

Masterarbeit

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“State-Building and the Creation of Political Institutions in
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Für Margareta und Georg

1. Introduction

For almost ten years, the status of Kosovo (or in Albanian: Kosova) has been one of the main issues concerning South Eastern Europe, and even after the declaration of independence on 17 February 2008 this topic remains controversial. The status issue, which was decided without United Nations consent, still has potential implications for the whole region. It does not only affect Kosovo, but is also of significant importance for Serbia, for Kosovo's neighbouring countries with an ethnic Albanian population, for Bosnia and Herzegovina and –of course– for the international community, which is still entrusted with mentoring Kosovo. Especially the European Union, which has decided to play a substantial role based on the so-called Ahtisaari-Plan, is significantly involved and has a vital interest in Kosova becoming a functional state. As of June 2009, about 60 countries, among them 22 out of 27 of EU member states, have recognized the “Republic of Kosova”¹. Austria did so on 28 February 2008.

In this study, the expressions Kosovo / Kosova / Kosovo and Metohija are used synonymously. Since the majority of the population speaks Albanian and uses the expression Kosova, it will be used especially when the context involves the ethnic Albanian population or viewpoint. Kosovo and Metohija (or abbreviated KosMet) is the official expression for the Serbian province, while internationally the territory is mostly only referred to as Kosovo².

After the legally disputed military intervention by NATO in 1999, Kosova was put under international administration and de facto politically separated from the rest of the country that was at the time called Yugoslavia³. Without a clear definition about the future status for this territory, the United Nations Interim Administration in Kosovo (UNMIK⁴) took over responsibility for the Serbian province. UN Security Council

¹ A detailed list can be found at the website of Kosovo's Ministry of Foreign Affairs; www.ks-gov.net/MPJ

² Tim Judah addresses the name issue in the author's notes to his book “Kosovo: War and Revenge”

³ In February 2003, the Federal Republic of Yugoslavia (FRY) changed her name to Serbia and Montenegro. After Montenegro held a referendum and left the Union with Serbia in June 2006, only Serbia remained. Serbia is legal successor to the FRY.

⁴ Chesterman gives an insight into the Abbreviation: “A measure of the speed with which the UN operation in Kosovo was established is the name itself. UN operations typically operate with an acronym, but “UNIAMIK” was dismissed as too much of a mouthful. “UNIAK” sounded like a cross

Resolution 1244 (1999) defined that Kosovo nominally remained to be a part of Yugoslavia, but that it was to be led towards “substantial autonomy and self government”⁵.

Therefore, 1999 was a starting point for the international community in trying to establish a functioning democratic political system as well as administrative structures practically out of nothing. Kosovo had been an autonomous province of Serbia in the past, so there was some experience with administration and political procedures, but the Milosevic-era and the war had seriously disrupted the remnants of this experience. When the international administration was established in 1999, there were two competing Kosovo-Albanian governments and a dysfunctional Serbian administration, and UNMIK was tasked to bring order into this political chaos⁶.

About nine years after the end of the war, when the declaration of independence came into effect, Kosova had numerous political institutions that in some way resembled those of an already independent country. There was an assembly (functioning practically as a parliament), a president and a government, although all of them were only able to act within a limited scope of responsibility. With the declaration of independence, the situation has changed significantly, but remains

between “eunuch” and “maniac” — associations judged unlikely to help the mission. “UNMIK” was the final choice, having the benefits of being short, punchy and clear. Only in English, however. 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”.

See: Chesterman, Simon: Kosovo in Limbo: State-Building and „Substantial Autonomy“. International Peace Academy Report, August 2001; page 4

⁵ Paragraph 10 authorizes the UN Secretary-General “...to establish an international civil presence in Kosovo in order to provide an interim administration for Kosovo under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia, and which will provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions...”. Paragraph 11 defines that the “... main responsibilities of the international civil presence will include:(a) Promoting the establishment, pending a final settlement, of substantial autonomy and self-government in Kosovo...”. Another similar reference is made in Annex 2 / Paragraph 5 of this document.

Full text available at <http://www.unmikonline.org/misc/N9917289.pdf>

⁶ Dzihic mentions that “Bosnia and Kosovo face a “triple transition” (from war to peace, from humanitarian aid to sustainable development and from a socialist political systems (sic) and centrally planned economies to democracy, civil society and a free market economy), which makes it extraordinarily difficult for both international and local actors to efficiently address the multiplicity of interrelated and complex challenges.” Vedran Dzihic in “Prospects for the Europeanisation of State-Building Efforts in Kosovo and Bosnia”, published in: Foreign Policy in Dialogue (Volume 8 issue 23); State-Building and Regional Dialogue in the Western Balkans: Europe’s Engagements Twelve Years after Dayton, p 24.

complicated. Since the UN have not endorsed independence, there is not only competition between Serbian and Kosovan authorities, but also between the UN-appointed administrator and the ICR/EUSR⁷, another international representative who derives his authority from the EU and those countries that support the independence of Kosova. In the view of the UN and Serbia, the Special Representative of the (UN) Secretary-General (SRSG) remains the main authority in Kosova. Additionally, in Belgrade's view, even after the formal dissolution of Yugoslavia in 2003 and its successor state Serbia and Montenegro in 2006, Kosovo nominally remains a Serbian province, although Serbia has no formal administrative power.

While the mainly ethnic Albanian population views independence as the final conclusion to the events that led to international administration, Belgrade categorically rejects this claim. Serbia firmly opposes any decisions that have led to the separation of her province.

Over the years, it became increasingly obvious that the status issue needed to be addressed. Therefore, in late 2003 UNMIK created a system of eight "Standards for Kosovo"⁸. The policy of the international community was that these Standards would have to be evaluated positively in order to determine how to proceed with the status issue ("Standards before Status"). This evaluation happened during 2005 and despite some critical conclusions, on 24 October 2005 the UN Security Council decided to move on with the process of determining the future status of Kosova⁹. Former Finnish President Martti Ahtisaari was chosen to be the "Special Envoy of the Secretary-General of the United Nations for the future status process for Kosovo", the Austrian diplomat Albert Rohan was nominated as his deputy. UNOSEK¹⁰ was established in Vienna to support Ahtisaari's and Rohan's work. In early 2006 the first round of negotiations between Pristina and Belgrade commenced in Vienna.

⁷ The function of an International Civilian Representative (ICR) was foreseen in Martti Ahtisaari's Comprehensive Status Proposal, described below. It was also foreseen that the ICR should simultaneously function as EU Special Representative (EUSR).

⁸ For more information refer to: <http://www.unmikonline.org/standards/index.html>

⁹ The evaluation report was prepared by Ambassador Kai Eide. The UN Secretary-General's letter to the President of the Security Council including Eide's report (S/2005/635) is available at <http://www.un.org/Docs/journal/asp/ws.asp?m=S/2005/635>

¹⁰ Office of the Special Envoy of the Secretary-General of the United Nations for the future status process for Kosovo. For more information refer to: <http://www.unosek.org/unosek/en/index.html>

The irreconcilable difference between Kosova-Albanian demands for independence and Belgrade's rejection of these demands made a negotiated solution extremely unlikely. After almost a year of discussions and negotiations, in early February 2007 UNOISEK finally released a document containing proposals about the future status of Kosovo. On 26 March 2007 UN Secretary General Ban Ki Moon explicitly endorsed the UNOISEK status proposal together with a report done by Ahtisaari and forwarded both documents to the UN Security Council¹¹. While the Comprehensive Status Proposal (CSP) does not directly address the matter of independence, in his report Ahtisaari argues extensively that "Kosovo's status should be independence, supervised by the international community".

Ahtisaari's recommendation was strongly rejected by Serbia, whose position was supported by the Russian Federation. After several unsuccessful attempts to pass a UNSC resolution concerning the future status, in mid-July of 2007 it was decided to continue negotiations between Pristina and Belgrade. After consultations within the Contact Group UN Secretary-General Ban Ki-moon declared on 1 August 2007 that a new negotiation effort would be made by a Troika comprising representatives of the European Union, the Russian Federation and the United States. Among other comments, the UNSG expressed the need for a timely solution and stressed that the status quo is not sustainable. The Troika was tasked to present a report by 10 December 2007¹², but failed eventually. In the summary of the report, it was clearly stated, that

"The Troika was able to facilitate high-level, intense and substantive discussions between Belgrade and Pristina. Nonetheless, the parties were unable to reach an agreement on the final status of Kosovo. Neither party was willing to cede its position on the fundamental question of sovereignty over Kosovo." ¹³

Eventually, Kosovo declared independence on 17 February 2008, and accepted the provisions laid down in the Ahtisaari-Proposal. This move had the support of several

11 Both documents can be found at the UNSC website: http://www.un.org/Docs/sc/unsc_presandsg_letters07.htm

Ahtisaari's report is contained in document S/2007/168 [Letter dated 26 March 2007 from the Secretary-General addressed to the President of the Security Council (Report of the Special Envoy of the Secretary-General on Kosovo's Future Status)], while the actual status proposal can be found in document S/2007/168/Add.1 [Letter dated 26 March 2007 from the Secretary-General addressed to the President of the Security Council (Comprehensive Proposal for the Kosovo Status Settlement)]

12 A comprehensive overview about the Status process as well as the UNSG statement can be found at the UNOISEK website: <http://www.unosek.org/unosek/index.html> The UNSG's Statement is available at <http://www.un.org/apps/sg/sgstats.asp?nid=2692>

13 The full text was issued as a UN document (S/2007/723) and can be found at: <http://daccessdds.un.org/doc/UNDOC/GEN/N07/634/56/PDF/N0763456.pdf?OpenElement>

Western countries and EU-member states. Nevertheless, it remains controversial, because it lacks support by the UNSC.

2. Field of Enquiry

The following study tries to analyze the developments that led to the UNOSEK-proposal for the independence of Kosova and therefore the move to create a new state. In 1999, the UN basically took away Serbia's sovereignty over a part of her territory and created the conditions that we now face. The UN became directly responsible for post-conflict nation building within the province and thus started an irreversible process¹⁴. In order to understand today's situation better, it seems necessary to take a closer look on how the conflict in Kosova developed, how the political situation has been before the international intervention and how it developed after the war.

As of now, internationals in Kosova are still working to create and stabilize a new political system in a territory with virtually no democratic tradition. The main topic of this study is an analysis of how UNMIK took on the task of state and institution building in Kosova, and consequently, how the successful this task has been accomplished. The emphasis is put on a description of the establishment of the political institutions. Additionally, while attempting to follow the UNOSEK arguments on why Kosova should become an independent country, it also tries to find out where potential problems for the future of the country can be found.

