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An unprecedented experiment:

Security sector reform in Bosnia and Herzegovina



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Acronyms and abbreviations

ABiH	Army of Bosnia and Herzegovina (Bosnian-Muslim armed forces)
AID	Agency for Investigation and Documentation (Bosnian-Muslim intelligence service)
BiH	Bosnia and Herzegovina (or Bosna i Hercegovina)
CAFAO	Customs and Fiscal Assistance Office
CEELI	Central Eastern European Law Initiative of the American Bar Association
CIVPOL	Civilian Police
CJAU	Criminal Justice Advisory Unit of UNMIBH
DDR	Disarmament, Demobilisation and Reintegration
DPA	Dayton Peace Accords
ETF	Employment and Training Foundations
EUPM	European Union Police Mission
HRO	Human Rights Office of UNMIBH
HVO	Croatian Defence Council (Bosnian-Croat armed forces)
ICG	International Crisis Group
ICITAP	International Criminal Investigation Training Assistance Programme of the United States Department of Justice
ICPA	International Corrections and Prisons Association for the Advancement of Professional Corrections
IDA	International Development Association
IFOR	(NATO-led) Implementation Force
IJC	Independent Judicial Commission
IPTF	International Police Task Force of the United Nations
ISBS	Internal State Border Service
JSAP	Judicial System Assessment Programme of UNMIBH
KLA	Kosovo Liberation Army
KM	Konvertibilnih Marka or Convertible (German) Mark (unit of currency)
MPRI	Military Professional Resources Incorporated (US private military company)
NUPI	Norwegian Institute of International Affairs
OHR	Office of the High Representative
OSCE	Organisation for Security and Co-operation in Europe
PfP	Partnership for Peace (NATO-sponsored programme)
PIC	Peace Implementation Council
PIU	Project Implementation Units of the World Bank
RS	Republika Srpska (Serb Republic in BiH)
SBS	State Border Service of BiH Government
SC	Security Council of the United Nations
SCMM	Standing Committee on Military Matters
SFOR	(NATO-led) Stabilisation Force in BiH
SNS	Bosnian-Croat National Security Service
SIS	Security Information Service (Croatian intelligence service)
SRSG	Special Representative of the UN Secretary-General
SSR	Security sector reform
TDF	Territorial Defence Forces of Socialist Federal Republic of Yugoslavia (1945–1992)
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNMIBH	United Nations Mission in Bosnia and Herzegovina
UNMIK	United Nations Mission in Kosovo
UNTAET	United Nations Transitional Administration in East Timor
US	United States of America
USAID	United States Agency for International Development
VF	Army of the Federation of BiH
VRS	Bosnian Serb Army



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Executive summary

1. The 1995 Dayton Accords that ended the war in Bosnia and Herzegovina (BiH) provided minimal guidance on the issue of reform of the security sector, outside of military and police matters. The experience in BiH has shown that a holistic, wide-ranging approach is needed. Hence security sector reform is a concept which is gaining popularity. It seeks to improve all the agencies dealing with security: military, police, judicial, customs and border services, corrections and intelligence agencies. This paper provides an extensive but not exhaustive review of the initiatives undertaken by the international community to bring about reform of these agencies since 1995. Efforts at citizen disarmament are also described.
2. Demobilisation and reintegration of BiH military forces has proven to be a difficult but essential task. The existence of three wartime armies has been bankrupting the state. Until 2000 the state allocated as much as 40 percent of its total annual budget to defence spending. The lack of adequate reintegration has contributed to organised crime, weapon smuggling, violence towards minority returnees and an export of mercenaries to other parts of the world. The central question of integration or greater autonomy of the country's armed forces looms continually in the background.
3. When the Bosnian wars came to an end, the military forces in BiH needed to be restructured and professionalised. To date, professionalisation initiatives have been aimed mostly at the Federation forces. They have included: reforming the structure of the forces and re-vetting personnel while disbanding irregular forces; training at all levels (strategic, operational and tactical); encouraging higher professional standards; increasing technical skills; establishing greater efficiency in administrative structures; and creating accountability and external civilian oversight.
4. International community support for demobilisation came largely in the form of project funding from the World Bank. The other actors engaged in military professionalisation efforts have been: the private US-based military company (MPRI), the NATO-led Stabilisation Force (SFOR), the Organisation for Security and Co-operation in Europe (OSCE), the Office of the High Representative (OHR), and the United Nations Mission in Bosnia and Herzegovina (UNMIBH). To encourage longer-term professionalisation and greater cohesion between RS and Federation police forces, UNMIBH fostered both a military and a civilian police capability to participate in international peace-keeping activities.
5. Post-conflict police reform is intended to concentrate on strengthening the management capacity of the police force to implement change and understand what it means to be a police officer in a democratic society, distinguishable from the military. The overall aim of such reforms is to establish effective and humane services to uphold law

and order for all citizens. In BiH, as with the army, a large police demobilisation effort was needed.

6. The delegation of enforcement of customs policy to the two (or, in practice, three) entities made effective, nation-wide border control difficult. The vacuum in customs administration and border control has encouraged the development of an illegal migration pipeline transiting BiH and ending in Western Europe. The official establishment of the State Border Service in June 2000 ended a long-standing feud between Bosnia's two entities. The SBS will control approximately 1,660 kilometres of international borders and employ more than 2,700 officers.
7. Legal reform entails building a new system of justice that operates on the basis of the rule of law and human dignity and not simply as an extension of political power. Judicial and legal reform efforts in BiH have been halting and painstaking. They have included legal education, strengthening of bar associations, law schools, and, only recently, serious judicial and legal reform measures (particularly criminal and commercial law reform). Judicial reform, in particular, has been exceedingly slow. Effective legislation and administrative structures to review the qualifications of judges and prosecutors were only put into place in mid-2000. Only now are some corrupt or ethnically biased judges being replaced. Many crimes from the war have gone unpunished and a number of criminals indicted by local courts and by the International Criminal Tribunal for the former Yugoslavia (in particular Serb leader Radovan Karadzic and General Ratko Mladic) remain unapprehended.
8. As with professionalisation efforts aimed at police, military and other security institutions, the reform of the corrections and penal services also requires extensive international support. Collaborative technical assistance efforts could include education, donation of equipment and the promotion of internationally agreed corrections principles.
9. The reform of intelligence services after conflict is a difficult but essential task. Several intelligence services were active in the territory of BiH, and are understood to be under the control of various political parties. Intelligence organisations have largely remained off the international reform agenda. Restructuring efforts have begun only recently in BiH as no international organisation has claimed absolute mandate responsibility and local leaders have lacked the courage to tackle what is a tough problem.
10. Disarmament of a post-conflict society is another reform measure of great importance. It improves the safety of the citizenry and strengthens the monopoly of the state on the use of force. Tailored disarmament has been applied not only to the security agencies but also to society as a whole. Still, the mixture of weapons proliferation, mandatory conscription, high unemployment and mistrust between the ethnic communities remains a serious threat to the peace, countered only by the strong presence of peace-keepers and the general fear of a return to open warfare. The lack of transparency in the military re-armament process remains an essential problem, as does the absence of any agreed limit on levels of small arms (in contrast to the situation with regard to heavy conventional weapons).
11. Security sector reform must involve not only the entire range of government security agencies, it must also support a range of other national actors, especially civil society, that are working for positive change. For instance, NGOs, think tanks, universities, etc, play an important role in monitoring security agencies and in developing security policy.
12. The experience of reform in BiH has shown that such efforts should be a holistic undertaking, covering the entire array of security actors. While the initiatives of the international community cover many components of the security sector, reform across the sector is far from uniform. The primary focus of international efforts has been reform of military and police forces while other security institutions, like the

judiciary and intelligence agencies have been neglected. While military and police officers have received technical training, personnel employed by other agencies of the security sector have been left behind. The hope is that a lasting peace can be achieved when all the agencies dealing with security are reformed, made democratically accountable and work at higher (generally European) standards to serve the interests of all the citizens of BiH.

Bosnia and Herzegovina



Introduction

AFTER FOUR YEARS of bloody internecine fighting, the war in Bosnia and Herzegovina (BiH) was finally brought to an end with the signing of the Dayton Peace Accords (DPA) in December 1995. The international community, having invested so much in the peace process in BiH, became intimately involved in implementing the Accords as part of an unprecedented effort at post-conflict peace-building. The goal was to help prevent a rapid relapse into warfare and to build the infrastructure for a lasting peace. At the outset, this meant dealing with the three belligerent *ad hoc* wartime armies – the Bosnian-Muslim forces (ABiH), the Bosnian-Croat Croatian Defence Council (HVO), and the Bosnian-Serb Army (VRS) – that had caused so much damage in the country. Soon efforts expanded to cover other parts of the security sector and, even more broadly, to democratic governance across the spectrum of security and non-security agencies in the two DPA-established entities, the Bosnia-Herzegovina Federation and Republika Srpska (RS), which together form the state of BiH.¹

The need to reform all the BiH agencies that deal with security, which collectively form the ‘security sector’, was increasingly recognised as essential for the success of peace-building. During the conflict, the military forces became habituated to committing egregious human rights violations, as did a number of ruthless paramilitary bodies that fell outside the normal chain of command. Law enforcement agencies routinely overstepped their bounds and engaged in widespread abuses and corruption. The courts were partial to ethnic identity and ignored due process in the name of wartime expediency. The corrections system was in utter disrepair, as enemy soldiers had displaced legitimate criminals in decrepit prisons run under sub-human conditions. Borders were porous as customs officials participated in illegal trafficking of persons and goods. The intelligence agencies wielded tremendous power as tools of ultra-nationalist political parties, including those in neighbouring capitals. In short, the entire system of government had been warped to meet the dictates of the war and the ruling elites.

Hence, despite the lack of treaty provisions, in post-Dayton BiH the international community quickly found itself engaged in an unprecedented effort, both in scope and cost, of security sector reform (SSR). SSR is a holistic approach which recognises that the strong links between the various security agencies must be taken into account if reforms are to succeed. Without a comprehensive approach, one unreformed body might continue playing by the old ‘dirty rules’ and undermine efforts to transform not only itself but also the other agencies. Not since the end of the Second World War had the United States, the nations of Europe and the world (through the UN) committed

¹ The DPA created an elaborate state structure with competing entities and an administration so complex that it often impedes efforts at reform, see section 8.

such great resources to reform the security sector of a state. While it is too early to judge the final impact of the many SSR initiatives, it is important to take stock of them and to identify the successes and limitations that are already apparent in this crucial Balkan experiment. This paper endeavours to provide an overview of the initiatives and international actors conducting SSR in each of the components of BiH security sector: military, police, customs and border service, judicial, corrections and intelligence. Successful instances and synergies among the international actors are illustrated, as are some of the failures and the many challenges continuing to impede reform.

Notwithstanding the wide-ranging nature of the 1995 Dayton Accords, they provided only minimal guidance on the crucial issue of reform of the security sector. While addressing the issues of the weapons holdings, oversight provisions and the reform of the police and to a lesser degree the militaries, the Accords were virtually silent on judicial and correctional services, customs and border services and the sensitive but critical issue of intelligence agencies. They were also silent on the numerous challenges posed by small arms and light weapons proliferation and the demobilisation of thousands of former combatants.

Fortunately, several of the BiH institutions tasked with the security of the state and its citizenry have welcomed the professionalisation programmes implemented so far, which aim to promote higher (generally European) standards and to instil a sense of integrity, pride and competence among personnel. Success in this field, however, must be measured in small steps, as this inherently political process has seen positive developments in some areas while setbacks and great resistance in others.

Internal state co-operation remains underdeveloped in most sectors of the state security apparatus. The exception is the country's numerous police forces that have introduced effective operational procedures for inter-entity and regional law enforcement co-operation. Failure to establish similar mechanisms in other security institutions has resulted in parallel agencies and structures, waste of financial resources and impotence in the face of domestic and international security challenges. Seeking to remedy this fundamental flaw in security sector reform, nearly seven years since the signing of the Dayton Accords, the international community is now intensifying its engagement to streamline security institutions and reduce personnel numbers to affordable levels. Thus far, public opinion has backed the process, likely due to successful campaigns undertaken by the international community to articulate the social cost savings and benefits of smaller professionalised security services. With the exception of roadblocks and demonstrations undertaken by soldiers slated for demobilisation, public unrest has been minimal and it appears that this aspect of the security sector reform process is on track to succeed.

The examples of SSR in this paper are extensive but not exhaustive. They illustrate the primary actors and the resulting synergies and problems between and within the international organisations and the host nation agencies.

To provide detailed yet easy-to-reference background information on the international actors, several tables and a diagram are presented in the appendices. Appendix one provides basic information on the main international organisations involved in SSR in BiH. Appendix two covers selected non-governmental organisations. A schematic diagram showing the relationship between many of these organisations in the early years is provided in appendix three.

Military reform

Demobilisation and reintegration of former combatants

ONE IMPORTANT LESSON from the UN experience in peace operations in the early 1990s, supported by substantial academic and policy research,² is that combatant demobilisation and reintegration processes must be an integral part of post-conflict peace-building. Despite this, the DPA failed to incorporate a strategy to guide national and international actors. The result was minimal activity and, at best, *ad hoc* and/or unco-ordinated project delivery in this area. The NATO-led Implementation Force (IFOR) considered the “demobilisation of remaining forces” the primary military task³ but offered little more than security advice on the proposed locations of military barracks. The brunt of responsibility for employing a limited degree of emergency demobilisation and reintegration support fell first to the devastated local governments responsible for the three armies and second to the international community, which reacted with varying degrees of effectiveness.

Two factors are largely responsible for the neglect of demobilisation and reintegration processes. Firstly, political tensions between the belligerents during the DPA negotiations hindered agreement on the very sensitive security issues surrounding demobilisation processes. Secondly, it would appear that IFOR, in its peace-keeping infancy, lacked the experience in civil-military co-operation to manage such ambitious tasks, which go well beyond traditional military security functions. IFOR’s concerns that its primary role be the military function of “separating armies from fighting one another” and “protecting civil populations from the actions of the military forces,” ensured that the institutionalised knowledge of the UN in disarmament, demobilisation and reintegration (DDR) was initially resisted by NATO in BiH. In an April 1996 statement concerning the alliance’s assistance to demobilisation and reintegration, IFOR Commander Lt Gen Sir Michael Rose stated that IFOR would “do whatever it can to try and help [demobilisation],” but IFOR is “not the best organisation for doing it”.⁴ With the absence of local government co-operation and capacity, no official demobilisation and reintegration assistance was provided immediately following the cessation of hostilities.

Demobilisation and reintegration remain difficult tasks in BiH, as ex-combatants need to reintegrate not only into a divided state, but also into a post-Communist one. The struggle for democracy and a free-market economy compound the difficulties. The lack of adequate reintegration has undoubtedly contributed to organised crime,

² Canada, Department of Foreign Affairs and International Trade, *Practical Disarmament, Demobilisation and Reintegration Measures for Peace-building*, (Ottawa, April 1997). Also Laurance, Edward J. and Sarah Meek, *The New Field of Micro-Disarmament: Addressing the Proliferation and Buildup of Small Arms and Light Weapons*, Brief 7, (Bonn International Center for Conversion, September 1996).

³ NATO, *NATO’s Role in Bringing Peace to the Former Yugoslavia*, NATO Basic Fact Sheet, No. 4, March 1997.

⁴ NATO, *Press Briefing*, Transcript, COMARRC, Lt Gen Sir Michael Walker, Sarajevo, BiH, 20 April 1996.

weapon smuggling, violence towards minority returnees and an export of mercenaries to other parts of the world. Some specific examples of the latter include:

- Bosnian-Muslims fighting in Chechnya; two were killed by Russian troops in April 2000 after joining Chechen fighters six months previously;⁵
- Demobilised ABiH soldiers assisting the Kosovo Liberation Army (KLA) with military equipment and training in 1999;⁶
- Bosnian-Serb 'volunteers' made up of demobilised VRS soldiers assisting Yugoslav security forces in Kosovo in 1998;⁷ and
- The exportation of Bosnian-Serb mercenaries to Zaire in a failed attempt to prop-up the regime of President Mobutu Sese Seko in 1996.⁸

The demobilisation, or rather disintegration of the armed forces (and the police) came about in BiH in three distinct phases: first as an emergency demobilisation phase in late 1995/1996; second as part of an intermediate professionalisation of services in 1997/1998; and then, in the country's pursuit of a peace dividend, while continuing the professionalisation processes in 1999/2000. Of the estimated 400,000 soldiers in 1995, an estimated 370,000 soldiers were demobilised over a five-year period.⁹

International community support for demobilisation came largely in the form of project funding from the World Bank. In mid-1996, in response to a request from the government bodies of BiH, the World Bank's International Development Association provided the BiH Government with a credit of US \$7.5 million for an Emergency Demobilisation and Reintegration Project to assist reintegration of displaced workers, especially soldiers, into the civilian workforce.¹⁰

To facilitate the project, the World Bank established Project Implementation Units (PIUs) for the BiH Federation and RS. Both PIUs were operated as Employment and Training Foundations (ETF) with tripartite governing boards (ie, with Bosnian-Serb, Bosnian-Croat and Bosnian-Muslims as members). The ETFs were responsible for issuing funds based on competitive project proposals, with the Federation receiving two-thirds of overall project resources. Funding was allocated to BiH Government institutions, local and international non-governmental organisations (NGOs) in the following areas: (1) labour market information, (2) counselling and job finding services, (3) training services, and (4) project management services.

The World Bank has regarded the programme, which ended in the summer of 1999, as a success. Several problems have however been identified. Individuals associated with the project made allegations concerning misappropriation of funds, the generally poor quality of programme proposals, funding preference to international NGOs, and partiality towards funding projects that were labour intensive, which while reducing unemployment in the short-term did nothing to address underlying psychological tensions and post-traumatic mental illness.

The World Bank demobilisation and reintegration assistance programme for 2000–2001 has a budget of US\$ 15 million to assist soldiers who demobilised in 1999 and 2000 following the 30 percent reduction of military personnel across the country. According to the World Bank, the programme focuses on counselling, employment and training. These "finance demand-driven reintegration services ... include support for employment, micro-enterprises, farming, skills enhancement, and higher

⁵ 'Two Bosniak Volunteers Die In Chechnya', *Oslobodjenje*, Issue 2.74, (24 April 2000), obtained from balkans-news@networkbosnia.org

⁶ *Jutarnji List*, 21 April 1999, <http://www.monitor.hr/jutarnji/1999/04/21/index.html>, accessed 14 May 2002.

⁷ 'Volunteers Go With RS Mercenaries', *Dnevni Avaz* (Daily Voice, Bosnian national daily from Sarajevo), 10 Mar 1998, translated by Tuzla Night Owl, <http://teletubbie.het.net.je/~sjaak/domovina/domovina/tno/9803/11/i.html>, accessed 9 September 2002.

⁸ Swaine, Jon, 'War Hungry Serbs Join Mobutu's Army', *The Sunday Times*, 9 March 1996, p 12.

⁹ King, Jeremy, *Building Peace in Bosnia: Lessons Learned in Disarmament, Demobilisation, Reintegration & Civilian Police Capacity-building*, Research Report Commissioned by the Non-Proliferation, Arms Control and Disarmament Division, International Security and Outreach Programme, Department of Foreign Affairs and International Trade, Canada, April 2000, http://www.dfait-maeci.gc.ca/arms/Building_Peacelong.pdf, accessed 13 May 2002.

¹⁰ International Development Association, <http://www.worldbank.org/ida/dao.html>, accessed 13 May 2002.

education”.¹¹ “Comprehensive information and counselling services” are offered to all ex-soldiers in areas such as pre-discharge orientation, professional orientation, (self-) employment opportunities, and “as needed post-traumatic stress disorder”.

The reintegration of demobilised soldiers in BiH was an urgent practical need which shifted international efforts away from long-term developmental assistance in reconstruction to more immediate projects for job creation, education, and counselling. Demobilised soldiers, especially those without work, represented a powerful political lobby, often manipulated by extremists and nationalist parties, and posed a physical threat to the peace process. The dangerous mixture of high unemployment, weapons proliferation, hopelessness and mistrust between the ethnic communities remains combustible, countered only by the presence of the international community.

During the first quarter of 2002, the harsh reality of depleted entity budgets and the increasing inability to pay soldiers’ salaries has required a “radical and fast reduction of the army”.¹² Speaking frankly to government officials in February 2002, the Special Representative of the UN Secretary General (SRSG), Jacques Paul Klein, warned that “the current excessive spending on the three armies is bankrupting the state, preventing economic growth and delaying BiH’s entry into the European family of nations”. He went on to say that “BiH cannot pay police salaries and pensions with machine guns, or buy school textbooks and medicine with bullets... The time has long come to take a bold step into reality. The future that is being squandered by excessive defence spending is yours and your children’s”.¹³ NATO Secretary General Lord Robertson echoed this message in his April 2002 visit to Sarajevo when he said that “it is scandalous that 10 percent of the state budget in BiH is being used for the military”.¹⁴

The recent string of defence downsizing initiatives, led by the OSCE on the civilian side and SFOR on the military side, is considerable. At the Joint Military Commission meeting on 25 April 2002, entity army chiefs of the general staff/joint command informed the international community that on the Federation side, 8,936 out of the current 22,426 professionals have accepted termination of their employment (6,436 Bosnian-Muslims and 2,500 Croats). According to Federation Joint Command HQ, 5,889 from the Bosnian-Muslim component have already signed the contract for termination while no contracts have yet been signed by Croat component soldiers. In the RS, the current number of 8,292 professionals is to be reduced to 6,600 and RS officials have stated that this will be completed by October 2002. RS Army Commander Simic stated that the strategic goal for the RS Army was simply “to survive (in budget terms) at least until the end [of] 2002”. However, as severance payment was not on the agenda in the RS, the reduction is expected to be completed without major budgetary problems.

Although the RS defence reductions do not go as far as affordability requires, it is very likely to be completed as planned and even achieved much faster than originally scheduled (2005). The Federation made a request to the International Monetary Fund (IMF) for commercial loans to fund their KM100 million (US\$ 45 million) redundancy package, but concerns remain over the ability of the Federation to secure the loan and then to pay it off on time. More military reductions are expected in 2003, however, enabling the entities to reach the European average defence budget spending of two to three percent of GDP.¹⁵

¹¹ World Bank, ‘World Bank Helps Reintegrate Ex-Soldiers in Bosnia and Herzegovina’, press release, <http://www.worldbank.org.ba/news/2000/pr-jun00-03.htm>

¹² Anic, Mijo (Federation Defence Minister), quoted in ‘Criteria for Discharging FBiH Army Members’, *Oslobodjenje*, 19 February 2002.

¹³ SRSG Klein Calls for Reduced Military Expenditures in BiH, UNMIBH Official Website, 28 January 2002, www.unmibh.org/stories/

¹⁴ ‘NATO SG Robertson Requests Reduction of Military Expenses’, *Oslobodjenje*, 2002.

¹⁵ Klein, *Talking Points*, prepared by UNMIBH Civil Affairs Policy and Planning Unit, February 2002.

Military professionalisation

At the end of the civil war it was clear that the military forces needed not only to be reduced but also restructured and professionalised. Military professionalisation measures in BiH, as elsewhere, are intended to instil an understanding of the appropriate roles and behaviour of military forces in a democratic society in all ranks. At a minimum, firm restrictions are placed on the military's political role and the delineation of clear boundaries between civilian and military power. Specific professionalisation processes have included: restructuring the forces and/or re-vetting personnel and disbanding irregular forces; training at the strategic, operational and tactical levels; encouraging higher professional standards; increasing technical capabilities; establishing greater efficiency in administrative structures; and establishing external civilian oversight.

The first problem encountered was as fundamental as it was obvious. The DPA recognised the existence of two separate armies in Bosnia-Herzegovina: the BiH Federation Army (a predominantly Bosnia-Croat and Bosnia-Muslim entity) and the Republika Srpska Army, a predominantly Serb body. As defence analyst David Lightburn explains, "[d]e facto, however, there were and remain, three armies, since the [Bosnian] Croat and Bosniac [Bosnian-Muslim] forces have not been integrated either in structure or in practice and co-operation between the two is minimal and superficial".¹⁶

The international community developed a series of initiatives designed to build confidence between the former belligerent armies and create conditions in BiH in which an appropriate, common, cost-effective and durable security framework could evolve.¹⁷ Cost has remained a major concern, particularly since until 2000 the state allocated as much as 40 percent of its total annual budget to defence spending.

The primary actors engaged in military professionalisation efforts, described below, have been: the private US-based company Military Professional Resources Incorporated (MPRI), the NATO-led Stabilisation Force (SFOR), the Organisation for Security and Co-operation in Europe (OSCE), the Office of the High Representative (OHR), and the United Nations Mission in Bosnia and Herzegovina (UNMIBH).

MPRI: establishing a dangerous intra-state balance of power?

Shortly following the signing of the DPA, the US private military company (MPRI) arrived in Sarajevo armed with a US State Department-brokered contract with the BiH Federation to assist with "the development of their military structure, the fielding of military equipment and the conduct of a broad-based individual and unit training programme".¹⁸ MPRI's Military Stabilisation Programme has received a great deal of criticism from defence planners, politicians and academics, who see the programme as counter-productive for long-term peace. The primary criticism with MPRI's approach is that it only provides military training to one half of the military equation, the Federation Army, thus polarising the state militarily. Despite the criticisms and a downsizing of personnel and training, MPRI obtained a series of consecutive contracts to continue training the Federation Army. In response, since 1998, a great deal of effort has been exerted by the other international actors to counter the effect of MPRI training and bring the two recognised armies together to encourage the development of a common defence doctrine. There is a further possibility that MPRI will extend training to the Republika Srpska Army as mechanisms for centralised command and control at the state level develop further. However, it is unlikely that such a training programme would include an equipment component.

¹⁶ Lightburn, David, *Armed Forces in Bosnia-Herzegovina*, NATO Review, December 2000.

¹⁷ Ibid, 2000.

¹⁸ Military Professional Resources Incorporated, Homepage, http://www.mpri.com/channels/int_overview.html, accessed 13 May 2002.

The evolving role of NATO: from peace-keeping to peace-building

Peace-keeping in BiH encouraged the evolution of NATO from purely a defensive alliance to a significant, if sometimes reluctant, peace-keeper and peace-builder. In addition to NATO member states, non-NATO nations have contributed in sizeable numbers.¹⁹ The NATO-led Implementation Force (IFOR) experienced growing pains, as it tried to adapt to its new role in BiH, but its successor, the NATO Stabilisation Force (SFOR), has matured to the level of involving itself deeply in civil-military co-operation, including questions of internal BiH defence policies. NATO launched a Security Co-operation Programme in 1998 between the alliance and BiH to stimulate dialogue and to begin the process of internal co-operation between Federation and RS defence authorities. The initiative sought to promote confidence and encourage transparency and accountability in the military forces, de-politicisation, a central defence structure, and the development of democratic practices. The programme included courses and seminars in BiH and abroad. By November 2000, more than 450 BiH defence personnel including defence ministers and their deputies, chiefs of staff, and other senior political and military personnel had participated in NATO-run professionalisation courses. Junior commanders and staff from other government ministries have also attended.²⁰

A significant goal in NATO professionalisation assistance is to encourage BiH to join the NATO Partnership for Peace (PfP) programme. Among the conditions for the accession of BiH to PfP are: a common security policy; democratic parliamentary oversight and control of the armed forces; the provision at the state level of command and control of the armed forces, including the state level ministry responsible for defence matters; full transparency for plans and budgets; and the development of a common doctrine and common standards to train and equip the armed forces of BiH. In July 2001, NATO Secretary-General, Lord Robertson, articulated: "Our message to the members of the BiH Presidency is clear – show leadership, lead on overcoming the internal divisions, strengthen the state-level institutions and promote co-operation and reconciliation".²¹ In his April 2002 visit to Sarajevo, he declared "that BiH was not yet ready to join Partnership for Peace".²² PfP membership is a carrot that is being dangled in front of the BiH Government to encourage reform.

