

Transitional Justice and Security Sector Reform: The Role of the EU and Other Multilateral Institutions in Building Kosovo's Police Force

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Abstract:

Security Sector Reform (SSR) and transitional justice are increasingly viewed as mutually supporting methodologies in post-conflict situations, yet the relationship between them is largely underexplored, even if they share many of the same goals: accountability for past crimes, capacity building to strengthen the rule of law, and deterrence. This article traces and analyzes the inter-institutional division of labor between the Organization for Security and Cooperation in Europe (OSCE) Mission in Kosovo, the United Nations Interim Administration Mission in Kosovo (UNMIK), and the EU Rule of Law Mission in Kosovo (EULEX) concerning police reform and transitional justice processes in Kosovo.

Transitional justice and SSR are critical in post-conflict settings, particularly when it comes to the reform of judicial systems, intelligence services, police, correctional systems, and the military, and addressing systemic massive human rights abuses committed by individuals representing these institutions. Accordingly, the SSR and transitional justice nexus deserves a special attention from the academic community. International efforts in Kosovo to build a multiethnic police force provide an interesting case study. After briefly summarizing the evolution of cooperation on SSR and transitional justice matters between different international organizations in Kosovo, the paper provides an overview of the literature on transitional justice, SSR and police reform, outlines the role of international organizations in establishing the police service, and discusses the process of recruiting minorities into the force. Following a discussion of some of the obstacles and challenges associated with building and reforming the police, the final section of the paper discusses the linkage between SSR and transitional justice and concludes with a summary of key findings.

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The Evolution of International Cooperation Concerning SSR and Transitional Justice in Kosovo: A Summary

UNMIK's mandate was extensive and unprecedented both in scope and structural complexity. As authorized by the UNSC Resolution (UNSCR) 1244 of 10 June 1999, UNMIK's mandate included establishing an interim civilian administration including police, promoting the establishment of substantial autonomy and self-government in Kosovo, creating a democratic political atmosphere respectful of human rights, repatriating over one million refugees, supporting the reconstruction of infrastructure and the economic system, maintaining civil law and order, promoting human rights, and ensuring safe return of refugees and displaced persons to their homes.¹ UNMIK also tried to facilitate a political process to resolve the final status question.

UNMIK was responsible for coordinating the reconstruction efforts of all international agencies operating in Kosovo. It was designed with a four pillar structure: Police and Justice (pillar I) and Civil Administration (pillar II) were under the direct control of UNMIK. The OSCE was in charge of the Democratization and Institution-Building (pillar III), and the EU was responsible for the Reconstruction and Economic Development pillar (pillar IV). Placed outside of the pillar structure, NATO's Kosovo Force (KFOR) mission was and still is responsible for providing a secure environment in Kosovo.

Under Kosovo's Constitutional Framework established by UNMIK Regulation 2001/9, the Provisional Institutions of Self-Government (PISG) were excluded from exercising certain responsibilities, including the development of the security infrastructure.² This task was reserved for the UN Special Representative of the Secretary General (SRSG) in Kosovo. To accomplish this task, UNMIK and OSCE (through pillars

I and III, respectively) were assigned the responsibility for creating a police force, the Kosovo Police Service (KPS) in Kosovo.

The different international institutions devised a preliminary form of division of labor involved in building the peace in Kosovo. At the end of the conflict in Kosovo in 1999, no other international organization besides NATO had sufficient manpower to tackle the myriad number of tasks in this sensitive post-conflict environment. In this power vacuum, KFOR “had no choice but to perform a number of civilian tasks, from policing duties to running electricity plants” in addition to its security-related tasks (San 2005, p. 9). These were then gradually transferred to either UNMIK and later on to EULEX or Kosovar authorities, although KFOR continues to support them as necessary.

UNMIK provided the general framework for international institutions’ collaboration. Beginning in 1999, the OSCE Mission in Kosovo was responsible for supervising the progress of democratization, the creation of institutions, the protection of human rights, and the promotion of the rule of law, including the establishment of a judicial system in Kosovo, and monitored compliance with international human rights standards.³ The OSCE trained the new police force in Kosovo through the Kosovo Police Service School (KPSS) in Vushtrri (Vucitrn), established in July 1999. As more and more of its goals were accomplished, UNMIK’s mission was modified in 2006, and the pillar structure was largely abandoned as more responsibilities were transferred to the local authorities (Scheye 2008). After the unilateral declaration of independence by Kosovo in February 2008, UNMIK’s mission was “reconfigured”, and the names of Kosovo’s security institutions were changed. For example, the KPS became the Kosovo Police (KP). Responsibility for assisting Kosovo’s judicial authorities and law enforcement

agencies in developing and strengthening an independent multi-ethnic justice system, police force and customs service was transferred from UNMIK to EULEX, which reached its initial operational capability in December 2008. Since then, EULEX is responsible for supervising the KP, and encouraging greater minority participation within the force.

To date, the KPS and its successor KP have demonstrated good progress in recruiting the Kosovo Serbs and the other ethnic minorities into their ranks, a significant if underappreciated dimension of reconciliation integral to the success of SSR. According to the latest reports, of the KP, about ten percent of the force is comprised of Kosovo Serbs, and another six percent represent the other ethnic minorities in Kosovo, including the Roma, Ashkali, Egyptian, Bosniak, and Turks. As put by one scholar, the KPS has been the “crown jewel of the international community’s initiatives in Kosovo” (O’Neill 2002, p. 114).

Literature Review

The International Center for Transitional Justice (ICTJ) defines transitional justice as “a response to systematic or widespread violations of human rights”, which “seeks recognition for victims and to promote possibilities for peace, reconciliation and democracy.”⁴ Transitional justice emerged as both a field of practice and scholarly inquiry in the 1980s and 1990s in response to dramatic political changes occurring in Latin America, Central and Eastern Europe, and South Africa. In each case, the transition to democracy included public demands to acknowledge and redress human rights abuses committed by former regimes. Since then, a variety of mechanisms have been developed to confront legacies of abuse (e.g. gross civil, political and other human rights violations,

genocide and other war crimes, sexual violence, torture, disappearances) in times of transition, whether from authoritarianism to democracy or from war to peace. These include truth commissions, institutional reform, amnesty, vetting, dismissals, reparations, rehabilitation, memorialization, and reconciliation projects. Regardless of which approach or combinations of approaches are implemented, all of them share a common set of mutually reinforcing goals: promoting justice, accountability, reconciliation, and the rule of law; deterring future human rights violations; establishing democratic institutions; restoring dignity to those who suffered abuse; and memorializing those who perished.

Transitional justice scholarship has evolved quickly since the early 1990s.⁵ Initially, the literature focused heavily on the judicial dimensions of transitional justice, with legal scholars making some of the most important original contributions to the field (Adams 1993; Benomar 1993; Cohen 1995; Nino 1991; Orentlicher 1991; Roht-Arriaza 1990). Moving beyond a narrow legal focus, the field now includes detailed analyses of the various mechanisms of transitional justice, including truth commissions, vetting and lustration, amnesties, reparations, and public memory efforts.

A similar trajectory can be observed in the literature addressing security sector reform. “Security Sector Reform” is a comparatively new concept, emerging out of the Civil-Military Relations (CMR) literature (Chuter 2006; Edmunds 2007; Bruneau & Matei 2008), and rooted in what many scholars see as a convergence of events occurring in the 1990s (Brzoska 2000; Sedra 2006; Edmunds 2007; Brzoska & Law 2007). These include donor country anxiety about conflict and insecurity hindering sustainable development in the developing world (Hendrickson & Karkoszka 2002; Law &

Myshlovska 2008; Brzoska 2000); immediate post Cold War concerns about excessive military spending and a desire to redirect defense targeted financial resources to development related projects (Brzoska 2000, 2003; Hännigi 2009); a new emphasis on reforming weak and corrupt institutions during the democratic transitions in Central and Eastern Europe (Law & Myshlovska 2008; Hännigi 2009); Western governments' desire to promote good governance and democratic civil-military relations in countries undergoing political transitions, and then expanding the focus to non-military facets of the security sector, including police, border guards and judicial institutions (Brzoska 2000; Chanaa 2002; Hännigi 2009); the emergence of the "human security" paradigm, that focuses on the safety of citizens from a variety of threats (Hännigi 2003; Sedra 2006; Doelle & de Harven 2008; Ball & Hendrickson 2009); and finally, the expansion of tasks associated with peacebuilding in post conflict settings (Brzoska 2000; Law & Myshlovska 2008).

