BRATISLAVA INTERNATIONAL SCHOOL OF LIBERAL ARTS

The Quality of Ethnic Democracy: Institutional Analysis of Democracy in Bosnia and Herzegovina

BACHELOR THESIS

Bratislava, 2013   **Veronika Klempová**

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Declaration of Originality

I declare that this bachelor thesis is my own work and has not been published in part or in whole elsewhere. All used literature and other sources are attributed and cited in references.

Bratislava, 30 April 2013

Veronika Klempová,

Signature: _____

Quality of Democracy: Institutional Analysis of Democracy in Bosnia and Herzegovina

Abstract

Key words: ethnicity, right to participate, Constitution, reform, nationalism, identifications, democracy

This thesis analyzes the situation in Bosnia and Herzegovina from the human rights respective and examines the quality of democracy based on the rights measurements. The main purpose of the paper is to show up on the serious problems BiH faces and to provide credible background which influences nowadays situation of Bosnia.

The paper is founded upon institutionalism. It considers institutions as rules and norms and not only as organizations or documents. It analyzes human rights in Dayton Peace Agreement along with Constitution, and it used the Council of Presidency as an example of institutional organization.

Institutional design of BiH is complicated, unstable and prescribed rules and norms are not respected by people. This allows for discrimination in BiH, since minorities are not considered equally to the constituent people. Human rights violation weakens the quality of democracy in BiH and makes it rather low.

Bosnia and Herzegovina needs a constitutional reform in order to improve the quality of democracy and make the society stable. However it is preceded by the unblocking of the administrative and institutional systems.

Quality of Democracy: Institutional Analysis of Democracy in Bosnia and Herzegovina

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Abstrakt

Kľúčové slová: etnicita, právo participovať, ústava, reforma, nacionalizmus, identifikácie, demokracia

Táto bakalárska práca analyzuje súčasný stav Bosny a Hercegoviny z pohľadu ľudských práv a skúma kvalitu demokracie práve meraním týchto práv. Účelom tejto práce je poukázať na vážne problémy, ktorým BiH čelí a taktiež poskytuje spoľahlivý prehľad udalostí, ktoré ovplyvňujú dnešnú situáciu Bosny.

Práca je založená na inštitucionálnej metóde. Poukazuje na inštitúcie nie len ako na organizácie alebo dokumenty, ale považuje za ne aj normy a pravidlá. Práca je založená na analýze ľudských práv v Daytonskej mierovej zmluve spolu s ústavou a na Rade Prezidentov Bosny a Hercegoviny, ktorú používa ako príklad inštitúcie.

Inštitucionálne usporiadanie Bosny a Hercegoviny je zložité, nestabilné a predpísané pravidlá a normy nie sú dodržiavané obyvateľmi. Tento problém umožňuje diskrimináciu, pretože menšiny nie sú považované za rovné voči štátotvorným skupinám. Porušovanie ľudských práv oslabuje kvalitu demokracie BiH.

Táto krajina potrebuje reformu ústavy aby na jednej strane zlepšila kvalitu demokracie a na strane druhej dosiahla stabilnú spoločnosť. Tomu však predchádza odblokovanie inštitucionálneho systému a administratívy.

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Chapter 1: Introduction

„There is not such thing as a typical Bosnian face: there are fair-haired and dark-haired Bosnians, olive- skinned and freckled, big-boned and wiry-limbed. The genes of innumerable different peoples have contributed to this human mosaic"
(Malcolm, Bosnia A Short History, 1994, p. 1)

Bosnia and Herzegovina (BiH) is a beautiful country, with many beautiful towns and places. It has a long and very dynamic history. People of Bosnia are varied. There are not many countries where we can see the church and mosque on the same street. As the quote suggests, Bosnia consists of different people, different ethnic groups, and different religions as well. However, this mixture is also the dark side of the country to some extent, which contains bloody wars and conflicts. The last war, impact of which we can still see and feel there today, was one of the most terrible wars in modern history. After the Second World War, people thought and hoped that nothing like genocide would happen again. After not even fifty years, Bosnia went through ethnic cleansing, which was seen by the whole world.

This thesis is divided into two main areas: theoretical and practical. The theoretical part explains democracy from a human rights perspective. The important area this chapter also touches on how emotions and identifications are formed within the country, and what are the narratives, which also impact the politics of BiH. Even if emotions and identity may not seem to be the building blocks of democracy, as for example elections are; but they have a great impact on the quality of democracy. This regime, which we are familiar with now, is not based only on the free and fair elections. It is not enough. We are aware that real decisions are not made by majorities. Liberal democracy, which is a modern attribute for defining current democracy, differs in a way that it respects human rights, which became the constitutional guarantee for people and are checked by international organizations (Donnelly, 1999, pp. 619-622). That is the reason why this paper chooses human rights as the indicator for analyzing the quality of democracy in BiH.

Another area of the paper besides theory and practice is methodology. This paper chooses an institutional method of analysis. As the second chapter explains, institutions can be considered as norms and rules (March & Olsen, 2005, p. 8). The

most important institution from this point of view is the Dayton Peace Agreement, as a foundation for the Constitution of BiH on the one hand, and a foundation of the rules and norms on the other, especially in the field of protection of human rights and of a basic "framework of democracy" (Conclusions of Peace Implementation Conference, In: Henda, 2012, p. 48). Another institution this paper chooses to analyze is the Council of Presidency of BiH, which is very interesting just from human rights perspective and in combination with the Dayton Accords particularly.

The paper assumes that the quality of democracy in Bosnia and Herzegovina is weak and unstable. Among the main reasons for this weakness, this paper identifies the working of the key political institutions in Bosnia and Herzegovina. Institutional design of BiH is not set up sufficiently well. There are discrepancies within the Dayton Peace Agreement and the Bosnian Constitution, which allow for discrimination. At the same time, legally prescribed norms and values embedded in these institutional arrangements are often violated, not respected, and certainly not internalized by the population. These institutions influence the quality and depth of democracy directly. Institutional design of BiH is not sufficient and operations of the institutions are in fact weakening the quality of democracy rather than mitigating conflict and assisting in consolidation.

As the theory and hypothesis suggest, there is an assumption that BiH does not respect the concept of human rights in practice as it declares to. First of all, discrimination is internalized, the power-sharing rule divides society, hate crimes threaten it on daily basis, and identities root the conflict into the minds of the people. For concrete type of human rights violation, this paper will keep the focus on discrimination. For understanding the "types" of discrimination BiH people suffer from, it is necessary for the paper to provide a brief historical background, starting with the first multi-party elections held after the fall of communism in the former Yugoslavia. Elections held after the conflict has equal importance.

Mentioned identities are not negligible. They are shaped by elections, main actors of which are the national parties. Commitments of people to these parties explain a lot, even if these "devotions" have changed since the war and became at least a little bit weaker, in other words, their domination started to become less apparent (Bieber, 2006, p. 106). Nystuen sees one of the main reasons for this situation in that the

Dayton Peace Agreement strictly separates the "constituent peoples"- Bosniaks, Croats and Serbs (Nystuen, 2005, p. 15) and defines "others" who are separated from the constituents, and therefore are not considered "state constituents". This limit inhabits them to participate on particular levels of public affairs.

This paper chooses Bosnia and Herzegovina because of its interesting institutional design, which on the one hand is supposed to prevent conflict, but on the other hand this country's decision-making processes are blocked even on the lowest positions. The topic "quality of ethnic democracy" is also very current, especially regarding BiH and its ethnic groups. Many people are skeptical on the matter of democracy and democratic rule. The institutional design of BiH is so complex, that democratic decisions are many times blocked by "ethnic veto" (Dayton Peace Agreement, In: Henda, 2012, p. 14) and these blockages are justified in the minds of the people who still remember the terrible conflict. Human rights, as a measuring indicator for the quality of democracy, are protected by the international community, rooted in the constitution(s), but people, the holders of these rights, governments being on the top, are scarcely aware of them as a pillar of democracy as such. In order to examine the quality of democracy in BiH it would not be enough to analyze the Dayton Peace Agreement, elections laws and processes, but the human side is the crucial factor as well.

Chapter 2: Defining Democracy in Terms of Human Rights

This thesis analyzes the quality of democracy in Bosnia and Herzegovina (BiH), especially from the perspective of human rights. Because these rights are the key element of democracy as such, it is necessary to define this form of a regime in terms of its essential feature. Therefore, in this chapter, the paper concentrates on the theory of democracy to provide a more comprehensive idea of the present situation in BiH.

The main approach this paper is founded upon is institutionalism. Institutional approach clarifies the relationship between the state and its citizens through institutions. First and the foremost, it is important to define institutionalism and institution as such. Generally, it can be said, that institution, besides being some kind of an organization, department or service, is a norm or a rule. However, such explanation is not sufficient. It is necessary to characterize the function and importance of institutions and of institutional approach as well. This "collection of rules and organized practices" (March & Olsen, 2005, p. 4) can be divided into informal and formal sphere. Formal institutions are those, which follow formal rules. It is possible to change or reform them easily as an object of public policy. Informal norms and rules are difficult to change or reform, since they are shaped and constructed by the culture and its rules and values. As the society develops, these values and rules might change, but it is a long-term process. The obvious relationship between these two spheres is that informal rules and norms affect the formal ones (Shapiro, Cheibub, & Dahl, 2003, pp. 29,30). The main purpose of these norms is that they structure and organize politics as such on the one hand, and predict, prescribe and explain the behavior and decision-making of political actors on the other hand. The indicated role of institutions is to ensure and build the stability of political agency (Steinmo, 2001). Political institutions represent the visions and expectations of some particular group sharing the same values. These structures of sharing values embodied by institutions fix the identities and the sense of belonging to some group, community or state. Since there exist "the relations between institutional characteristics and political agency, performance and change" (March & Olsen, 2005, p. 3) and these relations are the study of institutionalism, it is necessary to define the main function of these relations. What do these relations provide to the society and to the political agency?

I first start with the answering the second part of the question. Fundamentally, institutions serve the society and therefore the individuals (Shapiro, Cheibub, & Dahl, 2003, p. 26). Since we have defined them as a collection of norms, values or rules inherent to some culture, it can be said that institution is for example the habit(s) of some religious group which raises or educates people and children. The organization which provides people with the fulfillment and enjoyment of their values is school or church. On the political level, such collection of rules and norms is for example the law, right or freedom, which are guaranteed by the institutions and protected and enforced by courts, international organizations or governments (Dahl, 1978, pp. 191-203). Thus, the relationships between institutions and political agencies are that institutions and political organizations as their embodiments provide people with guaranties on the one hand, and people, by having these guaranties and by enjoying their own cultural values confer legitimacy to their government and to state institutions. Legitimacy is best "nourished" and desired in democratic regimes, since "democratic regimes at least have some institutional checks against the worst forms of incompetence or rapacity" (Shapiro, Cheibub, & Dahl, 2003, p. 28). These checks are represented by the opposition which is an essential condition for working democratic regime. The vitality of the opposition is encouraged by the autonomy of the institutions from the state organizations. It can be said that institutions are materialized by the organizations. In democratic regimes, the autonomy is ensured by pluralism as opposite to the hegemonic regimes. Dahl calls the democratic regime polyarchy (Dahl, 1978, p. 191). In hegemonic regimes, the guarantee of institutions is missing. The weakness of institutional certainties is caused by blocking and avoiding cleavages on political level, even if the diversity among people is required. The main problem is that regimes, which want to remain hegemonic, regulate only those rules and norms, which would prevent other people to gain the power, or basically everyone who do not fit into the idea of rules. Therefore, all of the political powers and resources are practically gathered into one hand. Such state system usually occurs in the countries which want to keep social cleavages among people calm. These cleavages are usually caused by the "strength of identifications formed by subcultures" (Dahl, 1978, p. 193). Commonly, these subcultures are religious, ethnic, racial, regional, and linguistic or based on other groups. Such regimes, which deny diversity of its inhabitants, have problems with legitimacy. They might "legitimize

themselves" (Shapiro, Cheibub, & Dahl, 2003, p. 28), but it tends to cause other conflicts, and therefore instability. When this problem appears, these state systems are trying to "democratize and liberalize", attempt to incline toward conflictive pluralism. In this type of pluralism "oppositions are relatively free to organize" (Dahl, 1978, p. 193). However, political elites are rather fragmented and keep themselves in the conflict. That is the reason why conflictive pluralism is characterized upon the "enduring cleavages" (Dahl, 1978, p. 192).

