



**DEMOCRACY ASSESSMENT
IN BOSNIA AND HERZEGOVINA**

Perspectives on the Democratic Transition



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INTRODUCTION

More than two decades after the war, Bosnia and Herzegovina (BiH) remains subject to ethnic and territorial divisions that complicate the development of a durable, democratic political system. The governance structure defined in the Dayton Agreement of 1995 aligns political competition along the often opposing interests of the country's three main ethnic groups (Bosniaks, Croats, and Serbs). Inter-ethnic mistrust often determines political outcomes and prevents government responsiveness to citizen interests and priorities on non-ethnic issues that routinely rank as the public's top concerns, such as employment, regardless of ethnic affiliation. Representative and regulatory institutions do not exercise proper oversight of government policy and actions, and implementation of social and economic reforms is constrained.

Despite these challenges, the prospect of membership in the European Union (EU), though distant, continues to serve as an anchor for democratic reform. BiH submitted its formal application for EU membership in January 2016, and has received the European Commission's questionnaire covering 33 chapters of the EU *acquis communautaire* at the end of 2016. Although pursuing EU membership has broad consensus across the political spectrum, it is not immune from ethnic and territorial disputes. In March 2017, the entity government of Republika Srpska (RS) announced it would cease cooperation on completing the questionnaire in response to the unilateral move of the Bosniak member of the Presidency to request appeal of the case before the International Court of Justice against Serbia for genocide. This move demonstrates the limits of EU accession in tempering ethnic discord among political elites.

The dominance of partisan and ethnic/entity interests and the complexities of multi-layered governing structures continue to block overall political consensus, and demonstrate that socio-economic reform cannot be achieved without institutional reform. In turn, governmental reform cannot be achieved without political reform.

The slow pace of enacting critical reforms and the unceasing disruptions caused by persistent ethnic and nationalist conflicts have led to widespread citizen frustration and exposed the weakness of an approach that does not include political reform. In February 2014, mass protests and demonstrations erupted in cities throughout the country as citizens took to the streets to hold the political elite accountable for corruption and the lack of economic opportunities. The demonstrations revealed deep dissatisfaction with

the political situation and highlight demands for substantive socio-economic reforms. Public opinion research by NDI in April 2016 revealed that an overwhelming majority of citizens (88 percent) continued to believe the country is headed in the wrong direction. Following the general elections in 2014, governments at the state level and of the two entities of the Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska (RS) pledged to pursue an EU-oriented set of socio-economic reforms known as the Reform Agenda. This agenda promised a shift away from inter-ethnic discord toward pragmatic, constructive, and coherent program of reforming economic and social policy in ways that reflect citizen interests. However, progress on this initiative has been limited.

To encourage issue-based dialogue and cross-party cooperation on socio-economic and political reforms together, NDI has conducted a democracy assessment with funding from the National Endowment for Democracy (NED). Through an analysis of the state of democracy in BiH after the 2014 elections, the findings presented below are intended to foster discussion and debate among political parties, civil society, and the public as a whole on Bosnia and Herzegovina's democratization process and the direction of reform efforts.

The assessment focuses on key issues and themes facing governing and political institutions and political discourse. Assessment topics cover critical democracy challenges:

- Electoral system
- Government transparency and accountability
- Institutional and legislative politics
- Ethnic politics and political efficacy
- Political parties and representation of the public interest
- Civil society engagement in decision-making
- Political inclusion of marginalized groups

Assessment Methodology

In cooperation with Bosnian political analysts and civil society representatives, NDI developed a methodology aiming to secure broad input from a range of domestic actors. The Institute identified and interviewed 50 representatives of civil society organizations (CSOs), political parties, media, and academia based in Banja Luka, Sarajevo, and Mostar as centers of political, social and cultural life in Bosnia and Herzegovina. NDI organized three groups of participants in each city for a total of nine facilitated discussions moderated by domestic experts. This report consists of the main findings of these discussions, joined with NDI analysis.

The Institute has not applied a standards-based approach to the assessment in which democratic performance in BiH is analyzed against prevailing practice in established democracies. While the report references certain democracy standards concerning citizen rights and government transparency as relevant benchmarks to assess democratic progress, NDI has sought in this exercise to offer a distinctly Bosnian perspective on the country's democratic transition.

ELECTORAL SYSTEM

Although the electoral system in BiH is regarded as one of the most complex in the world, it has had positive impact in creating a stable basis for political competition. However, as one of the key factors for the organization of politics, the electoral system requires periodic review. Reflecting political dynamics of the post-war period as vested in the country's constitutional provisions negotiated under Dayton, the electoral framework emphasizes ethnic-based representation to the detriment of individual rights. Individual citizens face discriminatory restrictions in voting and candidacy based on ethnic affiliation and residency. Despite the benefits from providing a basic foundational framework for political competition, the electoral system exhibits democracy shortcomings, many of which derived from this tension between collective versus individual rights.

Various court cases have shown that the electoral system violates certain constitutional norms and international human rights conventions. This was demonstrated most notably in the *Sejdic and Finci v. Bosnia and Herzegovina* case (2009) challenging the ethnically defined three-member presidency. The system explicitly reserves presidential positions for citizens who belong to the Bosniak, Croat, and Serb communities, which were recognized as 'constituent peoples' of BiH in a landmark decision of the Constitutional Court in 2000. BiH citizens who are Roma and Jewish brought a case before the European Court of Human Rights (ECHR) arguing that this structure violates their rights as they are barred from holding these positions. The Court ruled that the ineligibility to stand for these positions based on ethnic criteria violated Article 14 of the European Convention of Human Rights that bans discrimination on the basis of ethnic identity as well as Article 3 of Protocol No. 1 regarding free expression in elections.