3. Hypotheses

- Since 1999, the international community has developed a political system in Kosovo, which effectively moved the province away from Serbia and led towards de-facto statehood. At the same time, UNMIK was not able to

¹⁴ See Ahtisaari's report, par.7

implement this system on the whole territory of Kosovo, because a large part of the Kosovo-Serb community has refused to cooperate.

- The internationally set „Standards for Kosovo” were only partially accomplished. Nevertheless, the process to determine the future status was continued and has met the demands of the Kosovo-Albanian majority population to a large extent.
- Considering the political situation and the ethnic tensions within Kosovo, even after the determination of the future status, there is a continued need for active international engagement within the country. Considering the progress in institution building, the future international presence will face a dwindling acceptance and new challenges will emerge for the stability of Kosova. The (unilateral) resolution of the status issue solved some of the problems, but it created new challenges as well. In the light of the relations between Kosovo’s communities, the international community is facing the danger of having created a dysfunctional new state.

4. Methodology and Content

The following study is based on a hermeneutic approach and shall describe and analyze the historical developments in Kosovo based on available literature sources. To get background knowledge on the current situation, one has to be aware of the historical issues that are relevant for the region. It seems virtually impossible to analyze the current situation without taking into account what has happened in the past. Especially the events leading to the war in Kosova as well as during the war are still relevant.

It is the intention of the author to describe the political situation as it developed until the escalation of 1998/99, and after the international intervention up to the present time. A large part of today’s political decision makers in Kosova was deeply influenced by this period, and the current relations on a personal as well as on an institutional level are influenced by this experience.

The main part of this study is dedicated to describe the main political developments and actors, including the relationships among them, with a special emphasis on the ethnic Albanian scene. Aspects of this description include a discussion of the role of the Kosova-Albanian parallel system after the end of autonomy and a background on the emergence of the Kosova Liberation Army (KLA, Albanian: UCK)¹⁵. Furthermore, the establishment of UNMIK and the institution building from 1999 onwards as well as the status process need to be addressed.

Now, after the declaration of independence, an insight into the new situation can be gained by analyzing the development during the establishment of the international administration and the various elections that were held. Due to the short time that has passed since the declaration of independence, the literature sources are relatively few.

Theory: This part shall discuss different aspects of the concept of „nation building“ and/or “state building” with a special emphasis of the application of these theories on the situation in Kosova. The creation and legitimacy of states as well as a discussion of the problem of “failed states” will be included. The theoretical aspects are based on Hippler’s and Fukuyama’s works on this matter. The focus will be on the build-up of institutional structures and the role that the international community had in this process. It will be discussed how far the characteristics of a traditional state can be applied to Kosova after 1999 and whether we can already recognize trends for the future development.

The final part will give an overall conclusion and shall discuss the prospects for further developments in Kosova

5. Nation/State-Building and Post-Conflict Stabilization

¹⁵ In the following text, whenever possible, the acronyms will be used as in the original language of the respective organization or group. Depending on the translation of an organization’s name, sometimes there are different acronyms possible. In order to avoid confusion, the original language will be used (e.g. UCK instead of KLA). For further reference, see the abbreviations table.

Before the issue of state- and/or nation-building can be addressed, some thoughts on the statehood are indispensable. Generally, there are three crucial factors connected with statehood: a defined territory, a population and a set of institutions that is able to exercise authority. Sometimes the recognition by other states is mentioned as a fourth criterion¹⁶.

The definition of a nation or consequently a nation-state can be discussed from two points of view¹⁷. In one sense, the nation derives from the so called “*ius soli*” (“law of the soil”) and includes anyone living in a given territory. Ethnic affiliation or cultural background does not matter in this case. In the other sense, a nation is defined by ethnic standards or blood lines, therefore based on the so called “*ius sanguinis*” or “law of the blood”. Any individual belonging to a certain ethnic group is part of the community, whether he or she lives within the borders of a given state or not. Although an individual may have the citizenship of a certain country, belonging to a non-majority ethnic group may often mean that loyalty or emotional belonging is not connected with the legal status. Especially in the context of multi-ethnic societies and states Rousseau’s „Social Contract” and a common interest in the functioning of a state seems crucial.

Mingst points out that the definition of a state is different from that of a nation¹⁸. According to her, the nation refers to historical and cultural aspects. Nationalism, defined as the belief that nations should form their own states, propelled the formation of unified states like Italy and Germany in the nineteenth century. Where the state and the nation coincide, a nation-state emerges. Other states, like the USA, have various nations within their borders. Numerous nations (or ethnic communities) spread among several states. While some nations desire to have their own states, others are content with special rights or privileges (e.g. autonomy) within a given state. In many cases, the terms “state” and “nation” are used as synonyms, and it is not always possible to make a strict distinction. In the context of this paper, the

¹⁶ See Mingst, Karen, *Essentials of International Relations*; p. 110. Mingst points out that these criteria are not absolute and various interpretations are possible. This leads to “quasi-states” or other entities in practical life. A very detailed discussion about the three aspects of statehood can be found in Zippelius, *Allgemeine Staatslehre*, §§ 9-13, p 58 cont.

¹⁷ Sundhaussen: „Staatsbildung und ethnisch-nationale Gegensätze in Südosteuropa“ in „Aus Politik und Zeitgeschichte B-10-11, Bonn, March 2003

¹⁸ Mingst, p 110 cont.

author prefers to follow the distinction between state (as a political entity), and nation (as a cultural entity) mentioned above.

It is undisputed that in the Balkans region nations view themselves based on ethnic principles. After several centuries of Ottoman rule and even more after the violent break-up of Yugoslavia ethnicity is a dominating factor in determining someone's "nationality". According to Sundhaussen¹⁹, the fact that ethnic variety existed and still exists within the borders of a given state leads towards two phenomena: Firstly, national borders are adapted to fit the given ethnic distribution. Secondly, Ethnic distribution is adapted to existing borders. The first phenomenon potentially leads to the disintegration of states as we have seen in the case of the Austro-Hungarian and the Ottoman empires, or more recently in the case of Yugoslavia. The other consequence is a wide range of measures, which can range from attempts to assimilate the other ethnic group or ethnic exchange, going as far as ethnic cleansing. Considering the role of the state in this context, the question of legitimate rule and the allegiance of citizens towards the state authorities gains special importance.

After the cold war, the idea of statehood and state building received new attention. The collapse of states and international intervention and crisis response led to new research about this matter²⁰. Especially the case of Kosovo, where NATO took action without a UN-mandate, claiming the right to conduct a humanitarian intervention brought a new quality and level of discussion.

Jochen Hippler has given special attention to the issue of nation-building. In his book²¹, a theoretical background to this concept is given, and he discusses practical experiences.

According to Hippler²², the concept of nation-building is not exactly new; since this question was already discussed in the 1950ies and 1960ies, although mainly in the context of de-colonization and modernization. With the end of the cold war and the

¹⁹ Sundhaussen, p 5

²⁰ See also: Fukuyama, Francis: State-Building. Governance and World Order in the Twenty-First Century, London, 2005.

²¹ Jochen Hippler (ed.); Nation-Building; Bonn, 2004

²² Hippler, p 14 cont.

outbreak of new conflicts that were no longer fitting into the traditional pattern, the debate focused on reasons and phenomena related to the new situation. Closely connected with the issue of “failed states”, the matter of nation-building came into focus. The developments in Somalia, in the Balkans, in Iraq and Afghanistan demonstrated that the break-up of societies and states was either by itself a cause for violence or made it impossible to solve a crisis. These challenges can lead to political, economic and humanitarian disasters and have the potential to destabilize a whole region. In this sense, nation-building can be viewed in various ways: as a preventive measure to avoid the collapse of states, as an aspect of dealing with an ongoing crisis, or as a means to manage the aftermath of a conflict. Nation-building is therefore connected with foreign policy, development cooperation and military policy in order to prevent violent conflict. With the aim to foster stability and development, it is also related to crisis-management. External involvement in such a process is difficult at best and intervention from the outside carries the risk of becoming a part of the problem, often in addition with legal problems concerning international law.

5.1. Definition and clarification

In many cases nation-building is not clearly defined and it can be viewed in various ways. In order to clarify the term, Hippler²³ defines some characteristics:

- Nation-building is a process of socio-political development that ideally leads loosely connected groups and communities to a coherent society which forms a “nation-state”. This process can be caused by various political, economical, social, cultural and other factors, and success is not automatically guaranteed. Additionally, it is a process that combines a variety of developments which are nearly impossible to control by a single actor. Nevertheless key-actors can utilize these developments to support their respective aims. Nation-building can happen peacefully or violently, both options are equally possible.
- Nation-building can be either a political objective, or a strategy to achieve this aim. Internal or external actors try to establish a state-like political and social system, if it fits their interest, weakens an opponent or helps to achieve certain functional aspects better than a previous system. Internal or external actors

²³ Hippler, p 18 cont.

aim to implement their model of rule for a variety of reasons (establishing stability, economic influence, plain power etc.). Therefore –depending on the circumstances and the actors- nation-building can be viewed as an imperial or as a development strategy.

In this document, the second aspect of nation-building seems more relevant to describe the development concerning Kosova.

In order to achieve and determine the success of nation-building, Hippler mentions three criteria that have to be fulfilled²⁴:

- Firstly, an integrative ideology is necessary. The significant restructuring of the political system and the society that comes with the process of nation-building needs legitimacy. The classical “ideology” that is involved here is Nationalism, although various forms are possible. In this sense, Nationalism can cover the full spectrum from violence against other communities to the positive development of a common identity. The development of a “nation” can take on a variety of different forms. Hippler argues that the problem lies with the loyalty of a given group. Identification with a local tribe, clan, ethnic or regional community etc. poses no problem, as long as it does not constitute the primary allegiance. Apart from Nationalism, other ideologies (e.g. Socialism) or religious ideas can have the same function for a society.
- Secondly, it is essential to integrate the above mentioned various groups. Integration in this sense means not only the social aspect, but also covers other fields like communication and infrastructure. For example traffic lines, economic interaction and media are essential. If physical and social communication takes place only or mainly within the smaller groups and excludes other communities, it seems impossible to create a coherent society.
- Thirdly, a functional state, exercising effective control over its territory, is necessary. If the above mentioned aspects are working, the society can organize itself into a functional state. In this sense, state-building is a part of successful nation-building. Practical aspects like the collection of revenues, a functional police and judicial system and administrative control, accepted in the whole territory, are a necessity. Those persons representing the state have

²⁴ Hippler, p 20 cont.

to be loyal to the nation-state, and not to their ethnic, religious or otherwise defined group. Especially, Hippler points out that in order to achieve lasting success, the state's monopoly on the legitimate use of violence has to be enforced on the whole territory.