Pluralism as such requires diversity and autonomy, as mentioned. It is approved by the existing opposition, and blockage of this opposition is at minimum. Contrary to hegemonic regimes, in which institutional guarantees are missing or are low, in polyarchies these guarantees are developed. "The right to participate" is the main certainty for the opposition (Dahl, 1978, p. 197). It is also one of the essential characteristic of the polyarchy. Right to participate is spread through the democracies on many levels. First of all, all rights and freedoms serve to increase the guaranties for organization, and primarily for political ones. Unlike hegemonic regimes, polyarchies ensure the "right to form and join organizations, freedom of expression, and the right to vote… the existence of alternative sources of information" (Dahl, 1978, p. 197). All of these essential virtues of polyarchies come from the basic right – the right to participate. These institutions of the polyarchy- rights and freedoms provide certainties regarding autonomy, equality and alternatives to the individuals and organizations. Since polyarchies are based on and even emerge from diversity, resulting pluralism is a necessity for democratic regime. Autonomous organizations and institutions must be therefore set in a way to respect all the groups living under and sharing the democratic rule. It is necessary to mention also the condition of equality and especially ensuring and creating equal conditions for all groups might slip into developing "favorable institutions" for particular group (Pop-Eleches, 2007, p. 919). Despite the fact that polyarchies might build their rule upon the guaranties of institutional arrangements mentioned above, it does not have to mean that this arrangement and rights and freedoms connected with it is really pursued and ensured. That is the reason why Dahl explicitly defined and named that right to participate as essential and "broadly extended" (1978, p. 197), since democracies are based on the participation of its citizens.

Democracies which are held under the power-sharing arrangement (might) face other difficulties. I am going to mention the power-sharing arrangement in BiH in detail in the next chapter. This chapter serves only for theoretical delimitation of institutional design and institutions, and defining democracy in terms of human rights, so this part of the thesis describes the institutional arrangement under the power-sharing system only in a few sentences. Power – sharing arrangement simply means that power(s) of the government (of the state) is shared within the society and state organizations between its constituent groups. Power-sharing institutions are supposed to ensure the access to execution and participation on the power and decision-making processes of the state to ethnic and other groups of the state. However, such system "depends on cooperation among ethnic elites" (Roeder & Rothchild, 2005, p. 8). When cooperation does not work, power-sharing arrangement causes instability and it might even slip into conflict. Pluralism, which is inherent for democracies on the one side and for power-sharing institutions as well, has to guarantee the rights to minorities also. The right to participate is, as mentioned, essential (Roeder & Rothchild, 2005, p. 31). In ethnically divided communities, power-sharing arrangement might possibly prefer rules, norms and values which are selected by the group to whom is the sharing of power provided. Polyarchies, as Dahl suggests have to provide the institutional guarantees to all of the individuals no matter which group some individual belongs to (Dahl, 1978, p. 197).

This paper chooses institutionalism as the methodological approach. The main reason is that in democratic regimes the government and power and guaranties of the state are manifested mainly through institution. It does not matter whether it is introduced to us in schools, companies, marriage or government. All of them have their rules and norms which have to be followed and respected, when we want some organization to work and enjoy our rights and freedoms. Institutionalism helps us predict the behavior of the political actors since it is shaped by the institutional arrangement. The main task is to study the institutional design of BiH and its impact on the quality of democracy.

Rights-based Approach

The methodology of institutionalism provides the paper with the structure and focus on institutions. Now this part of the paper is going to focus on the rights-based

approach, which is a concrete form of institutional design. Human rights can be considered norms of political life and institutions. We are born with them and die with them. They not only protect us from being violated in our humanity or core identity, but this institution also limits us from violation of other's peoples' rights and freedoms. These norms are connected and even bounded with human dignity. The concept of dignity of every human person gave significance to human rights, since dignity provides us with the moral background for human rights norms (Habermas, 2011/2012). We are taught that every person is equal to us. This is a basic knowledge we have even from the nursery. Small children are brought up and their personality is developed with notions that everyone has equal rights to them. In other words, they cannot (should not) hurt or humiliate other children within the community. Simply, we are raised to respect other people and their rights and we expect them to respect us and our rights in return. Habermas claims that we usually realize the worth of human person and human life when it is violated. This violation is usually connected with murders, mass killing, torture or humiliation. Such right abuse galvanizes us to do something against it (2011/2012, p. 18). Therefore, we have a need to protect human dignity by human rights.

Protection of human dignity is not limited to protection of life as such, it is rather perceived through the quality of life. It means that everyone ought to enjoy his or her social, civic, political, economic and cultural rights (Habermas, 2011/2012, pp. 22-23). Right to dignified life is related to other rights, which are natural to us and we take them for granted, such as the right to education, right to information, right to participate in public matters and many others. Human dignity became the foundation for legitimacy and justice- normative base for human rights (Habermas, 2011/2012).

Civic, political, social, economic and cultural rights are, from our experience, often withdrawn from or not easily accessible to marginalized groups; discriminated women, ethnic and religious groups, or racial minorities. Since ethnicity and ethnic groups play a dominant role in the political life of BiH, minority rights are centrally featured in its conception of human rights. This entails a conception of rights as not only individual, but at times also as collective norms, applicable to social groups. On the other hand, rights of these groups are enjoyed by individuals through belonging to some social or cultural group. Rights of minorities, rights of women, children or

workers are held via collective action, including political participation, education or freedom of association (Donnelly, 2003, pp. 25-26). Violation of the rights of minorities, as their enjoyment, also happens through social group. Right holders cannot implement their rights individually, but only via community. Human dignity as such is independent from the community individual belong to (Donnelly, 2003).

Human dignity is a moral norm for human rights. Logically, every human being has his inherent dignity; every human person has his rights as a human being. Many declarations and treaties have been signed which support this thought and ensure people's protection (Donnelly, 1999). Idea of defending human rights is then also an international matter and international community orders this protection. As mentioned before, institutions guarantee people protection from governmental interference and government gains legitimacy via respecting institutions. We can find in Vienna Declaration that "human rights and fundamental freedoms are the birthright of all human beings; their protection and promotion is the first responsibility of government" (Vienna Declaration, In: Donnelly, 1999, p. 614). Since human rights are birthrights, it is not possible that someone would take them away from somebody else or transfer them on somebody else or cancel them. Rights can be violated or not implemented, but they cannot be taken away. Protection of human rights is required as a necessary condition for a working democratic regime. They serve as opportunities or tools for citizens, allowing them to act and participate in public matters and freely enjoy personal life as well (Donnelly, 1999). In other words, this collection of services considered as institutions is consequently a guarantee for people that they can freely enjoy their rights and freedoms equally. This assurance is granted to all groups, communities, and minorities in a democratic regime. All people are supposed to be considered equal as citizens of some state. Legitimacy of the state from this perspective depends on the extent to which the rights of these people are respected and protected.

Every citizen, besides possessing his or her rights, has also obligations toward state and society. Among the basic obligations of citizens belong obeying the law, respecting the rights of others or paying taxes. Image 1 illustrates the most important obligations of citizens associated with rights of inhabitants, state and institutional

action. The reciprocal relationship of human rights and duties constitutes citizenship in a democracy.

The modern world made citizenship a legal consequence of protection of people and constitutes the relationship between individual, society, and state on legal level. Lockhart and Ghani furthermore suggest that citizenship must be considered on "global, national and local levels" (2007, p. 2). The easiest way to define citizenship would be that it is some kind of allegiance of free people "endowed with rights and protected by a common law" (Ghani & Lockhart, 2007, p. 9). So citizens share power of a democratic regime, since only in this regime people rule themselves and participate on the public good, and this sharing is reduced by laws and rights. In order to enjoy and pursue the dividing practically, there is a big need for transparency, information and equality among people of such community. In cases where discrimination is accepted, we cannot talk about working citizenship status, because participation on the rule is not allowed for every member of the political community. In reality it is difficult to prevent discrimination, so the state and government are supposed to find a balance between theoretical background and reality. Human rights as such are protected also by international community through non-governmental and trans-national organizations such as the United Nations. Citizenship has to be fostered by the members of its community and supported and protected by the state.

Image 1: Rights and Obligations

Box V: Mapping state functions to citizenship rights, citizen obligations, and policy actions

State function	Illustrative citizenship right	Rules and processes	
		Illustrative citizenship obligation	Illustrative policy, institutional action
Legitimate monopoly on the means of violence	The right to security of person and property; and freedom of movement of goods and people across the state territory.	The obligation not to use violence; obligation to obey the legitimate use of force; obligation to military service as defined by law.	Police reform; relaxation of restrictions on freedom of movement; transportability of entitlements with legal change of residence.
Administrative control	The right to good governance across all levels of administration; the right to challenge decision making through due administrative and judicial process; the right to just compensation for appropriation of property; and the right to a fair and transparent recruitment policy and process for state employment.	The obligation to monitor and scrutinize; the obligation to participate in decision making; the obligation to actively facilitate government policies (co-production model).	Administrative reform; transparency and accountability to citizens.
Rule of law	The right to equal treatment under the law; and the right to justice including the right to a fair trial and habeas corpus.	The obligation to be aware of, and obey, the law.	Judicial reform, with particular emphasis on access to justice and simplification of judicial process to make it efficient and affordable; paralegal training; transparency of judicial process.
Management of public finances	The right to clear and uniform criteria for taxation; the right to transparency in revenue and expenditure at the collective level; the right to accountable, equitable and effective state expenditures.	The obligation to pay taxes; the obligation not to bribe public officials; the obligation to expose mismanagement and corruption.	Transparency of budget and budget process; citizen inputs into budget allocations (at least at the local level).
Investment in human capital	The right of access to primary education and preventative healthcare.	The obligation to contribute labor and skills to the workforce; the obligation to maximize use of opportunities in an effective manner; the obligation of parents to support and participate in their children's education; the obligation not to expose others to health risks.	Affordable and equitable access to socially acceptable minimum education and preventative healthcare.
Delineation of citizenship rights and duties	The right to an identity device; the right to information; and the protection of all rights for all citizens in a fair and transparent manner.	The obligation to respect the rights of others; the obligation to seek any redress within the law.	Public debate or consultation process on the balance between rights and responsibilities, including consideration of mandatory public service (in lieu of conscription), taxation, local revenue mobilization for local development and role of citizens in neighbourhood security;

			simplification of procedures for obtaining legal documents, identity cards, passports etc.
Provision of infrastructure services	The right to the equitable use of existing publicly provided infrastructure; the right to fair policies on the provision of public services.	The obligation to surrender private property for public purposes; the obligation to contribute to operational maintenance; the obligation for payment of services.	Public investments in expanding access and in ensuring quality of infrastructure, rather than in subsidizing consumption of infrastructure/utility services (note: redistribution through cross-subsidies for underserved areas is different from paying for subsidies from general taxes).
Formulation of the market	The right of entry into the market and the formation of a firm; the right to freedom of association and exchange; and the right to a level playing field.	The obligation to play by the rules including: the obligation to avoid collusion and distortion of the market; the obligation to respect the entry of others into the market; the obligation of corporations to attend to social and political stability; the needs and the well-being of future generations.	Enact legislation to prevent market collusion.
Management of state assets	The right to good stewardship of state assets.	The obligation to protect public assets.	Enact legislation to define which public assets are state assets, and which are common property social assets; and develop regulations to manage them accordingly; enact legislation and regulations governing use of incomes from natural resources; enact legislation and rules to manage socio-cultural heritage in an equitable and inclusive manner.
International relations	The right to the responsible use of sovereign guarantee, state decision making and treaty agreements; the right to seek refuge in other countries.	The obligation to beware of international law; the obligation behave in accordance with international norms; the obligation to respect the citizens of other states.	Broad-based consultations and transparency in international relations; use of referendum to achieve social endorsement of major issues;

(Source: Citizenship)

In theory, it is easy to say that every human person has her human rights which should be respected. This is different in practice. People need to be taught not only that they have these rights, but equally, that they have to respect the rights of others. It is a task of the state and government to educate its citizens in this field. When government has no esteem toward human rights, it is really difficult and even impossible to ask people to practice them e.g. toward minorities or ethnic groups. Violation of rights of some group or person can cause these people to go through trauma. Concept of human dignity teaches us that we all have moral relationships toward others and within community. It is connected with quality of life and with basic social needs of every human person. It also shows us the value of human life. When human rights are respected and protected well, there is no need for people to think about having them, since it is so natural to them. For democratic regimes, respecting human rights is one of the main pillars and this pillar connects all democracies through declarations and treaties. That is the reason why human rights are also international.

