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„ From a mediator to an autocratic ruler - Is the UN fit for purposes in the Kosovo? “

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Labinot Asllani

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Abstract

Kosovo is one of those countries where the claims over the territory between two different ethnic groups have always ended in blood battles. Different settlements that have been reached over the years have always ended in more violence due to the failure to address causes of the conflict. The latest full scale terror started in February 1998 and continued until June 1999, when it was eventually stopped by the NATO airstrikes against the Milosevic regime that had planned to settle the dispute by ethnic cleansing the Albanian community. Unfortunately, the UN lead international peace operation that was established at the end of the war to administer Kosovo followed the old route – it failed to address the causes of the conflict. This lead to the failure of promoting a strategy that would weaken the nationalist sides from both communities. As a result even after ten years from the end of the war there is no hope that those two communities will ever live side by side in peace for the foreseeable future. Therefore, to avoid the reverse ethnic cleansing that started by the Albanians in a form of revenge after KFOR entered Kosovo, the presence of the international security may have to be there for a very long time, thus repeating the Cyprus model.

Zusammenfassung

Kosovo gehört zu jenen Ländern, wo die Ansprüche auf das Gebiet zwischen zwei verschiedenen ethnischen Gruppen immer in Blutschlachten geendet haben. Zwar wurden im Laufe der Zeit verschiedenste Abmachungen erreicht, die aber mehr Gewalt erzwungen haben, da das Ziel der Lösung des Konflikts verfehlt wurde. Der letzte maßstäbliche Terror begann in Februar 1998 und dauerte bis Juni 1999, wo dieser Terror schließlich durch NATO Luftangriff gegen das Milosevic-Regime beendet wurde, welches im Plan hatte, die Eskalation mittels ethnischer Säuberung der albanischen Bevölkerung zu lösen. Bedauernswert war, dass die UN am Ende des Krieges die internationale Friedensoperation eingeleitet hatten, derer Zweck es war Kosovo in alter Weise zu verwalten – die Ausrichtung an die Konflikt-Sachverhalte ist gescheitert. Dies führte zu einer mangelhaften Umsetzung der Strategie, welche die nationalistischen Seiten von beiden Volksgruppen schwächen würde. Als Folge davon, sogar zehn Jahre nach dem eigentlichen Ende des Krieges, gibt es keine Hoffnung, dass diese zwei Gemeinschaften einmal friedlich nebeneinander in der vorsehbaren Zukunft leben könnten. Die lange unnötige Präsenz der internationalen Gemeinschaft sorgt dafür, ein Zypern-Modell zu wiederholen.

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Abbreviations

CIVPOL – International civilian police

EU – European Union

EULEX – European Union Rule of Law Mission in Kosovo

ICJ - International Court of Justice

KFOR- Kosovo Force (NATO lead)

KLA – Kosovo Liberation Army

KPS – Kosovo Police Service

NATO – North Atlantic Treaty Organisation

OSCE – Organisation for Security and Cooperation in Europe

SC – Security Council

SRSG – Special Representative of the Secretary General

UN – United Nations

UNHCR – United Nations High Commissioner for Refugees

UNMIK – United Nations Mission in Kosovo

US – United States

Introduction

Since its creation in 1945, the United Nations (UN hereafter) has been involved in many peace operations, moving from a relatively quiet period to a dramatic rise of conflicts needing international help since the end of the Cold War (Thakur and Schnabel, 2001). However, the sharp rise in the number of peace operations is not the only change that the post Cold War era has experienced. The role that the UN plays during these peace operations has changed dramatically too. From mainly playing the role of a mediator, or monitoring ceasefires which would have needed an agreement as a precondition, the UN has moved to the position of carrying out its duties in a more complex environment (Linden et al, 2007). The intrastate conflicts of the last two decades have seen the need for the UN to take over many aspects of post conflict life including executive powers such as policing, the judicial system and other national government powers (Jeong, 2005; Fortna, 2004; Reno, 2008). 'In particular, Kosovo and East Timor constituted the first occasions on which UN peace operations exercised full judicial authority within a territory and were mandated specifically to establish a state justice system' (Bull, 2008). Even though these recent cases have shown that the UN lacks the capacity to carry out its new duties, calls for more autonomous capabilities in peacekeeping have been met with resistance (Hartely and Utle, 2006). The size of the UN budget (Dobbins et al, 2005) and the existence of a separate military command out of the reach of UN hands (Chesterman, 2004), such as in Afghanistan, Kosovo and Bosnia and Herzegovina

(Bosnia), have often been used as an excuse for UN failures. While these are only two of the many problems that need to be paid attention to, I will argue here that in order to have a better possibility to successfully perform these new duties, the UN would need a more sophisticated agenda, with changes being carried out from its very base, the UN Charter. Carrying on its new duties, while still using the old mechanisms has rendered some to conclude that the UN is moving ahead of its capacity, being lead by practice rather than a structure and well planned intervention (Brahimi Report; Bull, 2008). As a result, the chance of success for the twenty-first century UN interventions will depend on the circumstances of individual cases, with the UN probably making no difference at all. Not for the better anyway. Therefore, as the argument goes, I will try and put forward changes that the UN has to make in order to bring it up to date with the new demands. This will be done by contending that the UN should not be criticised for many of international community failures that fall beyond its control (Economides, 2007) and suggesting that the UN should not get involved in situations for which it has no basis nor the means of solving it, as there might be regional actors who have a direct interest in a peaceful outcome in their region and are better equipped to deal with the situation. Although many of the UN interventions are going to be used to support my argument, Kosovo, and Bosnia to some extent, will be used as the prime example, especially around the problems that can result by the UN's promotion of liberal democracy in war zones as the only means to achieve sustainable peace (Paris, 2004). Another reason why Kosovo will be the centre of the argument is the powerful role that the UN had there without much regard to

the local population and its lifelong conflict which lay under surface ready to erupt at any opportunity. This added more to the miscalculation of the situation in Kosovo, the misuse of its local talent and loss of opportunity to start rebuilding the civil society that would have been the best tool to build a new peaceful Kosova (Bush, 2004). Hence, I will argue that the UN's quick turnaround plans of the messy situation in Kosova turned instead into an operation that started wrong, it continued that way and that is how it partially ended¹.

However, the UN and North Atlantic Treaty Organisation (NATO) presence did turn things around in the sense that the nationality of people who were leaving Kosovo changed. The international community ignored the fact, which was used to start the military campaign in the first place; that Kosovo's Albanians had suffered unspeakable atrocities right to the day NATO troops entered Kosovo's territory. Therefore, the memory was fresh, and the thirst for revenge was imminent. What was even more important, the Albanian population in Kosovo had watched carefully what happened in Bosnia, which preceded the war in Kosovo, and they saw those first chaotic days as the chance to settle Kosovo's question once and for all. A 'do what you can' situation of those few first months made the majority of the population (regardless of their ethnicity) vulnerable to criminals, some of whom came from neighbouring countries. The UN, keeping itself busy with political uncertainties that surrounded Kosova's future, had forgotten that its mandate included everyday policing as

¹ There still remains a small part of the UN administration in the Serb enclaves within Kosova under the mandate of Security Council Resolution 1244.

well. This policy was followed throughout the UN's presence in Kosovo, where criminal gangs and their 'ordinary' business were never dealt with separately from the political issues, a habit that Kosovo's society will follow for many years to come. The third big factor that fuelled the continuation of ethnic violence was the confused signals about Kosovo's future coming from the western world which were approved by the Security Council Resolution 1244². The only people who seemed to have calculated the new situation right were most of the Kosovo's Serbs who fled Kosovo, some even before their own troops. As for the international personnel on the ground, the only clear mandate at that stage seemed to have been the monitoring of Serb troops leaving Kosovo (which was carried out by the NATO troops that were not under the UN command). Every other action had yet to be agreed upon on the ground due to the confusing statements that Resolution 1244 contained about the mandate as a whole.

The argument will be focused particularly on the UN Civilian Police (CIVPOL) and the rule of law as one of the most important aspects of a stable and peaceful society. Examples from my experience on the receiving end of a peace operation will also be used where relevant.

² Resolution 1244 became the umbrella that covered both the UN mandate in Kosovo and everything else that was not meant to happen there, rising big questions about Human Rights issues and extensive powers that the Head of UN administration had in Kosovo.

The layout of the dissertation

The paper is divided into five chapters.

The first chapter will deal briefly with the creation of the UN, its structures, procedures and other conditions that have to be fulfilled to enable a peace operation. Attention will be drawn to the lack of knowledge, especially on the part of the hosting country's population, on how the UN works and how the lack of information on these procedures affects an operation even before it begins.

The second chapter will talk about the history of peace operations from the creation of the UN up to date. The argument will mainly focus on the post Cold War period, which was characterised with more complex peace operations and the idea of promoting liberal democracy as a means of achieving long lasting peace.

The role of the CIVPOL and its difficulties during peace operations will be discussed in chapter three. The case of Kosovo will be used to point out the negative outcomes that can result from the CIVPOL diversity and a lack of knowledge about local laws, norms and culture on one side, and a lack of knowledge about the norms and cultures of other CIVPOL members on the other.

Chapter four will then move on to the troubled issue of institutional accountability. This part will be used to shed some light about the (lack of) accountability measures on the part of the UN. Kosovo will be used again as an example to tackle this issue.

The question of how a UN operation ends, or in some cases why does it last 'forever', will be discussed in the final chapter. The much argued problem about how to calculate success or failure, and who is to be praised and blamed respectively will also be part of this chapter. The final part of this chapter (conclusion) will briefly touch the decision of the International Court of Justice on Kosovo's declaration of independence.

Chapter One

The UN and its Structures and Procedures

Having failed to govern the international community and thus prevent the beginning of World War II through the League of Nations, fresh attempts were made by the United States during that war to form a new international organisation that would assist to manage future conflicts (Hilderband, 1999). These attempts culminated in 1945 with the creation of the UN which succeeded the League of Nations. The primary principle for creating the UN was to save succeeding generations from the scourge of war and collectively maintain international peace and security, which is clearly stated in the preamble of its Charter. The problem, however, was to find a way to enforce these principles. The final agreement upon which the UN was meant to enforce the peace ended up in a déjà vu (a new League of Nations, with a slightly different name, and no independent authority to enforce its principles). Even though the world order (or to keep ourselves correct, the world disorder) has changed dramatically since then, the UN has remained relatively the same, falling far behind in trying to catch up with, rather than lead the troubled societies that it is meant to deal with. A simple explanation of this stagnation may rest upon the belief that the UN never had any real power to make political decisions (Bolton, 1997). However, that is not the case when the permanent members agree upon a certain issue³. Therefore, in order to understand the complicated nature of

³ United States, The Soviet Union, United Kingdom, China and France

the UN and its peace mandates, there are a few very important points to be made about the structure and the organisation of the UN that play a crucial role to how it operates and why it fails to deliver. Despite their importance, a substantial amount of the academic literature that focuses on the UN peace operations fails to discuss all the mandatory requirements or even mention them as part of the overall picture. Instead, an easier answer is sought, that of blaming the UN for many failures that go far beyond its powers as a collective international organisation.

Article 7 of the UN Charter lists six principle organs that carry out UN duties⁴. The UN Security Council (SC) is the organ that plays the most important role in the maintenance and restoration of international peace and security (Saroshi, 1999). Since the argument here is primarily about the UN's role in peace operations, it is the SC's role and its dealings that I will concentrate on. It is stated in Article 24 of the Charter that UN members confer primary responsibility to the SC for the maintenance and restoration of international peace and security. To achieve this objective, the SC has been given specific powers which are contained in Chapter VII (Saroshi, 1999). However, as James (1988) explains, the Charter gives the SC conflicting directions. The first is the authoritative decision that the SC has under Article 24 (above). The second is the right to veto given to the all five permanent members⁵. In other words, the veto means 'that there would be many occasions on which peace may be threatened or broken, but in respect of which the Council would be unable to act'

⁴ For a detailed information about UN bodies and other structural and organisational information see the UN website at www.un.org

⁵ Article 27 of the charter lists the voting requirements in more detail.

(James, 1988:77). Needless to say that many people who follow the work of the UN have seen those occasions becoming real many times.