Over the past seven years, political leaders have not reformed the election system to bring BiH into compliance with the ECHR ruling. This impedes the country's path toward Euro-Atlantic integration and places its membership in the Council of Europe at risk, which is a pre-requisite for European Union membership. Meanwhile, the process of electing the Serb member of the rotating three-member presidency from the RS and the Bosniak and Croat members from the FBiH has also seen ECHR court challenges in

the Zornic (2014) and Pilav (2016) cases. The ECHR ruled in these cases that citizen rights were violated on the combined basis of ethnic identity and residency.¹

Complying with ECHR rulings requires significant restructuring of state institutions and potentially opens up broader ethnic power-sharing arrangements to debate. However, violations of citizens' political rights pose fundamental democracy challenges of equal representation and expression that must find remedy for Bosnia and Herzegovina's full democratization and Euro-Atlantic integration to be secured.

Alongside these questions of democratic representation, the electoral system faces challenges related to administrative and political compliance with democratic standards. Moreover, there are systemic impediments to forming stable governments. The competition for votes along polarized ethnic lines leads to frequent political crises and highly unstable parliamentary majorities and governments as parties are forced to form mathematical coalitions with others who share few or no policy platform positions. Election administration is often plagued by fraud and abuse as well as slow, incomplete, or blocked implementation of election results. Overall, the BiH electoral system serves to reinforce ethnic and entity divides, and thereby presents barriers to the consolidation of parliamentary democracy.

To assess the challenges of the electoral system, assessment discussion focused on the following:

- What are the weakest parts of the system? What needs to be changed and how? Are electoral system reforms possible without constitutional reforms? What should be the top priorities?
- Given that previous efforts of an intersectional working group did not bring results, what should be changed/improved in this process? What should the process look like and who should lead it? What kind of campaign and public outreach is needed?

¹ Decision in the case of *Zornic v Bosnia and Herzegovina*:

http://www.coe.int/documents/1498993/0/CASE+OF+ZORNIC+v++BOSNIA++AND+HERZEGOVINA_ENG.pdf/82285021-bbec-4ffd-a4a0-72b23225332a

Decision in the case of *Pilav v Bosnia and Herzegovina*:

[http://hudoc.echr.coe.int/eng#{"itemid":\["001-163437"\]}](http://hudoc.echr.coe.int/eng#{)

- What other related laws need to be changed? What are the main issues that are preconditions for change? What is the best way to approach those changes? Who are the key actors?

Through the facilitated discussions, the participants agreed that reform of the BiH Election Law to address the ECHR rulings in the Sejdic-Finci, Pilav, and Zornic cases would require a wholly new election law together with changes to the constitutional framework. Participants also pointed out that it is equally important to answer how to achieve political consensus and to determine which principles and priorities are to be considered when discussing electoral reform, considering that political reform efforts in the past 10 years have seen limited success. At the same time, participants identified a range of technical reforms that would be possible without tackling the constitutional questions of the ECHR rulings. Some of the discussed reforms included: changes to the formula for converting percentage of vote share to number of mandates; whether individuals or political parties own parliamentary mandates; closed versus open lists; raising the threshold for entering parliament from the current threshold of three percent; holding general and local elections in the same year rather than alternating every two years; restructuring local election commissions; utilization of new voting technology; and creating provisions for recall or early elections.

During the focus group discussions, there were several trends in the viewpoints and recommendations of participants:

- A completely new Election Law should be adopted rather than making amendments to the existing one as a more effective means to integrate structural and technical corrections to comply with national and international court rulings;
- The ECHR ruling on Sejdic-Finci must be implemented in a way that balances collective and individual rights, although participants did not point to specific solutions;
- Sanctions need to be imposed for any breach of procedure or for missing deadlines in the implementation of the election results;
- A mechanism for early elections needs to be included in the Election Law;

- Local and general elections should be held in the same year, but within an interval of 6 months rather than holding them on the same day. This is because the populism of general election campaigns would overshadow local level issues. Participants also expressed doubts that the election administration could organize the general and local elections in one day;
- An electronic voting system would improve the technical organization of elections and resolve several problems, including the number of invalid ballots and the speed of getting final and confirmed results;
- Electoral districts need to be redefined in accordance with the obligation under the Election Law. Participants pointed out that electoral boundaries have not been redrawn since the adoption of the Election Law, resulting in unequal representation due to population shifts that have taken place in the past 15 years;
- Opinion on raising the threshold for entering parliament from 3 percent was divided. The current threshold is low compared to the region, with 5 percent in Croatia and Serbia and 4 percent in Montenegro. Some of the main stakeholders supported the idea of raising the threshold, explaining that it would help to stabilize parliamentary majorities, increase the efficiency and effectiveness of legislative and executive authorities, and speed up the implementation of election results and the formation of the executive government. Others argued that low thresholds offer more pluralism and better proportionality, and hence legitimacy.

Participants believed decision-makers can reach agreement regarding a number of technical amendments to the electoral legislation, including those recommended by the coalition *Pod Lupom*. The coalition has proposed a number of technical reforms, such as: the president and at least one member of the local election commissions should be non-partisan; only parliamentary bodies should nominate members of the electoral commission; the composition of electoral committees should be made public; sanctions should be established for vacating membership in the electoral committee without sufficient cause; transparent ballot boxes should be used in the absence of electronic voting; and candidates should be prevented from changing ethnicity for at least two election cycles.