Defining Democracy

For defining democracy, the paper is now going to provide basic points which serve for understanding the regime from the human rights perspective. It is also necessary to explain the importance of elections to promote the importance of equality within the democratic regime. Elections as such have a great impact on democracy, since it influences the later direction of the democratic country. This paper also discusses the question of importance of human rights in democracies from the perspective of modern understanding of the state and nations. Finally, this chapter stresses the difference between electoral and liberal democracies.

Elections are one of the main mechanisms of democratic rule. Not only the voting itself is essential, but the post-voting period is the fundamental one, of course. This period reflects the decision of people in the elections and chosen representatives are supposed to follow the interests of people who voted for them. Dahl observed eight features which are characteristic of a democratic system (1956). First of all, there has to be a set the alternatives of policies and representatives. Every voter has a right to choose and elect among these alternatives, which are usually performed by parties or their candidates. In summary, alternatives have to be offered. Second, every ballot has equal importance and credit as the ballot of other voter. Elections in polyarchies are

anonymous, so it is not possible to favor one voter before another. It would be also illegal of course. In democratic regimes, vote of every person has the same validity. Third, the representative, candidate or the party who receives the highest number of votes wins the elections. Majority of votes expressed by free will of people ensures that the chosen alternative defeats other alternatives with lesser number of votes. Fourth, every voter has a right to choose any from given alternatives. No one should be forced to choose the alternative against his or her conviction, meaning that voters should express their will freely and openly. Fifth, everyone should have the same information about the candidates and parties which are offered. Sixth, winning alternative replaces the alternative which received lesser number of votes. Candidate or the party which convinced people about their policies in the elections is in office. Seventh, the rule and mandates of the wining alternative is accepted and carried out. Finally, this alternative rules during its period until other elections are held (Dahl, 1956, pp. 49-50). All these eight norms which concern elections are necessary for democratic society, who chooses representatives to fulfill their interests and work for the people. Society works on the rules and obligations toward itself and the state. It is bounded by agreements, which guarantee human rights and free and fair elections accomplishes a democratic regime. Government which consists of winning alternative(s) is supposed to respect the rights and interests of the people who supported it, to get elected again in the next elections and create such conditions to promote the needs and interests of the voters. Elections are the mechanism of legitimacy to every government and chosen alternative (Dahl, 1956).

Elections are not only the mechanism of getting power; it is also the pre-stage of responsibility toward citizens from which the government gains legitimacy. The relationship between the government and citizens is constructed in the electoral process. For example, elections might change how people relate to the state and how much allegiance they feel toward it. People do not have to orient themselves toward the state as such, but toward the region or entity, depending on the prevailing ethnic, religious or language group they identify with. Elections have a power to shape the view of people regarding the loyalty toward state. Emotions that people have toward the territory influence the progress of democratic development. Elections help construct these emotions. Linz and Stepan claim that timing is of essence - there is a big difference whether the first elections are held on an all-union level or on a

regional level (Stepan & Linz, 2001, p. 202). When elections are held on all-union level first, representatives and candidates have tendency to run their campaign for all union members, minorities or ethnic groups included. All-union elections then serve as some kind of mechanism which constructs national identity, which of course means that not only the national group which is in majority constructs it, but is also supported by other groups. Contrary, candidates in regional elections rather focus their attention on particular groups and these groups rather feel loyalty to that region and representative. It is very difficult to construct national identity while concentrating on some particular group. So democratic transition is also weakened, since people usually favor one group before other and do not consider the state as a whole. This causes discrimination among people. In modern world it is necessary to nourish national identity (but not too much) and support people in the political activity, since more and more states become multinational and multicultural. Stepan and Linz also suggest that for a working and developed democracy, "full citizenship rights for all inhabitants regardless of ethnicity" is necessary (Stepan & Linz, 2001, p. 211). For governments, it is necessary to respect all the ethnic groups and minorities to prevent weakening of the democracy.

Problem in nation-states is that just one nation is the ruling one and participates on the state-building (Stepan, Linz, & Yadav, 2010, pp. 50,51). Other groups are forced into a we-feeling and so are asked to deny their nationality and promote the other one. Asking for assimilation might slip into ethnic cleansing. Supporting the idea of a nation-state and so denying other nationalities is in conflict with democratic tolerance. State, where more than one nation cohabitates in significant number, requires an institutional setup of asymmetrical federalism. This arrangement allows all the nations to participate equally on the common governing. Asymmetrical arrangement provides "holding together" idea of ruling the state (Stepan, Linz, & Yadav, 2010, p. 53). Even if national secessionists are the real threat for such arrangement, in such case working democracy requires "positive identification with state, multiple but complementary political identities and loyalties, democratic institutions and trust toward them" (Stepan, Linz, & Yadav, 2010, p. 54). Image number 2 shows the difference between a nation-state approach and a state-nation approach. The most important difference for this paper is that institutions in state- nation and asymmetrical arrangement are not forced by one nation, other nations are also accepted. State-nation compromise also

provides its citizen with equal opportunities within political community. Citizens, on the other hand, are supposed to respect the state as such and not only support the group they belong to. Democratic state desires collaboration among people, since it ensures equality of people and protection of human and civil rights.

Image 2:Nations States and State Nations

TABLE 1—TWO CONTRASTING IDEAL TYPES: "NATION-STATE" AND "STATE-NATION"

	NATION-STATE	STATE-NATION
Preexisting Conditions		
Sense of belonging or "we-ness"	There is general attachment to one major cultural civilizational tradition. This cultural identity corresponds to existing state boundaries with minor exceptions.	There is attachment to more than one cultural civilizational tradition within the existing boundaries. However, these attachments do not preclude identification with a common state.
State Policy		
Cultural policies	There are homogenizing attempts to foster one core cultural identity, particularly one official language. Multiplicity of cultures is not recognized. The goal is unity in oneness.	There is recognition and support of more than one cultural identity (and more than one official language) within a frame of some common polity-wide symbols. The goal is unity in diversity.
Institutions		
Territorial division of power	The state is unitary or, if a federation, it is mononational and symmetrical.	There is normally a federal system, and it is often asymmetrical. The state can be unitary if aggressive nation-state policies are not pursued and de facto multilingualism is accepted. Federacies are possible.
Politics		
Ethnocultural or territorial cleavages	Such splits are not too salient.	Such splits are salient, but are recognized as such and democratically managed.
Autonomist or secessionist parties	Autonomist parties are normally not "coalitionable." Secessionist parties are outlawed or marginalized in democratic electoral politics.	Autonomist parties can govern in federal units and are "coalitionable" at the center. Nonviolent secessionist parties can sometimes participate in democratic political processes.
Citizen Orientation		
Political identity	Citizens feel that they belong to the state and to the same cultural nation at the same time.	Many citizens have multiple but complementary identities.
Obedience and loyalty	Citizens believe in obedience to the state and loyalty to the nation.	Citizens feel obedience to the state and identification with its institutions; none of this is based on a single national identity.

(Source: The Rise of "State-Nations!)

United Nations defines democracy as the regime which holds "the values of freedom, respect for human rights and the principle of holding periodic and genuine elections" (UN, n.d.). These three principles are the basic ones. Donnelly claims that the most desirable type of democracy is a liberal one. The precondition for liberal democracy is

the electoral one (Donnelly, 1999, pp. 620-622). This paper will use only the liberal and electoral definitions of democracy as the main models, since both consider human rights as the key principle. It is also necessary to mention that electoral, as the name suggests, is concerned mainly with elections and not with the human rights as such. Liberal democracy is related with human rights. The problem with liberal democracy is that there is some contradiction between the liberal approach and the democratic idea. The label liberal suggests that human rights, the rights of individuals, are the highest principle. Democracy, on the other hand, prefers the decision of majority (Donnelly, 1999, pp. 621,622). It is very difficult to combine these two desirable standards. The paper does not deal with the criteria which cause democratic regime fall into other regimes, dictatorships. It is going to examine electoral democracy, since free, open, fair, and multiparty elections are, as stated, the basic mechanism for working democratic regime. Liberal democracy, on the other hand, "share a commitment to the ideal of equal political dignity for all" (Donnelly, 1999, p. 619). This type of democracy can only work, when people are respecting the rights of others and are willing to sacrifice their own commitments. When this condition is fulfilled, human rights and democracy strengthen each other. There is also a need to educate people toward human rights and teach them that respecting the rights of others is necessary condition for society which wants to develop itself in term of democratic growth. Societies which protect their members have a greater ability to improve their living standard. When some country went through conflict or war, education toward human rights is an unavoidable condition. On the one hand, people desire human rights protection, which were previously violated, on the other they have to re-learn to respect the entire citizen equally without prejudices. Electoral democracy at least ensures that human rights violators are removed (Donnelly, 1999, p. 622). The task of the liberal democracy, which prioritizes human rights protection and respect, is to ensure that violation of these rights would never be accepted. In electoral democracies, there is a need to find a balance between rights of majority and rights of individuals. The reason why electoral democracy is the precondition for the liberal one is clear- electoral democracy adopts the rights of majority and respects the decisions made by the majority, which is the reason why there exists a threat that rights of individuals might be violated. Liberal democracy respects the rights of

individuals as the decisive factor. The decisions made by majority are rather on the second rank.

Human rights are considered to be institutions for the purposes of this paper. Institutions are a collection of norms and rules. These rules shape the behavior of political actors and organizations. Democratic regimes keep those institutions pluralistic, since pluralism is necessary for working democratic regimes. The reason for this is that pluralistic collection of norms structure the opposition, which prevents the regime from becoming hegemonic. As well as institutions are formed by values of culture, so are human rights, since people need to be educated toward human rights and taught to respect them. In modern world, acceptance of individual rights, which are fostered by liberal democracies, is a necessary condition while the world is becoming more and more globalized and countries more multicultural/ multinational. For strengthening democratic regime, it is inevitable to respect the rights of all ethnic communities living on the same territory. Elections are the mechanism for democracy, which provide that every person has the right to participate ensured. On the other hand, it also constructs national identity depending whether the elections are all union-based or region/ entity-based. Unity based elections have a tendency to reinforce respect for state and rights of all citizens excluding discrimination. Liberal democracy is a unique type of a system, which found a balance between human rights and democracy depending on the rights of majority. Individual rights are a priority for liberal democracies before majority decisions, but equally applied on all of the individuals and therefore on minority communities also. These individuals, by enjoying human rights, which are a guarantee of quality of life, provide the government, which respects and protects these rights, with legitimacy.