One of the examples that echo the powerful nature of the right to veto, even if it is one against the world, is the case of Boutros Boutros-Ghali, a UN-Secretary General who was forced out of his post by the United States (US) in 1996 despite the support of all the other SC members (including all the temporary ones). Even though, in order to reach a conclusion, the process of voting in the SC gets complicated when one of the permanent members has used its right to veto⁶, it is not the technical side of the voting that will make any difference, rather the outcome of that process that works against UN principles and makes it ineffective. The words of Boutros-Ghali himself, written on the book he dedicated to his candidature for re-election as a UN Secretary General, explain better than anything else the impossibility of the UN to take any independent action:

The US veto was a rejection of democracy... The fact that a single vote... could dictate the outcome at the United Nations threatened hopes for increasing democratization on the international scene (1999: 318).

Amongst many reasons why I chose this passage is the word 'hope' mentioned in it. One of the problems that seemed to have followed the UN from its birth was between what it was hoped to do versus what it can do.

At the beginning, 'the UN idea called upon the major nations to act unselfishly at their moment of final victory in

⁶ For a wider explanation on the voting process see the UN website www.un.org, alternatively Boutros-Ghali (1999) gives an extensive explanation in his book 'Unvanquished'.

the Second World War' (Hilderbrand, 1990: ix). They were asked to pass on their authority to the UN. Clearly, that was not going to happen. It was rather naive to believe otherwise. In the end the major powers agreed that the peace and security they would maintain through the UN would have to be within their national interests. Retaining the veto power was a guarantee that the future of the UN will always be dictated by the interests of the powers who created it. If they shared a common goal, the UN would be used as a cover for the permanent five to enhance their positions (Bolton, 1997). If, however, their interests happened to conflict, they will look for alternative ways, bypassing the UN. It was not long before the latter happened. The disagreements that followed between US and the Soviet Union, which started what is widely known as the Cold War, put the UN into the ineffective position as mentioned above. Instead, the world powers dealt with international matters individually.

This remained the case for the next four decades, with the UN being involved in 'face-saving' decisions and deployments, occasionally, during that time (James, 1988). However, the world order started to change during the late 1980's. As the Cold War ended, so did the willingness of big powers to try and maintain more allies, hence waste time and money to keep them under control (Paris, 2004). "A funny thing happened to UN [during that time]...it became a major player in the global security affairs" (Hillen, 1997:111). The intrastate conflicts, of countries such as Yugoslavia, brought the UN back to the negotiating table again. Heavy reliance from its outset of the Clinton administration in the UN could be seen as one of the

reasons for this new comeback (Bolton, 1997). The assumptions that the bankruptcy of the Russian government would make it easier to coerce the Russian political elite to collaborate with the west should not be overlooked either.

However, these new types of conflicts put the UN and its SC under even heavier constraints. As well as having to deal with the old problems, the post Cold War warring parties share a territory that belonged to the same sovereign state. It is especially difficult, as these sorts of conflicts have their roots back to the Second World War, if not earlier. Thus some of the permanent members have to watch their own back, Russia being one of them. Therefore, getting any international action past the SC is going to be impossible as it happened with Yugoslavia when the US was trying to sort out that region through the UN. Even though the Russian Federation was falling apart, its place within the SC was as strong as ever, especially if China was willing to back up Russia rather than the West. All in all the Charter guarantees the sovereignty of every country, hence, attempting to find conditions that would please all the permanent members resulted in prolonging any international intervention. This meant an escalation of the conflict and finally NATO's intervention without any UN mandate as happened in Kosovo, sparking a debate about a breach of international law (Economides, 2007) and causing unnecessary delays to stop the ethnic cleansing that was happening on the doorstep of a modern Europe.

Misconceptions about the UN amongst local populations

Before the conflict had escalated into an armed confrontation in other parts of Yugoslavia, the majority of Kosovars (including me) had hardly heard about the UN. The way it became known to them was not welcoming either. It started with the UN sanctions against Yugoslavia, and Kosova with its 'rebellion' population suffered from those sanctions very heavily. As the conflict was unfolding in Kosova in following years, the SC became an organ that 'unintentionally was helping' Serbia and its illusionary cause over the territory. Intervening in Kosovo without the UN's 'permeation' had another major consequence on how the conflict developed during the NATO's air campaign and how people of Kosovo would view the UN in the days to come. The SC disagreements were being used by Serbia in at least two ways. Firstly, the prolonged talks in the SC, resulting with no action, prior and during the NATO bombardment, were giving Milosevic more time to continue his terror over the Albanian population in an unprecedented way. Secondly, he tried to excuse his actions in the name of international law, 'relying' on the SC as the highest international authority that was 'supporting' Yugoslavia to protect its sovereignty (probably he was surprised himself with the length of time he managed to carry on). The propaganda that the Serbian government was using was a mere icing on the cake to enforce the views of the locals about the UN. The massacre of Srebrenica under the UN's presence in Bosnia had already proven to locals and the whole world that the UN was ineffective in dealing with internal conflicts. Finally, when the SC Resolution 1244

accepted a modified reality in Kosova, its population had already made up their minds about the UN. The lack of knowledge on how the UN worked and the propaganda that Serbia used at the time of war in Kosovo made Kofi Annan (the then Secretary General), the public face of the UN, probably one of the most hated figures amongst the Albanian population in Kosovo during that period. On the other hand, trying to overcome its defects (the veto experience), the SC came up with a resolution that was very ambiguous and the United Nation's Interim Administration Mission in Kosovo (UNMIK) became the example of an impossible mandate (Linden et al, 2007). The Resolution gave UNIMK the mandate of an interim administration over Kosovo, but left unanswered the underlying cause of conflict – who would rule Kosovo after (King and Mason, 2006, Bull, 2008). That was one of the signs that raised the question of not if UNMIK would fail, rather when.

The acronym UNMIK⁷ did not have a very good start either.

'Once the operation was on the ground, it was discovered that "a n m i k", in the dialect of Albanian spoken in Kosovo, means "e n e m y". No one within the UN was aware of the confusion until it was too late, at which time instructions went out to pronounce the acronym "oon-mik"' (Chesterman, 2001: 4).

While the UN was left to deal with the mess, the confusion that surrounded the international presence in Kosovo lasted for almost a decade until its Parliament declared unilateral independence, for which Kosovo had already decided

⁷ It is typical of the UN to use acronyms for its operations

eighteen years previously⁸. Despite the latest developments in Kosovo, the UN has still not found a way to finally close the embarrassing chapter about its performance there. Even though no high profile figure has ever said it publically, the UN had to be kicked out of those parts of Kosova with an Albanian majority after Kosovo was recognised as an independent state by the most powerful UN members⁹. Amazingly, UNMIK still remains in the Serbian enclaves, over which it never had authority anyway.

Even though the right to veto is one of the most obvious examples of the UN's impossibility to deal with any conflicts impartially, it is the easiest way to prove that in order for the UN to promote peace and democracy, its headquarters is the place to start. Otherwise, the UN should not continue in the present form, especially in cases where the UN performs the most fundamental functions of a state¹⁰. As Bolton (1997) suggests, if America had decided to go into Bosnia on its own and not wait for the SC to make its mind up, it would have saved the American people a lot of money, and it would have saved Bosnia a lot of people. Hence, the timing of an intervention can be far more important than the huge effort that the international community places when it is too late. Therefore, to make the UN far more efficient in its duty to maintain peace and security, Groom (1971) sees the waiving of the right to veto as the best way forward.

⁸ Kosovo's Albanians had declared unilateral independence in July 1990. However, Albania was the only country that recognised it.

⁹ A European Union (EU) lead authority still exists in Kosova. Its main aim is to monitor and help Kosovo reach the required standards to join the EU.

¹⁰ I base this assumption on my personal experience in Kosova, where the presence of UN there, at best paralysed everything, at worst things were moving backwards.

Chapter Two

From Peacekeeping to Peace-building: UN Peace operations and its promotion of democracy, the 'one size fits all' approach

Peacekeeping

Even though there is no agreed definition of peacekeeping (Goulding, 1993; Groom, 1971), in his *'Agenda for Peace'*, the then Secretary-General Boutros-Ghali defined peacekeeping in the following terms:

'Peacekeeping is a deployment of a UN presence in the field, hitherto with the consent of all the parties concerned, normally involving UN military and/or police personnel and frequently civilians as well. Peacekeeping is a technique that expands the possibilities for both the prevention of conflict and the making of peace' (1992: para 20), put simply, this definition of peacekeeping covers everything that the UN does during its presence in a particular territory. The UN's official website also conveys peacekeeping under this broad and vague approach, acknowledging that peacekeeping "is not mentioned in the Charter and defies simple definition"¹¹. However, some authors have chosen to define peacekeeping in more narrow terms. For example Paris defines it as follows:

'Peacekeeping is the deployment of the lightly armed, multinational contingent of military personnel for non-enforcement purposes, such as the observation of a ceasefire' (2004:38).

¹¹ <http://www.un.org/Depts/dpko/dpko/index.asp>

Although Paris is talking about what is known 'traditional' peacekeeping, I will go back to Boutros-Ghali's definition as it makes a crucial distinction about what **is** and what **is not** peacekeeping. If studied in detail, the peacekeeping that he is talking about will not cover those UN operations where the consent of all the parties concerned is not acquired. In it, the above definition seems to draw a line between those operations where the parties concerned agree to the UN's presence in their territory, and the rest of the operations, where due to the nature of the conflict, there could be factions, who have strong influence upon a community group that oppose any agreement being imposed upon them. The latter problems are typical of intrastate conflicts that the UN has been involved after the Cold War, where the lack of state authority is the biggest challenge for the peace operation. For the sake of the argument I will take peacekeeping to mean an operation that starts after an agreement has been reached, either by use of force, or diplomatic negotiations between the parties to a conflict. Therefore the peace has already been achieved and the UN or any other third party takes the positions of keeping (or maintaining) that peace. Thus my idea of peacekeeping agrees with both Paris and Boutros-Ghali's definition, even though the framework of the operation will depend on how the agreement was reached.

First, if peace was achieved through diplomatic negotiations, then we are leaning towards 'traditional' peacekeeping, which lasted from 1948 to 1989 (Chopra, 1998). During that time '[as] a consequence of diplomacy, limited military forces and civilian personnel were deployed symbolically to guarantee a negotiated settlement,

invariably between two sovereign states' (ibid: 3). Due to the contradictions that existed between the world's two superpowers (the Soviet Union and US) this sort of peacekeeping was very limited. Therefore, the UN operations were based upon certain principles in order to avoid a possible clash between the two masters (Paris, 2004). Even though the list of these principles varies depending on the views of different authors, they more or less paint the same picture. Hence a generalised criterion of 'traditional' peacekeeping would include these principles: the UN peacekeepers would only be deployed with the consent of all parties; they had to be impartial between the parties; the use of force was limited to self defence and the UN was not to be involved in domestic affairs of any state (Hartley and Utley, 2006: 3; Paris, 2004: 15; Goulding, 1993: 453-455). Except for the two missions that deviated from the 'traditional' peacekeeping, the UN operation in the Republic of Congo in 1960 and the mission in New Guinea in 1962, those principles guided the Cold War UN (Paris, 2004). Since my discussion is targeting the post Cold War era, I will not cover this period in more detail.

Secondly, if peace has been achieved through the use of force¹² by the international community and the agreement, while achieved in theory, does not work well in practice due to many strings attached to it, the peacekeeping operation will be part of a much more complicated process widely known as peace-building. It is this process that I will now turn to.

¹² The use of force: I refer to heavy measures that are taken by the international community to pressurise the parties to a conflict to reach an agreement. Military intervention would be the last resort of these heavy measures.