The OSCE and the OHR: civil control, accountability and transparency

Complementary to NATO efforts are those of the OSCE Regional Stabilisation Office and the Military Cell of the Office of the High Representative (OHR). The OSCE agenda seeks to develop budget transparency and parliamentary oversight of the militaries, elimination of conscription practices, creation of a joint-staff college, support for balanced reductions of military expenditure and BiH military association with the European Union (EU) and NATO's PfP programme. The OSCE, like NATO, also consults with the Standing Committee on Military Matters (SCMM), which is made up of the joint presidency and their military advisors.²³ The SCMM is designed to serve as the country's civil control mechanism over the militaries. The Military Cell of the OHR, which is responsible for overall co-ordination of the international community's military professionalisation efforts, consults and provides material support to the SCMM.²⁴

¹⁹ NATO nations contributing to SFOR: Belgium, Canada, Czech Republic, Denmark, France, Germany, Greece, Hungary, Italy, Netherlands, Norway, Poland, Spain, Turkey, United Kingdom, United States. Non-NATO nations contributing to SFOR: Albania, Argentina, Austria Bulgaria, Estonia, Ireland, Finland, Latvia, Lithuania, Slovakia, Morocco, Romania, Russia, Slovenia, Sweden. Nations contributing individuals by special arrangement with the United Kingdom: Australia, New Zealand. For a summation of SFOR organisation see <http://www.nato.int/sfor/organisation/sfororg.htm>.

²⁰ Lightburn, 2000.

²¹ 'NATO Secretary General Calls on Integration of BiH Armed Forces', *ONASA News Service*, 13 July 2001.

²² *Oslobodjenje*, issue of 17 April 2002.

²³ Organisation for Security and Co-operation in Europe, OSCE Regional Stabilisation Briefing Presentation, presented in Sarajevo, August 2000.

²⁴ Office of the High Representative, 'Brief on the OHR Military Cell', <http://www.ohr.int/ohr-dept/mltry-cell/>, accessed 13 May 2002.

UNMIBH: training the 'peace-kept' to peace-keep

While the main work of UNMIBH is to work with local police, it has assisted with military reform. It has facilitated overseas training for deployments of RS Ministry of Defence and Federation Ministry of Defence personnel for UN operations. In January 2001, BiH inaugurated its first multi-ethnic contingent to serve abroad as UN military observers. A nine-strong multi-ethnic unarmed contingent of military officers deployed to serve with the UN Mission in Ethiopia and Eritrea (UNMEE). A second rotation commenced in June 2001. The initiative is seen as an important step toward building better co-operation between the three Bosnian communities, which retain fresh memories of their 1992–95 conflict.²⁵ Building on the success of this initiative, UNMIBH is establishing a BiH composite, non-combat, transport/logistics unit to contribute to international peace and security under the UN flag.

A way forward?

International planners hope for a convergence of defence policies for a common state-level approach by 2005. However, events such as the desertion of Bosnian-Croats from the Federation Army (later rectified), and recent assertions in the RS that a single army is in no way an option, make it highly unlikely that BiH accession to the PfP, or even a convergence of defence policies will occur in the medium term. Nevertheless, progress has been made. According to former SFOR General Hilliard, Commander of Multi-National Division South West, "the armies in Bosnia are compliant forces which have moved from phases of inspection to compliance to that of consensus".²⁶ There is also clear evidence of a genuine commitment to downsizing military structures, albeit separate ones in the entities, to more affordable levels.

However, until the international community resolves the problem of three armies in one state, everything that is achieved in civilian implementation will be fragile and uncertain. This structural defect imperils the entire international effort in BiH. As long as there are formed military brigades ready to mutiny and defect in a matter of hours (as the Croats did *en masse* in 2001 despite nearly six years of 'confidence-building measures'), SFOR must maintain a presence that is capable of defending weapons storage sites and remaining loyal troops. The situation is even more dangerous at present because the RS Army risks imploding through lack of finances while the Federation Army (both Bosnian-Croat and Bosnian-Muslim components) is becoming more confident.²⁷

It is abundantly clear that the issue of mistrust between and within the forces must be addressed. Left alone, it is highly unlikely that they will reorganise themselves. For SRSG Klein, the future is clear:²⁸

"The time for war is over. Even if there remain differences and issues that are yet to be resolved, the leaders that led you into war are largely gone; the borders of BiH will not be changed, and it is inconceivable that the international community will allow your armed forces to go back to war."

The OHR, as the only international body in BiH with executive political powers to impose decisions and make legislative changes, can and has forced the government to adopt contemporary defence tasks and functions consistent with modern European armed forces. The message is being conveyed clearly: if BiH wants to take on the normal functions and roles of a Western democracy, it must develop a state level defence instrument which is non threatening, affordable, and contributes to the

²⁵ Central Europe Online, 'Bosnia Inaugurates First Military Contingent to Serve With UN', *Bosnia Today*, Central Europe Online, <http://www.centraleurope.com/bosniatoday/>, accessed 13 May 2002.

²⁶ Hilliard, General, Multi-national Division South-West Head Quarters, Banja Luka, RS, briefing, November 2000.

²⁷ Grinberg, Jaque (Head of Civil Affairs, UNMIBH), *The Future Mission of SFOR*, paper delivered to the NATO Policy Co-ordination Group, Brussels, 27 July 2001.

²⁸ Klein, Jacques Paul, 'SRSG Klein Calls for Reduced Military Expenditures in BiH', 28 January 2002, UNMIBH Official Website www.unmibh.org/stories/

development of domestic security for all BiH citizens in a European security construct.

Once consensus is reached on this issue, there is a substantial role for NATO to play in the technical aspects of reform and restructuring. NATO is the only organisation with the expertise and knowledge to address this task. This will entail three components. First, in terms of force reduction, professionals should be reduced and conscription eliminated, or at the very least their numbers shaped to a balanced and affordable level. Second, training and education will have to be redirected to correspond to the required tasks of the European security environment (peace-keeping, disaster relief, collective security, etc). Serious consideration must be given to joint staff colleges, joint officer academies, common instruction for non-commissioned officers (NCOs), and linked reserve officer training. Third, equipment must be appropriate to the tasks at hand and meet the requirements of affordability, compatibility and interoperability.²⁹

For more than six years various options and policy plans have been floated to deal with the segregation problem. Almost all of them are directed towards some form of joint or unified army to be formed in a time scale that is constantly receding. Some even feel that the time has come to recognise that the BiH entities are a reality whose separate interests (and armies) must be accommodated. An objective analysis should be undertaken of what actions are politically feasible within the Dayton framework for both the single and multiple army options.³⁰

²⁹ Svensson, Brig. Gen. Carsten (Senior Military Advisor to the Special Representative to the Secretary-General, UNMIBH), Interview in September 2001.

³⁰ Ibid, 2001.

Police reform and restructuring

POLICE FORCES OFTEN ASSUME military roles during armed conflicts. With the cessation of conflict, they are characteristically slow to return to the required standards of professional policing, often inept in standard procedural and technical skills and sometimes continue to carry out human rights abuses while trying to hide their previous atrocities. In addition, they usually retain strong loyalties of political or ethnic affiliation and resist a loss of power. Post-conflict police reform is intended to concentrate on strengthening the management capacity of the police force to implement change and foster understanding of what it means to be a police officer in a democratic society, distinguishable from the military. The overall aim is to establish effective and humane services to uphold law and order. New structures are required to assist the state in managing competition between groups, settle disputes and grievances and protect rights and interests. In the words of Laina Reynolds, editor of the *UN & Conflict Monitor*, “[t]he creation of a democratic police force cannot, by itself, create a democratic system of governance in a country. However, the lack of effective and accountable policing can certainly undermine even the most stable government.”³¹

To create a new professional police force, the DPA provided an ambitious mandate for force restructuring to the United Nations (UN). The UN created, as part of UNMIBH, the International Police Task Force (IPTF) which, in turn, developed a three-point plan concentrating on: (1) restructuring a post-Communist and post-paramilitary police force; (2) reforming the police through training, selection, certification and de-certification procedures; and (3) democratising the police forces by establishing a de-politicised, impartial, accountable, multi-ethnic police force that abides by the principles of community policing.³² As with the army, a large demobilisation effort was needed.

Michael Dziedzic and Andrew Bair’s (1998) study on the IPTF determined that although there were concerns that demobilised police personnel would cause “social disruption and thus threaten the peace process,” there is no significant evidence that this has occurred.³³ According to Dziedzic and Bair:

³¹ Reynolds, Laina, ‘Public Security and Post-Settlement Peace-building’, *UN & Conflict Monitor*, Issue 3, Centre for Conflict Resolution, Bradford University, Spring 1999, http://www.brad.ac.uk/acad/confres/monitor/mntr3_comment.html, accessed 13 May 2002.

³² International Crisis Group, ‘Is Dayton Failing?: Bosnia Four Years After The Peace Agreement’, *ICG Balkans Report*, No. 80, Sarajevo, 28 October 1999, p 44.

³³ Dziedzic, Michael and Andrew Bair, ‘Bosnia and the International Police Task Force’, in *Policing the New World Disorder: Peace Operations and Public Security*, eds Robert B. Oakley, Michael J. Dziedzic and Eliot M. Goldberg, (Washington: Institute for National Strategic Studies, National Defence University, 1998), pp 285 and 290–91.

“[T]hose policemen who were dismissed from service were not career policemen in the first place, but rather the minimally skilled recruits added to police ranks during the war. This outcome is probably in line, therefore, with what most of those involved expected to happen. To the extent these vetted individuals had a previous skill or trade, they presumably have attempted to return to that; this would undoubtedly include those who had been involved in criminal activity as well.”

Of the approximate 44,000 police officers active in both the BiH Federation and the RS in December 1995, some 26,000 have been demobilised. Of this number, over 200 officers have had their police powers withdrawn for involvement in wartime criminal activities or unprofessional conduct (according to UNMIBH internal reports).

Experience has shown that by using stringent selection criteria with effective oversight units and broad public education on community policing, the number of unprofessional or criminal recruits can be minimized. Still, even the most technically sound and careful selection procedures may not resolve deep legitimacy problems – a sense of unjust discrimination and lack of alternative job opportunities may facilitate the transformation of some demobilised police personnel into criminals and perpetrators of violent crime.³⁴

The Bonn-Petersberg Declaration of April 1996 obligated the Federation to reduce its police personnel to 11,500 from the estimated 32,750 police officers who were active in December 1995. Although this left a ratio of police officers to citizens of nearly double the European standard, it nevertheless reduced their forces by almost two-thirds. Progress was slow, however, because RS police remained unwilling to submit to the IPTF restructuring formula until late 1997, rejecting the IPTF limit of 6,000 policemen, and insisting on a force equal in strength to that of the Federation's.³⁵

The US Department of Justice International Criminal Investigation Training Assistance Programme (ICITAP) has provided training to the IPTF itself and to local police forces. Other actors engaged in police reform have included the European Commission and a number of bilateral initiatives undertaken mostly by EU countries.

While police advisors and trainers have made sizeable gains in technical capacity-building over the first five years, the results of efforts to establish police forces that respect human rights and the rule of law have been uneven, as the positive compliance record in some areas of the country and resistance in others shows. One important lesson has been the realisation that while technical capacity can be achieved in a short period of time and attitudes changed in the medium term, the success of long-term reform and restructuring is jeopardised if the responsible international organisation lacks the authority to remove elements of politicisation or lacks the mandate to ensure that law enforcement officials receive adequate salaries on time.

To encourage longer-term professionalisation and greater cohesion between RS and Federation police forces, UNMIBH established a BiH civilian police (CIVPOL) capability to undertake international peace-keeping activities. In February 2000, the first BiH CIVPOL training contingent, comprised of 16 police officers from both the Federation and RS, representing all three ethnic groups, successfully completed background checks and a two-week training course provided by the IPTF. The groups deployed to the United Nations Transitional Administration in East Timor (UNTAET) peace-keeping operation in April 2000.³⁶ Subsequently, a second contingent has deployed to that same mission. Proponents of BiH involvement in peace-keeping operations have argued that the endeavour is more than an empty gesture, as these officers will not only contribute to a peace-keeping mission in a part of the world where their services are needed but they will also gain invaluable international

³⁴ Call, Charles T, 'Institutional Learning Within the U.S. International Criminal Training Assistance Programme (ICITAP),' in Oakley, Dziedzic and Eliot, 1998, p 315.

³⁵ Dziedzic and Bair, 1998.

³⁶ Associated Press Newswires, 'Bosnian Police Head Off for First Mission Abroad', Dow-Jones Interactive Database, 4 April 2000.

experience which they can bring to their profession upon returning home. This initiative was heralded as an important symbolic contribution to strengthening BiH state identity.³⁷

After nearly seven years of mandate implementation, UNMIBH is on track to complete its police reform and restructuring programmes by 31 December 2002. UN Security Council resolution 1396 (2002), adopted unanimously, has paved the way for transition planning to establish a much smaller follow-on mission under the auspices of the EU. The European Union Police Mission (EUPM) will officially begin on 1 January 2003 with a minimum of 480 highly skilled police monitors, plus civilian support. The EUPM's objective will be to preserve UNMIBH's achievements while continuing to qualitatively raise police standards, motivation and performance, and sustain existing levels of institutional and individual reform and development.³⁸

The EUPM will have the advantage of retaining the services of the final IPTF Commissioner, Sven Frederiksen, who will serve as the first EUPM Commissioner. The follow-on Mission will also benefit from a recent decision to bring all of the elements of rule of law (police, criminal justice, judiciary, and prisons) together in one task force, the Rule of Law Task Force. As the international community has learned, yet again, the elements of the rule of law are inseparable and can only be achieved through a holistic, synergistic approach.³⁹

³⁷ United Nations, *Report of the Secretary-General, on the United Nations Mission in Bosnia-Herzegovina*, UN Doc. S/1999/1260 of 17 December 1999, para. 11.

³⁸ King, Jeremy, UNMIBH Mission Brief, prepared by Jeremy King, Office of the SRSG, April 2002.

³⁹ Ibid, 2002.

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Customs and border services reform

ALTHOUGH BOSNIA'S CONSTITUTION (Annex 4 of the Dayton Peace Accords) empowers the state to make customs policy, its enforcement is delegated to the two (or, in practice, three) entities. This arrangement is highly ineffective, as the entity governments seem to decide on customs issues as it suits their passing political interests. This arrangement has also made effective, nation-wide border control difficult. Since 1995, the vacuum in customs administration and border control has encouraged an illegal migration pipeline transiting BiH and ending in Western Europe.

Organised crime elements conducting human trafficking and smuggling have exploited Bosnia's lax visa requirements and border controls to further their trade. For example, the UN reported that of the 1,298 Iranian passport holders entering BiH on one-to-two week visas in the period 1–28 June 2000, only 116 “officially departed” the country.⁴⁰ The other 1,182 are suspected of having left BiH and entered Western Europe illegally through the porous South Eastern European borders. An estimated 50,000 illegal migrants transited BiH territory in 2000, representing 10 percent of the estimated 500,000 that enter the EU every year.⁴¹

International civilian police and aid workers have also reported an alarming number of incidences in illegal trafficking of women in BiH. To assist the BiH Government, the international community embarked on several exercises to assist with capacity-building and material support to fortify the country's border services.

The role of USAID and the European Union in customs training

Shortly after the signing of the DPA, the United States Agency for International Development (USAID) established a Customs Training Team to teach Federation and RS customs officers standard law enforcement techniques. Teaching took place in the field as well as in the classroom. Recruits learned searching techniques, including how to identify undervalued shipments and weight fluctuations as well as how to uncover contraband. Smuggling of weapons was a recognised concern during the training period. Corruption was similarly a well-known problem, encouraged by irregular pay and monthly salaries of less than US\$ 200 a month.⁴²

⁴⁰ United Nations Mission in Bosnia and Herzegovina, *An UNMIBH Bulletin on the State Border Service Activities*, Borderline, UNMIBH Public Affairs, Vol. 1, No. 1, June 2000.

⁴¹ United Kingdom and Northern Ireland, Embassy Press Release, Sarajevo, September 2001.

⁴² Duric, Rade (Business Manager, USAID Customs Training Team), Interview, Unis Tower, Sarajevo, Bosnia-Herzegovina, 1 July 1998.

In 2000 the international community established for the first time a single and uniform customs territory in BiH. This had been one of the major goals of the Customs and Fiscal Assistance Office (CAFAO) programme funded by the EU.⁴³ The CAFAO programme includes assistance from approximately 30 European customs and tax experts, focusing on the development of customs and tax systems in BiH based on modern European standards. Although the EU-sponsored CAFAO has worked with OHR and other international agencies to assist the entities' tax and customs authorities to combat evasion, progress has been slow. Still, in the period 1996–99 customs revenues for the entities doubled due to the success of the CAFAO programme.

Bosnia now has regulatory legislation covering its customs administration that meets European standards. It was drafted and implemented with the assistance of CAFAO and commendable changes have followed. They include numerous training and technical assistance programs, the introduction of enforcement units in 1999 to improve compliance, and the ongoing installation of two modern customs databases to centralise information and improve the slow and inconsistent exchange of customs information between the entities. Yet the implementation of such legislated reforms in the face of political obstruction and rampant corruption is a difficult task. Allan Jansen, Head of the CAFAO Mission in BiH, has stated that "corruption is still present in both entity customs administrations. The other deficiency is the fact that many decisions are still being made on the principle of ethnic and party preference." As an example, Jensen cited the Federation Government's loss of KM 64 million in 2001 through tax evasion on oil and its derivatives.⁴⁴ Encouragingly, the establishment of the BiH State Border Service is improving Bosnia's customs track record.

Creation of a State Border Service

The formation of a State Border Service (SBS) was agreed to in the New York Declaration of 15 November 1999 by Bosnia's multi-ethnic tripartite presidency. The Declaration sought to combat widespread smuggling across the country's loosely guarded borders and to encourage efficient customs verification and control. It also aimed to suppress the current double financing of institutions which obstructs the development of the Federation and the state. This ambitious project, undertaken by UNMIBH, established the first multi-ethnic state-level law enforcement institution reporting directly to the presidency. The international community sees the development of customs and border control as a decisive step towards combating crime, building state identity, contributing to state revenues and fulfilling its obligations to protect its international borders.

The official establishment of the SBS in June 2000 ended a long-standing feud between Bosnia's two entities. Despite facing repeated upsets and problems with funding, logistics and political foot-dragging, the SBS will control approximately 1,660 kilometres of international borders and, when fully operational by 31 December 2002, employ more than 2,700 officers.⁴⁵ As of July 2002, the SBS covers some 94 percent of the BiH border and three international airports in Sarajevo, Mostar and Banja Luka, employing some 1,750 officers. Full border coverage is expected by September 2002.

The SBS has had immediate impact in two core areas of border security. Firstly, combating pervasive illegal migration: in 2001 the SBS achieved a 66 percent reduction in illegal migrants passing through Sarajevo airport alone – from 24,000 in 2000 to 8,000 in 2001. Secondly, by closing illegal smuggling routes and re-directing

⁴³ European Union, Bosnia and Herzegovina, 'The EU Contribution: Milestones in the relations between the EU and Bosnia and Herzegovina', http://europa.eu.int/comm/external_relations/see/bosnie_herze/index.htm, accessed 13 May 2002

⁴⁴ United Nations Mission in Bosnia and Herzegovina, Human Rights Office Monthly Report, January 2002, UNMIBH, Sarajevo. Also, United Nations Mission in Bosnia and Herzegovina, Interview with Head of CAFAO Mission in BiH, UNMIBH News Summary, 10 April 2002.

⁴⁵ Stallcup, Howard (IPTF State Border Service Team Manager), Interview at UNMIBH Headquarters, Sarajevo, Interview, August 2000.

commercial traffic to recognised border crossings, the SBS is largely attributed with increasing customs revenues in both Entities by at least 20 percent.

The SBS is made up of individuals from the RS, Federation and the Brcko Special District, who are former serving police officers or new recruits. Following subsequent vetting and re-training by the IPTF, they are deployed in multi-ethnic Border Service Units. While soldiers are eligible to join the SBS, they must successfully graduate from the SBS Training Centre, which inaugurated its first class of cadets in April 2002.⁴⁶

⁴⁶ SBS Training Centre, Suhodol, BiH, <http://www.unmibh.org/>, accessed 13 May 2002.

Judicial and legal reform

THE CREATION OF a fair judicial system is an urgent and practical need following the cessation of conflict. It is essential for sustainable economic development and entrepreneurial activity in providing recourse to courts in both criminal and civil cases, and in helping to protect human rights. The goal is to build a new system of justice that operates on the basis of the rule of law and human dignity and is not simply an extension of the political power structure that caused and prolonged conflict and agony. The existence of a fair judicial system, characterised by an independent and impartial judiciary can offset the deep causes of conflict by providing a forum for the resolution of disputes. Modern democratic states require legal bodies and legislation that are humanised, bringing a fundamental respect for the human person into the law as the basis for all other values and ventures.

In BiH, the war shattered the entire justice system and demolished the physical infrastructure. Many resources such as law libraries and offices, law books, and legal records were destroyed during the war, and many legal institutions ceased to function at all.

In contrast to the clear mandates and guidance provided on military and police reform, the DPA did not recognize the importance of developing an effective judicial branch of government. Scant attention was provided in the Accords to legal/judicial reform: they simply called for the establishment of a constitutional court at the state level and briefly mentioned (in one line only) the role of the IPTF in monitoring, observing and inspecting judicial bodies associated with law enforcement. No systematic strategy, for example, was laid out to train, select and appoint new judges and prosecutors.

Both official as well as non-governmental organisations recognised this legal/judicial vacuum early on, though the results of their actions were modest. Judicial and legal reform efforts in BiH have included legal education, the strengthening of bar associations, law schools, and, only recently, judicial and legal reform (particularly criminal commercial law reform). Since 1998 there has been comprehensive strategic planning under the leadership of the OHR. Other actors have included UNMIBH (through its Judicial System Assessment Programme, JSAP), OSCE, the American Bar Association (through its Central Eastern European Law Initiative, CEELI) and SFOR. This picture is changing with the actions of a central organisation that leads this process, the Independent Judicial Commission (IJC).

Early efforts

a. Civil-military synergy: CEELI and SFOR

The American Bar Association moved with impressive speed: its CEELI programme began in BiH a week following the signing of the DPA.⁴⁷ CEELI worked with NATO lawyers in an attempt to reintegrate the legal systems of the Federation and the RS. This particular effort was unsuccessful, however, due to the underlying political environment. Later, at SFOR's request, CEELI assisted with a task force made up of representatives of both entities that examined possible reciprocity legislation that would enable lawyers from each entity to practice law throughout BiH. This initial effort, while also ultimately unsuccessful, has been followed up under CEELI leadership in 2000 and 2001. CEELI also participated in discussions leading to the transfer of this project from SFOR to the OHR.

Early on in NATO's involvement with BiH, military lawyers identified problems in the judicial system and provided recommendations to the international community. IFOR's 1996 legal evaluation of the judiciary indicated that approximately 50 percent of judges from the RS and Bosnian-Croat courts were not aware of the European Convention on Human Rights, nor its fundamental freedoms as incorporated into the legal system.⁴⁸ Clearly, there was a great deal of educating to be done. IFOR orchestrated several meetings between the judiciaries in the RS and Federation. CEELI continues its work in all facets of the legal framework of BiH and now enjoys the support of the US Department of Justice.

b. Co-ordination: OHR and the human rights structures

Beginning in 1996, OHR, especially through its Human Rights Department, sought to ensure that most if not all of the efforts being made on the ground were mutually supportive. Given the *ad hoc* nature of the efforts by CEELI and other actors early in the post-war environment, the co-ordination function was difficult. One reason was the absence of a clear political strategy that would have provided a coherent direction for the development of the justice system through a consolidated programme of judicial and legal reform activities.

The Peace Implementation Council and OHR leadership

The Peace Implementation Council (PIC), founded during the London Conference in December 1995, was established to provide ongoing guidance on issues relating to the implementation of the Dayton Peace Agreement.⁴⁹ In 1997, the responsibilities of the High Representative in judicial and legal reform were more clearly delineated. Also, a Task Force within UNMIBH was created to focus on "the assessment and monitoring of the court system, the development and training of legal professionals and the restructuring of institutions within the judicial system".⁵⁰

Following up on this PIC recommendation, Security Council resolution S/RES/1184 created the UNMIBH Judicial System Assessment Programme (JSAP), described in greater detail below. In the 1998 Madrid Declaration, the PIC declared that the promotion of the rule of law and judicial reform were a primary structural reform imperative. In July 1999, in accordance with the dictates of the Madrid Declaration and Annex, the *Comprehensive Judicial Reform Strategy for Bosnia and Herzegovina* was drafted by an OHR department (now known as the Human Rights/Rule of Law Department) after consultation with the various actors working in the field of judicial

⁴⁷ The Central Eastern European Law Initiative (CEELI), a public service project of the American Bar Association, advances the rule of law in the world by supporting the legal reform process in Central and Eastern Europe and the Newly Independent States of the former Soviet Union. For a summation of CEELI initiatives in BiH see www.abanet.org/ceeli/countries/bosnia. In a parallel Canadian initiative, the Pearson Peace-keeping Centre, under the direction of the Hon. Jean Jacques Blais, co-ordinates with the Canadian Bar Association and the Canadian Judge Advocate General to advance Canadian involvement in post-conflict 'peace-building in the justice sector.'

⁴⁸ Dziedzic and Bair, 1998.

⁴⁹ Peace Implementation Council, see site <http://www.ohr.int/docu/d971210a.htm>, accessed 28 June 2001.

⁵⁰ Office of the High Representative, <http://www.ohr.int/docu/d951208a.htm> and <http://www.ohr.int/docu/d971210a.htm>, accessed 28 June 2001.

and legal reform. It has been reviewed by the IJC which has adopted it for the most part and has added its own analysis of required goals and projects (see section 5.6 below).⁵¹

New laws have been passed or imposed in each entity to de-politicise the appointment process for judges and prosecutors. New common ethics codes have been established in each entity that covers the members of the judiciary. Legislation is under consideration now at the entity level to provide budgetary independence for the courts as well as Judicial Training Institutes for each entity.

The role of the United Nations

The Dayton Accords (Article VII of Annex 11) explicitly stated that IPTF would have certain authority for all law enforcement agencies in BiH, including the responsibility for “monitoring, observing and inspecting” judicial bodies. The IPTF responded by monitoring the workings of the courts in BiH on an *ad hoc* basis. Because political influence over the judiciary was a long-standing problem in BiH, UNMIBH eventually expanded its human rights department to include additional court monitoring and other legal issues.

