Free institutions are next to impossible in a country made up of different nationalities... Among people without fellow-feeling, especially if they read and speak different languages, the united public opinion, necessary to the working of representative government, cannot exist.

John Stuart Mill,
Considerations on Representative Government, 1861.

The Dilemma of Ethnic Quotas in Power-sharing Theory: The Case of Bosnia and Herzegovina

Nenad Stojanović

POWER SHARING AND GROUP REPRESENTATION

Today there is a broad consensus amongst the scholars of constitutional design according to which (1) it is more difficult to create and to maintain democratic institutions in divided societies than in culturally more homogenous countries, (2) the problem of an »ethnic« divide is potentially more destabilizing in non democratic or newly democratic countries, than in old and established democracies (Reynolds, 2002). So the well-known claim of John Stuart Mill that »free institutions« are »next to impossible« in culturally heterogeneous countries is still valid.

Since the late-1960s and early 1970s a large body of literature that explores Mill's »next-to-impossible thesis« has been developed. The prime example of this development is consociational theory, also known as power-sharing theory. Its most prominent advocate has been Arend Lijphart. This author adds a third element of »broad, albeit not absolute« scholarly consensus over constitutional design in culturally heterogeneous countries: (3) democracy in plural societies is possible if two cru-

cial institutional instruments are used: power sharing among different groups and group autonomy (Lijphart, 2004, 97)

Lijphart considers power sharing, especially in the executive, and group autonomy as two »primary characteristics« of consociational democracy. There are also two »secondary characteristics«: veto rights for minorities, and proportionality (both in terms of electoral rules and as an instrument for allocating jobs in the civil service) (Lijphart, 2004).

What is power sharing? »Power sharing denotes the participation of representatives of all significant communal groups in political decision making, especially at the executive level« (Lijphart, 2004, 97). Indeed, this claim is very intuitive. For instance, hardly anyone would argue that the post-Saddam Iraqi institutions should not include members of one or another of the three main ethnic and/or religious groups: Shiites, Sunnis, and Kurds. Similarly, it is self-evident that in the post-Dayton Bosnia and Herzegovina the common institutions need to include representatives of all three main groups: Bosniaks-(Muslims), Serbs, and Croats.

CRITICS OF POWER SHARING

Ever since its first developments, consociational theory has received extensive critiques (Barry, 1975; Lustick, 1997; Bogaards, 2000). Some of the critics have especially emphasized negative aspects of the very principle of *group* representation. According to Pippa Norris:

»[P]ower-sharing arrangements based on communal recognition of linguistic or religious groups may magnify the political salience of communal identities, by institutionalizing these cleavages and by providing electoral incentives for politicians and parties to heighten appeals based on distinct ethnic identities« (Norris 2005, 9).

Let me also stress that *group* representation, as such, is highly problematic with regard to the liberal theory of democracy based on *individual* rights and liberties. In fact, contemporary literature on liberal political philosophy is not particularly sympathetic towards group representation. Even an author like Will Kymlicka – one of the most prominent advocates of »multicultural citizenship« and, under certain conditions, of group rights for cultural minorities – raises many problematic questions when it comes to group representation through reserved seats, or ethnic quotas, in parliament and in the government. According to Kymlicka, within liberal theory of multiculturalism quotas or »special representation rights« may be defended only in two cases: (a) for groups that have been systematically discriminated against in the past (for instance African Americans in the United States), and (b) for representatives of constituent nations in »multination« states (Kymlicka, 1995, 138-144).

THE DILEMMA OF ETHNIC QUOTAS

In the light of the critiques of power sharing it is evident that we are faced with a fundamental *dilemma*. On the one hand, the importance of power sharing as »politics of inclusion« (Phillips, 1995) is widely recognized, both in theory (consociationalism) and in practice (in post-conflict settlements like Iraq, Afghanistan, Bosnia, Kosovo). In other words, there is no doubt that in deeply divided society state institutions ought to include representatives of all significant cultural groups, especially in the government.

