



SFOR
LESSONS LEARNED

IN CREATING
A SECURE ENVIRONMENT
WITH RESPECT FOR
THE RULE OF LAW



Based on a Study of Bosnia
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TEAM MEMBERS

Team Chief

LTC Mac Warner
US Army Peacekeeping Institute
Carlisle, PA

Team Members

COL Mike Dzedzic
National Defense University
Washington, D.C.

MAJ Tyler Randolph
Center for Law and Military Operations (CLAMO)
The Judge Advocate General's School
Charlottesville, VA

MAJ Peter A. Garcia and Susan Remis Silver
153d Legal Support Organization
Norristown, PA

Sandy Levinson
Office of Bosnia Implementation
US State Department
Washington, D.C.

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ABSTRACT

The pre-eminent lesson from the Bosnia experience is that the military may have an indispensable role to play in securing an environment that is conducive to the rule of law. This was essential in Bosnia because each of the three formally warring ethnic communities (Bosniaks, Croats and Serbs) is controlled by power structures that obstruct development of institutions essential to the rule of law as reflected in the Dayton Accord. These power structures consist of nationalist and obstructionist politicians who rely on formal political party structures as well as extra-legal security services (secret intelligence, police, and paramilitary) and transnational criminal syndicates to sustain themselves in power. These “unholy alliances” maintain their hegemony through a monopoly of violence and control over patronage. In spite of extensive efforts by the international community to construct the formal institutions of democratic governance established at Dayton, including the rule of law, the reality is that these efforts are co-opted and corrupted by Bosnia’s illicit and criminal power structures. Until the political environment is shaped to defeat these structures and provide a basis for the rule of law, efforts to reduce and ultimately withdraw the international presence by turning “ownership” over to local authorities will do little more than consolidate political and economic power in the hands of these “unholy alliances.” Unless effective measures are taken to secure the Bosnian environment with respect to the rule of law, it is most likely that our long-term interests will be thwarted, including prospects for sustainable peace.

At the moment, only SFOR has the coercive capacity and intelligence assets to combat these power structures; however, SFOR certainly cannot shape the environment needed to sustain the rule of law alone. This is a realm of operations that is unfamiliar and uncomfortable for military commanders. Sophisticated civilian expertise in law enforcement, organized crime, police matters, and related analytical specialties are also essential. Available civilian tools—such as the power to pressure through public exposure, to condition aid on reforms, and to dismiss officials or decertify candidates or parties from the electoral process (although SFOR’s presence is also essential for these measures to be respected)—must also be used. The international community (IC) must simultaneously act to prepare local institutions (police, judiciary, penal system, and legal code) to assume ultimate responsibility, while also developing domestic and international safeguards to ensure the old regime does not reassert itself once the international military presence transitions to a longer-term more modest posture. A focused campaign plan to shape the environment in the near term while IC resources are available is essential to provide the basis for the rule of law and enduring peace in Bosnia.

Generalizing from this experience, the most fundamental implication is that a peace operation must clear the way for the rule of law if a durable peace is to emerge from the disorder of internal conflict. This does not require a utopian outcome or dabbling in social engineering. The legal system must, however, be perceived as sufficiently capable and just by the former warring factions that violence does not again become a preferred option for change. Although establishing a basis for the rule of law is *not sufficient* to guarantee self-sustaining peace, it is *essential* to creating a climate that promotes free-market economics, attracts investors, and fosters a political environment where corruption and crime do not pervert the electoral process.

In seeking to promote the rule of law the international community faces three basic challenges that must be addressed together in a coordinated manner. There are the transitions from:

- ❑ Disorder to Order;
- ❑ A Hostile to a Permissive Environment; and
- ❑ Institutional Incapacity to Capacity.

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EXECUTIVE SUMMARY

A. INTRODUCTION

While in command of the Stabilization Force (SFOR) in Bosnia, General Montgomery C. Meigs requested the U.S. Army Peacekeeping Institute to:

...study and capture SFOR lessons learned in creating a secure environment with respect for the rule of law. This SFOR task also involves a supporting task—assistance to the IC [International Community] effort to fight crime and corruption. I intend the resulting product to be used by the U.S. Army, SFOR and the follow-on-force and by the IC, to include the OHR and the IPTF.¹

Colonel George Oliver, Director of the United States Army Peacekeeping Institute (PKI), tasked his legal advisor, LTC Mac Warner to assemble a team and execute the mission. Warner assembled: Colonel Mike Dziedzic from the National Defense University; MAJ Tyler L. Randolph from the Center for Law and Military Operations; and Sandy Levinson from the Office of Bosnia Implementation, U.S. Department of State. The team went to Bosnia-Herzegovina October 29 – November 18, 1999, and out-briefed GEN Meigs and LTG Adams November 16-18, 1999. Upon their return, MAJ Peter Garcia and Susan Remis joined the team to assist in writing this report.

This report offers an assessment of SFOR lessons learned in creating a secure environment with respect for the rule of law. It is intended to assist decision-makers to capture these lessons and to help guide future courses of action in Bosnia and elsewhere.² Ultimately, the aim in Bosnia is for the institutions of public security to relate to the political process and society in a way that sustains the rule of law and conforms to internationally accepted standards of conduct so as to prevent a return to violent conflict and war.

B. METHODOLOGY

The team used the following approach:

1. Gathered and studied background materials such as analytical reports, strategies, UN Resolutions, the General Framework and Agreement for Peace in Bosnia-Herzegovina (“GFAP” or “Dayton Accord”), and other materials from the UN, the Office of the High Representative, and various non-government organizations (NGOs), such as the European Study Initiative (ESI), and the International Crisis Group (ICG).

¹ October 13, 1999 letter from GEN Meigs to COL Oliver, Director of PKI.

² Our intended audience is the US Army and US policy makers. This report is kept unclassified in the expectation that it may be shared with NATO and other allied forces, yet there was no explicit intent to capture NATO, UN, or other international organization input or lessons learned.

2. Interviewed approximately eighty key international community and military (SFOR) players. This included leaders, representatives and members of SFOR, (including the Multinational Special Unit, MSU); the Office of the High Representative (OHR); the UN Mission in Bosnia and Herzegovina (UNMIBH) (including the International Police Task Force (IPTF)); the Organization for Cooperation and Security in Europe (OSCE); the International Criminal Tribunal for the Former Yugoslavia (ICTY); the U.S. Embassy and Agency for International Development (USAID); the Council of Europe (CoE); the European Commission Customs and Fraud Assistance Office (EC-CAFAO); the American Bar Association Central Eastern European Law Initiative (ABA CEELI); and a variety of other governmental and non-governmental organizations.
3. Developed a set of interview questions. At the end of each day, team members compared notes, discussed key points, captured preliminary lessons, and identified issues to be pursued with other interviewees. On several occasions the team assembled to reach consensus on the content and format of this report and to begin the writing process. Upon return to the United States Army Peacekeeping Institute, Carlisle Barracks, Pennsylvania, the team gathered the information into a working document.³

C. ASSUMPTIONS

1. Currently, peace is not self-sustaining in Bosnia.
2. Significant international commitment (political will and resources) beyond twenty-four (24) months is suspect.
3. Annex 1A of the Dayton Peace Accord will not be changed during this period.

³ While our recommendations endorse SFOR's active role in securing the environment with respect to the rule of law, we also endorse SFOR's position that establishing the rule of law is predominately a civilian function. The contribution of military forces must be prudently integrated with the many vital activities of their civilian counterparts. On the issue of engaging anti-Dayton forces, this report does not attempt to speak for the people we interviewed, as some of them may not agree with our recommendations (see non-attribution policy). What this report does do, is draw conclusions from consistent themes developed during our interviews and then make logical deductions from those conclusions.

D. A VISION

Every engagement -- whether the mission involves war, peace, or humanitarian relief -- should have a vision. That vision must be translated into a realistic and attainable end-state, and in most cases, that desired end-state is a *self-sustaining*, non-violent self-rule. The vision for Bosnia is to continue toward democracy and a viable free market economy and not slip back into a state of war and chaos.



The economy is key to long term peace and stability. Old factories lay dormant, as this one in Brcko. The people await jobs, opportunity—a stake in something that will make war not worth waging.

We have learned in Bosnia that an environment conducive to rule of law is a necessary condition to such an end-state. The military must frequently play a role far beyond simply stopping the bullets. Instead, the military must work closely with civilian organizations to develop coordinated strategies to shape the environment so that the rule of law can take root by defeating the power structures that thwart this process. While this task is being addressed, civilian authorities can strive to develop the institutional capacity for the rule-of-law to flourish.

E. DISCUSSION

A self-sustaining peace has not yet been obtained in Bosnia. IFOR quickly implemented Annex 1A (military tasks); however, there has not been similar success in civilian implementation. Included in IFOR and SFOR's Annex 1A responsibilities are "supporting tasks," and one of the areas that this includes is support in the area of rule of law. The resolve of the International Community (IC), including SFOR, has peaked, however, leaving only a limited period to establish a basis for the rule of law. After four years, "Bosnia fatigue" has become a major consideration.

We recognize that as stated in Joint Publication 3-0, Doctrine for Joint Operations: "Successful military operations may not, by themselves, achieve the desired strategic end-state." Some commanders have strongly advocated that there are three components to our Bosnia strategy: military, political, and civilian. They maintain the military has been successful, and it is the political and civilian sectors that remain to be completed. Our report, however, attempts to answer the charter given by GEN Meigs in his letter: "...capture SFOR lessons learned in creating a secure environment with respect for the rule of law." Responding to this task entails inquiring into what the

SFOR Lessons Learned In Creating a Secure Environment With Respect For The Rule of Law

military has done right, what it has done wrong, and what else it should be doing, if anything, *to help establish a secure environment for the rule of law.*⁴

Whether the Dayton Accords can be self-sustaining in the long run remains to be seen. While many of those involved fear time may run out before a self-sustaining peace is achieved, they believe that a continued effort should be made. Thus, if SFOR were to be successful in securing the environment with respect for the rule of law, this could fundamentally alter political dynamics inside Bosnia in a way that is supportive of the peace process. If we don't succeed, the consensus is that the Dayton-created rule-of-law institutions (Presidency, Parliament, Constitutional Court, etc.) will not flourish and the three ethnic communities comprising Bosnia will probably return to hostilities in some form. The people of Bosnia, as well as the international community, would pay dearly once again.

The course of action most likely to succeed, given existing power structures and the time remaining, is to attack the “unholy alliance” or “iron triangle” comprised of: (1) leading organized crime figures, (2) nationalist corrupt politicians, and (3) secret police, paramilitary, and intelligence capabilities used to obstruct Dayton and subvert the rule of law. The intent of such a strategy would be to break the domination of the political process by this “iron triangle.”

This strategy is represented by the highly lucrative WESTAR Operation.⁵ This operation had almost unanimous support across the IC after the results became known. Accordingly, SFOR should build on this momentum, and continue to play to its comparative advantages in this arena. SFOR, with its intelligence gathering and analytical capabilities, could make it a priority to target these criminalized power structures. SFOR could also lend its support to an extensive information campaign to articulate both to Bosnian and international audiences why the notorious underworld figures, criminal organizations, and illicit intelligence operations that the international community has targeted are a demonstrable menace. Additionally, SFOR should continue its assistance to jump-starting an independent judiciary, so that legitimate mechanisms are in place to handle prosecutions.

⁴ Like many others, there was debate among this Team as to the wisdom of current international policy in Bosnia – that of trying to force a multiethnic society onto people who have not shown a propensity or desire for such a system. Yet, the time for that debate within the military was prior to Dayton, or now, as part of forward-looking staff processes. It is inappropriate for military commanders to choose courses of action, or engage in second-guessing, that undermine existing policy. Dayton represents existing policy and it deserves every fair shake at success. In accordance with our charter from GEN Meigs, this report provides lessons learned with regard to the effectiveness of Dayton, and provides reasonable recommendations as to how Dayton may yet succeed. Perhaps more importantly, the lessons learned in Bosnia may provide the template for success in future “failed state” operations.

⁵ “WESTAR” was an operation that attacked anti-Dayton activity in the predominantly Croat-controlled portion of Bosnia. Its genesis was a series of confrontations and failed operations at Stolac. But, persistence paid off when SFOR used information gained at Stolac, and put that information to use in another location, west Mostar (thus the name, “WESTAR”).

International civilian organizations and their capabilities (e.g., political pressure, public exposure, firing obstructionists, decertifying anti-Dayton candidates, reinforcement of the police and judiciary to seek convictions in Bosnia or extradition) should continue to be used in tandem with SFOR's supporting efforts. The overall campaign must be under the civilian lead of the OHR, as the desired end-state is for OHR to assist local civilian agencies to develop an autonomous capacity to administer justice and maintain the rule of law. Until the environment has been secured so that these civilian activities can be successful, however, SFOR will have an essential supporting role. Therefore, SFOR's campaign strategy should continue to both include OHR and involve efforts in tandem with those of OHR.

For the purpose of establishing the rule of law, it is counterproductive to make pronouncements about SFOR's "exit strategy." Instead, we should develop a variety of "transition strategies" designed to leave in place the domestic and international safeguards needed to sustain the rule of law. We should facilitate the efforts of civilian counterparts in the international community to create the conditions necessary for the implementation of the rule of law over the long haul. Finally, there is a need for an overall facilitator, cutting across bureaucratic lines. In Bosnia, SACEUR has provided a facilitator to integrate military contributions with the multiple civil actions required to address this task. The facilitator function has proven extremely valuable in Bosnia and provided valuable lessons learned—ones that should be used in other deployments.