Given the complex interaction of these three factors, nation-building is a process whose success is mainly influenced by internal factors. External actors can either facilitate or hinder this development, but they can not work against the internal factors. Hippler argues that "nations" do not exist per se, but in most cases were created or developed only after a state already existed. The "nation" then gradually developed "top-down" out of otherwise inhomogeneous groups. This happened for example because a strong monarch curbed the influence of local rulers, established a functioning bureaucracy or created other conditions (e.g. a cultural or economic environment) that led to integration. Naturally, this process is not always peaceful and forceful integration happens as well.

Additionally, nation-building goes along with mobilizing the society. This implies a democratic potential, since the nation is not only constituted by an elite, but by the society in general. Nevertheless, this democratic potential does not necessarily constitute democracy per se. It is equally possible that this widespread mobilization is misused, leading to dictatorship or the establishment of another undemocratic ruling caste.

In multi-ethnic or multi-religious societies, nation-building can lead to internal conflict about who shall actually be part of the new "nation". Therefore, the process has to tread on a dangerously thin line between becoming repressive towards minorities or degrading to a competition between various groups striving to build "their own" nation.

It seems important to point out that nation-building inevitably implies conflict²⁵, because it constitutes a re-distribution of power and influence. This conflict can be fought on a political, economical, cultural or otherwise non-violent way, or with force. Regional or local power-brokers that previously based their influence on personal

²⁵ Hippler, p 28

relations, clients, or by other means have to relinquish power to a central authority. This creates winners and losers, and can aggravate the already existing potential for conflict, especially in religiously or ethnically divided societies. Nevertheless, in the end a stable and functional state serves exactly the purpose of creating a safe and secure environment for the population, provides opportunities for development and promotes regional stability. This is still true in a globalized world, where some argue that the role of the nation-state is decreasing. To their own citizens as well as in an international environment, functional states still remain as an essential prerequisite.

As it is stated in the basic “Responsibility to Protect” (R2P) document²⁶:

(...) “In an interdependent world, in which security depends on a framework of stable sovereign entities, the existence of fragile states, failing states, states who through weakness or ill-will harbour those dangerous to others, or states that can only maintain internal order by means of gross human rights violations, can constitute a risk to people everywhere.”

Further, it is stated that

“(...) “It is strongly arguable that effective and legitimate states remain the best way to ensure that the benefits of the internationalization of trade, investment, technology and communication will be equitably shared. Those states which can call upon strong regional alliances, internal peace, and a strong and independent civil society, seem clearly best placed to benefit from globalization. They will also be likely to be those most respectful of human rights. And in security terms, a cohesive and peaceful international system is far more likely to be achieved through the cooperation of effective states, confident of their place in the world, than in an environment of fragile, collapsed, fragmenting or generally chaotic state entities.”²⁷

In a paper published by the International Peace Academy, fundamental points concerning nation-building, but also related to democratic development, are discussed²⁸. Although in the document these problems are mainly put into a context with de-colonization, we can recognize some of the challenges that are related to Kosova:

²⁶ The Responsibility to Protect, Paragraph 1.21. The full document can be found at: <http://www.iciss.ca/report-en.asp> ; Further information about the Project (frequently abbreviated as R2P) can be found at <http://www.responsibilitytoprotect.org/>

²⁷ The Responsibility to Protect, Paragraph 1.34.

²⁸ Chesterman, Ignatieff, Thakur: Making States Work. From State Failure to State-Building; July 2004; p. 1 cont.

“In Western societies, the democratic franchise came after the liberal society and the liberal state were firmly established. In the postcolonial countries, democracy could not be installed as an adjunct of the liberal state, for the latter itself had not been established. In these societies, the rhetoric of democracy often involved, and the logic of the empirical reality occasionally implied, opposition to establishing the liberal capitalist state. Where the traditional culture is little attuned to political competition, the market polity of a competitive political party system may fail to take root and comprise instead just the “top dressing” of a political system.

State nationalism, too, originated in Europe. The state used its institutions and resources to promote national identity in order to consolidate and legitimise itself by manipulating these powerful new symbols. The campaign was so successful that national self-determination became shorthand for the idea that nationalism requires the creation of a sovereign state for every nation. The nation-state became the focus of cultural identity. Yet the relationship between “nation” and “state” too has been historically contingent rather than logically necessary. The difficulty for most postcolonial societies was that state-building and nation-building had to be embarked on simultaneously. If “postcolonial” is to mean something other than post-independence, then it must entail some enduring legacy of colonial rule for the state that came into being with independence.²⁹

In development theory the state was viewed as autonomous, homogeneous, in control of economic and political power, in charge of foreign economic relations, and possessing the requisite managerial and technical capacity to formulate and implement planned development. In reality in many developing countries the state was a tool of a narrow family, clique or sect that was fully preoccupied with fighting off internal and external challenges to its closed privileges. In most of the literature, development has meant a strengthening of the material base of a society. A strong state would ensure order, look after national security, and intervene actively in the management of the national economy. Yet the consolidation of state power can be used in the name of national security and law and order to suppress individual, group or even majority demands on the government, and to plunder the resources of a society.”

Given the statements above, there can be little doubt that functioning states are in the best interest of their own citizens as well as their neighbours and the international community in general. If we compare these demands and criteria with the situation in Kosova even after the declaration of independence, some doubts will arise.

Comparing the developments in Kosova and East Timor, Raphaël Pouyé describes the situation as follows³⁰:

²⁹ This observation seems especially interesting, when it is put into the context of Kosova. There, the UNMIK-administration was sometimes compared with colonial rule. This accusation against the international presence was frequently made by political activist Albin Kurti, leader of the “Movement for Self-Determination”. See Nicholas Wood, “A lone wolf’s cry for freedom in Kosovo” published in the “International Herald Tribune” on 11 June 2007. More information on Kurti’s Organization and their views can be found at <http://www.vetevendosje.org/>

³⁰ Pouyé, Raphaël: ‘Shadow States’? State building and national invention under external constraint in Kosovo and East Timor (1974-2002, p.11 cont.

In Kosovo (...), the majority ethnic-Albanian population had a longer tradition of asserting its national identity. After centuries of Ottoman domination marked by spectacular demographic shifts, the territory had become a bone of contention between its two main ethnic components. To Serbs who ruled since 1912, it was the historical cradle of medieval kingship (the battle of Kosovo Polje - 1389). To Albanians, it was the birthplace of their national movement (the League of Prizren - 1878). Successive diplomatic arbitrations following the Balkan war of 1878 had however, repeatedly denied Albanians the right to a unified independent homeland. Later, despite their deep consciousness of being Albanian, most Kosovo Albanians had shown a decreasing interest for unifying with the 'motherland'. What increasingly mattered was equal status with the other – Slavic – constituent peoples of Yugoslavia. In 1974, a new Yugoslav Constitution provided the initial momentum in this direction. It encouraged devolution of powers to Albanian representatives, albeit under continued communist control. During the following seven years, newly trained ethnic-Albanian urban elites gradually emerged and led the cultural and linguistic renaissance of Kosovo Albanians. In both territories, 1974 therefore marked the opening of a new political chapter. This first generation of university-trained, mid-level administrators became, almost overnight, the main players on the political stage. As such, they became the promoters of national identity while large segments of their majority populations still had ill-defined claims to political nationhood. (...)

The political program of the new indigenous authorities remained ambiguous and prudent. In Kosovo, the deep awareness of an Albanian identity among the majority population had not translated into a clear plan to separate from Yugoslavia or unite with Albania, and in East Timor, largely dominated by patrimonial modes of domination, national identity was a relatively new concept. In this context, the newly formed indigenous elites deliberately framed their national program within what they perceived as stern limits domestically and internationally.

(...) both societies had a very limited experience in centralized government, albeit colonial. They retained strong kinship-based social structures and elements of a clan-like non-state organization in certain parts of their territory. This was directly related to a long history of resistance against state authority and of reliance on customary law. In Kosovo as in East Timor, recurrent attempts by the Ottoman, Serbian or Portuguese authorities to levy taxes or draft army recruits had always been met with armed rebellion at the local level.

5.2. State Failure

Above, Hippler's criteria concerning the success of nation-building were mentioned. The issue of failed states goes hand in hand with the concept of nation-building. Like in former Yugoslavia, this process can start out of a state that eventually disintegrated and thus failed. Under these circumstances nation-building should lead to a new entity that brings more stability and potential for positive development than

before. If this is not the case, an unsuccessful process of nation- and state-building may eventually lead to another failed state and further instability and crisis.

In the case of Kosova, the international community had a special responsibility, although we have to bear in mind that UNMIK never had an explicit mandate for nation-building or state-building. As it will be discussed below, the mandate given in UNSCR 1244 (1999) included “overseeing the development of provisional democratic self-governing institutions”. This can be understood at least to support the creation of democratic political institutions. Whether this would lead to a full state at the end, was left deliberately open, but the possibility was not excluded either.

Chesterman and others discuss the matter of potential failure and the responsibility of outside actors in such an effort³¹:

“In efforts to strengthen state capacity, it is necessary to strike a balance between the responsibilities of local and international actors. Sometimes only international actors have the resources to assist with state building, economic development, conflict prevention, and postconflict reconstruction. But they must take care not to confiscate or monopolize political responsibility, not to foster state dependency on the international community, not to impede but to facilitate the creation and consolidation of local political competence. In the literature and policy work on failed states, terms like legitimacy and ownership are frequently invoked as touchstones for local involvement in building or rebuilding state institutions. Both terms are typically underspecified and their lack of clarity contributes to incoherent policy responses to the practical consequences of the weakening of state institutions.

Furthermore, the authors point out several issues that are essential to prevent state failure. These factors are³²:

- Legitimacy, especially in the sense of providing “good governance” and rule of law. The perception of legitimacy is also influenced by local experiences with previous forms of governance or state institutions³³. Legitimacy is to a large extent influenced by the local political leadership, and this poses a challenge

³¹ Chesterman, Ignatieff, Thakur: Making States Work. From State Failure to State-Building; July 2004; p. 2 cont

³² Chesterman, p 2 cont.