In 1998, the UN Security Council mandated JSAP to monitor and assess the court system in BiH as part of a comprehensive programme of legal reform under the overall co-ordination of the OHR. JSAP produced a range of initial assessments that “document in detail a grave lack of judicial independence, overt political interference and intimidation of judicial officials and substantial court inefficiencies,” which serve to undermine public confidence and work against other aspects of the UNMIBH.⁵² JSAP was involved in the process that resulted in new laws de-politicising the appointment and discipline process for judges and prosecutors. Its mandate completed, JSAP transferred its monitoring and assessing role to the newly created International Justice Commission (IJC) along with a number of its staff. Much of the remaining staff moved into the newly created Criminal Justice Advisory Unit (CJAU) which provides IPTF officers with direct advice on issues relating to criminal law matters. CJAU operates in six regional teams, including both international and national lawyers.⁵³

The United Nations Development Programme (UNDP) began to provide assistance in the field of criminal justice in 1996 with projects in the Federation and in the RS. According to the UNDP, the projects sought to examine criminal law procedure reforms related to juvenile justice, post-release treatment programmes and anti-corruption; and to provide training for correctional staff as well as judges and prosecutors on international criminal justice standards. Following the completion of the criminal justice projects, the UNDP launched criminal justice legal reform programmes in 1998 to assist the ministries of justice of both entities. They concentrated on domestic violence, trafficking in human beings, anti-corruption, as well as physical reconstruction projects including juvenile justice halfway houses and computerisation of the judicial system. UNDP asserts that its programmes have been very successful given the many challenges and limited budgets available.⁵⁴

⁵¹ Office of the High Representative, *Human Rights Update*, Judicial Reform Programme, http://www.ohr.int/ohr-dept/hr-rol/thedep/jud-reform/default.asp?content_id=5227

⁵² United Nations, *Report of the Secretary-General, on the United Nations Mission in Bosnia-Herzegovina*, UN Doc. S/1999/1260 of 17 December 1999, para. 11.

⁵³ United Nations Mission in Bosnia and Herzegovina, official website, <http://www.unmibh.org/unmibh/jsap/cjau.asp>, accessed 28 June 2001.

⁵⁴ United Nations Development Programme, Bosnia-Herzegovina Field Office, <http://www.undp.ba/home.html>, accessed 13 May 2002.

Drafting new substantive laws: OHR legal department

The OHR legal department has been largely responsible for drafting a wide array of new legislation relating to a variety of issues, particularly within administrative and commercial areas. The department also encourages domestic legislative reform that is consistent with modern European standards and practice in the legal sector. Due to the increasingly important role of constitutional and legal arguments in the political and economic life of Bosnia and Herzegovina, the department also takes an active role in interpreting constitutional matters. The department comprises a public law division and a criminal and civil law division.⁵⁵

Organisation for Security and Co-operation in Europe

The OSCE stated in its 2001 *Core Mission Priorities* that it will “play a larger role in this effort (promotion of the rule of law) under the aegis of the OHR.” The OSCE Democratisation Office at one time conducted judicial training and hosted a legal aid network. In this effort, they were supported by the United Nations High Commissioner for Refugees (UNHCR), which has generously funded legal assistance projects such as ‘Job 22.’ Job 22 has “served refugees, displaced persons and returnees, citizens of BiH providing them with professional legal information on the current state of their civil legal rights”.⁵⁶

The OSCE human rights department continues to maintain a rule of law component that provides OSCE insights on important reform issues. These include legislation, interpretation of existing legislation and policy development.

The emergence of the IJC and other future efforts

With the reduction in budgetary support for certain OSCE activities and the loss of the JSAP mandate, the international community looked for ways to continue and indeed accelerate the efforts toward judicial and legal reform. A strengthened, consolidated mandate was envisioned by the High Representative to ensure a reduction, if not the total elimination, of inter-agency dissonance. Neither of the two primary operational international organisations, UNMIBH or OSCE, was able to assume responsibility for the new mandate, which was endorsed by the PIC in Lisbon in May 2000. The High Representative then pursued the development of a new international organisation, the Independent Judicial Commission (IJC), established in December 2000, to take on a more robust mandate than either JSAP or the various OSCE departments had worked under previously. It added to the existing strategic co-ordination and leadership responsibilities already assumed by the OHR human rights/rule of law department.

With primary responsibility for this sector now firmly in the hands of the IJC, it is appropriate to consider potential areas for further reforms:

- Criminal law and procedure: New substantive and procedural codes are in the process of being drafted. These will include new codes applicable to the new State Court and will also be used as a guide for reform for the Federation.
- Administrative law: It is obvious that judicial and legal reform at the state and entity level is progressing under a plethora of international actors. However, the International Crisis Group reported in their 1999 study, *Is Dayton Failing?: Bosnia Four Years After The Peace Agreement*, that to date, “little attention has been paid to the role public administration plays in enforcing or violating the human rights and civil liberties of Bosnia and Herzegovina’s citizens.” The report recommends that the international community will also have to focus attention on lower-level administrative

⁵⁵ Office of the High Representative, OHR Legal Department Brief, <http://www.ohr.int/ohr-dept/legal/>, accessed 13 May 2002.

⁵⁶ Job 22, Legal Aid Information Service, Official Website, <http://www.job22.org/index-old.htm>, accessed 13 May 2002.

justice – “rulings by seemingly minor municipal and cantonal officials whose rulings prevent citizens from exercising their legal rights and gaining access to due process of law”.⁵⁷

This is but a portion of the reform agenda. It is more fully described in the 1999 *Comprehensive Strategy* document referred to in section 5.2 above and has been subsequently updated in the strategy paper of the IJC completed in August 2001. Significantly, the previous High Representative has recognised that domestically-led commissions and councils are not moving swiftly enough to remove corrupt judges and prosecutors. On 23 May 2002, he imposed a package of decisions that moved the IJC and the international community more squarely into the structure of recruiting, appointing and disciplining judges and prosecutors. He also imposed the creation of Judicial Training Institutes and legislation reforming the Bar, in effect creating a single, unified Bar association for all of BiH.⁵⁸

In summary, the process of judicial reform has been exceedingly slow. Effective legislation and administrative structures to review the qualifications of judges and prosecutors were only put into place in mid-2000 and the structures contemplated in each entity’s legislation were not functional until months later. Only recently (2002) were judges or prosecutors removed on the recommendation of the councils and commissions legislatively created to advance impartiality. Now, there is a stronger expression of political will on the part of both the international community and the Bosnian Governments to take more assertive action to establish a judicial branch of government that can perform in accordance with European and international standards.

The lessons of the legal/judicial experience in BiH have proved useful elsewhere. In the UN missions in both Kosovo and East Timor, early attention was paid at the strategic planning level for development of legal/judicial infrastructure. This is clearly reflected in the structures, mandate staffing and support for judicial reform/rule of law elements in these UN missions.

⁵⁷ International Crisis Group, 1999, p 49.

⁵⁸ Office of the High Representative, *High Representative Issues Decisions Strengthening Judicial Reform Across BiH*, Press Release, 24 May 2002.

Corrections reform: neglected?

IN 1998, the Council of Europe issued a study on prisons in BiH showing how “[t]he prison system was seriously affected by the war”.⁵⁹ The report highlighted a series of problems plaguing correctional facilities including destroyed infrastructure, inadequately trained officials, shortages of food, heating, hygiene, health care, prisoners clothes, equipment for staff, and in general, “insufficient resources even to meet essential requirements.” The report further determined that correction officers’ salaries had only been regularly paid since the beginning of 1998.⁶⁰

As with professionalisation efforts aimed at police, military and other security institutions, the reform of the corrections and penal services also requires extensive international support. Collaborative technical assistance efforts could include education, donation of equipment and the promotion of internationally agreed corrections principles. Such principles should encourage officers to:⁶¹

- Preserve life and protect body and mind of persons in their care from injury;
- Preserve individuals’ dignity and behave with tolerance;
- Act for the good of prisoners and for their rehabilitation;
- Maintain integrity and scrupulous dealing;
- Display professionalism, loyalty, and personal example;
- Be helpful and show good will.

In comparison with international efforts to reform the police, military and judiciary, the corrections system in BiH has received much less attention. This omission began with the DPA, which was virtually silent on specific corrections reforms though it alluded to principles of “international rights and freedoms” granted in the BiH Constitution and in the provision of Prisoner Exchanges (Article IX). The DPA’s 1A Agreement on the Military Aspects did give a right to the International Committee for the Red Cross (ICRC) to inspect and report on the state of prisons. While doing so, the ICRC provided hygienic supplies, food, and clothes following the signing of the agreement. Article VII of Annex 11 of the DPA, which provided the IPTF responsibility for “monitoring, observing, and inspecting law enforcement activities and facilities,” can be interpreted as including the corrections sector within this mandate. The IPTF in

⁵⁹ Council of Europe, *Themis Plan, Project 4 (Prisons) Bosnia and Herzegovina, Report of a Council of Europe Co-operation Visit to Prisons and Other Institutions in Republika Srpska*, Council of Europe, 1998.

⁶⁰ *Ibid.*, 1998.

⁶¹ ‘International Corrections and Prisons Association for the Advancement of Professional Corrections’, *Newsletter 2000*, pp 6–7, <http://www.icpa.ca>, accessed on 13 May 2002.

addition to the UNMIBH Human Rights Office (HRO) have made frequent inspections of BiH correctional facilities with positive findings with respect to human rights. For example, in January 2002, the HRO conducted a total of 49 visits to BiH prisons. It recorded that there were 2,251 persons in BiH prisons (1,438 in the Federation and 813 in the RS).⁶²

However, other than infrastructure reconstruction and the provision of new uniforms, correction officers have not received levels of assistance that compare well with their colleagues in other parts of the security sector.

Lack of co-operation and shared resources between Bosnian-Muslims and Bosnian-Croats in the Federation and subsequently with the RS has greatly affected the state of the corrections system. On a positive note, on 18 July 2001, the Federation Ministry of Justice in co-ordination with the UNMIBH HRO unified the Mostar City prison system. Previously, parallel correctional facilities existed to service Bosnian-Croat and Bosnian-Muslim communities. Another feather in the UNMIBH cap is the successful state-wide implementation of the Arrest and Custody Project, ensuring that proper records are kept in regard to detainees, and that law enforcement officials follow Council of Europe standards for arrests and detentions.

The UNDP, with the assistance of international advisors from the UN Centre for International Crime Prevention, has focused its criminal law reform work on developing BiH judicial capacity to address juvenile justice and post-release treatment programmes. In September 1998, the Federation Parliament passed a penal code and penal procedural code encompassing international rights and standards. In the RS, UNDP supported the work of the Law Reform Commission of Republika Srpska, established by the Minister of Justice to develop the Criminal Code and Criminal Procedural Code. Training and education projects have also been developed jointly with local practitioners on alternative measures for juvenile justice and post-release programmes. UNDP claims that the training of correctional staff has resulted in heightened awareness of international standards and practice.⁶³

The OHR Judicial Reform Programme, which became the lead player in legal reform, has a stated goal in its institution-building programme, that it is to “make sure that the prison/corrections systems of each entity meet international standards”.⁶⁴ This encouraging announcement is, however, unlikely to be achieved without the necessary resources, training and substantial time investment required to make a significant impact on this part of the security sector.

⁶² UNMIBH, Human Rights Office Monthly Report, January 2002, UNMIBH, Sarajevo.

⁶³ United Nations Development Programme, Bosnia-Herzegovina Field Office, <http://www.undp.ba/home.html>, accessed 13 May 2002.

⁶⁴ Office of the High Representative, Judicial Reform Programme, OHR Website, http://www.ohr.int/ohr-dept/hr-rol/thedept/jud-reform/default.asp?content_id=5227, accessed 12 September 2002.

Intelligence reform: too tough to tackle?

THE REFORM OF INTELLIGENCE SERVICES after conflict is a difficult but essential task. Because these agencies often wield enormous power, based on the information they have and the clandestine operations they sponsor, it is vital to subject them to the same standards of reform as other state security institutions. But, as the Norwegian Institute of International Affairs (NUPI) has written:

“... donors have been reluctant to contribute, as the need for transparency that pervades all other efforts in security sector reform is difficult to reconcile with the development of secret services. To counteract the obvious lack of transparency, the intelligence agencies must be subject to some form of civilian control. A complete detachment of such services from a general process of reform may easily undermine constructive development in other areas.”⁶⁵

Intelligence organisations have largely remained outside of international reform and restructuring efforts in BiH as no international organisation has an absolute mandate or claimed to have one. In 1996, a Federation level law was passed, labelling all *ad hoc* intelligence services operating on the territory of BiH illegal. A committee to discuss intelligence reform and restructuring was also called for but was never established.

In the Federation, unrestrained intelligence services, co-located in police stations in some municipalities, obstructed early efforts to unify police forces. Fortunately, UNMIBH has been successful in removing intelligence services from police facilities in the Federation and is making progress in the RS. As early as 15 February 1996, IFOR raided a secret police/intelligence training camp in Fojnica, near Sarajevo. There they are reputed to have found documents showing “assassination plans against well-known politicians, ways to cause public panic and methods of releasing compromising information about certain officials”.⁶⁶

Several intelligence service have been active in the territory of BiH, believed to be under the control of various political parties. In addition to the intelligence services of Croatia (SIS) and Serbia that, no doubt, operate in Bosnia, Bosnia’s own services include the intelligence and security service of the RS (name unknown), the Bosnian-Muslim Agency for Investigation and Documentation (AID), and the Bosnian-Croat

⁶⁵ Norwegian Institute of International Affairs, *Security Sector Reform as a Development Issue*, Submitted by Norway and produced by NUPI Working Group on Security Sector Reform, OECD Development Assistance Committee Task Force on Conflict, Peace and Development Co-operation, Paris, 2–3 June 1999, p 15. The NUPI Homepage is <http://www.nupi.no/>

⁶⁶ Latin, Ena, ‘Sarajevo Trial May Lift Lid on Assassinations’, Institute for War and Peace Reporting (IWPR) *Balkan Crisis Report*, No. 338, 25 May 2002.

National Security Service (SNS). It is estimated that each of these services has up to 700 operatives.

International officials have expressed concern that political parties oversee the operation of intelligence services for their own purposes. NATO revealed in December 1999 that these services were engaged in targeting the international community, in conducting wire-tapping and surveillance of senior international officials.⁶⁷ There is media speculation that AID was responsible for murders of Bosnian-Croat returnees, bomb blasts at Catholic sites and politically-motivated assassinations. There are even allegations that agency officials were behind the attempted assassination of Pope John Paul II, which was foiled on 23 April 1997 when 23 anti-tank mines were discovered and defused under a bridge the Pope was expected to travel over. The Federal public prosecutor has filed charges with the Supreme Court against AID's first director and former interior minister, Bakir Alispahic, and several of his lieutenants for numerous crimes that have rocked the country over the past decade.⁶⁸ The trial is expected to begin in the summer of 2002. This is welcome evidence of growing courage to control formerly powerful intelligence officials and agencies.

In March 2002, a Federation Law on Intelligence Service was adopted to establish a Federation Intelligence and Security Service to replace the current ones. It is expected that a Permanent Working Group, to be established by the president and vice-president of the Federation, will co-ordinate the new service. The service will include the following other bodies: an Inter-Resource Group, also to be established by the Federation Government, and a Working Group for Monitoring and Controlling the work of the service, to be established by the Federation Parliament. In addition to the service director and deputy, the Federation Government will also appoint an executive director (operator of services) and a chief inspector. The service is to operate until the eventual establishment of a state intelligence service. The Federation service will then be obliged to hand over all documentation, materials and equipment to the new state service. As for the current intelligence services – AID and SNS/SIS – they are expected to stop operating in 2002. Employees of the two agencies will not automatically become members of the new service, but will have to apply to the new vacancies. This is a positive development, but if the process of military integration is an indication, a long protracted process of political obfuscation is likely to follow.

The area of intelligence reform and restructuring clearly requires increased attention, both from the analysts studying the problem and the practitioners trying to find solutions. Only through detailed consideration of the challenge can the appropriate balance between the classification of information (secrecy) and its free dissemination (openness) in matters of internal and external affairs be found. In any case, to achieve democratic oversight of the intelligence sector, a select number of government leaders must be allowed a complete overview of the activities of intelligence agencies in order to ensure their accountability. There are now hopeful signs of a move in this direction.

⁶⁷ Dragicevic, Alexander S, *Bosnian Croat intelligence officers targeted international officials*, NATO says, Associated Press Newswires, Dow Jones Interactive Publications Library, 17 December 1999.

⁶⁸ Latin, 2002.

Civilian oversight of the security sector

A CENTRAL PRINCIPLE of good governance, applicable to the entire security sector (not just intelligence), is that of democratic oversight and control. Herbert Wulf provided a valuable list of the ingredients for such a capability:

*“Civil control and oversight of security sector actors is pre-requisite to those actors playing a constructive role geared to the goals of sustainable development. The basic pre-conditions for democratic control include procurement authorities independent of the armed forces and the police, budgetary control by parliament and thus the creation of transparency, accountability of the top ranks of the armed forces vis-à-vis a democratically elected civilian government, an independent judiciary, etc”*⁶⁹

Good governance is proving hard to achieve in the fledging BiH and must be considered as a long-term goal. The DPA brought into being a complicated state structure. The high level of autonomy endowed to the two divided, and to some extent competing entities creates inefficient government institutions at the level of the state. The result has been a complex web of administrative structures, lack of experienced civil servants, inappropriately managed public and private resources, high levels of corruption and little attention to the socio-economic needs of BiH citizens.⁷⁰

Since 1996, a number of programmes and projects have been launched to assist or create accountable, efficient and transparent processes and mechanisms in the legal and defence sectors. The establishment of oversight mechanisms is a broad programming area covering elements of defence, civil society, economic reform and so on. The primary actors engaged in governance projects have been the OHR and the OSCE.

To tackle the widely-recognised problem of corruption, the Anti-fraud Unit of the OHR assists local authorities in identifying and prosecuting illegal activities, monitors court cases through all phases of the judicial process, and engages in the reform of the legal and judicial systems. Its current priorities are the drafting and enactment of anti-corruption legislation that meets international standards, increasing transparency in

⁶⁹ Wulf, Herbert, 'Security-Sector Reform in Developing Countries: An Analysis of the International Debate and Potentials for Implementing Reforms with Recommendations for Technical Co-operation', Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) GmbH, October 2000, http://www.bicc.de/general/gtz_studien/securitysector.html, accessed 27 May 2002.

⁷⁰ International Crisis Group, 'Courting Disaster: The Misrule of Law in Bosnia & Herzegovina', *Balkans Report*, No. 127, Sarajevo, 25 March 2002, <http://www.intl-crisis-group.org/projects/showreport.cfm?reportid=592>, accessed 24 July 2002.

government procedures, and promoting a far-reaching public awareness campaign.⁷¹ OSCE governance efforts have focused on the transparency, accountability and anti-corruption training of police, judicial personnel and civil society in support of the OHR's economic reform policies.⁷²

⁷¹ Office of the High Representative, 1999. OHR Website, <http://www.ohr.int/>

⁷² Organisation for Security and Co-operation in Europe, Democratisation Office, Concept for 1999, <http://oscebih.org/democratisation/homedem.asp>, accessed 13 May 2002.

Disarmament measures: making Bosnia safe for itself

DISARMAMENT IN A POST-CONFLICT SOCIETY is a reform measure of great importance for the safety of the citizenry and the strengthening of the state. The state monopoly on the use of force is one of the fundamental principles of governance in modern states. Tailored disarmament needs to be applied not only to the security agencies but also to society as a whole. Despite this “disarmament imperative” shown by academic and policy research⁷³ and the lessons learned in earlier UN missions in the 1990’s, the DPA did not incorporate a disarmament strategy with which to guide the national and international actors. As one critic observed, policy-makers thus failed to take advantage of the “unique opportunity to institute a comprehensive disarmament regime” (especially for small arms and light weapons) in the region.⁷⁴ The result was a slow *ad hoc* process of disarmament and unco-ordinated project delivery. The general lack of international attention to disarmament has resulted in a more volatile security situation in BiH, with a great many people capable of committing crimes at gunpoint and, even worse, large-scale atrocities. The mixture of weapons proliferation, mandatory conscription, high unemployment and mistrust between the ethnic communities remains combustible and a serious threat to the peace, countered only by the strong presence of the peace-keepers and the general fear of a return to open warfare.

Small arms remain a big problem

The predominant role of light weapons in the recent Yugoslav wars and their abundance in present-day BiH is a direct result of Tito’s total defence policy. Tito’s Territorial Defence Forces (TDF) were trained in guerrilla warfare and armed accordingly with light infantry weapons, land mines and rocket launchers. The DPA’s *Agreement on Sub-Regional Arms Control* concerned only heavy weapons: it placed restrictions on weapon calibres greater than 75mm. It had minimal impact on small arms and light weapons. Weapon saturation coupled with acute levels of unemploy-

⁷³ Noteworthy studies include those by Laurance and Meek (1996) and by Dorn, Walter, ‘Small Arms, Human Security and Development’, *Development Express*, No. 5/1999–2000, Canadian International Development Agency (CIDA), Ottawa, 2000, http://www.rmc.ca/academic/gradrech/dorn7_e.html, accessed 13 May 2002.

⁷⁴ Sharp, Jane, ‘Update on the Dayton Arms Control Arrangements’, *Bulletin of Arms Control*, No. 25 (London: Centre for Defence Studies, March 1997), p 8.

ment and inefficient state control create a deadly mix. The impact has been significant in many areas:

- **Humanitarian impact:** Light weapons continue to thwart the return of refugees and internally displaced persons to the homes from which they were 'cleansed'. Armed attacks on returnees and minorities have been all too frequent in BiH.
- **Socio-economic impact:** Inappropriate planning for the demobilisation of armed forces, together with unemployment and the easy availability of weapons is likely to increase the incidence of violent crime, including armed robbery, domestic violence and terrorism. The absence of comprehensive small arms control policies along with lax controls of collected surplus weapons has resulted in inevitable black market trading from conflict to conflict in the Balkan region and abroad.
- **International force protection:** Peace-keeping casualties as a result of attacks with light weapons occurred throughout the UN peace-keeping operations in Croatia and Bosnia-Herzegovina and have continued to be a security concern for SFOR troops in the Balkans.
- **Lack of transparency:** The lack of transparency in light weapons holdings prevents the establishment of a balance of power at the lowest and safest possible level in the region, a conflict prevention measure sought by international security regimes. Any renewed conflict, as witnessed in Kosovo, will be a conventional one that places a high regard on substantial holdings of light weapons.

SFOR's small arms and light weapons confiscation measures

Feeling a direct threat, NATO peace-keepers conducted light weapons confiscation from the civilian population on an *ad hoc* basis throughout 1996–1998. NATO employed coercive cordon and search techniques that often resulted in increased tension with community members. With these experiences in mind and an awareness of dangers posed by remaining small arms, a joint national authority/international community weapons amnesty was established in March 1998, appropriately named 'Operation Harvest'. The amnesty was accompanied by a campaign to inform communities how they could hand in weaponry without fear of consequences at both mobile and fixed sites staffed by local police forces whose work was supervised by NATO.⁷⁵

During Operation Harvest a sizeable number of weapons were collected despite the absence of monetary or material incentive. In less than one month (March/April 1998), 1,724 small arms, 26,076 hand grenades, and 2,206 antipersonnel mines were collected.⁷⁶ Encouraged by these results, NATO troops, UN police monitors, local police and local military units operated amnesties again in 1999, 2000 and 2001. As of July 2002, the Operation had yielded 23,387 pieces of SALW, 7,500,000 rounds of ammunition, 98,208 hand grenades, 25,908 mines, 22,141 kg of explosives and 90,931 assorted mortars, rifle grenades and hand-made ordnance.⁷⁷ Operation Harvest has continued, albeit on an *ad hoc* basis largely under the discretion of the SFOR Multi-national Divisions in the country. Ironically though, as the disarmament and destruction efforts were afoot, an armaments programme was underway, having some of the same sponsors!

⁷⁵ ONASA News Service, *Amnesty for Illegal weapons takes effect: SFOR*, Onasa, 3 March 1998.

⁷⁶ Harding, Captain Douglas A, (Liaison Officer, MND-North), from the SFOR Coalition Press Information Center, Tito Barracks, Sarajevo, Bosnia-Herzegovina, 22 April 1998.

⁷⁷ Unclassified data received from SFOR HQ; ref. 'Harvest total results 1998–2002', July 2, 2002. During the 1999 Harvest, the following were turned in: 7,500 weapons, over two million rounds of ammunition, 25,000 hand grenades, 8,000 mines, 3,000 kg of explosives and 22,500 other items (mortar rounds, light anti-tank ammunition and rifle grenades). During the first five months of 2000, the amnesty amassed 3,075 firearms, 713,932 cartridges, 5,579 hand grenades, 1,254 mines, 3,947 kg of explosives and 8,627 pieces of other ammunition. De-mining efforts have also made sizeable gains since 1995. The 40–50 injuries a month in 1995 have been reduced to 2–5 injuries a month in 2000. See Reuters English News Service, 'Bosnia: NATO-led force sees success in Bosnia arms removal', Reuters English News Service, 18 January 2000. Also, BBC Monitoring, 'Czech Battalion Collects Arms, Ammunition In Bosnia', BBC News Wire Service, 8 June 2000.

Armament programmes: going in the wrong direction

The programmes sponsored by the US Government to re-arm the Federation Army give rise to dangers of spill-over to the citizenry and the possible hostile use of the more deadly armaments in future conflicts in both Bosnia and abroad. In particular, MPRI has undertaken, under US sponsorship, a massive military re-armament programme. Under the 'Military Stabilisation Programme', MPRI organised a large contribution of light weapons to the BiH Federation Army in September 1996: 46,100 M-16 rifles; 1,000 M-60 (7.62 mm) machine guns; 80 50-calibre machine guns; 45 M-85 machine guns; and 45 M-240 machine guns.⁷⁸ This volume of imported weaponry casts doubt on the claims of President Alijah Izetbegovic that there were sufficient infantry weapons to arm 200,000 Bosnian-Muslim soldiers in 1995.⁷⁹ While it may be reasonable in some cases to re-arm elements of the state's security apparatus, the lack of transparency in the re-armament process remains a concern, as does the lack of any limits on heavy conventional weapons. In 1996, the London based International Institute for Strategic Studies concluded that "a conscious decision not to prioritise disarmament or, indeed, actually to re-arm warring parties in order to establish a local balance of power ... carries serious risks of destabilisation unless it is clearly understood and accepted as a necessary requirement for overall political and military stability".⁸⁰

Additional controversy has arisen as BiH has begun to sell some of its surplus weaponry abroad, most recently to Cameroon via Israel. While such sales are not necessarily illegal, they highlight the important unresolved issues of arms sales and profit-making in a state where arms are being imported and where there is a lack of official oversight mechanisms. There may be an additional danger of fostering threats to international peace internally and in other parts of the world. Currently, there is confusion within the international community as to who should approve transfers and how they should do it. SFOR has expressed the need for an arms sale policy and noted that arms sales could be an important source of revenue for BiH. Recognising that arms sales are an important political/foreign policy issue, the OSCE has offered to provide guidance on this matter, including texts of relevant laws adopted in other states. A number of relevant conventions and European standards on arms transfers are applicable, as are some existing (UN) arms embargoes. There is agreement that commercial exportation needs to be legislated for at the state level, though some policy-makers wonder whether BiH should be in the business of selling arms at all.⁸¹

Less controversial was the re-armament of the police officers of the Federation, who were equipped with Austrian Glock side arms. The RS police continue to use their old Yugoslav model (Cervena Zastava CZ99). The Federation programme has been justified on the basis that Federation police officers possessed a "mix of weapons" including the Hungarian Marakov, and various other Eastern European varieties, requiring a range of expensive ammunition.⁸² In addition, there were safety issues associated with the often-decrepit police firearms: "a lot had improper magazines that did not fit their weapon, or in some cases were dangerously modified", said Terry Smith, former-ICITAP Team Leader for the Vrace Police Academy in Sarajevo.

Perhaps there is a lesson to be learned from an earlier US military initiative in the region. The US's military aid to Tito in the 1950s helped funnel an enormous amount of light weaponry into the country, fuelling future civil wars. For example, thousands of US-supplied Thompson M-1A1 submachine guns were used in the war in Croatia.⁸³

⁷⁸ Military Professional Resources Incorporated, Military Stabilisation Programme I, Draft Manifest, obtained from AES Cargo, Sarajevo, BiH, July 1997.