Doctrinally, there is a firm basis for U.S. military engagement in shaping the environment so that rule of law may take root. U.S. military involvement in Bosnia has helped define the who, what, how, when, and where of such initiatives. An effort to advance, or at least further articulate, this aspect of doctrine is found in Task #2 below.

For the rule of law to emerge from the disorder of internal conflict in Bosnia, the international community must be able to overcome the distinctive challenges associated with three basic transitions:

Task 1: From Disorder to Order.⁶ Ensure the cessation of hostilities. This is primarily a military task. In Bosnia, this was done in rather short order by IFOR.

Task 2: From a Hostile to Permissive Environment. Shape the environment so rule of law can take root.⁷ This may require military contributions; however, they must be in support of and combined with the broader civilian effort. At issue is the relationship of the local public security establishment to the governing elite and to society. If the context in which these institutions must operate is fundamentally hostile to the rule of law, institution-building efforts will be vitiated. Thus, the international community may need to guide the transition to a more permissive environment if the rule of law is to evolve. The military

⁶ These tasks are not sequential in nature, but overlap – especially in Tasks 2 and 3.

⁷ Just establishing "peace" that is an absence of overt, large-scale fighting is not enough. *Sustainable peace* that can outlive IC presence must be the goal. Peace "with justice" – that is, with respect for the rule of law—is essential to that aim.

contingent may be required to play a supporting role by securing the environment with respect to the rule of law. In the Bosnia case, this entails crippling a select number of organized criminal networks and extra-legal power structures that exert an overweening influence in political power in each ethnic community.

Task 3: From Institutional Incapacity to Capacity. Building institutional capacity is primarily a civilian task. Here, the emphasis is clearly on civilian activities, but upon request, the military can provide specific assistance. In Bosnia, the OHR has recognized the unique blend of civilian legal expertise and military experience in Reserve and National Guard attorneys and has put them to good use in the field. Such arrangements provide win-win scenarios for all involved.



Destruction driven by ethnic cleansing. Many say the ethnic and religious differences in and of themselves were not the cause of the war. Rather, these differences were exploited to influence the masses, control land, and solidify power for nationalist leaders.

MAIN REPORT

INTRODUCTION

The “rule of law” is a process by which conflicting interests are aired, mediated, regulated, and resolved in a non-violent fashion through governmental institutions (such as national and local legislatures, national and local executive agencies, and law enforcement entities, such as the police and judiciary) that are accountable to the public. For peace to be sustainable, this process must be perceived as sufficiently capable and just by the former warring factions that violence does not again become a preferred option for change. A democratic rule of law implies legitimacy in both substance and procedure, with everyone in the society considered subject to the law. Providing the basis for the rule of law alone is not sufficient to guarantee self-sustaining peace, but it is a key ingredient as it is essential to creating a climate that promotes free-market economics, attracts investors, and fosters a political environment where corruption, crime and nationalist extra-legal power structures do not pervert the electoral process.

Promoting the rule of law during a peace operation entails three concomitant transitions:

1. From Disorder to Order (Ensure cessation of hostilities, making it possible for future conflict to be resolved in a non-violent manner.);
2. From a Hostile to a Permissive Environment (Shape the environment so that rule of law can take root...so that the institutions responsible for law, order, and justice can be held accountable by the public.); and,
3. From Institutional Incapacity to Capacity (Build the capacity of institutions responsible for law, order and justice to perform their necessary functions.).

At issue in this report is the degree to which military forces should be involved in providing a secure environment that enables the rule of law to take root. To assess this issue, we have divided this report into sections addressing these three transitions for establishing the rule of law (i.e., from disorder to order, from a hostile to a permissive environment, and from institutional incapacity to capacity). We discuss the extent of military involvement in each of these tasks, giving greatest attention to the second task since it is the least understood and is the area of greatest doctrinal advancement. It is also vital to success in operations such as Bosnia.

NATIONAL SECURITY STRATEGY

“ENGAGEMENT”

The December 1999 National Security Strategy emphasized the strategy of “engagement.” With regards to Bosnia, it says, “Full implementation of the Dayton Accords is the best hope for creating a self-sustaining peace...” We advance America’s national interests by opening international markets, and creating conditions where “democratic values and respect for human rights and the rule of law are increasingly accepted.”

NATIONAL MILITARY STRATEGY

RESPOND, SHAPE THE ENVIRONMENT, PREPARE

Our national military strategy has three prongs: (1) respond, (2) shape the environment and (3) prepare.

1. Respond: The first stage of the Bosnian deployment - our initial response - was a clear and swift success. After the United States sponsored peace talks in Dayton, Ohio between the warring factions, the US National Command Authority (NCA) directed the US Military to respond as part of a NATO-led coalition. IFOR and SFOR stopped the fighting, separated the warring factions, and, by all accounts, performed a highly professional and efficient job responding to the situation under a close interpretation of Annex 1A of the Dayton Peace Accords.

2. Shape the Environment: The most problematic task is to shape the environment. SFOR, by its mere presence in the Balkans, has shaped the environment in South Central Europe. However, the Bosnian environment is not yet conducive to rule of law—a pre-condition for self-sustaining peace. At issue is the relationship of the local public security establishment to the governing elite and to society. If the context in which these institutions must operate is fundamentally hostile to the rule of law, institution and peace-building efforts will be vitiated. Thus, the international community will need to guide the transition to a more permissive environment if the rule of law is to evolve. The military contingent may be required to play a role by securing the environment with respect to the rule of law to defeat the forces preventing rule of law from taking root.

3. Prepare: Bosnia, Kosovo, East Timor, Somalia, Haiti, and so on, should serve as crucibles for learning and “training opportunities” to prepare our forces for the implications of the unfolding Revolution in Military Affairs. While U.S. forces must be prepared at all times, arguably the best training vehicles for staying prepared are actual sustained operations like Bosnia.

ARMY MISSION

“TO DETER WAR”

The mission of the US Army is “to deter war,” and if deterrence fails, then fight and win our Nation’s wars. The Army lives by doctrine, and Army doctrine is to engage by fire and maneuver. Fire involves more than “shooting at someone” and maneuver is more than moving people and equipment. In fact, Bosnia presents us with leading-edge challenges, whereby the limits of fire and maneuver can be tested.⁸ In peace operations, it is sometimes helpful to move away from traditional warfighting concepts, as the nature of the operations is so different. Thus, notice the struggle to specifically define “peacekeeping,” “peacemaking,” etc. In addition to “fire” and “maneuver,” today’s informational world injects the concept of “effects” to address the nuances informational operations add to equation.⁹

Today, in peace operations the concept of “fire and maneuver” translates more into “fix and neutralize” the primary obstacles standing in the way of the objective. Thus, in a deterrence mission, a commander maneuvers in such a way as to fix obstacles confronting friendly forces and then neutralizes these obstacles until the objective is accomplished. Just as it is essential for commanders to understand these two complementary actions, policy makers must understand that deployed US Army units will perform best when they are permitted to do as they are trained.¹⁰ In short, when the US Army is used, mere deployment and presence are not enough. The Army should be used consistent with its doctrine – engage by fire and maneuver.

DISCUSSION

A campaign plan is an essential tool for linking the mission and commander’s intent to the desired end state. The campaign plan lays out a clear, definable path to the end state within a given time and space. Such a plan enables commanders to help political leaders visualize operational requirements for achieving strategic objectives.

⁸ Fire is the lethal and non-lethal effect delivered from a participant into an area of operations. Maneuver is the effort by a participant to achieve a position that confers an advantage over an opponent. Generally, this is interpreted at the lowest tactical levels to mean “a geographic position,” however this is seldom the case at levels of command above “low tactical.” More often in war, and almost always in peace operations, positional advantage comes in another dimension other than geographic. Often, tactical-fixated leaders fail to discern or even recognize other dimensions bearing on an operation, and we, therefore, get out-maneuvered by less-well resourced but very wily opponents.

⁹ Accordingly, one now hears commanders speak of “power,” “operating in 3-D,” and the need to bring a combination of “fire, maneuver, and effects” on the critical nodes of the adversary to make the opponents’ infrastructure collapse.

¹⁰ Admittedly, there are many national contingents represented in SFOR, and the Bosnia mission is a NATO operation. However, it is also clear that it took United States leadership to mount an international coalition to go into Bosnia, and the US Army has provided the primary SFOR leadership (all SFOR commanders have been US Army officers). This report is directed at influencing US Army leadership, in hopes that it will then carry over into US Government, SFOR, NATO, and international arenas.

Legal Authority

Drafters of the Dayton Peace Accords intended the military to assume a role in the securing the environment for establishment of the rule of law. Dayton directs SFOR to establish a cease-fire, separate warring parties, ensure withdrawal of foreign forces, monitor the status of military forces, etc. These rather typical military actions are grouped together for purposes of this report as “Task 1” activities. However, Annex 1A of the Dayton Accords also directs SFOR to: (a) *help create secure conditions for tasks associated with the peace settlement*, including free and fair elections; (b) assist the movement of organizations in the accomplishment of their humanitarian missions; (c) assist the UNHCR and other international organizations in implementing their humanitarian missions; (d) observe and prevent interference with the movement of civilian populations, refugees and displaced persons, and (e) *respond appropriately to deliberate violence to life and person*. Annex 1A, Article VI(3). The drafters expected the military to support these civilian tasks that contribute to reestablishing civil society.¹¹ Establishing the rule of law is essential to restoring a democratic and civil society to ensure a sustainable peace.



SFOR continually confronts the question of when do “simple crimes” (or the stockpiling of weapons) amount to anti-Dayton activities worthy of SFOR attention?

SFOR’s efforts in Bosnia with these supporting tasks have been instrumental to the success experienced to date in the implementation of the Dayton Accords. SFOR has provided important election support, information gathering, patrolling to promote return of

¹¹ In Bosnia, as in many multi-national operations, there exists a struggle between traditions wherein authority rises from the “bottom (the ground, or common people) up” and those wherein authority flows from the top down. Bottom-up thinking in Bosnia produces a focus on authority as follows:

GFAP Annex 1A:

- Art VI, 3: “right to fulfill its supporting tasks”
- Art VI, 4: “further directives from the NAC” (but, further directives from the NAC include current OPLANS and ROE. This in turn includes restrictions on SFOR’s “supporting tasks.”)

Annex 1A “Silver Bullets”:

1. Art I, 2(b): “to take such action as required”
2. Art IV, 6: “to order the cessation of any activities”
3. Art VI, 5: “to do all that the Commander judges necessary”
4. Art VI, 6: “right to ... inspect any Forces, facility or activity”
5. Art VIII, 7: “right to decide on military matters”
6. Art XII: “Commander is the final authority” on military aspects

In contrast, top-down thinking produces the following authority focus:

GFAP Annex 1A:

- Art VI, 3: “within the limits of its assigned principal tasks and available resources, and on request, which include...”
- Art VI, 4: “further directives from the NAC may establish additional duties.”

This contrast puts commanders in an awkward situation. If they wait for top-directed authority to act, they will assuredly miss targets of opportunity, and may never be directed (get permission) to do what has to be done to accomplish the mission.

refugees and displaced persons, deployment of lawyers in civilian implementation agencies, arrest of persons indicted for war crimes, assist in control of television broadcast towers to implement media law, seizure of assets of suspected illegal intelligence operations, security services and illegal financial transactions, and de-politicization of the Bosnian military. The problem is, such efforts have not yet combined to produce a sustainable peace.

The drafters of Dayton anticipated problems with civilian implementation. Accordingly, they provided authority to the military by way of supporting tasks to help establish a safe and secure environment to enable the civilians to do their work. And, as a practical matter in Bosnia, SFOR is the only organization capable of taking the steps necessary to secure the environment so that a basis for the rule of law can be established.

An Assessment of the Threat to the Rule of Law

Each of the ethnic communities in Bosnia is controlled by autocratic and often obstructionist politicians who rely on formal political party structures and extra-legal security services (secret intelligence, police, and paramilitary) and transnational criminal syndicates to sustain themselves in power. They are also supported financially and politically by outside forces that waged the war, e.g. the HDZ political party in Croatia and Milosevic's regime in Belgrade. These "unholy alliances" maintain their hegemony through a monopoly of violence and control over patronage. Specific tactics include controlling the salaries and appointments of parliamentarians, judges, police, and prosecutors and by directly threatening judges, prosecutors and others who may seek to enforce the law against their interests.

The inter-ethnic conflict associated with the fragmentation of Yugoslavia reinforced the linkage between the former *nomenklatura* (or communist-era political elite) and organized criminal elements who profited from the war. The result is a perpetuation of an authoritarian model whereby illicit institutions of public security serve the powerful elite rather than the citizenry. The major difference is that organized criminal elements figure more prominently in the current power structure than they did previously. Although the Croat, Serb, and Bosnian power structures use ethnic identification to legitimize their hegemony over their ethnic communities, they are known to cooperate across ethnic lines for their personal profit, even at the expense of their own people (*see* footnote 24). Measured against the fundamental principles of non-violent resolution of disputes and accountability to the public, these criminalized power structures are the antithesis of the rule of law.

In spite of extensive efforts by the international community to construct the formal institutions of democratic governance, including the rule of law, the reality is that these efforts are co-opted and perverted by Bosnia's criminalized power structures. Until the political environment is shaped to provide a basis for the rule of law, efforts to reduce and ultimately withdraw the international presence by turning "ownership" over to local authorities will do little more than consolidate political and economic power in the hands of the unaccountable. Unless effective measures are taken to secure the Bosnian environment with respect to the rule of law, it is most likely that our long-term interests will be thwarted, including prospects for sustainable peace.