On the other hand, there are important theoretical and empirical arguments that show that ensuring group representation through constitutional or other legal and mandatory rules may be counterproductive for the very goal that institutional designers wish to achieve: establishment of peace and stable democracy in plural societies. Ethnic quotas institutionalise ethnicity and ethnicize politics, they are based on the assumption that cross-ethnic confidence is totally lacking and, therefore, they reinforce instead of breaking inter-ethnic fears and distrust. Moreover, quotas typically ensure *inclusion* of groups, but do not necessarily foster *cooperation* between them (Bieber, 2005).

How can we resolve this dilemma? There is at least one possible solution: instead of using formal rules for group representation (for instance in form of rigid constitutional and/or legal rules) the integration of all major groups should take place through informal rules and indirect mechanisms that provide for group inclusion but that also incite cooperation. The main thesis of this essay is that we shall look at *informal and indirect* rules for group representation.

In the literature on consociationalism the distinction between formal and informal rules for group representation has not received particular attention. There is, in fact, a *lack of normative theory* that explores this

distinction. As for Lijphart, in his seminal work we can discover a lot of confusion and contradictions concerning this issue.

It is no wonder that in literature the understanding and the interpretation of this aspect of Lijphart's theory has been quite contradictory. Consider, for instance, two authors that have separately discussed the consociational model in reference to Bosnia. For Stroschein consociational model presupposes that »group differences *must be formally recognized and institutionalized* in order to guarantee their voice in governing structures« (Stroschein, 2003, 3; emphases added). Bieber, on the other hand, underlines that »power-sharing can be institutional or it can be part of a tradition« and states that »Lijphart instead suggests an *informal* means of power-sharing between the different groups, which would facilitate adjustment over time and, hopefully, the elimination of such divisions at some point in the future« (Bieber, 1999, 85; emphasis added).

In my view, the distinction between formal and informal formulas for group representation in plural societies is an important factor for success of power-sharing democracy and it deserves further theoretical and empirical examination. In this essay I explore the situation of one post-conflict country – Bosnia and Herzegovina – where formal and rigid quotas have been institutionalized at all almost levels of state institutions.

Bosnia and Herzegovina has a long tradition of application of the »(ethno)national key« in the institutional bodies. Political power (executive, legislative, civil service) has been shared among the three main »ethnic«[80] groups: Croats, Bosniaks, and Serbs. This system of »ethnic quotas« has been explicitly provided for in the Dayton Agreement. Nonetheless, a closer analysis shows a more complex situation at the local level. Rigid »ethnic quotas« exist in Sarajevo but they are much softer in Mostar. Finally, the Status of the District of Brčko does not provide for quotas but incite inter-ethnic cooperation and informal search for consensus.

80 I am not convinced that Croats, Bosniaks, and Serbs in Bosnia really constitute separate ethnic groups. Up to the 1992-95 war they were referred to as »peoples« or »nations«. But today »ethnicity« and related terms (like »multiethnic society«) are officially used in Bosnia and Herzegovina, in parallel with expressions like »people« or »nation«. Therefore, in this essay I will not refrain from using the term »ethnicity« and alike, with or without quotation marks.

BOSNIA AND HERZEGOVINA

There is a broad scholarly consensus that the post-Dayton Bosnia and Herzegovina largely fits the consociational model of power-sharing (Bose, 2002, 216; Belloni, 2004; Bieber, 2006, 148). One of the key elements of power sharing in Bosnia is the application of ethnic quotas for group representation at all levels of the government. According to Bieber, »Bosnia is probably the only country in the world governed by such a complex system with multiple power-sharing regimes and different systems of group representation at varying levels of governance« (Bieber, 2006, 144). Therefore this country is an interesting case in which to explore the impact of ethnic quotas in a divided society.

