further increasing ethnic tensions among the warring groups. As Zarije Seizovic points out:

The “ethnic criteria” introduced in the Preamble of the Constitution of BiH (being reinforced in a number of places in its normative part) prevents the BiH authorities from sharing power equally within civil society, favouring ethnic groups to the detriment of the individual citizen (Seizovic 2007: 2).

In fact, such a power-sharing model has been viewed in essentialist and absolutist terms by ethnic groups or a clear example of the zero-sum game.

Furthermore, while minority groups were completely marginalized during the negotiations among the warring ethnic groups their presence and political inclusion could be utilized for the development of a democratic and open system of governance. While today after the ruling of the ECHR they have become a huge problem on the country’s integration into Euro-Atlantic associations they could actually be a part of a long-term solution. In fact, the Constitution of BiH recognizes basic human rights and the protection of minority groups and requires that State institutions and both Entity government tenure the highest level of internationally recognized human rights and freedom from discrimination (Art. II 4). Yet, in practice all the country’s citizens do not enjoy human rights and fundamental freedoms on an equal basis. That is, the current constitutional order was unsuccessful from the very outset in BiH, as it has not provided for the protection of individual citizens but their collective identity (Seizovic 2007: 2). Were the minority protected from the discriminatory acts the whole concept would turn from ethnic to civic eradicating the ethnic homogenization as a main source of political and social tensions in Bosnia. This would lead to the strengthening of universal human rights as prescribed by the liberal-democratic order.

12. NO COMMON BOSNIAN CITIZENSHIP

Following the ethnic conflict in 1992–1995 and the post-war domination of the ethno-nationalist paradigm citizenship in Bosnia has acquired unique features based extensively on the primacy of group rights over individual rights. In fact, the Dayton constitutional framework guarantees both state and entity citizenship for the population in Bosnia and Herzegovina. That is, the acquisition of entity citizenship has further intensified the process of ethnic homogenization and also the exclusion of non-ethnic elements in the country. As Sarajlic points out:

In addition to the malaise of postsocialist transition, shared by all the Yugoslavian successor states, the existing Bosnian citizenship regime has been strongly influenced by a heritage of ethnic conflict and the provisional constitutional set-up of the country, (...) the conceptualization of citizenship in Bosnia and Herzegovina has been dependent on the definition of the community of citizens who constitute the state. Since Bosnia and Herzegovina is not a nation-state (and has never been one) but a federal union based on the sovereignty of ethnic groups which have political supremacy over individuals, making clear-cut assumptions and definitions of Bosnian citizenship is close to impossible (Sarajlic 2010: 2).

That is why, it has become almost illogical to talk about the citizens of Bosnia and Herzegovina since more than half of the country's population does feel as Serbs, Croats, or Bosnians rather than Bosnians. In other words, BiH political discourse has become limited and even restrictive for the members perceiving themselves as Yugoslavs, Bosnians, Romas, Jews, and so forth. In that regard, Atajic points out that,

(...) everything – from the greeting you use to the dialect you speak and the newspaper in your coat pocket – is judged, commented upon and categorized in terms of an omnipresent, mysticised 'ethnicity'. Under such circumstances, defining oneself as a citizen of the BiH state is tantamount to a betrayal of one's national identity (Atajic 2002: 118).

In fact, for the vast majority of people in Bosnia ethnicity is perceived as a religious dogma that has to be respected. Such a situation has produced negative consequences on the development of common Bosnian citizenship. In this context, there is also a kind of absurdity; namely, even those citizens who are Bosnians (instead of being Serbs, Bosnians or Croats) constitute a minority in BiH (Turcilo 2009: 1).

13. "CONSTITUTIONALITY OF NATIONALITIES"

Furthermore, the interests of collectivity have dominated individual preferences of citizens preventing the development of free discussion and inclusion of non-ethnic elements of society. As Mujkić and Husley point out:

Since the first democratic elections in Bosnia and Herzegovina in 1991, politics has been characterized by ethnopolitics rather than interest-based politics. The result is that political competition for voters has been warped, with the role of voters reduced to a kind of ethnic census (Mujkić, Husley 2010: 144).

