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## *The Obstacles to Sustainable Peace and Democracy in Post-Independence Kosovo*

Gëzim Visoka\*

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This article examines how the prospects for building a sustainable peace, establishing a democratic polity and consolidating sovereignty in Kosovo are constrained by a number of endogenous and exogenous factors. The article highlights how the fragmentation of sovereignty is affected by Serb parallel structures and an overlapping and divided international presence, and how social emancipation is obstructed by weak governance, ethnic power-sharing and social injustice. The article argues that building sustainable peace is more likely when there is sufficient local autonomy and ownership of processes, an effective functioning of democracy and state institutions, as well as social emancipation and a locally-owned transformation of ethnic hostilities and differences.

**Keywords:** Kosovo, Serbia, Ahtisaari Proposal, sovereignty, status-neutral, parallel structures, governance.

*Dublin City University  
School of Law and Government  
Dublin 9, Ireland*

*e-mail: [gezim.visoka2@mail.dcu.ie](mailto:gezim.visoka2@mail.dcu.ie)*

\* Gëzim Visoka is a PhD Candidate in Politics and International Relations at Dublin City University. He completed his MA in European Politics at the University of Sussex (Distinction). Gëzim completed his undergraduate studies in Political Science at the University of Prishtina in Kosovo, and also holds a Postgraduate Certificate in Conflict Resolution Skills from Coventry University. His research interests include peace and conflict studies, international governance of war-torn societies, sovereignty and recognition in world politics, and social justice. Recently, his articles have been published in *Civil Wars*, *Journal on Ethnopolitics and Minority Issues in Europe*, and *Human Security Perspectives*. Gëzim has over five years' experience working with non-profit and international organizations in Kosovo, including the UN Population Fund (UNFPA).



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# The Obstacles to Sustainable Peace and Democracy in Post-Independence Kosovo

## Introduction

Even after ten years of international administration and almost three years since its declaration of independence from Serbia, Kosovo continues to face ethnic and socio-economic problems, as well as fundamental challenges to its governance and sovereignty that have the potential to undermine the progress achieved and threaten Kosovo's stability. Kosovo already illustrates some of the signs of a weak state: it does not exercise sovereign control over its entire territory, it has a weak economy and high unemployment. There are high levels of corruption and institutional weaknesses in the justice and law sectors, and Kosovo is making only slow progress towards international recognition and participation.

Between 1999 and 2008, the United Nations Mission in Kosovo (UNMIK) aimed to establish a 'liberal peace' through establishing democratic institutions and a market-oriented economy. However, the imposition of such an agenda for 'democratization' has arguably produced only a weak democracy, fragile peace and fragmented sovereignty.

The purpose of this article is to examine how the building of a sustainable peace, the establishment of a democratic polity and the consolidation of sovereignty, is frustrated and constrained in Kosovo. The article highlights the fundamental factors that fragment Kosovo's sovereignty both domestically and internationally, and delay socio-economic development within the country. It will argue that this fragmentation is affected both by the existence of parallel Serb institutions in the North of Kosovo, and by the presence of international bodies and agencies with overlapping and divided agendas. Meanwhile, the potential for social emancipation in the country is obstructed by weak domestic governance, ethnic power-sharing and social injustice.

## Kosovo: From UNMIK to Ahtisaari and Beyond

In 1999, following the intensification of the conflict between the Serbian regime and Kosovo Albanians, and NATO's intervention, the UN was tasked to govern Kosovo through an Interim Administration Mission (UNMIK), as outlined in UN Security Council (UNSC) Resolution 1244. The Resolution neither specified the scope of UNMIK's authority - whether it would exercise sole authority or share power with local institutions - nor the structure the mission would have (Zaum 2007:132).



However, UNMIK later decided to transfer its competencies gradually to the Provisional Institutions of Self-Government (PISG), pending the determination of Kosovo's future status. A broad power-sharing mechanism was established within central and local government to reserve seats and secure space for ethnic minority participation in politics, which was rationalized as a way to facilitate the reintegration of communities and ethnic reconciliation.