³³ In the case of Kosova, this leads to a serious dilemma. While the ethnic-Albanian population rejects Serbian rule because (in their perception) Belgrade has lost any right to govern them, the ethnic Serbs perceive the new system as illegitimate, in their view was neither the war in 1999 nor the declaration of independence were approved by the UN.

for external actors. The authors question whether this process should be a top-down or bottom-up policy. This would mean either strengthening institutions and leaders, or promoting a functional civil society with the aim that an enlightened leadership will follow³⁴.

- Ownership is another issue. The authors point out, that the meaning of this term is often unclear, and sometimes does not mean control, but a more psychological aspect. In the Balkans, this expression is not understood in a political context at all, but only in the sense of “owning a car”. The matter of ownership is not only related to who makes the decisions (local representatives or internationals), but also with the question of decentralization versus creating strong and stable central structures³⁵.
- Political parties are relevant in transferring power from individuals to institutions, but especially after a war, they can also be just “little more than a repackaging of the armed groups that fought the original conflict.” Generally, it is perceived that democracy needs a party system. It therefore would depend on the relevant power in control to ensure that political competition takes place in a regulated manner and to ensure that democratic rules are obeyed also within the political parties.
- Regional influences have to be considered, because conflicts and the economic incentives related to them may spill across borders. It is argued that in some cases international efforts to bring peace can displace conflict into another area. As the authors point out: “Weak institutions in one state may have a direct impact on institutions in those near it. This is clearest when a state becomes a transit point for the illicit flow of money or weapons (...)”³⁶. Furthermore: “(...) building up institutions of one state in isolation from its neighbours may not address the causes of conflict. Indeed, in so far as

³⁴ In the case of Kosova, it is obvious that the top-down process was applied. Give the fact, that for practical reasons it seemed impossible to bypass the local political leaders in creating the current system, the question seems theoretical. However, it seems doubtful whether the international administration has put enough effort into fostering a functional civil society. Considering the matter of legitimacy and “good governance”, the role of Organized Crime in Kosova comes to one’s mind. There are numerous allegations that leading politicians are at the same time the leaders of criminal networks. Details will be discussed below.

³⁵ The authors give Bosnia and Herzegovina as an example, where “despite powerful international pressure to coerce parties into power-sharing arrangements, parties to the conflict simply refused to cooperate with the new multiethnic and inter-entity institutions.” The same can be said for Kosova, at least concerning the inter-ethnic relations.

³⁶ In the case of Kosova this happened twice. Firstly, in the so-called Presevo Valley in South-Eastern Serbia, where an armed uprising was ended by negotiations in 2001, and secondly in Macedonia, also in 2001.

criminal enterprises in some regions see the state as an asset to be captured, state-building without regard to regional dynamics may simply increase the value of a particular prize. Strengthening regional and international governance structures, including formal and informal forums for cooperation and collaboration, may support the emergence of virtuous circles of accountability.” Additionally, if we enter the economic factor, the regional context may affect the state’s capacity to sustain itself. Concerning economy and the question of viability, the authors point out a drastic possibility, when they mention that “some otherwise bankrupt states marketing the one commodity they have left: sovereignty. Laundering money and selling passports or flags of convenience has opened the possibility of exploitation by non-state actors, perhaps including terrorists.”³⁷

Another factor remains to be discussed, the issue of sovereignty. The R2P document states in Paragraphs 2.7 and 2.8 respectively:

2.7 Sovereignty has come to signify, in the Westphalian concept, the legal identity of a state in international law. It is a concept which provides order, stability and predictability in international relations since sovereign states are regarded as equal, regardless of comparative size or wealth. The principle of sovereign equality of states is enshrined in Article 2.1 of the UN Charter. Internally, sovereignty signifies the capacity to make authoritative decisions with regard to the people and resources within the territory of the state. Generally, however, the authority of the state is not regarded as absolute, but constrained and regulated internally by constitutional power sharing arrangements.

2.8 A condition of any one state’s sovereignty is a corresponding obligation to respect every other state’s sovereignty: the norm of non-intervention is enshrined in Article 2.7 of the UN Charter. A sovereign state is empowered in international law to exercise exclusive and total jurisdiction within its territorial borders. Other states have the corresponding duty not to intervene in the internal affairs of a sovereign state. If that duty is violated, the victim state has the further right to defend its territorial integrity and political independence. In the era of decolonization, the sovereign equality of states and the correlative norm of non-intervention received its most emphatic affirmation from the newly independent states.

5.3. State-Building according to Fukuyama

³⁷ Chesterman, p. 7

Francis Fukuyama defines³⁸ state-building as “the creation of new government institutions and the strengthening of existing ones”. However, the distinction between state-building and nation-building is not always clear. According to Fukuyama, nation-building is a term primarily used in the US, while Europeans tend to make a stronger distinction between state and nation. In this sense nation-building has to be understood “[...] in the sense of the creation of a community bound together by shared history and culture [...]”. But the limitations of this process are clear, since this “[...] is well beyond any outside power to achieve. They [the Europeans] are, of course, right; only states can be deliberately constructed. If a nation arises from this, it is more a matter of luck than design.”³⁹

Following this statement, I prefer to use the term “state-building” in the context of this paper. If one considers the situation in Kosovo, where at least 90% of the population are ethnic Albanians and there was an obvious intention to achieve independence from Serbia, it seems clear that the process we witnessed during the last years was aimed at state-building. The overwhelming majority was already clearly past the phase of “nation-building”, since they possessed a distinct identity⁴⁰.

Weak, fragile or even failed states are widely perceived to be a source of instability and a potential danger for local and regional security and a challenge to the international system in general. Especially after the US interventions in Afghanistan (2001) and Iraq (2003) the issue of state-building gained increased attention, but even a long time before this matter was discussed in the context of decolonization and the creation of new states after the break-up of the former Soviet Union.

Before discussing state-building in general, the desired role of the state has to be determined⁴¹. Fukuyama sets the scope of state functions (meaning the functions taken on by the government, e.g. providing security, health care, education; economic measures) in relation to the strength of the state (referring to the ability to plan and execute policies and enforce laws), or, in other words, institutional

³⁸Fukuyama, Francis: State-Building. Governance and World Order in the Twenty-First Century. Profile Books Limited, London, Paperback Edition 2005. Preface, p xvii

³⁹ Fukuyama, p.134

⁴⁰Kosovo already declared independence after an illegal referendum in 1991 and was asking for international recognition. See Kola, Paulin: The Search for Greater Albania. p 217 cont.

⁴¹ Fukuyama, p 7 cont.

capability. Eventually, he concludes that strength is more important than scope, which in turn leads towards a focus on institutions and their capabilities⁴². Based on this conclusion, this paper is focused on the build-up of political institutions rather than trying to cover the various aspects of administrative activities.

Fukuyama also points out that the development of institutions is especially affected by cultural factors. While a transfer of know how is rather easily to achieve, it is hardly possible to simply transfer a whole institutional model into another setting.

Components of institutional capacity according to Fukuyama⁴³:

Component	Discipline	Transferability
Organizational design and management	Management, public administration, economics	High
Institutional design	Political science, economics, law	Medium
Basis of legitimization	Political science	Medium to low
Social and cultural factors	Sociology, anthropology	Low

The situation becomes even more challenging, when there is insufficient domestic demand for functioning institutions⁴⁴. In this case, demand has to be generated externally, either by conditionality connected to foreign aid, or by direct exercise of political power⁴⁵.

In the case of Kosova, we can see a mixture of both elements. Culturally, Kosovo and Former Yugoslavia cannot be compared with the traditional Western democratic system. The local power structures are still strongly influenced by a clan based system, and the population has little or no experience with a functioning state. As a consequence there was and still is relatively little demand in Fukuyama's sense. As it will be described below, the ethnic Albanian majority in Kosova had only a relatively loose and sometimes even hostile relationship with Yugoslav and Serbian state institutions, and this situation degenerated significantly during the Milosevic era.

⁴² Fukuyama, p 26 cont. One argument is that functioning state institutions are a condition for economic development. In this sense, a strong positive correlation between tax collection and administrative capabilities versus a strong informal sector and a lack of development is mentioned.

⁴³ Fukuyama, p. 42

⁴⁴ In this sense, not only political, but also administrative institutions and structures are meant.

⁴⁵ Fukuyama, p. 48 cont.

Partially, the Kosova-Albanian demand for institutions was fulfilled by the parallel system created in the 1990ies. On the other hand, within certain limits, Belgrade's institutions were obviously willing to accept the evolution of this parallel system and therefore effectively giving up their responsibility for the ethnic Albanian citizens in Kosovo⁴⁶. By taking over direct responsibility under UNSCR 1244(1999), the UN were in a position to externally create the abovementioned demand. Although Kosovo's future status remained unclear, the mandate called for an institution-building process. There was no defined timeline, but it was foreseeable that with the creation of institutions and a gradual handover of responsibilities to these institutions the local demand for functionality would rise, and that conditionality would have to be applied. As time passed on, the factor of conditionality would have to increase while the factor of direct political power was decreasing.

Fukuyama is sceptical about the concept of conditionality and the generation of external demand for functioning institutions, one argument being the diversity of the international donor community, and the actually very limited ability to shape the local society⁴⁷. Both effects have become clearly visible in Kosovo. From the very beginning, UNMIK and the UN system in general had a reputation for being inefficient and obstructed by the national interest of member states, and the challenges connected with the local situation and traditions were obvious⁴⁸. Additionally, in order to illustrate the potential danger of external influence; he points towards the effects of international involvement in Africa. There, many countries are in the situation of having less administrative and governing capacity than they had when they achieved independence⁴⁹. Fukuyama makes the point that in order to avoid corrupt and inefficient local governing structures, many external donors directly provide services that should actually be accomplished by local structures. This has the advantage of

⁴⁶ In this sense it seems worth to point out that despite Serbia's continuing claim on Kosovo, the ethnic Albanian population is hardly ever mentioned. Belgrade's arguments focus on history, territorial integrity and minority rights for the Serbs living in Kosovo, but leave out a clear perspective for the re-integration of the Kosovo-Albanians. Although some kind of autonomy for Kosovo was offered during the status negotiations, the details remain unclear.

⁴⁷ Fukuyama, p 48 cont.

⁴⁸ In his dissertation: „Internationale Verwaltung am Beispiel des Kosovo“ (Universität Wien, 2002) Mühlmann gives a detailed account of the situation during UNMIK's initial phase. He also points out the challenges and shortfalls within the international administration. Maleninsky (Post Conflict Kosovo. Eine Analyse über die Zusammenarbeit der internationalen Organisationen beim Wiederaufbau des Kosovo. Diplomarbeit, Universität Wien, 2005) illustrates the diversity of the various international organizations involved in Kosovo's rehabilitation.