⁷⁹ Neuman, Stephanie, 'The Arms Trade, Military Assistance and Recent Wars: Change and Continuity', in *The Annals of the American Academy of Political and Social Science, Small Wars*, ed WM.J. Olson, (London: Sage Publications Inc., 1995), pp 66–67.

⁸⁰ Berdal, Mats, *Disarmament and Demobilisation after Civil Wars*, Adelphi Paper 303, (Oxford: University Press 1996), p 30.

⁸¹ United Nations Mission in Bosnia and Herzegovina, Civil Affairs Policy and Planning Unit, Internal Note to File, 23 May 2002.

⁸² Smith, Terry, ICITAP Police Trainer, Sarajevo, BiH, electronic correspondence, 12 April 2000.

⁸³ Vasic, Milso, 'The Yugoslav Army and the Post-Yugoslav Armies', in *Yugoslavia and After: A Study in Fragmentation, Despair and Rebirth*, eds D.A. Dyker and Vejvoda, I, (London: Addison Wesley Longman Limited 1996), p 120.

Some of the weapons remain in BiH and threaten not only US and SFOR peace-keepers, but also the process of reform.

Encouragingly, after nearly seven years of peace implementation in the Balkans, small arms and lights weapons proliferation appears to have gained the spotlight in the regional and the international arena. On 8 May 2002, the South Eastern European Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), was established in Belgrade. Supported by UNDP and the EU's Stability Pact for Southeast Europe, it works with governments and regional and international institutions to formulate and develop projects which will tackle the Balkans' small arms problem. Region-wide weapons-reduction projects are being heralded as one of the West's priorities for the Balkans' shift from peace-keeping to building stability and cracking down on organised crime.

In the larger region around Bosnia, national and local authorities, working with various international actors – UNDP, NATO, aid organisations, etc, have implemented some impressive small arms collection programmes. In Albania 188,000 weapons have been collected; Croatia has yielded 40,000; and in 2001 in the Federal Republic of Yugoslavia, 50,000 small arms were destroyed.⁸⁴ However, it is important to note that the collected figures are merely the tip of the iceberg in many respects. In Albania, for instance, approximately 600,000 small arms were looted in the chaotic spring of 1997 and only a third are now accounted for. In Kosovo in 1999 and more recently Macedonia, instability meant that huge numbers of arms were trafficked into the area. Clearly then, as the example of US re-armament in Yugoslavia in the 1950s points out, successful disarmament will not be measured in months or years but rather in generations.

⁸⁴ Kukic, Gordana, 'Centre to Curb Balkan Small Arms Opens in Belgrade', Associated Press Wire Service, 8 May 2002.

Conclusion: a sympathetic critique and a call for a comprehensive approach

COMPLAINTS ARE FREQUENTLY MADE regarding the BiH peace-building process to the effect that international programmes are poorly co-ordinated and that some work at cross-purposes with others. The disarmament/armament programmes described above are frequently cited examples. The overall difficulties of co-ordination are well summarised by the UN SRSG, who sees the significant overlap of international duties and visions close-up:⁸⁵

“In Bosnia and Herzegovina, despite the best efforts of committed personnel, we have not achieved the same sense of purpose, efficiency and utilisation of resources. Bosnia is the only state in the world where there is one country, two entities, three constituent peoples, four religions, and five international organisations running it.”

The multiplicity of international actors with similar mandates and projects operating in the same areas has created recurring problems through the years. Ambassador Robert Barry, former-head of the OSCE mission in BiH, recognises what he calls ‘turf wars’ between the major organisations that have periodically strained relations among actors in the field offices. Ambassador Klein agrees, “on the ground, there are often five sets of field officers, all with an identifiable niche, but rarely with a combined strategic vision, and all of them seeking to meet with the same local officials. The result is a bonanza for manipulation by hard-line nationalists and obstructionists.” This duplication and parallel chains of command has had a noticeable toll on the efficiency and effectiveness of the international efforts at a time of diminishing resources.

Since the tensions that hinder peace-building are not only indigenous but also external, international leaders need to constantly exert effort to reinforce co-ordination in the field and, beyond that, unity of purpose and vision. A grand vision for nation building has to complement the co-ordination of scattered projects at the operational level.

⁸⁵ Klein, Jacques Paul (Special Representative of the Secretary-General in Bosnia-Herzegovina), ‘Sharing Political Space in Peacemaking: The Case of Bosnia-Herzegovina’, International Peace Academy Seminar, Vienna, 7 July 2000, <http://www.unmibh.org/news/srsgspe/2000/07jul00.asp>, accessed 13 May 2002.

Peace-building in the security sector, it is gradually being realised, must be a holistic undertaking, covering the entire array of security actors. The present survey of international activities shows that while the initiatives cover many components of the security sector, support for reform across the security sector is far from uniform. Indeed, several components have been neglected, leaving a vacuum in the security infrastructure and the potential for overall failure at robust nation-building. Without a holistic approach to SSR, the practices of these neglected agencies may slow down the entire process of reform and render other efforts completely ineffective.

The primary focus of international efforts has been on military and police forces while largely neglecting other security institutions, especially intelligence agencies. The main reform activity has been technical training of military and police officers, leaving behind members of other components of the security sector. For example, the police capacity-building efforts have far outstripped the pace of judicial reforms. This is in part due to the fact that training and deploying a police officer is easier and quicker than training a judge or a prosecutor who requires longer and more complex technical preparation before starting work. The reform of the intelligence agencies was until 2002 utterly neglected, leaving a large lacuna in the SSR process and threatening reforms in other areas.

Not only must international efforts encompass the entire range of government security agencies, they must also work to support the range of national actors, especially civil society. NGOs, think tanks, universities, etc, play an important role in monitoring security agencies and in developing security policy. Democracy, in the final analysis, is only as strong as the citizenry is knowledgeable and participating through civil society. As the prominent jurist Robert H Jackson once declared, “[i]t is not the function of our government to keep the citizens from falling into error;⁸⁶ it is the function of the citizen to keep the government from falling into error.” Only by strengthening the involvement of civil organisations in the SSR process can the international community hope to make it sustainable over the long term. The foundation for permanent change must be a society of committed individuals who demand the highest standards of professional competence and behaviour.

Thus, a comprehensive vision and approach to SSR is vital. To the credit of the negotiators, the DPA provided for some reform programmes, more than had ever before been undertaken under international supervision. In retrospect, however, the DPA was not as comprehensive as was first thought and as subsequently found to be needed. While it provided a basis for some programmes and innovations, the need for strategic planning remained great. The SSR concept, now gaining popularity, is a useful tool to move this great experiment forward. In the negotiations of the Dayton Peace Accords the focus was on the traditional agencies (military and police) rather than a more holistic initiative. Over time, however, a wider scope of reform has been sought.

BiH has been relatively peaceful since the signing of the Dayton Accords, despite several shocks (such as the war in Kosovo) that might easily have unleashed widespread violence had the international community not been so intimately involved, especially in SSR. The status of relative peace in BiH demonstrates that the peace-building efforts in the volatile and emotionally-charged security sector have gone a long way to establishing a foundation for stability. The structures of the state and society are being developed to such an extent, and generally seem to carry the support of enough citizens, that despite ongoing hatreds and inequalities, peace is expected to hold. The investment in peace, both locally and internationally, is now deemed too great to permit an easy relapse into war. With experience being gained each year and the hope for an ever expanding and deepening reform agenda, there are indications that this great experiment in nation-building might very well succeed.

⁸⁶ *The Columbia World of Quotations*, 1996, <http://www.bartleby.com/66/74/30374.html>, accessed 9 September 2002.

APPENDIX 1

International organisations involved in BiH

Table describing the main international bodies involved in post-Dayton Bosnia-Herzegovina, especially in security sector reform. (Quotations are from the listed web sites of these bodies unless otherwise noted.)

Organisation	Description
Office of the High Representative for the Implementation of the Peace Agreement (OHR) Est. Dec. 1995	<p>Facilitates "the resolution of any difficulties arising in connection with civilian implementation" of the DPA (Art. II.1.d).⁸⁷ The UN Security Council (SC) mandates the HR to "mobilise and, as appropriate, give guidance to, and co-ordinate the activities of the civilian organisations and agencies" involved with the civilian aspects of the DPA, and to "monitor the implementation of that settlement" (UN SCR 1031 (1995)).⁸⁸</p> <p>The HR is nominated by the Steering Board of the Peace Implementation Committee (described below), and endorsed by the SC.</p> <p>High Representative: Paddy Ashdown (UK).</p> <p>Web site: www.ohr.int</p>
United Nations Mission to Bosnia and Herzegovina (UNMIBH) Dec. 1995 Present	<p>Mandated to "contribute to the establishment of the rule of law in Bosnia and Herzegovina by assisting in reforming and restructuring the local police force, assessing the functioning of the existing judicial system and monitoring and auditing the performance of the police and others involved in the maintenance of law and order". (UN SCR 1035 (1995)).</p> <p>Main components: International Police Task Force (IPTF) (approx. 2000 civilian police) and UN civilian offices, including the Criminal Justice Advisory Unit (CJAU), Civil Affairs, Human Rights, Public Affairs and Administration.</p> <p>The Special Representative of the Secretary-General (SRSG), head of UNMIBH, also co-ordinates UN efforts in BiH and is involved with "programmes which support the return of refugees and displaced persons, de-mining, the promotion of human rights, the welfare of children, and education and culture".⁸⁹</p> <p>Head of Mission: SRSG Jacques Paul Klein (US); IPTF Commissioner: Sven Frederiksen (Denmark).</p> <p>Web site: www.unmibh.org</p>
Organisation for Security and Co-operation in Europe (OSCE) Est. 1995 and active in BiH since early 1996	<p>"The largest regional security organisation in the world with 55 participating States from Europe, Central Asia and North America. It is active in early warning, conflict prevention, crisis management and post-conflict rehabilitation."</p> <p>In BiH, it assists with implementation of the DPA, especially the confidence and security-building measures. It includes a Department for BiH Regional Stabilisation and Human Rights in BiH.</p> <p>Head of Mission: Mr Robert Beecroft (US).</p> <p>Web site: www.osce.org</p>
North Atlantic Treaty Organization (NATO) Est. April 1949, and operating in BiH region since 1992	<p>A regional co-operative defence alliance whose essential purpose is "to safeguard the freedom and security of all its members by political and military means in accordance with the North Atlantic Treaty and the principles of the United Nations Charter. The Alliance has worked since its inception for the establishment of a just and lasting peaceful order in Europe based on common values of democracy, human rights and the rule of law."</p> <p>Operates throughout the conflict region in support of UN efforts, especially UNPROFOR (1992–95), and post-1995 through its IFOR and SFOR missions (established by various UNSCRs as prescribed in Annex 1-A of the DPA).</p> <p>Secretary-General: Lord George Robertson.</p> <p>Nineteen members: US, Canada, Belgium, France, Luxembourg, Netherlands, United Kingdom, Denmark, Iceland, Italy, Norway, Portugal, Greece, Turkey, Germany, Spain, Czech Republic, Hungary, and Poland.</p> <p>Web site: www.nato.int</p>

⁸⁷ 'Constitutional Watch: A country-by-country update on constitutional politics in Eastern Europe and the ex-USSR', *East European Constitutional Review*, vol. 8, No. 4, Fall 1999, p 1, www.law.nyu.edu/eecr/vol8num4/constitutionwatch/bosnia.html

⁸⁸ UN web site, *UNMIBH Background*, www.un.org/Depts/DPKO/Missions/unmibh/unmibhB.htm, accessed 30 May 2001, p 2.

⁸⁹ NATO web site, 'NATO Fact sheets: NATO's role in Bosnia and Herzegovina', accessed at www.nato.int/docu/facts/2000/role-bih.htm, 31 May 2001, p 1.

NATO-led Implementation Force (IFOR)

Dec. 1995–Dec. 1996

A military force composed of both NATO and non-NATO members that operated under the authority and subject to the direction and political control of the North Atlantic Council (NAC) through the NATO chain of command.⁹⁰ It was mandated in UN SCR 1031 (1995) in accordance with Annex 1-A of the DPA to bring about and maintain an end of hostilities. Includes approx. 60,000 ground, air, and maritime troops (18,500 of which had been UNPROFOR personnel).

Commander: Admiral Leighton Smith (US).

Web site: www.nato.int/ifor/ifor.htm**NATO-led Stabilisation Force (SFOR)**

Dec. 1996–present

Follow-on from IFOR; operates under same authority. It was mandated originally to implement the military aspects of the DPA, including maintaining and, where necessary, enforcing peace to enable the country to rebuild after years of war, and to assist in the civilian implementation of the DPA (UN SCR 1088 (1996). Includes approx. 32,000 troops until Nov. 1999, and approx. 20,000 from August 2000 to present (supplied by 16 NATO and 13 Partnership for Peace countries).

Commander: Lt. Gen. John Sylvester

Web site: www.nato.int/sfor/index.htm**Peace Implementation Council (PIC)**

Founded in Dec. 1995, and set-up in 1996

An *ad hoc* inter-governmental authority that oversees the implementation of the Dayton and Paris Agreements.⁹¹ Meets infrequently (every few months or so). Members include the US, China, Russia, Canada, Italy, Turkey, Greece, the United Kingdom (partial list). (Note: Yugoslavia was 'removed' at the behest of the US and, as of June 2000, was still not readmitted).⁹²

Office of the UN High Commissioner for Refugees (UNHCR)

Est. 1951 by UN General Assembly; in BiH since onset of conflict

A voluntarily financed UN agency that seeks to protect refugees and displaced persons, and ensure they receive asylum and favourable legal status in their new surroundings. As of 2001 the UNHCR claimed to extend international protection to 18 million persons. In BiH, and in addition to directly aiding and re-settling displaced persons, UNHCR "support[s] capacity-building of local authorities, seek[s] to establish a Bosnia and Herzegovina Refugee Council, and pursue[s] legal reforms".⁹³

HQ: Geneva (with offices worldwide); High Commissioner: Ruud Lubbers (Netherlands).

Web site: www.unhcr.ba**Office of the UN High Commissioner for Human Rights (UNHCHR)**Est. 1993 (by UN General Assembly)⁹⁴Operationally based in BiH since 1991⁹⁵

The High Commissioner for HR, under the direction and authority of the SG, "co-ordinates human rights activities throughout the UN system and oversees technical co-operation programmes for states, non-governmental agencies and regional organisations".⁹⁶ The UN agency also deals with building global partnerships for human rights; preventing human rights violations; responding to human rights emergencies.

In BiH, the office has run human rights training programs, promoted "non-discrimination" in courts and monitors the on-going human rights situation.

HQ: Geneva; High Commissioner: Mary Robinson (Ireland).

Web site: www.unhchr.ch**International Criminal Tribunal for the former Yugoslavia (ICTY)**

Est. 1993

Established to prosecute persons accused of serious violations of international humanitarian law committed in the former Yugoslavia since 1991 (UN SCR 827 (25 May 1993)). Four groups of offences: grave breaches of the Geneva Convention of 1949; violations of the laws or customs of war; genocide; and crimes against humanity.

HQ: The Hague, The Netherlands.

Chief Prosecutor: Carla Del Ponte (Switzerland).

Staff (as of April 2001): 1,103 members from 74 countries.

Web site: www.un.org/icty

⁹⁰ Chicago-Kent College of Law: Rule of Law through Technology web site, *General Framework For Peace In Bosnia And Herzegovina*, pbosnia.kentlaw.edu/services/chicago/legal_aid/treaties/peace_bosnia.htm, accessed 20 July 2001.

⁹¹ Lightburn, David, 'Seeking Security Solutions', *NATO Review*, Vol. 48, No. 3, Winter 2000–2001, www.nato.int/docu/review/2000/0003-02.htm, p 2.

⁹² UN web site, *Headquarters Press Conference by Yugoslav Mission*, www.fas.org/man/dod-101/ops/war/2000/05/20000525-yugopc.htm, accessed 25 May 2000.

⁹³ UNHCR web site, '2000 Mid-Year Progress Report for BiH', www.unhcr.ch/fdrs/my2000/bih.pdf, accessed 21 July 2001.

⁹⁴ In 1997, the Office of the High Commissioner for Human Rights assumed the functions formerly carried out under the auspices of the UN Centre for Human Rights.

⁹⁵ UNHCR web site, *Background in BiH*, www.unhcr.ba/GENERAL/BACKGROUND.html, accessed 24 July 2001.

⁹⁶ Geneva Briefing Book UN High Commissioner for Human Rights, *UN High Commissioner for Human Rights*, www.genevabriefingbook.com/chapters/unhchr.html, accessed 20 July 2001.

United Nations Development Programme (UNDP)

Est. 1965 (by UN General Assembly)

UN agency that helps “countries in their efforts to achieve sustainable human development by assisting them to build their capacity to design and carry out development programmes in poverty eradication, employment creation and sustainable livelihoods, the empowerment of women and the protection and regeneration of the environment, giving first priority to poverty eradication”.⁹⁷

The UNDP delivers most of its services through its 132 country offices.⁹⁸

For SSR in BiH, the UNDP launched several criminal justice reform programmes and worked with the UN Centre for International Crime Prevention (located in Vienna, est. 1997) to assist in development of a criminal code.

Web site: www.undp.ba

The South Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC)

Est. 2002

Based within the UNDP Country Office in Belgrade, SEESAC works to co-ordinate, facilitate and encourage efforts to combat the proliferation of small arms and light weapons and related munitions in the region, offering technical expertise and support to ongoing initiatives and funding for smaller scale activities designed to complement projects undertaken by other actors. SEESAC works towards the implementation of the EU Stability Pact for South Eastern Europe Regional Implementation Plan on small arms and light weapons in eight countries in South Eastern Europe – Albania, Bosnia Herzegovina, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Moldova, Romania and the Federal Republic of Yugoslavia.

Web site: www.undp.org.yu

World Bank Group

Est. 1944

The “world’s largest source of development assistance, and consists of five closely associated institutions, one of which is the International Development Association (IDA)”. Its “mission is to fight poverty for lasting results and to help people help themselves and their environment by providing resources, sharing knowledge, building capacity, and forging partnerships in the public and private sectors”. In 2000, the Bank’s 10,000+ employees helped to disburse more than US\$15 billion in loans.⁹⁹

IDA provided credits to BiH government and helped facilitate a number of SSR projects.

HQ: Washington; President: James D. Wolfensohn.

Web site: www.worldbank.org/html/extdr/about

European Union

Est. 1951

An intergovernmental organisation that seeks (through its five institutions – the European Parliament, Council, Commission, Court of Justice, and Court of Auditors) to organise relations between the fifteen member states and between their peoples “in a coherent manner and on the basis of solidarity”.

European Parliament: Brussels, Luxembourg, and Strasbourg.

Members: 15 European states.

In BiH, the EU was involved in police reform and the development of the Customs office, among other things.

Web site: www.europa.eu.int

Council of Europe

Est. Jan. 1949

Distinct from the European Union, its main decision-making body is the Committee of Ministers, composed of the Foreign Ministers of its 43 member states. It “covers all major issues facing European society other than defence”.

One of the main aims is to “protect human rights, pluralist democracy and the rule of law”.

Members: 43 European states (BiH was admitted to the Council on 24 April 2002).

HQ: Strasbourg, France; Secretary-General: Walter Schwimmer (Austria)

In BiH, the Council contributed to judicial, legal and correctional reform programmes.

Web site: www.coe.int

⁹⁷ UNDP in BiH web site, About UNDP, www.undp.ba/a1.html, accessed 22 July 2001.

⁹⁸ UNDP web site, Discover UNDP, www.undp.org/discover_undp/index.html, accessed 22 July 2001.

⁹⁹ World Bank web site, www.worldbank.org/html/extdr/about/, accessed 20 July 2001.

APPENDIX 2

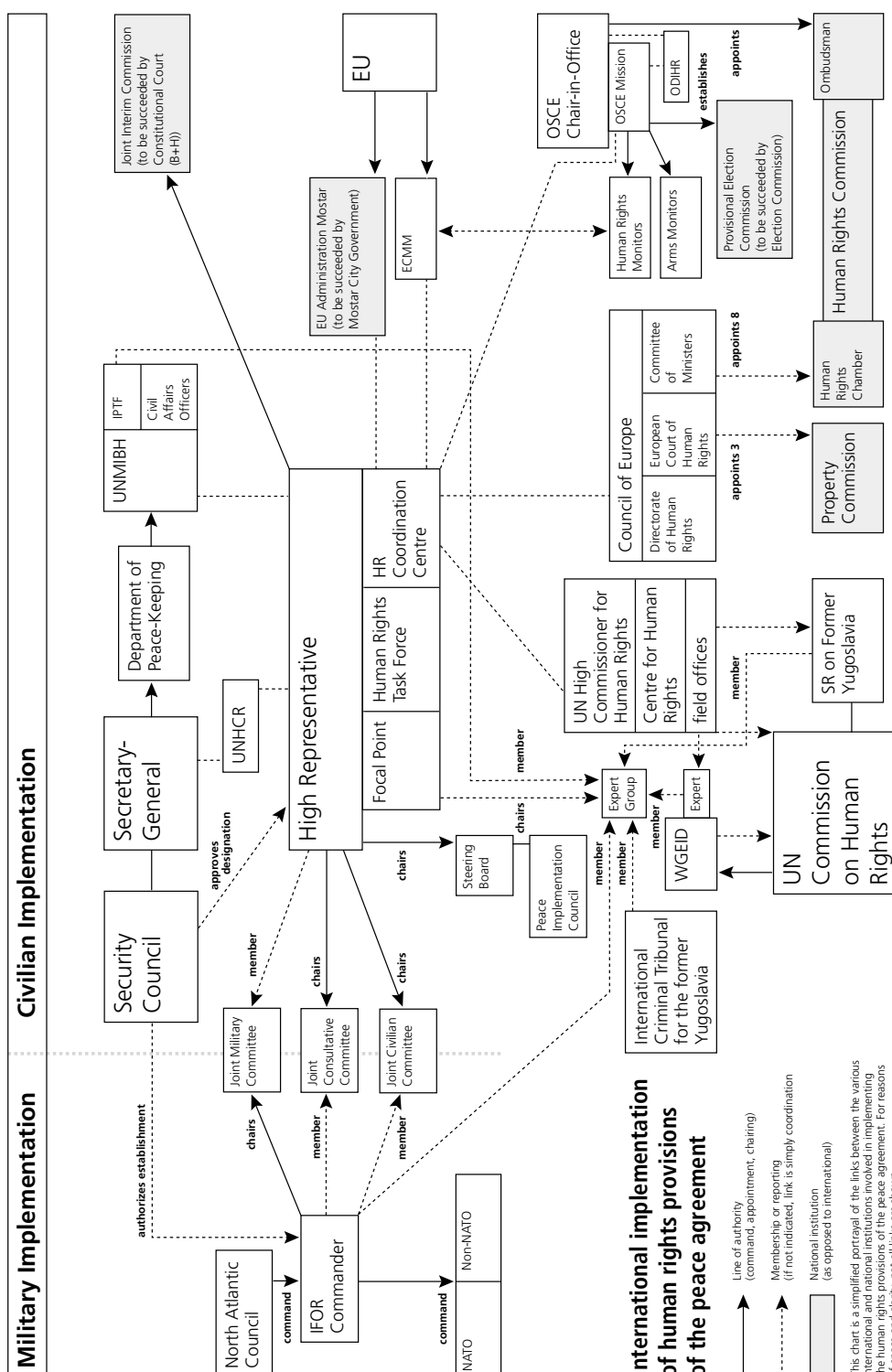
Non-governmental organisations involved in BiH security sector

Table of selected non-governmental and commercial organisations involved in security sector reform in BiH. (Quotations are from the listed web sites of these bodies unless otherwise noted).

Organisation	Description
American Bar Association (ABA) Est. 1878	<p>The ABA is "the largest voluntary professional association in the world. With more than 400,000 [US] members, the ABA provides law school accreditation, continuing legal education, information about the law, programs to assist lawyers and judges in their work, and initiatives to improve the legal system for the public". Members of the legal profession from other countries can become international associates.</p> <p>The Central European Law Initiative (CEELI) is "a public service project of the American Bar Association [that] advances the rule of law in the world by supporting the legal reform process in Central and Eastern Europe and the New Independent States of the former Soviet Union. With the assistance of lawyers, judges, and law professors, CEELI helps to build the legal infrastructure that is indispensable to strong, self-supporting, democratic, free market systems". It began its work in BiH in March 1995. "To date, CEELI has held 42 training workshops in Bosnia; it has completed 23 legal assessments, on topics ranging from foreign investment to judicial organization".</p> <p>Web site: www.abanet.org/ceeli</p>
International Crisis Group (IGG) Operating in region since 1996	<p>A private, multi-national organisation committed to strengthening the capacity of the international community to anticipate, understand and act to prevent and contain conflict.</p> <p>ICG teams of political analysts based on the ground in countries at risk of crisis, gather information from a wide range of sources, assess local conditions and produce regular analytical reports containing practical recommendations targeted at key international decision-takers.</p> <p>In BiH, ICG produces timely provocative reports covering all aspects of peace implementation.</p> <p>HQ: Brussels</p> <p>BiH Office: Sarajevo.</p> <p>President and Chief Executive: Gareth Evans.</p> <p>Web site: www.intl-crisis-group.org</p>
Military Professional Resources Incorporated (MPRI) Incorporated in 1988 Operating in BiH since 1996	<p>A "professional services company engaged in defence-related contracting in the U.S. and international markets. Operated primarily by former military personnel and staffed by a wide range of other professionals (over 800 employees), the company's business focus is on the broad range of defence matters, law enforcement expertise, and leadership development in both the public and private sectors."</p> <p>HQ: Alexandria, Virginia (with programme offices in several states and foreign countries)</p> <p>In BiH, its Military Stabilisation Programme (MSP) assists with "the development of the [BiH Federation Army Forces (FAF)] military structure, the fielding of military equipment and the conduct of a broad-based individual and unit training programme". It also "established and runs Battle Simulation Centres and a Combat Training Centre". "When fully implemented, this programme will provide the FAF with the military capability to deter armed aggression and, should deterrence fail, defend the Federation's territory and population."</p> <p>Web site: www.mpri.com</p>
European Commission for Democracy through Law (Venice Commission) Est. March 1990	<p>The Commission "helps with adoption, in eastern Europe, of constitutions that conform to the standards of Europe's constitutional heritage".</p> <p>The Venice Commission is composed of "independent experts who have achieved international fame through their experience in democratic institutions or by their contribution to the enhancement of law and political science". Members are supreme or constitutional court judges, national members of parliament and senior public officials and senior academics. Only Council of Europe member states that have acceded to an agreement can take part in its activities (including providing members) and contribute to its budget. Forty states have done so. BiH is an associate member.</p> <p>In BiH, it provided advice (legal opinions) on the establishment of a human rights court, the interpretation of BiH Constitutional law, and the responsibilities in immigration and asylum matters (especially power sharing between the two entities). "In 2000, it recommended that the Chamber of Human Rights and the Constitutional Court should merge once Bosnia and Herzegovina had ratified the European Convention on Human Rights."</p> <p>Web site: venice.coe.int/site/members/bih_e.htm</p>

International organisations responsible for implementation of Dayton Accord human rights provisions

Organisational diagram showing the international bodies involved in the implementation of human rights shortly after the Dayton Peace Accords. Applies to other aspects as well. (Source: Amnesty International, *Bosnia-Herzegovina: The international community's responsibility to ensure human rights*, AI Doc. EUR 63/14/96, June 1996 (Annex)).