However, from 1999-2003, UNMIK delayed transferring power to local institutions, and did little to promote local ownership of reconstruction processes. This was partly due to Kosovo's unresolved political status and the fear that transferring power to Kosovo's local institutions would be viewed by Kosovo-Serbs as a threat. In an attempt to balance these fears, the UN Special Representative of the Secretary General to Kosovo, Michael Steiner, had outlined benchmarks in April 2002 that had to be achieved before Kosovo's political status could be discussed (UN Security Council 2002:3). However by 2004, events on the ground, including the March Riots, put the discussions of Kosovo's status firmly on the agenda.

Two years and two rounds of UN-led negotiations between Serb authorities and Kosovo representatives failed to achieve a consensual solution. Given the deadlock, a group of mainly Western countries saw no alternative but to support UN Special Envoy Ahtisaari's recommendation to grant independence to Kosovo, 'supervised initially by the international community' and to implement his Comprehensive Status Settlement (CSS) (UN Secretary General 2007:3). As the Ahtisaari Proposal did not receive sufficient support within the UN Security Council due to the anticipated veto by Russia and China, the United States together with a group of the European Union member states, facilitated a unilateral declaration of independence.

Accordingly, on 17 February 2008, Kosovan political representatives declared Kosovo 'an independent and sovereign state' (Kosovo Assembly 2008). The Declaration of Independence was framed 'in full accordance' with the Ahtisaari Proposal and expressed a commitment to cooperate with the international community to ensure the 'future peace, prosperity and stability' of Kosovo (Kosovo Assembly 2008). Despite its contested status, Kosovo so far has been recognized by seventy-five out of 192 UN Member States.

The Ahtisaari Proposal envisages a new format for international presence, tasked to supervise the status settlement and to gradually pass full governance power to local authorities. However, the international presence in post-independence Kosovo does not operate as defined in the Ahtisaari Proposal. Due to a lack of consensus within their respective organizations, UNMIK, the Organization for Security and Cooperation in Europe (OSCE) and the European Union Rule of Law Mission in Kosovo (EULEX) remain neutral with regard to Kosovo's status. However, although they remain formally status-neutral under the UN framework of UNSC Resolution 1244, the three organizations each take a distinct approach in how they cooperate with their Kosovo counterparts, and in their recognition of the sovereignty of Kosovo.

The International Civilian Office (ICO) is the only status-supportive international body. The ICO is mandated to strengthen Kosovo's domestic sovereignty by supporting



decentralization and the protection of minorities, and by improving governance and abolishing Serbian parallel structures - in theory at least - to minimize Serbian interference in Kosovo's domestic affairs.

Although EULEX operates under UNSC Resolution 1244, its mission aims to strengthen the sector of law and justice by advising, mentoring, and monitoring the work of courts, police, and customs, which function as institutions of independent Kosovo (EU Council 2008). Notwithstanding its commitment to status-neutrality, the UN presence in Kosovo undertakes three main functions: monitoring and reporting, facilitating dialogue between Prishtina and Belgrade on issues of practical concern, and facilitating, where necessary and possible, Kosovo's engagement in international agreements (UN Secretary General 2008:5). UNMIK still holds some administrative functions in the North of Kosovo, where its key partners are Serb institutions within key public sectors. The OSCE continues to support local governance and communities in Kosovo, but operates under a status-neutral framework. OSCE activities are now reconfigured to focus on early warning and proactive monitoring of local institutions and community rights.

During the two phases of international administration (before and after Kosovo's independence), the international community, together with local actors, failed to lay the seeds of a stable peace in Kosovo. While the international community was interested in maintaining a fragile peace and stability, Kosovar authorities demanded independence and state building, and this dual agenda allowed Belgrade to exploit the situation in order to promote its own national interests in the bargaining process in Kosovo.

