

# BEYOND THE KOSOVO STATUS QUESTION: THE LIMITS TO EUROPE'S STATE-BUILDING EFFORTS.

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## Abstract

*This article seeks to analyse the scope of the EU's involvement in Kosovo. The main argument presented is that the Union's role in Kosovo is a rather problematic one, characterised by a general lack of vision and a tendency to put European rather than local interests first. This could ultimately lead to a decrease in the perceived legitimacy of the EU as a benevolent actor in the former Serbian province, and could potentially undermine local political processes. This paper makes use of the conceptual framework of international post-conflict state-building exercise and discourse. It holds that the EU's policy is in line with similar state-building efforts in various other regions of the world, and suffers from many of the same structural problems.*

## INTRODUCTION

The text put forward in this paper was first used as an integral part of a group project conducted at Aalborg University, in collaboration with Sebastian Boll, Ingvar Örn Ingvarsson, Anders Purup and Chris Sturrock. Since then, and in line with widely held expectations, Kosovo has unilaterally declared independence from Serbia. Some 38 countries thus far have recognised the breakaway region, of which 18 are EU states ([kosovothanksyou.com](http://kosovothanksyou.com), 2008). On June 15<sup>th</sup> 2008, the new Kosovo constitution, which has been drafted along the conditions presented in the Ahtisaari plan, will enter into force. Meanwhile, the European mission (EULEX) that is to supplant the UN Mission in Kosovo (UNMIK) has started moving in, even though its deployment deadline has been postponed and the withdrawal of the UN is currently being rethought, resulting in what was euphemistically termed a confusing situation on the ground (BBC, 2008). As the author inadvertently gathered from a conversation between EU diplomats at Pristina airport some months ago, even the EU is currently uncertain about how things should now further develop in Kosovo, let alone how this can be reconciled with what the UN and local political actors are doing. It does not seem unlikely that, only a few months after its declaration of independence, Kosovo will yet experience the

pleasure of sharing its newborn sovereignty with the EU and the UN simultaneously. Although the political situation on the ground has changed since last December, when this paper's first incarnation was presented, it maintains that the arguments put forward at that time are still valid now. The settlement of Kosovo's final status did not drastically change the strategy of the EU or any other of the other international actors involved, and one could even argue, referring to the point made earlier, that it contributed to a general sense of uncertainty about how to progress from here on.

This paper aims to analyse the actual and potential role of the EU's involvement in Kosovo, thereby making use of the state-building framework. In order to do this, the text has been divided into two major parts. In the first, the dynamics behind contemporary state-building will be outlined, as well as the reasons commonly given to legitimise the far-reaching international interference typifying state-building. A brief history of its evolution in recent years will be presented, in order to demonstrate the increasing importance of the concept as well as the growing tendency of the international community to resort to state-building. In the second part of this paper, some of the key problems inherent in recent state-building practices will be put forward and it will be argued that the EU's role in Kosovo falls within this framework, and is therefore suffering from the same problems. In conclusion, this essay will advocate that, for the EU's various objectives in Kosovo to be successful, it will have to alter its tactics considerably.

## **STATE-BUILDING: DISCOURSE AND PRACTICE**

The concept of state-building has no clear definition and can therefore contain a number of different ideas and actions, depending on the academic sources employed. It is often seen as a synonym for nation-building or peace-building, although, as Chesterman (2004) points out, the focus of proclaimed attempts at nation-building have in the past most often been institutions of governance rather than the actual people, making the term 'state-building' the more feasible one. According to Chandler (2006), the objectives of state-building may most generally be defined as "constructing or reconstructing institutions of governance capable of providing citizens with physical and economic security" (p. 1). Of key importance, though, is that this always entails external involvement of one kind or another, that, in general, it is applicable to post-conflict societies, and, finally, that there seem to be clear ideas of what the outcome of contemporary attempts at state-

building should look like. In the discourse of state-builders, the consolidation of peace is closely linked to the promotion of democracy, of human rights and the rule of law (UN General Assembly, 2005).

The idea that states can (and should) be built or reconstructed by the international community may be viewed both as the product of the post-Cold War era and as a reaction against the perceived threats that globalisation and modernity are posing to the autonomy of the state. This is not to deny the clear instances in the more distant past, in which certain regions and countries were governed by the international community or representatives thereof. Post-Second World War Germany and Japan are clear examples here, as is the administration of Danzig (1920-1937), of Tangier (1923-1957), and that of Trieste (1950-1954) by the League of Nations and, in the latter case, the UN (Korhonen, 2001, p. 503). It is just to suggest that the content of the state-building discourse in the last two decades is of a different nature altogether, and that its very existence is closely linked to the unique challenges of a globalised world (Robinson, 2007, p. 3). One look at the ambitions of contemporary state-building practitioners is sufficient to realize that what the UN is calling *extended peace-keeping* is, in effect, an attempt to drastically reshape post-conflict societies. Korhonen (2001) sums up some of the tasks which the UN has taken upon itself: “organisation of democratic elections, guarantee of security, organisation of transitional governments, constitutional reform, development of civil society, humanitarian relief, rehabilitation, rebuilding infrastructure, reactivating agriculture, (...) in other words 'international social engineering'” (p. 496).