What is more, before the day of elections the vast majority of the members of three ethnic groups decide “collectively” to give vote to their ethno-nationalist political parties, respectively. In other words, the post-war ethno-nationalization discourse has created omnipresent “ethno-nationalist pressure” over the members of Bosnian society to identify with one of the three national groups. That is, the post-war ethno-nationalist paradigm “naturally” exerts pressure on Bosnian Muslims, Bosnian Catholics, and Bosnian Orthodox, to align with their respective nationalist political parties. What is more,

(...) the corrupt and criminal nationalist political elites homogenize ‘their’ peoples in a coordinated manner by various repressive, psychological, and propagandist methods, presenting themselves as naturally predetermined missionaries with the ‘historical’ task of protecting national interests of their peoples (Sadikovic 2005: 30).

In terms of institutional ethno-nationalization, the Bosnian system suffers from institutional blockades that emerge because politicians elected separately by each ethnic community do not manage to agree on compromises that can withstand the manifold veto powers. The exclusionary Bosnian institutional structure under Dayton has allowed the representative of each of the three ethnic groups to enjoy veto power over any proposed legislation and it created a tripartite state presidency consisting of each group and empowered each member with a veto over any legislation. While “veto power” of the ethnic representatives is their guarantee mechanism that they will be equally included in the decision-making process it clearly discriminates against civic interests. As Lyon claims, “the concept of “constitutionality of nationalities” permits legalized discrimination on the basis of ethnic background, and prima facie contradicts principles of the Council of Europe. Indeed, the entire constitution enshrines ethnic discrimination as a principle of law” (Lyon 2006: 52). Thus, each and every civic initiative is discredited by the highly institutionalized ethno-nationalist discourse.

14. WHY VITAL NATIONAL INTEREST?

The tendency of an extensive institutionalization of ethno-nationalist politics in the post-Dayton Bosnia has been realized through structural framework where ethnic rights are safeguarded on the basis of the so-called “vital national interest” (VNI). That is, in the House of Peoples of BiH the representatives of each constituent nation have a right to block law if it is against the VNI of their nation, respectively. In a similar fashion, the tripartite state presidency has the power of veto on legislative decisions if they believe they represent a threat for the vital interests of their nations. However, the notion of the VNI in the Bosnian case it employs a rather vague sense of “national”. “National” is usually interpreted simply as “ethnic” (Mujkić 2007). Therefore, at the heart of the notion of VNI clearly lies the ethnic dimension of political representation rather than a kind of state or national interest. That’s why, the principle of VNI is highly discriminatory against minority groups and non-nationalists since they do not have a right to use veto in state and entity level. Simply put, widespread politicization of ethnicity and the success of ethnically-oriented

political parties are serious obstacles in front of the long-term democratization process (Chandler 2000: 111).

The main idea behind the vital national interest was to provide a sophisticated system of checks and balances to guarantee the rights of Bosnia and Herzegovina's "constituent peoples", i.e. Bosnians, Croats and Serbs. State and Entity constitutions establish blocking mechanisms protecting the "vital interests" of these constituent peoples (EC 2005: 9). However, while VNI completely marginalizes each member of the society not declaring as nationalist it is further slowing down legislative process on the country's road to Euro-Atlantic integration. This power-sharing provision based on the concept of VNI has impaired the quality of Bosnian democracy where citizens are represented only as members of one of the three constituent peoples, placing ethnic representation before general interest and making "nations rather than citizens the bearers of all rights" (Katana, Igric: 2005). As stated in the report of the USAID:

Bosnia's constitution enshrines the "vital national interests" of the constituent peoples and in doing so guarantees both political inclusion and exclusion by ethnicity... Bosnians filter public discourse by ethnicity, including as valid their group's views, excluding as invalid the views of other groups. The public square is available to all – one opinion, one voice and one group at a time (USAID 2007: 6).

As Eriksen points out, "whether or not ethnic identities become politically relevant depends on the wider social context" (Eriksen 1993: 158).

15. BOSNIA: ILLIBERAL DEMOCRACY OR ETHNOCRACY?

In addition, the post-war Bosnian political system does not contain democratic values such as equality and freedom and it does not ensure that all its citizens feel equal before the law and have equal access to the legislative process. As Bojkov stresses democracy in the post-war Bosnia cannot be said to be constitutionally framed (Bojkov 2003: 60). Democracy is a form of government in which all citizens can participate on an equal basis in the decision-making process that affects their lives. What is more, John Dewey once pointed out that: "The cause of democracy is the moral cause of dignity and the worth of the individual" (Dewey 1980: 7). The term democracy was invented in ancient Greece in the middle of the 4th century BC to define the political order in some Greek city-states, and meaning "rule of people" coined from *demos* meaning people and *kratos* which means power.