Bosnia and Herzegovina is divided in two entities: Federation of Bosnia and Herzegovina (also known as »Bosniak-Croat Federation«) and the Serb Republic. At the level of common state institutions ethnic quotas have been applied ever since 1996. In contrast to the Communist rule (1945-1990), when the principle of »equal representation« of all »peoples« has been informally respected in the Yugoslav Federation, and especially in Bosnia (Pupavac, 2000; Andjelic, 2003, 18-19), today group representation is mandated by legal documents. The presidency of Bosnia is composed of three members: one Bosniak, one Serb, and one Croat. The executive (Council of Ministers) has an equal number of ministers from all three groups chosen according to the same formula (1:1:1). Only the chair of the Council of Ministers, whose powers have been significantly increased in the past few years by the High Representative of the international community, escapes such a rigid rule (similarly to the Belgian prime minister). He is accompanied by two vice-chairs. Additionally, every minister has a deputy minister of another ethnicity.

It must be said that the system of ethnic quotas in the executive has been slightly softened in the early 2000s. In fact, the first law on the Council of Ministers of 1997 included a particularly rigid form of group representation based on the principle of parity between the three ethnic groups. For instance, the Council was not presided over by one chair but by two co-chairs and a vice-chair. Moreover, the two co-chairs rotated every eight months. But in 1999 the Constitutional Court declared the co-chairs unconstitutional, »the first major decision challenging a system of government in Bosnia which had gone beyond an already highly ethnified institutional structure« (Bieber, 2006, 52).

Still, according to the 2002 law on the council of ministers, »the overall composition of the Council of Ministers shall, throughout its mandate [...] ensure equal representation of the constituent peoples of Bosnia and Herzegovina«. Note, however, that the new law stipulates that *at least one* minister or the secretary general cannot be from *any* of the constitutional peoples.

At the legislative level, the upper camber (House of Peoples) is composed of 15 members, five from every constitutional people. The lower chamber (House of Representatives) is elected by the voters of the two entities. Two thirds of the seats are elected in the Federation and one third in the Serb Republic. But no seats are explicitly reserved for the national groups in this parliamentary chamber (Ibid., 54-55).

What has been the impact of such a rigid system of ethnic quotas in Bosnia and Herzegovina? International Crisis Group speaks of »denial of individual human rights« in its examination of the Bosnian constitution.

»[The Constitution of Bosnia and Herzegovina (BiH)] leaves no room for those who do not fit into the category of Bosniak, Croat or Serb or who simply would prefer to exercise their right not to belong to any group. [It] does not favour the protection of individuals in their own right. [...] The ethnic determinism and discrimination codified in the BiH Constitution contradicts modern European democratic values of civil liberty and human rights, where sovereignty rests with the citizens of a state, where positions and jobs in all state institutions are open to all, without discrimination on the ground of ethnicity, religion or otherwise.« International Crisis Group (1999, 21-23)

In its description of the upper parliamentary chamber (House of the Peoples) the term »institutionalised discrimination« is used. And Western and Sewer observe in their report written for the US Institute of Peace:

> *»The Dayton constitution includes provisions for group rights and ethnic representation that are inimical to the development of democracy. These provisions are hangovers from practices of Tito's Yugoslavia and need at the very least to be revised so that they do not favor extreme nationalists.«* (Western and Sewer, 2000, 6).

An important critique of ethnic quotas, and of the consociational model in general, comes from Belloni:

> *»The main problem has been that consociationalism has had limited effectiveness in promoting long-term cooperation and inter-ethnic compromise. Ethnic quotas reinforced the salience of ethnic identity and cleavages, entrenched many of the ethnic divisions that international intervention was supposed to soften and eventually overcome, and risked perpetuating instability. Without incentives for cooperation, it has been easy for politicians to win popularity by defending their national group and by portraying others as enemies. Consociationalism has an intrinsic dynamic that makes the political system inherently unstable and subject to collapse [...] [T]he post-Dayton experience has highlighted how consociationalism, combined with frequent elections and proportional representation, not only does not build the conditions for cooperation but is at odds with respect of individual human rights. Consociational arrangements favour collective over individual rights and contradict the liberal individualist paradigm underpinning international human rights norm.«* (Belloni, 2004).

These arguments illustrate that one of the main problematic aspects of ethnic quotas in Bosnia is their emphasis on group rights at the expense of individual rights and liberties. Even though the international community and some Bosnian institutions such as the Constitutional Court have tried to find a balance and to maintain group rights while preserving individual rights, it is inevitable that such a strong emphasis on ethnicity puts at risk rights and liberties of single citizens (Morawiec, Mansfield, 2003; Stojanović, 2005).