Chapter 3: Bosnia and Herzegovina Before and After Dayton

For understanding and explaining the present situation of BiH, it is necessary to provide some historical and institutional background. This chapter includes the main points of the war, elections circumstances, which still influence the existing direction of the country and the institutional development of the country, which is very interesting and complicated. However, it is not possible to provide the whole history of the country and all factors, which have the impact on the working of the key political institutions (for this paper these are the presidency and the Dayton Peace Agreement along with the Constitution of the BiH). The paper keeps the attention only on the institutional level of analysis.

This chapter starts with analyzing the very first elections of BiH after the fall of communism, and it will provide the connection with the first elections which were held after the war. Explanation of the historical narratives of the three years-long suffering is also a crucial point to take into account. The conflict has changed the character of BiH. It has an impact on people's thinking, suffering from trauma, and still influencing the decision-making processes within the political system and therefore the democracy also.

The second part of this chapter, the development after the Dayton, includes the description of institutional arrangement of BiH, which also points out the two ways of discrimination which are caused by the peculiar design of collection of norms. The paper mentions only those facts and agreements from the historical and political background, which help to explain the quality of democracy and implementation of human rights.

First multi-party elections

History of Bosnia and Herzegovina is very long and varied. This country went through different supremacies, wars, and conflicts. Even if all of them have had a great influence on Bosnia and Herzegovina as such, none of these wars and conflicts is so significant and remembered as the last one. This three-years-long war divided not only the country as such, but also the society of BiH. These years are still not forgotten. As can be seen, the reason why this paper starts the historical background

from this point is that we can see the legacy of war on the political and social levels directly.

First of all, it is inevitable to mention the origins of the war. As suggested in the second chapter, elections help construct the identities, which is also so in the case of the first multi-party elections, which were held in BiH after the fall of communism in year 1990. It can be said that the commitments of people of Bosnia and Herzegovina, even under the communist regime, were deeply connected with the ethnic group belonging, which is proven by these first elections as well. Three national parties dominated the political scene of BiH- SDA (Party of Democratic Action), SDS (Serb Democratic Party) committed to the Muslim ethnic group, and HZD (Croat Democratic Community). It can be said that none of these three parties shared the same vision of post-communist Yugoslavia composition. Serbian party kept the vision of centralized Yugoslavia, HZD advocated independence, and SDA were somewhere in the middle (Bieber, 2006, p. 20). The presidency, by that time, consisted of seven members – two Muslims, two Serbs and the same number of Croats. The place of the seventh member was for "others" – the Yugoslavs and minorities. The elections were held directly by the electorate, while all of them had eventually seven votes, since everyone was supposed to choose the representative from the constituents and others (Bieber, 2006, p. 21). The big surprise of the elections was not only the fact that the three national parties won on all levels, but SDA won the seat of "others" in the presidency, which might be explained by the uncertainty of the party on the question of independence. The reason of this was seen in the ethnicity. Every citizen wanted to be identified with the group, which had "adequate representation" (Arnautović S. Izbori u Bosni i Hercegovini '90. Analiza izbornog procesa, 1996, In: Bieber, 2006, p. 22). That included the question of interests, protection, guarantees and visions. Commitments to the (national) party became the thing of self-identification. These elections were held at all levels of the country at the same time. This caused the people to pursue the interests of the particular groups before the state as a whole, since the party promised them to fulfill their interests on every gained position. It can be seen here that power-sharing arrangement resulted directly from these elections and gained its legitimacy.

Since the idea on the structure of the Yugoslavia differed among the national parties, their common ruling of the country was unstable and the cooperation collapsed. As Bieber suggests, it was not possible for the parties to accept the reform or suggestions to one another. This problem followed many others for example on the constitution of the country. The main problems started in 1991, when the question of independence took serious place and became a threat for the Serbs. They still wanted to be a part of Yugoslavia. SDA and HZD had a different view on this. Independence was the main goal for them. Bosniaks started to hold the position of independence, which was caused by the happenings in the neighboring countries (Bieber, 2006).

Even if the paper wants to keep the attention on the BiH exclusively, it is necessary to mention in a few sentences what was happening outside of the country. In the beginning of the break-up of Yugoslavia, no one would say that it would have the worst impact on the BiH, what included ethnic cleansing. In the very beginning, it can be said that the concept of "Greater Serbia" which was declared in the Memorandum (1986) was a starting point. This Memorandum claimed that Serbs are "a kind of primary entity, possessing a unitary set of rights" (Malcolm, 1996, p. 207). It wanted to show that the Serbian people suffer within Yugoslavia, since their rights, they claimed that they should have, were taken away from them. This idea spread through the whole of Yugoslavia and caused the war in Slovenia and Croatia as well (Macqueen, 1995) and its continuation in BiH.

Formation of the war narratives

Now the paper in short provides the basic events, which preceded the war of 1992-1995. First thing which started to pose a threat to BiH was the declaration of the "Serb Autonomous Region" in 1991 (Malcolm, n.d.). The Leader of the Serb people of BiH was R. Karadzic. The President of Bosnia and Herzegovina was Alija Izetbegovic. Izetbegovič had no intention to let the BiH fall apart and loose the territory Karadzic wanted to have under control. So he called for a referendum on independence of BiH, which was run from 29 February to 1 March 1992 (Macqueen, 1995). The result of the referendum was clearly in favor of independence, even if the Bosnian Serbs have boycotted it. Thus, on March 3, 1992, president Izetbegovič declared independence of BiH, which was also recognized on 6 April 1992 by the European Community (EC) and by the United Nations (UN) on 22 May (Malcolm, 1996). Bosnian Serbs declared their own republic called "Republika Srpska" on 27 March 1992 (Macqueen, 1995).

After this, the war was almost inevitable. As A. Izetbegovič has said, the war was expected, but no one expected a genocide. The intention of the Bosnian Serbs was to "clean" the territory they wanted from undesirable people, to create their own ethnically clean country (it was mainly on the boundary with Serbia). They also wanted to keep Sarajevo. One of the main occurrences was the siege of Sarajevo (Malcolm, 1996, pp. 234-252). Here the ethnic cleansing of non-Serbs has started.

The conflict as such was however not only the concern of Croats and Muslims against the Serbs. The conflict between the Croats and Muslims lasted throughout the years 1993-1994 (Malcolm, n.d.). The leader of the Croats was F. Tudjman by that time, who followed the vision of independent Croat territory within Bosnia and Herzegovina. The conflict among the Croats and the Bosniaks ended in March 1994 by the Washington Agreement, which was signed by the representatives of these groups and the Federation of Bosnia and Herzegovina was created (Malcolm N, 1996, pp. 256,257). This federation consists of ten cantons for managing the cooperation and non-domination tendencies between Croats Herzeg-Bosnia and the state of BiH.

International community was shocked by this war. It was the most terrible conflict since the Second World War. International intervention was necessary. Both sides (Muslims and Serbs) had their own interests and they were not willing to give them up. In 1993, Vance-Owen plan was introduced (Malcolm, 1996, p. 247). This plan divided BiH in proportions of 49% for Bosnia and 51% for Republika Srpska. BiH should also consist of ten cantons. Even if it seemed that the plan could work, Bosnian Serbs (especially General Mladic) were against and did not sign it. He claimed that Bosnian Serbs deserve more than 51%, so Radovan Karadzic took his side as well (Macqueen, 1995). The plan failed and the war continued.

Since 1993, there were many attempts to end the war, but what really galvanized EC, USA, and NATO to act was the genocide in Srebrenica (1995). Numbers say that seven thousand men and boys were killed and 20 thousand people - civilians were banished from this "safe area" (Smith, n.d.). R. Karadzic and R. Mladic are accused to be responsible for these crimes against humanity and atrocities. They are tried at the International Criminal Tribunal for the Former Yugoslavia (UN ICTY, n.d.).

The war ended in November 1995 by the signing of the General Framework Agreement for Peace in Dayton and Paris (Bieber, 2006, p. 27). It can be said, that the

war has not only had the impact on the political level of the country, but mainly on the social level. Every constituent group explains the war differently. For the Serbs, it was basically the conflict pursuing the nationalist intentions and demands for own territory and independence, which also includes Croats to some extent. The right opposite to these narratives is the view of Bosnian Muslims, who considers the war as ethnic cleansing. These narratives are crucial for the paper, since they inform the institutions and explain the commitments of the citizens towards them and toward the state as such, which also is discussed in the second part of this chapter. The war also changed the institutional design of the country, which is formed through four levels of institutions to prevent another conflict from happening and also to prevent domination of one ethnic group over another.

Development after Dayton

As mentioned, the Dayton Peace Agreement officially ended the war. This agreement is interesting for the paper from the point of view of human rights implementation. However, it is also inevitable to cover some basic points of agreement, which were crucial for settling the peace. First of all, it divides the territory of Bosnia and Herzegovina in 51% for the Federation of Bosnia and Herzegovina (FBiH) and 49% for Republika Srpska (RS) (Malcolm, 1996, p. 267). It is interesting to note who was invited to sign the treaty. It can be expected that there would be all of the leaders involved in the war- A. Izetbegovič, F. Tudjman, and R. Karadzic. But Karadzic was not invited. There was a real misgiving toward him because of the failure of the Vance-Owen plan (Macqueen, 1995). Instead of him, the agreement was signed by Slobodan Milosevic and also by the contact group, which consists of the United Kingdom, USA, France, Germany, and Russia (Office of the High Representative, 1995).

Development of BiH after the Dayton can be considered from many perspectives. It can be said that the situation after the war has had more than a big impact on the progress of the country as such, and even to this day. The crucial perspectives of this paper are political, social, economic, educational, and technological development (Henda, 2012, p. 11). Although this thesis is not going to explain all the positions stated above in detail, it is necessary to consider the possible analytical procedures, which can clarify BiH's situation. This paper also sees the connections among these perspectives, especially among the social, economic, and political of course. Spheres

which are the key ones for the purposes of this paper, however, are political and social.

Bosnia and Herzegovina stagnated after the war. There are many reasons for this status. First and foremost the paper examines the social sphere of the post-conflict situation. As Henda suggests in her paper, the war caused the destruction of families (Henda, 2012, p. 11). It is logical of course, but the problem of this kind has an impact on the country as a whole. Society became fragmented, friends became enemies, and many people had no place to go, since their homes were destroyed or they were even not welcomed in the place they used to live. Dealing with such a trauma is a complicated and long-term process. It can be argued that two main reasons contributed to this collapse of the society except for the war: the new structure of the country (mentioned entities) people had to get used to, and changed norms, which do not help people to overcome the memory of the conflict (Henda, 2012, pp. 11,12).

The first reason explains itself as follows- when we compare the composition and the distribution of the ethnic communities in the country before the war (see Image 3) with their distribution today (see Image 4), it is significantly different. As can be seen on the first map, ethnic distribution was rather mixed before the war. But this situation has changed after the war, where Republika Srpska with almost ethnically clean Serb territory and the Federation of BiH, where Croats and Bosniaks have defined regions and areas in accordance with their ethnicity were created. The federation consists of ten cantons- "five with a majority Muslim population, three with a majority Croat population and two "mixed" cantons" (Henda, 2012, p. 12). This logically suggests that people needed to admit the fact that their country has changed and that they belong to either Republika Srpska or the Federation. This division reminds them of the differences, especially in the interests and views of the composition of the country.