The consequences of Kosovo's independence not being universally accepted and a lack of clarity regarding the goals and mandate of the international actors, combined with insufficient coordination of their roles and responsibilities, challenge newly-independent Kosovo in three ways. Firstly, this enables the 'parallel' Serb institutions to influence and interfere in North Kosovo, through tolerating their illegal activities and restricting the capacity of Kosovar authorities to extend their administrative and political involvement to the North. This creates divided loyalties among the population in the North, and undermines Kosovo's territorial integrity and domestic sovereignty. These parallel structures are tolerated due to the high antagonism between the ethnic communities living in the North of Kosovo, but also due to the broader issue of Serbia and its international supporters. Secondly, a divided international response to crucial post-status peacebuilding and state building cannot effectively enable Kosovo's institutions to implement vital reforms in the justice and governance sectors. Moreover, the international presence tolerates corruption and political unaccountability amongst local politicians in exchange for ensuring stability.

Finally, the ambiguity over Kosovo's status limits its sovereignty externally. The overlapping agendas of the international presence and its internal division exacerbate the situation, further discouraging international recognition of Kosovo and preventing it from participating in international organizations. The international presence therefore contributes both to Kosovo's domestic failure to establish the rule of law and good governance, and to Kosovo's international failure to consolidate its sovereignty.



## Serb Parallel Structures

Following the war in 1999, Serbs in Kosovo established parallel structures within the sectors of security, education, health and public services that were supported by and relied heavily on the Belgrade authorities. Created initially to boycott the UN administration of Kosovo, their main function became to resist UN-created, Albanian-led, self-governing local institutions. Belgrade uses these structures to influence local Serbs, to manipulate and destabilize processes in Kosovo, and to retain bargaining incentives for Serbia's own interests (New Kosovo Report 2008). This creates a volatile environment; the Mayor of Mitrovica Municipality (South), Avni Kastrati, described the North of Kosovo as a place where the lack of rule of law and the activities of parallel structures and criminal groups result in frequent violent incidents; bombings, attacks against non-Serb citizens, and even murder (Gazeta Express 2010).

As a predominantly Serb area, North Kosovo is therefore under the de facto control of these Serb parallel structures, which substantially limits the capacity of Kosovar institutions to extend their authority in this part of the country. These structures also constitute a significant obstacle to the representation and participation of Serbs in Kosovar institutions; they constrain the functioning of these institutions within Serb-populated areas and therefore threaten the overall territorial integrity and internal security of Kosovo. In some respects the Serb parallel structures in Kosovo have the attributes of 'states-within-states'; micro-entities that may emerge from a secession, protracted civil war or state collapse, which perform revenue collection and extraction, public and service-oriented activities, and challenge the legitimacy and authority of the central government (Kingston and Spears 2004:3-7).

Indeed, the problem of North Kosovo is the main source of potential destabilization in Kosovo. Although any intervention by Kosovar authorities would trigger a violent reaction, the international presence on the other hand could play a fundamental role in restoring law and order. Since the Kosovo government cannot access North Kosovo, the presence of status-neutral institutions such as UNMIK, the OSCE and EULEX is expected to help bridge this gap. However, these institutions are producing mixed results, largely due to their constrained mandates.

Following Serb anti-independence riots in 2008, district and municipal courts in North Mitrovica ceased to operate and UNMIK failed to restore them. EULEX attempted to reinstate the courts, installing Serb, Albanian and international judges, but the initiative stalled following objections raised by the Kosovo Government concerning the nomination of Serb judges from Belgrade (Koha Ditore 2010a).

Equally, EULEX has not yet established a functioning customs regime in North Kosovo. During the 2008 anti-independence riots, Serbs destroyed the two border crossings in the North of Kosovo (Gates 1 and 31), creating a vacuum that facilitates the smuggling of people and untaxed goods between Serbia and Kosovo. Currently, these border points are managed by EULEX officials who merely record the entry and exit of goods; they do not however collect revenues, as they have not yet established where to send the revenues. The profits arising from this unresolved customs regime generally



provide income for the Serb parallel structures and often line the pockets of criminal gangs (Medija Centar 2010). Indeed, EU and UN officials concur that other criminal activities, notably drug trafficking, are exacerbated in the area and pose a significant regional problem (Crisis Group 2010:19).