Mirroring public debate over the years, participants expressed divided viewpoints on the degree to which candidate lists should be open or closed. BiH currently has a semi-open system in which voters can select individual candidates within an electoral list but candidates must surpass a five percent threshold to move higher on the list. Some participants explicitly supported closed electoral lists and were opposed to the idea of preferential voting, i.e. moving candidates up the party list if they receive a sufficient number of preferential votes. Under the closed-list proposal, voters would not have the possibility to register preferences among candidates on a party list, thus possibly affecting the distribution of seats within lists. The main argument put forward by proponents of this system is that it can secure a better gender and ethnic balance, on the presumption that parties would seek to offer a diverse candidate pool in electable positions. However, others believed that improved gender balance in elected office can be achieved while maintaining an open-list voting system, because mandatory gender quotas can be introduced for elected assemblies, with the proviso that accommodation of the quota might conflict with a mandate distribution based on preferential votes. Another initiative has been put forward to raise the threshold within the semi-open system from five to 20 percent, raising the barrier for candidates to move up a list from preferential voting. This proposed high threshold would essentially create a closed list and removes an important avenue for voter choice.

Most political party representatives along with clear majorities of civic leaders and academics believed that maintaining semi-open lists does not truly aim for gender equality, but rather represents the desire of parties to award mandates to loyal members. Interestingly, full consensus does not exist within any political party on this matter, and especially not between ruling parties or those in the opposition block. As such, it is unlikely a broad consensus can be easily reached.

Central to this debate is how a voting system can best offer meaningful choices to voters and maximize the possibility of diverse and inclusive representation.

Ownership of a parliamentary mandate also proved controversial. There was no consensus on reforming the current model in which a member of parliament owns his/her mandate and not a political party. However, a number of participants opined that this

individual ownership of the mandate can distort the parliamentary majority. There have been a number of examples where the owner of the mandate resigns his/her party membership while in office for another one or becomes an independent. However, most non-party participants believed that ownership of the mandate should remain in the hands of parliamentarians, as otherwise their accountability to citizens would be diminished, generating greater concentration of power inside the political parties. These participants tended to view this proposal as the ambition of some parties seeking to centralize their power.

Elections in Mostar

Participants expressed great concern with the need to resolve the issue of local elections in Mostar. Elections have not been held since 2008 following the judgment of the Constitutional Court, which ruled that the Statute of Mostar is unconstitutional and ordered its adjustment in line with the constitutional framework. Key local political actors have so far not been able to come to a consensus on amending the Statute and enabling new elections. Participants in the facilitated discussions suggested that stronger external pressure will be needed in order to resolve the issue of electoral reforms, and that Mostar should be included as part of this broader reform. This way parties will be obligated to uphold and implement the compromise as part of a broader set of reforms.

Some participants considered compulsory voting as the best instrument of democratization and strengthening of political responsibility, of both citizens and the legislative and executive authorities. Higher turnout would lend greater legitimacy to political institutions, as opposed to the current situation in BiH where successful candidates garner approximately 25 to 30 percent of eligible vote. However, there were also

very strong opinions in support of voting abstinence as a political right and that the law cannot force citizens to vote.

In addition to the numerous proposed reforms of the electoral system, some participants raised the lack of transparency in political party financing and management of conflicts of interest. Some participants believed that these laws have not had the intended effect

and that financing of political parties from the state budget did not provide the expected result to reduce corruption.

GOVERNMENT TRANSPARENCY AND ACCOUNTABILITY

Democratic governance relies on accountability to citizens through transparent decision-making and implementation of policies. Progress in the transparency and accountability of BiH government decision-making is a condition for advancement in the EU integration process. The legal framework for ensuring government transparency exists, including laws on free access to information and whistleblowing, as do mechanisms for public consultation in decision-making. In recent years, the concept of freedom of access has expanded to include both the responsiveness to citizen requests for information as well as the obligation of government institutions to publish their information proactively. BiH joined the Open Government Partnership in 2014, demonstrating a commitment by government institutions to improve public access to information.

However, in practice there is uneven implementation and numerous legal loopholes that enable institutions to circumvent transparency obligations. Governing bodies accordingly meet EU standards sporadically. Political interests often subvert government compliance with legal provisions in this area.

To assess the level of government transparency and accountability in BiH, the assessment focused the discussion in the following areas:

- What are the information sharing or disclosure mechanisms most used and recognized? How effective are those mechanisms?
- What are civil society's points of access to the decision-making process? How are citizens, civic organizations, and any interested party using opportunities (if they exist) for access? How are citizens able to hold their elected officials accountable? What could be done to improve the effectiveness of those methods?
- What model should be followed when it comes to transparency and accountability? What needs to happen to implement this model? What best practices should be followed?

There was broad agreement that political power in Bosnia and Herzegovina is power is exercised by political parties (and the international community in some instances) rather than institutions. Citizens train their focus on government for accountability and responsiveness, but often the institutions of government are instead responding to political party decisions made outside of formal structures. This gap provokes public frustrations as citizens cannot access real power in their demands for transparency and accountability.

The majority of participants believed that the best mechanism to strengthen accountability is strengthening the rule of law, institution building, and corresponding efforts to transfer parties' power to public institutions. Participants pointed to the absence of a mechanism for early elections as a particular problem, since this discourages governing officials from seeking compromise and prohibits citizens from being able to hold these officials accountable.