The most prominent actor in the state-building field has undoubtedly been the UN. Ever since the 1990s, however, a clear shift in the nature of UN-controlled peacekeeping operations has been evident, towards more complex missions that aim at assisting and providing in the accomplishment of the above-mentioned objectives. Chesterman (2004) defines the 1989 UN mission in Namibia and the 1993 UNTAC mission in Cambodia as the UN's first attempts at state-building. Their focus was mainly on the supervision and organisation of elections, and on general assistance to the civilian authority, with the final aim of changing the political structure of the states in question (p. 2). During most of the 90s, however, UN humanitarianism was seeking to circumvent the state rather than strengthen it. Academics have often pointed to the Liberal Peace Thesis in an attempt to explain this: this theory maintains that stability and peace can only be assured through market liberalisation, democratisation, integration into the global economy, the

reduction of state power and a heavy reliance on privatisation. It was not until the end of the decade, and until 2001 in terms of US foreign policy, that the main actors changed their approach to a seemingly more engaged form of external intervention (Chesterman, 2004). Bearing in mind the Washington Consensus-inspired (neo-) liberal politics of the 90s, this renewed emphasis for strong states may indeed come as a surprise. Yet, as Cunliffe (2007) points out, the difference is only meaningful on a superficial level. The current rationale is in effect a continuation of that of the nineties, which implies that contemporary policies equally fail to address the issues commonly put forward by critics of the Liberal Peace Thesis. This assumption shows that international intervention still suffers from the same political reluctance that was so indicative of the humanitarianism of the late 1990s (Williams, 2005, p. 173).

UNMIK (since 1999) and the UN Transitional Administration for East-Timor (UNTAET, 1999–2002) make up two of the UN's more recent, and arguably most ambitious state-building endeavours (Korhonen, 2001, p. 497), both of which have been authorised by the UN Security Council under Chapter VII of the UN Charter, giving the missions a much broader mandate than many of the UN's humanitarian missions of the 1990s (UNSC, 1999a; 1999b; UN 1945). In the case of Kosovo, the UN aims to provide “transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions” (UNSC, 1999b, para. 10). It has the power to dissolve the Kosovar assembly, to remove or appoint officials, to withhold budget approval, to call for new elections, etc. It is thus effectively exercising the powers of a sovereign government (Hehir, 2007a, p. 127). In present times, this amount of direct authority over post-conflict societies by international actors has largely become accepted as a legitimate way of addressing issues of so-called global interest, whereas, for example, regarding the UN administration of the city of Trieste, it was exactly this form of direct control over domestic affairs that was highly contested by a considerable number of states (Chesterman, 2004, p. 55).

To explain the current focus on state-building within contemporary international relations, Robinson (2007) points to the characteristics of the post-Cold War world; he identifies the emergence of the problem of the *weak state* as one of the key elements behind the state-building discourse. He also argues that, ever since the collapse of the Soviet Union, and even more so in post-9/11 times of pre-emptive warfare and the global *war on terrorism*, so-called *failed, failing* and *weak states* have increasingly come to be seen as a global security problem (if not

the main one) by the international community (p. 2). Although an ambiguous term, a weak state may be described as not “hav[ing] the capacities to penetrate society, regulate social relationships, extract resources, and appropriate or use resources in determined ways” (Migdal, 1988, p. 4). This kind of state is certainly not a new phenomenon. Yet, in the past, it was for various reasons simply not seen as a worrisome element by the dominant international powers, if otherwise not seen as an opportunity for expanding one's influence in the context of the Cold War.