⁴⁹ Fukuyama, p 53 cont.

being more cost-effective and efficient, but also leads to dependent local institutions that focus on coordination with donors instead of building a capacity to deliver⁵⁰.

Corruption and patronage, two challenges often mentioned in connection with developing regions in general, but also in connection with Kosova, shall be eliminated by the development of professional standards, but they also need responsible leaders, setting an example for the whole structure. Decentralization, a key element for the protection of ethnic minorities in Ahtisaari's Comprehensive Status Proposal, bears the danger of promoting corruption and patronage, because it multiplies the opportunities⁵¹. Finding the right balance between strong central authorities and the limitations of a rigid and inflexible system remains a delicate task. In any case, a professional, efficient and patronage-free administrative service is a crucial prerequisite for the successful development of a state, but it cannot be simply transferred to any environment:

"The local character of the knowledge required to design a wide variety of good administrative practices suggests that administrative capacity isn't actually transferred from one society to another by developed-world administrators sitting around lecturing their less-developed counterparts about how things are done in their country [...]. General knowledge of foreign administrative practices need to be combined with a deep understanding of local constraints, opportunities, habits, norms and conditions. This means that administrative and institutional solutions need to be developed not just *with* input [...] from the local officials who will be running local institutions, but *by* them. [...] Outsiders wanting to build administrative capacity [...] should not set precise conditions for how the resources are to be used but rather enforce strict accountability standards for certain kinds of results."⁵²

The statement above can be used to illustrate the shortfalls of the international administration in Kosovo. Although it is true that after the end of the war there was no functional administrative system and UNMIK faced a tremendous challenge in having to care for every aspect of life, from waste disposal to university education, one has to ask whether this was implemented in an efficient way. UNMIK represented a multitude of UN member countries, in many cases lacking proper administrative or

⁵⁰ Additionally, this practice of delivering services directly saves time for the sponsors. It is obvious that results can not be achieved over night and patience is needed to develop local capabilities. In this sense, quick and relatively cheap superficial results are opposed to a potentially costly long-term engagement trying to produce a sustainable development.

⁵¹ Fukuyama, p 97 cont.

⁵² Fukuyama, p 120, 121

political structures themselves. The local population realised rather quickly that corruption was not only a local phenomenon, but it was also present among the international representatives, and they also found out that the international administrators and advisors were not always fully qualified or motivated to fulfill the task they were trusted with. Eventually, this contributed significantly to the frequently described loss of UNMIK's acceptance⁵³.

Where does Kosovo stand in relation to Fukuyama's sense of state- and nation-building? He divides the process of nation-building into three phases⁵⁴:

- Firstly, post-conflict reconstruction: this refers to a setting where the state authority has collapsed completely and needs to be rebuilt. For the intervening powers, the main goal is a short-term provision of stability. This is done by restoring security, providing humanitarian aid and basic provisions like water supply, energy etc.
- In the second phase, the creation of self-sustaining state institutions is the main objective. These institutions should be able to "survive" after the intervention ends. Only if this goal can be achieved, a withdrawal makes sense.
- The third phase is closely related to the previous aspect and aims to strengthen weak states. In this case, state authority exists, but is not yet able to accomplish certain functions, like basic education or the rule of law.
-

Now, nine years after the war, and more than one year after Kosovo's declaration of independence, phase one is clearly over. Nevertheless there are still obvious shortfalls concerning the economic sustainability and infrastructure like electricity and water supply. State institutions have been created, but the continued presence of the international community is an indicator that Kosovo remains in phase two.

Currently it seems impossible to tell when the process of state-building is actually completed. On one hand, as long as there is no clear definition of the

⁵³ In his dissertation (p. 414 cont.) Mühlmann gives a critical description of UNMIK's work. He discusses not only the mandate and implementation but mentions also the problems connected with the selection of personnel and other shortfalls.

⁵⁴ Fukuyama, p 135 cont.

abovementioned phases, it is hardly possible to make a definite judgement. On the other hand, the circumstances describing the third phase can be used to characterize many countries, especially in less developed regions. Fukuyama mentions countries like Mexico, Peru or Kenya, who were in phase three when his book was published⁵⁵, therefore progress is relative. Overall, he is sceptical about the achievements of the international community:

“Neither the United States nor the international community has made much headway in creating self-sustaining states in any of the countries it has set out to rebuild. These nation-building exercises have played a critical role in stabilizing the situation on the ground and paving the way for negotiated settlements. [But ...] the international community tends to crowd out rather than complement the extremely weak state capacities of the targeted countries. This means that while governance functions are performed, indigenous capacity does not increase, and the countries in question are likely to revert to their former situations once the international community loses interest or moves on to the next crisis area.”⁵⁶

Fukuyama mentions the situation in Bosnia, where a High Representative is still in place⁵⁷, as a “revealing case” for his arguments and concludes that “Despite the international community’s heavy investments in Kosovo – or perhaps because of them - something similar took place there.”⁵⁸ If we transfer this comment to the current situation, we have to realize that if the state-building process is not even yet concluded in Bosnia (which is undisputed as an independent country), Kosovo still has a long way to go. To move this issue even further, if one looks about the various concepts of what “the state” should actually accomplish, it seems almost impossible to come to a universal definition when the process of state-building has actually been completed.

5.4. Conclusion

In the context of this paper, it seems of little use to revive the discussion about the legitimacy of international intervention, since this matter is a given fact. Furthermore, since Kosova’s declaration of independence has already been made and is

⁵⁵ “State Building” was first published in 2004, the edition used as a reference in this paper was published in 2005.

⁵⁶ Fukuyama, p 139

⁵⁷ This situation is still applicable, in March 2009 the Austrian diplomat Valentin Inzko was appointed to this position.

⁵⁸ Fukuyama, p 140

supported by almost sixty states (among them the majority of EU-members), we should focus on the issue of whether Kosova as a functioning state in the above mentioned sense. It shall be discussed in which sense this goal has been achieved or not, where potential risks can be found and what could be done to improve the situation. A main point in this case is a critical review of the post-conflict developments, where the United Nations have tried for the first time to administer a territory and at support institution building at a local level. After the declaration of independence, the UN administration was significantly reduced, while at the same time a mechanism of international supervision has been created. The main difference between the newly established international monitoring process represented by the International Civilian Representative (ICR) and the previous UNMIK administration is that the Kosovo institutions formally invited the ICR after the declaration of independence, while UNMIK was established by external factors. Nevertheless it is obvious that declaring independence and at the same time seceding a part of the new state's sovereignty to an international supervision mechanism were immediately connected. Additionally, without UN membership, the full statehood of Kosova remains at least disputable⁵⁹. Therefore, even after independence, the question whether Kosovo is actually a sovereign country, remains open. In this sense, the process of state building has not yet come to a conclusion and the matter of whether there is a Kosovar nation remains unclear for the foreseeable future.

6. Kosova: Background and Facts

Kosova is situated south of (or if one does not recognise independence in the southernmost part) of Serbia, the boundary with Serbia proper runs along the Northern and Eastern part of the province. Neighbouring countries are the FYR Macedonia in the South, Albania to the Southeast and Montenegro in the West and

⁵⁹ The R2P Document, Par 2.11 states: "Membership of the United Nations was the final symbol of independent sovereign statehood and thus the seal of acceptance into the community of nations. The UN also became the principal international forum for collaborative action in the shared pursuit of the three goals of state building, nation building and economic development. (...)"

Northwest⁶⁰. It has to be noted that all neighbouring countries have an ethnic Albanian population next to the border with Kosova⁶¹.

The territory of Kosova can roughly be divided into a western and an eastern part⁶². The western part is known by the Serbs as “Metohija”, which derives from a Byzantine Greek expression meaning monastic estates and illustrating that medieval Serb rulers granted land to Orthodox monasteries. In contrast to this, the Kosova Albanians reject the Serbian historical claim connected with the expression of Metohija, and call the area “Rrafsh i Dukagjinit” (Dukagjini plateau), named after a medieval Albanian ruling family.

The eastern part, mainly known as “Kosovo”, derived his name from the area where the legendary battle of “Kosovo Polje” (the Kosovo field) took place in 1389. “Kos” means “blackbird” in Serbian. In a quasi literal translation the Albanians call this area “Fushe e Kosoves”⁶³. Between these two areas lies the so-called Drenica region. This hilly landscape to the west of Pristina is named after a small river and has a long tradition of ethnic Albanian resistance against foreign rule. It is viewed as the birthplace of the UCK⁶⁴.

Population

Due to the lack of clear statistical information, facts concerning the population, the area or the economic situation in the country are only estimations. The last official

⁶⁰ A map can be found in the annex.

⁶¹ See the International Crisis Group’s Europe Report No153 (Pan-Albanianism: How Big A Threat To Balkan Stability?, published on 25 February 2004): “Three and a half million Albanians live in Albania. Ninety per cent of Kosovo’s two million population are ethnic Albanians. The number in Macedonia is somewhat more than 500,000, concentrated in the western valleys bordering Albania and Kosovo, and also in the capital, Skopje, and constituting about a quarter of Macedonia’s population. Another 60,000 live in Montenegro, and slightly more in Presevo, Medvedja and Bujanovac, three municipalities in southern Serbia.” The three municipalities of Presevo, Medvedja and Bujanovac are commonly referred to as “Presevo Valley”, or abbreviated PV. It has to be noted that “Presevo Valley” is not an administrative or geographical unity, but primarily a simplified expression to describe the areas with a significant ethnic Albanian population in Serbia, but outside of Kosova.

⁶² A detailed geographical description as well as an explanation for the expressions used can be found in: Malcolm, Noel: Kosovo. A Short History, London 1998, page 1 cont.

⁶³ It should be noted that this area is not only restricted to the municipality of the same name, but to the general area around the capital of Pristina.

⁶⁴ The Drenica region was at the center of Kosova-Albanian resistance against the Serbs after the First World War (Malcolm; p. 274) and after the Second World War (Malcolm; p. 312). Prominent Albanian leaders were Azem Bejta (Galica) who fought against the Ottomans in 1912, later against the Austro-Hungarian troops and against the Serbs after WW I and Shaban Polluzha after WW II.

census was held in 1991, therefore it is very difficult to measure the impact of the armed conflict that developed after 1997 or any changes after the international community took over responsibility in 1999.