Participants agreed on several viewpoints and recommendations regarding transparency and accountability:

- All three Laws on Free Access to Information (ZOSPI) at the state and entity levels are limited to an obligation to provide information upon written request. Harmonizing and increasing transparency in the ZOSPI would require all public institutions - the executive, legislative and judicial authorities, administrative bodies, legal entities owned or controlled by a public authority - to publish information of public importance proactively rather than rely on citizen requests or follow non-binding guidelines. The harmonized law could ensure stronger mechanisms for implementation and monitoring, including the establishment of an appropriate body that would carry out the monitoring. Most important, the law could clearly determine categories of information to publish and regularly update via the internet, and in official venues, libraries and the media.
- Laws stipulating the publication of relevant information on certain issues on government websites and in official gazettes are implemented sporadically. Resources and political will should be dedicated to the implementation of these legislative provisions.
- Citizens demonstrate low interest in politics due to the concentration of power within political parties and the lack of exercised authority of parliament. Participants felt that strengthening the independent role of parliament and executive institutions

would increase citizen engagement with decision-making and improve accountability.

- Participants agreed that the legislatures are much more transparent than the executive branch and that the public's attention is mainly focused on parliamentarians. They believed the civil service, including the public administration and public companies, are the least transparent and accountable government institutions. Therefore, efforts to raise the level of accountability and transparency should shift to the executive branch at all levels.
- The legislative process would benefit greatly from greater public input, issue expertise, and parliamentary amendments. Such engagement would increase transparency in the legislative process, which participants identified as a key challenge.
- Participants pointed to several positive steps that have improved transparency and accountability. Parliamentary sessions are open to the public and parliaments' websites provide live-streaming of sessions. The websites provide relevant information about the work of parliament, MPs, content of sessions, cumulative voting results, records, audio recordings, transcripts, etc., with daily updates. Several civil society organizations are allowed regular attendance at all sessions of parliament with comprehensive monitoring of its operations, results, effectiveness, efficiency, transparency and accountability, including periodic analysis and reporting on progress. Laws on free access to information provide a basic legal framework for building and expanding government transparency.

Public Procurement

Under the new Law on Public Procurement, contracting authorities must publish all procurement notices, contract awards, or cancellations of public procurement on the Public Procurement Portal. A summary of all notices must be published in the Official Gazette and may be published on relevant websites and publications. Another significant step forward in providing information to the public is the *Instruction on Creating and Maintaining Official Websites of Institutions of Bosnia and Herzegovina* from the Ministry of Communications and Transport, which establishes standards for the form and content of authorities' webpages with the aim "to provide clear, accurate and current information about the services and activities of the institution." Similar policies exist at entity level.

Challenges nevertheless remain. Participants repeatedly emphasized the problem of big campaign promises made in pre-election political debate, regardless of whether or not they are realistic. Senior officials and political party leaders regularly make unrealistic promises during election campaigns, which are never discussed after the election or abandoned when opposing interests are registered. This serves to weaken accountability as citizens and CSOs are unable to hold elected leaders to achievable pledges in pre-election platforms.

Parliaments do not exercise their full legislative and oversight functions--especially in the EU integration process. Steps to improve the role of parliaments as responsible, open and transparent institutions would significantly strengthen reform efforts. For example, strengthening parliamentary rules of procedure provisions on public legislative hearings and expanding public consultation in legislative drafting throughout government would establish a quality mechanism for citizen participation in creating the laws that the relevant ministries at the lower levels of government will then pass.

Existing legal mechanisms have produced mixed results. The Law on Conflict of Interest is a relatively positive example of transparency and accountability. However, media reports and CSO analysis reveal that a low number of reported cases of conflict of interest result in investigation and sanctions when verified, which indicates a lack of consistent enforcement of the law and political accountability, even in cases where a conflict of interest is established. An independent judiciary is a prerequisite for control of the legislative and executive government, and the low rate of prosecution and sanctioning of conflict of interest cases indicates a lack of independence of regulatory and judicial institutions.

INSTITUTIONAL AND LEGISLATIVE POLITICS

The post-war political framework of cross-ethnic power sharing effectively transfers real power from government institutions to political parties. The complexity of the BiH electoral system and multiple layers of government require broad coalitions to secure qualified majorities for forming governments and passing legislation, often resulting in government paralysis that pushes government decision-making behind closed doors. Since parties compete within distinct ethnic blocks for vote share, a political culture of cooperation has not developed, whether regarding inter-party relations or relations between parties and civil society.

To assess the level of democratization in this field, this assessment focused on several key questions:

- How do the branches of government facilitate, or not, oversight and accountability?
- How responsive are parties/legislatures and their policies to public interests? What changes need to be undertaken to make parties/legislatures more responsive to public interests? What best practices could be followed and implemented? How?
- What structures and practice exists among key institutions and reform actors for cooperation? What official/unofficial mechanisms of inter- and intra-sectoral cooperation are most used, if any? How is the government open to civic organizations?

There was a high level of agreement on the lack of political cooperation, but no consensus emerged on the root causes nor on how to resolve challenges. Participants gave varied, often conflicting ideas about reforms to strengthen the independent role of legislative bodies and government institutions as distinct from political parties.

Participants believed that the lack of unified public opinion contributes to the high concentration of power in political parties. Political parties are highly centralized, and that organizational model is passed on to public institutions. Participants noted that parties by and large are not democratized, and that it is unlikely for democratization of society to advance until political parties embrace democratic principles.

Participants of all backgrounds felt that political parties do not promote democratization and a culture of meritocracy. A majority felt that the concentration of power within

parties is a result of collectivist, ethnic political representation, which entrenches division in public opinion. This enables parties to impose a permanent fear of ethnic tension and vulnerability. Once this subject is brought to the table, all other political questions become relatively less important. Therefore, issues such as the meritocracy of governance, management of public funds, efficiency and responsiveness of decision-making, public sector employment, etc. are hidden from the public eye, while the media treat violations of the law, bad policy, and corruption as entertainment news rather than breaches of the public trust. This smokescreen hides the absence of rule of law and meritocracy, and allows the political elite to normalize misconduct.