An unprecedented experiment:

Security sector reform in Bosnia and Herzegovina

Jeremy King, United Nations Mission in Bosnia and Herzegovina, and
A Walter Dorn, Royal Military College of Canada, with assistance from
Matthew Hodes, Carter Center

Acronyms and abbreviations

ABiH	Army of Bosnia and Herzegovina (Bosnian-Muslim armed forces)
AID	Agency for Investigation and Documentation (Bosnian-Muslim intelligence service)
BiH	Bosnia and Herzegovina (or Bosna i Hercegovina)
CAFAO	Customs and Fiscal Assistance Office
CEELI	Central Eastern European Law Initiative of the American Bar Association
CIVPOL	Civilian Police
CJAU	Criminal Justice Advisory Unit of UNMIBH
DDR	Disarmament, Demobilisation and Reintegration
DPA	Dayton Peace Accords
ETF	Employment and Training Foundations
EUPM	European Union Police Mission
HRO	Human Rights Office of UNMIBH
HVO	Croatian Defence Council (Bosnian-Croat armed forces)
ICG	International Crisis Group
ICITAP	International Criminal Investigation Training Assistance Programme of the United States Department of Justice
ICPA	International Corrections and Prisons Association for the Advancement of Professional Corrections
IDA	International Development Association
IFOR	(NATO-led) Implementation Force
IJC	Independent Judicial Commission
IPTF	International Police Task Force of the United Nations
ISBS	Internal State Border Service
JSAP	Judicial System Assessment Programme of UNMIBH
KLA	Kosovo Liberation Army
KM	Konvertibilnih Marka or Convertible (German) Mark (unit of currency)
MPRI	Military Professional Resources Incorporated (US private military company)
NUPI	Norwegian Institute of International Affairs
OHR	Office of the High Representative
OSCE	Organisation for Security and Co-operation in Europe
PfP	Partnership for Peace (NATO-sponsored programme)
PIC	Peace Implementation Council
PIU	Project Implementation Units of the World Bank
RS	Republika Srpska (Serb Republic in BiH)
SBS	State Border Service of BiH Government
SC	Security Council of the United Nations
SCMM	Standing Committee on Military Matters
SFOR	(NATO-led) Stabilisation Force in BiH
SNS	Bosnian-Croat National Security Service
SIS	Security Information Service (Croatian intelligence service)
SRSG	Special Representative of the UN Secretary-General
SSR	Security sector reform
TDF	Territorial Defence Forces of Socialist Federal Republic of Yugoslavia (1945–1992)
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNMIBH	United Nations Mission in Bosnia and Herzegovina
UNMIK	United Nations Mission in Kosovo
UNTAET	United Nations Transitional Administration in East Timor
US	United States of America
USAID	United States Agency for International Development
VF	Army of the Federation of BiH
VRS	Bosnian Serb Army



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Executive summary

1. The 1995 Dayton Accords that ended the war in Bosnia and Herzegovina (BiH) provided minimal guidance on the issue of reform of the security sector, outside of military and police matters. The experience in BiH has shown that a holistic, wide-ranging approach is needed. Hence security sector reform is a concept which is gaining popularity. It seeks to improve all the agencies dealing with security: military, police, judicial, customs and border services, corrections and intelligence agencies. This paper provides an extensive but not exhaustive review of the initiatives undertaken by the international community to bring about reform of these agencies since 1995. Efforts at citizen disarmament are also described.
2. Demobilisation and reintegration of BiH military forces has proven to be a difficult but essential task. The existence of three wartime armies has been bankrupting the state. Until 2000 the state allocated as much as 40 percent of its total annual budget to defence spending. The lack of adequate reintegration has contributed to organised crime, weapon smuggling, violence towards minority returnees and an export of mercenaries to other parts of the world. The central question of integration or greater autonomy of the country's armed forces looms continually in the background.
3. When the Bosnian wars came to an end, the military forces in BiH needed to be restructured and professionalised. To date, professionalisation initiatives have been aimed mostly at the Federation forces. They have included: reforming the structure of the forces and re-vetting personnel while disbanding irregular forces; training at all levels (strategic, operational and tactical); encouraging higher professional standards; increasing technical skills; establishing greater efficiency in administrative structures; and creating accountability and external civilian oversight.
4. International community support for demobilisation came largely in the form of project funding from the World Bank. The other actors engaged in military professionalisation efforts have been: the private US-based military company (MPRI), the NATO-led Stabilisation Force (SFOR), the Organisation for Security and Co-operation in Europe (OSCE), the Office of the High Representative (OHR), and the United Nations Mission in Bosnia and Herzegovina (UNMIBH). To encourage longer-term professionalisation and greater cohesion between RS and Federation police forces, UNMIBH fostered both a military and a civilian police capability to participate in international peace-keeping activities.
5. Post-conflict police reform is intended to concentrate on strengthening the management capacity of the police force to implement change and understand what it means to be a police officer in a democratic society, distinguishable from the military. The overall aim of such reforms is to establish effective and humane services to uphold law

and order for all citizens. In BiH, as with the army, a large police demobilisation effort was needed.

6. The delegation of enforcement of customs policy to the two (or, in practice, three) entities made effective, nation-wide border control difficult. The vacuum in customs administration and border control has encouraged the development of an illegal migration pipeline transiting BiH and ending in Western Europe. The official establishment of the State Border Service in June 2000 ended a long-standing feud between Bosnia's two entities. The SBS will control approximately 1,660 kilometres of international borders and employ more than 2,700 officers.
7. Legal reform entails building a new system of justice that operates on the basis of the rule of law and human dignity and not simply as an extension of political power. Judicial and legal reform efforts in BiH have been halting and painstaking. They have included legal education, strengthening of bar associations, law schools, and, only recently, serious judicial and legal reform measures (particularly criminal and commercial law reform). Judicial reform, in particular, has been exceedingly slow. Effective legislation and administrative structures to review the qualifications of judges and prosecutors were only put into place in mid-2000. Only now are some corrupt or ethnically biased judges being replaced. Many crimes from the war have gone unpunished and a number of criminals indicted by local courts and by the International Criminal Tribunal for the former Yugoslavia (in particular Serb leader Radovan Karadzic and General Ratko Mladic) remain unapprehended.
8. As with professionalisation efforts aimed at police, military and other security institutions, the reform of the corrections and penal services also requires extensive international support. Collaborative technical assistance efforts could include education, donation of equipment and the promotion of internationally agreed corrections principles.
9. The reform of intelligence services after conflict is a difficult but essential task. Several intelligence services were active in the territory of BiH, and are understood to be under the control of various political parties. Intelligence organisations have largely remained off the international reform agenda. Restructuring efforts have begun only recently in BiH as no international organisation has claimed absolute mandate responsibility and local leaders have lacked the courage to tackle what is a tough problem.
10. Disarmament of a post-conflict society is another reform measure of great importance. It improves the safety of the citizenry and strengthens the monopoly of the state on the use of force. Tailored disarmament has been applied not only to the security agencies but also to society as a whole. Still, the mixture of weapons proliferation, mandatory conscription, high unemployment and mistrust between the ethnic communities remains a serious threat to the peace, countered only by the strong presence of peace-keepers and the general fear of a return to open warfare. The lack of transparency in the military re-armament process remains an essential problem, as does the absence of any agreed limit on levels of small arms (in contrast to the situation with regard to heavy conventional weapons).
11. Security sector reform must involve not only the entire range of government security agencies, it must also support a range of other national actors, especially civil society, that are working for positive change. For instance, NGOs, think tanks, universities, etc, play an important role in monitoring security agencies and in developing security policy.
12. The experience of reform in BiH has shown that such efforts should be a holistic undertaking, covering the entire array of security actors. While the initiatives of the international community cover many components of the security sector, reform across the sector is far from uniform. The primary focus of international efforts has been reform of military and police forces while other security institutions, like the

judiciary and intelligence agencies have been neglected. While military and police officers have received technical training, personnel employed by other agencies of the security sector have been left behind. The hope is that a lasting peace can be achieved when all the agencies dealing with security are reformed, made democratically accountable and work at higher (generally European) standards to serve the interests of all the citizens of BiH.

Bosnia and Herzegovina



Introduction

AFTER FOUR YEARS of bloody internecine fighting, the war in Bosnia and Herzegovina (BiH) was finally brought to an end with the signing of the Dayton Peace Accords (DPA) in December 1995. The international community, having invested so much in the peace process in BiH, became intimately involved in implementing the Accords as part of an unprecedented effort at post-conflict peace-building. The goal was to help prevent a rapid relapse into warfare and to build the infrastructure for a lasting peace. At the outset, this meant dealing with the three belligerent *ad hoc* wartime armies – the Bosnian-Muslim forces (ABiH), the Bosnian-Croat Croatian Defence Council (HVO), and the Bosnian-Serb Army (VRS) – that had caused so much damage in the country. Soon efforts expanded to cover other parts of the security sector and, even more broadly, to democratic governance across the spectrum of security and non-security agencies in the two DPA-established entities, the Bosnia-Herzegovina Federation and Republika Srpska (RS), which together form the state of BiH.¹

The need to reform all the BiH agencies that deal with security, which collectively form the ‘security sector’, was increasingly recognised as essential for the success of peace-building. During the conflict, the military forces became habituated to committing egregious human rights violations, as did a number of ruthless paramilitary bodies that fell outside the normal chain of command. Law enforcement agencies routinely overstepped their bounds and engaged in widespread abuses and corruption. The courts were partial to ethnic identity and ignored due process in the name of wartime expediency. The corrections system was in utter disrepair, as enemy soldiers had displaced legitimate criminals in decrepit prisons run under sub-human conditions. Borders were porous as customs officials participated in illegal trafficking of persons and goods. The intelligence agencies wielded tremendous power as tools of ultra-nationalist political parties, including those in neighbouring capitals. In short, the entire system of government had been warped to meet the dictates of the war and the ruling elites.

Hence, despite the lack of treaty provisions, in post-Dayton BiH the international community quickly found itself engaged in an unprecedented effort, both in scope and cost, of security sector reform (SSR). SSR is a holistic approach which recognises that the strong links between the various security agencies must be taken into account if reforms are to succeed. Without a comprehensive approach, one unreformed body might continue playing by the old ‘dirty rules’ and undermine efforts to transform not only itself but also the other agencies. Not since the end of the Second World War had the United States, the nations of Europe and the world (through the UN) committed

¹ The DPA created an elaborate state structure with competing entities and an administration so complex that it often impedes efforts at reform, see section 8.

such great resources to reform the security sector of a state. While it is too early to judge the final impact of the many SSR initiatives, it is important to take stock of them and to identify the successes and limitations that are already apparent in this crucial Balkan experiment. This paper endeavours to provide an overview of the initiatives and international actors conducting SSR in each of the components of BiH security sector: military, police, customs and border service, judicial, corrections and intelligence. Successful instances and synergies among the international actors are illustrated, as are some of the failures and the many challenges continuing to impede reform.

Notwithstanding the wide-ranging nature of the 1995 Dayton Accords, they provided only minimal guidance on the crucial issue of reform of the security sector. While addressing the issues of the weapons holdings, oversight provisions and the reform of the police and to a lesser degree the militaries, the Accords were virtually silent on judicial and correctional services, customs and border services and the sensitive but critical issue of intelligence agencies. They were also silent on the numerous challenges posed by small arms and light weapons proliferation and the demobilisation of thousands of former combatants.

Fortunately, several of the BiH institutions tasked with the security of the state and its citizenry have welcomed the professionalisation programmes implemented so far, which aim to promote higher (generally European) standards and to instil a sense of integrity, pride and competence among personnel. Success in this field, however, must be measured in small steps, as this inherently political process has seen positive developments in some areas while setbacks and great resistance in others.

Internal state co-operation remains underdeveloped in most sectors of the state security apparatus. The exception is the country's numerous police forces that have introduced effective operational procedures for inter-entity and regional law enforcement co-operation. Failure to establish similar mechanisms in other security institutions has resulted in parallel agencies and structures, waste of financial resources and impotence in the face of domestic and international security challenges. Seeking to remedy this fundamental flaw in security sector reform, nearly seven years since the signing of the Dayton Accords, the international community is now intensifying its engagement to streamline security institutions and reduce personnel numbers to affordable levels. Thus far, public opinion has backed the process, likely due to successful campaigns undertaken by the international community to articulate the social cost savings and benefits of smaller professionalised security services. With the exception of roadblocks and demonstrations undertaken by soldiers slated for demobilisation, public unrest has been minimal and it appears that this aspect of the security sector reform process is on track to succeed.

The examples of SSR in this paper are extensive but not exhaustive. They illustrate the primary actors and the resulting synergies and problems between and within the international organisations and the host nation agencies.

To provide detailed yet easy-to-reference background information on the international actors, several tables and a diagram are presented in the appendices. Appendix one provides basic information on the main international organisations involved in SSR in BiH. Appendix two covers selected non-governmental organisations. A schematic diagram showing the relationship between many of these organisations in the early years is provided in appendix three.

Military reform

Demobilisation and reintegration of former combatants

ONE IMPORTANT LESSON from the UN experience in peace operations in the early 1990s, supported by substantial academic and policy research,² is that combatant demobilisation and reintegration processes must be an integral part of post-conflict peace-building. Despite this, the DPA failed to incorporate a strategy to guide national and international actors. The result was minimal activity and, at best, *ad hoc* and/or unco-ordinated project delivery in this area. The NATO-led Implementation Force (IFOR) considered the “demobilisation of remaining forces” the primary military task³ but offered little more than security advice on the proposed locations of military barracks. The brunt of responsibility for employing a limited degree of emergency demobilisation and reintegration support fell first to the devastated local governments responsible for the three armies and second to the international community, which reacted with varying degrees of effectiveness.

Two factors are largely responsible for the neglect of demobilisation and reintegration processes. Firstly, political tensions between the belligerents during the DPA negotiations hindered agreement on the very sensitive security issues surrounding demobilisation processes. Secondly, it would appear that IFOR, in its peace-keeping infancy, lacked the experience in civil-military co-operation to manage such ambitious tasks, which go well beyond traditional military security functions. IFOR’s concerns that its primary role be the military function of “separating armies from fighting one another” and “protecting civil populations from the actions of the military forces,” ensured that the institutionalised knowledge of the UN in disarmament, demobilisation and reintegration (DDR) was initially resisted by NATO in BiH. In an April 1996 statement concerning the alliance’s assistance to demobilisation and reintegration, IFOR Commander Lt Gen Sir Michael Rose stated that IFOR would “do whatever it can to try and help [demobilisation],” but IFOR is “not the best organisation for doing it”.⁴ With the absence of local government co-operation and capacity, no official demobilisation and reintegration assistance was provided immediately following the cessation of hostilities.

Demobilisation and reintegration remain difficult tasks in BiH, as ex-combatants need to reintegrate not only into a divided state, but also into a post-Communist one. The struggle for democracy and a free-market economy compound the difficulties. The lack of adequate reintegration has undoubtedly contributed to organised crime,

² Canada, Department of Foreign Affairs and International Trade, *Practical Disarmament, Demobilisation and Reintegration Measures for Peace-building*, (Ottawa, April 1997). Also Laurance, Edward J. and Sarah Meek, *The New Field of Micro-Disarmament: Addressing the Proliferation and Buildup of Small Arms and Light Weapons*, Brief 7, (Bonn International Center for Conversion, September 1996).

³ NATO, *NATO’s Role in Bringing Peace to the Former Yugoslavia*, NATO Basic Fact Sheet, No. 4, March 1997.

⁴ NATO, *Press Briefing*, Transcript, COMARRC, Lt Gen Sir Michael Walker, Sarajevo, BiH, 20 April 1996.

weapon smuggling, violence towards minority returnees and an export of mercenaries to other parts of the world. Some specific examples of the latter include:

- Bosnian-Muslims fighting in Chechnya; two were killed by Russian troops in April 2000 after joining Chechen fighters six months previously;⁵
- Demobilised ABiH soldiers assisting the Kosovo Liberation Army (KLA) with military equipment and training in 1999;⁶
- Bosnian-Serb 'volunteers' made up of demobilised VRS soldiers assisting Yugoslav security forces in Kosovo in 1998;⁷ and
- The exportation of Bosnian-Serb mercenaries to Zaire in a failed attempt to prop-up the regime of President Mobutu Sese Seko in 1996.⁸

The demobilisation, or rather disintegration of the armed forces (and the police) came about in BiH in three distinct phases: first as an emergency demobilisation phase in late 1995/1996; second as part of an intermediate professionalisation of services in 1997/1998; and then, in the country's pursuit of a peace dividend, while continuing the professionalisation processes in 1999/2000. Of the estimated 400,000 soldiers in 1995, an estimated 370,000 soldiers were demobilised over a five-year period.⁹

International community support for demobilisation came largely in the form of project funding from the World Bank. In mid-1996, in response to a request from the government bodies of BiH, the World Bank's International Development Association provided the BiH Government with a credit of US \$7.5 million for an Emergency Demobilisation and Reintegration Project to assist reintegration of displaced workers, especially soldiers, into the civilian workforce.¹⁰

To facilitate the project, the World Bank established Project Implementation Units (PIUs) for the BiH Federation and RS. Both PIUs were operated as Employment and Training Foundations (ETF) with tripartite governing boards (ie, with Bosnian-Serb, Bosnian-Croat and Bosnian-Muslims as members). The ETFs were responsible for issuing funds based on competitive project proposals, with the Federation receiving two-thirds of overall project resources. Funding was allocated to BiH Government institutions, local and international non-governmental organisations (NGOs) in the following areas: (1) labour market information, (2) counselling and job finding services, (3) training services, and (4) project management services.

The World Bank has regarded the programme, which ended in the summer of 1999, as a success. Several problems have however been identified. Individuals associated with the project made allegations concerning misappropriation of funds, the generally poor quality of programme proposals, funding preference to international NGOs, and partiality towards funding projects that were labour intensive, which while reducing unemployment in the short-term did nothing to address underlying psychological tensions and post-traumatic mental illness.

The World Bank demobilisation and reintegration assistance programme for 2000–2001 has a budget of US\$ 15 million to assist soldiers who demobilised in 1999 and 2000 following the 30 percent reduction of military personnel across the country. According to the World Bank, the programme focuses on counselling, employment and training. These "finance demand-driven reintegration services ... include support for employment, micro-enterprises, farming, skills enhancement, and higher

⁵ 'Two Bosniak Volunteers Die In Chechnya', *Oslobodjenje*, Issue 2.74, (24 April 2000), obtained from balkans-news@networkbosnia.org

⁶ *Jutarnji List*, 21 April 1999, <http://www.monitor.hr/jutarnji/1999/04/21/index.html>, accessed 14 May 2002.

⁷ 'Volunteers Go With RS Mercenaries', *Dnevni Avaz* (Daily Voice, Bosnian national daily from Sarajevo), 10 Mar 1998, translated by Tuzla Night Owl, <http://teletubbie.het.net.je/~sjaak/domovina/domovina/tno/9803/11/i.html>, accessed 9 September 2002.

⁸ Swaine, Jon, 'War Hungry Serbs Join Mobutu's Army', *The Sunday Times*, 9 March 1996, p 12.

⁹ King, Jeremy, *Building Peace in Bosnia: Lessons Learned in Disarmament, Demobilisation, Reintegration & Civilian Police Capacity-building*, Research Report Commissioned by the Non-Proliferation, Arms Control and Disarmament Division, International Security and Outreach Programme, Department of Foreign Affairs and International Trade, Canada, April 2000, http://www.dfait-maeci.gc.ca/arms/Building_Peacelong.pdf, accessed 13 May 2002.

¹⁰ International Development Association, <http://www.worldbank.org/ida/dao.html>, accessed 13 May 2002.

education”.¹¹ “Comprehensive information and counselling services” are offered to all ex-soldiers in areas such as pre-discharge orientation, professional orientation, (self-) employment opportunities, and “as needed post-traumatic stress disorder”.

The reintegration of demobilised soldiers in BiH was an urgent practical need which shifted international efforts away from long-term developmental assistance in reconstruction to more immediate projects for job creation, education, and counselling. Demobilised soldiers, especially those without work, represented a powerful political lobby, often manipulated by extremists and nationalist parties, and posed a physical threat to the peace process. The dangerous mixture of high unemployment, weapons proliferation, hopelessness and mistrust between the ethnic communities remains combustible, countered only by the presence of the international community.

During the first quarter of 2002, the harsh reality of depleted entity budgets and the increasing inability to pay soldiers’ salaries has required a “radical and fast reduction of the army”.¹² Speaking frankly to government officials in February 2002, the Special Representative of the UN Secretary General (SRSG), Jacques Paul Klein, warned that “the current excessive spending on the three armies is bankrupting the state, preventing economic growth and delaying BiH’s entry into the European family of nations”. He went on to say that “BiH cannot pay police salaries and pensions with machine guns, or buy school textbooks and medicine with bullets... The time has long come to take a bold step into reality. The future that is being squandered by excessive defence spending is yours and your children’s”.¹³ NATO Secretary General Lord Robertson echoed this message in his April 2002 visit to Sarajevo when he said that “it is scandalous that 10 percent of the state budget in BiH is being used for the military”.¹⁴

The recent string of defence downsizing initiatives, led by the OSCE on the civilian side and SFOR on the military side, is considerable. At the Joint Military Commission meeting on 25 April 2002, entity army chiefs of the general staff/joint command informed the international community that on the Federation side, 8,936 out of the current 22,426 professionals have accepted termination of their employment (6,436 Bosnian-Muslims and 2,500 Croats). According to Federation Joint Command HQ, 5,889 from the Bosnian-Muslim component have already signed the contract for termination while no contracts have yet been signed by Croat component soldiers. In the RS, the current number of 8,292 professionals is to be reduced to 6,600 and RS officials have stated that this will be completed by October 2002. RS Army Commander Simic stated that the strategic goal for the RS Army was simply “to survive (in budget terms) at least until the end [of] 2002”. However, as severance payment was not on the agenda in the RS, the reduction is expected to be completed without major budgetary problems.

Although the RS defence reductions do not go as far as affordability requires, it is very likely to be completed as planned and even achieved much faster than originally scheduled (2005). The Federation made a request to the International Monetary Fund (IMF) for commercial loans to fund their KM100 million (US\$ 45 million) redundancy package, but concerns remain over the ability of the Federation to secure the loan and then to pay it off on time. More military reductions are expected in 2003, however, enabling the entities to reach the European average defence budget spending of two to three percent of GDP.¹⁵

¹¹ World Bank, ‘World Bank Helps Reintegrate Ex-Soldiers in Bosnia and Herzegovina’, press release, <http://www.worldbank.org.ba/news/2000/pr-jun00-03.htm>

¹² Anic, Mijo (Federation Defence Minister), quoted in ‘Criteria for Discharging FBiH Army Members’, *Oslobodjenje*, 19 February 2002.

¹³ SRSG Klein Calls for Reduced Military Expenditures in BiH, UNMIBH Official Website, 28 January 2002, www.unmibh.org/stories/

¹⁴ ‘NATO SG Robertson Requests Reduction of Military Expenses’, *Oslobodjenje*, 2002.

¹⁵ Klein, *Talking Points*, prepared by UNMIBH Civil Affairs Policy and Planning Unit, February 2002.

Military professionalisation

At the end of the civil war it was clear that the military forces needed not only to be reduced but also restructured and professionalised. Military professionalisation measures in BiH, as elsewhere, are intended to instil an understanding of the appropriate roles and behaviour of military forces in a democratic society in all ranks. At a minimum, firm restrictions are placed on the military's political role and the delineation of clear boundaries between civilian and military power. Specific professionalisation processes have included: restructuring the forces and/or re-vetting personnel and disbanding irregular forces; training at the strategic, operational and tactical levels; encouraging higher professional standards; increasing technical capabilities; establishing greater efficiency in administrative structures; and establishing external civilian oversight.

The first problem encountered was as fundamental as it was obvious. The DPA recognised the existence of two separate armies in Bosnia-Herzegovina: the BiH Federation Army (a predominantly Bosnia-Croat and Bosnia-Muslim entity) and the Republika Srpska Army, a predominantly Serb body. As defence analyst David Lightburn explains, "[d]e facto, however, there were and remain, three armies, since the [Bosnian] Croat and Bosniac [Bosnian-Muslim] forces have not been integrated either in structure or in practice and co-operation between the two is minimal and superficial".¹⁶

The international community developed a series of initiatives designed to build confidence between the former belligerent armies and create conditions in BiH in which an appropriate, common, cost-effective and durable security framework could evolve.¹⁷ Cost has remained a major concern, particularly since until 2000 the state allocated as much as 40 percent of its total annual budget to defence spending.

The primary actors engaged in military professionalisation efforts, described below, have been: the private US-based company Military Professional Resources Incorporated (MPRI), the NATO-led Stabilisation Force (SFOR), the Organisation for Security and Co-operation in Europe (OSCE), the Office of the High Representative (OHR), and the United Nations Mission in Bosnia and Herzegovina (UNMIBH).

MPRI: establishing a dangerous intra-state balance of power?

Shortly following the signing of the DPA, the US private military company (MPRI) arrived in Sarajevo armed with a US State Department-brokered contract with the BiH Federation to assist with "the development of their military structure, the fielding of military equipment and the conduct of a broad-based individual and unit training programme".¹⁸ MPRI's Military Stabilisation Programme has received a great deal of criticism from defence planners, politicians and academics, who see the programme as counter-productive for long-term peace. The primary criticism with MPRI's approach is that it only provides military training to one half of the military equation, the Federation Army, thus polarising the state militarily. Despite the criticisms and a downsizing of personnel and training, MPRI obtained a series of consecutive contracts to continue training the Federation Army. In response, since 1998, a great deal of effort has been exerted by the other international actors to counter the effect of MPRI training and bring the two recognised armies together to encourage the development of a common defence doctrine. There is a further possibility that MPRI will extend training to the Republika Srpska Army as mechanisms for centralised command and control at the state level develop further. However, it is unlikely that such a training programme would include an equipment component.

¹⁶ Lightburn, David, *Armed Forces in Bosnia-Herzegovina*, NATO Review, December 2000.

¹⁷ Ibid, 2000.

¹⁸ Military Professional Resources Incorporated, Homepage, http://www.mpri.com/channels/int_overview.html, accessed 13 May 2002.

The evolving role of NATO: from peace-keeping to peace-building

Peace-keeping in BiH encouraged the evolution of NATO from purely a defensive alliance to a significant, if sometimes reluctant, peace-keeper and peace-builder. In addition to NATO member states, non-NATO nations have contributed in sizeable numbers.¹⁹ The NATO-led Implementation Force (IFOR) experienced growing pains, as it tried to adapt to its new role in BiH, but its successor, the NATO Stabilisation Force (SFOR), has matured to the level of involving itself deeply in civil-military co-operation, including questions of internal BiH defence policies. NATO launched a Security Co-operation Programme in 1998 between the alliance and BiH to stimulate dialogue and to begin the process of internal co-operation between Federation and RS defence authorities. The initiative sought to promote confidence and encourage transparency and accountability in the military forces, de-politicisation, a central defence structure, and the development of democratic practices. The programme included courses and seminars in BiH and abroad. By November 2000, more than 450 BiH defence personnel including defence ministers and their deputies, chiefs of staff, and other senior political and military personnel had participated in NATO-run professionalisation courses. Junior commanders and staff from other government ministries have also attended.²⁰

A significant goal in NATO professionalisation assistance is to encourage BiH to join the NATO Partnership for Peace (PfP) programme. Among the conditions for the accession of BiH to PfP are: a common security policy; democratic parliamentary oversight and control of the armed forces; the provision at the state level of command and control of the armed forces, including the state level ministry responsible for defence matters; full transparency for plans and budgets; and the development of a common doctrine and common standards to train and equip the armed forces of BiH. In July 2001, NATO Secretary-General, Lord Robertson, articulated: "Our message to the members of the BiH Presidency is clear – show leadership, lead on overcoming the internal divisions, strengthen the state-level institutions and promote co-operation and reconciliation".²¹ In his April 2002 visit to Sarajevo, he declared "that BiH was not yet ready to join Partnership for Peace".²² PfP membership is a carrot that is being dangled in front of the BiH Government to encourage reform.