The current total population is estimated at around 2,1 million, living on an area of 10.908 km² (population density of 193 persons/km²). The ethnic composition is estimated to be 92 % Albanian, around 5 % Serbs and ca. 3 % other ethnic groups. With an age distribution of 33% between 0-14 years, 61% between 15-64 years and 6% at the age of 65 and older⁶⁵, Kosova is sometimes viewed as the country with the youngest population in Europe.

It has to be noted that especially the figures concerning the minority population have a political impact as well, since they affect the matter of minority representation in political institutions or are used as an argument to stress (or deny) the difficult situation especially of the K-Serb population.

7. Historical Development

7.1. Ottoman Rule and the Battle of Kosovo Polje 1389

Mehmet Hacasalihoglu gives a description of Kosova's development during the Ottoman rule⁶⁶. Additionally, in his essay there is an overview about the administrative order and the social aspects of live in the region during the Ottoman rule. The following paragraphs are based on his description.

65 The figures are according to the Statistical Office of Kosovo, available at: <http://www.ks-gov.net/esk/>. According to data from the Ministry of Trade and Industry of Kosovo, published on the ECIKS (Economic Initiative for Kosova) website http://www.eciks.org/english/invest.php?action=total_invest&main_id=14 the population stands at about 2 million, of which approximately 90% is Albanian, 8% Serb, and 2% others (1998 figures). The area of Kosova is given as 10.887 km² km. Even these differences underline the difficulty in obtaining exact figures.

In comparison with Austria: Kosova is slightly smaller than the province of Upper Austria (11.982 km²), but has a larger population (according to Statistik Austria figures, Upper Austria had about 1,4 million inhabitants in 2007 and about 1,3 million in 1991).

66 Mehmet Hacasalihoglu in: Chiari, Kesselring (Hrsg): Wegweiser zur Geschichte Kosovo. The document can be found at: <http://www.mgfa-potsdam.de/html/einsatzunterstuetzung/downloads/wwkosovoiihacasalihogluosmanenzeit.pdf>

The Ottoman Empire was named after Osman I. (1281–1326), the leader of a nomadic tribe in north-western Anatolia, who started to expand his rule late in the 13th century. In South-eastern Europe, Ottoman rule was established during the 15th century.

A significant event during the Ottoman conquest of Kosova was the battle of Kosovo Polje (alb. Fushe Kosove) in 1389⁶⁷. During this battle both leaders, Sultan Murad I. and the Serbian King Lazar were killed. Despite the considerable amount of Serbian legends that emerged around the battle, the actual event was less significant. It seems noteworthy that Albanian troops did not only fight on the Ottoman side, but were allied with the Serbs too. Additionally, the Serbian defeat did not lead to immediate Ottoman rule, but the conquest was accomplished only several decades later⁶⁸.

Nevertheless, Serbia became a tributary of the Ottoman Empire and parts of Kosova were placed under Ottoman rule. After a dispute with the Serbian ruler Vuk Brankovic, who dominated a large portion of Kosova, Sultan Bayezid I. (1389-1402) transferred control of the territory to the Serbian King Stefan. Later on, Brankovic's sons regained the sultan's confidence and were again trusted with the territory. While internal conflicts caused a phase of lessened Ottoman influence, in 1439, after the battle of Smederevo, Kosovo again came under Ottoman rule.

In 1448 another battle of Kosovo Polje was fought, this time between the Ottoman Empire and the Hungarians. The Christians were defeated, but since the Serbs remained neutral, the northern part of Kosova around Vucitrn remained under their influence. Sultan Mehmed II, „The Conqueror“, who took Constantinople in 1453 systematically expanded Ottoman rule in the Balkans. In 1455, he won Novo Brdo and other settlements in Kosova, and during the mid 15th century, a large portion of the country was under Ottoman rule.

⁶⁷ The battle was fought on the so called „Vidovdan“ (St.Vitus' Day), 28 June. This day has a special meaning in Serbian history. On Vidovdan in 1914, Archduke Franz-Ferdinand was assassinated in Sarajevo, and in 2001 Slobodan Milosevic was brought to The Hague for his trial at the ICTY.

⁶⁸ See Petritsch, Kaser, Pichler: „Kosovo/Kosova“, p 30 cont.

Naturally, these events had a serious impact on the local population. Shortly after the battle of 1389, Turkish and Tatar peoples settled in the southern part of the Balkans. The larger cities, where Muslims and orthodox Christians usually lived in separate areas, adopted a distinctly Muslim-Ottoman character. Mosques, bazaars, baths and other typical Muslim infrastructure was increasingly visible, although the past was not eradicated. Christian local rulers were integrated into the military system and several of them converted to Islam. The system of “devshirme” was introduced in Kosova as well: Non-Muslim children of the Christian populations were conscripted before adolescence and brought up as Muslims. Later, they were integrated into the Ottoman system, especially in the Janissary corps of the military.

The empire was divided into provinces (Vilayets), usually governed by a Pasha. In the late 15th century, Kosova belonged to the Vilayet of Rumelia (“Land of the Romans”), which was subdivided into several administrative districts called “Sandzak”. Today’s Kosova covered the Sandzaks of Üsküp (modern Skopje, the capital of Macedonia) and Vucitrn (a town north of Pristina). The Sandzaks were again divided into several districts (Kaza or Nahiye), where Kadis were established as magistrates. A Kadi had jurisdiction concerning all religious and secular matters in his area. The smallest administrative unit was a village or city neighbourhood (mahalla). The population elected the local leader. Although Kadis and Pashas had to be Muslims, the local leaders in Christian villages or mahallas could also be Christians.

Naturally, Islam played a dominant role in the Ottoman Empire. The largest churches were converted into mosques, while smaller churches were usually left intact. Since Islam regarded Judaism and the Christian religion as predecessors, their practice was tolerated under the so-called Millet system. This system legally protected religious minorities. They enjoyed a certain amount of autonomy, but were obliged to pay a head-tax.

For the Orthodox Church in Kosova, the Ottoman rule had serious consequences. The most important institution, the Serbian Patriarchate in Pec was abolished, but re-installed in 1557. After the Patriarchate had been abolished, the Orthodox population was subordinated to the Greek Orthodox Church in Constantinople, who nominated

bishops in those Eparchies under her jurisdiction. Within the respective religious communities, the church was responsible for religious matters and family-related law. Criminal law was executed by the Kadi.

As a consequence of Ottoman rule, large resettlements and migrations took place, leading to a significant increase of the Muslim population. Especially during the second part of the 16th century, the Muslim-Albanian population increased, and Pristina, Prizren as well as Vucitrn gained importance. Towards the end of the 16th century, Pec was 90 % Muslim, Vucitrn had 80 %. The Muslim percentage of other settlements was: Pristina 60 %, Prizren 56 % and Novo Brdo 37 %.

In Kosovo, the Ottoman rule was stable until 1683. After the failed siege of Vienna, the „Holy League” (Austria, Poland, Venice and Russia) continued to fight against the Ottoman empire in the so called Great Turkish War (1683–1699).

The Habsburg forces advanced as far as Kosovo and tried to establish a Serbian Kingdom with Kumanovo (located in today's Macedonia) as the capital. This attempt failed and when Kosovo was retaken by the Ottomans, the Serbs were forced to leave in 1690. According to the traditional Serbian account, during the “First Serbian Migration” about 37.000 families under the leadership of Patriarch Arsenije III. Carnojevic abandoned their settlements and moved north to Hungary.

Eventually, the continued conflict between the Habsburg and the Ottoman Empires led to a continued Serbian migration (the Second Serbian Migration took place between 1737 and 1739) towards the north, and therefore an increase of the Albanian population. This trend is visible in Ottoman registers, where for example it was documented that in 1831 the population in Prizen was about 75 % Muslim and only about 20 % Christian.

During the 18th century, the Ottoman Empire was in decline. Costly wars were fought against Russia in the north and Austria in the west. Combined with the military challenges, the ability to administer the Empire was suffering. It became increasingly difficult to collect taxes and to recruit soldiers. In order to improve the situation, more responsibilities were transferred to local leaders, which led to greater influence on

their side. In Kosovo, a caste of local dignitaries with economic and military influence emerged. Like in the rest of the Empire, they were eager to expand their own influence on the expense of local rivals and the central government. In some cases, these attempts led to local unrest and clashes with the government's troops. These occasional clashes were not motivated by nationalist feelings, but merely a result of local power struggles.

In the 19th century, the Christian peoples of the Balkans began to put up increasing resistance against the Ottoman rule. The Serbs started to revolt in 1804, (with another uprising in 1815) and the Greek war of independence started in 1821. As a countermeasure to the increasing military and economic decline, the Ottoman administration introduced reforms. During this process, the administration and organization of the provinces was re-organized several times. Until 1868 Kosovo belonged to the Vilayet Üsküp (modern Skopje), 1869 it was part of the Vilayet Iskodra (modern Shkoder / Shkodra in Albania), which changed in 1871 to the Vilayet Prizren and again in 1875 to the Vilayet Monastir (modern Bitola in Macedonia). Immediately before the Russo-Turkish war of 1877/78 a Vilayet Kosovo (Turkish Kosova) was established for the first time. Parts of this newly created Vilayet were the Sandzaks Pristina, Prizren, Skopje, Novi Pazar and Nis. The capital of the Vilayet was later moved from von Pristina to Üsküp. Although the borders of the Vilayet Kosovo were later adapted, it existed until the end of the Ottoman rule.

For the Balkans, the Russo-Turkish war brought many changes. Serbia, Montenegro and Romania became finally independent, and Bulgaria was re-established as a Principality. In March 1878, the Treaty of San Stefano was signed, and Albanian-inhabited lands were distributed among Serbia, Montenegro and Bulgaria. Serbian aspirations to regain the historically important province of Kosovo led to Albanian resistance. This was manifested in the creation of the League of Prizren (Albanian: Lidhja e Prizrenit), established on 10 June 1878 by a group of Albanian intellectuals, nationalists and other leaders, mainly from Kosova. The League of Prizren marked the birth of an Albanian national movement, with the aim to prevent a division of the Albanian inhabited lands.