Management of public policies is often determined by personal, party or ethnic interests rather than the public interest. This generates large-scale clientelism that mars the work of government institutions. Patronage networks are particularly problematic when installed in judicial, and regulatory bodies, limiting their ability to exercise formal oversight alongside investigation by media, academia, and civil society.

The responsiveness of a political system is directly related to the constitutional framework and the electoral system, the degree of democratization of political parties, the rule of law, freedom of speech, independence of the media and civil capacity to monitor the work of governing institutions. These necessary pillars are interwoven and mutually reinforcing. Participants pointed to a number of challenges facing each of these areas in BiH. First, hyper-politicization has resulted in political elites in opposition and government criticizing honest attempts to improve the political system as tactical politicking, demagoguery, and/or populism. Second, because of the politicization of media, outlets often limit their criticism to political opponents, reinforcing polarization. Third, clientelism and political bias result in a passive stance of the academic elite, which has largely failed to contribute to policy-making. This means that significant political processes and important political decisions are made without the participation of credible intelligence and analysis, damaging both the academic elite and society as a whole. All these factors reinforce the dominance of political parties in Bosnia and Herzegovina and reveal the limited power of institutions.

Alongside structural challenges, political actors have not utilized the Dayton framework enough for cooperation and often neglect elements of the Agreement that could work. Recently, BiH has seen progress in this area due to pressure from the EU accession process to take a more collaborative approach across institutions. The responses to the

EU questionnaire that forms the basis of the next phase of accession will require coordination across state and entity governments. The increased cooperation of the FBiH and RS assemblies at certain points in this process is a positive sign, although political developments demonstrate the precariousness of this cooperation. These initial promising signs will require support and strengthening from all pillars of the system to lead to improvements in government efficiency and responsiveness.

ETHNIC POLITICS AND POLITICAL EFFICACY

As noted, BiH's complex constitutional organization has the effect of segmenting the electorate along ethnic lines. As a result, parties tend to compete for votes within ethnic communities, and voters systematically vote along those lines. There is not a single position that all voters can vote for, and even the BiH Presidency vote is divided among entities, with RS citizens voting for the Serb member of the Presidency and FBiH citizens voting for the Croat and Bosniak members. The House of Peoples in the BiH Parliamentary Assembly is based on ethnic caucuses, while the Constitution recognizes three constituent ethnic groups and so-called "Others."

Due to the ethnic structure of the population in the entities, the entity veto in the Parliamentary Assembly of BiH can be described an ethnic veto (e.g. almost all MPs from the RS have the same nationality), alongside the "vital national interests" veto available to ethnic blocks in the House of Peoples. The country's whole decision-making process follows along this divided structure. Even media, which is very diverse, is divided on ethnic lines. While this system gives some security to communities at war a generation ago, it creates inefficiencies that have hindered the country's ability to move forward.

Aiming to assess the effectiveness of ethnically driven political processes, focus groups discussions focused on the following questions:

- What are the parts of the political system that support ethnic divisions? How effective is an ethnically driven system and related decision-making processes and why? What are the pros and cons to this system?

- What should be changed/improved in the system or parts of it to change this practice?
- Are voters ready to change the systematic way they vote along ethnic lines? What might impact how they vote? What is the role of media in this?

In the discussions, positions of political party representatives varied, with some saying that political processes are not responsive to the priorities of voters owing to the ethnically defined nature of politics in the country, while others believed that the political process is largely responsive to citizen concerns. All participants agreed that the political system in Bosnia and Herzegovina is based on ethnic power-sharing principles and that this is a clear from the constitutional framework itself. However, many made the case that even in those situations without complicated structures where ethnic issues are not in the focus (i.e., in parts of the country where one ethnic group politically predominates) government efficacy remains lacking.

Several common viewpoints and recommendations emerged among participants:

- The lack of political efficacy is largely due to the limited development of democratic practices, resulting in low political responsiveness and weak civic pressure.
- The ethnic framework of governance would not constitute a problem per se assuming there were more responsiveness among political elites.
- Political efficacy is also lacking due to the ease in which ethno-nationalist issues can be instrumentalized to obstruct politics, the House of Peoples serving as a bottleneck in decision-making processes at the FBiH level, and the persistence of long-dominant political elites who derive their power not from the merit of their own policies, but from patronage networks and the political system preventing the availability of alternatives.
- There is no joint vision of Bosnia and Herzegovina in terms of the true public interests and the priorities within the reform process.
- The key solution for this lack of political efficacy would be for all political players to agree on a mechanism for determining the common public interest and policy priorities in BiH.
- The absence of established democratic practices among citizens favors the creation of an environment in which party representatives, under the pretext of safeguarding the interests of certain ethno-national groups, do not do anything to solve a number of concrete, socio-economic issues.

Participants agreed that the time when the international community could have a positive impact by directly intervening in BiH politics to regulate ethnic disputes has passed. However, there was also agreement that the processes of integration into international bodies can still continue to foster agreement among diverse political parties on policy positions.

The formation of the government in Bosnia and Herzegovina after the elections in October 2014 took almost six months, which confirms the complexity of the existing constitutional structure in the country and flaws of the electoral law. On the other hand, this slow process cannot only be tied to the constitutional structure but to political leadership pre-occupied by political machinations divorced from the public interest.

Participants expressed preference for pre-election coalitions based on the common values of defined by programs for which they have capacities to implement if they win elections. As a rule, governing coalitions are formed among parties with little to no shared political vision who jettison their programs in order to enter a government that struggles to be functional, much less stay intact.