The OSCE and the OHR: civil control, accountability and transparency

Complementary to NATO efforts are those of the OSCE Regional Stabilisation Office and the Military Cell of the Office of the High Representative (OHR). The OSCE agenda seeks to develop budget transparency and parliamentary oversight of the militaries, elimination of conscription practices, creation of a joint-staff college, support for balanced reductions of military expenditure and BiH military association with the European Union (EU) and NATO's PfP programme. The OSCE, like NATO, also consults with the Standing Committee on Military Matters (SCMM), which is made up of the joint presidency and their military advisors.²³ The SCMM is designed to serve as the country's civil control mechanism over the militaries. The Military Cell of the OHR, which is responsible for overall co-ordination of the international community's military professionalisation efforts, consults and provides material support to the SCMM.²⁴

¹⁹ NATO nations contributing to SFOR: Belgium, Canada, Czech Republic, Denmark, France, Germany, Greece, Hungary, Italy, Netherlands, Norway, Poland, Spain, Turkey, United Kingdom, United States. Non-NATO nations contributing to SFOR: Albania, Argentina, Austria Bulgaria, Estonia, Ireland, Finland, Latvia, Lithuania, Slovakia, Morocco, Romania, Russia, Slovenia, Sweden. Nations contributing individuals by special arrangement with the United Kingdom: Australia, New Zealand. For a summation of SFOR organisation see <http://www.nato.int/sfor/organisation/sfororg.htm>.

²⁰ Lightburn, 2000.

²¹ 'NATO Secretary General Calls on Integration of BiH Armed Forces', *ONASA News Service*, 13 July 2001.

²² *Oslobodjenje*, issue of 17 April 2002.

²³ Organisation for Security and Co-operation in Europe, OSCE Regional Stabilisation Briefing Presentation, presented in Sarajevo, August 2000.

²⁴ Office of the High Representative, 'Brief on the OHR Military Cell', <http://www.ohr.int/ohr-dept/mltry-cell/>, accessed 13 May 2002.

UNMIBH: training the 'peace-kept' to peace-keep

While the main work of UNMIBH is to work with local police, it has assisted with military reform. It has facilitated overseas training for deployments of RS Ministry of Defence and Federation Ministry of Defence personnel for UN operations. In January 2001, BiH inaugurated its first multi-ethnic contingent to serve abroad as UN military observers. A nine-strong multi-ethnic unarmed contingent of military officers deployed to serve with the UN Mission in Ethiopia and Eritrea (UNMEE). A second rotation commenced in June 2001. The initiative is seen as an important step toward building better co-operation between the three Bosnian communities, which retain fresh memories of their 1992–95 conflict.²⁵ Building on the success of this initiative, UNMIBH is establishing a BiH composite, non-combat, transport/logistics unit to contribute to international peace and security under the UN flag.

A way forward?

International planners hope for a convergence of defence policies for a common state-level approach by 2005. However, events such as the desertion of Bosnian-Croats from the Federation Army (later rectified), and recent assertions in the RS that a single army is in no way an option, make it highly unlikely that BiH accession to the PfP, or even a convergence of defence policies will occur in the medium term. Nevertheless, progress has been made. According to former SFOR General Hilliard, Commander of Multi-National Division South West, "the armies in Bosnia are compliant forces which have moved from phases of inspection to compliance to that of consensus".²⁶ There is also clear evidence of a genuine commitment to downsizing military structures, albeit separate ones in the entities, to more affordable levels.

However, until the international community resolves the problem of three armies in one state, everything that is achieved in civilian implementation will be fragile and uncertain. This structural defect imperils the entire international effort in BiH. As long as there are formed military brigades ready to mutiny and defect in a matter of hours (as the Croats did *en masse* in 2001 despite nearly six years of 'confidence-building measures'), SFOR must maintain a presence that is capable of defending weapons storage sites and remaining loyal troops. The situation is even more dangerous at present because the RS Army risks imploding through lack of finances while the Federation Army (both Bosnian-Croat and Bosnian-Muslim components) is becoming more confident.²⁷

It is abundantly clear that the issue of mistrust between and within the forces must be addressed. Left alone, it is highly unlikely that they will reorganise themselves. For SRSG Klein, the future is clear:²⁸

"The time for war is over. Even if there remain differences and issues that are yet to be resolved, the leaders that led you into war are largely gone; the borders of BiH will not be changed, and it is inconceivable that the international community will allow your armed forces to go back to war."

The OHR, as the only international body in BiH with executive political powers to impose decisions and make legislative changes, can and has forced the government to adopt contemporary defence tasks and functions consistent with modern European armed forces. The message is being conveyed clearly: if BiH wants to take on the normal functions and roles of a Western democracy, it must develop a state level defence instrument which is non threatening, affordable, and contributes to the

²⁵ Central Europe Online, 'Bosnia Inaugurates First Military Contingent to Serve With UN', *Bosnia Today*, Central Europe Online, <http://www.centraleurope.com/bosniatoday/>, accessed 13 May 2002.

²⁶ Hilliard, General, Multi-national Division South-West Head Quarters, Banja Luka, RS, briefing, November 2000.

²⁷ Grinberg, Jaque (Head of Civil Affairs, UNMIBH), *The Future Mission of SFOR*, paper delivered to the NATO Policy Co-ordination Group, Brussels, 27 July 2001.

²⁸ Klein, Jacques Paul, 'SRSG Klein Calls for Reduced Military Expenditures in BiH', 28 January 2002, UNMIBH Official Website www.unmibh.org/stories/

development of domestic security for all BiH citizens in a European security construct.

Once consensus is reached on this issue, there is a substantial role for NATO to play in the technical aspects of reform and restructuring. NATO is the only organisation with the expertise and knowledge to address this task. This will entail three components. First, in terms of force reduction, professionals should be reduced and conscription eliminated, or at the very least their numbers shaped to a balanced and affordable level. Second, training and education will have to be redirected to correspond to the required tasks of the European security environment (peace-keeping, disaster relief, collective security, etc). Serious consideration must be given to joint staff colleges, joint officer academies, common instruction for non-commissioned officers (NCOs), and linked reserve officer training. Third, equipment must be appropriate to the tasks at hand and meet the requirements of affordability, compatibility and interoperability.²⁹

For more than six years various options and policy plans have been floated to deal with the segregation problem. Almost all of them are directed towards some form of joint or unified army to be formed in a time scale that is constantly receding. Some even feel that the time has come to recognise that the BiH entities are a reality whose separate interests (and armies) must be accommodated. An objective analysis should be undertaken of what actions are politically feasible within the Dayton framework for both the single and multiple army options.³⁰

²⁹ Svensson, Brig. Gen. Carsten (Senior Military Advisor to the Special Representative to the Secretary-General, UNMIBH), Interview in September 2001.

³⁰ Ibid, 2001.

Police reform and restructuring

POLICE FORCES OFTEN ASSUME military roles during armed conflicts. With the cessation of conflict, they are characteristically slow to return to the required standards of professional policing, often inept in standard procedural and technical skills and sometimes continue to carry out human rights abuses while trying to hide their previous atrocities. In addition, they usually retain strong loyalties of political or ethnic affiliation and resist a loss of power. Post-conflict police reform is intended to concentrate on strengthening the management capacity of the police force to implement change and foster understanding of what it means to be a police officer in a democratic society, distinguishable from the military. The overall aim is to establish effective and humane services to uphold law and order. New structures are required to assist the state in managing competition between groups, settle disputes and grievances and protect rights and interests. In the words of Laina Reynolds, editor of the *UN & Conflict Monitor*, “[t]he creation of a democratic police force cannot, by itself, create a democratic system of governance in a country. However, the lack of effective and accountable policing can certainly undermine even the most stable government.”³¹

To create a new professional police force, the DPA provided an ambitious mandate for force restructuring to the United Nations (UN). The UN created, as part of UNMIBH, the International Police Task Force (IPTF) which, in turn, developed a three-point plan concentrating on: (1) restructuring a post-Communist and post-paramilitary police force; (2) reforming the police through training, selection, certification and de-certification procedures; and (3) democratising the police forces by establishing a de-politicised, impartial, accountable, multi-ethnic police force that abides by the principles of community policing.³² As with the army, a large demobilisation effort was needed.

Michael Dziedzic and Andrew Bair’s (1998) study on the IPTF determined that although there were concerns that demobilised police personnel would cause “social disruption and thus threaten the peace process,” there is no significant evidence that this has occurred.³³ According to Dziedzic and Bair:

³¹ Reynolds, Laina, ‘Public Security and Post-Settlement Peace-building’, *UN & Conflict Monitor*, Issue 3, Centre for Conflict Resolution, Bradford University, Spring 1999, http://www.brad.ac.uk/acad/confres/monitor/mntr3_comment.html, accessed 13 May 2002.

³² International Crisis Group, ‘Is Dayton Failing?: Bosnia Four Years After The Peace Agreement’, *ICG Balkans Report*, No. 80, Sarajevo, 28 October 1999, p 44.

³³ Dziedzic, Michael and Andrew Bair, ‘Bosnia and the International Police Task Force’, in *Policing the New World Disorder: Peace Operations and Public Security*, eds Robert B. Oakley, Michael J. Dziedzic and Eliot M. Goldberg, (Washington: Institute for National Strategic Studies, National Defence University, 1998), pp 285 and 290–91.

“[T]hose policemen who were dismissed from service were not career policemen in the first place, but rather the minimally skilled recruits added to police ranks during the war. This outcome is probably in line, therefore, with what most of those involved expected to happen. To the extent these vetted individuals had a previous skill or trade, they presumably have attempted to return to that; this would undoubtedly include those who had been involved in criminal activity as well.”

Of the approximate 44,000 police officers active in both the BiH Federation and the RS in December 1995, some 26,000 have been demobilised. Of this number, over 200 officers have had their police powers withdrawn for involvement in wartime criminal activities or unprofessional conduct (according to UNMIBH internal reports).

Experience has shown that by using stringent selection criteria with effective oversight units and broad public education on community policing, the number of unprofessional or criminal recruits can be minimized. Still, even the most technically sound and careful selection procedures may not resolve deep legitimacy problems – a sense of unjust discrimination and lack of alternative job opportunities may facilitate the transformation of some demobilised police personnel into criminals and perpetrators of violent crime.³⁴

The Bonn-Petersberg Declaration of April 1996 obligated the Federation to reduce its police personnel to 11,500 from the estimated 32,750 police officers who were active in December 1995. Although this left a ratio of police officers to citizens of nearly double the European standard, it nevertheless reduced their forces by almost two-thirds. Progress was slow, however, because RS police remained unwilling to submit to the IPTF restructuring formula until late 1997, rejecting the IPTF limit of 6,000 policemen, and insisting on a force equal in strength to that of the Federation's.³⁵

The US Department of Justice International Criminal Investigation Training Assistance Programme (ICITAP) has provided training to the IPTF itself and to local police forces. Other actors engaged in police reform have included the European Commission and a number of bilateral initiatives undertaken mostly by EU countries.

While police advisors and trainers have made sizeable gains in technical capacity-building over the first five years, the results of efforts to establish police forces that respect human rights and the rule of law have been uneven, as the positive compliance record in some areas of the country and resistance in others shows. One important lesson has been the realisation that while technical capacity can be achieved in a short period of time and attitudes changed in the medium term, the success of long-term reform and restructuring is jeopardised if the responsible international organisation lacks the authority to remove elements of politicisation or lacks the mandate to ensure that law enforcement officials receive adequate salaries on time.

To encourage longer-term professionalisation and greater cohesion between RS and Federation police forces, UNMIBH established a BiH civilian police (CIVPOL) capability to undertake international peace-keeping activities. In February 2000, the first BiH CIVPOL training contingent, comprised of 16 police officers from both the Federation and RS, representing all three ethnic groups, successfully completed background checks and a two-week training course provided by the IPTF. The groups deployed to the United Nations Transitional Administration in East Timor (UNTAET) peace-keeping operation in April 2000.³⁶ Subsequently, a second contingent has deployed to that same mission. Proponents of BiH involvement in peace-keeping operations have argued that the endeavour is more than an empty gesture, as these officers will not only contribute to a peace-keeping mission in a part of the world where their services are needed but they will also gain invaluable international

³⁴ Call, Charles T, 'Institutional Learning Within the U.S. International Criminal Training Assistance Programme (ICITAP),' in Oakley, Dziedzic and Eliot, 1998, p 315.

³⁵ Dziedzic and Bair, 1998.

³⁶ Associated Press Newswires, 'Bosnian Police Head Off for First Mission Abroad', Dow-Jones Interactive Database, 4 April 2000.

experience which they can bring to their profession upon returning home. This initiative was heralded as an important symbolic contribution to strengthening BiH state identity.³⁷

After nearly seven years of mandate implementation, UNMIBH is on track to complete its police reform and restructuring programmes by 31 December 2002. UN Security Council resolution 1396 (2002), adopted unanimously, has paved the way for transition planning to establish a much smaller follow-on mission under the auspices of the EU. The European Union Police Mission (EUPM) will officially begin on 1 January 2003 with a minimum of 480 highly skilled police monitors, plus civilian support. The EUPM's objective will be to preserve UNMIBH's achievements while continuing to qualitatively raise police standards, motivation and performance, and sustain existing levels of institutional and individual reform and development.³⁸

The EUPM will have the advantage of retaining the services of the final IPTF Commissioner, Sven Frederiksen, who will serve as the first EUPM Commissioner. The follow-on Mission will also benefit from a recent decision to bring all of the elements of rule of law (police, criminal justice, judiciary, and prisons) together in one task force, the Rule of Law Task Force. As the international community has learned, yet again, the elements of the rule of law are inseparable and can only be achieved through a holistic, synergistic approach.³⁹

³⁷ United Nations, *Report of the Secretary-General, on the United Nations Mission in Bosnia-Herzegovina*, UN Doc. S/1999/1260 of 17 December 1999, para. 11.

³⁸ King, Jeremy, UNMIBH Mission Brief, prepared by Jeremy King, Office of the SRSG, April 2002.

³⁹ Ibid, 2002.

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Customs and border services reform

ALTHOUGH BOSNIA'S CONSTITUTION (Annex 4 of the Dayton Peace Accords) empowers the state to make customs policy, its enforcement is delegated to the two (or, in practice, three) entities. This arrangement is highly ineffective, as the entity governments seem to decide on customs issues as it suits their passing political interests. This arrangement has also made effective, nation-wide border control difficult. Since 1995, the vacuum in customs administration and border control has encouraged an illegal migration pipeline transiting BiH and ending in Western Europe.

Organised crime elements conducting human trafficking and smuggling have exploited Bosnia's lax visa requirements and border controls to further their trade. For example, the UN reported that of the 1,298 Iranian passport holders entering BiH on one-to-two week visas in the period 1–28 June 2000, only 116 “officially departed” the country.⁴⁰ The other 1,182 are suspected of having left BiH and entered Western Europe illegally through the porous South Eastern European borders. An estimated 50,000 illegal migrants transited BiH territory in 2000, representing 10 percent of the estimated 500,000 that enter the EU every year.⁴¹

International civilian police and aid workers have also reported an alarming number of incidences in illegal trafficking of women in BiH. To assist the BiH Government, the international community embarked on several exercises to assist with capacity-building and material support to fortify the country's border services.

The role of USAID and the European Union in customs training

Shortly after the signing of the DPA, the United States Agency for International Development (USAID) established a Customs Training Team to teach Federation and RS customs officers standard law enforcement techniques. Teaching took place in the field as well as in the classroom. Recruits learned searching techniques, including how to identify undervalued shipments and weight fluctuations as well as how to uncover contraband. Smuggling of weapons was a recognised concern during the training period. Corruption was similarly a well-known problem, encouraged by irregular pay and monthly salaries of less than US\$ 200 a month.⁴²

⁴⁰ United Nations Mission in Bosnia and Herzegovina, *An UNMIBH Bulletin on the State Border Service Activities*, Borderline, UNMIBH Public Affairs, Vol. 1, No. 1, June 2000.

⁴¹ United Kingdom and Northern Ireland, Embassy Press Release, Sarajevo, September 2001.

⁴² Duric, Rade (Business Manager, USAID Customs Training Team), Interview, Unis Tower, Sarajevo, Bosnia-Herzegovina, 1 July 1998.

In 2000 the international community established for the first time a single and uniform customs territory in BiH. This had been one of the major goals of the Customs and Fiscal Assistance Office (CAFAO) programme funded by the EU.⁴³ The CAFAO programme includes assistance from approximately 30 European customs and tax experts, focusing on the development of customs and tax systems in BiH based on modern European standards. Although the EU-sponsored CAFAO has worked with OHR and other international agencies to assist the entities' tax and customs authorities to combat evasion, progress has been slow. Still, in the period 1996–99 customs revenues for the entities doubled due to the success of the CAFAO programme.

Bosnia now has regulatory legislation covering its customs administration that meets European standards. It was drafted and implemented with the assistance of CAFAO and commendable changes have followed. They include numerous training and technical assistance programs, the introduction of enforcement units in 1999 to improve compliance, and the ongoing installation of two modern customs databases to centralise information and improve the slow and inconsistent exchange of customs information between the entities. Yet the implementation of such legislated reforms in the face of political obstruction and rampant corruption is a difficult task. Allan Jansen, Head of the CAFAO Mission in BiH, has stated that "corruption is still present in both entity customs administrations. The other deficiency is the fact that many decisions are still being made on the principle of ethnic and party preference." As an example, Jensen cited the Federation Government's loss of KM 64 million in 2001 through tax evasion on oil and its derivatives.⁴⁴ Encouragingly, the establishment of the BiH State Border Service is improving Bosnia's customs track record.

Creation of a State Border Service

The formation of a State Border Service (SBS) was agreed to in the New York Declaration of 15 November 1999 by Bosnia's multi-ethnic tripartite presidency. The Declaration sought to combat widespread smuggling across the country's loosely guarded borders and to encourage efficient customs verification and control. It also aimed to suppress the current double financing of institutions which obstructs the development of the Federation and the state. This ambitious project, undertaken by UNMIBH, established the first multi-ethnic state-level law enforcement institution reporting directly to the presidency. The international community sees the development of customs and border control as a decisive step towards combating crime, building state identity, contributing to state revenues and fulfilling its obligations to protect its international borders.

The official establishment of the SBS in June 2000 ended a long-standing feud between Bosnia's two entities. Despite facing repeated upsets and problems with funding, logistics and political foot-dragging, the SBS will control approximately 1,660 kilometres of international borders and, when fully operational by 31 December 2002, employ more than 2,700 officers.⁴⁵ As of July 2002, the SBS covers some 94 percent of the BiH border and three international airports in Sarajevo, Mostar and Banja Luka, employing some 1,750 officers. Full border coverage is expected by September 2002.

The SBS has had immediate impact in two core areas of border security. Firstly, combating pervasive illegal migration: in 2001 the SBS achieved a 66 percent reduction in illegal migrants passing through Sarajevo airport alone – from 24,000 in 2000 to 8,000 in 2001. Secondly, by closing illegal smuggling routes and re-directing

⁴³ European Union, Bosnia and Herzegovina, 'The EU Contribution: Milestones in the relations between the EU and Bosnia and Herzegovina', http://europa.eu.int/comm/external_relations/see/bosnie_herze/index.htm, accessed 13 May 2002

⁴⁴ United Nations Mission in Bosnia and Herzegovina, Human Rights Office Monthly Report, January 2002, UNMIBH, Sarajevo. Also, United Nations Mission in Bosnia and Herzegovina, Interview with Head of CAFAO Mission in BiH, UNMIBH News Summary, 10 April 2002.

⁴⁵ Stallcup, Howard (IPTF State Border Service Team Manager), Interview at UNMIBH Headquarters, Sarajevo, Interview, August 2000.

commercial traffic to recognised border crossings, the SBS is largely attributed with increasing customs revenues in both Entities by at least 20 percent.

The SBS is made up of individuals from the RS, Federation and the Brcko Special District, who are former serving police officers or new recruits. Following subsequent vetting and re-training by the IPTF, they are deployed in multi-ethnic Border Service Units. While soldiers are eligible to join the SBS, they must successfully graduate from the SBS Training Centre, which inaugurated its first class of cadets in April 2002.⁴⁶

⁴⁶ SBS Training Centre, Suhodol, BiH, <http://www.unmibh.org/>, accessed 13 May 2002.

Judicial and legal reform

THE CREATION OF a fair judicial system is an urgent and practical need following the cessation of conflict. It is essential for sustainable economic development and entrepreneurial activity in providing recourse to courts in both criminal and civil cases, and in helping to protect human rights. The goal is to build a new system of justice that operates on the basis of the rule of law and human dignity and is not simply an extension of the political power structure that caused and prolonged conflict and agony. The existence of a fair judicial system, characterised by an independent and impartial judiciary can offset the deep causes of conflict by providing a forum for the resolution of disputes. Modern democratic states require legal bodies and legislation that are humanised, bringing a fundamental respect for the human person into the law as the basis for all other values and ventures.

In BiH, the war shattered the entire justice system and demolished the physical infrastructure. Many resources such as law libraries and offices, law books, and legal records were destroyed during the war, and many legal institutions ceased to function at all.

In contrast to the clear mandates and guidance provided on military and police reform, the DPA did not recognize the importance of developing an effective judicial branch of government. Scant attention was provided in the Accords to legal/judicial reform: they simply called for the establishment of a constitutional court at the state level and briefly mentioned (in one line only) the role of the IPTF in monitoring, observing and inspecting judicial bodies associated with law enforcement. No systematic strategy, for example, was laid out to train, select and appoint new judges and prosecutors.

Both official as well as non-governmental organisations recognised this legal/judicial vacuum early on, though the results of their actions were modest. Judicial and legal reform efforts in BiH have included legal education, the strengthening of bar associations, law schools, and, only recently, judicial and legal reform (particularly criminal commercial law reform). Since 1998 there has been comprehensive strategic planning under the leadership of the OHR. Other actors have included UNMIBH (through its Judicial System Assessment Programme, JSAP), OSCE, the American Bar Association (through its Central Eastern European Law Initiative, CEELI) and SFOR. This picture is changing with the actions of a central organisation that leads this process, the Independent Judicial Commission (IJC).

Early efforts

a. Civil-military synergy: CEELI and SFOR

The American Bar Association moved with impressive speed: its CEELI programme began in BiH a week following the signing of the DPA.⁴⁷ CEELI worked with NATO lawyers in an attempt to reintegrate the legal systems of the Federation and the RS. This particular effort was unsuccessful, however, due to the underlying political environment. Later, at SFOR's request, CEELI assisted with a task force made up of representatives of both entities that examined possible reciprocity legislation that would enable lawyers from each entity to practice law throughout BiH. This initial effort, while also ultimately unsuccessful, has been followed up under CEELI leadership in 2000 and 2001. CEELI also participated in discussions leading to the transfer of this project from SFOR to the OHR.

Early on in NATO's involvement with BiH, military lawyers identified problems in the judicial system and provided recommendations to the international community. IFOR's 1996 legal evaluation of the judiciary indicated that approximately 50 percent of judges from the RS and Bosnian-Croat courts were not aware of the European Convention on Human Rights, nor its fundamental freedoms as incorporated into the legal system.⁴⁸ Clearly, there was a great deal of educating to be done. IFOR orchestrated several meetings between the judiciaries in the RS and Federation. CEELI continues its work in all facets of the legal framework of BiH and now enjoys the support of the US Department of Justice.

b. Co-ordination: OHR and the human rights structures

Beginning in 1996, OHR, especially through its Human Rights Department, sought to ensure that most if not all of the efforts being made on the ground were mutually supportive. Given the *ad hoc* nature of the efforts by CEELI and other actors early in the post-war environment, the co-ordination function was difficult. One reason was the absence of a clear political strategy that would have provided a coherent direction for the development of the justice system through a consolidated programme of judicial and legal reform activities.

The Peace Implementation Council and OHR leadership

The Peace Implementation Council (PIC), founded during the London Conference in December 1995, was established to provide ongoing guidance on issues relating to the implementation of the Dayton Peace Agreement.⁴⁹ In 1997, the responsibilities of the High Representative in judicial and legal reform were more clearly delineated. Also, a Task Force within UNMIBH was created to focus on "the assessment and monitoring of the court system, the development and training of legal professionals and the restructuring of institutions within the judicial system".⁵⁰

Following up on this PIC recommendation, Security Council resolution S/RES/1184 created the UNMIBH Judicial System Assessment Programme (JSAP), described in greater detail below. In the 1998 Madrid Declaration, the PIC declared that the promotion of the rule of law and judicial reform were a primary structural reform imperative. In July 1999, in accordance with the dictates of the Madrid Declaration and Annex, the *Comprehensive Judicial Reform Strategy for Bosnia and Herzegovina* was drafted by an OHR department (now known as the Human Rights/Rule of Law Department) after consultation with the various actors working in the field of judicial

⁴⁷ The Central Eastern European Law Initiative (CEELI), a public service project of the American Bar Association, advances the rule of law in the world by supporting the legal reform process in Central and Eastern Europe and the Newly Independent States of the former Soviet Union. For a summation of CEELI initiatives in BiH see www.abanet.org/ceeli/countries/bosnia. In a parallel Canadian initiative, the Pearson Peace-keeping Centre, under the direction of the Hon. Jean Jacques Blais, co-ordinates with the Canadian Bar Association and the Canadian Judge Advocate General to advance Canadian involvement in post-conflict 'peace-building in the justice sector.'

⁴⁸ Dziedzic and Bair, 1998.

⁴⁹ Peace Implementation Council, see site <http://www.ohr.int/docu/d971210a.htm>, accessed 28 June 2001.

⁵⁰ Office of the High Representative, <http://www.ohr.int/docu/d951208a.htm> and <http://www.ohr.int/docu/d971210a.htm>, accessed 28 June 2001.

and legal reform. It has been reviewed by the IJC which has adopted it for the most part and has added its own analysis of required goals and projects (see section 5.6 below).⁵¹

New laws have been passed or imposed in each entity to de-politicise the appointment process for judges and prosecutors. New common ethics codes have been established in each entity that covers the members of the judiciary. Legislation is under consideration now at the entity level to provide budgetary independence for the courts as well as Judicial Training Institutes for each entity.

The role of the United Nations

The Dayton Accords (Article VII of Annex 11) explicitly stated that IPTF would have certain authority for all law enforcement agencies in BiH, including the responsibility for “monitoring, observing and inspecting” judicial bodies. The IPTF responded by monitoring the workings of the courts in BiH on an *ad hoc* basis. Because political influence over the judiciary was a long-standing problem in BiH, UNMIBH eventually expanded its human rights department to include additional court monitoring and other legal issues.

In 1998, the UN Security Council mandated JSAP to monitor and assess the court system in BiH as part of a comprehensive programme of legal reform under the overall co-ordination of the OHR. JSAP produced a range of initial assessments that “document in detail a grave lack of judicial independence, overt political interference and intimidation of judicial officials and substantial court inefficiencies,” which serve to undermine public confidence and work against other aspects of the UNMIBH.⁵² JSAP was involved in the process that resulted in new laws de-politicising the appointment and discipline process for judges and prosecutors. Its mandate completed, JSAP transferred its monitoring and assessing role to the newly created International Justice Commission (IJC) along with a number of its staff. Much of the remaining staff moved into the newly created Criminal Justice Advisory Unit (CJAU) which provides IPTF officers with direct advice on issues relating to criminal law matters. CJAU operates in six regional teams, including both international and national lawyers.⁵³

The United Nations Development Programme (UNDP) began to provide assistance in the field of criminal justice in 1996 with projects in the Federation and in the RS. According to the UNDP, the projects sought to examine criminal law procedure reforms related to juvenile justice, post-release treatment programmes and anti-corruption; and to provide training for correctional staff as well as judges and prosecutors on international criminal justice standards. Following the completion of the criminal justice projects, the UNDP launched criminal justice legal reform programmes in 1998 to assist the ministries of justice of both entities. They concentrated on domestic violence, trafficking in human beings, anti-corruption, as well as physical reconstruction projects including juvenile justice halfway houses and computerisation of the judicial system. UNDP asserts that its programmes have been very successful given the many challenges and limited budgets available.⁵⁴

⁵¹ Office of the High Representative, *Human Rights Update*, Judicial Reform Programme, http://www.ohr.int/ohr-dept/hr-rol/thedep/jud-reform/default.asp?content_id=5227

⁵² United Nations, *Report of the Secretary-General, on the United Nations Mission in Bosnia-Herzegovina*, UN Doc. S/1999/1260 of 17 December 1999, para. 11.