Image 3: Ethnic distribution in BiH before the war
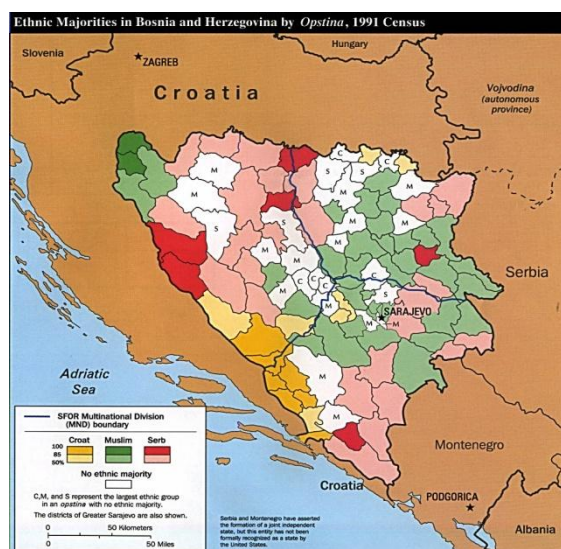
(Central Intelligence Agency, 1997)

Image 4: Ethnic distribution in BiH after the war

(U.S. Department of State, n.d.)

Territorial division of the country also has a direct influence on the division of the mentality of the people. There are two main narratives which support this argument. For Serbs, the conflict was a civil war, without the intention of a genocide. For Bosniaks, it meant a real threat to their survival, since their group went through ethnic cleansing (U.S. Department of State, n.d.). Croats are somewhere in the middle, they mainly wanted to get their own sovereign territory. All of these three narratives were reflected on the first elections (1996) held after the war.

First elections after the conflict

Elections, as stated in the second chapter, are the mechanism to gain legitimacy in a democratic system. That was the main task of these elections. Even if one would expect that people, who went through the war, would prefer rather moderate parties, which did not seek nationalist justification, rather than parties which in fact compel the war, electorate reacted differently. Here, the "process of co-operation and eventually reconciliation" collapsed (Guerrero J.C., Bermudez M., Cultures and Conflicts, 2000, In: Bieber, 2006, p. 86). Political elites focused on the ethnic belonging, rather than on the country's prosperity as such. These first elections were held not even one year after the war and people still had a tendency to support nationalist parties- SDA, HZD, and SDS. Bieber suggests that these three politically most powerful parties in BiH gained their "re-legitimatization" (Bieber, 2006, p. 90) and so the pointing out to the nationality continued. Even though the elections in this year were held on all levels of the country- entities, cantons, state… this paper focuses on the presidency elections, because it credibly and sufficiently reflects the decisions and logic of the electorate. The inclination toward the nationalist politics is also supported by the composition of the country. Centralized RS seeks for their interests and federation for its own as well. There is little need and want for co-operation. Dayton Peace Agreement also determines the "constituent people"- Bosniaks, Croats, and Serbs to run the country (Office of the High Representative, 1995) and so points out on the differences and isolation of these groups from each other and from other groups (Dayton Peace Agreement). In ethnically homogenous regions, there is naturally not so big need to "separate" one group from another, but the engagement of people toward national party in heterogeneous areas, convincing themselves that the party fulfills their needs and interests, makes people pursue the ideology of the national party they belong to.

The domination of ethnic parties on the political scene, meaning the parties which were the "source" of the conflict, has not changed and political elites were not replaced even after the war. Moderate parties, which would have been able to induce the process of reconciliation, did not gain enough space to introduce the idea of co-operation within the state as such.

Henda defined another blockage of the electorate system which allows for nationalist politics and that is rejection of the people who do not belong to the constituent people from political participation, e.g. they cannot run for presidency, even if they are

citizens of BiH (Henda, 2012, p. 19). This "ethnic voting based" system gives even more legitimacy to the national parties. Small change came in the years 2000-2002 when election law came into force. Bieber states that even if the fact that in these years, the decline of domination of national parties was not so much the result of the force of the electoral law, but rather of the impact of the international community such as OSCE and of the low economic progress in the country, it can be said that after these two years the domination of national parties was not so significant as in 1996 (Bieber, 2006, p. 99). However, these parties did not lose their power and they still influence the political scene and people preserved the tendency to identify themselves with the national party, but much bigger space is now under the control of more moderate and non-national parties than used to be the case before and right after the conflict. Bieber defines moderate parties as "parties that have a stronger commitment to cross national co-operation and emphasize a not exclusively identity-based political agenda. At the same time, these parties have a well-defined commitment to only one community with at best token inclusion of others" (Bieber, 2006, p. 104). So even if these parties want to consider and include the state as a whole, there is nevertheless a need to signify the attention to one particular group. Non-national parties were and still are the issue of Bosniaks, who seek a more centralized Bosnia and Herzegovina in order to prevent secession of some territory/ entity. Therefore the politics of non-national parties is concentrated on the Bosnia and Herzegovina as a whole, and not on some particular area or group.

The Dayton Peace Agreement (DPA is mostly considered a "political compromise" (Henda, 2012, p. 5) which, on the one hand, introduced the democratic system and institutions, and on the other, prevented another war and ensured some supervision over the country - it established the Office of High Representative, which primarily supervises peacekeeping (2012). Therefore, besides settling the peace, the DPA, has become more significant after the conflict, especially from the institutional and human rights pints of view. Institutional design of BiH is very interesting and is going to be explained now; human rights issues are going to be explained and analyzed in the next chapter.

As stated, the institutional design of Bosnia and Herzegovina is really complicated, but interesting. The High Representative is considered the main authority, which

stands above all the decisions made in the spheres of democratic transition or human rights issues. The newly created position of the EU Special Representative (2002) is supposed to prevent political chaos within the country and prepare BiH for integration into EU (Office of the High Representative, n.d.). As can be seen in this chart below, Office of the High Representative and the European Special Representative have to collaborate with each other and their work and spheres of interests are connected. The High Representative and EUSR used to be represented by the same person. Since July 2011, this position is represented by Peter Sorensen. The current High Representative is an Austrian diplomat Valentin Inzko (Office of the High Representative, n.d.).

Image 5: The Organizational Chart of the Office of High Representative
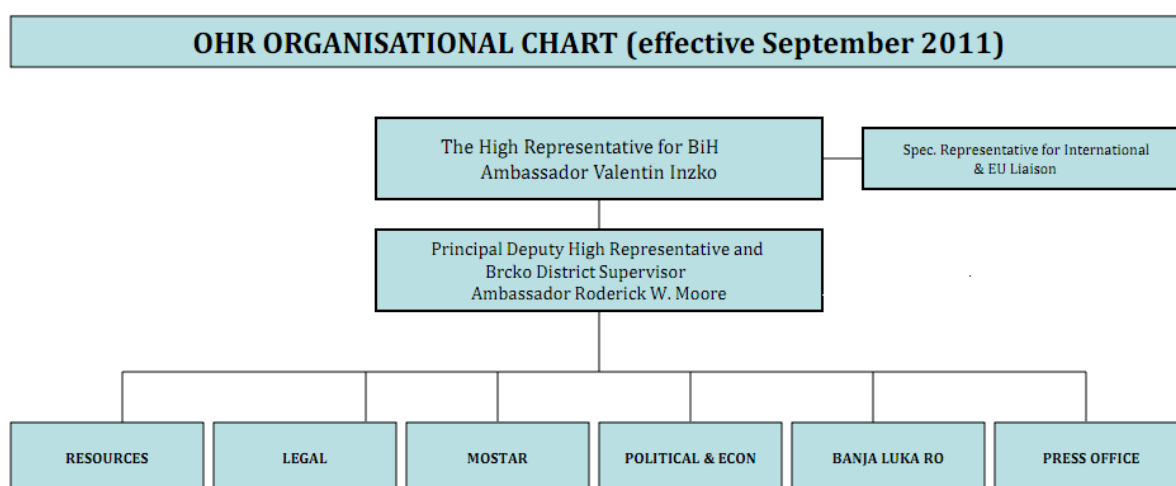

Source: Office of the High Representative

Institutional design of BiH

Besides the international community regulations and control, the country also works under a complex system of institutions, which many times block each other, among other things also due to "ethnic" veto system and dysfunctional administration, especially in the Federation. (Europe Report, 2010). Ethnic veto system was introduced to prevent decisions against the "will of constituent people" (Dayton Peace Agreement, In: Henda, 2012, p. 14). Or mainly to prevent that one constituent group would violate the will and interests of another. To get back to institutional design, as the image six suggests, there are three levels of institutions from the position of RS – the state, the entity and the municipality, and four from the position of the federation-

the state, the entity, the canton, and the municipality. For this paper, the state level institution - the Presidency is especially interesting and it will not look at the entity or cantonal level institutions particularly.

The state level has its own constitution and each entity her own as well, its own House of People, House of Representatives and Council of Ministers. All these institutions have to be represented by the people of all constituent groups, so Bosniaks, Croats and Serbs. The constitution also determines that there has to be exact ratio between FBiH and RS, which means that FBiH is embodied by two thirds and RS by one third of the representatives (Constitution of Bosnia and Herzegovina, 2009). The reason why the thesis also mentions entity institutions is to illustrate the unstable system, which is caused by ethnic distribution of powers- the power sharing, on all levels of the society and not only on the state one. Federation is not under the control of Bosniaks and Croats solely, it also includes the representatives of Bosnian Serbs. For example, the government of this entity consists of 16 ministers, from whom eight are Bosniaks, five are Croats and three are Serbs (Constitution of Federation of Bosnia nad herzegovina, 1994). On the other hand, government/council of ministers of RS consists of 16 members of which half is represented by Bosnian Serbs, five by Bosniaks, and three by Bosnian Croats (Constitution of Republika Srpska, 2002). Brčko District is totally distinctive case from the two entities. It does not belong under any of these entities; it has its own governmental system and legislative power, but again, it is regulated by the Constitution of BiH (Constitution of Bosnia and Herzegovina, 2009).