Peace-building versus Democratisation in Kosovo and post-Dayton Bosnia

'It is more difficult to organise a peace than to win a war, but the fruits of victory will be lost if the peace is not organised'

By Aristotle

The challenges of peace-building start with the term itself. Peace-building was introduced by the Head of the UN in his above mentioned *An Agenda for Peace*, and it became part of the UN language and the literature in this field ever since. When first mentioned, peace-building was meant to be a post-conflict reconstruction of social and political activities, aiming to avoid a relapse into conflict (Boutros-Ghali, 1992: para. 55). While that still remains the main aim, due to the unforeseen circumstances on the ground, peace-building started as a contested definition and it has remained like that throughout. However, I will not go down the route of considering different discussions of peace-building as such, as it will not enhance the purpose of our discussion. Instead, I will argue around the idea of peace as a fruit of democracy, and the relation between the two. The modern time UN has used the method of enforcing liberal democracy upon societies that have experienced internal conflict as a means of achieving a long lasting peace (Belloni, 2007). In my attempt to argue that the international community in general and the UN in particular, has done its maths wrong (if it has done any at all) I will try and develop the debate around the following questions: Are peace and democracy rivals or partners? Is the

promotion of democracy the best way to address an ethnically motivated conflict? In a chaotic situation, is it peace that fosters democracy or the other way around? Unless there is an answer to these questions based on practical evidence, the UN will never get it right. Therefore my argument will be based on the situation in Kosovo and post Dayton Bosnia as practical examples.

Theoretical attempts to describe either peace or democracy have lead to more questions than answers, thus complicating matters further when these theories are tried in practice, even more so if "effective implementation of individual or overall policies requires compelling definition of peace" (Jeong, 2005: 21). In the recent years the UN version of peace has moved from a 'negative peace' (the absence of an armed conflict) to a higher standard known as 'positive peace' (meaning more than just the absence of war, human rights being the most obvious example), which requires the need for a fundamental reorder of international priorities (Chandler, 2006: 166). While these priorities have changed in practice, the fundamental problem with the UN is its continuation of using old and worn doctrines in its response (Chopra, 1998). On the other hand the difficulty that arises around the term 'democracy' is twofold: as a concept it is essentially contested; as a model there is no settled one that is applied everywhere (Heywood, 2004). However, the argument here will follow two very simple guidelines for both peace and democracy in order to examine the role of third party interventions. I will consider sustainable peace to be 'a collective good to redress the past legacy of violent conflict, helping the population overcome extreme vulnerability and move toward self-

sufficiency' (Jeong 2005: 21). Whereas democracy will be established if there is a presence of political competition, free election, rule of law, market economy and also an active civil society for which the freedom of expression is the first necessity.

To make the first step right, it is very important that the international community and the hosting society interpret common goals in exactly the same terms. There was no presence of common goals in Kosovo or Bosnia. The ambiguity that surrounded Resolution 1244, which set up the framework of UNMIK in Kosovo, is a typical example of the confusion that surrounds the UN interventions. Bosnia experienced an even messier situation. The UN peacekeeping mission there 'was based in no less than seventy different SC resolutions (Einsiedel, 2002). Having to read seventy lines will be confusing enough for international community members, many of whom only have basic knowledge of English and are deployed on a six month contract, never mind the seventy resolutions that have no real possibility of being enforced in practice. Both operations will be looked at closely after an insight of Kosova's and Bosnia's conflicts which will be necessary to understand the theory of the wrong approach.

A short recap of history

The modern history of the Balkans is closely connected with the rule of the Ottoman Empire (if not earlier) which administrated that territory for five centuries. During that time each nation made its own history in the name of victimization and patriotism which was passed on fanatically to the next generation. Therefore, it is very difficult to establish a common history that is not connected with border changes and ethnic cleansing. I have read countless books about the history of the Balkans: the Albanian version, the Serbian version, the Croatian version and the international version. Each one of them establishes different claims; the locals' in their favor and the international version widely depends on whose books the authors were reading. As a result, except for the few established facts, the truth will depend on who you choose to believe. Hence I will try and mention only those facts that I consider to be important and should have been taken into account by the UN.

Before its final disintegration¹³ the Socialist Federal Republic of Yugoslavia (Yugoslavia) was made of six republics and two autonomous provinces. Kosovo was one of the provinces and Bosnia was one of the republics. In Kosovo, Albanians counted for the overwhelming majority (between 90 and 93%)¹⁴ of its population, while Bosnia's ethnicities were more balanced (Bosnian Muslims 44%, Serbs 33%

¹³ Yugoslavia was disintegrated during World War II, and its short lived modern statue was created after that war.

¹⁴ The consensus conducted in Kosovo have always been overshadowed by ethnic claims between communities, therefore a credible figure is still to be decided, however that would only bring the Albanian percentage higher, due to the difference of natality which is lot higher amongst Albanian community.

and Croats 17%) (Woodward, 1999: 141-142). Despite the fact that many consider the constitution of 1974 to have enhanced the autonomous statute of Kosovo (Staubb, 2009), the Albanians were not happy as their long old aspiration was to have Kosovo as the seventh republic, which would have brought them a step closer to their ultimate aim – secession from Yugoslavia. As a result new clashes reemerged in Kosovo in 1981 when the rest of Yugoslavia was quiet (King and Mason, 2006: 3).

Even though they had lived beside each other for as long as they could remember 'the rift between Serbs and Albanians in Kosovo was deeper than that between any of other nationalities in Yugoslavia' (Ibid: 2). Throughout all the wars that befell the Balkans, the Kosovo Albanians always tried to find a way to be part of their 'mother Albania' and they always made that clear. Yet they were too powerless to change their fate. The Serbs on the other side considered Kosova to be 'the cradle' of Serbia and the Serbian nation¹⁵ (Economides, 2007: 218). The claim over the territory was always a dispute that was resolved by force in the Serbian favor¹⁶ while Albanians had to wait for the next opportunity. Despite the break of active violence between the two world wars and after World War II, the Serbs and the Albanians in Kosovo always considered each other as their worst enemy. They spoke very different languages which played a big part in their division. Inter ethnic marriages were very rare and family friendships were not common either. I remember the late 1980s as a young child when we had to go to the same school building with the Serbian children and play in the

¹⁵ This goes all the way back to the battle of Kosovo in 1389. In that Battle Serbians lost heavily while trying to fight the Ottoman Empire

¹⁶ The Albanians (rightly) hold the belief that Kosovo was given to Serbia because of its ties with Russia, and Russia being on the victorious side in both world wars.

same playground. Yet, we would not talk to each other and we were 'not allowed' to become friends. They had their side, we had ours. It was not long before we, the Albanian children and our teacher's, were denied our side of the school by the huge padlock on the school gate. Everybody knew that worse times were ahead of us. We were lucky in the sense that other parts of Yugoslavia experienced the horror before us, maturing the international community to react quicker when Kosovo became a battle ground.

On the other hand, Bosnia's population spoke the same language¹⁷ and the inter-ethnic marriage rate was a lot higher than in Kosova. However, the Serbians counted for third of the population which gave Serbia a bigger 'reason' to keep Bosnia within Yugoslavia where Serbs had become the rulers. After Slovenia and Croatia (two other republics within Yugoslavia) declared independence, Croats within Bosnia no longer wanted to be part of Yugoslavia. Hence Bosnia was in a middle of cross roads with no signposts for directions. Being pushed by the European Community, Bosnia held a referendum, the result of which favored independence since the Serbs had decided to boycott it (Cox, 2008: 252). After Western countries started to recognize Croatia and Bosnia as sovereign states, territorial claims became an agenda for war. As Cox puts it:

'Ethnic cleansing was not a side effect of war but an explicit aim of the Bosnian Serbs and Croat armies designed to shatter Bosnia's complex ethnic mosaic and establish territorial claims' (2008: 257).

¹⁷ I realise how important it is for people in ex-Yugoslavia to be identified with different languages, therefore I do apologise for considering Serbian, Bosnian and Croatian to be the same language. However, everybody has to admit that they are so similar that for decades Serbs, Croats and Bosnian Muslims spoke Serbo-Croatian.

The inside (and outside) borders of Yugoslavia crossed right through communities that belonged to the same nation. While that was not a major problem when they were used merely as administrative borders, altering them to state borders was not going to be easy. That is why *'the crisis in Yugoslavia were brutally complex and the UN and the regional organizations utterly inexperienced and unprepared for dealing with peace and order in the post-Cold War world'* (Economides, 2007: 67).

The Dayton Agreement and Resolution 1244

After almost three years of ineffective attempts to resolve the situation in Bosnia through the UN and its mass production resolutions¹⁸, NATO started its *Operation Deliberate Force* against the Serbian army in Bosnia. It started after thousands of Bosnian Muslims were killed in July 1995, and many more thousands cleansed by Serbs while in the care of the UN in Srebrenica. The NATO operation resulted in the internationally coerced Dayton Agreement (Cox, 2008), which was designed by Richard Holbrook. It was signed in Dayton - Ohio, after the Bosnian leader, and the Serbian and Croatian presidents were 'held' there until they had no options but to sign the Agreement (Holbrook, 1998). *'The Dayton Agreement explicitly sought to transform Bosnia into a liberal democracy on the assumption that doing so would reduce the likelihood of renewed fighting'* (Paris, 2004: 99).

Kosovo went through a similar route. Having been neglected and not even mentioned in the Dayton Agreement, many Albanians decided to call their passive resistance as a missed shot. They came to the conclusion that the international community would only react to violence (O' Neill, 2002). As a result, the Kosova Liberation Army (KLA) intensified their attacks on Serbian forces, who were concentrating in Kosova to 'protect' the Serbs. The Serbian army¹⁹, paramilitaries, and many local Serb civilians answered by internally displacing Albanians by

¹⁸ A total of seventy resolutions were passed during UN's presence in Bosnia.

¹⁹ I decline to use the term Yugoslavian army at this stage, as there was no such thing left. The only army fighting at this time was the one orchestrated by the Serbian government.

torturing, raping, killing, massacring and destroying their property. After futile attempts to solve the conflict by peaceful means, NATO bypassed the SC and entered into war with the Yugoslavian (namely Serbian) government. After seventy-eight days of airstrikes, another coerced Agreement was signed between the international community and Milosevic which ended the war and the passing of the SC Resolution 1244.

What was wrong with both Agreements?

In both cases the agreements reflected the bargaining of the SC members, especially Russia and the US, rather than of the parties upon whom the conditions were forced. They were ambiguous and very difficult to apply in practice (Chesterman, 2001). Both international operations that were deployed as a result, sought to transform those societies into democratic ones (Paris, 2004). Achieving a long lasting peace was the ultimate aim. However as Rothstein notes:

'a weak peace agreement rarely produces genuine peace, that is a situation in which both sides accept the need for painful compromises of long term goals' (1999: 223).

Because of its coercive nature, the agreement did not produce peace as a result of its implementation, but due to the heavy presence of NATO that is still present there. That democracy will bring peace to the region was a foregone conclusion based upon the assumption that democracies do not fight wars against each other (Schultz, 2001: 10). While that may be true, democracies do fight wars against other

states (ibid), furthermore, Kosovo and Bosnia had to sort themselves internally. Since there is no evidence of the pacifying effects of liberalization in post civil conflict societies, the assumption was based on a mere hope (Paris, 2004). One very important fact is that democracies are rich and powerful; the unemployment is very low with less space for trouble. That is never the case in societies that come out of a civil conflict. Also a blind eye was turned to the fact that it was the first democratic elections in Yugoslavia that started shaking its foundations which ended up in a blood bath. Yugoslavia's population had been held together by force throughout communism, which was not possible in a democracy, they were now free to decide what they wanted to do (Mesic, 2007)²⁰. Taking all this into account, the yardstick for a short term solution should have been measured against the individual circumstances, while properly planning a long term solution (Call and Cook, 2003). Rushing Bosnia and later Kosovo into democracy only guaranteed one thing – the international community was going to be there for a long time.