⁵³ United Nations Mission in Bosnia and Herzegovina, official website, <http://www.unmibh.org/unmibh/jsap/cjau.asp>, accessed 28 June 2001.

⁵⁴ United Nations Development Programme, Bosnia-Herzegovina Field Office, <http://www.undp.ba/home.html>, accessed 13 May 2002.

Drafting new substantive laws: OHR legal department

The OHR legal department has been largely responsible for drafting a wide array of new legislation relating to a variety of issues, particularly within administrative and commercial areas. The department also encourages domestic legislative reform that is consistent with modern European standards and practice in the legal sector. Due to the increasingly important role of constitutional and legal arguments in the political and economic life of Bosnia and Herzegovina, the department also takes an active role in interpreting constitutional matters. The department comprises a public law division and a criminal and civil law division.⁵⁵

Organisation for Security and Co-operation in Europe

The OSCE stated in its 2001 *Core Mission Priorities* that it will “play a larger role in this effort (promotion of the rule of law) under the aegis of the OHR.” The OSCE Democratisation Office at one time conducted judicial training and hosted a legal aid network. In this effort, they were supported by the United Nations High Commissioner for Refugees (UNHCR), which has generously funded legal assistance projects such as ‘Job 22.’ Job 22 has “served refugees, displaced persons and returnees, citizens of BiH providing them with professional legal information on the current state of their civil legal rights”.⁵⁶

The OSCE human rights department continues to maintain a rule of law component that provides OSCE insights on important reform issues. These include legislation, interpretation of existing legislation and policy development.

The emergence of the IJC and other future efforts

With the reduction in budgetary support for certain OSCE activities and the loss of the JSAP mandate, the international community looked for ways to continue and indeed accelerate the efforts toward judicial and legal reform. A strengthened, consolidated mandate was envisioned by the High Representative to ensure a reduction, if not the total elimination, of inter-agency dissonance. Neither of the two primary operational international organisations, UNMIBH or OSCE, was able to assume responsibility for the new mandate, which was endorsed by the PIC in Lisbon in May 2000. The High Representative then pursued the development of a new international organisation, the Independent Judicial Commission (IJC), established in December 2000, to take on a more robust mandate than either JSAP or the various OSCE departments had worked under previously. It added to the existing strategic co-ordination and leadership responsibilities already assumed by the OHR human rights/rule of law department.

With primary responsibility for this sector now firmly in the hands of the IJC, it is appropriate to consider potential areas for further reforms:

- Criminal law and procedure: New substantive and procedural codes are in the process of being drafted. These will include new codes applicable to the new State Court and will also be used as a guide for reform for the Federation.
- Administrative law: It is obvious that judicial and legal reform at the state and entity level is progressing under a plethora of international actors. However, the International Crisis Group reported in their 1999 study, *Is Dayton Failing?: Bosnia Four Years After The Peace Agreement*, that to date, “little attention has been paid to the role public administration plays in enforcing or violating the human rights and civil liberties of Bosnia and Herzegovina’s citizens.” The report recommends that the international community will also have to focus attention on lower-level administrative

⁵⁵ Office of the High Representative, OHR Legal Department Brief, <http://www.ohr.int/ohr-dept/legal/>, accessed 13 May 2002.

⁵⁶ Job 22, Legal Aid Information Service, Official Website, <http://www.job22.org/index-old.htm>, accessed 13 May 2002.

justice – “rulings by seemingly minor municipal and cantonal officials whose rulings prevent citizens from exercising their legal rights and gaining access to due process of law”.⁵⁷

This is but a portion of the reform agenda. It is more fully described in the 1999 *Comprehensive Strategy* document referred to in section 5.2 above and has been subsequently updated in the strategy paper of the IJC completed in August 2001. Significantly, the previous High Representative has recognised that domestically-led commissions and councils are not moving swiftly enough to remove corrupt judges and prosecutors. On 23 May 2002, he imposed a package of decisions that moved the IJC and the international community more squarely into the structure of recruiting, appointing and disciplining judges and prosecutors. He also imposed the creation of Judicial Training Institutes and legislation reforming the Bar, in effect creating a single, unified Bar association for all of BiH.⁵⁸

In summary, the process of judicial reform has been exceedingly slow. Effective legislation and administrative structures to review the qualifications of judges and prosecutors were only put into place in mid-2000 and the structures contemplated in each entity’s legislation were not functional until months later. Only recently (2002) were judges or prosecutors removed on the recommendation of the councils and commissions legislatively created to advance impartiality. Now, there is a stronger expression of political will on the part of both the international community and the Bosnian Governments to take more assertive action to establish a judicial branch of government that can perform in accordance with European and international standards.

The lessons of the legal/judicial experience in BiH have proved useful elsewhere. In the UN missions in both Kosovo and East Timor, early attention was paid at the strategic planning level for development of legal/judicial infrastructure. This is clearly reflected in the structures, mandate staffing and support for judicial reform/rule of law elements in these UN missions.

⁵⁷ International Crisis Group, 1999, p 49.

⁵⁸ Office of the High Representative, *High Representative Issues Decisions Strengthening Judicial Reform Across BiH*, Press Release, 24 May 2002.

Corrections reform: neglected?

IN 1998, the Council of Europe issued a study on prisons in BiH showing how “[t]he prison system was seriously affected by the war”.⁵⁹ The report highlighted a series of problems plaguing correctional facilities including destroyed infrastructure, inadequately trained officials, shortages of food, heating, hygiene, health care, prisoners clothes, equipment for staff, and in general, “insufficient resources even to meet essential requirements.” The report further determined that correction officers’ salaries had only been regularly paid since the beginning of 1998.⁶⁰

As with professionalisation efforts aimed at police, military and other security institutions, the reform of the corrections and penal services also requires extensive international support. Collaborative technical assistance efforts could include education, donation of equipment and the promotion of internationally agreed corrections principles. Such principles should encourage officers to:⁶¹

- Preserve life and protect body and mind of persons in their care from injury;
- Preserve individuals’ dignity and behave with tolerance;
- Act for the good of prisoners and for their rehabilitation;
- Maintain integrity and scrupulous dealing;
- Display professionalism, loyalty, and personal example;
- Be helpful and show good will.

In comparison with international efforts to reform the police, military and judiciary, the corrections system in BiH has received much less attention. This omission began with the DPA, which was virtually silent on specific corrections reforms though it alluded to principles of “international rights and freedoms” granted in the BiH Constitution and in the provision of Prisoner Exchanges (Article IX). The DPA’s 1A Agreement on the Military Aspects did give a right to the International Committee for the Red Cross (ICRC) to inspect and report on the state of prisons. While doing so, the ICRC provided hygienic supplies, food, and clothes following the signing of the agreement. Article VII of Annex 11 of the DPA, which provided the IPTF responsibility for “monitoring, observing, and inspecting law enforcement activities and facilities,” can be interpreted as including the corrections sector within this mandate. The IPTF in

⁵⁹ Council of Europe, *Themis Plan, Project 4 (Prisons) Bosnia and Herzegovina, Report of a Council of Europe Co-operation Visit to Prisons and Other Institutions in Republika Srpska*, Council of Europe, 1998.

⁶⁰ *Ibid.*, 1998.

⁶¹ ‘International Corrections and Prisons Association for the Advancement of Professional Corrections’, *Newsletter 2000*, pp 6–7, <http://www.icpa.ca>, accessed on 13 May 2002.

addition to the UNMIBH Human Rights Office (HRO) have made frequent inspections of BiH correctional facilities with positive findings with respect to human rights. For example, in January 2002, the HRO conducted a total of 49 visits to BiH prisons. It recorded that there were 2,251 persons in BiH prisons (1,438 in the Federation and 813 in the RS).⁶²

However, other than infrastructure reconstruction and the provision of new uniforms, correction officers have not received levels of assistance that compare well with their colleagues in other parts of the security sector.

Lack of co-operation and shared resources between Bosnian-Muslims and Bosnian-Croats in the Federation and subsequently with the RS has greatly affected the state of the corrections system. On a positive note, on 18 July 2001, the Federation Ministry of Justice in co-ordination with the UNMIBH HRO unified the Mostar City prison system. Previously, parallel correctional facilities existed to service Bosnian-Croat and Bosnian-Muslim communities. Another feather in the UNMIBH cap is the successful state-wide implementation of the Arrest and Custody Project, ensuring that proper records are kept in regard to detainees, and that law enforcement officials follow Council of Europe standards for arrests and detentions.

The UNDP, with the assistance of international advisors from the UN Centre for International Crime Prevention, has focused its criminal law reform work on developing BiH judicial capacity to address juvenile justice and post-release treatment programmes. In September 1998, the Federation Parliament passed a penal code and penal procedural code encompassing international rights and standards. In the RS, UNDP supported the work of the Law Reform Commission of Republika Srpska, established by the Minister of Justice to develop the Criminal Code and Criminal Procedural Code. Training and education projects have also been developed jointly with local practitioners on alternative measures for juvenile justice and post-release programmes. UNDP claims that the training of correctional staff has resulted in heightened awareness of international standards and practice.⁶³

The OHR Judicial Reform Programme, which became the lead player in legal reform, has a stated goal in its institution-building programme, that it is to “make sure that the prison/corrections systems of each entity meet international standards”.⁶⁴ This encouraging announcement is, however, unlikely to be achieved without the necessary resources, training and substantial time investment required to make a significant impact on this part of the security sector.

⁶² UNMIBH, Human Rights Office Monthly Report, January 2002, UNMIBH, Sarajevo.

⁶³ United Nations Development Programme, Bosnia-Herzegovina Field Office, <http://www.undp.ba/home.html>, accessed 13 May 2002.

⁶⁴ Office of the High Representative, Judicial Reform Programme, OHR Website, http://www.ohr.int/ohr-dept/hr-rol/thedepth/jud-reform/default.asp?content_id=5227, accessed 12 September 2002.

Intelligence reform: too tough to tackle?

THE REFORM OF INTELLIGENCE SERVICES after conflict is a difficult but essential task. Because these agencies often wield enormous power, based on the information they have and the clandestine operations they sponsor, it is vital to subject them to the same standards of reform as other state security institutions. But, as the Norwegian Institute of International Affairs (NUPI) has written:

“... donors have been reluctant to contribute, as the need for transparency that pervades all other efforts in security sector reform is difficult to reconcile with the development of secret services. To counteract the obvious lack of transparency, the intelligence agencies must be subject to some form of civilian control. A complete detachment of such services from a general process of reform may easily undermine constructive development in other areas.”⁶⁵

Intelligence organisations have largely remained outside of international reform and restructuring efforts in BiH as no international organisation has an absolute mandate or claimed to have one. In 1996, a Federation level law was passed, labelling all *ad hoc* intelligence services operating on the territory of BiH illegal. A committee to discuss intelligence reform and restructuring was also called for but was never established.

In the Federation, unrestrained intelligence services, co-located in police stations in some municipalities, obstructed early efforts to unify police forces. Fortunately, UNMIBH has been successful in removing intelligence services from police facilities in the Federation and is making progress in the RS. As early as 15 February 1996, IFOR raided a secret police/intelligence training camp in Fojnica, near Sarajevo. There they are reputed to have found documents showing “assassination plans against well-known politicians, ways to cause public panic and methods of releasing compromising information about certain officials”.⁶⁶

Several intelligence service have been active in the territory of BiH, believed to be under the control of various political parties. In addition to the intelligence services of Croatia (SIS) and Serbia that, no doubt, operate in Bosnia, Bosnia’s own services include the intelligence and security service of the RS (name unknown), the Bosnian-Muslim Agency for Investigation and Documentation (AID), and the Bosnian-Croat

⁶⁵ Norwegian Institute of International Affairs, *Security Sector Reform as a Development Issue*, Submitted by Norway and produced by NUPI Working Group on Security Sector Reform, OECD Development Assistance Committee Task Force on Conflict, Peace and Development Co-operation, Paris, 2–3 June 1999, p 15. The NUPI Homepage is <http://www.nupi.no/>

⁶⁶ Latin, Ena, ‘Sarajevo Trial May Lift Lid on Assassinations’, Institute for War and Peace Reporting (IWPR) *Balkan Crisis Report*, No. 338, 25 May 2002.

National Security Service (SNS). It is estimated that each of these services has up to 700 operatives.

International officials have expressed concern that political parties oversee the operation of intelligence services for their own purposes. NATO revealed in December 1999 that these services were engaged in targeting the international community, in conducting wire-tapping and surveillance of senior international officials.⁶⁷ There is media speculation that AID was responsible for murders of Bosnian-Croat returnees, bomb blasts at Catholic sites and politically-motivated assassinations. There are even allegations that agency officials were behind the attempted assassination of Pope John Paul II, which was foiled on 23 April 1997 when 23 anti-tank mines were discovered and defused under a bridge the Pope was expected to travel over. The Federal public prosecutor has filed charges with the Supreme Court against AID's first director and former interior minister, Bakir Alispahic, and several of his lieutenants for numerous crimes that have rocked the country over the past decade.⁶⁸ The trial is expected to begin in the summer of 2002. This is welcome evidence of growing courage to control formerly powerful intelligence officials and agencies.

In March 2002, a Federation Law on Intelligence Service was adopted to establish a Federation Intelligence and Security Service to replace the current ones. It is expected that a Permanent Working Group, to be established by the president and vice-president of the Federation, will co-ordinate the new service. The service will include the following other bodies: an Inter-Resource Group, also to be established by the Federation Government, and a Working Group for Monitoring and Controlling the work of the service, to be established by the Federation Parliament. In addition to the service director and deputy, the Federation Government will also appoint an executive director (operator of services) and a chief inspector. The service is to operate until the eventual establishment of a state intelligence service. The Federation service will then be obliged to hand over all documentation, materials and equipment to the new state service. As for the current intelligence services – AID and SNS/SIS – they are expected to stop operating in 2002. Employees of the two agencies will not automatically become members of the new service, but will have to apply to the new vacancies. This is a positive development, but if the process of military integration is an indication, a long protracted process of political obfuscation is likely to follow.

The area of intelligence reform and restructuring clearly requires increased attention, both from the analysts studying the problem and the practitioners trying to find solutions. Only through detailed consideration of the challenge can the appropriate balance between the classification of information (secrecy) and its free dissemination (openness) in matters of internal and external affairs be found. In any case, to achieve democratic oversight of the intelligence sector, a select number of government leaders must be allowed a complete overview of the activities of intelligence agencies in order to ensure their accountability. There are now hopeful signs of a move in this direction.

⁶⁷ Dragicevic, Alexander S, *Bosnian Croat intelligence officers targeted international officials*, NATO says, Associated Press Newswires, Dow Jones Interactive Publications Library, 17 December 1999.

⁶⁸ Latin, 2002.

Civilian oversight of the security sector

A CENTRAL PRINCIPLE of good governance, applicable to the entire security sector (not just intelligence), is that of democratic oversight and control. Herbert Wulf provided a valuable list of the ingredients for such a capability:

“Civil control and oversight of security sector actors is pre-requisite to those actors playing a constructive role geared to the goals of sustainable development. The basic pre-conditions for democratic control include procurement authorities independent of the armed forces and the police, budgetary control by parliament and thus the creation of transparency, accountability of the top ranks of the armed forces vis-à-vis a democratically elected civilian government, an independent judiciary, etc”⁶⁹

Good governance is proving hard to achieve in the fledging BiH and must be considered as a long-term goal. The DPA brought into being a complicated state structure. The high level of autonomy endowed to the two divided, and to some extent competing entities creates inefficient government institutions at the level of the state. The result has been a complex web of administrative structures, lack of experienced civil servants, inappropriately managed public and private resources, high levels of corruption and little attention to the socio-economic needs of BiH citizens.⁷⁰

Since 1996, a number of programmes and projects have been launched to assist or create accountable, efficient and transparent processes and mechanisms in the legal and defence sectors. The establishment of oversight mechanisms is a broad programming area covering elements of defence, civil society, economic reform and so on. The primary actors engaged in governance projects have been the OHR and the OSCE.

To tackle the widely-recognised problem of corruption, the Anti-fraud Unit of the OHR assists local authorities in identifying and prosecuting illegal activities, monitors court cases through all phases of the judicial process, and engages in the reform of the legal and judicial systems. Its current priorities are the drafting and enactment of anti-corruption legislation that meets international standards, increasing transparency in

⁶⁹ Wulf, Herbert, 'Security-Sector Reform in Developing Countries: An Analysis of the International Debate and Potentials for Implementing Reforms with Recommendations for Technical Co-operation', Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) GmbH, October 2000, http://www.bicc.de/general/gtz_studien/securitysector.html, accessed 27 May 2002.

⁷⁰ International Crisis Group, 'Courting Disaster: The Misrule of Law in Bosnia & Herzegovina', *Balkans Report*, No. 127, Sarajevo, 25 March 2002, <http://www.intl-crisis-group.org/projects/showreport.cfm?reportid=592>, accessed 24 July 2002.

government procedures, and promoting a far-reaching public awareness campaign.⁷¹ OSCE governance efforts have focused on the transparency, accountability and anti-corruption training of police, judicial personnel and civil society in support of the OHR's economic reform policies.⁷²

⁷¹ Office of the High Representative, 1999. OHR Website, <http://www.ohr.int/>

⁷² Organisation for Security and Co-operation in Europe, Democratisation Office, Concept for 1999, <http://oscebih.org/democratisation/homedem.asp>, accessed 13 May 2002.

Disarmament measures: making Bosnia safe for itself

DISARMAMENT IN A POST-CONFLICT SOCIETY is a reform measure of great importance for the safety of the citizenry and the strengthening of the state. The state monopoly on the use of force is one of the fundamental principles of governance in modern states. Tailored disarmament needs to be applied not only to the security agencies but also to society as a whole. Despite this “disarmament imperative” shown by academic and policy research⁷³ and the lessons learned in earlier UN missions in the 1990’s, the DPA did not incorporate a disarmament strategy with which to guide the national and international actors. As one critic observed, policy-makers thus failed to take advantage of the “unique opportunity to institute a comprehensive disarmament regime” (especially for small arms and light weapons) in the region.⁷⁴ The result was a slow *ad hoc* process of disarmament and unco-ordinated project delivery. The general lack of international attention to disarmament has resulted in a more volatile security situation in BiH, with a great many people capable of committing crimes at gunpoint and, even worse, large-scale atrocities. The mixture of weapons proliferation, mandatory conscription, high unemployment and mistrust between the ethnic communities remains combustible and a serious threat to the peace, countered only by the strong presence of the peace-keepers and the general fear of a return to open warfare.

Small arms remain a big problem

The predominant role of light weapons in the recent Yugoslav wars and their abundance in present-day BiH is a direct result of Tito’s total defence policy. Tito’s Territorial Defence Forces (TDF) were trained in guerrilla warfare and armed accordingly with light infantry weapons, land mines and rocket launchers. The DPA’s *Agreement on Sub-Regional Arms Control* concerned only heavy weapons: it placed restrictions on weapon calibres greater than 75mm. It had minimal impact on small arms and light weapons. Weapon saturation coupled with acute levels of unemploy-

⁷³ Noteworthy studies include those by Laurance and Meek (1996) and by Dorn, Walter, ‘Small Arms, Human Security and Development’, *Development Express*, No. 5/1999–2000, Canadian International Development Agency (CIDA), Ottawa, 2000, http://www.rmc.ca/academic/gradrech/dorn7_e.html, accessed 13 May 2002.

⁷⁴ Sharp, Jane, ‘Update on the Dayton Arms Control Arrangements’, *Bulletin of Arms Control*, No. 25 (London: Centre for Defence Studies, March 1997), p 8.

ment and inefficient state control create a deadly mix. The impact has been significant in many areas:

- **Humanitarian impact:** Light weapons continue to thwart the return of refugees and internally displaced persons to the homes from which they were 'cleansed'. Armed attacks on returnees and minorities have been all too frequent in BiH.
- **Socio-economic impact:** Inappropriate planning for the demobilisation of armed forces, together with unemployment and the easy availability of weapons is likely to increase the incidence of violent crime, including armed robbery, domestic violence and terrorism. The absence of comprehensive small arms control policies along with lax controls of collected surplus weapons has resulted in inevitable black market trading from conflict to conflict in the Balkan region and abroad.
- **International force protection:** Peace-keeping casualties as a result of attacks with light weapons occurred throughout the UN peace-keeping operations in Croatia and Bosnia-Herzegovina and have continued to be a security concern for SFOR troops in the Balkans.
- **Lack of transparency:** The lack of transparency in light weapons holdings prevents the establishment of a balance of power at the lowest and safest possible level in the region, a conflict prevention measure sought by international security regimes. Any renewed conflict, as witnessed in Kosovo, will be a conventional one that places a high regard on substantial holdings of light weapons.

SFOR's small arms and light weapons confiscation measures

Feeling a direct threat, NATO peace-keepers conducted light weapons confiscation from the civilian population on an *ad hoc* basis throughout 1996–1998. NATO employed coercive cordon and search techniques that often resulted in increased tension with community members. With these experiences in mind and an awareness of dangers posed by remaining small arms, a joint national authority/international community weapons amnesty was established in March 1998, appropriately named 'Operation Harvest'. The amnesty was accompanied by a campaign to inform communities how they could hand in weaponry without fear of consequences at both mobile and fixed sites staffed by local police forces whose work was supervised by NATO.⁷⁵

During Operation Harvest a sizeable number of weapons were collected despite the absence of monetary or material incentive. In less than one month (March/April 1998), 1,724 small arms, 26,076 hand grenades, and 2,206 antipersonnel mines were collected.⁷⁶ Encouraged by these results, NATO troops, UN police monitors, local police and local military units operated amnesties again in 1999, 2000 and 2001. As of July 2002, the Operation had yielded 23,387 pieces of SALW, 7,500,000 rounds of ammunition, 98,208 hand grenades, 25,908 mines, 22,141 kg of explosives and 90,931 assorted mortars, rifle grenades and hand-made ordnance.⁷⁷ Operation Harvest has continued, albeit on an *ad hoc* basis largely under the discretion of the SFOR Multi-national Divisions in the country. Ironically though, as the disarmament and destruction efforts were afoot, an armaments programme was underway, having some of the same sponsors!

⁷⁵ ONASA News Service, *Amnesty for Illegal weapons takes effect: SFOR*, Onasa, 3 March 1998.

⁷⁶ Harding, Captain Douglas A, (Liaison Officer, MND-North), from the SFOR Coalition Press Information Center, Tito Barracks, Sarajevo, Bosnia-Herzegovina, 22 April 1998.

⁷⁷ Unclassified data received from SFOR HQ; ref. 'Harvest total results 1998–2002', July 2, 2002. During the 1999 Harvest, the following were turned in: 7,500 weapons, over two million rounds of ammunition, 25,000 hand grenades, 8,000 mines, 3,000 kg of explosives and 22,500 other items (mortar rounds, light anti-tank ammunition and rifle grenades). During the first five months of 2000, the amnesty amassed 3,075 firearms, 713,932 cartridges, 5,579 hand grenades, 1,254 mines, 3,947 kg of explosives and 8,627 pieces of other ammunition. De-mining efforts have also made sizeable gains since 1995. The 40–50 injuries a month in 1995 have been reduced to 2–5 injuries a month in 2000. See Reuters English News Service, 'Bosnia: NATO-led force sees success in Bosnia arms removal', Reuters English News Service, 18 January 2000. Also, BBC Monitoring, 'Czech Battalion Collects Arms, Ammunition In Bosnia', BBC News Wire Service, 8 June 2000.

Armament programmes: going in the wrong direction

The programmes sponsored by the US Government to re-arm the Federation Army give rise to dangers of spill-over to the citizenry and the possible hostile use of the more deadly armaments in future conflicts in both Bosnia and abroad. In particular, MPRI has undertaken, under US sponsorship, a massive military re-armament programme. Under the 'Military Stabilisation Programme', MPRI organised a large contribution of light weapons to the BiH Federation Army in September 1996: 46,100 M-16 rifles; 1,000 M-60 (7.62 mm) machine guns; 80 50-calibre machine guns; 45 M-85 machine guns; and 45 M-240 machine guns.⁷⁸ This volume of imported weaponry casts doubt on the claims of President Alijah Izetbegovic that there were sufficient infantry weapons to arm 200,000 Bosnian-Muslim soldiers in 1995.⁷⁹ While it may be reasonable in some cases to re-arm elements of the state's security apparatus, the lack of transparency in the re-armament process remains a concern, as does the lack of any limits on heavy conventional weapons. In 1996, the London based International Institute for Strategic Studies concluded that "a conscious decision not to prioritise disarmament or, indeed, actually to re-arm warring parties in order to establish a local balance of power ... carries serious risks of destabilisation unless it is clearly understood and accepted as a necessary requirement for overall political and military stability".⁸⁰

Additional controversy has arisen as BiH has begun to sell some of its surplus weaponry abroad, most recently to Cameroon via Israel. While such sales are not necessarily illegal, they highlight the important unresolved issues of arms sales and profit-making in a state where arms are being imported and where there is a lack of official oversight mechanisms. There may be an additional danger of fostering threats to international peace internally and in other parts of the world. Currently, there is confusion within the international community as to who should approve transfers and how they should do it. SFOR has expressed the need for an arms sale policy and noted that arms sales could be an important source of revenue for BiH. Recognising that arms sales are an important political/foreign policy issue, the OSCE has offered to provide guidance on this matter, including texts of relevant laws adopted in other states. A number of relevant conventions and European standards on arms transfers are applicable, as are some existing (UN) arms embargoes. There is agreement that commercial exportation needs to be legislated for at the state level, though some policy-makers wonder whether BiH should be in the business of selling arms at all.⁸¹

Less controversial was the re-armament of the police officers of the Federation, who were equipped with Austrian Glock side arms. The RS police continue to use their old Yugoslav model (Cervena Zastava CZ99). The Federation programme has been justified on the basis that Federation police officers possessed a "mix of weapons" including the Hungarian Marakov, and various other Eastern European varieties, requiring a range of expensive ammunition.⁸² In addition, there were safety issues associated with the often-decrepit police firearms: "a lot had improper magazines that did not fit their weapon, or in some cases were dangerously modified", said Terry Smith, former-ICITAP Team Leader for the Vrace Police Academy in Sarajevo.

Perhaps there is a lesson to be learned from an earlier US military initiative in the region. The US's military aid to Tito in the 1950s helped funnel an enormous amount of light weaponry into the country, fuelling future civil wars. For example, thousands of US-supplied Thompson M-1A1 submachine guns were used in the war in Croatia.⁸³

⁷⁸ Military Professional Resources Incorporated, Military Stabilisation Programme I, Draft Manifest, obtained from AES Cargo, Sarajevo, BiH, July 1997.

⁷⁹ Neuman, Stephanie, 'The Arms Trade, Military Assistance and Recent Wars: Change and Continuity', in *The Annals of the American Academy of Political and Social Science, Small Wars*, ed WM.J. Olson, (London: Sage Publications Inc., 1995), pp 66–67.