Image 6: Institutional Design of BiH
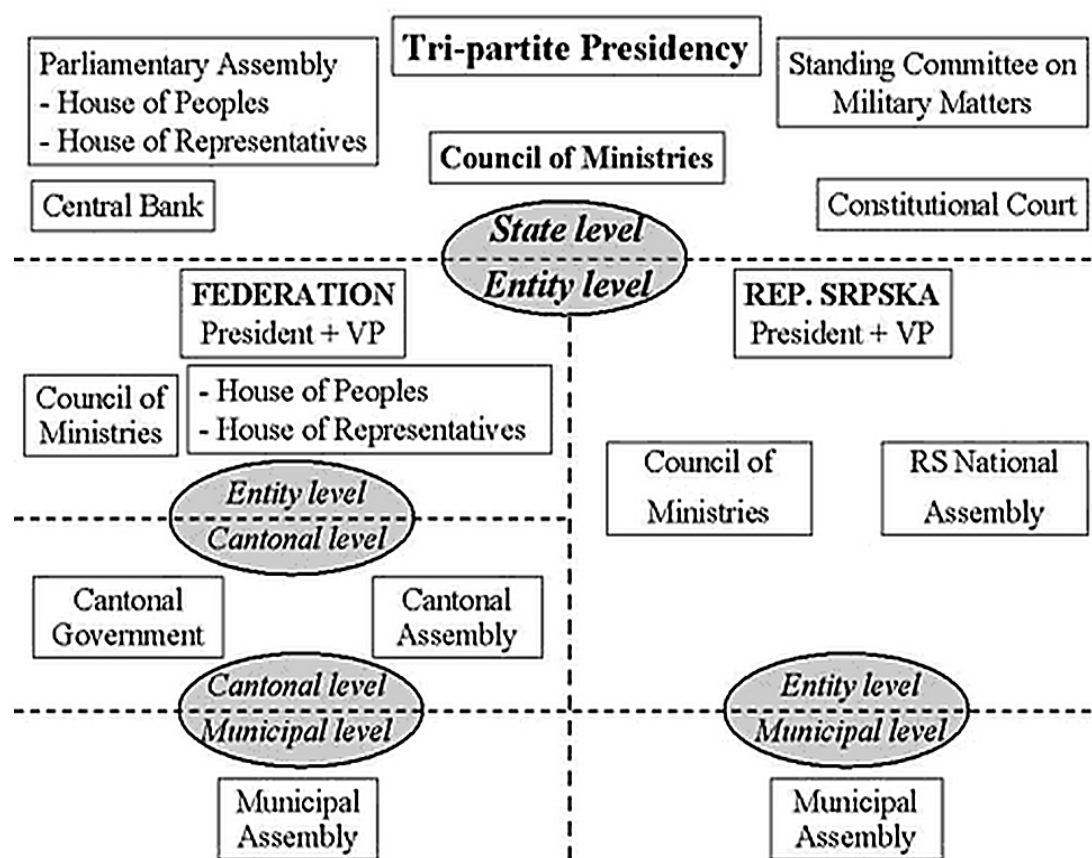
(Source: NATO, Retrieved on Feb 28, 2013 from http://www.nato.int)

Power sharing is briefly described in the theoretical part in the second chapter. This chapter is going to look at it from a more practical position focusing on BiH. Power sharing simply means that the power of the country is shared among multiple groups or institutions; in the case of BiH among ethnic groups. Every ethnically divided country, which went though some ethnic conflict, is usually under some power-sharing arrangement, to prevent another conflict and to foster conciliation among people (Roeder & Rothchild, 2005). After the war, the powers of BiH, regarding entities, were exclusively in the hands of the dominating ethnic group, meaning that Serbs used to have the RS under the total control and Bosniaks and Croats had the power of Federation in their hands. This changed in the year 2002 (Bieber, 2006, p. 117), when the High Representative decided to prevent the discrimination of the constituent people and therefore "the Federation parliament, the government and the presidency must also include Serbs, while in the Serb Republic a new Council of Peoples was established to ensure the rights of Croats, Bosniaks and Others in the

legislature" (Office of High Representative, In: Bieber, 2006, p. 44). Power-sharing in BiH has changed to ensure that the will of the constituent groups will not be violated. Every constituent group is now represented in the particular ratio on all levels of the state possessing the power of ethnic veto.

Identifications of the people and their narratives and their commitment toward the state of Bosnia and Herzegovina are formed since the first elections. The main reasons which caused that people considered the state differently and have different views on its structure are the first free multi-party and the first post-conflict elections and war. Domination and even monopoly of national parties has influenced people's thinking and behavior, and has also impacted political and social spheres. Complexity, dysfunction, and nationalism are the main features which define the current situation of BiH. Besides people's continuing commitments and engagement in the national parties, which slow the country from reforms, and rather focus on the own ethnic interests and will, country went through little progress in this matter. The ruling of the country, even if regulated by international actors and agreements, is too limited on the question of nationality solely. This problem is also causing another big issue - discrimination, which is prevalent in the country. Discrimination is not caused only by the institutional system, including values, which shape peoples mentality, but also by the compromise embodied in the DPA. Both these concerns are going to be the matter of the following chapter.

Chapter 4: Allowed Discrimination

This chapter focuses on three main areas: analysis of discriminative elements in the Dayton Peace Agreement and in the Constitution, which is based on it, relationships and attitudes of the people toward state, which are greatly influenced by the institutional design - particularly hate crimes, and the last area will be a case study-the Finci and Sejdic case. Society of BiH is very complex and varied. Pluralists claim that all the groups of the community (should) have the same opportunities to fulfill their interests and needs. On the other hand, conflicts among organized groups help them find some solution and come up with some compromise. As Dahl suggests, the right to participate is the basic right, which provides individuals and groups with guarantees of enjoying their other rights (1978, p. 197). The rights as such are not protected solely by the state, since the state is not only the greatest protector and guarantor of the rights, but it is also their greatest violator. Therefore, international community also protects these rights and asks for the protection (Donnelly, 1999). This basic knowledge regarding human rights works quite differently in BiH. The main task of this chapter is to provide the overview of the problems of BiH regarding human rights protection and demonstrate the main problems in the sphere of right to non-discrimination.

Discrepancies in the Dayton Peace Agreement and BiH Constitution

The first issue this chapter is looking at is the Dayton Peace Agreement and then it will look at the situation of BiH in practice. This agreement was literally set up by the international community, and BiH had no other option than to agree upon it in order to prevent the war from continuation. Nystuen states that the Contact Group did not want to take a risk of a referendum, since there was a great possibility that Bosnian Serbs or Croats would not agree upon the Dayton Accords (Nystuen, 2005, p. 14). Leaders just signed for the sake of the truce. This agreement is however ethnically based. This means that it protects the rights of the constituent people and ensures that adopted decisions will be ethnically balanced from the perspective of these groups. This is not provided for others, who are not considered to be the constituent people and who do not have the right of veto (Nystuen, 2005, p. 15). Here comes the first argument. Even if the BiH is considered a multi-ethnic society, it is not working to

foster a cohesive multicultural society. Politics is limited by ethnicity and only for allowed ethnic groups.

There are discrepancies in the Dayton Accords and the BiH Constitution, which is a part of the Dayton Accords. The essential one is that all people have freedom from discrimination- Annex 6 on Human Rights and Annex 4 on Constitution. On the other hand, it defines Bosniaks, Croats and Serbs as the constituent people, "along with others" in Annex 4 (Office of the High Representative, 1995). The rights, especially political rights are significantly limited. Nystuen defines the problem in a way that there are discrepancies "between the rules on prohibition against ethnic discrimination and those constitutional rules that actually provide for exclusion on ethnic grounds" (2005, p. 15). From a human rights perspective, the Dayton Accords are just a compromise for achieving peace, but the area of later prevention of conflict and protection of rights of others was significantly underestimated. From the position of democratic transition, democratic rule is significantly weakened by denying particular groups of citizens to enjoy their rights fully. Such clear definition of state-builders is dangerous in case of a political action. As Image 2 suggests, state policy is supposed to count with the (in a case of BiH) three cultural groups which are not identified as the official one(s). Even if the citizens of BiH, who are not identified as the constituent groups, have the feeling of belonging to the state, they cannot participate on all public matters equally, contrary to the Constitution which orders that all citizens have a right to participate, no matter which race, sex or ethnic group they belong to (Office of the High Representative, 1995). However, as stated, this principle is not met since 1995. The Dayton Peace Agreement also contains the international covenants and treaties on human rights protection and European documents which are "transformed into Bosnian national legislation" (Nystuen, 2005, p. 95). Liberal democracy theorists say, as mentioned earlier, that state protection of individual human rights, which is the basic pillar of liberal democracy, is not enough and international protection is also necessary. Bosnia fulfills this principle also, but at the same time, discrimination is more than obvious. Nystuen claims that ethnicity has been the problem of BiH politics and it is still. As she suggests, it "will remain an essential characteristic of every person and of every political party" (Nystuen, 2005, p. 252).

Nystuen sees the Dayton Accords as a good compromise for ending the war, meaning ensuring the peace, but she sees many problems regarding its rules and norms. It legitimizes the separation of the people and ethnic arguments and decision-making processes. That causes that process of reconciliation is also not the priority, but it is rather forgotten. Constituent people pursue their interests and needs; if they do not like some proposal, they veto it and do not have to consider others. Others are apparently disadvantaged. Nystuen looks at this problem mainly from the position of the Dayton Accords, but in practice, the mentioned discrepancies have bigger impact on various degrees, such as economic, emotional or social. The paper is now looking at the situations which influence the lives of the people directly and which cause that discrimination is not prevented but rather institutionally built-in and allowed.

Discrimination "in practice"

This paper looks at the problem of BiH in three spheres- the institution of power-sharing- in the political sphere, two kinds of discrimination – in the social sphere and hate crimes – and their impact in the emotional sphere. The main question still remains whether institutions in BiH provide for a democratic rule. It is, therefore, also necessary to mention issues which have an influence on the democratic transition.

Bosnia and Herzegovina is governed through sharing of powers, which was introduced before the conflict and after it as well. Rothchild and Roeder suggest that "power sharing limits democracy" (Roeder & Rothchild, 2005, p. 36). This is quite a logical statement. When we consider the situation of BiH, power sharing limits the decision making process, especially in combination with the ethnic veto. The constituent people are the dominant ones, which allow them to decide public matters. However, supposed competition among elites of the country is rather based on the nationalist argument than on the "accountability of the elites to the citizenry" (Roeder & Rothchild, 2005, p. 37). Power sharing is not regarded only on the basis of political organs and institutions, but on the decision-making process as such, which concern every citizen of the BiH. Schumpeter suggests that these elites are regulated by the elections which are held repeatedly (Schumpeter 11975, In: Roeder & Rothchild, 2005, p. 37). In BiH, it was a real problem to exchange the elites and moderate them after the conflict, since nationalist arguments have been and still are the decisive factor to some extent. To summarize this argument, it can be said that power sharing

arrangement always gives power to some particular group(s), while others are excluded. Roeder suggests that that the compromise is in power-dividing arrangements, which "provide more credible commitments to the rights of all minorities" (Roeder, 2005, p. 52). This arrangement therefore empowers all the minorities and so they have the ability to block the majority. It has to be said, that BiH started to empower also minorities, but not on the level of the state. This empowerment can be found on the level of entities and municipalities.

Even if power-sharing is supposed to protect the country from later conflict, it is really difficult to take into account the human factor. On the organizational basis-sharing power proportionally among all constituent groups, it is also necessary to consider people's values, culture and interests. These three determinants influence the institutions and it is really difficult to change them, and after the conflict, it is also difficult for other groups to respect them. The dominant groups also do not cooperate with each other. Power sharing is a good example of the cases when people's identifications might block the development of the whole state. Here, political and social spheres are connected. Shared power keeps people identified with the group rather than with the state.

Power-sharing causes discrimination in BiH on the state level regarding political rights, but this discrimination can be divided into two classifications- one is that of the non-constituent minorities, or Others, second is that of the constituent people who are in the minority in some region or area. The problem which is behind the discrimination includes "educational and linguistic rights" (Bieber, 2006, p. 117). Bosniaks, Croats, and Serbs do not have a big problem with languages, since their languages are official at all levels of the state and in both entities. Even if language is not a problem specifically, it strengthens the national separations and points to the differences among these groups. Educational rights are a bigger problem. For the Bosniaks, Croats, and Serbs, it is perhaps also not a problem, but when we look at it from different perspectives (human rights, conciliation, or social cohesion), their schools or classes are separated depending on the (constituent) ethnic group (Bieber, 2006, p. 118). From the position of reconciliation and principles of democracy, this situation is not acceptable. However, this separation is a bigger problem for the non-constituents for obvious reasons- they have to choose the class depending on the

dominant group. The quality of such educational system can also be questioned (Bieber, 2006, p. 118).