The Austro-Hungarian Empire and the United Kingdom did not approve of the San Stefano treaty, because in their view Russia was awarded too much influence in the Balkans. During the Berlin Congress in June/July 1878 the San Stefano Treaty was revised, but from the Albanian perspective nothing improved. Initially, the League was supported by the Ottomans, but after the Congress of Berlin brought no improvement for the Albanians, the League turned against the Sultan and became a secessionist movement. Although the League's armed struggle ultimately failed to prevent the division of the Albanian lands, its impetus for creating a national identity can hardly be underestimated. Especially the Frasheri brothers, who were involved in the League of Prizren, laid the foundation for the so called Rilindja Kombetare or (Albanian) National Renaissance and the creation of a literary Albanian national language. The former Ottoman identity of the Albanian population, which was distributed among four Vilayets, was eventually replaced by a distinctly Albanian identity. The new attitude was described by the poet Vasa Pasha Effendi (also called Pashko Vasa)⁶⁹, who coined the famous sentence that the "faith of the Albanians is Albaniandom". He meant that the national identity should be the uniting factor for all Albanians living in the various cultural environments⁷⁰.

7.2. Early 20th Century and World War II

For Kosova, neither the Balkans Wars of 1912/13 nor the First World War brought significant progress. While Albania became independent in 1912, Kosova was occupied by Serbian troops. The Ambassadors' Conference in London, held after the Wars of 1912/13, led to a division of the Albanian people, and Kosova remained under Serbian rule. According to Biermann⁷¹, mass atrocities and large scale violence led to a previously unknown deterioration of the relations between the ethnic Albanian and the Serbian population. These atrocities became part of the collective memory of the Kosova-Albanians. He argues that this amount of violence was

⁶⁹ Vickers, *The Albanians*, p. 46. The lines are taken from Vasa's poem "Oh Albania, Poor Albania", written in 1880. In her book, Vickers gives an extensive insight into the historical developments, especially concerning the final phase of the Ottoman Empire and the National Renaissance.

⁷⁰ Although especially today the Albanians are mainly viewed as being Muslims, this is not the whole truth. While many ethnic Albanians converted to Islam during the Ottoman rule, one should not forget the role of the Albanian national hero, Gjergj Kastrioti, known as Scanderbeg. In the 15th century, he was one of the main Christian defenders against the expanding Ottoman Empire. Finally, in the 20th century Communism has played a role in undermining the influence of religion.

⁷¹ The following account was taken mainly from Biedermann, Rafael: "Lehrjahre im Kosovo"; Paderborn 2006, page 149 cont.

motivated by demographic reasons and led to the Albanians becoming an underprivileged class, although they constituted the majority. He points out⁷², that at this stage, negotiations or mediation could have had a positive influence, but like always the stronger side, in this case the Serbs, refused to negotiate. Unfortunately until today there is no political culture that would recognize the long-term benefits of finding a compromise.

The ethnic Albanians were systematically deprived of their rights and deliberately kept in an inferior position. Only during the two World Wars, when external forces (Austro-Hungarian and German respectively) provided an opportunity, the Albanians tried to strike back, which again led to violence, this time mainly against the Serbs. When the Second Yugoslavia was established after 1945, Kosova came again under Serbian rule.

7.3. Autonomy: Kosova under Tito, First Signs of Trouble

After the Second World War, the situation in Kosova remained instable for a long time. In 1946, the “Autonomous Region of Kosovo and Metohija” was created within the now existent borders. The three municipalities of Presevo, Medvedja and Bujanovac (now mostly called the Presevo Valley) were removed and in return, the area north of Mitrovica (now mainly the Kosovo municipalities of Leposavic, Zvecan and Zubin Potok) were added to the territory. By this administrative reform, Tito weakened the Albanian population and increased the Serbian share. The Soviet dictator Stalin pursued a similar policy of reorganizing administrative responsibilities and artificially creating minority areas. After the break-up of the Soviet Union, these ethnically mixed areas became hotbeds of conflict and crisis, and in former Yugoslavia, we were faced with a similar development.

Ethnic Albanians continued to resist against Tito’s communist rule, with central Kosova’s Drenica Region playing a prominent part, as mentioned above. Due to Tito’s rivalry with Albania’s communist dictator Enver Hoxha, Kosova’s Albanian population was viewed sceptically by Belgrade. It was feared that they might function as a fifth column under Tirana’s control. Additionally, the Kosova-Albanian support for

⁷² Biermann, p. 150

the Germans during the war added to the Serbian feeling of mistrust. Tito's Minister of internal affairs, Aleksandar Rankovic, was responsible for an infamous campaign against the ethnic Albanian population. The situation changed after Rankovic fell from Tito's grace in 1966. The Central Committee warned of Serbian nationalism in Kosova, and the situation began to improve gradually. Biermann describes⁷³ that while for the ethnic Albanians in Kosova a separation from Yugoslavia was definitely out of the question, there were attempts to minimize Serbia's influence. In the Yugoslavian constitution of 1946, the amount of autonomy granted to the provinces was regulated by the Serbian constitution. In 1963, Kosovo and Metohija formally achieved the status of an "Autonomous Province", although in practice, her rights were restricted. Ever during this time, the ethnic Albanians were aware that, compared with other nationalities, their status was underprivileged. Biermann mentions⁷⁴ that an ethnic Albanian representative complained in April 1968 that 1,2 Million Albanians did not even have full autonomy, while 370.000 Montenegrinians had their own Republic.

The Kosova-Albanian's political aim at that time was not to "leave" Yugoslavia, but Serbia. Demonstrations in late 1968 underlined an increased self-consciousness of the ethnic Albanians, which was partly fuelled by the relief about Rankovic's demise. Ever since this time, it was obvious that the Albanians in Kosova demanded the status of a Republic. Although the demonstrations were suppressed, it seems that ever since a visit to Kosova in 1967, Tito was concerned about the ethnic Albanian's rejection of Yugoslavia. In order to curb Albanian nationalism, he reversed the previous policy of economic, cultural and intellectual deprivation. For the first time, the University in Pristina (founded in 1970) allowed higher education in the Albanian language. Tito initiated a constitutional reform that was mainly aimed to curb the dominance of one ethnic group, one of the problems that already negatively affected the First Yugoslavia. Tito's move especially concerned the Serbs, who saw themselves as the losers of this development.

⁷³ Biermann, p 154 cont.

⁷⁴ Biermann, p 155

Kosova managed to get significant rights in 1974, when the fourth post-war constitution came into effect⁷⁵. Concerning federalization, this constitution was unprecedented. Although Kosova's status of a province was on a lesser level than the republics were, it achieved a relatively wide range of political freedom. Overall, this era is still viewed mostly positively by the Kosovar population.

A comprehensive description of the implication of the 1974 constitution as well as the consequences for Kosova can be found in Meier's book about the demise of Yugoslavia⁷⁶, where the country was characterised as a kind of "midpoint between federation and confederation":

"In contrast to earlier constitutions, the constitution of 1974 defined the republics explicitly as states (Article 3) and made them into independent agents of political decision-making, who could not be outvoted. Both of the provinces in union with the Republic of Serbia – Kosovo and the Vojvodina – were, indeed, not defined as states, but were given equality with the republics at the level of the common state. [...] Legislative procedure and the procedure of all important affairs were based on the principle of consensus among the republics and provinces. This signifies, formulated in reverse, that every republic or province enjoyed a veto right in practically all affairs of any importance. [...] There is no denying that the constitution of 1974 made great concessions to the independence of the republics and provinces. Later, when people took the constitution seriously, there were even federalist-oriented politicians who discovered that certain provisions were in need for revision in the interest of a better functioning of the joint state. The argument that the state needed to function better was soon misused by Serb hegemonists and centralists, however; they demanded an "effective federation", when what they really meant was a centralized state dominated, if possible, by the Serbs. Despite the proclaimed statehood of the republics, the constitution did not lay down a procedure for secession. Only in the preamble was there a mention of the Leninistically-inspired "right of separation" assured not to the republics, but to the peoples of Yugoslavia. A procedure for exercising this supposed right was not stipulated either. [...]"

For the Republic of Serbia, there was the special problem of the autonomous provinces of Kosovo and Vojvodina, which existed within Serbia's boundaries. In principle these provinces had existed since the end of the Second World War, but only the constitution of 1974 gave them the status of nearly equal partners in federal administration. Their representatives, whether in the federal state organs or in the party, voted independently of those from the Republic of Serbia.

⁷⁵ The name was officially changed to "Socialist Autonomous Province of Kosovo". The expression "Metohija" was not used by the Albanian population, while "Socialist" put more emphasis on the ideological aspect.

⁷⁶ Meier, Viktor: Yugoslavia. A History of its Demise. Routledge, London and New York, 1999; p. 6 cont.

Nevertheless, the republics [sic!] were territorial part of the Republic of Serbia; they participated in the legislative process at the republic level, where they even enjoyed the right of veto, while on the other hand the authority of the republic organs in the affairs of the two provinces was curtailed. The autonomous province of Kosovo had been established because the Albanians constituted a majority there. [...] It may be conceded that the constitutional and juridical situation for Serbia was uncomfortable and even illogical. The Serbian leadership of that time had assembled its reservations in 1977 in a so-called *Blue Book* but had not offered any essential resistance to the new constitution. One cannot say that the Republic of Serbia would have lost the character of a state because of the provinces, though this would later be claimed by Serbian politicians. There would have been a number of possibilities for a peaceful solution of the problem of the provinces, but the Serbian government would have nothing to do with any of them. Kosovo at least would never have declined to be granted the status of a republic. Instead, the demand for republic status was criminalized by Serbs and portrayed as “damaging the integrity of Yugoslavia”.

Until the very end, the concept of *nationality* (*narodnost*), unclear in the Yugoslav constitutional system, remained in contrast to the concept of *people* (*narod*). In the constitution of 1974, there was no indication what the difference is between a *people* and a *nationality*. Unofficially, *peoples* were understood to be ethnic formations whose ethnic centers lay within the boundaries of Yugoslavia, while *nationalities* had their ethnic centers outside Yugoslavia. With regard to Kosovo and the Albanians, there was a glaring discrepancy. In 1981, there were more than 1.7 million Albanians living in Yugoslavia, but only about 570,000 Montenegrins and 1.3 million Macedonians. In spite of that, the Albanians were considered a “nationality”, while the others were classified as “peoples” and therefore endowed with correspondingly greater rights.”

Basically, Kosovo would have been able to function within Yugoslavia, and the legal framework did give the province a substantial amount of freedom. Sundhaussen gives a more optimistic account of Tito’s concept⁷⁷ and argues that despite inconsistencies, compared to other countries the formal solution for the minority problem was actually solved well, since the (national) Yugoslavian identity was compatible with ethnic identities. Nevertheless, the social and economic change in the eighties led to an increasing loss of this special national consensus and identity, and was eventually used by nationalist elements. He sees the deconstruction of Yugoslavia not as a process initiated by the peoples, but by the elites.