This changed with the post-Second World War de-colonisation movement and with the breakdown of the bipolar world order, as well as the concomitant exponential increase in the number of sovereign states. Yet, the mere rise in the number of states is obviously not a sufficient explanation for the importance of the current state-building debate. Robinson (2007) identifies the effects of globalisation as being of key significance. Globalisation, he argues, has caused a crisis of the state, and this has most clearly been felt in those states that already had little capacity to provide for security and welfare. The consequences have been the destabilisation and exclusion of whole societies, with all its implications, including food insecurity, political instability, an increase in inequality, large migration flows, etc. (Hoogvelt, 1997, p. 175). State-building, then, is seen as a reaction against these challenges, as an attempt at constructing states that are “able to deal with globalization, namely [states] that [are] flexible and able to draw on social resources to cope with change” (Robinson, 2007, p. 11). In other words, the existence of weak states is seen as constituting a threat, in the broad meaning of the word, to international peace and security. Javier Solana (2004), for example, has suggested: “Whereas the security threats of the past century came from strong states, those of the 21<sup>st</sup> century come from weak and failing ones”; or as Duffield (2001) puts it, in relation to the emergence of so-called new, i.e. recent, phenomenon of intra-state war:

Conventional views on the causes of the new wars usually hinge upon their arising from a developmental malaise of poverty, resource competition and weak or predatory institutions. The links between these wars and international crime and terrorism are also increasingly drawn. [...] [I]t reflects a new security framework within which the modalities of underdevelopment have become dangerous. (Duffield, 2001, p. 15)

Chandler (2007) links the rise of the state-building discourse to what he has described as the *ethical turn in international theorising* (p. 79). With the

emergence of the human rights regime, the focus of international law has shifted to the individual. This has effectively meant that local political interests have had to make place for moral and ethical values, for the rights of the individual over those of the state. These principles are viewed as both natural and universal, leading to the belief that it is the duty of the world's powerful to guarantee that they are respected everywhere. The classical meaning of state sovereignty, being “supremacy at home and [the] freedom from interference in external affairs” (Fowler & Bunck, 1995, p. 11), is no longer valid in this context. As a consequence of the ascendancy of human rights as the dominant legal framework in international relations, sovereignty is no longer a right taken for granted. Rather, it is increasingly perceived as having the conditionality of good governance attached to it, meaning a respect for human rights and obedience to democratic values. This inclination towards democratic forms of governance is often associated with the Democratic Peace Thesis, which holds that conflicts between two or more democratic regimes are highly improbable (Chesterman, 2004, p. 9).

The shift in focus has led academics to believe that the content of the term ‘sovereignty’ has changed dramatically, to a notion of *asymmetrical sovereign equality* (Hehir, 2007b, p. 187). Or as Fowler and Bunck (1995) put it, “to claim sovereignty is a declaration of political responsibility for governing, defending and promoting the welfare of a human community” (p. 13). Sovereignty has thus become a right granted to states that fulfil certain criteria, namely those of the more *intellectually mature* states in the system (Hehir, 2007(b), p. 188). This tendency is identified by Hehir and Bain as a hierarchical re-conceptualisation of sovereignty, meaning that some states in the international system have come to be seen as having achieved a higher degree of statehood than those that have not been able to live up to the standards of good governance and democratic legitimacy (Bain, 2003, p. 66). Building states, in Hehir's view, can therefore be described as a way of spreading the governmental system of higher states to lesser ones, resulting from the belief that this is the best way to prevent future conflicts (Hehir, 2007(b), p. 188). At the same time, the objective of state-building seems to be not the construction of states in the classical sense, with the result being “self-governing, independent and autonomous political subjects” (Chandler, 2006, p. 31). Instead, the goal is the creation of political entities accountable to the international community, and in line with dominant economic and social policies. From this point of view, Chandler (2007) goes on to argue that the world is experiencing a new international hierarchy; states are no longer equal players, and

“political legitimacy, sovereign equality and the rights of non-intervention are the preserve of the enlightened post-modern states” (p. 81).

This evolution has been particularly noticeable, for example, in the international debate about the *Responsibility to Protect* (ICISS, 2001, p. 11 e.a.), where it is held that governments have the responsibility to protect their citizens. If they fail to do so, supporters argue, the international community should hold the right to intervene, thus putting aside former notions of sovereign inviolability. The invasions of Iraq and Afghanistan, officially legitimised by concerns about global security (respectively the proliferation of weapons of mass destruction and the harbouring of terrorist networks) as well as the promise to construct democratic regimes, are other clear examples of this way of reasoning. The perceived threat of these states has given birth to an environment in which external intervention and transformation of whole societies has come to be seen not only as preferable, but as an absolute necessity owing to the self-declared moral duty of the dominant powers to individuals everywhere in the world. Especially the EU and US are regarded (not in the least by themselves) as acting upon the promotion of democracy and justice, in so doing downplaying the possibility of other, more selfish factors playing a role as well (Chandler, 2007, p. 80).