In January 2010, the Kosovar Government, in consultation with the ICO, produced a common 'Strategy for Northern Kosovo', which aims to strengthen the rule of law, address governance issues in the three Northern municipalities, implement decentralization to create a North Mitrovica municipality, and improve the social and economic situation (Anon 2010:1). Despite its comprehensive approach, the Strategy received limited support from UNMIK, EULEX and the OSCE. The main obstacles were strong objections from the Belgrade authorities and those running the Serb parallel structures; they interpreted the strategy as a dangerous provocation and called on UNMIK and EULEX to remain status-neutral and to condemn the strategy (UN Secretary General 2010:4). There is concern that the parallel structures may react violently to Kosovar-Serbs if they respond to and respect Prishtina authority (UN Secretary General 2010:3). Meanwhile, UNMIK has openly expressed that they were neither consulted nor included by Kosovo authorities and the ICO in drafting the strategy, nor did they share a role in its planned implementation (UN Security Council 2010:3-4).

Alongside these failed attempts to establish a functioning state, it is important to note that in practice, the parallel structures and the international presence mutually reinforce each other at the expense of Kosovar authorities: the parallel structures legitimize and justify the continuation of the UN presence; likewise, the UN and OSCE presence in the North of Kosovo facilitates the de facto functioning of Serb parallel structures by hindering the exercise of authority by the Kosovo government.

### **The State of Governance in Kosovo**

For countries in democratic transitions and fragile states, and in post-conflict situations, prioritising good governance is seen as a key requirement in order to address high levels of corruption and unaccountable practices, unequal distribution of resources, and social division (Smith 2007:6). However, Kosovo's potential to enable socio-economic development and a functioning democracy is restricted by poor governance, contested ethnic power-sharing arrangements, and social injustice.

Freedom House, an international non-governmental organisation, and others acknowledged that prior to 2010, national democratic governance in Kosovo was stable, and that election processes were free and fair. However, the national elections held in November 2010 were viewed locally as undemocratic and to some extent manipulated, because political parties in several municipalities misused votes, manipulating the election results in favour of the incumbent Prime Minister Hashim Thaci (Koha Ditore 2010b). Despite the positive assessment of international observers, local pressure by political parties and social movements resulted in the recount of forty per cent of ballots and repeat elections, in three contested regions. This certainly poses questions about democratic practices, the role of international investment in democratisation, and the legitimacy of the next government in Kosovo.



The 2010 Freedom House Report acknowledged an improvement in ensuring the smooth functioning of local authorities, as well as the completion of the legislative process for decentralization (Freedom House 2010:274). The report acknowledged that civil society groups do monitor corruption, compliance with human rights statutes and the implementation of fair laws, but warned that ‘these groups often struggled to develop their own agendas... remaining dependent on foreign donors’ (Freedom House 2010:273).

The judiciary is one of the weakest sectors in Kosovo’s rule of law. The 2010 Freedom House report blamed this situation on the ‘legacy of the previous nine years’ as ‘Kosovo’s body of applicable laws remains a series of divided areas between UNMIK regulations, laws adopted by the Assembly of Kosovo in accordance with the new Constitution, certain former Yugoslav laws, and the laws of Serbia through Belgrade’s parallel Kosovo structures in Kosovo Serb areas, especially in northern Kosovo’ (Freedom House 2010:276). Indeed, the 2010 EU Progress Report notes that the justice system remains weak, inefficient and vulnerable to political interference, and that Kosovo’s judiciary is still in need of reform (EU Commission 2010:11).

Problems with inefficient governance, high levels of corruption, election irregularities and the failure to establish the rule of law has impacted negatively on civic trust in institutions, on participation by citizens at the local level, and on civic activism. In the 2000 elections (the first post-war elections) nearly eighty per cent of Kosovo citizens turned out to vote, but by 2007, turnout had dropped to forty per cent. Civic satisfaction with Kosovo’s main institutions shows a similar decrease; in 2003, the Kosovo government and assembly enjoyed over seventy per cent of citizens’ support, this dropped in 2006 and 2009 to approximately forty per cent. Similarly, while UNMIK enjoyed forty per cent satisfaction in 2003, this was at a mere fifteen per cent by 2009 (UNDP 2010).