Several themes emerge in this body of literature. First, there is wide agreement that the term is still evolving, multidimensional and contested (Edmunds 2007; Hännigi 2004; Hännigi & Scherrer 2008). Indeed, security sector reform has come to mean many things to many people, not to mention international organizations and states. For example, the 2008 UN Report of the Secretary General entitled *Securing Peace and Development: the Role of the United Nations in Supporting Security Sector Reform* defines it as

a process of assessment, review and implementation as well as monitoring and evaluation led by national authorities that has as its goal the enhancement of effective and accountable security for the State and its peoples without discrimination and with full respect for human rights and the rule of law (p. 6).

After a ten-year effort of revisiting and redefining the concept (Bryden 2007), the Development Assistance Committee (DAC) of the OECD defines it in its 2007 *Handbook on Security System Reform: Supporting Security and Justice* as processes and procedures dedicated to the reform of the security sector

which includes all the actors, their roles, responsibilities and actions – working together to manage and operate the system in a manner that is more consistent with democratic norms and sound principles of good governance, and thus contributes to a well functioning security framework (p. 20).

In general, the DAC's definition seems to capture the essence of multiple characterizations, and is the one that most scholars, bilateral donors, and international organizations adopt or reference for guidance. In this regard, therefore, the OECD has established itself as an important actor in SSR efforts.

Second, there is a lack of consensus on what exactly constitutes the “security sector.” Nevertheless, two conceptualizations have emerged: broad and narrow (Hänngi 2004). The latter are predominantly state-centric and focus primarily on actors that have a monopoly on the use of coercive power and are charged with protecting civilians and the state from violence from both internal and external threats. In such instances, the police, the military, paramilitary forces, border guards, national guards, customs authorities and intelligence agencies, as well as the bodies that oversee them (e.g. presidential and prime ministerial offices, ministries of interior, defense) are under scrutiny for reorganization and reform (McFate 2008).

The broader view includes the roles of justice and law enforcement institutions (judiciary, justice ministries, prisons and correctional services, criminal investigation and prosecution services/bodies) and what are often referred to as “non-statutory security actors”, including liberation and guerrilla armies, private security firms and political

party militias (Hendrickson & Karkoszka 2000; Bailes 2008; Hänngi & Scherrer 2008).

In general, the trend seems to be one of expanding the scope of the term to include more than traditional state security forces, such as the military and police, and to explicitly factor in the role of justice as well as non-state actors (Hänngi & Scherrer 2008).

Evidence for this more expansive view is noted in the guidelines of the DAC-OECD's

Handbook on Security System Reform. It defines the security sector as:

core security actors (e.g. armed forces, police, gendarmerie, border guards, customs and immigration, and intelligence and security services); security management and oversight bodies (e.g. ministries of defence and internal affairs, financial management bodies and public complaints commissions); justice and law enforcement institutions (e.g. the judiciary, prisons, prosecution services, traditional justice systems); and non-statutory security forces (e.g. private security companies, guerrilla armies and private militia) (p. 5).

Our focus here is on police reform, the most public face of the state's security sector and the one that citizens are most likely to encounter on a day to day basis. In post-conflict settings "democratic policing" involves reform so that the police serve the public, rather than the state (Alderson 1994; Mendes *et al.* 1999; Stone & Ward 2000; Bayley 2001; Caparini & Marenim 2004; Collantes Celador 2005; Wiatrowski *et al.* 2008). Legitimacy, professionalism, respect for human rights and accountability are the central goals of creating a democratic policing system (Bayley 2001; Caparini & Marenim 2004).⁶

Thus, in spite of the contested nature of the concept of SSR, including its scope, there is no shortage of analyses of SSR focusing on particular cases (Hood 2006; Ginifer 2006; Vetschera & Damian 2006; Bernabéu 2007; Edmunds 2007; Murray 2007; Davis 2009; Sierra 2009), and the role of external actors (Caparini 2003; Vetschera & Damian 2006; Bryden 2007; Haglund 2007; Ghebali 2007; Spence & Fluri 2008; Tadesse 2010).

The latter is the focus of this discussion. In many post-conflict situations, SSR is directed, assisted and/or instigated by external actors. Apart from the UN, the most active in the field of SSR are the EU, OECD, Council of Europe (CoE), and the OSCE. In this so-called “Euro-Atlantic cluster” of cooperation, the principles and techniques of SSR are more developed than for other intergovernmental organizations (IGOs) (e.g. World Bank) interested in development issues that overlap with SSR.⁷ Within this group, the EU has the most extensive track record. The 2003 *European Security Strategy* (ESS) established SSR as an objective in the EU’s overall security framework. Much happened in the interim. A 2006 workshop sponsored by the Slovak government and Geneva Centre for the Democratic Control of the Armed Forces (DCAF) dedicated to developing an SSR framework for the UN singled out the EU as “potentially the most important resource provider for SSR programmes” (Intergovernmental Approaches to SSR 2006, p. 9). In fact, by 2006, the EU provided SSR-related support (i.e. capacity building, technical assistance, norm development) in over seventy countries and in a range of environments.⁸

Given the EU’s expansive and expanding understanding of security and its link to a variety of other EU concerns (e.g. development, human rights and human security), security sector reform is considered a “cross-cutting” issue for all EU institutions (Sherriff 2007; Law & Myshlovska 2008). Notwithstanding the absence of a cohesive SSR strategy for the entire EU, as well as differences in how the European Commission and the Council conceptualize SSR, both rely on the OECD DAC guidelines, share the same definition of SSR and are guided by the same SSR principles (Sherriff 2007; Law & Myshlovska 2008; Sierra 2009). In sum, the EU’s involvement in SSR reveals several interlocking agendas: conflict prevention, crisis management, good governance and

enlargement (Sherriff 2007). This reflects a similar trend noted by Albrecht & Buur (2009, p. 393) in the SSR community at large, where it has become increasingly more common “to conceptualise and operationalise connections between security, development, justice and democracy”.

In spite of this impressive evolution in both bodies of literature, there are still many questions in need of answers. One such question revolves around the relationship between security sector reform and transitional justice in post-conflict settings. Thus far, only a few have explored the explicit linkage between the two (van Zyl 2005; Dhungana 2007; Mobbek 2006; Loden 2007; Mayer-Rieckh & Duthie 2009; Davis 2009). This is noteworthy because, as Mobbek (2006, p. 6) asserts, both SSR and transitional justice share three goals: accountability, capacity-building and strengthening the rule of law, and deterrence. Accountability is ensured by careful vetting of individuals employed in the security sector and, once a functioning judiciary is established, by holding those who committed human rights violations criminally accountable; capacity-building and strengthening the rule of law is part and parcel of retraining, reforming and retooling institutions associated with the security sector so that they embrace democratic norms; finally deterrence can be fostered by establishing oversight mechanisms and transparency in the security sector. And since both are concerned with coming to terms with violent legacies of conflict, and the institutions that frequently facilitated and/or promoted the conflict, the link between them is arguably the clearest when it comes to the reform of criminal justice organizations in post-conflict settings, namely police, the judiciary, the military, intelligence services, the penal system, and the bodies that oversee those institutions (Mobbek 2006, p. 5).

Moreover, Van Zyl (2005) points out that integrating transitional justice mechanisms into SSR, such as “targeted prosecutions” for those who are most responsible for human rights violations, combined with sound vetting programs and well supported truth commissions that carefully document human rights abuses from the past can serve the overall goals of SSR (p. 218). In so many words, SSR and transitional justice are linked in their goals of reforming the security sector so that the actors that comprise it are governed by the rule of law, trusted by individuals, and are dedicated to the protection of individuals, not harming them. The relationship between the two is unambiguously stated in the OECD-DAC’s Reference Document *Security System Reform and Governance* (2004), noting that

[t]he security system reform policy agenda also includes the issue of “transitional justice.” Justice mechanisms may be used during a transition from war to peace to address issues related to the large numbers of offenders and victims that may threaten long-term peace and stability. This is particularly important in post-conflict countries where perpetrators who have participated in human rights violations may remain in a community with impunity due to insufficient capacity of judicial or security institutions (p. 21).

Police Reform in Kosovo

From 1974 to 1989, Kosovo was an autonomous province in the Federal Republic of Yugoslavia with its own regional police force. When Kosovo’s autonomy was revoked by Serbian President Slobodan Milosevic in 1989, most of the Albanian officers were expelled or resigned, the police force of the province was abolished, and law enforcement authority was transferred to the Serbian Ministry of the Interior in Belgrade. Following the loss of autonomy, many Kosovar Albanians lost their jobs, were denied education, and were discriminated against (O’Neill 2002). Many war crimes and crimes against humanity, including the killing of civilians, torture, and sexual crimes, were committed

by the Serbian police, army, and paramilitaries before and during NATO's military intervention in 1999. As O'Neill (2002, p. 25) notes, "the violence perpetrated against Albanians was planned and organized at the highest levels of Serbian authority".