Even though there are many similarities between peace-building operations in Bosnia and Kosovo, the major difference was the final statute of each territory. Bosnia was a sovereign state while Kosova's final statute was yet to be decided. For some, the unresolved final statute of Kosovo has been considered as the major drawback for the peacebuilders there (Bull 2008). If that is the reason, why is Bosnia being held back? It has been argued that 'effective

²⁰ Mesic was the last president of Yugoslav Federation. He lectured at Queen's University on the 17/10/2007 where I was present. The phrase is part of the answer to the question: 'Since Yugoslavia fell apart under your rule, do you feel responsible not to have done more to keep it together'?

peacebuilding requires a privilege of conflict resolution over other goals' (Cousens, 2001). Starting with democracy did not solve that in Bosnia. What was worse; as the international community wanted to make sure that Bosnia will never have a strong central government, The Dayton Agreement provided that Bosnia is divided upon ethnic lines, Serbs got their own republic (Republica Serbska), while Croats and Bosnian Muslims ended up with a federation, thus reinforcing the causes of the conflict²¹. Holbrooke had managed to create a miniature Yugoslavia within Bosnia. The worst step yet was to give the new entities strong political powers. If 'peacebuilding is not about imposition of solutions, [rather] it is about the creation of opportunities' (Keating and Knight, 2004: xvii), the opportunities that were being created in Bosnia were the wrong ones. Democratic elections that were held too soon in Bosnia 'strengthened the very separatists who had started the war (Holbrooke, 1998: 344). The freedom of speech ended up being used as a way to strengthen hate between different communities. To sum up, the Dayton Agreement had created the opportunity for elites in Bosnia to continue the war by peaceful means (Woodward, 1999). As a result nothing was getting done in Bosnia and the High Representative (of nobody) ended up with unlimited powers, which were used as late as July 2009 (Perelec, 2009).

On the other hand, peacebuilding in Kosovo was chasing its tail from the very beginning. The west decided to introduce democracy and a market economy in a post-conflict country that had no army, no police, no elected government (in fact

²¹ To appreciate the injustice that was done in Bosnia, the shape of the actual map is the best possible example.

it had three different bodies governing it, two of which were illegal), 'no standard currency, no official government services, no proper benefits system, few private services except importing, and no banking system' (King and Mason, 2006: 86). Above all there was no clear strategy how to impose this great idea of democracy upon a population that amongst everything else was missing food and a roof over their head. Since the Resolution 1244 gave Kosovo substantial autonomy (but never explained what that really meant), yet recognized the sovereignty of Yugoslavia (which no longer existed in its original form of a state), nobody in Kosovo knew where they were heading to. Kosovo's population ended up electing new members of the parliament that had no powers to decide anything without the approval of the head of UNMIK. Probably it was not anticipated from the beginning that giving democratic freedom to an over ninety percent majority poses a very high risk in ethnically divided societies. In situations where minorities hold different views, such as in Kosovo, or Bosnia for that matter, 'democracy may end up in a new form of tyranny, that of the tyranny of the majority, in which the rights of the individuals comprising the minority are ignored and violated' (Blaug and Schwartzmantel, 2004: 175). However to avoid that, in both cases, the international community used measures that violated not only the rights of the minority, but the rights of everybody. In Bosnia it was the High Representative, who, as the joke went, could decide who lives in what house. Whereas in Kosovo, every important decision ended up being proposed, approved and implemented by the same person: the Special Representative of the Secretary General (SRSG) who also was the head of UNMIK. The paralyzed economy of Kosova

was not making any progress and the public services were in a state of disgrace. Due to the lack of any form of accountability and proper institutions, there was plenty of finger pointing but no one to take the blame. The burst of ethnic violence in March 2004 was the best evidence to prove that Kosovo was moving backwards and the UN had failed to prove its worth.

Peace and Stability in Bosnia [and Kosova] depend on their capacity to survive and function as a country (Woodward, 1999). In order to have a peaceful transition, they need to have a government that is acceptable to everybody (Jeong, 2005). To achieve that, institutionalizing before democratizing has been suggested as a more realistic approach:

'What is needed in the immediate post conflict period is not democratic ferment and economic upheaval, but political stability and the establishment of effective administration over the territory' (Paris, 2004: 187).

Paris believes that in the short run, political and economic freedoms should be limited, thus delaying the liberalization. By doing that, better opportunities and conditions will be created for democratization and durable peace in the long run. In other words, a peaceful and functional society is needed before democratization gets on its way. However, regardless of which route is taken first, it is very important that the perception and participation of the locals is taken into account (Talentino, 2007). 'The peace process should not be imposed upon an unwilling and disengaged public' (Newman and Richmond, 2006: 16). The only way peace is going to hold is if the locals themselves have committed to it.

While it is very difficult to anticipate what will and will not work in a deeply divided society, Bosnia and Kosovo have shown that if the causes of the conflict are still present and not dealt with, the chances for progress are not very promising. The problematic issue with Kosovo in particular was the task that the UN was entrusted with. There was a lack of consideration by either NATO or any other actor for the capabilities of the UN to handle duties that it had never done before (Pula, 2003). Writing in 2001, Booth's impression was put in the following terms: 'A year after the war is over...nobody believes that ethnic harmony, the rule of law and human security are imminent in the province' (p: 1). Sadly, eight years on, Booth's impression still holds strong. Things have not improved much in any of those areas.

Chapter Three

CIVPOL as Kosovo's national police: How does the diversity of CIVPOL affects its work in practice?

The UN members had seventy eight emergency days during the NATO bombardment over what was left of Yugoslavia and eight years experience in the region to prepare for the situation in Kosovo. Yet, when the NATO airstrikes ended, the UN was as unprepared to deal with the aftermath as it would have been if the crises had developed over night. Not knowing where to begin, the SC passed Resolution 1244, which amongst other requirements, demanded Yugoslavia to withdraw all its security forces from Kosova including the police (para. 3). Further, Resolution 1244 decided that the international presence will include the deployment of international police personnel to serve in Kosovo (para. 11(i)). The police personnel who serve under the auspices of the UN are widely known as CIVPOL (the acronym for civilian police). Before talking about the duties of CIVPOL during a peace operation it is important to know about the personnel first. The use of the term UN CIVPOL, if not explained properly, it can be misleading for many who have not had a direct experience with the UN 'police service'.

Although from 1990 a small unit of CIVPOL is based in New York to support the officers who serve on the ground, the UN does not have a stand by police force that would be

ready for deployment as soon as it is needed. To conduct its tasks, the UN is entirely dependent on its member states (Dobbins et al, 2005). As a result the officers who serve during a peace operation are sent from their country of origin straight to the country hosting the UN operation and it is up to the national government to decide upon the quality and quantity of officers. Hence, sometimes the UN ends up trying to choose the best out of the worst and due to the desperate need to fill the quota for a certain operation the need for good officers has to be sacrificed (Call and Barnett, 2000). CIVPOL on the ground operates rank free, which plays a very negative part in assigning duties. The officers that operate on the ground wear the normal uniform they wear in their country of origin. Even though they are meant to wear a blue UN beret, it is very rare to see a CIVPOL member wearing one in Kosovo. Therefore, even though the UN portrays a different figure in theory, what you see on the ground is a German, English, Turk, Jordanian, or any other officer. In other words, they represent their country not the UN. Uniform is not the only aspect by which officers represent their country. Unfortunately, most of the time they represent the practice of their country in every other aspect, and because of how the UN operates in general, there is very little that can be done about it, unless a new approach is sought. O'Neill has a very simple example of the impossibility to improve the CIVPOL practice under the present conditions. As he explains, after the UN was given the mandate to go to Kosovo, 'the overworked and badly understaffed CIVPOL unit in New York started a mad scramble to find police officers who could drop what they were doing and head off to a distant place' (2002: 100). Due to the urgency of the

deployment, the officers were thrown out on the streets of Kosovo without knowing properly what their duties were, what law they were meant to apply and no background information about the conflict and the nature of the society they were meant to police (King and Mason, 2006). Before expanding in this last point, I will mention very briefly the short history of CIVPOL.

Prior to 1989, a peace operation was widely conducted on the principle that the UN personnel were to act as an impartial referee (Broer and Emery, 1998). Therefore the police duties were generally carried out by the military. The only two missions prior to that time that had a component of CIVPOL were the mission in Congo and Cyprus, both in the 1960s (ibid). However, as the role of the UN changed after the Cold War, this reflected the need for a CIVPOL to fulfil the new demands. The number of CIVPOL jumped from 35 in 1988 to 3500 in 1997 and to nearly 8000 in 2001 (Fitzsimmons, 2007). While the monitoring and training of local police forces and helping with the elections were the main duties of the new CIVPOL, they did not have any enforcement powers. Even in dangerous missions, as the one in Bosnia, CIVPOL did not have handguns, which made their duties very difficult and the need for a military back up to deal with armed local police who were not performing in line with the new democratic standards. While the CIVPOL tasks are getting more complex every day, the UN has failed to make any drastic changes to match up with the new demands. This has led some to consider that the UN security mechanisms are in a state of crisis (Roberts, 1996). As a result, most of the monitoring operations have been characterised with many shortcomings on the side of

CIVPOL. It has been expressed many times that most civilian police are poorly selected, trained and equipped, and have no knowledge of the hosting country nor the UN doctrine to be implemented (McFarlane and Maley, 2001; Bayley, 2006; Call and Barnett, 2000). While this would have played its down side in the successful progress of any operation, at least most of the post war societies still had their own police to carry out their day to day duties. In Kosovo things were very different. The CIVPOL had to carry out every possible duty that is connected with policing, for which they were not prepared. To argue that CIVPOL in Kosova at best was trying to perform an impossible task and at worst was useless, I will have to rely a lot on my own experience as a local police officer in Kosovo, as there is very little literature that deals with CIVPOL and its role as Kosova's national police. In order to get a better account of the CIVPOL situation in Kosova, it has to be looked in the context of the UN as a whole in that territory, therefore, some legitimacy and accountability aspects will be dealt with in the next chapter.

CIVPOL challenges in Kosovo

'In order to perform its functions of maintaining public law and order properly, the UN police [in Kosovo] were armed and had been given power to make arrest and detain suspects. In addition to assuming public order functions, [they] took charge of internal security as well as border control' (Jeong, 2005: 59).

CIVPOL was meant to apply democratic standards to perform these duties, but as Bayeley asks: 'since the UN has no manual on democratic policing when you arrive, where do you begin? How do you harmonise policing doctrines among UN personnel from 34 countries (in the case of Kosova, around 50 countries) many of these countries minimally democratic themselves? (2006: 6). How do you manage to have a functional police service with members from many different countries, who apply different norms, laws, and systems, in matter of days? Well the short answer is, is just impossible. The simple truth about CIVPOL in Kosovo is that it never functioned properly, not after few weeks, not after few months, not until it left after nearly a decade. What about the complicated truth?

After the Serbian administration and security forces left Kosovo, until CIVPOL arrived a few weeks (months) later, some consider that period as a security vacuum (Rausch, 2007). That is partially untrue. After state structures fail, political power and security is exercised in less formal ways (Chesterman et al 2004; Reno, 2008; Chesterman, 2004). The same happened in Kosova. The KLA members, some of whom were inside Kosovo all along, and some waiting around the borders, set up their own administration and security regime in a matter of hours. During the NATO airstrikes they did not have the problems that the SC was experiencing. The KLA political leaders had coordinated everything and they were all ready as soon as Serbian forces left. Due to the organisational problems that the UN has (which have been mentioned above), UNMIK in general and CIVPOL in particular were very slow to arrive. Therefore, those few first months played a crucial role in how things were to develop later on and proved a real

struggle for CIVPOL to take matters into their own hands (King and Mason, 2006). Upon arrival CIVPOL was facing difficulties from all sides. In a normal situation, in most countries, police are part of a chain of institutions that form the Criminal Justice System. Kosovo no longer had any of those formal structures which are crucial for a police service to function properly. Even though UNMIK was mandated to establish a state justice system (Bull, 2008), resolution 1244 was silent on how that was to be achieved. There was no mention of how to appoint judges, prosecutors, or any other formal appointments that are needed for a justice system to start functioning. The Serbian judges had fled Kosovo and the Albanian professionals had been kicked out almost ten years before hand by the Milosevic regime. Thus UNMIK was forced to hire any judge or prosecutor willing to do the job, since hiring international legal professionals was not allowed at the start. However, once it was proven that it was impossible to have fair trials in ethnically motivated crimes, international personnel was the only option, even though they ended up taken other cases as well. The confusion about the laws to be applied in Kosovo became another problem that undermined the authority of UNMIK. UNMIK regulation 1999/1 stated that Kosovo was to apply the law of pre 24 March 1999, thus reinforcing the harsh laws that Milosevic applied illegally in Kosovo for a decade. It was no surprise that the returning Albanian judges and prosecutors refused to apply them. This forced the SRSG to reverse its decision in a new Regulation (1999/24) and decide that the new law to be applied was the law of 22nd of March 1989 (Kosovo Criminal Code). In both cases international human rights standards had to take precedent. However, this last move annoyed the Serbian judges, who

decided that they would still use the Milosevic law. Thus individuals were tried differently depending on who their judge was (Rausch, 2007).