The system of ethnic quotas is far from being an exclusive feature of the common state institutions. It is applied in both entities, as well as within the cantons of the Federation (Bieber, 2006). In what follows I will lower the level of analysis and focus upon three local units: the municipalities of the three multiethnic cities of Sarajevo, Mostar, and Brčko. The reason for this choice is that only at this level we can find some interesting and innovative developments in the field of informal group representation in Bosnia and Herzegovina. If successful, they could find their way up to the upper institutional levels.

Sarajevo

The city of Sarajevo, the capital of Bosnia and Herzegovina, plays a particularly symbolic role in the whole region. Already at the end of the 19th century, the issue of adequate representation of all (ethno)religious communities in the city institutions was important. The provisory Status of the City of Sarajevo, adopted on 22 August 1878, at the beginning of the Austro-Hungarian occupation of Bosnia, stipulates that the legislative body (*Opštinsko zastupstvo*) shall be composed of 12 Muslims, six Christian-Orthodox, two Catholics, and three Jews. The mayor had to be a Muslim and his deputy a Christian-Orthodox. In the following years, due to a rise of the Catholic population, the Statute was modified in order to ensure six legislative seats and the office of the second deputy mayor for the representatives of this group (see: Internet 1).

Today there are many official documents in which the formal ethnic quotas are mandated for the city of Sarajevo. The Constitution of the Federation of Bosnia and Herzegovina (Amendment XXVI) states that »the composition and the decision-making process of the institutions of the city of Sarajevo ought to reflect its multiethnic and peculiar character«. The Status of the City of Sarajevo (Art. 21) stipulates that »Bosniaks, Croats and Others shall have guaranteed individually a minimum of 20% of places in the City Council regardless of the electoral results.«[81] In the Protocol over the organisation of Sarajevo of 25 October 1996 it is stated that »at least one deputy of the mayor and of the president of the City Council need to be a Croat or a representative of the group of Others«. As far as the composition of the executive is concerned, the Protocol demands that »Croats and the group of Others shall have, each, the guaranteed minimum of 15 to 20% seats in the City Government«. The multiethnic composition of the city is also ensured within civil service.

Note that these dispositions do not explicitly regulate the presence of the representatives of the Serb community in the city institutions. Nevertheless, the modifications and the amendments of the constitution of the Federation of Bosnia and Herzegovina, imposed by the High Representative on 19 April 2002, define »Bosniaks, Croats, and Serbs« as »constituent peoples« on the whole territory of the Federation. Therefore, the Serbs who live in the Federation have formally the same

81 Official translation.

rights as Bosniaks and Croats. At the same time, Bosniaks and Croats (re)gained the status of »constituent peoples« in the Serb Republic.

In December 2004 the Constitution of the Canton of Sarajevo was modified accordingly. However, up to 2006 the Statute of the City of Sarajevo had not been changed in order to respect the decisions of higher institutional levels. This caused a major political crisis in March/April 2005 as the new City Council was constituted, in the aftermath of the local elections held in autumn 2004. It shall be noted that the 28 members of the Council are not directly elected by the people. They are selected by the legislatives of four municipalities that form the city of Sarajevo. Now, as a result of that selection in the new City Council there were 16 Bosniaks, four Croats and three Others, but no representative of the Serb community. The Social-Democratic party (SDP) refused to nominate its 5 representatives by evoking the unconstitutionality of the new composition of the Council. In fact, other parties, especially the main Bosniak party of Democratic Action (SDA), claimed that it is up to the SDP to fill its share of seats with Serb representatives. But the SDP refused to do this. Moreover, the two highest political positions in the city of Sarajevo – the office of the mayor and the office of the president of the City Council – were held by Bosniaks/Muslims.[82] Because of this situation, the oppositional parties – especially the Social-Democrats – appealed to the High Representative.