Representatives of civil society organizations believed that the establishment of pre-election coalitions based on joint political platforms is the only logical and efficient solution. CSOs play a key role in the process of monitoring the work and transparency of political parties that partake in the executive government, as well as the holders of public offices who have the responsibility to citizens in BiH.

The fact that politics is ethnically driven does not necessarily limit efficacy of political processes in Bosnia and Herzegovina. Gaps in efficacy lie in the lack of issue-based programs and policies and in the lack of a joint vision for the country. The reform agenda offers a basis for this joint vision and political parties in the country now have the opportunity to demonstrate their ability to deliver to all BiH citizens.

POLITICAL PARTIES AND REPRESENTATION OF THE PUBLIC INTEREST

Political parties in democratic systems play a critical role in representing citizen interests and offering policy solutions to societal problems. In Bosnia and Herzegovina, ethno-national discourse prevails among political parties, and party platforms often do not reflect citizens' priorities for socio-economic reforms. Ideological affiliations remain weak, and analysis of parties' electoral programs reveals no significant difference in what they promise.

Focus groups' discussions targeted following questions:

- To what extent do party and public policies reflect party/government (or coalition) identity? How important is this? Why? What is best practice and how could it be implemented?
- To what extent are parties working to strengthen their party profiles and party identities? What might be actions/steps taken in this context?
- To what extent do parties use their party policies and election promises when creating public policies? What could be done to improve this correlation?
- Are coalitions built between parties functional? What changes are needed? What should be the approach taken to implement changes?

In the discussion, some party representatives were of the opinion that their parties do have an ideological identity, but that they do not act accordingly. Others believed that ideological identities do not exist in the first place. "Political parties are generally divided into left and right, here we do not have that division. When we talk about left, right or center, it depends on the issues we are talking about," summarized one of the participants. Participants have pointed to several common viewpoints and recommendations:

- The reason that citizens do not fully perceive party ideology is due to citizens' vague understanding of what constitutes political ideology and their determination of voting preference based on other factors.
- In order for citizens to be familiarized with party policies, it is necessary to include them in the policy development process, and to enable them to actively contribute to the process.

- Coalitions in BiH are usually based only on mathematic calculations of majority with no consideration of ideology or platform, and the past has shown that they are not very efficient because they are not program-based.

Politicians and political parties are primarily identified with certain individuals and ethnic groups that they predominantly represent. Other than the ethnic or ideological prefix, there are no substantial differences between political programs of the parties on the center-left and the center-right, and certainly not in their politics – especially when they are part of a ruling coalition. Even though ideological identity is defined through programs and statutes, actual politics is something else.

Most parties define methods of citizen and CSO participation in the process of policy creation in their statutes. Still, it can be argued that the parties have limited capacity for working on the preparation of policies at all stages of the process. Practice has shown that in the process of policy drafting, the majority of them invite their supporters for consultations, whether citizens or representatives of civil society organizations. These activities are most pronounced at the local level and in the pre-election phase, with the number and the scope diminishing in the periods between the elections. Some participants noted that citizens lack trust in political parties since they do not see continued outreach in the post-election period. When given the opportunity during election campaigns, citizens demonstrate a strong interest in attending public events and other opportunities to interact with candidates, but there are limited venues for constituent outreach once parties come in to power.

Undergirding the above is the need to reform the legal framework governing political parties. NDI has identified the lack of a Law on Political Parties as a gap in regulatory oversight that can address ongoing issues related to internal practices of political parties not covered by the existing election code, including financial management and transparency. Such legal frameworks are standard for democratic states to define the behavior of parties. Party representatives in BiH have expressed initial political will to put forward legislation to enhance this legal framework.

CIVIL SOCIETY ENGAGEMENT IN DECISION-MAKING

Civil society is an essential part of a strong democracy, operating as a watchdog of government actions and a mechanism for gathering citizen voices on specific issues to

demand government accountability. Cooperation between CSOs and political parties would help in identifying the policy priorities and in creating policies that are of importance for BiH citizens. However, this cooperation has not been very robust so far. The development of the CSO sector in BiH occurred during the war, resulting in a primary focus on servicing humanitarian needs rather than direct political engagement. According to a 2012 report prepared by the Technical Assistance for Civil Society Organizations (TASCO) and Civil Society Promotion Center (CSPC), more than 50 CSO networks are operational in BiH, largely focused on advocacy or related to specific sectoral work. There is inconsistency in the stated priorities of CSOs and the networks they work with, as well as competition among them, which is reflected in the duplication of activities. Representatives of the government and parties often claim that some CSOs are "donor driven" and that they do not have the legitimacy of those whose needs they claim to represent.

Most CSOs in BiH are represented by membership organizations that operate at the local level, in the form of small voluntary organizations with limited technical and organizational capacities in terms of participating in the formulation of public policies.

Focus groups' discussion on the roles of civil society and political parties and their interrelations has been focused on following questions:

- How involved are constituents, civil society, and the general public in the policy making process? Is the public introduced to party policies? What about legislative agendas and initiatives? What is the role of the media in this process?
- What kind of communication mechanisms exist between parties and CSOs, and amongst each of those? Are those functional? What attitudes/expectations exist about the two sectors that impact this communication? What could/should be changed to improve this communication?
- Are coalitions built between CSOs functional? What changes are needed? What should be the approach taken to implement changes?

Participants agreed that the participation of CSOs in the process of formulating public and party policies can contribute to more open and transparent work of legislative and executive institutions as well as improve effective implementation of those policies. There is an absence of real dialogue between political parties and civil society, which would be reflected in established approaches to expressing positions, exchanging arguments, and finding solutions on the basis of mutually-agreed positions. The situation

is aggravated by the lack of awareness on the part of political parties regarding the role and position of civil society in these processes, as well as in the lack of mechanisms for the promotion of dialogue and partnership. Many political parties claim in their statutes that they favor cooperation with CSOs in the process of formulating party policies, particularly at the stage of identifying problems and options. Some parties have made progress in terms of consulting with citizens and representatives of CSOs in the last few years, but most of these parties are yet to institutionalize this process.