However no matter what game UNMIK was playing at the top, its decisions were not reaching the CIVPOL on the ground. There was a lack of any written materials to be supplied to the officers on the ground. Even when it was supplied, it was not working very well. From what I have experienced, policing is not always about applying the law in its strict written form, especially after it has been translated for law enforcers who are not familiar with anything around them and were never the intended users of those rules. However, many times, using common sense did not seem part of the UN manuals and its personnel. To illustrate this I will use a simple example. Kosova only has one main road that connects the east (capital Prishtina) with the west (Peja) that leads on to Montenegro. It is not a Highway, nor a Motorway, not even a second style western road. It is merely a two lane (one in each direction) road, and over eighty percent of it cuts through farm lands. The only way farmers can get access to their land is by crossing that road. Most of the sub roads that join it are muddy when it rains and dusty when it is dry. One day I was patrolling with a German officer and since my English was considered sufficient (it should be noted that the UN 'sufficiency' is considerably lower than the general meaning of the term) my patrol did not have an interpreter most of the time. As we were driving on patrol, a farmer driving his tractor crossed the main road and since it had been raining, it deposited mud along the road. The German officer followed him and asked him to stop. He asked the farmer for vehicle documents (he somehow did not know that

tractors were not being registered in post war Kosovo yet) and told him that he was going to issue him a ticket for dirtying the main road. I simply could not believe my ears, but then I was the only bridge that they could communicate through. I tried to explain to the officer that the article he was pointing at was for town and city purposes and not for that road. He then turned to me and said that in Germany you issued a ticket for the same reason. What could I say, except losing my patience, telling him in a nasty way that regardless of if he liked it or not he had to apply the Kosova law not the German one, and despite lacking any authority to contravene the decision of a CIVPOL officer I asked the farmer to go home. The farmer started thanking me. I turned around and said to him that I was not doing him a favour I just had to teach the German officer how to apply the law in Kosovo. To my surprise the farmer said, I thought it was him who came here to teach you, which it was true since I still was in my probationary period. I was being brave and stupid, since regardless if I was right; technically my behaviour warranted a suspension from duty or even a permanent dismissal. However, even when a local officer did not step in to put matters right, they were still being punished. On one occasion, a police patrol car, from the Peja region drove across the border into the Montenegro. Subsequently all officers in it were arrested by the Montenegrin police. After being brought back to the Peja police station, the CIVPOL member (allegedly from India) who was driving the car in question and was in charge of the patrol, managed to successfully argue that he was not aware where the border was and it was the local officers who should have kept him right. The local officers were suspended from duties despite the fact the CIVOL

officer in question had so many warnings on the road to Montenegro. Prior to crossing the border there was a massive KFOR check point followed by a huge sign (in English) to say that you were leaving Kosovo, and further on another huge sign saying you were entering the neutral zone between Kosovo and Montenegro. Only all those who have experienced being in CIVPOL patrol car with full blast music on would understand how could such a thing could have happened.

The situation in criminal matters was even worse. Many CIVPOL officers, who came from autocratic regimes, have no knowledge of human rights (Caplan, 2005) or democratic principles. Many CIVPOL lack sufficient knowledge of English and in the case of Kosova none could speak the local language. Therefore, apart from confusing criminal laws, they relied on interpreters to perform their duties, and simple misunderstandings ended up with huge consequences for the defendant on further investigation or subsequent trial. No suspect had access to legal advice²², and minors, as well as lacking advice, were being questioned by police and prosecutors without the presence of any adults. In simple terms, CIVPOL was getting nowhere near establishing any kind of rule of law in Kosova, never mind the democratic one. But who was to blame?

'...good policing practice is ought to be carried out according to clearly defined and publicised standards with, and on behalf of a broadly inclusive community...policing

²² Rausch manages to fit even this general problem amongst political lines by pointing out that Serbs did not have legal advice which leaves the reader to wrongly assume that the rest of suspects who belonged to other ethnic groups did have legal advice (2007: 283).

relates to territory and population' (Goldsmith and Sheptycki, 2007).

CIVPOL had neither of those, no defined standards, no inclusive community and above all it did not relate to the territory and the population. Many officers had no idea about the local customs and traditions, and certainly no knowledge about the conflict. Too much emphasis was put on the political crime and very little on the CIVPOL duties to police the rest of the crimes. In the first few months security in Kosova rested with the KFOR (Kosovo Force), who is not trained to deal with normal police duties. Therefore to look for an easy answer, the security meant an end to political violence but not as a means to stabilize the life in Kosova. The waves of post war crimes posse enormous challenges for the 'reconstruction of state institutions, legitimising new democratising regimes and for the quality of justice and everyday life of the population' (Call, 2007: 378). The time it took the CIVPOL to arrive in Kosova, it was long enough for organised crime to settle its routes there. The horror stories (most of which were untrue) of the kidnapping of young girls and children to use them for sexual exploitation, soon overcame the war horrors that the locals thought they had left behind. The justice in Kosovo started being carried out by guns and intimidation, not by customary or codified criminal laws. CIVPOL simply had too much to catch up with. Furthermore it never understood its role as Kosovo's only police force and it never had the capacity to perform as such.

The wrong perception of CIVPOL capacities to perform in such daunting and chaotic situation just added more to an already struggling civil administration. Most of the literature

does not recognise the more serious problems of CIVPOL in these situations (Call and Barnett, 2000). While the lack of CIVPOL's manpower, logistics, trained officers and many other things did not help, all these shortcomings were of a secondary nature in Kosovo. Even if CIVPOL had all these capacities from the very first day, the lack of a coordinated police force that is needed to police a certain territory cannot be organised from as many as fifty different countries to police a society whose language they cannot speak. An officer may be perfectly trained to do his or her job but that has been done in a different environment. The use of force and failure to apply the UN principles became one of the everyday problems (O'Neill, 2002). A police station in Kosovo could have had as many as thirty different nationalities at one time. Many male CIVPOL officers had never worked with female officers before, and a lot of them did not take it well. Sexual harassment became an unnecessary burden for local and CIVPOL female officers. I witnessed quarrels between CIVPOL officers for this very reason, which was not being taken well in on the eyes of locals. Furthermore the progress of individual local officers depended on the nationality of the CIVPOL officer they were working with, and the performance of police stations across Kosova widely depended on where the international staff originated. A substantial number of CIVPOL arrived in Kosovo from administrative staff back in their countries (O'Neill, 2002) and as it turned out they were useless in Kosovo, yet UNMIK could not turn them back. There did not seem to be any sort of system in place that would put CIVPOL officers in the positions that would match their experience in their country. Key positions such as investigating crime and training investigation units were

occasionally filled with riot officers, who were lacking experience in these fields. They were in charge of preparing files for courts, but many times people escaped any sort of punishment, having been charged with the wrong crime. CIVPOL members who had English as their native language sat the UNMIK English competency tests that were conducted by Russian CIVPOL members. In short, it was a complete mess, and it could have been done better if filling the quota was not considered the top priority. The other failure in planning a police force in Kosovo was the approach towards ex-police officers that had served under the Yugoslav (Kosova's autonomous) government. Kosovo had many ex- police officers who despite the lack of knowledge of human rights and democratic principles (which was present amongst many CIVPOL members anyway) could speak the local language, knew the local principles, and had a greater advantage of understanding and applying the applicable law in Kosovo. Yet, they were never seen as such. Furthermore they were not put in the priority of the first groups of new recruits for the Kosovo Police Force (KPS) which would have helped a great deal in the policing performance in Kosovo.

Even though security in Kosovo was always put against political violence, the halting of that violence would only stop a fraction of the insecurity that locals feel. Everybody in Kosovo would feel secure only if three fundamental challenges have been overcome: corruption, organised crime and ethnic bias (Jones et al, 2005). As I have pointed above the reluctance of first few months (and as it turned, out it continued ever after) to deal with crimes that involved armed and organised groups from all sides of Kosovo's

ethnicities resulted in a state of fear in Kosovo. Threatening judges, prosecutors, CIVPOL officers and not to mention the local officers who worked in the towns where they grew up and knew everybody, became a way of applying for bail. As a result, human, drugs and arms trafficking were flourishing in Kosovo and sometimes CIVPOL was contributing to this lawlessness that they were supposed to control (see Call and Barnett 2000 for examples on this last point). Some local officers did not fall behind either. On the other hand those many CIVPOL and later local officers who were keen to do their job properly were fighting a lost battle. For example, if a café bar was raided in the first years and foreign females were found, there were no guidelines on immigration or work permits. Even though the officers were a hundred percent sure that those females were either willingly or by force working as prostitutes, as long as they did not say that, nothing could be done. Many times a bar with two or three tables would have ten or twenty 'waitresses' or 'cleaners'.

Since the 'ordinary' crime after the war ended in Kosovo was not being directed towards foreigners, and did not pose a threat to reignite the war the international media lost interest in it (Call, 2007). However, the insecurity that was produced by this kind of crime turned Kosovo's society into 'deaf and mute'. Fearing for their own and their families' safety nobody was willing to report or testify on any crimes. Many local officers were also considered by locals as not of good standing in the society. However, the poor vetting system that was used by UNMIK and CIVPOL to select the new members of the KPS could have not spotted that. After all there were no criminal records against which to check

individual names. As long as one did not figure on the list of war crimes, it seemed 'alright' to have committed any other crime. This will be one of the many drawbacks in Kosovo's struggle to have a strong, democratic and politically independent police force for the coming years. To make matters even worse for the local citizens the 'efforts to show 'progress' exemplified one of KFOR's and UNMIK's greatest flaws: spinning information to make it appear that the situation in Kosovo is 'under control' when this [was not] the case' (O'Neill, 2002). The legacy of comparing data is still present in Kosovo today and so are the organised crime and every other negative phenomenon that accompany it, corruption being the worst. As late as 2007 there were media reports in Kosovo that in order to keep their positions the government and the criminals had become 'friends'. However, even worse is the impossibility of the local societies to draw a line between where one group starts and the other ends, not only in Kosovo, but in the whole Balkan region.

Chapter Four

*The UN and its accountability in Peace Operation:
Are UN members accountable to the UN, their own
Country, or do they sit above the law?*

Transitional Administrations, such as the one in East Timor and Kosovo represent the most complex and unique operations attempted by the UN, probably never to be repeated again (Einsiedel, 2002). In both cases the UN was given the duty to govern the territory. However the circumstances upon which the transitional administration was to be conducted were different. The duty of the UN in East Timor was to help with the referendum and the process of passing control from Indonesia to a new independent East Timor, whereas in Kosovo the final statute was to be decided at a later stage. Therefore, the length of time the UN was to be in Kosovo was unlimited and nobody knew what its final statute was going to be and when it was going to be decided. As a result, I consider the issue of accountability as very important in this particular situation, especially if it was anticipated from the very beginning that the UN may rule Kosovo for a long time due to the impossibility of finding a common ground between the warring parties there. Throughout this paper, I have tried to avoid discussing the issue of the legitimacy of the UN interventions in intrastate conflicts. I have used two reasons for that. First, if the UN has been deployed that will be taken as an indication that SC has already given its

blessing. Second, one only needs to count the number of these kinds of interventions during the last two decades to realise that this issue does not seem to be important anymore. However it has to be acknowledged that if the UN takes upon itself to rule a territory, its accountability towards the people it de facto rules is a far more pressing issue.