The experts of the SDP found out that it was the first time since 1878 that the two key offices of the city of Sarajevo were occupied by representatives of the same national group (Večernji list, 2005). In one of its last press releases, the outgoing municipal executive (mostly composed of Social-Democrats) declared that a mono-ethnic power would be a »mortal strike to the bright tradition of multi-ethnicity in the city of Sarajevo« (24sata.info, 2005). The former SDP mayor Muhidin Hamamdžić, who had been in office from 2000 to 2005, stated that the election of the new City Council was a »conspiracy of the nationalist parties that want to destroy the city as institution« (Bljesak.info, 2005). The former president of the City Council, also a Social-Democrat, said that with such a decision »Sarajevo gives a bad example to other cities, insofar it shows that it is not necessary anymore to respect the Constitution of Bosnia and Herzegovina and the constituent character of the peoples.«

82 A Bosniak woman was elected mayor, whereas the elected president of the City Council declared that his nationality/ethnicity was Muslim. Therefore, he was classified in the category of Others.

The official request for a review of constitutionality of Article 21 of the Statute of the City of Sarajevo and for the annulment of the appointment of councillors to the City Council of Sarajevo was submitted to the Constitutional Court of Bosnia and Herzegovina on 15 March 2005 by Nikola Špirić, first deputy chair of the lower house of the parliament of Bosnia and Herzegovina.

On 22 April 2005 the Constitutional Court adopted its »Decision on Admissibility and Merits« in which it unanimously accepted the request of Mr. Špirić with the following explanation.

»The provision of Article 21 para 3 of the Statute and the constituting of the City Council of the City of Sarajevo on the grounds of the contested decision on the selection of Councillors are not consistent with the last sub-paragraph of the Preamble of the Constitution of Bosnia and Herzegovina [Bosniacs, Croats, and Serbs, as constituent peoples (along with Others), and citizens of Bosnia and Herzegovina hereby determine that the Constitution of Bosnia and Herzegovina is as follows] in conjunction with Article 5 para 1(c) of the Convention of Elimination of All Forms of Racial Discrimination and the Decision of the Constitutional Court on Constituent Peoples No. U-5/98 because the contested provision does not include Serbs as the constituent people but only Bosniacs, Croats and because it does not provide the same guarantees to Serbs as it does to Bosniacs, Croats and Others of having a minimum of 20% seats in the City Council of the City of Sarajevo irrespective of the election results.« Constitutional Court of Bosnia and Herzegovina (Case No. U-4/05; official English translation).

We can conclude that the unconstitutionality of the Statute of the City of Sarajevo was directly drawn from the concept of three »constituent peoples« fixed in the Constitution of Bosnia and Herzegovina. That means that in the whole territory of Bosnia and Herzegovina there can be no formal privileges for only one or two peoples, without mentioning the third group (»[...] all peaces of legislation in Bosnia and Herzegovina must be harmonized with the Constitution of Bosnia and Herzegovina as the highest legal act«, U-4/05). In a previous decision (U-5/98) the Court concluded that »[...] the constitutional principle of collective equality of constituent peoples prohibits any special privilege for one or two of these peoples, any domination in governmental structures, or any ethnic homogenization through segregation based on territorial separation [...]«.

However, it remains unclear how would the Constitutional Court react if the Status of the City of Sarajevo had *not* mentioned *any* of the constituent peoples and if had not included any provisions about the minimum number of seats for diverse communities.

Further, it is important to keep in mind that behind the protests of some political formations – especially the Social-Democrats – there were probably also purely political balance-of-power motivations. In fact, up to the 2004 elections the SDP was on power in the city institutions. In the 2004 elections the SDA improved its share of votes. So, although the request for a multiethnic composition of the City Council certainly represents a genuine political claim of an explicitly multi-ethnic formation like the Social-Democratic party, this party might have profited from this occasion in order to gain more power in the City Council than their election results would have allowed for. In favour of this thesis speaks the fact that in the first composition of the City Council (March 2005) there were 13 members of the SDA whereas 5 seats were attributed to the SDP. Moreover, two members of the SDA were elected mayor and president of the City Council. After the decision of the Constitutional Court in the second composition of the City Council (June 2005) the number of the SDA seats shrank to 11 whereas the SDP doubled their share from five to ten. Moreover, the SDP took the presidency and one of the two vice-presidencies of the Council.