Rights and demands of smaller groups are not followed in a way they are supposed to be. Education and language problems are rooted in discrimination. This problem appeals to the emotions of people as well, and concretely in BiH it often results in hate crimes. The last report which OSCE have done on these crimes says that "hate crimes are hampering reconciliation process in Bosnia and Herzegovina" (Dzidic, 2012). BiH is still recovering from the war. Trust among people, communities, and religious groups, was and still is violated. Besides the fact that BiH consist of three major ethnic groups, it also consists of three major religious groups- Muslims (40%), Orthodox (31%), and Roman Catholic (15%) (CIA Factbook, 2012). As the article in Balkans Insight points out, the crimes are not only verbal, but also physical, based either on ethnic or on religious differences. People have tendency to hate each other, have prejudices rather than work on the reconciliation process. OSCE reports that "100 hate crimes trials" are now run in the country (Dzidic, 2012). Hate crimes are emotionally based. The report which comes up with it is not even half a year old. It has been seventeen years since the signing of the peace treaty and people still do not live in a consolidated and peaceful society.

 The peacebuilding wheel model presented below suggests the spheres which have to be fulfilled in order to achieve a stable society. Values are an influential factor which has an impact on all of the spheres mentioned in Image seven. Looking at this picture from the position of BiH, six of the ten can be questioned. Human security and protection, trauma, education, identity, and even conflict transformation are not in sufficient state in BiH. The first, political sphere and power sharing arrangement have an impact on conflict transformation, mainly because of the separation of people in the Dayton Peace Agreement. This separation, which legitimizes dominant groups to act in accordance with their demands and legitimized nationalist politics, do not reconcile people and do not transform the conflict. Discrimination threatens the security of people, not only in the sphere of social violence, but non-dominant groups are also violated in their political rights, which later have an impact on their education and identity. People, in order to be represented and protected in their rights and

demands, vote in accordance with their identification and national group. None of these conditions moves the country toward consolidated democracy.

Image 7-Peacebuilding Wheel
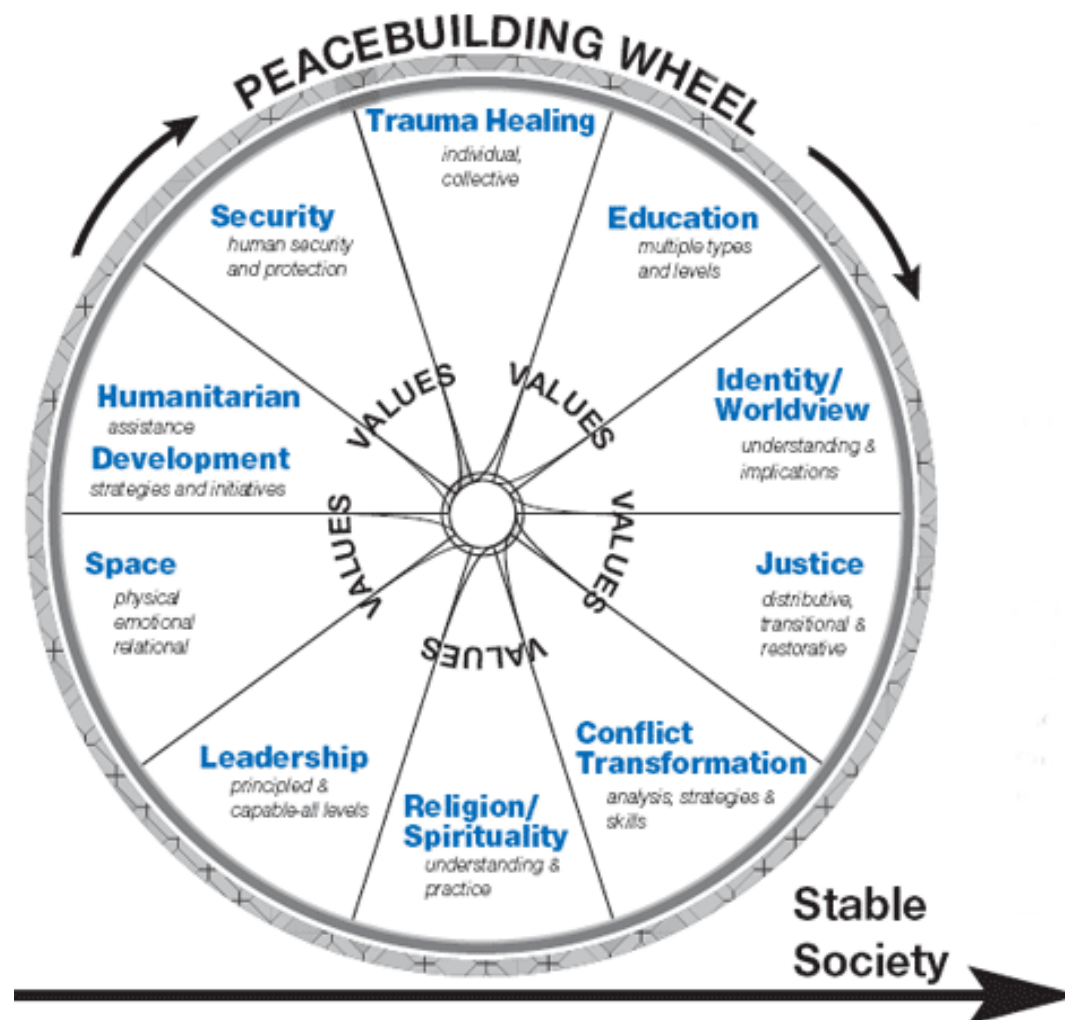
(Source- Barry Hart, 2006)

Case study: the Finci and Sejdic Case

The case study of this thesis concerns the case tried before the European Court of Human Rights of Mr. Finci and Mr. Sejdic vs. BiH. For the purposes of this thesis, Mr. Finci's case is especially important.

Mr. Finci wanted to run for the membership in the Council of Presidency. The presidency is elected directly from each entity. As the Constitution states, the Council consists of one Bosniak, one Croat, and one Serb (Office of the High Representative, 1995). Because Mr. Finci does not belong to any of these dominant, constituent

groups, he was not allowed to become a candidate. He belongs to Jewish minority. Interesting is that Mr. Finci is an Ambassador of BiH to Switzerland, what is important political and public function. He is therefore likely a qualified and educated politician. Despite his qualifications, he cannot become the member of the Presidency, because of his ethnicity, which is in this case also identical with religious views. The European Court of Human Rights, to which the case was submitted in 2006, decided that "Bosnian Constitution and election law" discriminated Mr. Finci, and Mr. Sejdic (Sejdic and Finci v. Bosnia and Herzegovina, In: Clarige, 2010, p. 1). Election law also states that only a member of the constituent people can become the member of Presidency. This decision was announced in the beginning of the year 2009. One of the key arguments in that case was, that "discrimination in relation to the right to stand for election could never be justified" (Clarige, 2010, p. 3). On the other hand, BiH defended itself on the grounds that this norm was invented by the Dayton Peace Agreement, which is not possible to change. However, the equal treatment principle is violated, which was also recognized by the European Court of Human Rights. The result of the decision of the court is that BiH has to "amend its Constitution and election laws in order to ensure equal treatment of all its citizens" (Clarige, 2010, p. 5). The deadline was set to the upcoming elections in 2010. It is the year 2013 now, and no reform has been made by the BiH upon this issue.

Is there a possibility that the BiH Constitution will be reformed?

The simplest answer to this question would be that BiH needs a reform and must be reformed. The European Court of Human Rights asked for it. The European Union also asks for it. (Sebastián, 2011). Sebastián named serious difficulties which are necessary to reform and change in BiH, and especially in the Dayton Accords. This agreement is not the up to date for the needs of today's Bosnia and Herzegovina. On the one hand, it provides the institutional guarantees for ethnic groups; on the other hand, these groups are not satisfied with it anymore. Second defined problem is the mentioned complex institutional system. Besides stated difficulties, it also inhibits Bosnia from EU integration. The system itself blocks cooperation among the different levels of institutions and institutions themselves. Thus, the BiH decision-making processes are sometimes blocked from the beginning, from the "lowest" levels (Sebastián, 2011). Because of the human rights violation, which is a crucial factor for the reform, the EU set the deadlines for it, which were not maintained. The reforms

(proposals), however, have tendencies to fail because of the veto right of the dominant groups. The international community supervises the attempts for reforms and even asks for them. The last "Budmir Process" or "talks" were held in 2009, as the preparing address for "constitutional change" before the upcoming elections (2010) were held (Sebastián, 2011, p. 3). Unfortunately, these talks were not successful as well, and international community supervision was not strong enough to force the BiH's parties to reform the Constitution. The situation of the country remained the same, as did the relationships between the parties and groups. The biggest problem, however, is defined as mistrust and this emotion causes that constitutional change is avoided and decisions made by the European Court of Human Rights ignored. Sebastián also defined six important areas, which have to be considered by the international community in the matter of enforcing the constitutional change:

1. It should use the influential power of local leaders.
2. International community should unify its demands.
3. Make clear conditions for EU integration- e.g. whether the constitutional change is one of the decisive factors or not.
4. Strengthen the local responsibilities and ownership.
5. Make a framework for post-Dayton Bosnia and Herzegovina e.g. define guarantees.
6. Engage other international actors. Sebastián suggests by this statement, that for example, the engagement of Croatia and Serbia would help to support the argument that "nationalist platforms" threaten the EU integration process (2011, pp. 4-5).

Bosnia and Herzegovina is under international supervision for more than fifteen years and it is logically used to it by now. International community, on the other hand, still forces BiH into reforms and development processes. As it is argued, suggested reforms, even if existential one, are not accepted by BiH parties and groups. These six statements or proposals made by Sebastián are insightful, serious, and helpful. There are many cases when international actors where not unified and so BiH struggled, e.g. in the case of mentioned reforms- EU asked for a "limited reform package" and US supported the idea of a creation of opposition (Sebastián, 2011, p. 4). The demands have to be unified for leaders who really seek the change and therefore the progress of

the country. BiH of course needs the reform of the participation of non-constituent groups, and therefore to include them. It is possible only when the administration would be "unblocked" and international community, which is the supranational supervisor, unified.

Discrimination in Bosnia and Herzegovina starts in the institutions and is even defined in the Dayton Peace Agreement and Constitution. In practice, discrimination is not only the concern of the non-constituent people, but also of that constituent group which is a minority in some region. Dahl's basic right- the right to participate- which, in other words, also means the right to have equal opportunities to participate on power, is violated. The multi-ethnic Bosnia struggles because of this violation. Nationalist tendencies, which prevent the reform, also have a great impact on the spheres of language and education. In theory, it is easy to say that every post-conflict country needs to set the process of reconciliation in order to prevent the conflict in the future. In BiH, this process failed to achieve that. The Dayton Peace Agreement, kind of a political compromise, blocks the country in some respect, since it separates its groups. There is also the problem in the different visions of the country by dominant groups, which has roots in their separation and inability to cooperate. Bosnia and Herzegovina suffers from many problems which have a direct influence on the quality of democracy. The conclusion on this issue and the result of the analysis is provided in the next, fifth, chapter. However, as this chapter examined, the situation in BiH regarding human rights is serious and this problem influence many spheres of the country, such as its development, economy or education.

Chapter 5: Conclusion

This thesis has the task to examine the quality of democracy in Bosnia and Herzegovina. It provided the background and explained the current situation in the country, focusing on its institutional design and specific problems within it. The last chapter which the thesis provides is divided into two parts: its implications and summary. The first part will evaluate the implications of the findings for assessment of the quality of democracy in BiH. The summary part will provide the points which were the key ones for the paper and it will also conclude what the paper found out.