Initial attempts to do this, in particular the WESTAR Operation against the illicit Croat intelligence network in Croat-controlled West Mostar, have provided a more promising context for the international community to exploit the opportunity afforded by the demise of erstwhile Croatian strongman, Franjo Tudjman. His party, the HDZ in Croatia, was recently defeated in both parliamentary and presidential elections. This will presumably weaken financial and other support provided to anti-Dayton, extra-legal power structures in Croat-controlled regions of Bosnia. This weakening may provide a particularly opportune time to confront aggressively the illicit anti-Dayton structures supported by the now-defeated HDZ in Zagreb.¹²

Operational Concept for Fostering the Rule of Law

Only SFOR has the coercive capacity and intelligence assets at present to combat these criminalized power structures; however, SFOR certainly cannot shape the environment and establish the rule of law alone. This is a realm of operations that is unfamiliar and uncomfortable for military commanders. Sophisticated civilian expertise in law enforcement, organized crime, international police matters, and related analytical specialties are also essential. Available civilian tools—such as the power to expose and dismiss obstructionist officials or decertify candidates or parties from the electoral process—must also be used, although SFOR’s presence is also essential for these measures to be respected. The civilian international community (IC) must simultaneously act to prepare local institutions (police, judiciary, penal system, and legal code) to assume ultimate responsibility, while also developing domestic and international safeguards to ensure the old regime does not reassert itself once the international military presence transitions to a more enduring posture. A focused campaign plan to shape the environment in the near term while civilian IC resources are available is essential to provide the basis for the rule of law and durable peace in Bosnia.

Under the traditional division of labor, military forces would establish a safe and secure environment, and their international civilian counterparts would prepare the local state and society for eventual self-rule. This approach has proven to be inadequate in Bosnia, however, owing to the alliance that exists between obstructionist politicians, extra-legal security services, and transnational criminal syndicates. Given these circumstances, the military peace force must contribute to three overlapping tasks if the rule of law is to evolve:¹³

Task 1: From Disorder to Order.

Ensure the cessation of hostilities. This is primarily a military task. In Bosnia, this was done in rather short order by IFOR.

¹² There are local elections this spring, and expected national elections this fall, that may further weaken the ties between external structures and internal Bosnian leadership. Thus, it is conceivable that 2000 could represent a turning point for Bosnia.

¹³ These tasks are not sequential in nature, but overlap – especially in Tasks 2 and 3.

Task 2: From a Hostile to Permissive Environment.

Shape the environment so that rule of law can take root. At issue is the relationship of the local public security establishment to the governing elite and to society. If the context in which these institutions must operate is fundamentally hostile to the rule of law, institution-building efforts will be vitiated. Thus, the international community may need to guide the transition to a more permissive environment if the rule of law is to evolve. The military contingent may be required to play a role by securing the environment with respect to the rule of law. Civilian resources will need to be brought to bear in a coordinated manner to develop adequate safeguards against reversion to criminalized and repressive use of instruments of public security.

In the Bosnia case, this entails crippling a select number of organized criminal networks and extra-legal power structures that exert an overweening influence in political power in each ethnic community. SFOR possesses significant information and intelligence-gathering resources for this purpose, as well as its ability to threaten and use force. Donor Governments can and do exert political pressure and the civilian IC can expose the corruption. When necessary, the Office of the High Representative can impose needed laws and remove obstructionist anti-Dayton government officials. The Organization for Security and Cooperation in Europe (OSCE) can strike obstructionist political candidates and parties from the ballot. The IPTF can supervise the local police. These civilian organizations ultimately have to rely on the military contingent, however, to provide the coercive capacity to make these civilian actions effective and to identify and help the civilians neutralize the anti-Dayton power structures.

Task 3: From Institutional Incapacity to Capacity.

This task is primarily a civilian function since it involves providing assistance to design new institutions, drafting new legislation that gives these institutions the authority to function effectively, training professionals to work in these new institutions, and educating the public on what the rule of law means. Upon request however, and for the period of time of a specific campaign plan, the military contingent could provide significant targeted assistance. For example, a critical tool is the ability to prosecute and jail obstructionist leaders. This is not currently possible because Bosnia lacks an independent court system. To encourage independent trials and decisions, the IC and SFOR could do a more thorough job of securing courtrooms, judge advocates and civilian lawyers could monitor trials, and together, provide suggestions on systemic improvements. Early on in Bosnia, the OHR recognized the unique blend of civilian legal expertise and military experience in Reserve and National Guard attorneys and put them to good use in the field. Once the environment is reformed to the point where the new institutions are no longer obstructed from operating in a manner consistent with the rule of law, then civilians will be able to assume the sole responsibility to empower democratic institutions.

SFOR Lessons Learned In Creating a Secure Environment With Respect For The Rule of Law

These three tasks are clearly interdependent. Fighting must stop before the rule of law can function properly. Institutions essential to the rule of law must exist to ensure that nonviolent options are available to settle disputes peacefully. The environment in which these institutions operate must be permissive enough to allow them to function properly. Military contingents may be required to secure the environment for the rule of law, while civilian actors address other institutional or political factors that bear directly on the rule of law.

LESSONS LEARNED

TASK 1: FROM DISORDER TO ORDER

The first priority in most deployments is to restore order. In Bosnia, it only took a few months for the Implementation Forces (IFOR) to separate the warring factions, inventory and garrison military equipment of the Entity Armed Forces (EAF), establish a zone of separation, and implement other measures necessary to restore order. This outward peace was established swiftly and efficiently because the Dayton Accords gave IFOR the clear legal, moral, and political authority to restore order. As a follow-on-force, SFOR adopted these clear guidelines and continued to provide order in Bosnia.

SFOR and civilian members of the international community were thus able to move about Bosnia in reasonable safety. Likewise, local civilians gained greater freedom of movement within Bosnia, though many have remained afraid to exercise this right. The mere imposition of order, however, has not been enough to create a durable peace.

Issue #1: Solely establishing order is liable to be insufficient to accomplish the mission and achieve a military end state.

For a variety of reasons, including the proclamation at the outset that the United States would only be in Bosnia for one year, leaders fell victim to short-range planning. Commanders and advisors in Bosnia realized they were limited by the amount of time, funding, and political will available, and narrowly interpreted their mandates.¹⁴

In broken societies, a top priority is to establish control and provide a safe and secure environment. Once that is accomplished, however, mission success usually involves creating a safe and secure environment not just for individuals, but for institutions. Initially in Bosnia, measures of success involved separating warring factions, establishing a zone a separation, securing weapons, and so on. But that has not been enough. IFOR and SFOR have continuously focused on the confrontation of war machinery and armed forces and have not sufficiently addressed other supporting tasks.¹⁵ By the military confining itself to the reactive¹⁶ task of providing order and not

¹⁴ How and why they did this is understandable, rational, and excusable. Given similar circumstances, a similar course of action might easily (and correctly) be done again. However, in Bosnia, this course of action has not achieved a durable peace. Accordingly, this paper argues that, 1) to achieve a sustainable peace, and 2) to establish a basis for rule of law (that being the charter for this study), a more active military peace enforcement role is required.

¹⁵ This is not a “fault” issue. Certainly, others in the civilian IC should also be urged to do more in the area of rule of law. However, it is not the purpose or intent of this report to attempt to address lessons learned for the civilian IC in establishing the rule of law.

¹⁶ This report uses the terms “reactive,” “proactive,” and “interactive.” Reactive is the response to something after it has happened. Proactive is the action in anticipation of where events are going. Interactive is getting involved in the process, thereby creating the desired outcome. This report strongly suggests “interactive” is where we want to be, as that is the very nature of “fire and maneuver.”

interactively seeking to secure the environment, corrupt politicians accountable to nationalist parties and local crime bosses were able to flourish and resulted in an election process that validated the overall corrupt structure.

Recommendation:

Focus on rule of law issues up front. Simultaneously plan for order / security operations, as well as rule of law programs and support. In many ways, exclusive focus on the short-term prevented SFOR from taking appropriate aggressive operations to shape the environment, and this limitation adversely impacted both troop morale and mission accomplishment.

SFOR must strive to be interactive – not just anticipating where things are going, but by shaping the desired end state. SFOR should seize the initiative, keep others on the defensive, and move purposively towards its end-state. SFOR should strive to “create the future from the future.”¹⁷ To achieve a successful military end state, military measures of effectiveness should include milestones toward securing the environment for a functioning, independent rule of law.

Issue #2: A non-lethal crowd control capability is essential for success in peace enforcement missions.

The Multinational Specialized Unit (MSU) was deployed to Bosnia in mid-1998 because the lack of a non-lethal crowd-control capability created a “public security gap” that was being exploited by Dayton obstructionists to thwart refugee resettlement and the installation of municipal mayors in ethnically mixed communities. They have performed this function quite well. As of October 1999 the MSU in Bosnia had conducted 263 “interventions,” all but two of which were resolved peacefully. One of the cases when force had to be used was the WESTAR operation against a flagrant violation of Annex 1A in Mostar. This use of the MSU makes an even more compelling point: their presence in theater has effectively neutralized SFOR’s vulnerability to civil disturbances when acting to enforce Dayton.

This remarkable record is the direct result of two factors. The first is the professionalism, operational expertise, and leadership of the Italian Carabinieri, who comprise the vast majority of this force. In addition to combining both military and policing skills, they are battle tested in dealing with crowd and riot control scenarios domestically. The second ingredient is the doctrine they have developed, which calls for very active patrolling to gather operational information, enabling the MSU to focus its resources effectively in potential trouble spots. Thus the MSU was able to resolve 261 of 263 “interventions” without the use of force through a combination of deterrence,

¹⁷ A phrase taken from Dr. Jeffrey Wildfogel, P.H.D. of Psychology at Stanford University (“The Psychology of Peak Performance,” 1997). Dr. Wildfogel advocates creating a vision, and then working back from that vision to bring it into being – the same concept as being interactive, with a vision as to where one is heading. SFOR has successfully engaged in various interactive operations: broadcasting tower seizures, WESTAR, and PIFWC snatches all represent “interactive” operations. But, these have appeared to be tactical and operational successes, without being strung together into strategic victories.

dissuasion, and negotiation. Related to this is their command and control arrangement that places them directly under the SFOR commander. Without this, MND commanders could restrict their patrolling, which was, in fact, directly responsible for the only other instance in which they had to use force to control a riotous situation. Absent these two elements (i.e., a professional constabulary force from a democratic country and freedom to patrol in a proactive manner), the number of instances requiring the use of force would inevitably escalate, which is to say local consent could evaporate and world opinion might turn against the “peace” mission.

In spite of this positive record, the failure to deploy this capability at the outset of the operation, both in Bosnia and Kosovo, placed the full burden of controlling civil disturbances initially on military units that are less prepared for this task.¹⁸

Recommendations:

Now that the need for early deployment of an MSU capability has been recognized, the reason for delay in their deployment is that inadequate numbers of these very specialized forces are available. Since the preponderance of any MSU would ideally come from a professional constabulary force of a democratic country, it would be most



The Multinational Support Unit headquarters in Bosnia. Shown here, members of the Italian Carabinieri.

desirable if our European allies that possess such forces, in addition to Italy, would agree to contribute to such missions and posture their forces accordingly. As suggested by President Clinton’s recent speech to the UN General Assembly, this issue should be given prominent attention in discussions of future European force structure.

A study should be undertaken to capture lessons learned from the experience of military police battalions in Kosovo in addressing public disorder there prior to and after the arrival of the MSU.¹⁹

Delayed deployment of the MSU adds to the challenge of developing close collaboration between the military and the international Civilian Police (CIVPOL). This problem has been especially acute in Bosnia. Even though MSU commanders are seeking to address local factors contributing to this, they cannot overcome problems of a systemic nature. Senior officials from the UN Department of Peacekeeping Operations, key former KFOR and SFOR commanders, and key MSU commanders should be brought together to discuss the nature of their relationship, to develop a consensus about doctrine for the operational use of the MSU, to discuss force protection concerns of

¹⁸ In Kosovo, the decision was made to fill this deployment gap with Military Police.

¹⁹ The Army Peacekeeping Institute and Institute for National Strategic Studies could perhaps collaborate once again to accomplish this.

CIVPOL commissioners, and to develop mechanisms for effective liaison, exchange of information, and collaboration.

Owing to the constant rotation of senior commanders during a peace mission and instinctive reservations such commanders are likely to have about another unit operating in their AOR, a continual education process must take place regarding the rationale for the MSU and the doctrine for its use. It is essential that the MSU have freedom to operate freely across internal peace force boundaries and that commanders gain an appreciation of the doctrinal rationale for this. While it might be ideal to accomplish this through periodic exercises involving the MSU, the constant turnover of personnel will make this impractical as a general practice. Consideration should be given to using Combat Camera to prepare a videotape of the MSU in action, or in a simulated action, with a narrative describing their doctrine and concept of operations. In particular, the methodology for establishing the “blue box” for dealing with civil disturbances and the relative responsibilities of regular combat units and the MSU should be portrayed. The MSU should use this video as part of a briefing to key commanders after each change of command

Issue #3: Excessive concern with force protection replaced a focus on mission accomplishment.