In the aftermath of the decision of the Constitutional Court, the leaders of the main parties reached an agreement over the election of the new members of the City Council. So in June 2005 a new City Council was constituted and had the following composition: fourteen Bosniaks, six Serbs, five Croats, and two from the group of Others. Note that, according to the newspaper reports, one councillor »did not want to declare to which nationality he belongs« (Nezavisne novine, 2005). A Croat from the SDP was elected president of the Council, together with two deputies (a Bosniak and a Serb).

Mostar

During and after the 1992-95 war the city of Mostar was divided between Croats and Bosniaks. Only on 28 January 2004 did the High Representative succeed in imposing a Statute of the City. This Statute

contains articles concerning the composition of the city parliament and of the city government.

According to the Statute (Article 16) among 35 member of the City Council (parliament) there need to be »at least one representative of each constituent people [Bosniaks, Croats and Serbs] and one of the group of Others«. It is also said that there cannot be more than 15 councillors of the same people. The scope of this disposition is clearly to prevent one or another community from gaining the absolute majority in the City Council. Moreover, the Statute stipulates that the president and the two vice presidents of the City Council »cannot belong to the same constituent people«.

The executive power is represented by the mayor. He or she must be of a different ethnic group with respect to the president of the City Council (Article 26 of the Statute). In order to be elected, a candidate needs to gather a two thirds majority in the City Council. If no candidate succeeds in obtaining this majority in the first two rounds of the election, in the third round the candidate with the highest number of votes will be elected. If in the third round two or more candidates gather the same number of votes, the youngest among them will become mayor (Article 44 (5) of the Statute).

Power sharing in Mostar's institutions does not end here. The mayor is accompanied by a »main advisor« who needs to belong to a different ethnic community with respect to the mayor (Article 51 (4) of the Statute). It is an important function because the main advisor also runs the mayor's cabinet and coordinates all major activities of the communal administration.

What conclusions can we draw from the case of Mostar? First, it is a softer system of quotas with regard to Sarajevo. The Statute of Mostar ensures a minimal presence of all ethnic communities but it never nominates them. Second, the Statute clearly reflects the wish to avoid that any of the »constituent peoples« detain the absolute majority in the parliament. Such a disposition is absent in Sarajevo. Third, there are internal mechanisms that shall incite the inter-ethnic cooperation because they oblige all communities to collaborate and to build coalitions outside of the respective groups. This is very evident if we consider the electoral formula for the election of the mayor and the position of the »main advisor« to the mayor with a different ethnic background.

Brčko

The third case of application of quotas at the local level is the district of Brčko, in the very north of the country. It is the only part of the Bosnian territory that belongs neither to the Serb Republic nor to the Federation. Because of its special status, the international community wanted to create here a symbolic example of multiculturalism in Bosnia. The Status of the District of Brčko is the result of an arbitrage of the international community. It was adopted on 7 December 1999 and applies from March 2000. However, until the 2004 district elections the members of the parliament and the mayor of the district have been appointed by the international supervisor (Bieber, 2006, 135).

The Status does not contain almost any formal and explicit rules concerning power sharing among different groups, neither in the district parliament nor in the government. Rather, it encourages the search for consensus. This is very clear if we look at the rules concerning the elections of the president of the parliament and of the president of the executive (mayor). Candidates to both functions need to gather 3/5 of the votes in the City Council. In the second turn the simple majority is required.

There is only one reference to the system of quotas and it is rather soft and implicit. The Status of the District stipulates that the mayor chooses and dismiss the chief of divisions (members of the cabinet) »according to professional criteria« and with respect to the »composition of the population« (Article 48(2) of the Statute). In addition, 3/5 of the members of the City Council can oppose a veto against the choice of the mayor. After the 2004 elections, the first mayor nominated by the parliament was a Bosniak, whereas the president of the parliament was a Serb. Croats obtained one of the deputy positions. This shows that even without explicit and formal quotas power sharing can be ensured through informal and/or indirect mechanisms that foster inter-ethnic cooperation and consensus.