Some academics go as far as to draw comparisons between the authority exercised by contemporary state builders, and the usurpation of power by colonial administrations. Although recognizing that these are serious accusations, Wilde (2007) maintains that there are certain parallels to be drawn, and that it is useful to take up the analogy, especially in reference to issues such as the lack of accountability, local consent and regional ownership (p. 32). Bickerton (2005) on the other hand, points out that comparing state-building (and EU enlargement) to imperialism misinterprets the major differences in the nature of these practices, particularly concerning the existence of a clear underlying idea; he claims that both state-building and EU enlargement are in essence *ad hoc* processes, often reduced to a mere technical issue, and therefore lacking any form of vision whatsoever. Indeed the international community has not seldomly displayed a clear lack of political willingness to engage itself in long-term projects, and has often most of all been concerned with exit strategies and the construction of excuses for not having to intervene.

## **KOSOVO AND THE LIMITS OF EUROPEAN POLICY**

Kosovo is certainly not the only instance of EU state-building activity in the South East European (SEE) region, and it is useful to examine the outcomes of similar EU-driven processes in order to understand and analyse the dynamics of Europe's activities within Kosovo. Particularly the Union's role in policy-making in post-conflict Bosnia-Herzegovina (BiH) is one frequently referred to by academics concerned with state-building issues. It is therefore worth exploring here, before subsequently turning to Kosovo. Clearly, differences between BiH and Kosovo abound, particularly regarding the political and legal status of both entities. And the as yet unclear legal position of Kosovo within the international community, together with the apparent inability of the EU to come to a consensus regarding the issue, admittedly makes it very hard if not impossible to design a clear roadmap for the province. Yet the relevance of comparing BiH with Kosovo resides in the belief that significant similarities exist between the EU's administration of BiH and its approach towards Kosovo, the problems of which are far greater than the mere question of legal status. The case of BiH is particularly interesting here, considering that the country was widely considered a test ground for new approaches to international administration and novel forms of foreign assistance, which were then carried out elsewhere (Chandler, 2006b, p. 1). One of the main arguments of this section builds exactly on this idea: some of the problems the EU is being faced with in its attempt to move Kosovo closer to EU integration are inherent to the way it is carrying out the construction of state institutions in Kosovo, and indeed, for that matter, inherent to the way state-building is being conducted by other actors (UN, US, etc.) in Kosovo and elsewhere. It will be argued that one of the main trends visible in the practices of the EU is the separation of state-building from politics, which may in the long run result in the weakening of those institutions the international community has pledged to strengthen. International regulation, in the words of Champagne (2005), "can represent paradoxically an obstacle to the creation of a responsible state, able to guarantee political autonomy and communal support" (p. 7).

BiH has in effect been administered by the EU since the reform of the Office of the High Representative (OHR) in 2002 and the subsequent transfer of more authority to the Directorate of European Integration (DEI), in effect establishing it as the most important executive body of the Bosnian government. This, together with the DEI's direct funding by the European Commission, has led Chandler (2006a) to state that Bosnia should actually be considered as the "first genuine EU



state where sovereignty has (...) been transferred to Brussels” (p. 44). He goes on to argue that the legacy of over a decade of state-building in Bosnia has created a complete division between power and accountability, and that, although BiH is formally an independent state, the country has no “independent or autonomous existence outside of the EU partnership” (Chandler, 2006a, p. 45). In this sense, the exercise of state-building in BiH has created a so-called *phantom state*, in which domestic politics are basically redundant, policy making is formed by external experts, and local politicians are more accountable to the international community than to the population they are supposed to represent. Furthermore, there are considerable concerns over the lack of mechanisms for overseeing the activities of the international administrators, especially since most of the OHR personnel benefits from a certain degree of immunity and can in many cases avoid prosecution for any missteps taken (Caplan, 2007, p. 113).

Given the extent of the power exercised by the OHR and the DEI, many a researcher have expressed concerns over the democratic deficit institutions such as these seem to entail, and it inspired someone like Ignatieff to put the label *Empire Lite* on the international community's administration of BiH (Ignatieff, 2003). Although this may appear to be a controversial statement, the EU itself has recognised that its approach towards the country has been marked by significant shortcomings. A resolution adopted by the Parliamentary Assembly of the Council of Europe, for example, has stated that “the Assembly considers it irreconcilable with democratic principles that the High Representative should be able to take enforceable decisions without being accountable for them or obliged to justify their validity”, after which the Assembly called for an assessment of the “efficiency and rationality of the present constitutional and legal arrangements” in BiH (CoEPA, 2004, art. 13). Alessandro Rotta, political advisor to the SP, in a personal interview, also referred to this issue noting that, if the EU wants to be serious about assisting SEE, it will need to be serious about building local capacity. This is a problem, he argues, that is yet to be addressed successfully by the EU, especially in terms of Bosnia, where he sees an obvious contradiction between the Union's role as a promoter of further European integration, and its persistency in treating Bosnia as a protectorate incapable of effectively carrying out state responsibilities (Rotta, 2007). The outcome of this contradiction is hard to contest. The direct result of international state-building in BiH has been that “the powers and the authority of the state have been subsumed by external actors and this process has prevented any real policy-making power being devolved to elected bodies” (Chandler, 2006a, p. 142). From this perspective, the international