Soldiers, local nationals, and international community members interviewed repeatedly mentioned excessive concern with force protection as a hindrance to mission accomplishment. This was perhaps the most frequent criticism of SFOR operations. Force protection has become a mind-set, and “no body bags” has become the measure of success. While force protection is undeniably important to maintain political will at home, it should not replace the time-honored principles of security and mission accomplishment.

When the Implementation Force (IFOR) rolled in, the Bosnian public perceived that IFOR had come to clean the place up. IFOR had legitimacy in the public’s eye and could have taken a more assertive posture. However, over time the perception of IFOR/SFOR changed. The local community began to view IFOR/SFOR as a less sincere, less capable, less robust stabilization force. Many locals adopted a “wait and see” attitude and lost interest in cooperating. Similarly, some people mistakenly perceived the US Forces’ mandatory protective gear and multiple vehicle convoys to mean that US Forces were “more afraid” of the locals. This adversely affected how the local community viewed the US Force’s strength and ability to protect the public.

Recommendation:

While we should always take prudent force protection measures, this should not come at the expense of mission accomplishment.²⁰ This is particularly crucial at the start

²⁰ Any discussion about excessive concern with force protection should include analysis of current U.S. policy. Otherwise, it is easy for those not directly responsible for force protection to downplay its national importance. A December 1999 MOU between DoD and DoS references force protection responsibilities of the Chiefs of Missions and the geographic CINCs.

of an operation when the force has the opportunity to define what it will and will not tolerate. Commanders should be aware that a “defining moment” will arise, such as the transfer of the Sarajevo suburbs in early 1996,²¹ and the outcome will have enduring consequences for the perceptions of the international presence. Commanders should stay attuned for the defining moments, and be sure their message – the proper message – is the one both sent and received. Mission accomplishment, not force protection, should be the central theme.

²¹ The Dayton agreement directed that certain high ground around Sarajevo, fiercely contested during the war, be transferred to the Federation so the city would not be as vulnerable to Serb artillery in the future. Over 100,000 ethnic Serbs populated these suburbs (some were owners; some were refugees themselves). The transfer of these municipalities was scheduled to take place on February 4, 1996, 45 days after implementation of Dayton.

As the date approached, the IPTF was not yet functional. The Commissioner and Deputy Commissioner would not arrive until mid-February, fewer than 400 monitors were on hand, and very few field stations had yet been opened. Additionally, the Office of the High Representative (OHR) had not done any detailed planning for the transition. Consequently, on February 4 the High Representative and the IFOR commander announced that the transfer would be delayed. The concept would also be changed to a phased process occurring over a 6-week period ending in mid-March. This adjustment provided an opportunity for the IPTF to become partially operational, but it also gave Bosnian Serb authorities an opportunity to exploit the situation. They prepared a sweeping evacuation of the suburbs, and pressured Serb residents to leave. In the process, residents thoroughly ransacked fixed property so that incoming Federation citizens would inherit little more than a wasteland.

From late January through mid-March, 100,000 Serbs fled Sarajevo for RS territory. At least some of the dwellings being evacuated belonged to their Serb occupants and therefore the claim could be made that the electrical wiring, plumbing fixtures, and window frames being carted off were rightfully theirs. In the absence of an authoritative mechanism to establish legitimate ownership, the IC was powerless to prevent homes and apartments from being gutted. In addition, various buildings and industrial facilities were either set ablaze or booby-trapped. This turmoil created an impression of lawlessness, especially when these images were captured by international news coverage.

The transfer of Sarajevo suburbs was a "defining moment" for the entire peace mission. Although the limited assets available to the IPTF were skillfully employed, the organization would clearly have been much better equipped to handle the exigencies of this crucial event if it had been more nearly operational. In general, the IPTF was more successful at managing the behavior of local uniformed police forces than they were at controlling the conduct of vandals and provocateurs from both sides of the ethnic divide. As each suburb was transferred, Federation authorities took political and administrative control, an accomplishment for the Dayton Accords. IFOR had just established its presence in Bosnia, however, and all parties were anxious to gauge what this would signify. While the outcome could clearly have been much worse, it was not quite reassuring either, and IFOR would not have another "window of opportunity" to create a stronger impression on the Bosnian Serb leadership.

TASK 2: FROM A HOSTILE TO PERMISSIVE ENVIRONMENT

In most post-Cold War peace operations, the division of labor has called for the military contingent to establish a safe and secure environment (Task 1), and for their international civilian counterparts to prepare the local state and society for eventual self-rule (Task 3). Those two tasks are insufficient, however, when the political, social, and economic environment is fundamentally hostile to the rule of law. Justice and a self-sustaining peace are impossible when those who wield power can act with impunity. In such circumstances, the international community will need to engender a more hospitable climate that holds both formal and *de facto* power brokers accountable for their conduct. This requires the international community to have an intimate understanding of the relationship of the local instruments of public security with both the governing elite and society as a whole.

The Political Environment:

In the wake of a divisive internal conflict, those vying for political power may seek to control the police, judiciary, and penal system for use as mechanisms of repression and political control. This militates against a durable peace since groups that lack political power will be denied access to justice and driven once again to violent rebellion.

The Socio-Economic Environment:

The internal conflict in Bosnia left a law enforcement void that transnational organized crime syndicates have exploited to carve out a broader niche within the informal economy. When the presence of organized crime is combined with high levels of unemployment and a ready availability of weapons, this presents an especially virulent threat to embryonic institutions of law and order. Financial and political support from leaders in Zagreb and Belgrade who instigated the war also actively feed these anti-Dayton forces.

The most daunting challenge arises when local anti-Dayton political authorities, extra-legal security forces, and transnational criminal elements form alliances that thwart effective implementation of the peace process. The international military intervention force is the only entity with the coercive capacity and intelligence resources to dismantle this threat to the rule of law and establish a durable peace.

The Military Context:

If the environment is hostile and insecure with respect to the rule of law, the only alternative to an unending occupation or a withdrawal that causes unacceptable damage to our interests is to reshape the environment. The Army is trained to seize the initiative, to look for the decisive battle, to make the opponent “dance to your tune.”²² The

²²British Field Marshall William Slim.

development of Task 2 functions is similar to the concept of the operational level of warfare. Somewhere between the strategic vision and tactical-level work there is a need (1) to bring the resources to bear; (2) to do the campaign planning; (3) to build the order of battle; and (4) to do the necessary staff work to accomplish the tasks at hand. It's "ends, ways, and means" thinking. Operational thinking is designed to put the opponent in a position for a tactical kill. Task 2 labor is similar to Operational level work – designed to mold the tremendous tactical level sacrifices and achievements into a culminating strategic level success. It is designed to provide an indigenous society an opportunity to govern and maintain law and order based on democratic notions of legitimacy.

The military may be required to play a pivotal role, but the mission will only succeed if civilians with relevant expertise in law enforcement and diplomacy are integrated into the effort. Ultimately, key international decision-makers must exert their political will and commitment to the effort to establish a rule of law in Bosnia.

At the same time the military is working with civilians to decriminalize the political environment, the civilian international community must develop effective safeguards to prevent the re-emergence of the old regime. The civilian international community needs to focus its long-term efforts on resolving underlying causes of the conflict, facilitating tangible steps toward co-existence and eventual reconciliation among former warring parties, mentoring senior officials in local public security institutions, monitoring their compliance with international standards of conduct, and bolstering domestic mechanisms for effective oversight and corrective action.



Scenes from Brcko: a Serb war memorial and a house with bullet holes (like large numbers of houses in Bosnia). Words, objects, buildings – and the lack thereof – hold specific meanings in Bosnia. Symbols – from flags, to license plates, to letters in the alphabet – carry exceptional significance, and must continually be viewed from their political, social, and military context.

A. Strategic Issues

Issue #4: Build on doctrine and mission

The mission of the United States Army is to protect and defend the Constitution of the United States of America. The Army does this by deterring war and, when deterrence fails, by achieving quick, decisive victory on and off the battlefield anywhere in the world and under virtually any conditions as part of a joint team.

DEPARTMENT OF THE ARMY FIELD MANUAL (FM) 100-5, OPERATIONS

We are in Bosnia to deter war -- to deter war between factions directly in Bosnia, to deter war in the Balkan region, and to deter war throughout the European and Central Command theaters. We are on sound legal and doctrinal ground to do what has to be done. We must realize that our actions in Bosnia are sustained by existing military doctrine.

We have learned from our experience in Bosnia that the military must stay engaged beyond Task 1 (disorder to order). Once order is established, our focus must turn to establishing a climate where the rule of law can flourish. This task is likely to present the greatest challenges. The military is often the only institution with the capability to subordinate corrupt power structures to the rule of law. Because use of the military in establishing an environment conducive to the rule of law may be a new or uncomfortable concept to many, it is even more critical to clearly establish and articulate the authority to execute the mission.

Every operation and mission must have a legal basis and command authority. The Dayton Accord, as with any mandate, can be interpreted narrowly or more expansively. A narrow interpretation of Annex 1A is attractive for two reasons: (1) fear of body bags, and (2) the ideal and convention that the military should never cross over “the line” into law enforcement and affairs of everyday civil life. Nevertheless, this passive approach is unlikely to produce a successful outcome for several reasons:

- (1) It violates most every one of the Army’s own nine doctrinal principles²³ and five tenets;²⁴
- (2) It severely affects our credibility in the eyes of the local populace and of the “enemy”;
- (3) It severely affects our credibility in the eyes of the international community, to include the people in Bosnia;

²³ The nine principles of war are objective, offensive, mass, economy of force, maneuver, unity of command, security, surprise and simplicity. DEP’T OF THE ARMY FIELD MANUAL 100-5, OPERATIONS pp. 2-4 to 2-6 (June 1993).

²⁴ The five tenets are initiative, agility, depth, synchronization, and versatility. DEP’T OF THE ARMY FIELD MANUAL 100-5, OPERATIONS PP. 2-6 to 2-9. (June 1993).

- (4) It decreases the negotiating power and leverage of key non-SFOR players (OHR, UNMIBiH, and OSCE); and
- (5) It ultimately prevents mission accomplishment (to secure a sustainable peace).

Not only does the Dayton “mandate” legally allow us to engage the “iron triangle” in our quest for sustainable law and order (Annex 1A, Article VI(3)), but doing so is well within established general doctrinal principles.²⁵ Although *Army Field manual 100-5, Operations*, has been in a rewrite effort for over two years now, the June 1993 edition contains several lasting principles which soundly support and suggest a more robust and engaging role for SFOR in establishing a lasting peace:

As an authoritative statement, doctrine must be definitive enough to guide specific operations, yet remain adaptable enough to address diverse and varied situations worldwide. p.1-1.

Conditions or events that would cause forces to be employed will challenge Army forces. Such conditions include drug trafficking, natural or man-made disasters, regional conflicts, civil wars, insurgencies, and intimidation by irrational and often ruthless extremists who have available for their use all manner of weapons and systems, including weapons of mass destruction. p. 1-1.

Operations across the full range of military activities must complement the other elements of national power directed to accomplish political aims. p. 1-2.

Military forces must be prepared to support strategic objectives after the termination of hostilities. In both war and operations other than war, military and specifically Army—units must integrate their efforts to support the overall policy scheme. p. 1-4.

The Army must be capable of *full-dimensional operations*. This means employing all means available to accomplish any given mission decisively and at the least cost—across the full range of possible operations in war and in operations other than war. p. 1-4.

While the conditions of warfare change with time and circumstance, the qualities of skill, tenacity, boldness, and courage have always marked successful armies and commanders and will continue to do so. p. 2-0.

In his speech to the North Atlantic Council at the end of his tour in Bosnia, General Meigs said, “NATO is pioneering the doctrine and practice of peacekeeping operations in a multinational environment, [and] a strategic application [is] likely to grow in the coming years. We should seize this opportunity to deploy our forces appropriately for this new mission and to further doctrinal development, but most importantly, *we should find a way to succeed!*” (*emphasis added*)

²⁵ Readers are again reminded that Bosnia was and is a NATO lead operation, not U.S. This is relevant when considering the degree to which FM 100-5 was or was not followed.

Recommendations:

In crafting future mandates, ample authority should be provided to permit the peace force to dismantle the power base of obstructionists. For Bosnia, the Dayton Accord—primarily paragraph 3, Article 6, Annex 1A—provides ample authority to launch a reinvigorated campaign plan aimed at supporting the establishment of law and order by targeting anti-Dayton and criminalized power structures. In the end, by its very terms, the SFOR commander *is* the final authority in theater regarding interpretation of Annex 1A of the Dayton Peace Accords on the military aspects of the peace settlement. We are on sound doctrinal and legal footing for taking necessary steps to establish a secure environment with respect to the rule of law.

Issue #5: Conduct Legal Preparation of the Battlefield (LPB) (subset of IPB) prior to military engagement.

Bosnia's ethnic communities maintain the same power structures that existed during the Cold War. The former *nomenklatura* continue to exercise political authority, and elements of the communist-era state security apparatus sustain these leaders in power through illegal power structures. This structure evolved as a result of Yugoslavia's fragmentation into hostile, mono-ethnic communities. During the inter-ethnic conflict, the security apparatus and organized criminal syndicates forged an alliance to smuggle weapons and other material through the international arms blockade. War profiteering quickly became the compelling motivation. In many instances, the security apparatus and organized crime figures collaborated across confrontation lines for monetary gain even at the sacrifice of ethnic interests.²⁶ Within each ethnic block today, power is still wielded by alliances of obstructionist politicians, extra-legal security services (secret intelligence, police, and paramilitary), and transnational criminal syndicates.