In terms of ontology of power, in the post-Dayton Bosnia political power has been in the hands of ethnic oligarchies and ethnic communities as a group rather than in the hands of individual citizens. In other words, the ethnically-centered Dayton Agreement has become the main obstacle to the establishment of civil society in Bosnia and Herzegovina, and at the same time serves as a means for "ethnically disciplining the citizen of Bosnia and Herzegovina" (Sarcevic 1997: 40). Thus, the Bosnian social context has been dominated

by the idea of *Volksgemeinschaft* or the people's community rather than community of free individuals. In this manner, Živanović highlights the post-war political constellations in Bosnia and Herzegovina as following: "Here, we do not live as human beings but as Serbs, Croats and Bosniacs" (Živanović 2005). In fact, the post-Dayton regime has dehumanized public space in Bosnia.

Thus, today's Bosnia resembles rather a kind of "illiberal democracy" as Fareed Zakaria explains the phenomena of promotion of free elections around the world without the provision of basic human rights and freedoms (Zakaria 1997). Thus, the post-war Bosnian political regime is a kind of ethnocracy rather than representing democratic system. An ethnocracy is a regime that facilitates "the expansion, ethnicization and control of contested territory and state by a dominant ethnic nation" (Yiftachel, Ghanem 2004: 649). In fact, extreme prioritization of ethnic values over individual principles has made it threatening to democracy. As Mujkić points out:

I call a community characterized by the political priority of the ethnic group(s) over the individual that is implemented through democratic self-legislation, and a community characterized by the political priority of the ethnic group's right to self-determination over the citizen's right to self-determination where the citizen's membership in a political community is determined by her or his membership in ethnic community, Ethnopolis. And I call the political narrative and practice intended to justify this ethnically-based social construct, ethnopolitics (Mujkić 2007: 116).

Similarly, Roger Friedland defines this phenomenon as a religious nationalism claiming that:

Ethnopolitics puts forward a particular ontology of power, an ontology revealed and affirmed through its politicized practices and the central object of its political concern, practices that locate collective solidarity in ethnic affiliation tied to particular religions, as opposed to contractual and consensual relations between individual citizens (Friedland 2001: 126).

16. COLLECTIVE EQUALITY OF ETHNIC GROUPS AND THE EUROPEAN UNION

What is more, the Dayton-based constitutional framework is in contradiction to European Union values of fundamental and human rights. Simply put, the Dayton Agreement ensures the protection of collective rights of ethnic groups while the rights of minority groups have not been included into the legal framework. In other words, a leading Catholic scholar in Bosnia and Herzegovina Mile Babić, points out that:

Collectivism is the biggest wound, the very cancer to the state and society of Bosnia and Herzegovina. No one has the right on this Earth to reduce a living individual, free person, unique human being to mere member of national collective or to a mere member of a religious collective or any other collective. Collectivism is the negation of the freedom of individual man, the negation of true religion, politics and morality (Babić 2005: 172).

In this regard, in March 2005 the Venice Commission proposed the range of the constitutional reforms that are necessary to prepare Bosnia and Herzegovina for the future EU membership. The main recommendations that the Venice Commission made are:

- transfer of competencies from the entities to the state,
- reform of inefficient state legislative and executive structures,
- elimination of “prerogatives for ethnic or group rights”,
- strengthening citizens’ rights,
- clarification of the entities’ future relationship to the state (Joseph, Hitchner 2008: 5).

The Venice Commission also summarizes that Bosnian integration into the EU is under threat since its institutional framework is in direct breach of ECHR stated rules highlighting “the existence of tensions between a constitutional system based on the collective equality of ethnic groups on the one hand, and the principle of individual rights and equality of citizens on the other.” (Venice Commission 2005: 17).