In the immediate aftermath of NATO's military intervention in Kosovo in 1999, the security situation did not look promising. In the pre-war context, the police and the justice system were "almost entirely Serbian" (O'Neill 2002, p. 22). In the post-conflict environment, the development of a local policing capacity became a top priority. Due to initial problems with deployment capabilities for UNMIK, KFOR initially assumed responsibility for policing tasks. Gradually, as the number of UNMIK Police increased, UNMIK acquired primary responsibility for the maintenance of law and order, but not until after 2002 (Rausch 2007; Stromseth *et al.* 2006). In the meantime, plans were developed to recruit and train local police officers. The minority participation target was set as 15%.⁹ In order to increase the number of local police officers working with the UNMIK Police, "a significant number of former Kosovo police officers expelled by the Federal Government in 1989 and 1990" were recruited and received accelerated training on human rights principles and democratic policing practices.¹⁰

Under UNMIK, the responsibility for the KPS was shared between pillar I – Police and Justice Pillar led by the UNMIK and pillar III – Democratization and Institution-Building Pillar led by the OSCE. On 21 May 2001, with the formal launch of the Police and Justice pillar, the UNMIK Police and the Department of Judicial Affairs were realigned into one structure.¹¹ The Constitutional Framework for Provisional Self-Government also recognized the significance of international oversight, and hence, allowed the justice and police affairs to be the sole responsibility of the SRSG.¹² With

pillar I, UNMIK focused on creating a multinational police force and a judicial system. Following the disbandment of pillar I in May 2006, the KPS came under the authority of UNMIK's Police Commissioner with oversight provided by the SRSG.¹³ Additionally, under pillar III, the OSCE was responsible for training the KPS members through the KPSS in Coordination with UNMIK Police Commissioner.¹⁴ In the words of the Minister of Internal Affairs, "KPS started as OSCE's baby", as the OSCE took responsibility for initiating the police component.¹⁵

At the beginning of the police reform process, the Kosovo Liberation Army (KLA) demanded that its members constitute the entire KPS. Following negotiations between the UNMIK, KFOR and the KLA, an agreement was reached in September 1999. According to the agreement, 50% of the KLA members would be recruited as members of the KPS.¹⁶ Applicants for the KPS had to be between the ages of 21 and 56, have at least a secondary school education, be a resident of Kosovo, be physically and mentally fit, and have no criminal history.¹⁷ The screening process conducted by the OSCE involved an oral interview, a written examination, a psychological test, a medical exam, and a background investigation. The screening process conducted by OSCE involved an oral interview, a written examination, a psychological test, a medical exam, and a background investigation (O'Neill 2002, p. 111). Vetting was an important component to ensure that extremist elements were excluded from the final selection of police officers and that a fine balance was achieved with the inclusion of female officers and multiple ethnic groups. Most of the applicants for the police force were eliminated based on the background checks and the outcome of the written examination.

In addition, the OSCE took over the KPSS in Vushtrri (Vucitrn) in July 1999 and recruited experienced trainers from its member states. As there was an urgent need for an increased number of local police officers, the initial training was kept relatively short: the first class of 176 officers graduated on 16 October 1999 after six weeks of basic training.¹⁸ This was followed by 19 weeks of field training.¹⁹ The original basic training course was further extended to eight weeks, then to 12 weeks. It currently lasts for 20 weeks, which is followed by an additional 20-week training period in the field.²⁰ By December 2004, the OSCE vetted, recruited, trained and deployed more than 6,000 KPS officers.²¹ To reach the minority participation target, an aggressive recruitment process was given high priority.²² Initially, some minorities did not feel comfortable travelling to and living in Vushtrri (Vucitrn). During the first few classes, only about half of the minorities accepted into the KPS reported for training. As an indicator of how uncomfortable minorities were, KFOR provided armed escorts for the Kosovo Serbs to accompany them to training and back (O'Neill 2002, p. 112). Over time, this practice was discontinued as the security situation became stabilized and the trust-building efforts between the different ethnic communities yielded success.

Under UNMIK Regulation 2001/9, the KPS was set to serve under the authority SRSG with the supervision of UNMIK Police. It was designed to act in a “supporting role” in crime prevention and public protection and safety, with the eventual goal of “gradually assuming additional responsibilities for the maintenance of law and order.”²³ As planned, the KPS gradually took over duties from the UNMIK Police. For instance, the KPS increasingly assumed responsibilities for beat patrols, station management, traffic services, community policing, close protection units, border policing, and police

administration and training.²⁴ By the end of 2001, the KPS started running independent operations, including regular patrols, internal investigations into professional standards, and murder investigations. Yet, it remained answerable to UNMIK, not to the PISG.

Instead of waiting for a resolution of the final status question, UNMIK followed a policy of “standards before status” and established the *Standards for Kosovo* document in April 2002, designed to achieve some progress in meeting various domestic benchmarks, such as establishing functioning democratic institutions and the rule of law, creating a more tolerant multi-ethnic society, improving levels of public sector performance, and promoting good governance.²⁵ This document in turn was implemented through the *Kosovo Standards Implementation Plan* (2004), which set March 2006 as a deadline for finalizing the transfer of all stations and regional headquarters from UNMIK’s control to KPS control.²⁶

Accordingly, between 2004 and 2006, UNMIK continued with the transfer of competencies to PISG to ensure local involvement in rule of law and security affairs. An important part of this transfer was the establishment of the Ministry of Justice and the Ministry of Internal Affairs by UNMIK Regulation No. 2005/53 of 20 December 2005.²⁷ In line with the “local ownership” principle, these ministries were given legal, technical, financial and administrative responsibilities in relation to police and justice, with the SRSG closely monitoring appointments. However, until Kosovo’s declaration of independence in February 2008, the bulk of the responsibilities for these ministries remained administrative in nature, instead of executive. As planned, by early 2006, five out of six regions were transferred to the operational control of the KPS commanders.²⁸ The reassignment of more important responsibilities, such as operational control over the

KPS, took place following a positive assessment by SRSG in the first few months of 2006, such that most police stations and many departments were transferred to KPS control in 2006.²⁹

Initiated by the SRSG in 2006, the first Internal Security Sector Review (ISSR) of Kosovo was conducted with the goal of preparing a “template on which the security of Kosovo can be constructed.”³⁰ It was compiled in cooperation with the Kosovo Government, IGOs and local and international non-governmental organizations (NGOs). According to the 2006 ISSR Public Opinion Poll results, there was “general satisfaction with the level of police development” among the people of Kosovo.³¹ Yet the results also indicated some areas of concern. It pointed to the distrust of KPS as a multiethnic force by Kosovo Serbs.³² While some Kosovo Serbs felt that the KPS was performing well, many believed that KPS did not adequately serve the needs of their community.³³ Corruption, politicization of the police, and the lack of effective parliamentary oversight from Kosovo’s National Assembly were identified as potential problems for KPS.³⁴ Weaknesses in the top leadership, the small pool from which all transfers to specialist departments and promotions were drawn, and “the constant movement of key personnel” were identified as problems endangering the institutional stability and hindered strategic thinking.³⁵ It concluded by recommending continued capacity building of the KPS in the area of management. Since the rapid promotion of the senior officers was identified as a problem, the report encouraged these officers to remain in positions for a longer period of time and for their skills to be tested.

The ISSR also highlighted training and recruitment as two of the most important issues for the KPS’s future effectiveness. In 2006, an estimated 20% of KPS officers had

previous police experience from the Former Yugoslavia. While experience is important, there was the problem of some KPS officers viewing the police force as an expression of power, not of service to citizens, a direct challenge to the concept of democratic policing. They were also criticized for being too reliant on the chain of command and too reluctant to introduce innovation.³⁶ On top of all that, under UNMIK, senior managers received no training. The ISSR identified this as a problem for the reputation of the KPS among civilians.³⁷ Even though the percentage of senior officers and officials from former Yugoslavia has steadily decreased (in part due to retirements), the report noted “a managerial weakness” that still “handicaps” the KPS’s successor, the KP today.³⁸

Following a diagnosis of many of the problems that were haunting the institution-building process in Kosovo’s security sector, there was an increased momentum for a more successful reform process. Accordingly, oversight of the KPS was made a priority of the international community and the Kosovar authorities. From September 2005 to December 2007, the OSCE Mission in Kosovo conducted the Police Inspectorate of Kosovo (PIK) Implementation Project. The PIK was established as an independent civilian oversight mechanism that aimed at ensuring accountability and transparency within the KPS. PIK performed an “inspection function”, scrutinizing the efficiency, effectiveness, and compliance with the law of every station and department of KPS. Additionally, it investigated all allegations of serious misconduct by KPS officers of all ranks.³⁹

Post-Independence Declaration Period

Immediately after the declaration of independence in 2008, the National Assembly adopted the Laws on the Police and on the Police Inspectorate in February

2008, and the oversight tasks were transferred to the locally managed PIK, under the Ministry of Internal Affairs.⁴⁰ The KPS was renamed the Kosovo Police (KP) and the KPSS was renamed the Kosovo Centre for Public Safety and Education and converted into an executive agency of the Ministry of Interior in March 2008. It continues to educate the cadets on police, customs, emergency, and correctional training.