Recommendations:

Prior to a peace mission, we must evaluate whether individuals in the existing power base are motivated to obstruct the peace process, and we should include this analysis in the "Intelligence Preparation of the Battlefield" and the "Legal Preparation of the Battlefield" (LPB).²⁷ This involves preparing a detailed assessment of the law and order conditions in the country and region where the mission will be launched. The intervention forces must evaluate the power base of those who may obstruct the peace process. In addition to traditional intelligence analysts, the assessment team should include specialists on transnational crime (e.g., drug trafficking, money laundering, arms smuggling) and criminology in general, as well as political specialists and sociologists who can analyze the strengths and weaknesses of existing institutions.

²⁶ One former combatant told of the "economics of the tunnel" under the Sarajevo Airport. He explained that the tunnel was rented during the War by the hour. At one point, he described a situation where the Muslim-controlled tunnel was rented to a Serb for two hours for the movement of frozen chickens into market. Muslim soldiers, wounded in fighting outside the perimeter near the Airport, had to wait for the two hours to elapse before being able to move through the tunnel to receive medical treatment.

²⁷ The concept of "Legal Preparation of the Battlefield," or LPB, was first developed as a methodology of anticipating and planning for legal issues throughout the phases of an operation at the operational and tactical levels. Here it is logically extended to the strategic level.

A strategic Legal Preparation of the Battlefield (LPB) should be conducted at an advanced stage in order to incorporate required resources (Special Forces, a Multinational Specialized Unit, technical intelligence means, and relevant analytical capabilities) into the force flow and structure.

Issue #6: Bring expertise on the rule of law into theater early.

In Bosnia the first order of business was to stop the fighting and gain control of the entity armed forces. Accordingly the initial force structure and flow was appropriately combat arms heavy. However, the enemy metamorphosed into paramilitary, uniformed police, secret police, secret intelligence, and nationalist politicians with funding and support from organized crime and outside nations. This “iron triangle” represents a threat to sustainable peace and an obstacle to rule of law. We still have not adequately adapted the force structure and deployed the necessary assets to target them. As the enemy changes, we must also adapt, continually changing our force structure to stay ahead of the game.

Recommendation:

Force structure should be adapted to the changing face of the threat, tasks and environment. For Bosnia, that means a significantly enhanced intelligence capacity, legal personnel to integrate SFOR with the civilian entities involved in rule of law implementation, persons experienced in customs and law enforcement, and beefed up civil affairs, public affairs, PSYOP, and the Multinational Specialized Unit (i.e., the MSU). A robust intelligence capacity is essential to the whole targeting process in Bosnia, to include analysts, interpreters, Human Intelligence (HUMINT) resources, and Signals Intelligence (SIGINT, or NATO ELINT) assets.

Issue #7: Use the indirect approach.

The best way to combat corrupt obstructionist politicians, judges, and police may not be through new elections, especially if the elections are held too quickly. That may only serve to validate bad leaders. Even newly elected politicians or newly appointed judges and police may be susceptible to corruption because these individuals are indebted to political leaders who placed them in their job, set their salary, or provided them with housing (or threatened them) to ensure their loyalty. A more effective approach may be by eliminating anti-democratic power structures and creating new capabilities to render corrupt activities transparent and open to scrutiny. Similarly, we can minimize adverse reactions to arresting particular Persons Indicted for War Crimes [PIFWCs] if we initially apprehend them for misdeeds other than their war crimes (e.g., theft, tax evasion, or some other common crime).

Recommendations:

Military intelligence gathering capabilities can be exploited to provide appropriate civilian counterparts with information to deal with organized crime and obstructionist politicians. We should seek to develop innovative strategies with our civilian

counterparts in the IC, such as extradition of leading political figures linked with transnational criminal enterprises, giving pro-Dayton forces a variety of tools to use.

In structuring the peace force, we should include the resources necessary to shape the environment in this manner. At a minimum, these will likely include Special Forces, a Multinational Specialized Unit, technical intelligence means, and relevant analytical capabilities. We must also ensure mandates are crafted to provide ample authority for the peace force to use a variety of tools to dismantle the power bases of obstructionists. Time and again, the “indirect approach” has proven to be the most successful means to accomplish important ends.

Issue #8: An effective partnership among military and civilian peacekeepers is essential to create an environment conducive to the rule of law.²⁸



One of the few operating border checkpoints—the bridge from Brcko to Croatia. Until rule of law institutions (such as an effective border guard) are established, the crime and illegal money that support the anti-Dayton “iron triangle” power structures will continue to operate at will.

Military contributions may be essential to secure the environment to provide a basis for the rule of law. However, military peacekeepers are in a supporting role, and it is civilians who possess sophisticated expertise in law enforcement and international police matters, especially in the fight against organized crime. This is a realm of operations that is unfamiliar and uncomfortable for military commanders. Unity of effort is crucial for success, and each international organization in Bosnia must resist the temptation to compartmentalize its actions in a way that limits the effectiveness of the overall international mission. NATO takes on the Entity’s Armed Forces, OHR works with local political institutions, OSCE runs

elections, and the IPTF deals with local police. Yet, success will be elusive if these institutions are dealt with in isolation. The linkages across these institutions between corrupt politicians, organized crime, and the secret police must be severed. We can increase our effectiveness if we exchange information of operational relevance for this purpose and play to our comparative advantages.

²⁸ A key caveat in any suggestion of sharing of military information and creation of intelligence cells has to include operational and national restrictions. Every country as well as NATO has restrictions on who and how information can be shared.

Recommendations:

Heads of the various international civilian entities concerned with the rule of law and the peace force commander should have a combined public security operations center capable of integrating their information and operational capabilities. The commander of the military peace force should have a Special Assistant who is authorized to work across institutional boundaries to coordinate military and intelligence resources with international civilian and local public security forces. Individuals from the Customs Bureau, the FBI, and the DEA have relevant expertise for this position (as do similar European institutions). This Special Assistant should have the assistance of an interdisciplinary team of dedicated individuals to staff the Operations Center who have expertise in criminal intelligence gathering and analysis, military campaign planning, international diplomacy, and international law.

Issue #9: Military commanders will need to understand the rationale for going beyond traditional functions to shape the environment to promote the rule of law.

Military operations that attack organized crime and strike at the power base of corrupt and obstructionist political leaders resemble police activities. Commanders who have honed their skills for high intensity combat operations will instinctively view these activities as “mission creep.” Yet, shaping this environment may be central to establishing order in a post-conflict society, particularly when local police forces are part of the problem. The aim is not to rid the country of crime and corruption. This would, indeed, be an endless task worthy of being labeled “mission creep.” The objective, however, is finite, since power is concentrated in only a few hands. The aim is to marginalize and neutralize a relatively small number of hard-line leaders in order to open the political space for moderate political leaders and empower those aspiring to the openness and accountability of the rule of law. Once this is accomplished, the environment should be propitious for local public security officials to take responsibility for developing the rule of law.

Recommendations:

An initial assessment must be done to determine the extent of overlap between organized crime, illicit intelligence activities, and political power, and whether local or international police forces can effectively handle the situation. If the assessment determines that this threat constitutes a center of gravity for achieving a durable peace, this should provide the peace force commander with a compelling rationale for pursuing this non-traditional task. Subordinate commanders will need to understand that it is *not* “mission creep” to attack the corrupt power base of those obstructing implementation of the peace process, but instead is “mission essential.” We cannot realistically expect individual local police and judges to perform this task themselves if heavily armed peacekeeping troops refuse to do so.

Issue #10: Multinational Specialized Units (MSU) have essential but under-exploited capabilities to shape an environment hospitable to the rule of law.

Success in this non-traditional type of operation requires an effective partnership between military and civilian components of the international effort. Multinational Specialized Units have a hybrid character as both military and police, and are ideally suited for operations that span both realms.

Criminal Intelligence Gathering

The MSU in Bosnia is primarily comprised of Italian Carabinieri who are highly proficient at gathering criminal intelligence as a result of their responsibilities for combating the Mafia domestically. To perform their primary mission of riot control and to deter civil disturbances from getting started, the MSU must cross all MND boundaries and conduct patrols throughout Bosnia. MSU operations, therefore, afford a fertile opportunity to gather criminal intelligence. These criminal intelligence-gathering abilities should be exploited to the extent possible. Several factors may impede this, however. First, gathering intelligence was not an explicit part of the MSU's original mission, and their G-2 staff was not staffed to gather, collate, and analyze the wealth of information that MSU patrols routinely collect. Second, under Italian law, the Carabinieri cannot perform criminal investigations or operations unless they are under the authority of the Italian Ministry of Interior. While assigned to SFOR, the Carabinieri are under the Italian Ministry of Defense.

Recommendation:

It would be constructive if the MSU mission statement specifically included gathering criminal intelligence. Discussions at the diplomatic level may be required to determine the proper legal framework to permit the MSU commander to share this information.

Intelligence Analysis

The Carabinieri not only have unique intelligence gathering capacity, but they are also highly sophisticated at analyzing criminal data using advanced information technologies such as crime mapping and link analysis. In just a few months during their deployment in Kosovo, for example, the MSU entered 10,000 names into their database and developed a detailed grasp of the links between transnational criminal groups, political leaders, and the KLA. Although the potential exists for the MSU to perform this function in Bosnia, no systematic effort has apparently been made for them to do so.

Recommendation:

Augment the MSU with specialists in crime mapping, link analysis, and general intelligence analysis. These individuals should have the necessary clearances to facilitate two-way information exchange between the MSU and analysts in SFOR Fusion Cell.

Surveillance

The MSU also possess surveillance abilities, which is another valuable policing skill. Once analysts identify specific targets, this surveillance capability is especially valuable to develop the detailed information needed to plan an operation and gather evidence that could lead to indictment and conviction of criminal suspects.

Recommendation:

Discussions at the diplomatic level may be in order to permit the MSU commander to provide surveillance support to the Special Advisor and the intelligence elements of SFOR since surveillance activities are related to investigations and operations (which is constrained by Italian law, as noted above).

Riot Control

As the implementation of the Dayton Accords began to have an impact on the interests of anti-Dayton obstructionists, the standard response was to mount an orchestrated civil disturbance to paralyze the process. The MSU was deployed to Bosnia to provide COMSFOR with the capacity to neutralize this threat. Unfortunately, military commanders, and especially the IPTF, often misunderstand the MSU role. There is a common misperception that they should be called upon after a situation gets out of hand, whereas their purpose is to identify potential hot spots well in advance so they can be defused or deterred by an MSU presence. This chronic misunderstanding is compounded by the regular turnover of SFOR and IPTF personnel.

Recommendations:

The MSU's riot-control abilities will be especially critical during operations mounted against politically powerful organized crime figures. It will be essential to maintain a robust MSU capability in Bosnia during the implementation of a campaign plan aimed at securing the environment with respect to the rule of law.

The MSU must continue to operate freely across MND boundaries. MND commanders and subordinate commanders need to appreciate the doctrinal rationale for providing the MSU with this freedom of operation. A Combat Camera team should work with the MSU to prepare videotape of the MSU in action or in simulated action, with a narrator describing their doctrine and concept of operations. The video should distinguish between the responsibilities of SFOR combat units and the MSU, as well as the concept of assigning tactical control of a disturbance to the on-scene MSU commander (i.e., the "blue box"). This could also be used as a basis for discussions with the IPTF leadership.

The MSU and IPTF have never shared a close relationship. The current MSU commander is addressing this problem by inviting the new UNMIBH leadership to visit his facility to discuss items of mutual concern. This is a constructive initiative that merits further attention and high level support.

Counter-Terrorism

As we succeed at operations that shape the environment, we also increase the risk that individuals or groups opposed to our efforts will retaliate aggressively against the international community. Soft targets, such as unarmed civilian elements of the international community, including the IPTF, are the most vulnerable.

Recommendation:

We should put MSU counter-terrorism capabilities to full use in a campaign plan that thwarts retaliatory incidents.

Issue #11: Bring sophisticated intelligence resources together into an effective support package.²⁹

Once the MSU and SOF gather criminal intelligence to establish general patterns and potential targets, other intelligence-gathering resources should be used to validate and refine this information. This will provide commanders with the necessary confidence and detail to justify any further military action.

Recommendation:

A Fusion Cell should be established linked to the Special Advisor³⁰ for the rule of law, to integrate criminal intelligence from the MSU, SOF, the international civilian police, and other sources, with all-source intelligence. Analysts will require the skills of various disciplines, from social science to criminology, to extract patterns from these data and develop evidence for prosecution. The analytical capability must also be mobilized to exploit innovations in information technology such as crime mapping and link analysis. Given the sophistication of the Italian Carabinieri in this field, a smooth exchange of data and even an exchange of analysts between the Fusion Cell and the MSU would be highly beneficial. The Fusion Cell should be incorporated in an appropriate manner into a combined public security operations center.

Issue #12: Develop a fully articulated campaign plan for securing the environment with respect to the rule of law.

In addition to developing a comprehensive understanding of the relationships among political elites, criminal elements, and illegal security organizations a detailed campaign plan is essential to target the most critical hard-line elements. If done adroitly, this may precipitate a schism between hard-liners who implacably oppose the rule of law, and moderates who are willing to accommodate themselves to the international

²⁹ See Footnote 28.