community can hardly be said to have successfully fulfilled its initial goal of reconstructing and strengthening BiH's institutions. It is feared that the EU's approach towards Kosovo offers little hope of being fundamentally different, and that the driving forces behind the state-building practices in Kosovo suffer from much the same illness as in the case of BiH.

Firstly, as in the case of the rest of SEE, the EU's relationship with Kosovo is based on what is eagerly called an equal or contractual partnership, meaning that the involvement of the EU is subject to the consent of local politicians. This is reflected mainly in the Stabilisation and Association Process Tracking Mechanism (STM) and the Stability Pact (SP), arguably two of the EU's most important state-building and integration mechanisms, and, for Kosovo, also in the activities of the Union under Pillar IV of UNMIK, from which it derives its legal basis. In all of these initiatives, it has often been stressed that leadership over the different processes remains in the hands of local Kosovar politicians (see for example *EC*, 2001, p. 7). Yet the alleged equal partnership the EU is flaunting has been the subject of much dispute. Chandler (2006a), for example, maintains that it should be clear that real ownership over policy-making is *de facto* in the hands of the European Commission, and that there is no such thing as real equality in this process, given the obvious fact that the EU possesses considerable amounts of leverage over Kosovo, and SEE in general (p. 104). The reason for this is the proverbial carrot and stick the EC is yielding, namely future accession and the expected progress the province should make towards this, the recognition of the province's independence and the threat of withdrawing financial contributions when policies are not in line with Europe's expectations. Given the large economic, political and social appeal of the EU, it is indeed not serious to claim that a European partnership with a region as small and economically underdeveloped as Kosovo can be anything close to equal. Furthermore, as Chesterman (2004) points out in reference to the UNMIK mission, it is simply misleading to claim that any sort of international administration whatsoever is "in any meaningful way [dependent] on local consent or 'ownership'" (p. 152), seeing that the legitimisation for its existence is ultimately based on military presence.

Also, in relation to the Stabilisation and Association Process (SAP), Chandler (2006a) argues that the partnership between the EU and Kosovo is one between uneven partners, "with only one party being the judge of whether the conditions of the contract are met and in a position to coerce the other" (p. 106). The EU's deliberate focus on equity in the partnership discourse therefore masks the large

power disparities that are actually present, which is reflected in an ambiguous integration framework and much uncertainty over potential accession. In doing this, the EU has successfully decoupled its regulatory mechanisms over Kosovo from any clear promises concerning further integration. While the newborn country is under sizeable pressure to subordinate itself to the conditionality agreed upon under the STM, there is little or no pressure on the EU to live up to its own promises (Chandler, 2006a, p. 110). The lack of a clear timeframe for future accession means that the Union can delay the execution of its promises as it deems opportune, without according any importance to objections raised by Kosovar politicians. The EU seems to recognize this problem to some extent when stating that “the [SA] process needs to be tailored to the needs and specific conditions of the individual countries and (...) the proper balance needs to be struck between stabilisation and association” (EC, 2002, p. 8). So far though, it has failed to put this into practice, showing a remarkable lack of vision in its approach towards the region as a whole. Its strategy, as Klasnja (2007) argues, “is plagued with inconsistencies and half-baked measures [which] is in stark contrast with the pervasive expectations in both the international community and the region itself that the EU is the key international actor” in the region (p. 16). Sergi and Qerimi (2005) also make a case for a more straightforward commitment towards SEE, and believe that the EU should provide all states in the region with a *roadmap for accession*, and Bickerton identifies the EU's *ad hoc* policies, and its significant lack of an underlying strategy in both its enlargement and state-building activities as central to an understanding of the minimal progress made thus far. Europe, he claims, is essentially afraid of its own power (Bickerton, 2005, para, 29).