There is continuous training of officers at the basic, advanced, and specialized levels. Basic training includes basic law enforcement training, which currently lasts for 20 weeks, followed by 20 more weeks of field training.⁴¹ So, after 40 weeks of basic and field training, the recruited cadets become full-fledged police officers. They continue receiving advanced and specialized training, which used to be overseen by external actors in the beginning of the reform process. However, recently, the KP started developing a “domestic capacity” in specialized training, “for sustainability purposes”.⁴²

After the Kosovo Constitution came into force in July 2008, EULEX took over the Police and Justice pillar from UNMIK. EULEX is the largest civilian mission that is ever conducted under the auspices of the Common Security and Defence Policy (CSDP) of the EU. It has a significant symbolic importance for the EU as it represents a new step for it to present itself as an important security actor in world politics. With EULEX, the EU is determined to take over post-crisis management tasks in Kosovo. Given the EU’s failure to stop the ethnic cleansing in Kosovo, its performance now is both an attempt to make up for past failures and a test for the success or failure of CSDP and Common Foreign and Security Policy (CFSP).

The central aim of EULEX is to assist and support the Kosovo authorities in the rule of law area, specifically in the areas of the police, the judiciary and customs.⁴³ Its

key priorities are to address immediate concerns regarding protection of minority communities, corruption and the fight against organized crime. EULEX also has some “executive powers in the broader field of rule of law, including the ability to investigate and prosecute serious and sensitive crimes, such as war crimes and serious financial crimes”.⁴⁴

The initial objective was for EULEX to replace UNMIK. But this created an outcry from both Belgrade and Prishtina. The Serbian Government was concerned about the replacement of the mandate of UNMIK, and the Kosovo Government was concerned about the implications for its administrative authority. Consequently, the EU started using the term “reconfiguration” of UNMIK, rather than “replacement” of UNMIK. In August 2008, UNMIK and EULEX signed a memorandum transferring responsibilities from UNMIK to EULEX in the areas of justice, police and customs. Drafting compromise on the issue, UN Secretary General Ban Ki-Moon proposed a “six-point plan” in November 2008, regarding the issues of reconfiguration and EULEX deployment. While officials in Belgrade accepted the proposal, the Kosovar Albanian leadership rejected it. According to the plan, police, customs officers and judges in the north of Kosovo would remain under UNMIK command, while their Albanian counterparts would work with EULEX. Prishtina rejected it and argued that it would amount to a *de facto* partition of Kosovo.⁴⁵

The EULEX police component began monitoring, mentoring and advising its Kosovo counterparts in December 2008.⁴⁶ On the issue of policing, EULEX communicates with the Director of Police, but does not interfere with the operational processes of KP. There are weekly meetings with EULEX to harmonize efforts for joint

actions between the EULEX and the Kosovo Government.⁴⁷ EULEX plays only an advising role in all but the northern part of Kosovo. However, in the north, EULEX acquired and still retains executive powers formerly exercised by UNMIK. Indeed, as part of the plan of localizing as much policing as possible, UNMIK's role has been significantly reduced over time so that it has very few areas of exclusive competence. However, it is important to note that the reputation and the image of EULEX are very weak in Kosovo. This has important implications for the overall success of police reform as EULEX's legitimacy is increasingly questioned.

Recruitment into the KPS/KP

Initially, UNMIK and the OSCE, and then the Ministry of Internal Affairs and EULEX did a very good job of directing the recruitment into the police force in Kosovo. From the beginning, the emphasis was on keeping both the female and the minority representation at targeted levels of 15%. Fortunately, the KPS had a promising start with the composition of the inaugural class of the KPS School in 1999, which included 90% Albanian and 10% non-Albanian cadets (See Table 1).⁴⁸ The KPS continuously worked on increasing its support from the local community to recruit minorities into the force. It employed a rigorous public relations campaign, which involved distributing handouts and publishing advertisements in different languages throughout Kosovo. By June 2001, 3,847 basic recruits graduated from the KPS School and the initial minority recruitment target of 15% was met, and the mission shifted its focus from basic training to more specialized training to ensure the successful eventual transfer of power from UNMIK Police to the KPS.⁴⁹

The first ethnically mixed patrols in the KPS started in August 2002.⁵⁰ Until 2002, the only part of Kosovo where the KPS officers were not deployed was the northern part of Mitrovice (Mitrovica). However, beginning in September 2002, UNMIK started successfully recruiting Kosovo Serbs from that region into the KPS. Accordingly, about three years after NATO's military intervention, the KPS successfully established its authority over the whole of Kosovo.⁵¹ And, as more KPS officers were recruited, trained, and deployed throughout Kosovo, the number of parallel institutions was reduced, at least up until the declaration of independence which halted progress on that front.⁵² Nevertheless, by late 2002, KFOR began transferring border policing responsibilities to UNMIK Police and the KPS. As KPS numbers rose UNMIK downsized its policing.⁵³ Consequently, over time, UNMIK Police assumed more of a supporting and monitoring role, while retaining overall supervisory authority until the transfer of its mandate to EULEX in 2008.

Against the background of these improvements, on the 17th and 18th of March 2004, violent riots broke out throughout Kosovo due to "inaccurate reports that Serbs had been responsible for the drowning of three young Albanian children".⁵⁴ During the March 2004 violence approximately 100 KPS officers were identified "as the subject of allegations of misconduct."⁵⁵ Though relatively small in numbers, the events raised questions about professionalism in the KPS. Another criticism that surfaced was the lack of effective coordination between the KPS and UNMIK Police.⁵⁶ In the immediate aftermath of the riots, many Kosovo Serb KPS officers left their positions to protest the violence. But eventually they returned to their jobs and ethnically mixed patrols, a significant accomplishment in reforming the police, resumed in July 2004.⁵⁷ The July

2004 Report of the UN Secretary General to the Security Council on UNMIK addressed the incident and concluded that “overall professional conduct of the Kosovo Police Service during the violence was a significant indicator of the professional growth of the Service.”⁵⁸

Nonetheless, the March 2004 events served as a wake-up call for the KPS. The establishment of specialized police units for crisis-management became a priority.⁵⁹ A Kosovo Security Advisory Group was established bringing together the PISG, representatives of all ethnic communities, UNMIK and KFOR. After an initial meeting on July 13, 2004 the group’s meetings stalled as Belgrade refused the participation of Kosovo Serbs.⁶⁰

As Table 1 shows, between 2004 and 2007, ethnic representation in the KPS remained quite stable, with slightly less than 10% Kosovo Serb representation and slightly less than 6% representation by other ethnic minorities. However, the unilateral declaration of independence in 2008 complicated the steady progress made. In the wake of the declaration of independence, Belgrade put pressure on the Kosovo Serb members of the KPS to leave their jobs. Accordingly, over 300 Kosovo Serb officers boycotted the KP in a number of Kosovo Serb areas in southern Kosovo where operational police competencies were transferred to the Kosovo Ministry of the Internal Affairs. Unwilling to accept the authority of the Government in Prishtina, they declared that they would no longer recognize the KP chain of command and demanded to be placed under the direct command of UNMIK.⁶¹ They did not return back to their duties for about one and a half years. In response, these officers were temporarily suspended from duty and replaced by UNMIK Police officers. In the northern part, the Kosovo Serbs officers did not resign

from the police force, but broke off communication with the chain of command, declined to report to the Government in Prishtina, and retained the old UNMIK KPS insignia.⁶² Thus, the operational police competencies remained in the hands of UNMIK in northern Kosovo, until EULEX reached its full operational capability in April 2009.⁶³

The boycott of the KP by Kosovo Serbs posed a serious challenge for the multiethnic composition of the force and was a major setback for the reconciliation aspects of transitional justice in Kosovo. The 2008 Kosovo Constitution states that the “security institutions shall reflect the ethnic diversity of the population of the Republic of Kosovo”⁶⁴ and emphasizes the need for the “civilian and democratic control over security institutions.”⁶⁵ For these new institutions to be regarded as effective and unprejudiced by all communities in Kosovo, a multiethnic representation is vital. In the first two UN Secretary General reports following the declaration of independence, minority representation within KPS appeared to remain roughly constant.⁶⁶ However, the numbers are somewhat misleading because the data were derived from the payroll and included the Kosovo Serbs who were still paid, but not reporting to work.⁶⁷ And in a further provocative move, suspended Kosovo Serb police officers, who were officially boycotting the KP since the declaration of independence, signed contracts with Serbia’s Ministry of Internal Affairs (MUP) in April 2009 to receive salaries of approximately €340 from Belgrade from the MUP’s payroll.⁶⁸ Kosovo’s Government and EULEX set a June 30, 2009 deadline to end the boycott. The Serbian Government took a constructive approach in response to the pressures from the EU and met the deadline. Serbia’s Ministry of Finance cancelled the payments and encouraged Serb members of KP to return to work.⁶⁹ Encouragingly, most of the Serb officers returned back to their duties,