Civil society and media representatives commented that politicians and parties often misuse CSOs which are aligned with them as a tool for reinforcing their political positions, but that this did not represent genuine solicitation of input. Participants pointed to examples of individuals who alternated between positions in parties and CSOs as evidence of political capture of certain segments of civil society. Others pointed out that there is some level of cooperation and exchange of ideas, but often only when parties are in opposition and seeking to improve their vote share among citizens. Civil society representatives felt that a negative atmosphere of name-calling often prevented true cooperation and input into policy proposals. A lack of positive examples of citizen input in political processes has resulted in decreasing energy and interest among citizens to participate in civil society initiatives.

Some parties organize regular meetings and public debates with the aim of informing citizens and representatives of civil society organizations about their policies. In many cases, they exclusively invite their supporters to these events, regardless of whether they are citizens or CSOs, and they are most active during election campaigns. Participants on both sides pointed out that the communication and connection between politics and civil society must be two-way, however it is often burdened with prejudice and tensions from the start. Party representatives commented that a stumbling block which prevents successful cooperation is the prevailing attitude among CSO representatives that participation in the policy-making process is a shortcut to gaining political access.

Another group of party representatives expressed the view that only a small number of CSOs can be included in the policy formulation stage because most do not have sufficient issue expertise, or knowledge about budgeting and law-making. Questions were also raised regarding their objectivity, impartiality and legitimacy. Often, CSOs selectively use monitoring and reporting processes and turn a blind eye to the practice of some of the parties, failing to criticize the parties they are close to for the same

mistakes that form the basis of their critiques of competing political factions. CSOs' proactivity in terms of cooperation with political parties emerged as a key issue, with participants stating it largely depends on the capacity of the organizations themselves as well as on their awareness regarding their need to proactively involve themselves in some processes. Participants noted that CSOs in Bosnia and Herzegovina are often heavily reliant on donors, which results in charges that they primarily focus on policies promoted by the international community that may or may not be of top domestic concern.

According to representatives of academia, CSOs in Bosnia and Herzegovina either have the technical capacity without social legitimacy, or vice versa. Some organizations have the skills to formulate public policies, but may lack insight into community priorities. Others are closer to the local community but struggle to analyze the needs of their networks and translate them into concrete policy proposals.

Focus group participants came up with several recommendations:

- The establishment of a single publicly available CSO registry could help in achieving better communication between the parties and CSOs. This registry would include information about CSOs' scope of work, capacities, and specific areas of expertise that would enable political parties to contact them for engagement in the policy development process.
- CSOs could take a more proactive approach in cooperating with political parties on policy development, while political parties should also work more on including CSOs and their expertise in this process.
- CSO activities should be aimed at the public by means of initiating debates which will include discussions issues which are primarily related to key reform processes in BiH.

Participants varied in their opinions on the role of the media in this process. While representatives of the academic community believed that political leaders communicate in an authoritarian manner of pure dissemination of their political positions, whether in their media appearances or other forms of public communication, political party representatives believed that the media in Bosnia and Herzegovina are not independent and professional, that they lack capacity to report on certain topics and that they are often inclined to sensationalism.

Media representatives themselves were of the opinion that there are honest and objective media outlets which consistently demonstrate independent and professional journalism just as there are those who fall under the influence of political parties who then abuse their media space. Media should be responsible for full and objective informing of the citizenry in order for them to be active participants in decision-making, especially when it comes to decisions at the local level. Having in mind that the media are the most important channel for informing citizens on how governments implement public policies and the most powerful weapon in raising the level of responsibility and transparency in government institutions, it is necessary for the media to be objective and to monitor and inform on the progress made.

There is much room for improvement of interactions between parties and civil society. In the process of public policy formulation, officials often forget the principles of participatory democracy and exclude representatives of civil society even when there are institutional mechanisms which legally regulate this. All stakeholders – political parties, government institutions, and CSOs – need to create sustainable mechanisms of communication and cooperation and to include all available resources in the decision-making process in order for the policies and priorities to reflect citizens' interests.

POLITICAL INCLUSION OF MARGINALIZED GROUPS – WOMEN AND YOUTH

Aiming to assess the level of political inclusion of women and youth, participant discussion included the following questions:

- What are the root causes for women/youth being underrepresented in politics?
- Are interest groups organized within parties, such as Women and Youth Forums, enough to meet the need for greater women/youth involvement?
- What could be changed/improved within parties' organization and processes? Is a gender quota enough to stimulate and increase number of women elected? What needs to be changed? How? What should be the focus of action for change?

Women

In the first multiparty elections in Yugoslavia in 1990, women won a negligible number of seats in government, with less than three percent nationally and five percent locally. A quota for women's representation on candidate lists in BiH was first introduced by the OSCE's Provisional Election Commission after local elections in 1997, obliging each political party to place at least three women among the top 10 candidates on their electoral lists. The introduction of quotas led to an increase in representation in the 1998 elections, with 26 percent in the state parliament. The existing gender quota calls for a minimum of 40 percent representation of both genders on electoral lists and mandates female candidates be placed in the first three, five, and eight positions for a minimum of three total in the top 10 candidates. The open-list model, introduced in the 2000 elections, granted women the same opportunity to be elected regardless of their placement on the list, if they managed to acquire sufficient votes. However, in practice this led to a decrease in women's representation, particularly in the state parliament, as male candidates received preferential votes that moved them up the list ahead of their female counterparts.