An explicit reference to ethnic quotas can be found, however, in the Brčko's Election Law of 2003. According to this law in the parliament of Brčko three seats ought to be reserved for each of the three constituent peoples. It shall be stressed that this provision had been introduced against the original plan of the international supervisor who did not want to have any reference to ethnicity (Ibid., 137). In spite of that con-

cession, not everybody was satisfied with the proposed parity formula. »In reaction to the draft election law, the Croat Councillors requested a higher guaranteed minimum representation in the Assembly and protection of ethnic groups' vital national interests. The Assembly rejected both requests, leading to a temporary walk out of Croat councillors« (OHR, 2003). This episode shows the difficulty to abandon ethnic quotas in the present-day Bosnia.

The case of Brčko represents an exception in the Bosnian context that is clearly dominated by the paradigm of formal ethnic quotas at all institutional levels. It can be considered as an institutional experiment, in which the ethnic criterion has been put aside, by encouraging professional criteria and the search for consensus. It is still too early to express a judgement on the efficiency of the experiment of Brčko. Nevertheless, its very existence shows that even in a post-conflict society like Bosnia it is possible to imagine and implement solutions that do not institutionalize ethnicity and that allow for a different mode of government of public affairs.

CONCLUSION

How to ensure peace and democracy in a multicultural country, deeply divided by linguistic, religious or »ethnic« fissures? This is one if the major challenges for institutional designers. Consociational or power-sharing theory represents a major attempt to find institutional answers to this challenge.

One of the key features, and arguably the most important one, of consociational democracy is power sharing in the executive. According to this principle, all main cultural groups need to be represented in the common government. The goal of this essay has been to illustrate and to analyse different forms of consociationalism by emphasising the distinction between formal and informal ethnic quotas for power sharing. According to my thesis, formal quotas are not a good institutional response to the challenges that plural societies face.

Formal quotas institutionalize ethnicity and make inter-ethnic cooperation more difficult. They put restrictions on personal liberty of the citizens who should be free to define their own identity. Because of their inherent rigidity, they do not allow to for societal and identity transformations.

Nevertheless, I recognize the utility of the principle of power sharing for maintaining peace and democracy in a divided society. The presence of all relevant groups in the institutions of a multicultural country is a self-evident necessity. Moreover, it is a fundamental liberal democratic right to allow to all members of a society to have the possibility to participate with equal opportunities and without discriminations in the public life, independently of their ethnicity, religion, mother tongue or other identity characteristics.

So this is a major dilemma for constitutional designers in plural societies. On the one hand, we shall recognize the benefits of power sharing among different groups. But, on the other hand, we also observe negative impacts of a system of rigid and formal ethnic quotas. My thesis highlights one possible solution to this dilemma, by stressing the importance and the role of informal and unwritten rules that ensure the presence of and foster the cooperation among different communities. Some recent developments in the literature on power sharing also go in this direction (Bieber, 2005).

I have chosen to look at one country that in the literature on plural societies has been often described as an ideal-type of consociational democracy (Belloni 2004). In the post-Dayton Bosnia the quotas have been defined and applied in a very rigid way and are today strongly criticized by scholars and both local and international observers. However, the picture is more complex if we look at local and regional institutional levels in the two countries. By exploring the cases of three cities in Bosnia and Herzegovina (Sarajevo, Mostar, and Brčko) we can discover a variety of solutions to power sharing. Such empirical examples enrich our knowledge in this field and open up prospects for the development of a new theoretical approach that copes with the issue of formal and informal quotas in culturally heterogeneous societies.

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ON THE DECENNIAL OF THE DAYTON PEACE AGREEMENT

ZAHODNI BALKAN - EVROPSKI IZZIV
OB DESETLETNICI DAYTONSKEGA MIROVNEGA SPORAZUMA

EDITED BY /
MILAN BUFON
ANTON GOSAR
SAFET NURKOVIĆ
ANDRÉ-LOUIS SANGUIN

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Urednica: *Vida Rožac Darovec*
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Korekture: *Ana Tominc*
Recenzije: *Jernej Zupančič, Vladimir Klemenčič*
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