The outcome of this ambiguous framework has been a decreased perception of the legitimacy of the EU's presence in the region. Its regulatory activities as outlined above under UNMIK, the STM and the SP, are increasingly being questioned in the face of the absence of any real commitments. “Economic and social sacrifices, which might make sense in the context of certainty about EU integration, have less appeal when it seems that policy is externally imposed with little promise of improvement” (Chandler, 2006a, p. 110). Legitimacy is also affected by the failure of the EU and UNMIK to provide a degree of social and economic security in the region (Welch, 2006, p. 222). Rotta for example, recognises the fact that Kosovo is still an economic *black hole* in the region, and that, in terms of economic development, it is certainly not on the same level as the rest of the Western Balkans (Rotta, 2007). This should be seen as highly problematic because, as pointed out in the first section of this paper, state-building is legitimated by the

assumption that some states, or in this case the EU, are able to export the exercise of good governance to those that are held to be incapable of accomplishing this themselves. As Zaum (2006) puts it, in the absence of democratic consent, the authority exercised by the different international stakeholders in Kosovo is based on “their expertise and their effectiveness in addressing governance problems” (p. 468). When the policies of the international community then turn out to be mostly ineffective in addressing such key issues as economic reconstruction, this undermines both the credibility of the international administration's aims and the legitimacy of the power it is exercising. Many commentators go even further and insist that external financial support has shaped an environment of dependency and inefficiency. Illustrating this, Welch (2006) quotes the World Bank on its statement that “the influx of funds (...) has distorted domestic spending patterns, resulting in an actual threat to the economic stability of the province” (p. 225).

Kosovo is not only dependent on the EU for financial support, it has also increasingly come to rely on Europe for the creation of its government policies. As Rotta acknowledged in our interview, the policy agenda for Kosovo is mainly set by the European Commission (Rotta, 2007). Here as well a key characteristic of the current state-building rationale can be discerned. In the discourse of state-builders, policy-making is generally taken to be the task of specialists and foreign experts rather than the outcome of a political process based on popular consensus, thus leaving little or no room for domestic input. State-building, in this sense, is believed to be nothing more than a mere technical and administrative process (Chandler, 2006a, p. 106). The danger this entails is that externally drafted policies do not reflect the needs of the society they are implemented in. Indeed one of the major criticisms of the EU's regulatory involvement in Kosovo through the STM and the SP is that the policies thus promoted and imposed are more indicative of the concerns of the EU than anything else. This is clearly visible in the objectives of both the Stability Pact and the SAP, which focus mainly on stabilising the region through the creation of democratic processes, of multinational and multiethnic diversity and the return of refugees (Welch, 2006, p. 223). Although, of course, one could hardly claim this not to be in the interest of the majority of the local population, it should be noted that the stress on multiethnic diversity and the return of refugees reflects the priorities of the EU rather than those of the people of Kosovo. Chandler (2006a) aptly argues that, for example, the issue of multiethnic diversity is one even some of the richest EU member states are having problems dealing with, making it rather unfair to expect a province as poor as Kosovo to spend considerable amounts of its budget on achieving exactly this,

while the local population may indeed have totally different ideas of what its urgent needs are. In his words:

*These externally reliant policy forums have little awareness of the social and economic limitations to their ideal solutions and those involved in policy processes have little relationship to broader social concerns (Chandler, 2006a, p. 118).*

The governmental programs thus created, Rule notes, are shaped by the requirements and recommendations of the international donors, and therefore devoid of any real domestic political content (Rule, 2003, p. 152). The end result of all this might very well amount to the loss of not only the international community's legitimacy in the eyes of the population, but even that of the local political elite. With the international administration holding the power to dismiss whoever they believe unnecessary and in effect dictating the content of the policy agenda, it now seems that elected officials are more accountable to the international community than to their own population (Hehir, 2007, p. 138).

This brings us to the one of the major sources of concern in the debate about external intervention. The way the EU has been regulating policy-making, and taking on governmental tasks through UNMIK, has tended to be ignorant of all conventional notions of democratic authority, largely due to the fact that there are almost no existing mechanisms to hold either the EU or UNMIK as a whole accountable for its actions (Caplan, 2007, p. 115). Much as the OHR in BiH was criticized by the Council of Europe for not having to justify its actions, many an academic has put a question mark on the almost authoritarian nature of both the UNMIK administration and the regulatory mechanisms of the EU. It is true that in the case of Kosovo an ombudsperson handling complaints relating to UNMIK has been put into place, but this mandate is severely restricted and its findings remain merely advisory. Zaum (2006) quotes the ombudsperson for Kosovo as saying that "the people are deprived of protection of their basic rights and freedoms (...) by the very entity set up to guarantee them" (p. 470).