While the number of women on candidate lists in the last decade has remained around 35 percent, there has been a downward trend in terms of the number of women elected in local and general elections. The result of harmonizing the Election Law with the Law on Gender Equality in BiH from 2013 meant that that political parties became obliged to nominate at least 40 percent of women on electoral lists. Despite the improved opportunity, women's representation remains low, at only 19.9 percent across all levels of government.

Opinions of male and female representatives of political parties regarding women's marginalization in political life differed considerably. Both agreed that an important step forward was to harmonize the Election Law with the Gender Equality Law, providing for 40 percent of electoral lists to include the less represented gender, but there are no sanctions if a woman is not elected to an executive or legislative position. Most male participants consider that women bear a great responsibility for not being in decision-making positions because they are not ready to sacrifice themselves and they more easily give up than men, especially in fighting for their beliefs within a party. In addition, male participants described women as mostly focused on gender issues, using most of their energy on proving marginalization, thereby excluding themselves from other processes.

A small number of male representatives state that women are primarily marginalized within political parties and that their talents are unused.

Women representatives of parties see these issues from a different angle. They underline that both social and political marginalization of women exists, not in terms of legislation but on a cultural and traditional basis. They are of the opinion that quotas themselves mean nothing, and that there are great prejudices against women politicians, primarily within their parties as well globally. At the same time, women are not united to support each other and they mostly elect men. In elections, a few women receive a significant number of votes, but do not garner a reciprocal number of executive branch positions. There are a number of technical issues related primarily to the electoral lists where, as a rule, the second position is reserved for women as opposed to men, who in most cases dominate the lists as well as the top positions on the lists. Women are an immense resource and parties will soon have to change their behavior models in order to integrate women fully into political life.

CSO representatives expressed their belief that one of the reasons for inefficient involvement of women in politics is “passing the stereotypes and violations from generation to generation according to women genealogy, alienation in the democratic transition, gaining knowledge and experience in short courses and not sharing experiences with other women”. Representatives of women CSOs believe that the existing women's associations and forums are a good model for gathering women and creation of a critical mass which can fight in the future for a more favorable environment for their action, primarily within their parties, and then in other segments. Their cooperation with CSOs involved in the protection of women's rights and fighting for gender equality is necessary and offers great potential, particularly in the process of pointing to causes of problems and developing specific measures for their overcoming. For the time being, these initiatives have produced results in some parties, especially when it comes to the involvement of young women and training of women politicians.

One good example of interparty cooperation is the Women MPs Caucus established in 2013 in the FBiH Parliament, operating as an informal group. However, amendments could be adopted to the Parliamentary Statutes to enable its formalization, as it is still not possible to form multi-party clubs. The FBiH Women's Caucus is well-connected to CSOs which monitor and report on implementation of public policies, and members of

the caucus often use analysis and proposals prepared by CSOs when putting forward amendments to public policies.

While quotas represent significant progress for providing women with opportunities to participate in political life, parties' implementation is extremely poor. Political parties possess the greatest power when it comes to creating opportunities for women to take positions in legislative bodies. At the same time, not all political parties have taken the same strategic approach in addressing this issue. The number of women in decision-making positions (assemblies and parliaments) depends on degree of centralization of the process of selection of men and women candidates for delegates, and the mode of their selection. The appointment of women to decision-making positions is often met by negative attitudes of men who disparage gender equality within their parties and in government. Even women who have won a great number of votes face criticism that they reached the positions only because they are women, not because they have earned it by their work and quality and electoral results.

The number of women who occupy decision-making positions, is modest. Women associations and forums should mutually cooperate in particular with regards to creation of policies oriented to, for example, finding mechanisms for real increase of number of women in politics. If these forums and associations are places where women discuss general policies of their parties alone, they are only formally established as an indicator of willingness of leading party structures to provide women with room for discussion, the question is raised as to why they exist at all.

Youth

Although young people make up more than 20 percent of the electorate in BiH, their participation in the country political life is almost negligible. In general, there are two reasons for involvement of the young people in the politics. The first one is a true interest in political work and engagement, and the second one is faster career advancement. Young women and men are equally interested in EU integration, whereas interests in some other issues differ.

Taking into account the number of young candidates in the 2014 and in 2016 elections, it may be concluded that some parties have made a step forward and provided youth with an opportunity. Even though parties are interested in gaining youth votes, they are

not ready to include them in the policy adoption process or other decision-making. Some representatives of political parties who took part in focus groups consider that young people are not marginalized but that they exclude themselves, i.e. that there is no interest on their part in the policy creation process. They point out that room for improvement always exists, but that they expect young people to launch initiatives themselves. There are institutional mechanisms enabling young people to actively get involved in all the processes within parties (some parties prescribed youth quotas in their statutes). Joint conclusion at the focus groups' discussion was that young people are a great resource for any party, but in order for them to be more actively involved in party policy development processes it is necessary to provide them with further education.

Young people agree that participation in the political life is the best way to influence decisions and policy priorities of a particular political party. At the same time, a great number of them are not satisfied with the current landscape of political options. Participants have indicated that a number of young people are involved in the work of political parties due to economic considerations, and that they lack genuine political ambitions with respect to their engagement in a party. Others would like to build a political career, but consider that it is very difficult because parties already have built up systems preferring elderly and influential colleagues in positions of power. They point out that parties put them on lists only in order to attract young voters. Youth forums and associations are positively assessed both by experienced and young politicians, and young people generally see them as a place where some skills can be acquired, and where a political career can be built.

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