³⁰ The Special Advisor should have some direction or control over part of the IPTF since the duties, responsibilities and authority falls closely within the mandate of UNMiBH/IPTF and OHR. Care must be given so that the Commander's (here COMSFOR) command authority is not subordinated to civilian organizations or a Special Advisor who have no responsibility or ownership for forces in theater.

community's requirements. As hard-liners turn on their more moderate former colleagues, we can encourage the latter to assist the international community to bring these rogue elements to justice.

Recommendations:

Develop a comprehensive campaign plan that contains a sequence of discrete steps and specifies how the various actors must interact to meet mission objectives. While a specific operation may be criticized as biased against a particular ethnic community, the IC can minimize this by taking a balanced approach that treats all three communities equally. Owing to external political realities, any campaign plan must also take a regional perspective, addressing the linkages with dominant centers of power in Serbia and Croatia. As a practical matter, "Bosnia fatigue" may compel implementation in the next 12-24 months.

Consider the use of information warfare techniques to exacerbate internal divisions between moderates and hard-liners. This may be especially productive in the wake of the recent seizure of significant internal documents and information about the inner workings of criminal enterprises in Croat controlled areas and illegal Croat security services involved.

Issue #13: "Political will" may be the most crucial limiting factor.

Political constraints may militate against assertive action to implement a campaign plan aimed at breaking the political power of illicit elements in Bosnia. Political decision-makers may be reluctant to undertake an operation due to the risk of SFOR casualties during an operation or subsequent retaliation against vulnerable members of the international community (e.g. unarmed IPTF and other IC civilians). Different constellations of nations may oppose specific operations as a result of their sympathy with the ethnic group involved. This factor poses a risk to operational security and makes it exceedingly difficult to obtain a consensus to act.

Unless key national capitals muster the political will and commitment to support the military's efforts, commanders may be left in a precarious position as they seek to shape the environment to support the rule of law.

Recommendations:

SFOR and the civilian IC should develop and implement a public affairs campaign to educate the international public about the need to attack the corrupt power base in Bosnia and the potential risks associated with such an operation. The case should be made directly to the public in those member states supporting the peace operation so they understand the need to take assertive action to shape the environment. For example, the media has recently addressed the extensive corruption and diversion of international assistance in Bosnia. Information available to SFOR from the WESTAR operation and similar actions should also be used for this purpose.

SFOR and the civilian IC should also educate the Bosnian populace about how certain current leaders are exploiting and victimizing their own people as a result of their criminal associations. This could create local antipathy toward the obstructionist

leadership and minimize the risk of local criticism or a backlash when SFOR takes action against the corrupt leadership in Bosnia.

Issue #14: Avoid public pronouncements on an exit strategy.

Avoid stressing the desire for an exit strategy except when such an announcement is necessary to achieve a specific purpose. These discussions have two perverse effects. First, they serve to embolden those who seek to obstruct Dayton. Second, they convince those who would otherwise support efforts to bring notorious crime bosses to justice that this would be very foolhardy because it would inevitably expose them to retaliation once the international community has departed.

Recommendation:

We should think in terms of a “transition strategy.” To send a message that supports the development of the rule of law and long term peace, we need to stress both the international and domestic safeguards that will be left in place to ensure the old regime of criminalized and obstructionist politicians is not recreated.

Issue #15: Install longer-term international and domestic safeguards against the co-option or corruption of institutions vital for the rule of law.

A general consensus exists that many police and judicial officials in Bosnia are well intentioned and want to perform their functions with integrity and respect for international norms of conduct. After the political clout of organized crime has been undermined and illicit remnants of the state security services have been disbanded, the local judicial system can be expected to begin functioning in a manner more consistent with the rule of law. Police, judges, and jailers will be able to perform their functions without inordinate risk to themselves, their families, or their continued employment. Once this is demonstrated, future elections and the privatization process can be expected to yield constructive results. To preclude a relapse to the prior state of affairs, effective domestic and international safeguards also need to be built into the environment. Among the initiatives being undertaken in Bosnia are the following:

- Establishment of a State Treasury and introduction of an efficient, fair, and open procurement system.
- Simplification of tax structures and improve customs enforcement.
- Establishment of a Supreme Audit Institution.
- Establishment and training of anti-corruption Task Forces.
- Efforts to increase the public's understanding of their legal right to due process.
- Education of the public about the nature and consequence of corruption and the penalties for breaking the law.

Recommendation:

One highly constructive step would be to establish a long-term commitment regarding the presence of the MSU in Bosnia with a mandate to assist local authorities in combating the transnational crime threat. The international community also promotes the growth of effective safeguards by assisting in areas such as the development of political pluralism, a free media, ombudsman, and human rights monitoring organizations.

Issue #16: Pursue Persons Indicted For War Crimes (PIFWC).

Editor's note: As with any military operation, there are OPLANs and SUPLANs approved by civilian leadership and nations contributing forces which limit military flexibility. These will contain mission statements, as well as tasks. In addition, there will be operational limitations and restrictions. With regard to PIFWCs and conducting civil police tasks, NATO, SHAPE, and North Atlantic Council each placed limitations on SFOR. Notwithstanding such limitations, the following recommendation is made with sights on future deployment of US forces.

Our failure to apprehend the most politically significant Persons Indicted for War Crimes (PIFWCs) has damaged the respect and authority that SFOR can command from the Bosnian public and from those whom we want to bring down, namely the criminals and corrupt. Many locals ask why they should respect the law when we do not actively enforce it. Many key players in the international community have stated that their negotiating power and leverage are directly proportional to the credibility of SFOR, and this suffers when SFOR's credibility deteriorates. Additionally, local Bosnians, SFOR members, and members of the international community report that several PIFWCs still exercise a good bit of political influence and control, even as the PIFWCs are on the run from international authorities. Thus, we could more easily dismantle the old anti-Dayton power structures, empower the new democratic institutions, and build a more sustainable peace if the most notorious PIFWCs were to be apprehended.

Recommendation:

Indicted war criminals, especially those who wield political clout, should be actively pursued from the beginning of a peace operation.

Issue #17: Don't assume the "good guys will win."

Again and again, the record of world history shows victory goes not to the side with greater firepower, but to the side with greater determination.

Daniel Pipes, Director of Middle East Forum, in *Commentary* (February, 2000)

The focus of our National Security Strategy of engagement is to promote liberal democracy. The word "liberal" means the rule of law in the sense of justice and freedom, and "democracy" means equality and a voice for the citizenry. To instill such concepts in a society that has never had such a tradition requires effort, time, education, money, and a

strong resolve. The “enemy” becomes those thwarting the intent of Dayton, and those just “waiting us out.”³¹

It will take a concerted, long-term effort to bring Bosnia to a point where the rule of law governs and democracy flourishes. This is not an inevitable, straight-line progression. As we have seen with the dissolution of the former Soviet Union, there are competing ideologies and corrupt elite awaiting the chance to take control and exploit the chaos. Consider the perspective of one person we interviewed who said that if things continue unchanged in Bosnia, it’s folly to think the next generation will be more likely to support a liberal democracy. “They have known nothing but war, ethnic cleansing, and ineffective assistance from the international community. At least their parents knew of a time when Bosnia was a multiethnic society, when Sarajevo hosted the Olympics.” Unless success is forged now, the most likely outcome will be renewed conflict.

Recommendation:

To succeed with our Bosnian mission, we must engage and stay flexible in our approach. We must adjust to the situation and seize the initiative. We must do more than just survive in Bosnia. We must instead be interactive, continually doing what is needed to ensure long-term sustainable peace there.

³¹ The concept of “asymmetric warfare” rises here. The enemy will use his strengths -- will to resist, mass, distance and the inherent power of the defensive – directly against US weaknesses: our ability to arrive quickly, and insufficient will/staying power. Their aim is not so much to win, as it is to avoid losing.

B. Operational Issues

Issue #18: A tension exists between nations that have the capacity to use highly technical intelligence resources and those nations not privy to this intelligence.

Developing actionable intelligence requires the use of highly technical intelligence resources that only a few nations have. Moreover, these nations are, for the most part, unwilling to share these sophisticated intelligence resources with others. This presents an unavoidable tension when forces not privy to this information have the responsibility to execute a particular operation.

Recommendation:

The peace force commander should be able to use the MSU and Special Operations Forces as strategic assets to conduct operations in any MND with little or no need for advance coordination. An effective mechanism for pooling intelligence and police information among nations that contribute key MSU and SOF capabilities will be crucial in the development of an effective campaign plan.

Issue #19: Coordinate intelligence cells.³²

SFOR has not established an effective intelligence-sharing regime. Reasons for this include:

- (1) Nations have different agendas which they seek to promote, independent of coalition partners;
- (2) Certain commanders see information as power and have a selfish desire to be viewed as “power players” and “in the know;” and
- (3) In certain instances, withholding information serves an important operations security function (OPSEC).

The reluctance to share intelligence impedes military commanders from developing a coherent picture on which to base campaign strategies. This can also lead to conflicting efforts, sometimes to the point of putting operators at risk or jeopardizing the collection of assets and evidence. It also duplicates efforts and wastes limited resources.

SFOR could also take advantage of external sources of information and intelligence, such as the Intelligence Unit of the Customs and Fiscal Assistance Office (CFAO).

Recommendation:

A combined public security operations center with an embedded intelligence Fusion Cell might help to minimize these barriers as a venue for the flow of operational

³² See Footnote 28.

information. Efforts to improve liaison with the IPTF for the exchange of criminal information should be continued. PIRs and IRs should be tailored to support the campaign plan.

Issue #20: The involvement of local police in operations is liable to pose a high risk of compromise until the environment becomes more supportive.

The international community is highly vulnerable to penetration and co-option by local intelligence services. Most international organizations rely upon locally hired employees from all ethnic communities for interpretation, driving, cleaning, food preparation, and other services. These individuals are particularly lucrative sources of information for the various intelligence services. Operational security is a particular challenge when international organizations that have been actively penetrated by such informants are involved in the planning or execution of an operation.

When the process of shaping the environment first begins, local institutions are weak and unlikely to be able either to take “ownership” of a vital activity or to perform effectively as a partner on an operation. Even if the local institution can be made to function as a result of prodigious efforts by the international community, the outcome will not be replicable until the environment fundamentally changes. While we must bring the local public security apparatus into the action at an appropriate point, this must be done with great prudence to avoid operational security risks.

Recommendation:

The IC should work with a select number of pre-vetted police officers and prosecutors who are known to be trustworthy and give them ample IC support, training and protection to pursue critical anti-corruption cases. Beefing up court security at high-visibility trials and providing protection of judges, prosecutors and key witnesses at critical trials is also necessary.

In addition, the option of extraditing criminals outside Bosnia should be explored. Emphasize the gathering of evidence concerning transnational criminal activity (e.g. car theft, prostitution, money laundering, drug trafficking, etc.) by individuals targeted in the campaign plan. That will enable countries where the criminal activity is taking place to indict these targeted individuals. If an extradition treaty does not already exist with each of the governments involved, a priority should be placed on establishing one. Once an international warrant has been issued for the arrest of a targeted individual, the international community should make it a priority to apprehend the suspect, with the involvement of local officials, if necessary. Immediate extradition might be the best alternative during the Task 2 period (during the transition from a hostile to a permissible environment). If local prosecutors are needed to make the arrest, it may be best to bring them in on the operation only at the last moment.

Issue #21: Management of attempts at retaliation may become the key to success.

The potential for retaliation will be high once the campaign plan begins to have an impact. Unarmed, easily accessible targets, such as the IPTF, are likely to be the focus of retaliation. This could weaken the political will that is essential to sustain the execution of the campaign plan.

Recommendation:

Plan for retaliation as part of the campaign plan. Educate the forces, higher HQ, national governments, and domestic and international opinion about the need to take the general steps indicated in the campaign plan and the possible consequences. Use counter-terrorism assets, such as the MSU and other resources, as identified in the campaign plan. Develop the plan so as to deter retaliatory strikes, and if one occurs, be prepared to respond so as to deter future actions (this will definitely be a “defining moment”). Develop protection strategies with the IPTF.

Issue #22: Exercise the Stolac and WESTAR³³ paradigm to breakdown illegitimate power structures.

The operations at Stolac and West Mostar combined the assets and skills of SFOR and the civilian IC to target certain tools of the anti-Dayton power structure, and these operations provide a good model for implementing a more comprehensive strategy throughout the region.³⁴

Under the Stolac and West Mostar paradigm:

- Essential civilian and military leaders and organizations, such as OHR, SFOR, IPTF, and the Federation Police, developed a comprehensive strategy;

³³ Over a period of months in 1999, culminating in the October 14th operation known as WESTAR, SFOR undertook a series of noteworthy operations aimed, inter alia, at securing the environment with respect to the rule of law. This particular series was conducted in Croat areas, but the WESTAR model could be used in Serb or Bosniac areas as well. The first several confrontations took place in Stolac and were aimed at the Renner Transportation Company that served as both a cover for transnational criminal activity and the source of violent resistance to resettlement of Moslems in Stolac. The more successful WESTAR operation in October was, "...to conduct operations in the Mostar area to search for and size weapons, munitions, computers, documents, and other military equipment or material which represents a threat to friendly forces, equipment which actively supports those who represent a threat; detain illegal security organization members, and promote a safe and secure environment in support of peace and stability in accordance with Article 1A of the Dayton Peace Accords." (Because of the limitation on performing civil police tasks, the mission was NOT to attack criminal activity and organizations. The resultant affect on these criminal activities was but an ancillary benefit of the mission).