The EU is arguably suffering from the same problem as UNMIK. Zaum (2006) describes this in the light of accountability's key importance in legitimating authority. The exercise of democratic power, he notes, needs to be held accountable for it to be justified, and the perversion of just this process is all the

more ironic given that the main objective of the EU in Kosovo, and the main objective of the international community in pursuing state-building in general, is the promotion of democratic principles (p. 469). Yet the EU has no need to legitimize its power over Kosovo. Precisely because it is talking up the promotion of local ownership and equal partnership, Europe is able to deny its power over the province, and indeed that over any political entity in the region that has signed the Stabilisation and Association Agreement (SAA). The stress on local ownership puts the burden of responsibility in the hands of local politicians, who, once again, have little or no impact on actual policy making. In this way it is extremely easy for the EU to take credit for any successes, while putting the blame for the shortcomings of its policies on the incapability of local politicians (Chandler, 2006a, p. 108). The Kosovar political elite, meanwhile, is not finding any problems pointing the finger to the international administration to justify the lack of progress made, thereby avoiding their own responsibility (Welch, 2006, p. 225). This blaming game was illustrated nicely in one of the interviews conducted for this research, when a former staff member of Kosovo's Provisional Institutions for Self-Government (PISG) indicated the poor quality of the UNMIK personnel as a key problem; this opinion being recorded immediately after hearing exactly the opposite accusation in an interview with a Brussels official (Anonymous, 2007).

For many commentators, the lack of political accountability in the international community's presence in Kosovo is a consequence of what has been described in an earlier section as the ethical turn in international relations. "Political responsibility", according to Cunliffe (2007), "was downplayed in the presence of the more pure moral responsibility of defending human rights" (p. 59). As argued earlier, the fulfilment of this self-proclaimed moral duty has been seen as a pure technical and administrative matter, and not a political one. Just as any other international stakeholder currently involved in state-building, the EU has attempted, and largely succeeded in keeping politics out of the discourse. Cunliffe (2007) has termed this the exercise of *power without responsibility* (p. 50), and his assertion is that this is a continuation of the politics of the '90s in the sense that it "aims at containing and managing symptoms rather than removing causes" (Hoogvelt, 1997, p. 181). It is feared that, through time, this has worked disruptively on domestic political processes, in the end undermining the main aims of the international community (Robinson, 2007, p. 10). Or to quote Chandler (2006a):

*[The mechanisms of external regulation] separate the policy process from mechanisms of local accountability and consensus-building, which may result in a policy that fails to understand local problems or adjust to changing local circumstances (p. 112).*

It is interesting to analyse the status settlement debate from the perspective of *peace without politics* (Chandler, 2006b, p. 1). Up to the drafting of the Ahtisaari plan, the EU had not been overtly willing to make the issue of Kosovo's final status into one of its priorities, this of course also being complicated by heavy opposition from especially Russia (Klasnja, 2007, p. 23). Only most recently has it shown some indications of willingness to commit itself in supporting Kosovo's calls for full independence, although member states have remained divided on this point, preventing the EU from taking a unified position. Rotta defends the EU's past efforts at avoiding this issue by claiming that this has been necessary in order to move forward with the implementation of more practical processes. The EU has attempted, he states, to develop parallel mechanisms, for it to progress on the status question and on more practical questions simultaneously (Rotta, 2007). This clearly reflects the general European approach as outlined above, namely the separation of pure technical, regulatory mechanisms from more political ones. Rotta (2007) himself readily admits that it is an illusion to think that politics can be left out of even the most practical discussions, and that the unresolved problem of Kosovo's final status eclipses talks about everything else. The fact that the EU has in the past been unwilling to acknowledge this may very well partly be because independence for Kosovo was simply not one of its own concerns. This backs up the point made earlier, that "the SAP and the SP place more faith in stability coming through EU conditionality than through the strengthening of domestic state institutions through democratic processes" (Chandler, 2006a, p. 119), for which, debatably, in the case of Kosovo, independence is an important precondition. In this view, also, the more recent willingness of the EU (together with the US) to move forward, even without backup from the Security Council, can be ascribed to an increasing belief that the status quo may in the long run have resulted in augmented instability, not just in Kosovo, but in the region as such (Rehn, 2007, par. 11; Welch, 2006, p. 230). Considering that Europe's main objective in SEE is the prevention of exactly this, it is not altogether that surprising that the status settlement was eventually moved to the top of the agenda.

Finally it should be noted that the SP is scheduled to be replaced by a Regional Cooperation Council, which clearly fits in with the EU's proclaimed aim of increasing local and regional ownership (Rotta, 2007). Although this sounds promising, it remains to be seen whether or not this will actually decrease the dependency of Kosovo on external policy making. In the context of our above outlined analysis, the restructuring of the SP would actually fit in perfectly with the EU's tendency to deny its power over Kosovo, as it puts more responsibility in the hands of the region. The promotion of regional cooperation should by no means be interpreted as a drastic restructuring of the EU's toolbox. It is of course far too early to judge the successor of the Stability Pact, but Rotta (2007), at least, expressed some hope that with a more central role for Europe, a greater feeling of responsibility will also come. It should perhaps be hoped that this may then result in a greater feeling of what the EU can, and cannot achieve through its mechanisms of external regulation.