The SC Resolution 1244, that gave UNMIK the mandate to administer Kosovo, did not include any obligation on that mission to consult the local population. The appointment of the head of UNMIK was only to be consulted with the SC (para. 6). Even though it has been noted that the parties in the Balkans were not always receptive of the aims of the international community (Caplan, 2005), the legal accountability should have been dealt with separately. However, as it turned out, the SRSG ended up passing Regulations in Kosovo with the power to disregard any preposition of the local community that was given through different groups and councils that UNMIK created there. One of the first things that UNMIK did was to pass Regulation 1999/1 which stated that SPSG authorised himself to make any decisions in Kosovo whatsoever, including the appointment and removal of any person to perform functions in the civil administration which included the judiciary. This Regulation proves perfectly well the claims that Kouchner (the SRSG who signed the above regulation) read Resolution 1244 twice each morning and still had no idea what 'substantial autonomy' meant (Chesterman, 2004). While Resolution 1244 had guaranteed the sovereignty of Yugoslavia by giving Kosova a substantial autonomy, it turned out that neither was going to happen in

practice. UNMIK took both, the sovereignty of Yugoslavia over Kosovo, and the substantial autonomy from Kosova's people. To sum up all these points, I will cite the report of the Ombudsperson in Kosovo which in 2002 stated:

'...UNMIK is not structured according to democratic principles, does not function in accordance with the rule of law, and does not respect important international human rights norms. The people of Kosovo are therefore deprived of protection of their basic rights and freedoms three years after the end of the conflict by the very entity set up to guarantee them.

On its establishment as the surrogate state in Kosovo, in 1999, UNMIK gave no cognizance to one of the founding principles of democracy, the separation of governmental powers'.

(OIK Report, 2002)

Despite growing complaints and discontents, UNMIK retained its powers until it was forced to leave those parts of Kosova that are not considered as 'Serb enclaves'²³. However, even though the head of UNMIK had authority to make every decision in Kosovo regarding the local population, the situation between international actors rested on different grounds. UNMIK had very limited authority to deal with many different organisations in post-war Kosovo.

²³ As KFOR entered Kosovo in 1999, members of the Serbian community gathered around some of the villages and towns that had Serb majority. They were protected by KFOR (and still are) and are known as 'Serb enclaves'. They are maintained and financed by both Belgrade and Prishtina, and work as parallel structures in Kosovo. During the time UNMIK was in charge of Kosova they never recognised it. However, when Kosovo declared independence and many States recognised it, it was argued by majority in Kosovo that Resolution 1244 was no longer valid and UNMIK had to go. When a European mission took over to replace UNMIK, Serbs in Kosovo decided that they would still want UNMIK to look after them. That is still the case today.

In the case of KFOR it had no authority at all. Therefore, a short discussion on this particular point will be part of the next section.

The UN's role as first amongst equals in Kosovo

'The term 'UN Peacekeeping' suggests that a ready recognisable and organised body was, and is, engaged in clear and understood form of activity in pursuit of a certain, clear goal. But is that so?' (O'Neill, 2002a)

NATO's decision to stop Milosevic without the permission of the SC and the marching of the Russian military personnel in Prishtina hours before the NATO lead force was meant to enter the territory, were only two of the many slip ups that questioned the UN's international political authority. Both occasions also were a big indication of the difficulties that international community was experiencing to deal with the Kosovo question. Resolution 1244 kind of addressed the former issue *post facto*, but the latter was a headache for years to follow. The Russians seized Kosovo's only airport which was meant to be under the control of British troops, and it took years of 'negotiations' to get it back²⁴.

During the NATO airstrikes against the Milosevic regime, discussions were taking place between the powerful countries to decide which international organisation will be

²⁴ As far as the locals were concerned, the only reason why the Russians left is because their government had no money to pay them anymore. It was alleged that the British troops ended up giving them supplies of food and water until a decision was reached for their removal.

in charge to rebuild Kosovo. Even though OSCE (Organisation for Security and Cooperation in Europe) was the favourite one at the start, things were getting very complicated on the ground, and a month before the war ended, the UN and OSCE were still waiting for a final decision (Caplan, 2005). In the end the UN was to hold the umbrella even though the EU and NATO took on a big proportion of activities that went on underneath, not to mention many sub-contractors that were present everywhere. Resolution 1244 had provided for the establishment of UNMIK 'as a part of the international civil presence' (Annex 2, part 5), which left open the possibility of many things to be decided. Even though the head of UNMIK was at the top of the transitional pyramid, duties on the ground were split up amongst many actors, which made collaboration very difficult and accountability next to impossible.

The civil side of the administration was made of Four Pillars. The First Pillar was to deal with humanitarian assistance which was given to UNHCR (two years later this pillar was transformed into police and justice and later transformed again into the office of the SRSG as 'the Rule of Law Office'). The Second Pillar dealt with civil administration (which included the CIVPOL and courts) and was given to the UN. The Third Pillar dealt with institution building and was given to OSCE and the Fourth Pillar dealt with the economic reconstruction was given to the European Union (EU). KFOR (NATO lead Force in Kosovo) was in charge of the security, and even though it had one overall Commander, KFOR was split in five main sectors (US, Britain, France, Italy and Germany). Each sector had

different nationalities under their command and each had to conduct its duties within their boundaries²⁵. The boundary lines between KFOR were often used as a joke that Albanians had fought for one republic and now they were given five. The KFOR Commander was responsible to NATO directly and not the Head of UNMIK. With four institutions under the one roof (the UN, UNHCR, EU and OSCE) UNMIK suffered from having too many masters (King and Mason, 2006). As that was not bad enough for UNMIK, the way duties were split between them proved even more difficult. The OSCE had to build the institutions while the UN had to control them. The situation with the police was an example of a typical confusion that went on about who had to do what. The KPS were selected and vetoed by UNMIK, then went to a college run by OSCE, then went back for field training run by UNMIK, then went back for further training by the OSCE. This made it very difficult to have a continuous assessment of officers by the same standards. It has been claimed that the OSCE in Kosovo never fired any of its staff for poor performance (ibid). On the other hand all the humanitarian organisations had their own independent rules, and most of the time help never reached where it was needed. Big cities that were closer to the eye of international media always benefited more than the remote areas that were destroyed completely during the war. Flag-waving became far more important than helping Kosovo.

²⁵ There are detailed information about the structures and every other information about KFOR in their official website www.nato.int/kfor

While the above, rather short and deformed picture should give an idea of UNMIK's difficulties to account for possible misconducts of the international personnel in Kosovo, the UNMIK regulation 2000/47 was the final straw. It gave immunity against any legal proceedings to all UNMIK members, KFOR members, and all their subcontractors and local staff. The above regulation left open the possibility of the Secretary General to waive the immunity of UNMIK members if doing so would not prejudice the interest of UNMIK. However, the immunity of KFOR could only be waived by their Commanders. It has to be noted that third party members have immunity against locals for the right reasons, however the administration in Kosovo was not run by locals, rather by third parties themselves. Therefore, structures should have been put in place to address the unprecedented situation in Kosovo. I found it very difficult, not to say impossible, to find any academic literature that treats the issue of accountability of actors that take part in a peace operation in detail. The issue is dealt with in broad terms and mostly in cases where the UN was not playing the role of the sole executive and legislative authority of a territory. Chesterman (2004) is one of the authors that deal with this issue in more depth, but, he explicitly states in his book that he will not deal with the individual accountability issue. Rawski (2002) has gone a step closer by pointing out many of the flaws of individual immunity. However, in many of the individual cases he mentions there are no official data, which makes it very difficult to know what happened in details. Therefore, I find it appalling how such an important issue has not been given more attention. I strongly believe that one of the crucial steps to make future UN or any third party operation succeed is their

accountability towards the people they rule. If a member of international personnel or a humanitarian organisation in whatever country does not fear any responsibility for their actions, the chances for misconduct of some are always going to jeopardise the good will of others. During my time in Kosovo from the beginning of UNMIK rule until the end of 2002, no local ever knew where to turn for help if they were mistreated individually or collectively by the different international actors that were helping UNMIK put Kosovo back together. Even though Kosovo's Ombudsperson was established by OSCE in November 2000, the office had no power to enforce any decisions and was not allowed to deal with complaints against KFOR (Chesterman, 2004). Furthermore, most crimes that involved international staff were dealt with politically not legally. It simply felt that the 'internationals' were above the law. Major incidents, even those resulting in deaths have shown that the UN lacks any structure or power to deal with such matters. In 2007, two protesters were killed in Kosovo by Romanian members of CIVPOL during a protest in Prishtina. After an investigation was launched, it was concluded that their death was caused by the improper use of rubber bullets (Amnesty international 2009). Even though UNMIK was meant to keep the Romanian officers in Kosovo until the truth came to light, the Romanian government repatriated them soon after the incident, and nobody was ever charged let alone convicted for the loss of two young lives (ibid).

It has to be appreciated, that under its present structure, the UN relies entirely on the help of participating countries. Therefore, it cannot afford to name and shame anybody, fearing that countries will no longer give the much needed

support. As a result it rests upon individual governments to deal with the accountability of its members. Unfortunately, some of the participating governments are weak and corrupt themselves, which reflects negatively upon the performance of their contingents. For as long as the UN directly depends on participating members in every field of its actions, creating independent structures to deal with accountability issues of its staff on the ground may never happen.

Chapter Five

Calculating the results: Should the hosting country always be blamed for failing to do the right thing – not going to war in the first place?

'The remarkable growth of peace-building activities and programs has occurred despite the lack of agreement upon ways of documenting the effects of success of these efforts' (Zelizer and Rubinstein, 2009: 1). Hence, there are many different ways of measuring the effect of peace operations, which could lead to opposite conclusions for the same operation. Although the aims and goals of each intervention are the best place to start, there are many other factors that will carry a substantial weight towards success or failure. For example, the assessment may come to different conclusions depending if it was carried out immediately after the international community has left, or after few years of an operations end. It has been argued that while short term considerations are important too, the long term ones are more important even though they are more difficult to evaluate (Druckman, 1997). Some clear cut measures of indications of failure can be done without going into much detail, with cases such as Somalia and Cyprus being two obvious examples of undisputable failures. In Somalia peacekeepers failed to prevent the escalation of the conflict and left due to renewed fighting, whereas in Cyprus peacekeepers never left for fear of conflict escalation (ibid). However, in order to help future peace operations, it is important to find out why a peace operation fails? Who was

to blame? Should we look for shared responsibilities and maybe make things better next time?

In the face of growing demand of conflicts requiring international interventions to settle disputes between parties, arguably it can be said that the UN has been one of the leading actors. However, as conflicts have developed to a new complex level, the UN has failed to develop adequate strategies commensurate with diplomatic, military and humanitarian activities. This has led to a limited success and at times the UN's failure on the field (Chopra, 1998). Even though it has been argued that the UN's failure to solve ongoing conflicts does not mean a failure of the UN peacekeeping *per se*, in order to help the UN get back on its feet, the new mandates have to be backed up with the necessary political and military sources (Schnabel and Thakur, 2001). To this end, the only way how the UN can stand the test of time, will be the willingness of the permanent five to give the UN its right to steer the vehicle assigned to its name. Otherwise, the UN will continue to be blamed for many things its SC decides upon, without any consideration of the UN's capabilities. The first thing the UN can do to turn things around is learning to say 'no' to the SC. 'The Secretary General must have the authority and courage of conviction to reject missions that have been approved because of confuse, unclear or severely under resourced mandates' (Schnabel and Thakur, 2001: 243). In contrary, the UN will be 'volunteering' to be used as a stick for the permanent five, without much regard to its need of performing well in a peace operation.

When did UNMIK fail?