“after realizing that they would lose their jobs and that Serbia could not financially support them.”⁷⁰ EULEX monitored, mentored and advised the KP during the reintegration of Kosovo Serb police officers into the service.⁷¹ Of the 325 Kosovo Serb police officers who stopped reporting to their duty stations, 317 returned to work by the deadline.⁷² However, in the northern part, Serb police officers continued receiving their salaries from UNMIK and EULEX, not from Prishtina, further underscoring the fragility of integrating the force and the political sensitivity of Belgrade toward the project.⁷³ In 2010, the Kosovo Serb officers reintegrated into the KP after the June 2009 deadline were surveyed by the UN. While two-thirds of the 100 officers surveyed expressed their satisfaction with the reintegration process, many complained about problems with the “quality of KP management, information flow, political interference, and equal treatment for staff from non-majority communities.”⁷⁴

Currently, the KP has more than 9,000 officers, with approximately 16% minority representation due to its “affirmative action policy”⁷⁵ [See Table 1 in the appendix]. Moreover, a Kosovo Serb police officer was recently appointed to the senior position of Deputy General Director of Kosovo Police, a move aimed at easing the anxieties of the Kosovo Serb population and to demonstrate that there is no discrimination against the ethnic minorities in the KP. The representation of Roma and Ashkali is very minimal, as they mostly lack the minimum required level of education for entry into the police force, i.e. secondary schooling.⁷⁶

<Table 1 About Here>

Obstacles to Police Reform

Much of the recent reporting on the KP criticizes its poor management and the lack of senior leadership's focus on training.⁷⁷ There are also widespread concerns that the KP is politicized. Even though the 2008 EU Kosovo Progress Report found KP's performance regarding the maintenance of order and combating minor crime in the majority-populated areas "satisfactory," it criticized the lack of exchange in intelligence information between different KP structures, and the low salary levels.⁷⁸ Three agencies report directly to the Minister of Internal Affairs: the KP, the Agency for Civil Registration, and the Police Inspectorate. As recently as July 2010, there was "confusion about who is responsible where" among these agencies. In order to resolve this confusion, clearer mandates are needed.⁷⁹ The 2008 Progress Report further noted that the police detention facilities do not meet international standards.⁸⁰ Moreover, the KP's capacity to fight against organized crime, fraud, human trafficking and drug trafficking is weak.⁸¹ The availability and possession of weapons by civilians remains a problem that the KP has so far been unable to resolve.

In 2009, the Ministry of Internal Affairs established municipal councils for community security to reinforce relations between police, municipal authorities and local communities. As a result community policing efforts gained momentum. Nevertheless, lack of communication among the local police stations remains problematic. For instance, in northern Mitrovica (Mitrovica), four police stations do not report directly to Prishtina, limiting the effectiveness of fighting organized crime and conducting undercover operations in this area.⁸² Parallel structures here exacerbate the situation. As long as Serbia continues to exercise influence over the northern part of Kosovo, the integration of Serbian police officers remains difficult.⁸³

A number of reports also point out that the KP is too small for the size of the population.⁸⁴ The Minister of Internal Affairs has alluded to this concern as well, as more and more responsibilities are transferred to the KP. For instance, on 28 April 2010, the control of the Administrative Boundary Line with Albania was transferred from KFOR to KP. It was a significant event marking the positive achievements reached by KP in preparation and professionalism, as well as becoming more efficient in the execution of its tasks.⁸⁵ But, as the KP assumes more control over border areas, additional officers will be needed to police the area. Aware of these new challenges, the Minister of Internal Affairs notes, “We have no army, so there is a need to increase the number of police officers.”⁸⁶

The 2009 EU Progress Report noted that the KP lacks the capacity to develop strategic planning and fully implement an intelligence-led policing system.⁸⁷ Poorly paid and poorly equipped personnel constitute another problem.⁸⁸ Recently, in February 2010, members of the elite special operations units protested the inadequate pay. Following negotiations with governmental authorities, the Kosovo Government promised to provide a 3.5 million Euro budget increase. In April 2010 the Government authorized another 3.5 million Euros for salary increases, so that these two recent salary increases will add about 80 Euros to the average officer’s monthly salary.⁸⁹ The low salaries may potentially lead to corruption-related problems, from which KP has been immune for the most part.

Facilities for storing evidence are also not fully protected and poor communication channels with other law enforcement agencies pose additional challenges. The KP’s reputation suffered a significant blow during last year’s scandal revolving around a theft incident from the evidence room protected by the KP.⁹⁰ The incident was

widely covered in the news and underscored the weaknesses of the KP. There is also skepticism about political interference in the criminal justice process, corruption, and a widespread perception that “the security institutions cannot guarantee the protection of any person wishing to address these problems.”⁹¹

Finally, there are concerns about the KP’s ability to ensure public safety. If there is an outbreak of violence, the KP is the first line of defense. They are then supported by EULEX Special Police units and, if the situation deteriorates, KFOR will be brought in as a third line.⁹² Until the KP is able to provide such security on its own, its operational readiness will be questioned.

But apart from these operational and technical concerns, the big issue that hovers over the continued success of police reform is Kosovo’s sovereignty. Until this matter is conclusively and bilaterally resolved, the process of police reform will be hampered by uncertainty and setbacks. In spite of an important turning point in January 2009, when the KP created a mixed unit in northern Mitrovica (Mitrovica), consisting of 25 police officers (Kosovo Serbs, Kosovo Albanians and Kosovo Bosnians), the problem of parallel structures in the north and conflicts over whether EULEX or UNMIK is in charge eclipse such notable accomplishments.⁹³ And since EULEX has not deployed its police force in northern Kosovo, the area is “free for organized criminal gangs.”⁹⁴

Furthermore, Kosovo Serbs are under tremendous pressure from the Serbian Government to not accept the authority of Kosovo’s central government. There are significant differences in attitudes towards the declaration of independence amongst the different ethnic groups in Kosovo. In the immediate aftermath of the declaration of independence in 2008, while 93% of the Kosovar Albanians said that independence had

“turned out to be a good thing”, 74% of the Kosovo Serbs indicated that they saw Kosovo’s independence as a “bad thing”. In 2009, the percentage of Kosovo Serbs with such negative assessment had risen to 80%. Similarly, fewer Kosovar Albanians (75%) now thought that independence had turned out well.⁹⁵ Such problems hamper the transitional justice potential of the KP, as there are portions of the Kosovar society that are not willing to cooperate with the Government in Prishtina.

The Transitional Justice-Security Sector Reform Nexus

A central challenge for Kosovo, and for all societies confronting massive human rights violations from the past, is to establish the rule of law, to reform institutions in order to cultivate civic trust and legitimacy in governing structures, and to promote reconciliation. The February 2007 *Comprehensive Proposal for the Kosovo Status Settlement* prescribes multiple mechanisms and policies to promote peace, justice and reconciliation in Kosovo. For example, the Proposal’s Article 1.1 notes that Kosovo “shall be a multi-ethnic society, which shall govern itself democratically, and with full respect for the rule of law through its legislative, executive, and judicial institutions.” Moreover, Article 2.5 explicitly endorses a role for transitional justice, noting that “Kosovo shall promote and fully respect a process of reconciliation among all its Communities and their members. Kosovo shall establish a comprehensive and gender sensitive approach for dealing with its past, which shall include a broad range of transitional justice initiatives.”

As noted above, transitional justice can take a variety of forms. Regardless of the mechanism(s) selected, the focus is on the rights of victims in the pursuit of peace, democracy and reconciliation. Reforming security sector is particularly important

because those who are often implicated in past abuses worked for the police, the military and other security agencies. In the case of building a new police force for Kosovo, the emphasis revolves around two large issues: building the infrastructure and cadet aptitudes for policing; and, recruiting individuals with personal integrity to ensure that suitable police candidates are not implicated in past human rights violations, and on building a multi-ethnic force as a means for integration and political reconciliation. After discussing the challenges of the former above, we now turn to the latter.