As Welch (2006) puts it, "The EU needs to allow the new Kosovo, whatever its final status, to find its own way, make its own mistakes and grow as a society and political entity" (p.234). Three months after Kosovo's official declaration of independence, neither the UN nor the EU seem to know when they will be moving out of Kosovo. With the stress clearly on notions of supervised independence and shared sovereignty, real independence and local ownership are not likely to come soon for Kosovo.

## CONCLUSION

This essay has sought to analyse the EU's policies and in Kosovo. To do this, we treated the EU as an actor engaged in state-building activities. It was argued that the underlying problems the EU are facing in its approach towards Kosovo are reminiscent of those it has faced in Bosnia-Herzegovina, and that a number of these challenges are inherent to the state-building discourse of not only the EU, but of any other international actor in the region as well. The analysis was mainly conducted through the perspective of what we identified as one of the main characteristics of contemporary state-building practices, namely the tendency of the international community, and in this case specifically the EU, to leave politics out of the debate, and address state-building as a purely technical and administrative process. It was held that this resulted mainly from an increased importance being attached to the human rights regime, and the tendency to put



moral concerns above traditional political ones, the dynamics of which were outlined in relation to the question of sovereignty in the first part of this essay.

Furthermore it was maintained that the partnership between the EU and Kosovo is fundamentally an unequal one, and that the EU's attempts to stress the equality of its partnership, as well as its pertinent focus on local ownership, amounts to the denial of the power the EU is exercising over the province. In relation to enlargement, it was argued that this inequality of power has resulted in a separation of the integration agenda and the EU's regulatory mechanisms. A clear roadmap for integrating the SEE region into the EU is lacking, and this has negatively affected the credibility of the EU in the eyes of the local population. Considering that the legitimacy of the EU's activities is largely based on the prospect of future membership, it was argued that its authority is increasingly being questioned. The lack of progress made in terms of social, political and economic development has further shown to be undermining the legitimacy of the EU's authority.

Through the mechanisms of the STM and the SP, the EU was found to set the policy agenda of Kosovo without either substantial input from local policy makers, or respect for Kosovar views on their own policy priorities. In this way the agenda for Kosovo has come to be more indicative of the concerns of the EU, those mainly being for the stability of the region, than of those of Kosovo, potentially threatening the credibility of the domestic political process. This discrepancy is further aggravated by the democratic deficit of the international administration in Kosovo. Neither UNMIK nor the EU can in any real way be held accountable for the failures of their policies, and indeed the talking up of local ownership has created an environment in which the EU can easily downplay its power over Kosovo, and avoid the responsibilities that come with it.

Overall, involvement in Kosovo has been marked by the EU's lack of a clear vision in its state-building practices. Its approach thus far has been an *ad hoc* one, reflecting the EU's concerns in stabilising the region rather than the needs of the SEE region itself. Therefore it is argued in this paper that the EU, if it wants to be successful in stabilising the region, and if it wants to succeed in building strong democratic institutions in Kosovo, will need to develop a firm and straightforward strategy for the region. It will have to clarify its vague promises to integrate SEE into the EU in order to rectify the negative results of the current ambiguity. This is all the more true for Kosovo considering its symbolic and political importance as a

test case for the EU as an international security actor. The credibility of the EU can only be increased if the causes of the Kosovar's negative perception of it are ameliorated, and this requires visible progress in developing political, economic and social security. Europe, thus, has to reaffirm its commitment to the province, and this will involve a reassessment of its regulatory mechanisms through the STM and the SP. Real ownership for, and partnership with Kosovo can only come when the province is given the time and space to develop on its own terms, rather than on those of the EU. Although this essay recognises the crucial role the EU has to play in Kosovo, it also argues that Europe should support the domestic political process. This means putting politics back into the state-building and enlargement discourse, aiming at constructing viable political solutions rather than conflict management, and tackling the questions of democratic deficiency and accountability that are currently inherent to the processes of external regulation. The policy agenda for Kosovo should therefore, to a large extent, be set by Kosovar politicians, so as to properly support the strengthening of its governmental institutions and the development of real, accountable democratic processes. If the EU fails to do so, it might very well undermine its own efforts and weaken Kosovo's institutions, potentially resulting in renewed instability.

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