### **Ethnic Power-sharing in Kosovo**

As part of the overall democratization process, the international community in general has favoured ethnic power-sharing, autonomy and self-governance as a strategy to encourage the integration of all ethnic groups and to avoid partition. As a result of power-sharing deals, a quota system of representation in the central decision-making bodies is reserved for minority ethnic groups (Roeder and Rothchild 2005:31). This strategy includes the decentralization of power (i.e. the transferral of authority and responsibility for public functions) to intermediate and local governments. This strategy aims to accommodate ethnic interests more effectively by bringing institutions of local government closer to the people.

One argument though, is that power-sharing arrangements empower ethnic elites, which risks escalating the conflict and delaying the prospects for a self-sustaining peace (Roeder and Rothchild 2005). Ethnic power-sharing can further limit democracy by discouraging political competition, restricting the electorate’s choices and by disabling public accountability. Ethnic elites can harm the peace agreement through abuse of power and by exploiting the government resources under their management,





by increasing governmental inefficiency through higher administrative costs and the duplication of decision-making agencies, and finally by complicating political and social change through governmental rigidity (Roeder and Rothchild 2005:36-41).

Ahtisaari's Proposal emphasized the importance of addressing the needs and concerns of Kosovar-Serbs through extensive government decentralization. Decentralized regions, where the Serb community constitute a majority, enjoy extensive financial autonomy; they can accept transparent funding from Serbia and can participate in inter-municipal partnerships and cross-border cooperation with Serbian institutions (UN Secretary General 2007). After 2008, most international and local politicians acknowledged that decentralization and the creation of new Serb majority municipalities was essential for sustaining and stabilizing the Serb community in the new state and for overcoming the unsettled political and administrative situation in North Kosovo (KIPRED 2009:3). Despite this, the decentralization process is progressing very slowly, mainly due to Serbia's objection to Kosovo's independence and objection to the modes of municipal power-sharing.

The loudest voice against decentralisation in Kosovo is from *Levizja Vetëvendosje* (the Self-Determination Movement). According to *Vetëvendosje*:

Through decentralization, Serbia is intending to expand and define the borders of enclaves, create continuous territory through enclaves with the planned return of Serbs by the government of Serbia, take the high peaks of hills and mountains with indisputable strategic and military importance, and legitimize its parallel structures in Kosovo (*Vetëvendosje* 2006:13).

Even though there is evidence that the Serbian population wants to participate in and support decentralization, the strong presence and influence of Belgrade through its satellite network of local leaders does not appear to allow this (ECMI 2009). This clearly shows how powerless the Serbian population has become, mainly due to their dependency on self-appointed leadership and the external influence of Belgrade. Moreover, this self-imposed exclusion by local leaders - not the Serb population in general - has the immediate effect of 'discouraging the Serb community from participating in and shaping the structures of the Kosovar state, creating a real risk for marginalisation and long-term division, even if the parallel structures cease to exist' (ECMI 2009).

### **Social Injustice in Kosovo**

As part of the post-conflict reconstruction of Kosovo, the international community has installed the framework for a market-oriented economy. Although this economic system has shown modest progress and macroeconomic stability, Kosovo's economy is highly dependent on financial and technical assistance from the international community and Kosovar diaspora. Nearly one-third of Kosovo's economy comprises remittances from the diaspora, donor-financed activities and foreign aid. As poverty is high, a large number of people, particularly unemployed and vulnerable groups, receive social protection in the form of social assistance, or pensions and special schemes for war invalids (World Bank 2007:28).



Nonetheless, despite the low-income inequality gap, remittances from the diaspora, and social assistance, Kosovo's citizens remain the poorest in Europe with an average per capita annual income of 2,500 USD (World Bank 2007). High unemployment (over forty-five per cent) is the main concern for Kosovar society; it encourages migration and promotes an informal economy and the black market, but also creates the conditions for social unrest, and is a trigger for wider destabilization.