Given the magnitude of violence during the civil war in Kosovo, the transitional justice issues are pressing. Indeed, during the war more than 10,000 Albanians were killed and over 850,000 driven from Kosovo between March and June 1999 as part of an ethnic cleansing campaign orchestrated by Serb forces.⁹⁶ The International Committee of the Red Cross (ICRC) lists 2,047 people as still missing.⁹⁷ Over 90% of the Kosovar Albanian population was displaced throughout 1999.⁹⁸ As an early OSCE Verification Mission Report of 1999 on human rights noted,

[f]requently a Kosovo Albanian would be intimidated, injured or killed in full public view to enforce the departure of the other villagers. Houses were also looted and set alight. Those who refused to leave were often killed. The combination of shelling, shooting, burning, intimidation and killing created chaos and panic, with villagers running in fear of their lives. As one refugee expelled from Vranic/Vraniq (Suva Reka) in early April explained, the "police threatened the population and killed some to encourage others to leave."⁹⁹

Kosovo's Serbs suffered immensely as well. It is estimated that between 60,000-220,000 Kosovo Serbs left or were expelled and then suffered wide-scale acts of revenge by Kosovar Albanians in 1999-2000 including murder, expulsion, harassment and discrimination (Dugolli & Agimi 2009, p. 16).¹⁰⁰

While there have been notable improvements in interethnic relations since 2001, parallel structures, including the police, continue to exist. Kosovar Albanians and Kosovo Serbs also continue to differ over versions of history, the trustworthiness and legitimacy of institutions, and the future status of Kosovo, all of which further hamper the process of reconciliation. Until these and other challenges are overcome, achieving the goals of transitional justice *and* SSR will remain partial at best.

Further complicating matters, some experts note that while international intervention ended the war in Kosovo and helped stabilize the area so that the foundations for future peace and security could be established, it also generated a new set of problems, whereby “[t]he political situation that settled after the war, did not address the justice factor, did not address the massive human rights violations and a number of highly sensitive issues including missing persons. Some local experts argue that justice was sacrificed for the sake of stability” (Dugolli & Agimi 2009, pp. 17-18). Moreover, transitional justice has been by and large managed and overseen by international actors due to a dearth of a “homegrown brand of human rights activities courageous enough to take on the tasks related to dealing with the past” (Dugolli & Agimi 2009, p. 26). On the particular issue of vetting for the Western Balkans more generally, the Center for Democracy and Reconciliation in Southeast Europe (CDRSEE) noted that

...lustration¹⁰¹ did not take place in the Western Balkans. Even in the cases where appropriate lustration laws were passed, the public authorities failed to implement them... The interest of the general public has been focused on other issues, and civil society was not strong enough to bring this issue to the fore... Most international actors involved in democracy building in the Western Balkans paid little or no attention to contested issues surrounding the dealing with the past. All of this had negative repercussion on democracy and the rule of law.

Furthermore, it found that vetting designed and coordinated by external actors, such as international organizations, “cannot be considered a success” (Hatschikjan *et al.* 2005, p. 16). In sum, therefore, Kosovo is essentially playing “catch-up,” having to look back before it can move forward and doing so in the context of a very fragile peace and uncertain future.

Compared to many other post-conflict initiatives in Kosovo, building the KPS/KP has been widely identified in the international media as a “success story” of the international community.¹⁰² Indeed, as O’Neill notes, “[t]he Kosovo Police Service and its school in Vucitrn prove that multiethnicity is neither dead nor a pipe dream in Kosovo” (2002, p. 110). He further notes that the creation of the KPS/KP, “provides important lessons to Kosovars and internationals working there to construct a society based on the rule of law, tolerance and respect” (2002, p. 111). The ability of international and local actors to inculcate a professional identity for police officers that trumps ethnic identity, and even gender to some extent, has provided the necessary glue for cultivating a delicate *esprit de corps*.¹⁰³

As previously noted, international organizations, such as the UN and the OSCE, were crucial in establishing the police force. The goal was that UNMIK Police would eventually be replaced by a home-grown multiethnic police force of individuals who were not implicated in past human rights abuses, and to provide an example for other institutions in Kosovo.¹⁰⁴ In line with developments in post-conflict police reform processes, the OSCE’s mandate was to provide “democratically oriented police training” (Bayley & Perito 2010, p. 45). It directed the recruitment and vetting of police candidates who underwent a careful, multi-stage vetting process, including an oral interview, a

written exam, a psychological test, a medical exam, physical agility test and background investigation. Failure to pass the written exam and background checks were the leading causes of rejections (O'Neill 2002, p. 116). These tasks were eventually transferred to local authorities as UNMIK and the OSCE phased out their presence at the local, regional and then headquarter levels.

Vetting, now conducted by local authorities, continues for all new recruits. According to the Deputy General Director of the Kosovo Police, only the “best of the best” make it into the KP.¹⁰⁵ In addition to a written and oral test, candidates undergo a physical and psychological test and submit to background investigation according to the professional standards by the so-called Background Investigation Unit, INTERPOL and EUROPOL. Indeed, there is a continuous vetting process for officers throughout their careers. If a police officer is transferred to a different position, the same screening process is applied.¹⁰⁶ There is “zero-tolerance for failure.”¹⁰⁷ Even if an applicant receives perfect scores for all but one phase of the process they will not be hired. While such high standards are admirable, the difficulty of achieving perfection in all areas, combined with continuing pressures to hire and to sustain the multiethnic character of the force could pose new problems.

Another provision to ensure that no new recruits participated in any past human rights abuses is age limit. Initially, a small percentage of officers, approximately twenty percent, belonged to the former police force. Under the system in place before 1999, police officers could have been as young as 14 years old. Now applicants must be between 21 and 55 years old, and only after finishing secondary school do they become eligible for applying for the KP.¹⁰⁸ Even though the number of police officers that served

in the pre-1989 police force has diminished over time, cultural differences between the generation that served in the pre-1989 police force and the younger generations persist. While police officers recruited from the former Yugoslavian police were well-trained and experienced, there are concerns about the human rights sensitivities of this group, such as “blind obedience to commanders and unquestioned loyalty to the state” (O’Neill 2002, p. 113). As time has passed, however, the number of holdover police officers has diminished. As they retire, they are replaced with younger recruits who are trained with an eye to preventing human rights abuses, establishing accountability, and promoting the overall legitimacy of the security sector. Still, the upper age range for applicants is high and poses the risk of older applicants having pasts that may need to be more scrupulously vetted. The day to day demands for policing and building a multiethnic force appear to currently eclipse any concern about this upper age limit for eligible officers, raising questions about whether it has fallen fall short on completely eliminating former combatants from its ranks.

Ethnic minority representation in the KP is an improved model of the representation of various ethnic groups in the Kosovar society.¹⁰⁹ As such, multiethnicity in the KP is described as “exemplary” by the Deputy General Director of Kosovo Police.¹¹⁰ Additionally, varying levels of minority representation are found in all levels of policing, including the higher levels of administration. In terms of the representation of women, currently 13.8% of KP personnel are female, a hugely important success story for Kosovo and the region more generally, especially considering the fact that there were no female officers in Kosovo’s police force before 1999.

All in all, despite the problems outlined thus far, the KPS/KP's progress to date is impressive. Compared to other institutions in Kosovo, it ranks as a model of success for institution-building and SSR in Kosovo. This is mainly due to the well focused recruitment and vetting activities from the beginning stages of the post-conflict reconstruction activities, the international community's attention to police reform, the availability of funding, and the willingness of the ethnic minorities to participate in the KPS/KP. Additionally, the KPS/KP has, from the very beginning, consistently engaged in trust-building efforts which helped build a certain level of confidence from different ethnic communities in Kosovo towards these institutions.¹¹¹

Yet there are a number of problems that prevent a full-scale assessment of transitional justice in Kosovo. Vetting has been integral to the creation of the KPS/KP and trust in it has been consistently among the highest of all of Kosovo's institutions since 2003. Details concerning how the process was carried out, the exact criteria for disqualification or retention, whether candidates had the right to appeal rejected applications, and how authority over this matter was determined at higher levels are lacking. They are important to get a better sense of what exactly transpired and to ensure that the process was carried out in a way that did not generate a host of new injustices. There are, as of yet, no systematic analyses of this aspect of Kosovo's security sector reform endeavors. UNDP's efforts to explore this aspect of transitional justice have been largely limited to parts of the former Yugoslavia that are now sovereign. Kosovo's unsettled status complicates the picture.