If we want to be realistic when talking about peace operations, the first thing to admit is that the list of requirements that are needed in a peace operation can never be met with. Therefore, the next best thing to meet the emergency requirements is to make a list of priorities. Even though Kosovo was the first operation of its kind, the international community and especially the UN cannot use that as an excuse for its failure. Each operation will have its unique components that have not been seen before. Hence we cannot allow ourselves to use that as an excuse to escape our responsibilities. Instead the difficulties to understand and handle intrastate conflicts need to be addressed by a comprehensive peace-building approach (Truger, 2000). As it has been noted on the first Chapter, UNMIK was an impossible mandate from the very beginning. UNMIK's struggle to fulfil its duty in Kosovo was not primarily to any staff shortage, lack of finance or logistics. Even though all those shortages played their role, UNMIK's main challenge started with the mandate itself. The resolution 1244 never made clear what the UN was supposed to do in Kosovo. Due to the impossibility to find an agreement between the Serbs and the Albanians, which reflected on the behaviour of the five permanent members of the SC, resolution 1244 left open too many possibilities that worked against any future reconciliation between the two peoples. Being aware that the final statute could go either way, Serbs and Albanian were pulling in different directions. Trying to keep everybody happy in the short term, turned the mandate into one of those multitask

objects that do not perform well on any of them. The confusion that surrounded the final statue of Kosovo made all state-building activities highly politicised. Therefore, 'UNMIK ended up interpreting its mandate according to developments in Serbia and the individual views of Special Representatives on the question of independence' (Bull, 2008: 125). The situation was not assessed upon the historical facts that it was not only the war of late 1990's that caused the conflict in Kosovo. Kosovo was a place where a competition took place between two peoples for the same territory for hundreds of years. As a result nobody in Kosovo objected the bullying of everybody else, they just wanted their group to be on top (King and Mason, 2006). Hence, tackling this problem should have been the first priority on the peace-building agenda.

To argue that the failure or success of a peace operation will depend on whether the causes of the conflict have been addressed, I will mention briefly three examples, all parts of the ex-Yugoslavian state. One of them will be Croatia which has been widely considered as a success and Bosnia and Kosovo that have been considered as failures. They all had similar problems on their route to independence and all of them fought for the same ideal – none of them wanted to be dominated by the other group. The Serb side that fought in all three countries was backed up by Milosevic's regime, which provided them with every possible means, including the heavy handed Yugoslavian Army, to try and keep the territories with Serb majorities under the Yugoslav rule (Serbian rule). When the international community intervened to restore peace in Croatia and Bosnia first, and Kosovo nearly four years later, the attitude of the locals

changed accordingly. The Dayton Agreement that was meant to sort out Bosnia and Croatia ended up in different outcomes on the ground. At the Dayton peace agreement Milosevic effectively abandoned Serbia's claims to those Croatian territories that had a longstanding ethnic Serb population, and agreed to support the transfer of territories to Croatia (Paris, 2004). This rendered local Serbs with no further support and outnumbered to fight against the Agreement. Hence, if they wanted a future within Croatia they had to work with the Croatian government. Things were a bit different in Bosnia. It seemed that Bosnia had to pay for the Croatian gain. Serbs in Bosnia were given their own republic (albeit within Bosnia's official borders) which accounted for half of the Bosnia's overall territory. The Serbs there knew all along that a weaker Bosnia would always be to their advantage if their plan was to join Serbia proper one day, and they worked very hard to make the implementation of the Agreement impossible. Kosovo followed the route of Bosnia to some extent. Since Milosevic was forced to agree about Kosovo's departure, the Serbs that remained in Kosovo were always supported by Belgrade. Creating parallel structures in Kosovo was a plan that Serbs used as a protest against Kosovo's possible independence. Therefore, I consider that the international community gave Belgrade the chance to block a possible reconciliation between the Serb and the Albanian community in Kosovo, by allowing it to run parallel structures there. In all three cases the length of the mission also depended on the same problem. The international presence in Croatia left after concluding that its job was done and Croatia can manage on its own, while in Bosnia

and Kosovo the international presence still stays strong and it will probably continue to do so for many years to come.

Everybody who has been directly involved with a peace-building operation knows very well that tackling the causes of the conflict is easier said than done. Furthermore, there were many other unaddressed issues with the peace operation in Kosovo that drove UNMIK to its failure. The mission as a whole was over extended and under equipped (Bull, 2008). As Call (2008) argues, there was not only insufficient commitment of international community but extensive presence without regard to the hosting society, as it happened in Kosovo, which resulted in more harm than good. The international community approach seems to be that the best way to solve the problems is simply to throw money at it, rather than address long term issues (McFarlane and Maley, 2001). The poor coordination that existed between agencies in Kosovo was another major problem. Important objectives were not completed because of interagency rivalry (King and Mason 2006). On security matters KFOR and UNMIK worked independently and pursued different goals, each interpreting resolution 1244 differently. The lack of sharing information between KFOR and CIVPOL has been considered one of the major failures to stop the violence of March 2004 (ibid).

'Ultimately, the critical factor for success or failure of peace maintenance rests with the role of the local community, whom the efforts is intended to help' (Chopra, 1998). As I have pointed above more than once the role of the local community was never considered important as part of the UNMIK's decisions.

Conclusion

'The end of the Cold War marked the defeat of the ideology of the communism and the collapse of the ideology of the command economy by the forces of liberal democracy and market economy' (Chesterman et al, 2004: 1). The collapse of the bipolar system that divided the world between the west and the east created new opportunities for many nations across the globe. However, not all sides were ready for change, thus many conflicts became active again, majority being fought between groups that share the same sovereign territory. To try and manage these new conflicts the UN was forced to adjust in a way for which it was not initially designed (Knight, 1998). Despite the surface adjustments, however, deep inside the UN's approach to guard the sovereignty of its members still remained the same. This created difficulties, especially for many conflicts that needed quick and swift reaction. Hence, a new alternative was sought to address the intrastate conflicts, the commonly known 'humanitarian intervention'. This new way was used to argue NATO's military intervention in Kosovo. Even though there were huge disagreements between the members of the SC to the legitimacy of that intervention, the intention of this paper was not to deal with that matter; hence I have kept it silent. However, I do see the need to point out that despite any negative effects that the NATO intervention has caused, it did stop the humanitarian catastrophe that was unveiling in Kosovo and it did save people from the scourge of war, thus fulfilling one of the main UN principles (see chapter one above).

The problem with the humanitarian intervention raises another big issue for the UN.

'The tendency to view conflict in terms of human rights abuses and victims clearly encourages intervention to support the claims of one side rather than intervention to negotiate a settlement' (Chandler, 2006: 174), hence jeopardising the UN's mandate to be impartial. Therefore, I have tried to bring out those components of the UN that are needed to change in order to settle future conflicts. Calls have been made for the UN to have its own army (Knight, 1988) and maybe a stand by police force. However, I would be one of those people who would argue against that. There already exist a multinational army (NATO) which has rarely been used for its combat purposes. Therefore, I would strongly argue that it is not the creation of new sources that the UN needs – changing the approach of how the actual sources are used will be far more effective. If all member states are committed to achieve the same goal, the diplomacy will reach to a successful settlement. However if they are not, the use of other means will always undermine the outcome. Kosovo is one of the examples where the UN did not fail because of the military absence or the police for that matter. It failed because of the wrong approach that was used to address the problem. The lack of coordination that existed on the ground in Kosovo had its sources all the way to the SC. Hence I would support the idea that it is both safer and more realistic to deal with disorders on a regional basis (Carpenter, 1997), while have the UN to be a coordinating body. However, to have a better control over Kosovo's final statue, the SC decided to deal with it through the UN, and it vested all the powers to the head of UNMIK

who was directly responsible to the Secretary General and not to the situation on the ground. It has been noted that in order to have success, *'the legitimacy of taking over government functions should not be seen as stemming from the SC mandate alone, but should also derive from its performance on the ground and its respect for certain principles'* (Einsiedel, 2002: 8). In Kosovo the opposite happened. UNMIK, trying to enforce democracy in a place that needed many other things beforehand, turned into a regime that started to lose the local support that it had from the majority of the population. As Chopra suggests: *'No authority, malevolent or benign, can survive without the balance of the popular consent on its favour....Therefore the role local representatives play in a joint authority will have to be determined according to the specifics of the case'* (Chopra, 1998: 9).

The role of the local representatives was never clear in Kosovo and was never dealt with as an important issue. Therefore, once Kosovo's parliament got stronger, it declared unilateral independence, which was supported and accepted by most of the important international actors, and more importantly it has been recognised by most of the Kosovo's and Serbia's neighbours. Even at this stage Serbia did not give up. It asked the UN to take an advisory opinion from the International Court of Justice on the legitimacy of Kosovo's independence. The Court decided that Kosovo's declaration of independence did not violate general international law, and did not violate resolution 1244. The court had to remind everybody that resolution 1244 did not contain any prohibition that would bar Kosovo to declare unilateral independence. As a result of both findings, the Court decided that Kosovo's independence was legitimate

(ICJ 2010). The decision of the International Court was not what Serbia expected, yet that decision did nothing to change Serbia's attitude towards the new reality.

The unilateral declaration of independence was (is) not accepted by Serbia, but it did create a new reality that everybody involved had to accept and work around it. The new independent institutions rendered the transitional administration no longer effective, thus UNMIK ended its mandate in Kosovo without achieving either peace, or democracy. Officially UNMIK still operates in Kosovo only on those parts that have a Serbian majority, while rest of Kosovo is being monitored by EULEX (the European Union Rule of Law Mission in Kosovo). On the other hand the security in Kosovo is still being maintained by a heavy presence of KFOR.

Starting the intervention in Kosovo without proper thought and a long term plan, there could have been no other outcome: There is no foreseeable future of the sustainable peace without the presence of the international community in Kosovo. Hence, there is no clear indication when the international community is going to leave the region. The life of Kosovo's citizens, regardless of who they are, has not changed to any great deal even ten years after the conflict. They still live without the most basics for a normal life: no electricity, no water, and no proper health system. The benefit system seems to be available only to those who have guns or are related to the staff. The unemployment is so high that even if the benefit system was fair to everybody it would not be able to cope anyway. The rule of law is undermined by corruption and unprofessionalism in every aspect of the judicial system and every other public

service (OIK, 2008). The three parallel structures that were allowed to exist in Kosovo (UNMIK, Serbian and the Albanian structure which was later replaced by the democratically elected one that was made up of the Albanian majority and all the other minorities, including a proportion of Kosovo Serbs) played a decisive role to undermine the progress of a new, democratic Kosovo where everybody could live in peace. Kosovo's citizens no longer trust any political party, a feeling that was expressed by the very low turnout at the last election. They have realised that getting the long sought republic was not all it takes to get a better life. The strength and self-reliance of majority of people in Kosovo that managed to survive horrendous atrocities before and during the bloody conflict was kindly suffocated by the ten years of the UN autocracy.

Bibliography

Amnesty International, Serbia (Kosovo): *Hearing Into Deaths in Kosovo Could Find UN Accountable*, 23 March 2009, (<http://www.amnesty.org>)

Bayley, D., (2006), *Changing the Guard: Deploying Democratic Policing Abroad*, Oxford: Oxford University Press

Belloni, R., (2007) "Rethinking Nation-Building: The Contradictions of the Wilsonian Approach At Democracy Promotion", *The White Head Journal of Diplomacy and International Relations*, 7(1): 97-109

Blaug, R., and Schwarzmantel, (2004), *Democracy: A Reader*, Edinburgh: Edinburgh University Press

Bolton, J. (1997), 'The Creation, Fall, Rise, and Fall of UN' in Carpenter, T.
(eds), *Delusions of Grandeur: The United Nations and Global Intervention*, Cato Institute

Booth, K., (2001), 'Introduction: still Waiting for the Reckoning', in Booth, K., (eds), *The Kosovo Tragedy: The Human Rights Dimensions*, London; Portland: Frank Cass Publishers

Boutros-Ghali, B., (1992), *An Agenda For Peace*, United Nations General Assembly, A/47/277 - S/24111, 17 June 1992

Boutros-Ghali, B. (1999), *Unvanquished: A U.S.- U.N. SAGA*, London: IB Tauris Publishers

Brahimi Report, United Nations General Assembly, A/55/305 – S/2000/809, 21 August 2000

Broer, H., and Emerly, M., (1998), 'Civilian Police in UN Peacekeeping Operation', in Oakley, R., Dziedzic, M., Goldberg, E., (eds), *Policing The New World disorder: Peace Operations and Public Security*, Washington DC: National Defence University Press

Bull, C. (2008), *No Entry Without Strategy: Building the Rule of Law under UN Transitional Administration*, Tokyo: United Nation University Press

Bush, K. (2004), 'Commodification, Compartmentalisation, and Militarization of Peacebuilding', in Keating, T. and Knight, A. (eds), *Building Sustainable Peace*, Alberta: The University of Alberta Press and Tokyo: United nations University Press