One of the attributes of liberal peacebuilding is establishing market-oriented economies, where in many post-conflict cases has resulted in social exclusion and threatening of peace. The situation in Kosovo shows a low investment in the welfare and security of individuals (Beha and Visoka 2010). Although the international community has been largely focused on the issue of inter-ethnic violence, the Internal Security Sector Review found that 'for the people of Kosovo high unemployment, a lack of economic development and widespread poverty have created an atmosphere of insecurity' (UNDP 2006:xiii). The same report goes further to argue that 'economic instability has exacerbated problems such as ethnic violence, corruption, increased crime rates and contributed to a growth in mistrust of Kosovo's key institutions of government, both international and indigenous' (UNDP 2006:xiii). The EU 2010 Progress Report for Kosovo points out that 'the weak rule of law, corruption, uncertainty over property rights and high interest rates continue to impact negatively on the business environment and prevent economic development' (EU Commission 2010:2). Hence it is suggested that the process of economic reform should prioritize welfare and empowerment of the most marginalized; international actors should support and provide guidance, but leave local actors and communities to take the lead in the development of a market-orientated economy (Richmond 2010:33).

### Conjectures for Kosovo's Future

Today, peace in Kosovo is stable but not sustainable. The path to sustainable peace is obstructed by fragile governance, fragmented ethnic power-sharing and social injustice, as well as by the overlapping and contested international presences that allow the functioning of Serb parallel structures and hold the situation of North Kosovo in limbo. These obstacles are the key factors that will shape the future of Kosovo.

There are two separate developments that will influence the next stage of Kosovo politics. Firstly, a round of dialogue that started on March 2011 between Kosovo and Serbia, facilitated by the EU and UN, will determine the fate of North of Kosovo, the integration of Serb community within Kosovar society, and will clarify the overall relationship between Kosovo and Serbia.

While Kosovo authorities claim that the next round of negotiations in this dialogue will focus on issues of mutual benefit, encompassing unresolved issues relating to missing persons, border administration, and economic and security cooperation, the Serb community will seek to bring to the forefront either the partition of North of Kosovo, or the creation of an autonomy autonomous region in the North with extensive self-governance rights that will enable Belgrade to wield greater political and economic influence in the region. So far the position of the international community is to



accept a compromise agreement between the negotiating Kosovar and Serb parties, to overcome their differences in order to progress within the European integration agenda. In the end, whatever the outcomes of the negotiations will be, the factors and obstacles discussed above increase the potential for the destabilization and uncertainty unless there is a transparent dialogue that recognizes the differences and the interests of both parties.

Secondly, the transformation of *Vetëvendosje* from a social movement into a political party and its participation in the November 2010 national elections in Kosovo, signified the emergence of a new populist political agenda in Kosovo. *Vetëvendosje's* political agenda, which is gaining extensive popularity, seeks on the one hand to encourage active citizenship, a welfare state and economic development in the area of production and employment, and on the other hand seeks to end international governance and supervision in Kosovo, in doing so to establish a new partnership between locals and internationals that facilitates and supports the socio-economic development of Kosovo.

However, a critical issue here concerns the emerging ethnic politics that risk further segregation between the Albanian majority and the Serb minority (and other minorities), which could effectively delay ethnic reconciliation and social cohesion in Kosovo. This ethnic-based confrontation could be exploited within the new institutions, where a relatively high number of seats allocated to *Vetëvendosje* and Serb political representatives could intensify nationalist discourse.

Arguably, to avoid any potential destabilization in Kosovo, certain changes are necessary, including the creation of a functioning, democratic state with coherent, legal, and representative political structures, a sustainable peace between Kosovar-Serbs and Kosovar-Albanians, and promoting mutual recognition and cooperation between the Republic of Kosovo and the Republic of Serbia that would finally open the way for common integration within Euro-Atlantic structures, as a guarantee for long-term stability in the entire region.



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