Implications

The quality of democracy in BiH, as hypothesis states, is low. The crucial factors of the weakness are its complicated institutional system, ethnic identifications of the people, and the dysfunctional decision-making processes, which do not allow for the reform. The paper has chosen human rights as a measuring indicator. All of these problems mentioned above have the direct impact on the quality of human rights. The rights of minorities are significantly violated by the institutions such as the Constitution of BiH and the Dayton Accords. Citizens of BiH are not protected by the common law, but rather separated by it, which allows for discrimination. These two documents prevent non-constituent groups from full enjoyment of their right to participate, since these people are not considered as potential candidates for the state level institutions- e.g., the Presidency.

This is the main issue regarding human rights violation, which, however, influences the quality of BiH democracy as a whole. Protection of human rights is the main principle of liberal democracy we are familiar with nowadays. The protection of these rights is rooted in the constitutions and in the international treaties. Even if BiH fulfills both these conditions, it violates these rights at the same time. One of the reasons for this blockage is, besides the complicated institutional system, identifications of people who still incline toward nationalist parties. These parties permanently use ethnic veto and that complicates the effort to reform the Constitution and so to include others among the dominant groups in the respect of the right to participate. This proves that Bosnia is still ethnically divided and the constituent people do not cooperate on the level of public administration.

Ethnicity is deeply internalized in the institutional system, which the international community cannot prevent. Political decision-making processes are ethnically based and limited by the ethnic veto system. That is the reason why the paper calls the democracy of BiH "ethnic". The reason for this result is that BiH protects the rights of people in accordance with their ethnic belonging. It means that the constituent people can enjoy their rights fully while others cannot. It can be said that one of the main reasons for ethnic democracy is that the institutional system of BiH is not set up sufficiently in way that it justifies this discrimination of minorities. The institutional design of BiH, envisaged for the transition period with the immediate goal to prevent another violent conflict, is not working to ameliorate the ethnic divides; it cements them deeper into the fabric of the society.

The hypothesis of the paper has proven to be right. Stability of the system and its complexity is a serious problem for BiH. In order to solve this problem and prevent another blockage of reform efforts, BiH should start to unblock the administration from the lowest positions- municipalities, cantons - and then continue to entities and eventually to the state level institutions. International community also asks for the reform, however, the demands are not unified and therefore the enforcement of the change is not effective. Supervisors, such as the European Union or High Representative should submit concrete measures, which would be considering the same steps toward reform of the Constitution in order to compel BiH politicians to act.

Summary
The method of the paper was founded in institutional approach. By institution, it did not consider only some organization or document, but also rules and norms, such as human rights. This thesis also provided background to present situation in BiH, which is really serious. The first multi-party elections BiH had after the fall of the communism showed that people identified with the nationalist parties, which held different views on BiH in regard to its relation to former Yugoslavia. This different vision resulted in the war and ethnic cleansing, which is still considered a trauma for the Bosniaks. The second significant elections, held after the conflict, suggested that people's identifications have not changed. People considered the nationalist parties as some kind of guarantors of their rights. This is logical to some extent, since ethnically

based parties really pursue the goals of their particular group while denying the other groups including other dominant groups.

The system which was introduced after the war complicates the future and the quality democracy of the Bosnia and Herzegovina. The future is questioned because people still have different views on BiH composition. Republika Srpska, for example, still seeks secession. Democracy is questioned in a way that we can ask how far are we willing to go to consider a system democratic? The founding document of BiH, kind of a democracy supervisor – the Dayton Peace Agreement, also divides the society and provides justification for nationalist arguments and ethnic decision-making. This results in discrimination of minorities. Even if on the one hand, protection of human rights and freedom from discrimination is among the principles of the Dayton, there are also significant problems in this area. Only the constituent people can become members of the Presidency, taking the chance to run for this position from the minorities. This is only one side of the problem. Second one is the rate of hate crimes, which is high, problems stemming from separate systems of education, or religious differences. BiH is a multi-ethnic society, which is pluralistic by nature, but it seems to deny pluralism and prefer assimilation of non-dominant groups.

Society of BiH is not consolidated and does not forget the conflict. It became the part of people's identity, which separates people on the one hand, but unifies them on the other, as they all went through it. There are many questions and problems which need to be solved in BiH in order to achieve the working and stable society and liberal democracy, which is desirable. Power-sharing arrangement, which is supposed to make decision-making process balanced in accordance with ethnic divides, divides society as well, and does not provide for commitments of elites toward citizens, but rather for the sustained fighting among themselves. Society which has not gone through the process of reconciliation, and faces the problems BiH does, struggles with stagnation or decline instead of development. It is not only in field of economy, but it also weakens the democratic rule and trust among people.

Resumé

Úvodná kapitola práce sa venuje najmä základným motívom práce, hypotéze a kľúčovým argumentom. Práca ako celok je rozdelená na dve časti- teoretickú a praktickú, pričom teória vysvetľuje koncept demokracie z pohľadu ľudských práv a praktická časť je zameraná na problematiku diskriminácie v Bosne a Hercegovina. Tieto dve časti sú spolu zamerané primárne na inštitucionálnu analýzu demokracie v spomenutej krajine. Neoddeliteľnou súčasťou tejto kapitoly je teda objasnenie metodológie práce. Tá vysvetľuje, prečo je práca zameraná na skúmanie danej problematiky z pohľadu inštitúcii a teda na inštitucionalizmus. Práca taktiež predpokladá, že demokracia Bosny a Hercegoviny je slabá, nakoľko inštitucionálny dizajn tejto krajiny nie je zavedený dostatočne. Fungovanie týchto inštitúcii navyše povoľuje diskrimináciu a oslabuje kvalitu demokracie Bosny a Hercegoviny.

Druhá kapitola práce je zamaraná na teoretické vysvetlenie hlavných konceptov- inštitucionalizmu, prístupe založenom na právach a definovaní demokracie. V prvom rade objasňuje, že inštitúcie sú, okrem rôznych organizácií, ústavov, úradov, súbory pravidiel a organizovaných postupov, noriem. Hodnoty, ktoré sú zahrnuté v inštitúciách upevňujú identity a vytvárajú pocit spolupatričnosti. Na politickej úrovni, môžeme povedať, že za tento súbor pravidiel a noriem považujeme zákony, práva atď., ktoré sú (mali by byť) chránené súdnictvom, medzinárodnými organizáciami a vládou. Takto sú poskytované garancie obyvateľom a tí na druhej strane, používaním týchto práv a vedomím o tom, že sú chránené, poskytujú vládam a štátom legitímnosť. Na ochranu ľudských práv si nárokuje nie len štát- vláda, ústava, ale aj hlavne medzinárodné spoločenstvo. Táto ochrana je kľúčová, pretože okrem toho, že štát je hlavným garantom ľudských práv, je aj ich najväčším porušovateľom. Občania na jednej strane majú záruku ľudských práv, no na strane druhej majú aj povinnosti ako nositelia práv, napr.- rešpektovanie práva druhých, platenie daní a podobne. Čo sa definovania demokracie týka, práca sa pokúša objasniť tento koncept najmä z hľadiska ľudských práv, pričom sa pozerá na volebnú demokraciu a liberálnu. Volebná demokracia adoptuje práva väčšiny a liberálna práva jednotlivca a to tak, že dohovory o ľudských právach sú priamo zakotvené v ústave a to je poistené ústavnou väčšinou a medzinárodnými zmluvami. Oba druhy demokracie sú založené na právach, prvá na právach väčšiny a druhá na právach jednotlivcov.

Tretia kapitola je rozdelená na dve časti a síce prvá opisuje situáciu v Bosne a Hercegovine pred vojnou a uzavretím Daytonskej mierovej dohody a druhá sa pozerá na rozvoj krajiny po vojne a podpísaní tejto zmluvy. Začiatok kapitoly je zameraný na prvé voľby, ktoré nasledovali po páde komunizmu v bývalej Juhoslávii. Môžeme povedať, že už od týchto volieb sa vytvárali dnešné identity medzi ľuďmi, ktorí mali tendenciu identifikovať sa s hlavnými nacionalistickými stranami- SDA, HZD, SDS. Tieto identifikácie boli následne upevnené vojnou, čo dokázali aj prvé povojnové voľby, a ktorá má stály vplyv na formovanie dnešných identít. Nacionalizmus teda zohráva kľúčovú úlohu na politickej scéne Bosny a Hercegoviny, ktorá je od vojny pod správou medzinárodnej spoločnosti. Tým, že vojna bola hlavným konfliktom medzi Srbi, Chorvátmi a Bosniakmi, Daytonská zmluva sa zamerala hlavne na tieto tri štátotvorné národy. „Ostatní", ako sú v ústave a tejto zmluve menšiny nazvané, sú značne diskriminované, najmä v ich politických právach- právo participovať. Avšak narastajúce a prehlbujúce sa problémy medzi štátotvornými národmi, ktoré majú navyše právo vetovať akékoľvek rozhodnutia, reformy a návrhy, ktoré nie sú podľa ich presvedčenia, odďaľujú riešenie tohto problému. Navyše stagnácia spôsobená etnickým vetom prehlbuje krízu Federácie a prehlbuje konflikt medzi entitami. Základnou príčinou týchto problémov je komplikovaný inštitucionálny dizajn tejto krajiny, ktorý skôr separuje jednotlivé skupiny ako ich zmieruje.

Štvrtá kapitola je zameraná na diskrimináciu menšín konkrétne a na nezhody v ústave a Daytonskej zmluve, ktoré ju zapríčiňujú. Hlavnou nezhodou je, že na jednej strane tieto dokumenty jasne hovoria a zaručujú slobodu od diskriminácie, no na strane druhej ju jasne povoľujú. Ústava zabraňuje iným skupinám, respektíve jednotlivcom, ktorí sa nehlásia k štátotvorným národom kandidovať napríklad za člena Rady Prezidentov. Tieto skupiny si teda nemôžu „užívať" rovnako a rovnaké práva ako tri dominantné skupiny. Toto je jedným z prípadov porušovania práv menšín. Tým druhým je porušovanie práv štátotvornej skupiny, ktorá je na určitom území menšinou oproti skupine druhej. V praxi tento problém zapríčiňuje najmä zločiny z nenávisti a to následnej ničí dôveru medzi ľuďmi. Ako prípadovú štúdiu si táto práca vybrala prípad pána Finciho a Sejdica. Pánovi Fincimu, ktorý sa hlása k židovskej menšine, bolo zabránené kandidovať za člena Rady Prezidentov, práve kvôli jeho národnostnému zaradeniu, napriek tomu, že kvalifikačnú stránku spĺňa. Európsky súd

pre ľudské práva označil tento čin za diskrimináciu a nariadil zmenu ústavy, tak aby zaručovala rovnaké zaobchádzanie so všetkými občanmi. Bosna a Hercegovina teda potrebuje ústavnú reformu. Tým, že táto krajina je stále pod dohľadom a pod správou medzinárodnej spoločnosti, je nevyhnutné aby jej členovia zjednotili požiadavky na Bosnu a Hercegovinu a nadiktovali jej jednotné podmienky. V opačnom prípade je pre túto krajinu ťažké podstúpiť zmeny a reformy.

Posledná kapitola vyhodnocuje demokraciu Bosny a Hercegoviny a označuje ju za etnickú a slabú. Tak ako hypotéza naznačuje, inštitucionálny systém je nastavený tak, že blokuje jednotlivé kroky rozhodovacieho procesu, no na strane druhej, merací faktor- ľudské práva- tiež potvrdili, že systém ich nedostatočne chráni. Etnickou demokraciu možno režim tejto krajiny nazvať preto, že táto krajina je na etnicite založená, tak ako jej ústava a inštitúcie. Práva občanov sú taktiež chránené podľa ich etnického zaradenia. Spoločnosť tejto krajiny je rozdelená a stále poznačená konfliktom, ktorý do určitej miery pretrváva, preto je nevyhnutné pre túto krajinu, aby podstúpila reformy ústavy.

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