Also, persons not belonging to the three biggest national groups may align with one of the three nationalist political affiliations respectively in order to feel on equal basis with members of the three ethnic groups. For instance, there have been high-positioned officials at state government that have preferred one of the ethnic political parties in order to “exercise their citizenship rights”. However, this is not a long-term solution that can guarantee the equality of citizens in a country. In this regard, the Venice Commission highlights that:

First of all, the interests of persons not belonging to the three constituent peoples risk being neglected or people are forced to artificially identify with one of the three peoples although they may, for example, be of mixed origin or belong to a different category. Each individual is free to change his political party affiliation. By contrast, ethnic identity is far more permanent, and individuals will not be willing to vote for parties perceived as representing the interest of a different ethnic group, even if these parties provide better and more efficient government. A system favoring and enshrining a party system based on ethnicity therefore seems flawed (Venice Commission 2005: 12).

17. CONCLUSION

Bosnia and Herzegovina is one of the transitioning countries of the former communist Yugoslavia which has started widespread democratic transformation and the building of an open society in the aftermath of the turbulent disintegration of the federal country in the late 1980s. While democratic transition in the country was expected to bring about wide participation of diverse societal groups into policy-making the post-war Bosnian public sphere has been increasingly dominated by ethno-nationalists causing omnipresent discrimination against minority groups and those that declare as non-nationalists. That is, democracy brought about a collectivist doctrine rather than the promotion of individual rights. In addition, in spite of the fact that BiH is going through a deep Europeanization process in which the country’s political, economic, and administrative system are supposed to transform into stable, functional and democratic structures significant number of Bosnian citizens are still widely marginalized and excluded from the decision-making processes.

Although the Copenhagen political criteria require applicant countries to achieve “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities” BiH is even today facing a serious democratic deficit, and especially with regards to widespread discrimination against members of the Bosnian community who do not feel as ethnic-nationalists.

Thus, in post-Dayton Bosnia the public sphere has become secured only for members of the three largest ethnic groups constitutionally recognized as the so-called constituent nations. As Jurgen Habermas argues, the public space has been built on the extreme marginalization of citizens as the holders of power whose status as members of a political community has been restricted. In fact, democratic participation in the country’s public space has turned into a competition between ethnicities or ethnic communities rather than a race of equal individuals having the right to vote. The question of ethnicity has become a *raison d’être* for the three ethnic groups since they believe that their physical survival depends on the permanent struggle for ethnic identity. Such a political model is a kind of ethno-democracy or ethnocracy which vehemently violates human rights and fundamental freedoms and thus slows down the country’s progress towards EU membership. That is, BiH cannot enter the EU while its public sphere is extremely dominated by ethno-nationalist elites that prevent the development of an open, democratic, and inclusive society. I think that only a liberal-democratic model of political organization can resolve the Bosnian political and social deadlock. As Gutmann argues:

Basic human rights are instruments to protect and respect individuals as creative subjects or agents. Democratic states, therefore, should give priority to basic rights over the claims of cultural groups that are incompatible with those rights, whether the group is called a nation, a culture, or the state itself (Gutmann 2003: 79).

In this regard, systemic inclusion of the minority members and non-nationalists into the policy-making process can turn from being a problem into being a part of solution for the country’s long-standing political impasse.

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ETNONACIONALISTYCZNY ŚWIATOPOGLĄD W BOŚNI I HERCEGOWINIE JAKO PRZESZKODA NA DRODZE DO UNII EUROPEJSKIEJ

Pomimo faktu, że Bośnia i Hercegowina od końca lat 90. przechodzą proces europeizacji, kraj ten nadal nie osiągnął spodziewanego poziomu demokratycznego. Szczególną uwagę należy zwrócić na rosnącą polityczną dominację etniczno-nacjonalistycznych sił politycznych w powojennej Bośni. Mają one tendencję do instytucjonalnej marginalizacji obywateli grup mniejszościowych i tych, którzy deklarują się jako nienacjonałiści. Takie dyskryminacyjne procesy stoją w sprzeczności z aspiracjami tego kraju do członkostwa w Unii Europejskiej. Tak więc artykuł przedstawia proces rozwoju powojennego etnonacjonalistycznego paradygmatu, który zaowocował dyskryminacją „innych”. W konkluzjach wskazano, że powojenną demokrację Bośni charakteryzują poważne braki instytucjonalne. Skutkują one powstaniem etnokratycznego reżimu wykluczającego wszystkich, którzy nie czują się częścią takiego systemu. Tak więc obecny proces etnonacjonalizacji blokuje wejście Bośni do Unii Europejskiej.

Słowa kluczowe: demokracja, układ z Dayton, etnonacjonalizm, Unia Europejska, grupy mniejszościowe, narody składowe