In spite of these shortcomings, it is worth examining how the public interprets transitional justice efforts dating back to 2000. In so many words, does the security

sector, and in this case, the KPS, enjoy a measurable level of civic trust such that citizens feel that they have rights that are respected, that they are no longer victims of oppression and violence, and that they can count on the police to serve and protect them? While there is, as of yet, no conclusive polling data on this question, indeed public awareness about transitional justice and what it aims to accomplish is reported to be quite low in Kosovo, we can analyze some initial public attitudes about the goals of transitional justice and security sector reform based on a 2007 UNDP survey.¹¹² A majority of respondents find the continued employment of public officials (political and administrative) who were practitioners of past abuses as unacceptable, with politicians considered *more* unacceptable than individuals employed in the police and military. Approximately 33% of respondents consider politicians from the Milosevic era as directly responsible for human rights violations. Over 60% of Kosovar Albanians and Kosovo Serbs view political leaders and supervisors, that is, those giving orders, as more responsible for human rights violations than those executing orders in the field.¹¹³

On the issues of vetting in the security sector, an overwhelming majority of respondents agreed that it was “absolutely unacceptable” that policemen previously employed in the abusive system serve in the KPS.¹¹⁴ Kosovar Albanians are more insistent than Kosovo Serbs on this matter, with only 3% accepting the idea of former abusive police and military as employees in Kosovo’s institutions. Yet Kosovo Serbs are also overwhelmingly opposed as well, with 76% rejecting the proposition that former abusive officials should be employed in public offices. This is important because Kosovar Albanians identified Serbian police (35%) and the Yugoslav army (32%) as the main perpetrators of war crimes and other human rights violations.¹¹⁵ The remaining 34%

identified Serb paramilitaries as most responsible for such crimes. Thus, while Kosovo Serbs do not see the picture the exact same way as their Kosovar Albanian neighbors, they share, by and large, the same view that police who are implicated past abuses, should have no future in public institutions.¹¹⁶

Thus, vetting officials in Kosovo should see the rigorous vetting of KPS/KP police and the willingness to disqualify candidates who are implicated in past abuses as a crucial step toward building civic trust in institutions and promoting reconciliation. Support from both Kosovo Serbs and Kosovar Albanians for these measures only reinforces their importance. Since the KPS/KP enjoys among the highest levels of public satisfaction of all public institutions in Kosovo by all ethnic communities dating back to 2003,¹¹⁷ this makes such efforts all the more significant. Yet in spite of the success story of the KPS/KP, concerns remain about its ability to uphold the rule of law, corruption within the force and increasing politicization.¹¹⁸ The danger here is that Kosovar authorities, in proudly noting their impressive accomplishments so far, let their guard down on these matters and potentially undermine much of the trust built over the last decade or so.

Conclusion

Stabilization and reconstruction are inextricably linked to security, governance, law and order. In post-conflict societies it is vital that the new security infrastructures are carefully constructed, with special attention devoted to vetting, inter-ethnic balance in recruitment, and democratic oversight of the new security institutions. Kosovo is no exception to that. SSR and transitional justice have significant implications for generating enduring peace in post-conflict zones. Capacity building, transition, and ownership are

key principles in SSR (Meharg *et al.* 2010, p. 9). Vetting is one of the most significant dimensions of the process of establishing transitional justice in a post-conflict society.

Trust-building between different ethnic communities is equally significant when it comes to the nexus between SSR and TJ. The KP and its predecessor have been engaged in such efforts for a very long time. So, it is reasonable to argue that the fruits of these efforts are slowly being reaped. The international community assisted Kosovo in laying the groundwork for building Kosovo's police force. The ethnic minority percentages observed in the general Kosovar society are by and large mirrored in the KP, although to different degrees.¹¹⁹ Indeed, the multiethnic KP serves as an example for other institutions in Kosovo, such as the Kosovo Security Force, which has less than one percent minority representation.

In the aftermath of the conflict in Kosovo, a fragile stability has been achieved, yet Kosovo remains a divided society. Confidence building measures are extremely important in tackling trust-related issues between former enemies. Without reconciliation, it is hard to conceive of a successful reconstruction outcome. Increasingly, local ownership is becoming the new norm, as the international community gradually hands over the control of institutions, including the security sector, to the local actors. Nevertheless, Kosovo still has problems with the uneven rule of law and a weak system of justice. Political interference in and the abuse of office are common in the police and the judicial systems.¹²⁰ It is important for the international community to retain some monitoring powers over the legal and institutional developments in the short run as Kosovo completes its process of police reform and deepens its transitional justice efforts to redress the wrongs of the past.

Table 1: Recruitment Data: KPS/KP: October 1999 – March 2009

DATE	Total Graduating Officers (cumulative, to date)	Albanian	Non-Albanian	Non-Albanian Break-Down
Inaugural Class 16 October 1999	173	90%	10%	5.5%: Serbian (N=8) Muslim Slavs (N=3) Roma (N=3) Turks (N=3)
18 September 2000	1,692	87%	13%	No Data Available
15 December 2000	2,516	83%	17%	No Data Available
7 June 2001	3,847	85%	15%	No Data Available
15 December 2001	4,392	84.2%	15.8%	8.5%: Serbian (N=375) Other minorities (non-specified) 7.3% (N=324)
30 March 2002 (18 th class of cadets)	4,521	84.41%	15.59%	8.32%: Serbian 3.54%: Kosovo Bosniac 3.74%: other minority communities
7 October 2002	5,240	85.23%	14.78%	8.11% Serbian (N=498) 6.67% other ethnic minority communities (N=558)
18 June 2003	5,407	84.26%	15.74%	9.51%: Serbian (N=495) 6.24%: other minority communities (N=325)
1 October 2003	5,769	84.36%	15.64%	9.41% Serbian (N=543) 6.23% other ethnic minority communities (N=357)
26 January 2004	5,704	84.6%	15.5%	9.3% Serbian (N=529) 6.2% other ethnic minority communities (N=352)

30 July 2004	5,983	84.5%	15.5%	9.5% Serbian (N=567) 6% other ethnic minority communities (N=362)
31 October 2004	6,282	84.5%	15.5%	9.4% Serbian (N=593) 6% other ethnic minority communities (N=380)
30 April 2005	6,238	84.69%	15.31%	9.27% Serbian (N=578) 6.04% other ethnic minority communities (N=377)
25 January 2006	6,864	84.5%	15.5%	9.67% Serbian (N=664) 5.85 other ethnic minority communities (N=400)
5 May 2006	6,826	84.5%	15.5%	9.65% Serbian (N=659) 5.83% other ethnic minority communities (N=398)
14 August 2006	7,249	84.05%	15.95%	10.17% Serbian (N=737) 5.78% other ethnic minority communities (N=419)
19 February 2007	7,215	84%	16%	10.31% Serbian (N=744) 5.7% other ethnic minority communities (N=411)
1 March 2008	7,106	84.45%	15.55%	9.96% Serbian (N=708) 5.59% other ethnic minority communities (N=397)
27 October 2008	7,043	84.48%	15.52%	10% Serbian (N=704) 5.52% other ethnic minority communities (N=389)
9 March 2009	7,070	84.6%	15.41%	9.92% Serbian (N=701) 5.49% other ethnic minority communities (N=388)

Sources: Reports of the Secretary General on the United Nations Interim Administration Mission in Kosovo, New York: United Nations Security Council, 23 December 1999 through 9 March 2009; UNDP (2006), Kosovo Internal Security Sector Review, p. 19, available at: http://www.ks.undp.org/repository/docs/ISSR_report_eng_ver2.pdf, accessed 12 August 2010.

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- ⁷² Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo, New York: United Nations Security Council, S/2009/497, 30 September 2009.
- ⁷³ Interview with Mr. Bajram Rexhepi, Minister of Internal Affairs, Republic of Kosovo, 12 July 2010, Prishtina, Kosovo.
- ⁷⁴ Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo, New York: United Nations Security Council, S/2010/169, 6 April 2010.
- ⁷⁵ Interview with Mr. Bajram Rexhepi, Minister of Internal Affairs, Republic of Kosovo, 12 July 2010, Prishtina, Kosovo.
- ⁷⁶ Interview with Mr. Bajram Rexhepi, Minister of Internal Affairs, Republic of Kosovo, 12 July 2010, Prishtina, Kosovo.
- ⁷⁷ International Crisis Group (2010) 'The Rule of Law in Independent Kosovo', Europe Report No. 204, 19 May 2010, available at: <http://www.crisisgroup.org/~media/Files/europe/balkans/kosovo/204%20The%20rule%20of%20Law%20in%20Independent%20Kosovo.ashx>, accessed 12 August 2010; see also, the EULEX Programme Report (2010), available at: <http://www.eulex-kosovo.eu/docs/tracking/EULEX%20Programme%20Report%202010%20.pdf>, accessed 12 August 2010.
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- ⁸³ Interview with Mr. Albin Kurti, Vetëvendosje (Self-Determination) Movement, 14 July 2010, Prishtina, Kosovo.
- ⁸⁴ International Crisis Group (2010) 'The Rule of Law in Independent Kosovo', Europe Report No. 204, 19 May 2010, p. 6, available at: <http://www.crisisgroup.org/~media/Files/europe/balkans/kosovo/204%20The%20rule%20of%20Law%20in%20Independent%20Kosovo.ashx>, accessed 12 August 2010.
- ⁸⁵ NATO (2010) 'A New Security Achievement in Kosovo', 31 May 2010, available at: <http://www.nato.int/kfor/docu/inside/2010/05/i100531a.htm>, accessed 12 August 2010.
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- ⁸⁷ EU Kosovo Progress Report (2009), 14 October 2009, Brussels, available at: http://www.delprn.ec.europa.eu/repository/docs/ks_rapport_2009_en.pdf, accessed 12 February 2010.
- ⁸⁸ EU Kosovo Progress Report (2009), 14 October 2009, Brussels, available at: http://www.delprn.ec.europa.eu/repository/docs/ks_rapport_2009_en.pdf, accessed 12 February 2010.
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- ⁹⁰ 47 kg heroin, along with 3,828.5 Euros, 520 Indian Rupi, 6.5 million Turkish Liras, 5000 Romanian Ley, 950 Albanian Lek went missing from the evidence room in April 2009 (See, *BalkanInsight.com*, "Five Kosovo Police Suspended", 5 May 2009).
- ⁹¹ UNDP 2006, p. 19; International Crisis Group (2010) 'The Rule of Law in Independent Kosovo', Europe Report No. 204, 19 May 2010, available at:

<http://www.crisisgroup.org/~media/Files/europe/balkans/kosovo/204%20The%20rule%20of%20Law%20in%20Independent%20Kosovo.ashx>, accessed 12 August 2010.

⁹² KFOR Press Release (2009) ‘Great CoOrdination’ in First Joint KFOR-EULEX Exercise’, 17 January 2009, available at: <http://www.nato.int/kfor/docu/inside/2009/01/i090127a.htm>, accessed 13 August 2010.

⁹³ The unit has both a patrolling and an investigation mandate, which reduced the number of crimes in the region. See EU Kosovo Progress Report (2009), 14 October 2009, Brussels, available at: http://www.delprn.ec.europa.eu/repository/docs/ks_rapport_2009_en.pdf, accessed 12 February 2010.

⁹⁴ International Crisis Group (2010) ‘The Rule of Law in Independent Kosovo’, Europe Report No. 204, 19 May 2010, available at: <http://www.crisisgroup.org/~media/Files/europe/balkans/kosovo/204%20The%20rule%20of%20Law%20in%20Independent%20Kosovo.ashx>, accessed 12 August 2010.

⁹⁵ Gallup Balkan Monitor (2010), ‘Focus on Kosovo’s Independence’, July 2010, available at: http://www.balkan-monitor.eu/files/Gallup_Balkan_Monitor-Focus_On_Kosovo_Independence.pdf, accessed 15 August 2010.

⁹⁶ OSCE (1999) Kosovo Verification Mission ‘Kosovo/Kosova: As Seen, As Told’, Part III, Chapter 14- Forced Expulsion.

⁹⁷ Humanitarian Law Centre (2010), available at: <http://www.hlc-rdc.org/Dokumentovanje/LJUDSKI-GUBICI-1991-1995-1998-2000/Kosovska-knjiga-pamcenja/index.1.en.html>, accessed 14 August 2010.

⁹⁸ OSCE (1999) Kosovo Verification Mission ‘Kosovo/Kosova: As Seen, As Told’, Part III, Chapter 14- Forced Expulsion.

⁹⁹ OSCE (1999) Kosovo Verification Mission ‘Kosovo/Kosova: As Seen, As Told’, Part III, Chapter 14- Forced Expulsion. The report identified 30 categories of possible human rights violations. See OSCE (1999) ‘Kosovo/Kosova: As Seen, As Told’, Part III, Chapter 4-Introduction: The Violation of Human Rights in Kosovo. It should be noted that the mission’s work covered the period from October 1998 until March 1999, before NATO’s military intervention and the subsequent violence that ensued.

¹⁰⁰ A more detailed analysis of the fate of Kosovo Serbs can be found in OSCE (1999) ‘Kosovo/Kosova: As Seen, As Told’, Part IV, Chapter 19.

¹⁰¹ Lustration is another term for vetting and the use of the terms interchangeably often leads to confusion. We have opted to use the more neutral term “vetting.” See Hatschikjan *et al.* (2005, p. 105). It should be noted that Kosovo was omitted from this study.

¹⁰² Interview with Ms. Atifete Jahjaga, Deputy General Director of Kosovo Police, 13 July 2010, Prishtina, Kosovo.

¹⁰³ O’Neil (2002, p. 112) recounts an incident where KPS cadets walked through Vucitrn on their way to a local school. As they walked by several bystanders yelled “Where are the Serbs?” The individual leading the group responded “There are no Serbs, there are no Albanians, we are all KPS.”

¹⁰⁴ Interview with Ms. Atifete Jahjaga, Deputy General Director of Kosovo Police, 13 July 2010, Prishtina, Kosovo.

¹⁰⁵ Interview with Ms. Atifete Jahjaga, Deputy General Director of Kosovo Police, 13 July 2010, Prishtina, Kosovo.

¹⁰⁶ Interview with Ms. Atifete Jahjaga, Deputy General Director of Kosovo Police, 13 July 2010, Prishtina, Kosovo.

¹⁰⁷ Interview with Ms. Atifete Jahjaga, Deputy General Director of Kosovo Police, 13 July 2010, Prishtina, Kosovo.

¹⁰⁸ Interview with Ms. Atifete Jahjaga, Deputy General Director of Kosovo Police, 13 July 2010, Prishtina, Kosovo.

¹⁰⁹ Kosovar Albanians currently constitute 88% of the population in Kosovo, Kosovo Serbs constitute 7%, and others, including Bosniak, Gorani, Roma, Turk, Ashkali, Egyptian, 5% (CIA World Factbook (2010), ‘Kosovo: People’, available at: <https://www.cia.gov/library/publications/the-world-factbook/geos/kv.html>, accessed 15 August 2010).

¹¹⁰ Interview with Ms. Atifete Jahjaga, Deputy General Director of Kosovo Police, 13 July 2010, Prishtina, Kosovo.

¹¹¹ Interview with Ms. Vjosa Osmani, Chief of Staff to the President of the Republic of Kosovo, Senior Advisor on Legal and International Affairs, 16 July 2010, Prishtina, Kosovo.

¹¹² See Dugolli & Agimi (2009, p. 18) on the issue of public awareness. The UNDP survey polled 1250 Kosovars in 61 settlements in between April-May 2007. It covered topics such as victims and abusers,

justice measures and accountability, judicial performance in war crimes trials, truth and reconciliation, institutional reform and reparations. An earlier UNDP survey from 2006 covers a wider range of issues related to transitional justice in the former Yugoslavia. There is, however, no data on the issue of vetting in Kosovo provided in that report. Thus, all data on vetting and reform of the police are at this stage incomplete.

¹¹³ UNDP (2007) Public Perceptions on Transitional Justice, Prishtina April-May 2007, p. 26-27, available at: http://www.kosovo.undp.org/repository/docs/transitional_justice_eng.pdf, accessed 12 August 2010.

¹¹⁴ UNDP (2007) Public Perceptions on Transitional Justice, Prishtina April-May 2007, p. 27, available at: http://www.kosovo.undp.org/repository/docs/transitional_justice_eng.pdf, accessed 12 August 2010.

¹¹⁵ UNDP (2007) Public Perceptions on Transitional Justice, Prishtina April-May 2007, p. 9, available at: http://www.kosovo.undp.org/repository/docs/transitional_justice_eng.pdf, accessed 12 August 2010.

¹¹⁶ Serbs see the main perpetrators, in descending order, as the KLA (37%), NATO (27%), FARK (16%) and Serbian paramilitary organisations (15%).

¹¹⁷ UNDP (2006), Kosovo Internal Security Sector Review, p. XVIII and p. 9, available at: http://www.ks.undp.org/repository/docs/ISSR_report_eng_ver2.pdf, accessed 12 August 2010.

¹¹⁸ An anonymous interviewee, Kosovo Parliament, 14 July 2010, Prishtina, Kosovo.

¹¹⁹ Interview with Ms. Atifete Jahjaga, Deputy General Director of Kosovo Police, 13 July 2010, Prishtina, Kosovo.

¹²⁰ International Crisis Group (2010) 'The Rule of Law in Independent Kosovo', Europe Report No. 204, 19 May 2010, available at: [http://www.crisisgroup.org/~media/Files/europe/balkans/kosovo/204%20The%20rule%20of%20Law%20in%20Independent%20Kosovo.ashx](http://www.crisisgroup.org/~/media/Files/europe/balkans/kosovo/204%20The%20rule%20of%20Law%20in%20Independent%20Kosovo.ashx), accessed 12 August 2010.