The legal case against the Renner Company and its head, Jozo Peric, was based on testimony from several of the 250 Moslem women who had allegedly been kidnapped by Renner employees and sold into prostitution. Peric was also responsible for establishing a stolen car market within the buffer zone of the Inter-entity Boundary Line near Stolac, and his associates were implicated in a series of arson attacks and bombings of Moslem homes in the Stolac area.

Preparations for the initial operation in Stolac took many months and involved drafting and gaining approval for essential legislation in the Federation, such as a witness protection program. Extensive efforts were made to work with Federation prosecutors with the aim of arresting and trying Peric and his assistants for their crimes. As the operation was set in motion, information was leaked to Croat members of Federation Ministry of Interior, allowing the targets of this operation to flee.

The subsequent WESTAR operation was an unmitigated success. The aim was to dismantle the Anti-Dayton activities of the Croat secret intelligence service in Croat controlled cantons. In addition to confiscating an illegal weapons cache and paraphernalia associated with credit card fraud and sale of pornography, this SFOR operation seized an extensive trove of computer files and documents detailing covert intelligence operations against the international community. Among the activities exposed by this SFOR operation were collection of personal data on Bosnian Croat employees of international organizations, photography of personnel working for international organizations and collection of personal data about senior international officials, and an operation specifically aimed at the International Criminal Tribunal for the former Yugoslavia.

³⁴ We need to craft an interactive engagement strategy in which SFOR and the IC not only effectively intercept and defeat the "enemy," but also pushes the "enemy" in the desired direction. This requires a unified effort and a commitment from SFOR and the civilian IC to follow the fundamental principles: objective, offensive, mass, economy of force, maneuver, unity of command, security, surprise and simplicity. Such efforts are essential to allow new democratic Dayton institutions to gain a foothold and grow.

- PIRs/IRs were developed to focus the intelligence and information gathering efforts of SFOR and the IC;
- The OHR enacted key laws which strengthened (e.g., prosecutor's office) or established institutions (e.g., new court) necessary for arrest and prosecution;
- SFOR and others developed a specific, tactical plan of execution;
- IPTF and local police or special units and SFOR planned and executed the plan and seized and/or arrested the targeted individuals and evidence;
- SFOR did not give in to resistance, internal (intelligence/security) weaknesses, or to initial appearances of failure. Instead, it pulled back, gained experience, used the information gained, showed resolve by redirecting its efforts, and then mounted a successful operation;
- Where actionable criminal evidence exists, prosecution is expected to be initiated, and OHR is expected to remove officials when appropriate; etc.
- OHR requested and coordinated increased IC assistance to prosecutors' offices and courts most likely to try cases resulting from information gathered;
- The strategy and intelligence gathering and exploitation efforts were then redirected, and the cycle started again.

The reaction from the international community to SFOR's actions at Stolac and West Mostar was virtually unanimous: "Outstanding!"; "It's about time"; "We should do more"; were heard over and over again. The immediate effects have been highly favorable. People pleaded for SFOR and the IC to expand and repeat the Stolac and West Mostar operations throughout Bosnia.

Recommendation:

We play to our own strengths, leveraging our intelligence and force advantages when we undertake Stolac and West Mostar-type actions. We are at our best, when we do what we do best – seize the initiative and disarm "the enemy." We should exercise the Stolac and West Mostar paradigm, following the tenets of initiative, agility, depth, synchronization, and versatility.

C. Tactical Issues

Issue #23: Continue to conduct presence patrols and missions.

The international community unanimously agreed that SFOR's most valuable function to date has been the presence of their roving patrols and positioning troops at contentious sites at critical times. An SFOR presence not only serves to deter unlawful acts by former warring factions, but it also deters overt violent acts by members of the obstructionist power structures.

The presence of stationary and patrolling troops has proven particularly useful to assist with elections, exhumations (war crime scene investigations), displaced persons and refugees (DPRE) returns, unlawful residents (squatters) evictions, and to allow farmers (of differing ethnicity) to tend their fields. British forces brought the concept of "surge operations" from Northern Ireland and have used this approach effectively in Bosnia.

Recommendation:

We should continue to use patrols to assist with missions where SFOR has a supporting role. While this may appear to go without saying, continuing drawdowns have already created tremendous strains on commanders to meet tasks given them. In MND (N), the pullout of certain allied forces coupled with US drawdowns caused one unit to pick up four times the territory for its patrols to cover. It is a physical impossibility to provide the same degree of patrolling efficiency given the resource drain. We need to explore the British "surge operations" concept and consult with key elements of the international community to maximize the use (timing and location) of our troops.

Issue #24: Continue programs to professionalize and de-politicize the entity military forces.

We should not merely continue the Inspector General program that reviews all general officer candidates (ensuring they conform with and support the principles of Dayton), but we should exploit that highly successful program as a model for other initiatives.³⁵ The key to the program is the process – that over time, every Bosnian general officer will have been vetted and have a common foundation that both supports, and is supported by, the rule of law.

Recommendation:

We should fully exploit the Inspector General program and other conventional and unconventional methods to attack the links that still exist between the entity armed forces and the "iron triangle" of anti-Dayton, anti-peace power structures.

³⁵ General officer promotions are subject to approval of COMSFOR. Before someone is promoted to the rank of general, the IG reviews the candidate's file. The candidate must sign a paper wherein he agrees to uphold the principles of Dayton.

TASK 3: INCAPACITY TO CAPACITY

BUILDING THE INSTITUTIONAL CAPACITY FOR THE RULE OF LAW

The remaining transition is from institutional incapacity to capacity. With respect to the rule of law, this especially entails building the capacity of the local public security establishment (legal code and legal professionals, courts, police, and penal system) to maintain law and order. Once the international military presence has established sufficient order, the international civilian contingent, the dominant actor during this process, can begin implementing activities aimed at fostering development of these institutions. Civilian organizations such as the OHR, UN, OSCE, CoE, and many donor Governments and their contractors have done considerable work, and will continue doing so, to build police forces and judiciaries that dispense equal justice and serve the citizenry. Whether they actually function in this manner will be influenced decisively, however, by the environment in which they operate. The most daunting obstacle is the extensive influence of illicit power structures in each of the ethnic communities. Accordingly, establishing a secure environment with respect to the rule of law should proceed in tandem with institution-building activities. Once progress is made in this area, essential civilian-led measures to shape societal values and attitudes towards the rule of law and to build in safeguards against abuse will be more likely to bear fruit.

When provided adequate resources, civilian organizations are clearly in the best position to oversee implementation of these institutional reforms on a long-term basis. Annexes 3, 4, 6, 7, 10 and 11 of the GFAP and Peace Implementation Council declarations properly place long-term institution building in the hands of civilian institutions (i.e., OHR, UNMIBH, OSCE, Council of Europe).³⁶

Police Reform

Annex 11 relegates the tasks of monitoring, inspecting, training, and assisting Bosnia's law enforcement to the IPTF. During the IFOR phase of the operation, the IPTF focused on monitoring local police authorities for compliance with internationally accepted standards in their daily operations and treatment of minorities. They also assisted with the September 1996 national elections. During the SFOR phase the focus shifted to vetting, training and restructuring local police forces so their future conduct would conform to norms of democratic policing

This peace mission has made an enduring contribution to future CIVPOL operations through the articulation and operational enactment of the concept of "democratic policing." This explicitly links reform of the police with transformation of

³⁶ Civilian organizations should take the lead since that is what some of them are designed to do. The military is not funded to do "nation building," nor is that our mission. Our mission in Bosnia is to respond, shape the environment to deter war, and prepare. There can be limited military involvement in situations to "jump-start" some rule of law initiatives, but only within certain guidelines. The ways in which the military can help have been set forth in Chapters One and Two.

the political context. The essence of this approach to policing is captured in the IPTF “Commissioner’s Guidance Notes for the Implementation of Democratic Policing Standards:”

For Bosnia-Herzegovina, the police must realign their missions from the protection of the state to the protection of citizen’s rights. Service to the public must become the police’s calling... A democratic police force is not concerned with people’s beliefs or associates, their movements or conformity to state ideology... Instead, the police force of a democracy is concerned strictly with the preservation of safe communities and the application of criminal law equally to all people, without fear or favor.³⁷

The “democratic transition of the Federation” thus became more than a by-product of IPTF activities.³⁸ In the words of Commissioner Peter Fitzgerald, “It is a mandate.”³⁹ To execute this mandate, the Commissioner directed that action be taken in three essential areas:

1. Affirmative police activities by public security establishments to demonstrate that their role is public service, not state control.
2. Acceptance of a democratic standard for policing by which each policeman’s performance would be measured.
3. Demobilization of superfluous personnel and re-vetting of the force to ensure that those with backgrounds incompatible with democratic policing were discharged.⁴⁰

While the detailed articulation of this concept was a major advance, devising an effective scheme for implementation is an even more vital and challenging matter. That remains a work in progress. At the initiation of the peace operation in Bosnia, local police were one of the major instruments used by obstructionists in the RS to thwart implementation of Dayton.

IFOR initially sought to remain aloof from law enforcement functions out of a desire to avoid a mission for which their units were neither trained nor equipped. The dependence of the IPTF on military back up and the absence of other sources on international leverage, however, meant that the military contingent inevitably had to respond to serious breaches of Dayton. Whereas the initial IFOR posture was to deny

³⁷ “Commissioner’s Guidance Notes for the Implementation of Democratic Policing Standards in the Federation of Bosnia-Herzegovina,” in *Commissioner’s Guidance, Part 1*, p.1-2.

³⁸ Ibid. p. 1.

³⁹ Ibid.

⁴⁰ Ibid.

that they were the “911” for IPTF emergencies, after several months the inevitability of this role was explicitly acknowledged.⁴¹

Military assistance, principally in the form of Civil Affairs police specialists, was also invaluable in establishing an operational capability for the IPTF. Their role was especially crucial in planning for the pivotal transfer to Bosniak control of Sarajevo suburbs. To help the IPTF begin functioning as expeditiously as possible, IFOR detailed a half dozen Civil Affairs officers with backgrounds in planning, operations, training, and logistics. Among their contributions were the following:

- Establishment of the IPTF Command Center, including the overall design, operational procedures, and communication net linking IPTF Headquarters with stations in the field and with IFOR.
- Secondment of a logistics specialist to serve as acting Chief of Logistics to manage the influx of personnel and procurement of radios, vehicles, and facilities so monitors could begin performing their duties.
- Secondment of a senior police administrator to serve as Special Assistant to the Chief of Staff, in particular to draft the plan for transfer of the Sarajevo suburbs and to coordinate IFOR support for the IPTF during this operation.
- Secondment of a training specialist to the training base at Camp Pleso, Croatia to provide curriculum assistance and classroom instruction to meet the initial surge of 200 incoming police monitors per week.

Once the IPTF had become fully operational, Civil Affairs personnel provided liaison between the two organizations, ensuring that operationally relevant information was exchanged on a daily basis.

Another IFOR responsibility was to be prepared to evacuate IPTF personnel, if necessary. Civil Affairs personnel were responsible for coordinating these procedures between the two organizations. In addition to their daily function of exchanging operational information, they also provided the interface between IFOR and the IPTF in preparing for and supporting national and municipal elections and monitoring and dealing with the organized crime threat.

IFOR also provided logistic assistance. In mid-1996, IFOR agreed to formalize a “Logistics Support Package” involving co-location of communications antennas and diesel fuel storage sites, and, in emergencies, to provide fuel, medical care, water, rations, and shower facilities.⁴² This alleviated the more extreme implications of the IPTF’s logistical shortcomings.

The current focus of the international community's police reform effort is on the following:

⁴¹ As recounted by Jock Covey during a presentation to a conference, Bosnia: U.S. Options after June 1998” conducted by the Congressional Research Service and General Accounting Office on 6 November 1997.

⁴² Ibid. p. 6.

- Establish a multiethnic, independent and professional police trained to carry out its function in accordance with widely accepted democratic norms of due process.
- Continue to ensure the qualification of police officers through a certification process.
- Increase multiethnic policing through recruitment of ethnic minority police.
- Support and upgrade police academies.
- Improve resources for police.
- Establish a multiethnic State-level border service.

Judicial Reform

Since the remnants of the old Yugoslav regime remained in existence, Bosnia had the basic human capital (especially lawyers and judges) necessary for an adequate legal system. According to a 1996 IFOR assessment of the Bosnian judiciary, the caliber of judges was fairly high.⁴³ However, during and after the war, many capable lawyers and judges fled the country (the so-called “brain drain”) and many members of the bench were appointed during or after the war based on political allegiance to the nationalist parties rather than qualifications. Additionally, the communist-era codes of criminal and civil law remained in force after the war, and the cadre of judicial authorities had been trained in communist-era concepts of law. Transforming these ingredients into a system of jurisprudence that functions in rough conformance with internationally accepted standards, such as the European Convention on Human Rights (ECHR), and that accepts the concept of an independent judiciary is one of the basic requirements if sustainable security is to be attained in Bosnia.

An assessment of the judiciary conducted by IFOR in 1996 indicated that “approximately 50% of judges from Republika Srpska and Bosnian Croat courts were not aware of the European Convention on Human Rights and the fact that the fundamental freedoms set out in it were to be incorporated into the legal system.”⁴⁴ One area requiring attention, therefore, has been education for the legal profession. The more intractable problem, however, has been to remove judicial authorities from the ambit of political elite who exploit them to perpetuate their monopoly on power.