⁸⁰ Berdal, Mats, *Disarmament and Demobilisation after Civil Wars*, Adelphi Paper 303, (Oxford: University Press 1996), p 30.

⁸¹ United Nations Mission in Bosnia and Herzegovina, Civil Affairs Policy and Planning Unit, Internal Note to File, 23 May 2002.

⁸² Smith, Terry, ICITAP Police Trainer, Sarajevo, BiH, electronic correspondence, 12 April 2000.

⁸³ Vasic, Milso, 'The Yugoslav Army and the Post-Yugoslav Armies', in *Yugoslavia and After: A Study in Fragmentation, Despair and Rebirth*, eds D.A. Dyker and Vejvoda, I, (London: Addison Wesley Longman Limited 1996), p 120.

Some of the weapons remain in BiH and threaten not only US and SFOR peace-keepers, but also the process of reform.

Encouragingly, after nearly seven years of peace implementation in the Balkans, small arms and light weapons proliferation appears to have gained the spotlight in the regional and the international arena. On 8 May 2002, the South Eastern European Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), was established in Belgrade. Supported by UNDP and the EU's Stability Pact for Southeast Europe, it works with governments and regional and international institutions to formulate and develop projects which will tackle the Balkans' small arms problem. Region-wide weapons-reduction projects are being heralded as one of the West's priorities for the Balkans' shift from peace-keeping to building stability and cracking down on organised crime.

In the larger region around Bosnia, national and local authorities, working with various international actors – UNDP, NATO, aid organisations, etc, have implemented some impressive small arms collection programmes. In Albania 188,000 weapons have been collected; Croatia has yielded 40,000; and in 2001 in the Federal Republic of Yugoslavia, 50,000 small arms were destroyed.⁸⁴ However, it is important to note that the collected figures are merely the tip of the iceberg in many respects. In Albania, for instance, approximately 600,000 small arms were looted in the chaotic spring of 1997 and only a third are now accounted for. In Kosovo in 1999 and more recently Macedonia, instability meant that huge numbers of arms were trafficked into the area. Clearly then, as the example of US re-armament in Yugoslavia in the 1950s points out, successful disarmament will not be measured in months or years but rather in generations.

⁸⁴ Kukic, Gordana, 'Centre to Curb Balkan Small Arms Opens in Belgrade', Associated Press Wire Service, 8 May 2002.

Conclusion: a sympathetic critique and a call for a comprehensive approach

COMPLAINTS ARE FREQUENTLY MADE regarding the BiH peace-building process to the effect that international programmes are poorly co-ordinated and that some work at cross-purposes with others. The disarmament/armament programmes described above are frequently cited examples. The overall difficulties of co-ordination are well summarised by the UN SRSG, who sees the significant overlap of international duties and visions close-up:⁸⁵

“In Bosnia and Herzegovina, despite the best efforts of committed personnel, we have not achieved the same sense of purpose, efficiency and utilisation of resources. Bosnia is the only state in the world where there is one country, two entities, three constituent peoples, four religions, and five international organisations running it.”

The multiplicity of international actors with similar mandates and projects operating in the same areas has created recurring problems through the years. Ambassador Robert Barry, former-head of the OSCE mission in BiH, recognises what he calls ‘turf wars’ between the major organisations that have periodically strained relations among actors in the field offices. Ambassador Klein agrees, “on the ground, there are often five sets of field officers, all with an identifiable niche, but rarely with a combined strategic vision, and all of them seeking to meet with the same local officials. The result is a bonanza for manipulation by hard-line nationalists and obstructionists.” This duplication and parallel chains of command has had a noticeable toll on the efficiency and effectiveness of the international efforts at a time of diminishing resources.

Since the tensions that hinder peace-building are not only indigenous but also external, international leaders need to constantly exert effort to reinforce co-ordination in the field and, beyond that, unity of purpose and vision. A grand vision for nation building has to complement the co-ordination of scattered projects at the operational level.

⁸⁵ Klein, Jacques Paul (Special Representative of the Secretary-General in Bosnia-Herzegovina), ‘Sharing Political Space in Peacemaking: The Case of Bosnia-Herzegovina’, International Peace Academy Seminar, Vienna, 7 July 2000, <http://www.unmibh.org/news/srsgspe/2000/07jul00.asp>, accessed 13 May 2002.

Peace-building in the security sector, it is gradually being realised, must be a holistic undertaking, covering the entire array of security actors. The present survey of international activities shows that while the initiatives cover many components of the security sector, support for reform across the security sector is far from uniform. Indeed, several components have been neglected, leaving a vacuum in the security infrastructure and the potential for overall failure at robust nation-building. Without a holistic approach to SSR, the practices of these neglected agencies may slow down the entire process of reform and render other efforts completely ineffective.

The primary focus of international efforts has been on military and police forces while largely neglecting other security institutions, especially intelligence agencies. The main reform activity has been technical training of military and police officers, leaving behind members of other components of the security sector. For example, the police capacity-building efforts have far outstripped the pace of judicial reforms. This is in part due to the fact that training and deploying a police officer is easier and quicker than training a judge or a prosecutor who requires longer and more complex technical preparation before starting work. The reform of the intelligence agencies was until 2002 utterly neglected, leaving a large lacuna in the SSR process and threatening reforms in other areas.

Not only must international efforts encompass the entire range of government security agencies, they must also work to support the range of national actors, especially civil society. NGOs, think tanks, universities, etc, play an important role in monitoring security agencies and in developing security policy. Democracy, in the final analysis, is only as strong as the citizenry is knowledgeable and participating through civil society. As the prominent jurist Robert H Jackson once declared, “[i]t is not the function of our government to keep the citizens from falling into error;⁸⁶ it is the function of the citizen to keep the government from falling into error.” Only by strengthening the involvement of civil organisations in the SSR process can the international community hope to make it sustainable over the long term. The foundation for permanent change must be a society of committed individuals who demand the highest standards of professional competence and behaviour.

Thus, a comprehensive vision and approach to SSR is vital. To the credit of the negotiators, the DPA provided for some reform programmes, more than had ever before been undertaken under international supervision. In retrospect, however, the DPA was not as comprehensive as was first thought and as subsequently found to be needed. While it provided a basis for some programmes and innovations, the need for strategic planning remained great. The SSR concept, now gaining popularity, is a useful tool to move this great experiment forward. In the negotiations of the Dayton Peace Accords the focus was on the traditional agencies (military and police) rather than a more holistic initiative. Over time, however, a wider scope of reform has been sought.

BiH has been relatively peaceful since the signing of the Dayton Accords, despite several shocks (such as the war in Kosovo) that might easily have unleashed widespread violence had the international community not been so intimately involved, especially in SSR. The status of relative peace in BiH demonstrates that the peace-building efforts in the volatile and emotionally-charged security sector have gone a long way to establishing a foundation for stability. The structures of the state and society are being developed to such an extent, and generally seem to carry the support of enough citizens, that despite ongoing hatreds and inequalities, peace is expected to hold. The investment in peace, both locally and internationally, is now deemed too great to permit an easy relapse into war. With experience being gained each year and the hope for an ever expanding and deepening reform agenda, there are indications that this great experiment in nation-building might very well succeed.

⁸⁶ *The Columbia World of Quotations*, 1996, <http://www.bartleby.com/66/74/30374.html>, accessed 9 September 2002.

APPENDIX 1

International organisations involved in BiH

Table describing the main international bodies involved in post-Dayton Bosnia-Herzegovina, especially in security sector reform. (Quotations are from the listed web sites of these bodies unless otherwise noted.)

Organisation	Description
Office of the High Representative for the Implementation of the Peace Agreement (OHR) Est. Dec. 1995	<p>Facilitates "the resolution of any difficulties arising in connection with civilian implementation" of the DPA (Art. II.1.d).⁸⁷ The UN Security Council (SC) mandates the HR to "mobilise and, as appropriate, give guidance to, and co-ordinate the activities of the civilian organisations and agencies" involved with the civilian aspects of the DPA, and to "monitor the implementation of that settlement" (UN SCR 1031 (1995)).⁸⁸</p> <p>The HR is nominated by the Steering Board of the Peace Implementation Committee (described below), and endorsed by the SC.</p> <p>High Representative: Paddy Ashdown (UK).</p> <p>Web site: www.ohr.int</p>
United Nations Mission to Bosnia and Herzegovina (UNMIBH) Dec. 1995 Present	<p>Mandated to "contribute to the establishment of the rule of law in Bosnia and Herzegovina by assisting in reforming and restructuring the local police force, assessing the functioning of the existing judicial system and monitoring and auditing the performance of the police and others involved in the maintenance of law and order". (UN SCR 1035 (1995)).</p> <p>Main components: International Police Task Force (IPTF) (approx. 2000 civilian police) and UN civilian offices, including the Criminal Justice Advisory Unit (CJAU), Civil Affairs, Human Rights, Public Affairs and Administration.</p> <p>The Special Representative of the Secretary-General (SRSG), head of UNMIBH, also co-ordinates UN efforts in BiH and is involved with "programmes which support the return of refugees and displaced persons, de-mining, the promotion of human rights, the welfare of children, and education and culture".⁸⁹</p> <p>Head of Mission: SRSG Jacques Paul Klein (US); IPTF Commissioner: Sven Frederiksen (Denmark).</p> <p>Web site: www.unmibh.org</p>
Organisation for Security and Co-operation in Europe (OSCE) Est. 1995 and active in BiH since early 1996	<p>"The largest regional security organisation in the world with 55 participating States from Europe, Central Asia and North America. It is active in early warning, conflict prevention, crisis management and post-conflict rehabilitation."</p> <p>In BiH, it assists with implementation of the DPA, especially the confidence and security-building measures. It includes a Department for BiH Regional Stabilisation and Human Rights in BiH.</p> <p>Head of Mission: Mr Robert Beecroft (US).</p> <p>Web site: www.osce.org</p>
North Atlantic Treaty Organization (NATO) Est. April 1949, and operating in BiH region since 1992	<p>A regional co-operative defence alliance whose essential purpose is "to safeguard the freedom and security of all its members by political and military means in accordance with the North Atlantic Treaty and the principles of the United Nations Charter. The Alliance has worked since its inception for the establishment of a just and lasting peaceful order in Europe based on common values of democracy, human rights and the rule of law."</p> <p>Operates throughout the conflict region in support of UN efforts, especially UNPROFOR (1992–95), and post-1995 through its IFOR and SFOR missions (established by various UNSCRs as prescribed in Annex 1-A of the DPA).</p> <p>Secretary-General: Lord George Robertson.</p> <p>Nineteen members: US, Canada, Belgium, France, Luxembourg, Netherlands, United Kingdom, Denmark, Iceland, Italy, Norway, Portugal, Greece, Turkey, Germany, Spain, Czech Republic, Hungary, and Poland.</p> <p>Web site: www.nato.int</p>

⁸⁷ 'Constitutional Watch: A country-by-country update on constitutional politics in Eastern Europe and the ex-USSR', *East European Constitutional Review*, vol. 8, No. 4, Fall 1999, p 1, www.law.nyu.edu/eecr/vol8num4/constitutionwatch/bosnia.html

⁸⁸ UN web site, *UNMIBH Background*, www.un.org/Depts/DPKO/Missions/unmibh/unmibhB.htm, accessed 30 May 2001, p 2.

⁸⁹ NATO web site, 'NATO Fact sheets: NATO's role in Bosnia and Herzegovina', accessed at www.nato.int/docu/facts/2000/role-bih.htm, 31 May 2001, p 1.

NATO-led Implementation Force (IFOR)

Dec. 1995–Dec. 1996

A military force composed of both NATO and non-NATO members that operated under the authority and subject to the direction and political control of the North Atlantic Council (NAC) through the NATO chain of command.⁹⁰ It was mandated in UN SCR 1031 (1995) in accordance with Annex 1-A of the DPA to bring about and maintain an end of hostilities. Includes approx. 60,000 ground, air, and maritime troops (18,500 of which had been UNPROFOR personnel).

Commander: Admiral Leighton Smith (US).

Web site: www.nato.int/ifor/ifor.htm

NATO-led Stabilisation Force (SFOR)

Dec. 1996–present

Follow-on from IFOR; operates under same authority. It was mandated originally to implement the military aspects of the DPA, including maintaining and, where necessary, enforcing peace to enable the country to rebuild after years of war, and to assist in the civilian implementation of the DPA (UN SCR 1088 (1996). Includes approx. 32,000 troops until Nov. 1999, and approx. 20,000 from August 2000 to present (supplied by 16 NATO and 13 Partnership for Peace countries).

Commander: Lt. Gen. John Sylvester

Web site: www.nato.int/sfor/index.htm

Peace Implementation Council (PIC)

Founded in Dec. 1995, and set-up in 1996

An *ad hoc* inter-governmental authority that oversees the implementation of the Dayton and Paris Agreements.⁹¹ Meets infrequently (every few months or so). Members include the US, China, Russia, Canada, Italy, Turkey, Greece, the United Kingdom (partial list). (Note: Yugoslavia was 'removed' at the behest of the US and, as of June 2000, was still not readmitted).⁹²

Office of the UN High Commissioner for Refugees (UNHCR)

Est. 1951 by UN General Assembly; in BiH since onset of conflict

A voluntarily financed UN agency that seeks to protect refugees and displaced persons, and ensure they receive asylum and favourable legal status in their new surroundings. As of 2001 the UNHCR claimed to extend international protection to 18 million persons. In BiH, and in addition to directly aiding and re-settling displaced persons, UNHCR "support[s] capacity-building of local authorities, seek[s] to establish a Bosnia and Herzegovina Refugee Council, and pursue[s] legal reforms".⁹³

HQ: Geneva (with offices worldwide); High Commissioner: Ruud Lubbers (Netherlands).

Web site: www.unhcr.ba

Office of the UN High Commissioner for Human Rights (UNHCHR)

Est. 1993 (by UN General Assembly)⁹⁴

Operationally based in BiH since 1991⁹⁵

The High Commissioner for HR, under the direction and authority of the SG, "co-ordinates human rights activities throughout the UN system and oversees technical co-operation programmes for states, non-governmental agencies and regional organisations".⁹⁶ The UN agency also deals with building global partnerships for human rights; preventing human rights violations; responding to human rights emergencies.

In BiH, the office has run human rights training programs, promoted "non-discrimination" in courts and monitors the on-going human rights situation.

HQ: Geneva; High Commissioner: Mary Robinson (Ireland).

Web site: www.unhchr.ch

International Criminal Tribunal for the former Yugoslavia (ICTY)

Est. 1993

Established to prosecute persons accused of serious violations of international humanitarian law committed in the former Yugoslavia since 1991 (UN SCR 827 (25 May 1993)). Four groups of offences: grave breaches of the Geneva Convention of 1949; violations of the laws or customs of war; genocide; and crimes against humanity.

HQ: The Hague, The Netherlands.

Chief Prosecutor: Carla Del Ponte (Switzerland).

Staff (as of April 2001): 1,103 members from 74 countries.

Web site: www.un.org/icty

⁹⁰ Chicago-Kent College of Law: Rule of Law through Technology web site, *General Framework For Peace In Bosnia And Herzegovina*, pbosnia.kentlaw.edu/services/chicago/legal_aid/treaties/peace_bosnia.htm, accessed 20 July 2001.

⁹¹ Lightburn, David, 'Seeking Security Solutions', *NATO Review*, Vol. 48, No. 3, Winter 2000–2001, www.nato.int/docu/review/2000/0003-02.htm, p 2.

⁹² UN web site, *Headquarters Press Conference by Yugoslav Mission*, www.fas.org/man/dod-101/ops/war/2000/05/20000525-yugopc.htm, accessed 25 May 2000.

⁹³ UNHCR web site, '2000 Mid-Year Progress Report for BiH', www.unhcr.ch/fdrs/my2000/bih.pdf, accessed 21 July 2001.

⁹⁴ In 1997, the Office of the High Commissioner for Human Rights assumed the functions formerly carried out under the auspices of the UN Centre for Human Rights.

⁹⁵ UNHCR web site, *Background in BiH*, www.unhcr.ba/GENERAL/BACKGROUND.html, accessed 24 July 2001.

⁹⁶ Geneva Briefing Book UN High Commissioner for Human Rights, *UN High Commissioner for Human Rights*, www.genevabriefingbook.com/chapters/unhchr.html, accessed 20 July 2001.

United Nations Development Programme (UNDP)

Est. 1965 (by UN General Assembly)

UN agency that helps “countries in their efforts to achieve sustainable human development by assisting them to build their capacity to design and carry out development programmes in poverty eradication, employment creation and sustainable livelihoods, the empowerment of women and the protection and regeneration of the environment, giving first priority to poverty eradication”.⁹⁷

The UNDP delivers most of its services through its 132 country offices.⁹⁸

For SSR in BiH, the UNDP launched several criminal justice reform programmes and worked with the UN Centre for International Crime Prevention (located in Vienna, est. 1997) to assist in development of a criminal code.

Web site: www.undp.ba

The South Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC)

Est. 2002

Based within the UNDP Country Office in Belgrade, SEESAC works to co-ordinate, facilitate and encourage efforts to combat the proliferation of small arms and light weapons and related munitions in the region, offering technical expertise and support to ongoing initiatives and funding for smaller scale activities designed to complement projects undertaken by other actors. SEESAC works towards the implementation of the EU Stability Pact for South Eastern Europe Regional Implementation Plan on small arms and light weapons in eight countries in South Eastern Europe – Albania, Bosnia Herzegovina, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Moldova, Romania and the Federal Republic of Yugoslavia.

Web site: www.undp.org.yu

World Bank Group

Est. 1944

The “world’s largest source of development assistance, and consists of five closely associated institutions, one of which is the International Development Association (IDA)”. Its “mission is to fight poverty for lasting results and to help people help themselves and their environment by providing resources, sharing knowledge, building capacity, and forging partnerships in the public and private sectors”. In 2000, the Bank’s 10,000+ employees helped to disburse more than US\$15 billion in loans.⁹⁹

IDA provided credits to BiH government and helped facilitate a number of SSR projects.

HQ: Washington; President: James D. Wolfensohn.

Web site: www.worldbank.org/html/extdr/about

European Union

Est. 1951

An intergovernmental organisation that seeks (through its five institutions – the European Parliament, Council, Commission, Court of Justice, and Court of Auditors) to organise relations between the fifteen member states and between their peoples “in a coherent manner and on the basis of solidarity”.

European Parliament: Brussels, Luxembourg, and Strasbourg.

Members: 15 European states.

In BiH, the EU was involved in police reform and the development of the Customs office, among other things.

Web site: www.europa.eu.int

Council of Europe

Est. Jan. 1949

Distinct from the European Union, its main decision-making body is the Committee of Ministers, composed of the Foreign Ministers of its 43 member states. It “covers all major issues facing European society other than defence”.

One of the main aims is to “protect human rights, pluralist democracy and the rule of law”.

Members: 43 European states (BiH was admitted to the Council on 24 April 2002).

HQ: Strasbourg, France; Secretary-General: Walter Schwimmer (Austria)

In BiH, the Council contributed to judicial, legal and correctional reform programmes.

Web site: www.coe.int

⁹⁷ UNDP in BiH web site, About UNDP, www.undp.ba/a1.html, accessed 22 July 2001.

⁹⁸ UNDP web site, Discover UNDP, www.undp.org/discover_undp/index.html, accessed 22 July 2001.

⁹⁹ World Bank web site, www.worldbank.org/html/extdr/about/, accessed 20 July 2001.

APPENDIX 2

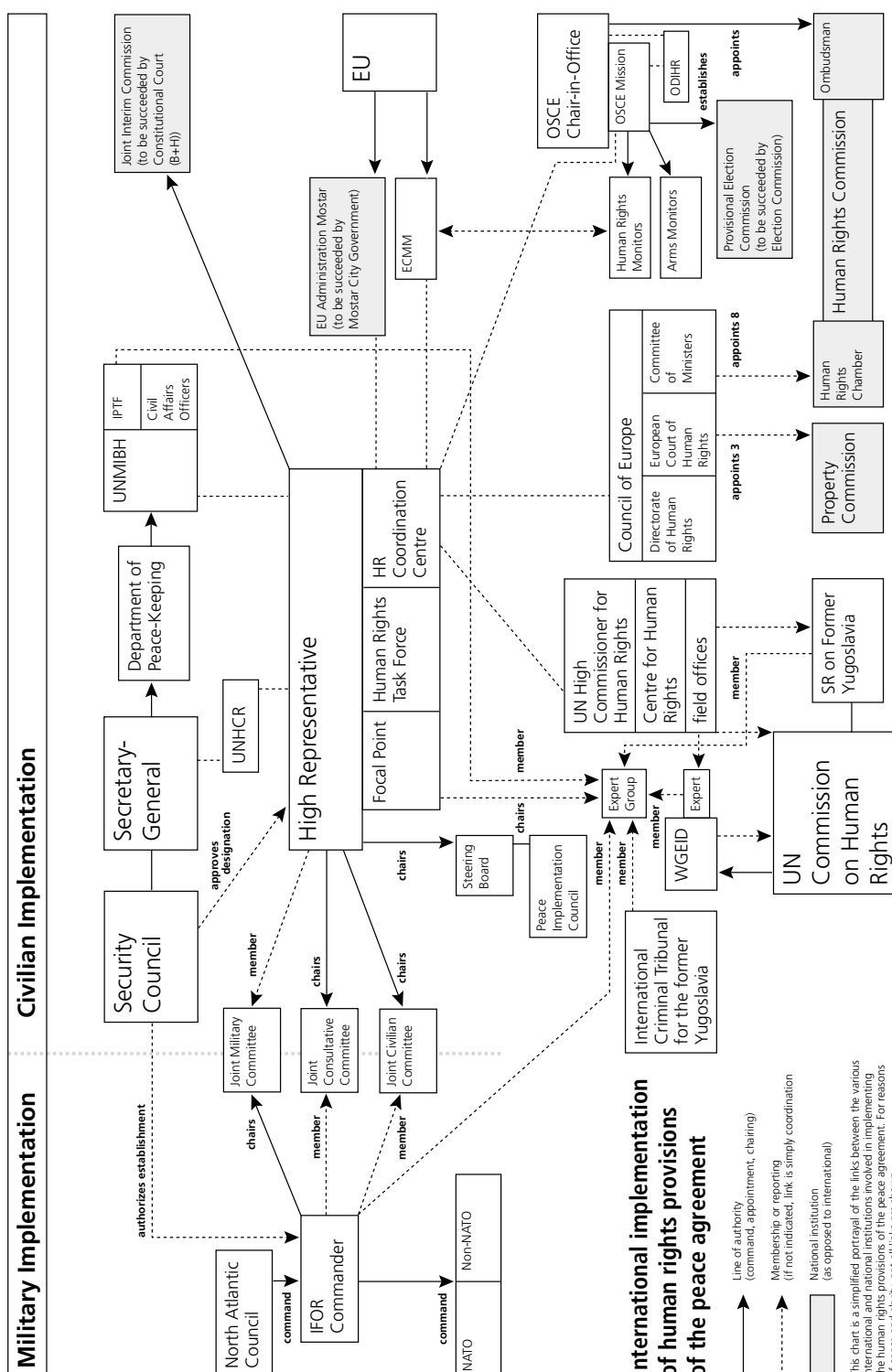
Non-governmental organisations involved in BiH security sector

Table of selected non-governmental and commercial organisations involved in security sector reform in BiH. (Quotations are from the listed web sites of these bodies unless otherwise noted).

Organisation	Description
American Bar Association (ABA) Est. 1878	<p>The ABA is "the largest voluntary professional association in the world. With more than 400,000 [US] members, the ABA provides law school accreditation, continuing legal education, information about the law, programs to assist lawyers and judges in their work, and initiatives to improve the legal system for the public". Members of the legal profession from other countries can become international associates.</p> <p>The Central European Law Initiative (CEELI) is "a public service project of the American Bar Association [that] advances the rule of law in the world by supporting the legal reform process in Central and Eastern Europe and the New Independent States of the former Soviet Union. With the assistance of lawyers, judges, and law professors, CEELI helps to build the legal infrastructure that is indispensable to strong, self-supporting, democratic, free market systems". It began its work in BiH in March 1995. "To date, CEELI has held 42 training workshops in Bosnia; it has completed 23 legal assessments, on topics ranging from foreign investment to judicial organization".</p> <p>Web site: www.abanet.org/ceeli</p>
International Crisis Group (IGG) Operating in region since 1996	<p>A private, multi-national organisation committed to strengthening the capacity of the international community to anticipate, understand and act to prevent and contain conflict.</p> <p>ICG teams of political analysts based on the ground in countries at risk of crisis, gather information from a wide range of sources, assess local conditions and produce regular analytical reports containing practical recommendations targeted at key international decision-takers.</p> <p>In BiH, ICG produces timely provocative reports covering all aspects of peace implementation.</p> <p>HQ: Brussels</p> <p>BiH Office: Sarajevo.</p> <p>President and Chief Executive: Gareth Evans.</p> <p>Web site: www.intl-crisis-group.org</p>
Military Professional Resources Incorporated (MPRI) Incorporated in 1988 Operating in BiH since 1996	<p>A "professional services company engaged in defence-related contracting in the U.S. and international markets. Operated primarily by former military personnel and staffed by a wide range of other professionals (over 800 employees), the company's business focus is on the broad range of defence matters, law enforcement expertise, and leadership development in both the public and private sectors."</p> <p>HQ: Alexandria, Virginia (with programme offices in several states and foreign countries)</p> <p>In BiH, its Military Stabilisation Programme (MSP) assists with "the development of the [BiH Federation Army Forces (FAF)] military structure, the fielding of military equipment and the conduct of a broad-based individual and unit training programme". It also "established and runs Battle Simulation Centres and a Combat Training Centre". "When fully implemented, this programme will provide the FAF with the military capability to deter armed aggression and, should deterrence fail, defend the Federation's territory and population."</p> <p>Web site: www.mpri.com</p>
European Commission for Democracy through Law (Venice Commission) Est. March 1990	<p>The Commission "helps with adoption, in eastern Europe, of constitutions that conform to the standards of Europe's constitutional heritage".</p> <p>The Venice Commission is composed of "independent experts who have achieved international fame through their experience in democratic institutions or by their contribution to the enhancement of law and political science". Members are supreme or constitutional court judges, national members of parliament and senior public officials and senior academics. Only Council of Europe member states that have acceded to an agreement can take part in its activities (including providing members) and contribute to its budget. Forty states have done so. BiH is an associate member.</p> <p>In BiH, it provided advice (legal opinions) on the establishment of a human rights court, the interpretation of BiH Constitutional law, and the responsibilities in immigration and asylum matters (especially power sharing between the two entities). "In 2000, it recommended that the Chamber of Human Rights and the Constitutional Court should merge once Bosnia and Herzegovina had ratified the European Convention on Human Rights."</p> <p>Web site: venice.coe.int/site/members/bih_e.htm</p>

International organisations responsible for implementation of Dayton Accord human rights provisions

Organisational diagram showing the international bodies involved in the implementation of human rights shortly after the Dayton Peace Accords. Applies to other aspects as well. (Source: Amnesty International, *Bosnia-Herzegovina: The international community's responsibility to ensure human rights*, AI Doc. EUR 63/14/96, June 1996 (Annex)).



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The Bonn International Center for Conversion is an independent non-profit organisation dedicated to promoting the transfer of former military resources and assets to alternative civilian purposes.

Saferworld is an independent foreign affairs think tank, based in London, UK, working to identify, develop and publicise more effective approaches to tackling and preventing armed conflicts.

COVER PHOTO: Joint IPTF/Local Police patrols of the infamous Arizona Market, Republika Srpska. UNITED NATIONS PHOTOGRAPH/ERIC KANALSTEIN.

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