Call, C., (2007), 'Conclusion: Constructing Justice and security After War', in Call, C., (eds), *Constructing Justice and Security After War*, Washington: United States Institute of Peace

Call, C., and Barnett, M, (2000) 'Looking For Few Good Cops: Peacekeeping, Peacebuilding and CIVPOL' in Holm, T., and Eide, E. (eds), *Peacebuilding and Police Reform*, Taylor and Francis Ltd

Caplan, R., (2005), *International Governance of War-Torn Territories: Rule and Reconstruction*, Oxford: Oxford University Press

Carpenter, T., (1997), 'The Mirage of Global Collective Security', in Carpenter, T. (eds), *Delusions of Grandeur: The United Nations and Global Intervention*, Cato Institute Press

Chandler, D., (2006), (new edition), *From Kosovo to Kabul: Human Rights and International Intervention*, London; Ann Arbor: Pluto Press

Chesterman, S., (2001), *Kosovo In a Limbo: State-Building and 'Substantial Autonomy'*, International Peace Academy, August, New York, (<http://www.ipacademy.org>)

Chesterman, S., (2004), *You The People: The United Nations, Transitional Administration and state-Building*, Oxford; New York: Oxford University Press

Chesterman, S., Ignatieff, M. and Thakur, R. (2004), *Making States Work: From State Failure to State-Building*, International Peace Academy, July, New York, (<http://www.ipacademy.org>)

Chopra, J., (1998), 'Introducing Peace Maintenance', in Chopra, J., (eds), *The Politics of Peace-Maintenance*, boulder; London: Lynne Rienner Publishers

Cousens, E., (2001), 'Introductions', in Cousens, E and Kumar, C., (eds), *Peacebuildings as Politics: Cultivating Peace in Fragile Societies*, Boulder; London: Lynne Rienner Publishers

Cox, M., (2008), 'Bosnia and Herzegovina: The Limits of Imperialism', in Call, C. and Wyeth, V., (eds), *Building States to Build Peace*, Boulder; London: Lynne Rienner Publishers

Dobbins, J., Jones, S., Crane, K. Rathmell, A., Steel, B., Teltschik, R., Timilsina, (2005), *The UN's Role in Nation-Building: From the Congo to Iraq*, Rand Corporation

Druckman, D., Stern, P., Diehl, P., Fetherston, A., Johansen, R., Durch, W. and Ratner, S., (1997), 'Evaluating Peacekeeping Missions', *Mershon International Studies Review*, 41(1): 151-165

Economides, S. (2007), 'Kosovo' in Berdal, M. and Economides, S. (eds), *United Nations Interventionism 1991 – 2004*, New York: Cambridge University Press

Einsiedel, S., (2002), *You, The People: Transitional Administration, State-Building and the United Nations*, International Peace Academy, October, New York, (<http://www.ipacademy.org>)

Fitzsimmons, T., (2007), 'Engendering Justice and Security After War', in Call, C., (eds), *Constructing Justice and Security After War*, Washington: United States Institute of Peace

Fortna, V. (2004), 'Does Peacekeeping Keep Peace? International Intervention and duration of Peace After Civil War', *International Studies Quarterly*, 48: 269-292

Goldsmith, A., and Sheptycki, J.,(2007), 'Introduction' in Goldsmith, A., and Sheptycki, J., (eds), *Crafting Transnational Policing: Police Capacity- Building and Global Policing Reform*, Oregon: Hart Publishing

Goulding, M., (1993), 'The Evolution of United Nations Peacekeeping', *Journal of International Affairs*, 69(3): 451-464

Groom, A., (1971), 'Peacekeeping: Perspectives and Progress', *Journal of International Affairs*, 47(2): 340-352

Hartley, O., and Utley, R. (2006), 'Introduction' in R. Utley (eds), *Major Powers and Peacekeeping: Perspectives, Priorities and the Challenges of Military Interventions*, Aldershot: Ashgate Publishing

Heywood, A., (2004), (3rd edition), *Political Theory: An Introduction*, Basingstoke; New York: Palgrave Macmillan

Hilderband, R. (1990), *Dumbarton Oaks: The origins of the United Nations and the Search for the Post War security*, University of North Carolina Press

Hillen, J., (1997), 'Getting UN Military Operations Back to Basics', in Carpenter, T. (eds), *Delusions of Grandeur: The United Nations and Global Intervention*, Cato Institute

Holbrooke, R. (1998), *To End A War*, Random House

International Court of Justice, *Advisory Opinion of 22/July/2010 (on Kosovo's Unilateral declaration of Independence)*, General List No 141, web link <http://www.icj-cij.org/docket/files/141/15987.pdf>

James, A. (1988), 'Unit Veto Dominance in UN Peace-keeping' in Finkelstein, L., (eds), *Politics in the United Nations System*, Duke University Press

Jeong, H. (2005), *Peacebuilding in Postconflict Societies: Strategy and Process*, Boulder, London: Lynne Rienner Publishers

Jones, S., Wilson, J., Rathmell, A. and Riley, K. (2005), *Establishing Law and Order after Conflict*, Santa Monica: Rand Corporation

Keating, T. and Knight, A. (2004), 'Recent developments in Postconflict studies – Peacebuilding and Governance' in Keating, T. and Knight, A. (eds), *Building sustainable Peace*, Tokyo: United Nations University Press and Alberta: The University of Alberta Press

King, I., and Mason, W., (2006), *Peace at any Price: How the World Failed Kosovo*, London: Hurst and Company Publishers
Paris, R. (2004), *At War's End: Building Peace After Civil Conflict*, New York: Cambridge University Press

Knight, A., (1998), 'Establishing Political Authority in Peace-Maintenance', in Chopra, J., (eds), *The Politics of Peace Maintenance*, Boulder; London: Lynne Rienner Publishers

Linden, R., Last, D., and Murphy, C (2007), "Obstacles on the Road to Peace and Justice: The Role of Civilian Police in Peacekeeping" in A. Goldsmith and J. Sheptycki (eds), *Crafting Transnational Policing: Police Capacity- Building and Global Policing Reform*, Oregon: Hart Publishing

McFarlane, J., and Maley, W., (2001), 'Civilian Police in Un Peace Operations: Some lessons from recent Australian Experience', in Thakur, R., and Schnabel, A., (eds), *United Nations Peacekeeping Operations: Ad Hoc Missions, Permanent Engagement*, Tokyo: United Nations University Press

Mesic, S. (2007), Public Lecture at Queens University of Belfast, 17 October 2007

Newman, E., and Richmond, O., (2006), "Introduction: Obstacles to Peace Processes: Understanding Spoiling", in Newman and Richmond, *Challenges to Peacebuilding*, Tokyo United Nations University Press,

OIK (Ombudsperson Institute Kosovo), (2002), *Second Annual Report 2001/2001*, 10 July 2002

OIK (2008), *Eighth Annual Report 2007/2008*, 21 July 2008, Prishtina

O'Neill, W., (2002), *Kosovo: An Unfinished Peace*, Boulder, London: Lynne Rienner Publishers

O'Neill, T., (2002a), 'UN Peacekeeping: Expectations and reality', *Irish Studies in International Affairs*, 13: 201:214

Paris, R. (2004), *At War's End: Building Peace After Civil Conflict*, New York: Cambridge University Press

Perelec, M., (2009), *Bosnia and Herzegovina: 'Divide and Misrule'*, Transitions Online, Crisis Group, 20 August 2009, (<http://www.crisisgroup.org>)

Pula, B., (2003), 'The UN in Kosovo: Administering Democracy?' in Bieber, F., and Daskalovski, Z., (eds), *Understanding the War in Kosovo*, London; Oregon: Frank Cass Publishers

Rausch, C., (2007), 'From Elation to Disappointment: Justice and Security Reform in Kosovo', in Call, C., (eds), *Constructing Justice and Security After War*, Washington: United States Institute of Peace

Rawski, F. (2002), 'To Waive or Not to Wave: Immunity and Accountability in UN Peacekeeping Operations', *Connecticut Journal Of International Law*, 18: 103

Reno, W. (2008), 'Bottom-Up Statebuilding?' in Call, C. And Wyeth, V., (eds) *Building States to Build Peace*, Boulder; London: Lynne Rienner Publishers

Roberts, A. (1996), 'The Crisis in UN Peacekeeping' in Chester, A., Crocker and Fen Osler Hampson (eds), *Managing Global Chaos: Sources of and Responses to international Conflict*, Washington: United States Institute of peace press

Rothstein, R., (1999), *After the Peace: Resistance and Reconciliation*, Boulder; London: Lynne Rienner Publishers

Saroshi, D. (1999), *The United nations and the Development of Collective Security*, Oxford: Oxford University Press

Schnabel, A., and Thakur, R., (2001), 'From An Agenda For Peace to the Brahimi Report: Towards a New Era of UN Peace Operations?' in Thakur, R., and Schnabel, A., (eds), *United Nations Peacekeeping Operations: Ad Hoc Missions, Permanent Engagement*, Tokyo: United Nations University Press

Schulz, K., (2001), *Democracy and Coercive Diplomacy*, Cambridge: Cambridge University Press

Staubb, C. (2009), *Kosovo – Eine Rechtliche Analyse*, Hünigues, 26 March 2009

Talentino, A., (2007) "Perceptions of Peacebuilding: The Dynamic of Imposer and Imposed Upon", *International Studies Perspectives*, vol. 8(2): 152-171

Thakur, R., and Schnabel, A., (2001), *United Nations Peacekeeping Operations: Ad Hoc Missions, Permanent Engagement*, Tokyo: United Nations University Press

Truger, A. (2000), 'Training Peacebuilders and Peacekeepers' in Reychler, L. and Paffenholz, T., *Peacebuilding: A Field Guide*, London; Boulder: Lynne Rienner Publishers

UNMIK Regulation 1999/1 (UNMIK/Reg/1999/1) 25 July 1999, (All UNMIK Regulations are accessible via website <http://www.unmikonline.org>)

UNMIK Regulation 1999/24 (UNMIK/Reg/1999/24) 12 December 1999

UNMIK regulation 2000/47 (UNMIK/Reg/2000/47) 18 August 2000

United Nations Security Council Resolution 1244, S/RES/1244 (1999), 10 June 1999

Woodward, S., (1999), 'Bosnia After Dayton: transforming a Compromise into a State', in Rothstein, R. (eds), *After the Peace: Resistance and Reconciliation*, Boulder; London: Lynne Rienner Publishers

Zelizer, C., and Rubinstein, R., (2009), Introduction: Creating Structures and Capacity for Peace' in Zelizer, C., and Rubinstein, (eds), *Building peace: Practical Reflections From the Field*, Sterling: Kumarian Press

Lebenslauf

Name: Labinot Asllani
Adresse: Amortgasse 1-17/5/10, 1140 Wien
E-Mail: labi_as@hotmail.com
Geburtstag/-ort: 03.07.1983 / Kline, Kosovo
Familienstand: ledig
Staatsangehörigkeit: Kosovarisch

Ausbildung:

10/2005 – 05/2011 Universität Wien, Studienrichtung: Politikwissenschaft
09/2000 – 06/2003 Gymnasium – Naturwissenschaft (Luigj Gurakuqi) Kline
09/1998 – 02/2000 Realschule, Stefisburg, Thun, Schweiz
09/1990 – 06/1998 Hauptschule, Drnovec, Kosovo

Berufserfahrung/Praktika:

08/2008 – bis dato Bundesministerium für Inneres, Republik Österreich
Externer Mitarbeiter im Bereich - Übersetzung und
Dolmetschen
05/2005 – bis dato Firma Grumbir, Vergnügungspark Prater, Wien
Führungskraft

Auslandserfahrung:

02/2011 – 03/2011 Teilnahme an Briefings und Konferenzen in UNO
(UNDP, UNHCR), UN – Sicherheitsrat, Handelskammer
Österreich – New York City, USA
01/2011 – 01/2011 Diplomarbeit - Recherche in Prishtina, Kosovo
10/2010 – 11/2010 Diplomarbeit – Recherche auf der Queen's University
Belfast, UK
04/2008 – 04/2008 Teilnahme an Konferenzen in EU-Parlament, Brüssel,
Belgien

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