Judicial reform has been addressed by a range of initiatives, including the following: associations of Judges and Prosecutors have been formed in both entities which have adopted codes of ethics for their professions; criminal codes have been reformed in the Federation and are also expected to be reformed in the RS; training is being conducted for judges, prosecutors, police, and defense attorneys in criminal law and in the European Convention on Human Rights; an Inter-Entity Legal Commission

⁴³ “It was clear that the majority of judges we interviewed were well qualified for the positions they held. All were graduates of one of three law schools (Belgrade, Sarajevo and Banja Luka) and the majority had practiced law before their appointments.” *HQ ACE*, p. 14, Section 6.1.1

⁴⁴ *HQ ACE*, p. 14, Section 6.1.1.

has been established; Dayton-mandated judicial institutions have been established and are functioning with continued IC assistance: the BiH Constitutional Court; the Human Rights Chamber, the BiH Ombudsperson's Office, the Commission on Real Property have been established; essential legal materials have been published and distributed to courts throughout BiH; and some legal aid has been made available to indigent Bosnians to enable them to pay for legal representation. Additionally, trial monitoring has been ongoing; Federation laws have strengthened the Prosecutor's Office, a first instance criminal court has been created; the High Representative has imposed witness protection measures; and the judiciary in Canton 7 has been integrated, in part.

These capacity building activities are thwarted at every turn, however, by obstructionist power structures that control appointments to the judiciary, salaries of the judiciary, and often even the lives of judges, prosecutors and key witnesses.

In 1997 the Peace Implementation Council (PIC) recognized the need for increased attention to, and coordination of, these long-term reform initiatives and instructed the High Representative to coordinate judicial reform efforts. As a result, the OHR has developed a comprehensive judicial reform strategy for Bosnia-Herzegovina with input from the principal organizations involved, including OSCE, CoE, UNMIBH, and several governmental agencies and NGOs. In this strategy, OHR covers the entire criminal justice system, from the initial investigations by police, through prosecution, trial and appeal, to the correctional system. It also addresses the development of criminal law and criminal procedure. Reform efforts in civil, administrative and commercial law will be the focus of a separate OHR strategy.

The PIC also instructed the OHR in 1997 to establish an anti-fraud unit to coordinate anti-corruption efforts in Bosnia. The OHR addresses both long-term institutional reforms and undertakes case-specific activities to undermine the corruption that feeds the anti-Dayton power structures. The OHR described institutional reform efforts in an anti-corruption strategy that it produced with input from the principal organizations involved in these efforts in Bosnia.

Following are examples of some of the current capacity-building efforts identified in the OHR judicial reform and anti-corruption strategies:

- Adopt and implement legislation to achieve an independent judiciary, focusing on: establishing objective standards for appointment of judges and prosecutors appointments, adequate salaries and promotion of a multi-ethnic judiciary (Judicial Service Laws in question will additionally establish independent commissions to review qualifications and conduct of all sitting judges.)
- Establish judicial training centers and train legal professionals.
- Establish BiH State Court.
- Enhance Inter-Entity legal cooperation.
- Ensure that lawyers are allowed to practice before all courts regardless of their ethnicity.

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- Enhance enforcement mechanisms for judicial decisions, including for decisions of human rights chamber and Commission.
- Strengthen BiH and Entity Constitutional Courts.
- Assist in making legal materials available to judges, prosecutors and lawyers.
- Strengthen the authority and capacity of prosecutors.
- Enhance court resources.
- Reform Minor Offenses Court system.
- Reform prisons and correction system based upon European standards of human rights.
- Reform RS criminal codes; further reform Federation codes, including by enhancing anti-corruption legislation such as ethics and public disclosure laws, and money-laundering laws.
- Change government procedures, policies and regulations to eliminate opportunities for corruption.
- Enact laws such as Sunshine laws and Freedom of Information laws that open Government procedures and decision-making to the public eye.

The military has limited authority to act in support of the “Institution Building” process. United States Army Civil Affairs (CA) units can be involved in activities during peace or war that facilitate the relationship between military force, civil authorities and the population of an area in which military forces are operating.⁴⁵ SFOR is currently active in supporting anti-corruption investigations and CIMIC attorneys have supported the institution-building process by assisting counterparts in OHR and local authorities to draft laws dealing with anti-corruption, criminal, civil, commercial, environmental, property, and witness protection concerns. However, the agencies that will implement these institution-building measures are civilian organizations such as OHR, UNMIBH, OSCE, ECCAFAO, IMF, the World Bank, and various donor Government agencies and contractors.



Many areas lack the basics, such as electricity and water. Here people draw water to drink from a public well tap. In other areas water must be brought in.

⁴⁵ With respect to civil assistance, CA units have the technical expertise to advise the host nation in a variety of areas such as public safety, transportation, communications and public facilities. CA units may also plan, coordinate, advise, and direct Military Civic Action (MCA) operations for the host nation when appropriate.

THE ROAD AHEAD

You miss 100% of the shots you never take.

Wayne Gretzky

SFOR has stopped the overt violence among the warring parties in Bosnia, but the peace it has imposed is not yet sustainable. Even though the warring parties no longer make overt territorial advances or commit mass atrocities, they continue to maneuver to maintain control over “ethnically cleansed” territories. They refuse to allow DPRE returns and exert their influence over these territories through extra-legal power structures that undermine the authority and objectives of the multi-ethnic institutions established by the Dayton Accords.

The enemy has metamorphosed and the battlefield is different, but the “war” goes on. Today, the former warring parties exert their power by controlling appointments to the Dayton-created rule of law bodies, controlling the financing of these institutions, and controlling the salaries and housing of individuals appointed to them. They use paramilitary forces, police, and secret intelligence services to intimidate or neutralize rivals, and exploit their control over the media to legitimize their conduct in the name of ethnic solidarity. Revenue from foreign governments and organized criminal enterprises continue to finance these power structures.

For a *sustainable peace* to emerge, it is necessary to do more than just separate the entity armed forces and maintain an appearance of peace on a day-to-day basis. SFOR must effectively address the criminalized power structures that fought the war, are still in power, and continue to oppose the peace process. If international support for Bosnia, including reductions in SFOR strength, fall far enough, violence or overt war may once again break out in Bosnia and the Dayton goals will remain elusive. To succeed with peace in the Balkans, SFOR must be assertive and shape the future with a focus on long-term peace.

One key to long-term stability in Bosnia is establishing the rule of law. This involves two interdependent components—*disempowering*⁴⁶ the criminalized anti-Dayton power structures and *empowering* the new rule of law institutions. The extra-legal anti-Dayton power structures must be dismantled, so new institutions can function and grow, the economy may develop, and a sustainable peace can emerge. Without SFOR, the international community does not have the ability to disassemble the old power structures because nationalist and anti-Dayton Croat, Bosnian, and Serb leaders use intimidation and the threat of force to impose their will. They have paramilitary, secret police and intelligence resources at their disposal, and civilian international organizations cannot win a battle against this arsenal without SFOR assistance.

The time to act is now. SFOR intelligence assets have produced detailed and actionable intelligence, and the major players from the international community are on

⁴⁶ The old power structures may not have to be destroyed, but their power must be removed so that legitimate structures may take hold.

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board. We have only a short time to act, perhaps 12-24 months, before we lose international resources and commitment. As never before, the concept of “fire and maneuver” is upon us. Deployment of IFOR and SFOR into Bosnia was exemplary tactical level “maneuver.” Seizing communication towers and WESTAR-type operations serve the dual function of tactical “fire” or neutralizing missions, as well as strategic psychological “maneuver” against the iron triangle. Let’s now push for strategic-level success by sustained operational-level thinking using the one-two punch of fire and maneuver at all levels. Let’s seize the initiative, and make them “dance to the tune” of Dayton. A series of five to ten tactical-level engagements may be all that is necessary to neutralize the iron triangle – to collapse their critical control nodes -- and thereby effectively shape the environment sufficiently for the rule of law to take root in Bosnia.

Such a course of action is consistent with current US doctrine, it is the “right thing to do” for the Bosnians, and it is certainly well worth the risk as the civilian IC tries to solve the puzzle of post-Cold War failed states. This is a shot we should not fail to take. It is time to plan, move, and act with confidence.

CONCLUSION

The pre-eminent lesson from the Bosnia experience is that the military may have an indispensable role to play in securing an environment that is conducive to the rule of law. Until the political environment is shaped to provide a basis for the rule of law, efforts to reduce and ultimately withdraw the international presence by turning “ownership” over to local authorities will do little more than consolidate political and economic power in the hands of “unholy alliances” of autocratic and obstructionist politicians whose goals for power thwart the peace process of integration and conciliation between the former warring parties. They are sustained in power by secret and illegal structures (secret intelligence and police, paramilitary and transnational criminal syndicates).

For now, only SFOR has the coercive capacity and intelligence assets to combat these anti-Dayton power structures; however, SFOR certainly cannot shape the environment and establish the rule of law alone. Sophisticated civilian expertise in law enforcement, organized crime, international police matters, and related analytical specialties are essential. Available civilian tools—such as political pressure through public demands and public identification of obstructionists, conditioning aid on needed reforms and the power to dismiss officials or decertify candidates or parties from the electoral process—must also be used, with SFOR as the ultimate enforcement mechanism. The civilian international community must simultaneously act to prepare local institutions (police, judiciary, penal system, and legal code and professionals) to assume ultimate responsibility, while also developing domestic and international safeguards to ensure the old regime does not reassert itself once the international military presence transitions to a more enduring posture. A focused campaign plan to shape the environment in the near term while international community resources are available is essential to provide the basis for the rule of law and durable peace in Bosnia.

Generalizing from this experience, the most fundamental implication is that a peace operation must create an environment conducive to the rule of law if a durable peace is to emerge from the disorder of conflict. This does not require a utopian outcome or dabbling in social engineering. The legal system must, however, be perceived as sufficiently strong and just by the former warring factions that violence does not again become a preferred option for change. The rule of law alone is *not sufficient* to guarantee self-sustaining peace, but it is the necessary ingredient to creating a climate that promotes free-market economics, attracts investors, and fosters a political environment where corruption and crime do not pervert the electoral process and legitimate governmental institutions. It is not only proper but *necessary* for *the military* to take an active role in securing the environment so that durable rule of law can take root.



A reminder of what has been lost: the Lion Cemetery in Sarajevo.

1. A “secure environment with respect for the rule of law” has not yet been achieved in Bosnia. A significant and coordinated campaign by SFOR and civilian counterparts in the international community is needed. Most people believe that the international community’s resolve and resources will run out within the next 12 to 24 months.
2. Creating conditions for the rule of law to take root is a linchpin to sustainable success in Bosnia and should be a central measure of success today.
3. The center of gravity for establishing the rule of law is to break the link among (1) hard line/corrupt politicians, (2) organized crime, and (3) secret police / secret intelligence services / paramilitary.
4. In the Balkans, there are a finite number of key people and illegal structures spearheading anti-Dayton activities and keeping these linkages in place. A well-planned campaign strategy consisting of a series of properly targeted operations (such as WESTAR) would have a reasonable chance of success. For the moment only SFOR has the tools (force and intelligence) to change the balance of political power by crippling the most notorious criminal element such that legitimate local security forces could function in accordance with the rule of law.
5. To convict these individuals and jump-start key rule of law institutions, targeted SFOR short-term assistance to the civilian IC is also needed (e.g., drafting witness protection laws and other essential criminal laws, monitoring key trials, or providing security at critical high profile trials).
6. There is adequate legal authority within Annex 1A and UNSCR 1247, and sufficient consensus among the civilian IC (OHR, UNMIBiH, OSCE, etc.) for SFOR to do what is necessary to accomplish the intent of Dayton. Proof is that SFOR has already conducted a number of such “supporting tasks” (e.g. the WESTAR operation, the CIMIC program, and assistance with elections, DPRE returns and media law implementation).
7. The best way to solidify consensus within SFOR of the need to push ahead on a deliberate strategy to take on the anti-Dayton criminalized structures is to develop a

focused campaign plan and information strategy to generate public support for taking steps to curtail the political impact of organized criminal networks, especially those linked with clandestine intelligence organizations.

8. A consensus should be sought between SFOR and key civilian IC organizations regarding the overall concept (as opposed to all the operational details) of a joint campaign to render anti-Dayton criminal power structures ineffective. The campaign should use the full spectrum of tools available to the military and civilian IC, from drafting and imposing necessary laws and information operations to WESTAR-type actions. (An effective continuous coordinating structure to harmonize the military effort with relevant civilian organizations is essential.)

DOCTRINE

9. There is a proper limited military mission for supporting rule of law initiatives. After hostilities have ceased, circumstance may require the military contingent to secure the domestic environment to establish the conditions necessary for the rule of law to take root. Currently in Bosnia, SFOR is the only organization with the tools and capabilities to confront criminalized anti-Dayton forces adequately.⁴⁷
10. There are essential joint military and civilian functions that need to be built into doctrine and not left to chance. This includes setting up close coordination mechanisms between military and civilian organizations with the specialized expertise required to address the three challenges of establishing order, shaping an environment that is more hospitable to the rule of law, and building the capacity of the institutions of public security.



An old schoolhouse in Brcko.



Children at the new one built next door.

Build the future *from* the future – have a vision as to what *ought* to be constructed, then set out to build it with due diligence and steadfast determination.

⁴⁷ Opposition and limitations to the military taking on anti-Dayton structures is internal to SFOR. Limitations include a matter of will, resources, command and control (reliability / trust, intelligence sharing issues, etc.), and limited consensus within contributing nations' capitals.