Overall, for the Kosovo-Albanians the situation seemed generally acceptable. Nominally, the rights of an autonomous province were relatively far-reaching, and the situation was definitely better than in the decades before. As a next step, receiving the status of a Republic would bring full rights for Kosova and was –at least in the

⁷⁷ Sundhaussen, p 8

ethnic Albanian's eyes- a natural demand. Given the numbers of the Albanian population in Kosovo as well as in the neighbouring republics of Macedonia and Montenegro, this aim seemed to be legitimate.

7.4. Kosova during the Milosevic-Era

In the general confusion of the dissolution of Yugoslavia, the events in Kosova failed to attract the same amount of attention as events in Slovenia, Bosnia or Croatia. As we can see later, after the Dayton Peace Conference in 1995 the failure of the international community to recognize the matter of Kosova eventually led to more violence.

After Tito died in 1980, the uncertainty about the future of Yugoslavia grew⁷⁸. Political leadership was exercised by a collective body, which was comprised of the eight representatives coming from the Republics and Autonomous Provinces, under a rotating Presidency. Here we can see again that the autonomous provinces were virtually equal to the republics.

The year of 1981 brought a significant development. It was also during this year, that the now prominent generation of ethnic Albanian leaders in former Yugoslavia became active. After large-scale protests of students at the University of Pristina were met with police violence, unrest spread across Kosova. One of the already well-known demands was that the province should get the status of a republic. The authorities responded with violence, killing several people and declaring an emergency status that lasted several months. The rift between Kosova's Albanians and the Serbs deepened significantly.

In 1986, some Serbs publicly presented a petition to curb "Albanian nationalism and separatism", and when a memorandum, written by the Serbian Academy of Sciences and Arts, was published, the situation deteriorated further. In this memorandum, restricted autonomy and measures for the benefit of the Serbian population were demanded. Additionally, the allegedly bad situation of the Serbs in other Republics was mentioned.

⁷⁸ See Petritsch, Kaser, Pichler, Kosovo/Kosova, p 154 cont.

In this increasingly tense situation, aggravated by a deepening economic crisis, Slobodan Milosevic made his political career. When he, at the time deputy leader of the Serbian Communist Party, visited Kosovo in 1987, riots between local Serbian protesters and the police broke out (at that time ethnic Albanians were still members of the police). In a famous TV appearance, he declared his support for the Serbs and vowed to protect them. A few months later, he became the leader of the Communist Party.

Parallel with the economic decline of Yugoslavia, nationalism grew⁷⁹. In late 1987, the province was deprived of its privileges concerning police and judicial matters, and in late 1988, Kosova's ethnic Albanian party leadership⁸⁰ was replaced. Protests against this restriction of autonomy followed, demanding that the 1974 constitution should remain in place. Anti-Albanian protests in Belgrade followed, and eventually in early 1989, further restrictions concerning the autonomy of Kosovo were put in place. The Albanian language was no longer officially permitted; and security and judicial matters were put under Belgrade's authority. When under enormous pressure from the security apparatus, the Provincial Assembly finally adopted the resolutions that ended autonomy in March 1989, riots, violent demonstrations and subsequent arrests followed. In June 1989, on Vidovdan, the infamous 600-year anniversary celebration took place on the former battlefield of Kosovo Polje, close to Pristina. This event was allegedly attended by more than a million people and became a massive demonstration of Serbian nationalism. Eventually, the relationship between ethnic Albanians and Serbs deteriorated massively. On a political level, the Albanians reacted with the creation of their own party, the Democratic League of Kosova (LDK) in late 1989⁸¹. There was virtually no way to reconcile.

8. The Republic of Kosova

⁷⁹ A very impressive description about the situation in the years before the actual outbreak of the war can be found in James Pettifer's book "Kosova Express, A Journey in Wartime"

⁸⁰ The ethnic Albanian leaders were Azem Vllasi, and Ms. Kaqusha Jashari.

⁸¹ Details will be discussed below.

Tim Judah describes⁸² that the last Kosovars that still were in the regional government resigned in May 1990, and that on 2 July 114 out of 123 ethnic Albanian members of the Provincial Parliament voted to declare Kosovo a “Republic”. As a reaction, the Serbian Assembly dissolved the already dysfunctional Kosovo Parliament. A few months later, in September 1990, the Kosova Albanian deputies voted secretly for a constitution of the “Republic” in the town of Kacanik.

By declaring to be a “Republic”, the Kosovars aimed for the same legal status that for example Slovenia and Croatia enjoyed within Yugoslavia. Eventually, the status of being a republic within Yugoslavia gave legitimacy to the right to secede. However, at that time Kosova’s Albanians did not intend to leave Yugoslavia, but “only” Serbia. Since the same demands were already made during the riots in 1981, it becomes obvious that in almost ten years the situation had aggravated seriously, now without a realistic option for de-escalation.

Judah describes further⁸³ that only about one year later, while the war in Croatia was fought, the Kosova Albanian’s intentions had changed, and in late September 1991 a referendum on a “Resolution for Independence and Sovereignty” took place. Although this referendum was not legal, the Serbian authorities did not actively prevent it. Eventually, 99,87 % of the voters⁸⁴ supported independence, and on 19 October 1991 the parliament declared the independent “Republic of Kosova”⁸⁵. The Albanians, under the leadership of the LDK and “President” Ibrahim Rugova continued to pursue and strengthen parallel structures, mainly active in education and medical services, while ethnic Albanians lost their jobs in the public sector. In a parallel development, Serbia got a new constitution in late September, effectively eliminating the autonomy of her two Provinces, Vojvodina and Kosova.

In 1992, elections for the Assembly of the “Republic of Kosova” were held. Since these elections were illegal in the Serbian eyes, there was obviously no need to take active measures against them. The LDK gained three quarters of the votes, or 96

⁸² Judah, Tim: Kosovo, War And Revenge. London, 2000, page 64 cont.

⁸³ Judah, p. 65 cont.

⁸⁴ About 87 % out of ca. 1,05 million eligible voters cast their ballot. Naturally, the Kosovo Serbs did not participate in the referendum.

⁸⁵ While Albania recognized the “Republic of Kosova”, other countries did not. Although the ethnic Albanians became more optimistic when Slovenia and Croatia were internationally recognized, their hopes did not come true.

seats out of 130, while 14 were reserved for the Serbs, who naturally did not participate⁸⁶. Presidential elections, held at the same time, brought almost a 100% vote for the sole candidate, Ibrahim Rugova.

From 1992 on, the LDK tried to gain international support for Kosova. President Rugova travelled, but remained based in Kosova. His Prime Minister since 1991, Bujar Bukoshi, went into exile, first to Slovenia and eventually 1992 to Germany, where a significant amount of Kosova's Diaspora was located. According to estimations, there were almost 400.000 ethnic Albanians in Western Europe, and about 120.000 of them in Germany. Switzerland, with a share of about 95.000 was almost equally important⁸⁷ for Kosova's Albanians. The Diaspora in both countries, mainly workers who supported their families at home, was essential in collecting funds for the parallel institutions and for political agitation. Hockenos mentions⁸⁸ that the so-called "Bukoshi Fund" (also called 3%-Fund, due to the percentage it demanded from the "gastarbeiter"-wages) was able to collect at least 125 Million Dollars between 1992 and the end of the government in 1999. Apart from discussing the financial matters, Hockenos also describes how Bukoshi and Rugova eventually drifted apart. This was caused on one hand by Rugova's problematic leadership style, but also because the government in exile got increasingly out of touch with the events in Kosova. Especially after 1995, when the matter of Kosova was deliberately left out during the Dayton Peace Conference, Bukoshi's scepticism against Rugova's pacifist policy grew⁸⁹, and the two politicians developed a mutual hatred. Bukoshi eventually started to establish an armed formation, called the Armed Forces of the Republic of Kosova (FARK), but he was late, and the FARK was never able to match the importance of the UCK.

⁸⁶ Here we can observe a striking similarity to the situation after 1999, discussed below. The main difference is that the political developments after 1999 were supported by the international community. However, if one considers the history of political developments in Kosova, it seems almost naïve to believe that the Serbs would seriously participate in this process.

⁸⁷ The figures are taken from Petritsch, Kaser, Pichler, p 194, and Paul Hockenos „Homeland Calling“, p 221.

⁸⁸ Hockenos, p 222. cont. He further explains that the fund was managed in a rather transparent way, and collected money without pressuring the Diaspora-Albanians.

⁸⁹ Petritsch describes that in the view of the Dayton Agreement for Bosnia and Herzegovina, it dawned to the Kosova-Albanians, that peaceful resistance was not rewarded, and only violence seemed able to attract international attention. Petritsch, Kaser, Pichler, p 194 cont. Hockenos gives a similar account (p. 237)

While Bukoshi was still trying to gain international support for Kosova, a more radical element of the Diaspora increased her influence. This group was based in Switzerland and gathered around the militant People's Movement for Kosova (LPK). Prominent figures of this movement were Xhavit Haliti, now a member of the Presidency of the Assembly, and Hashim Thaci, currently the Prime Minister of Kosova.

9. The war of UCK

For our purpose, the relevance of the early times of the Kosova Albanian armed factions lies in the fact that several of the relevant political actors and groups have their roots in these movements. Their political socialisation as well as their networks can be traced back to the early times of the armed struggle. During the course of time sometimes rivalries and even open hostility have evolved, and it is important to bear in mind that the current political situation among the Kosova Albanians is still influenced by those times and experiences.

After the Dayton conference in November 1995, the international community saw Milosevic as a stabilizing factor in the Balkans, and for the sake of a settlement concerning Bosnia, Kosova was left out of the game. The fact that the pacifist policy pursued by Rugova and the LDK failed to yield significant results for Kosova, was a serious blow to his credibility and to the idea of non-violent resistance in general. As mentioned above, the pacifist policy of the LDK was challenged by a more radical faction connected with the LPK. In contrast to Bukoshi's government in exile, the LPK-activists like Haliti and Thaci were based in Switzerland. Since they had no access to Bukoshi's money, they created another means to collect revenues, the "Homeland Calling" (Vendlindja Therret) fund. In addition to money, weapons were in need, and they became readily available after Albania collapsed in 1997⁹⁰. Already from 1996 onwards, increased shooting incidents and violent attacks against Serbs in Kosovo had brought a new dimension to a conflict, which was previously characterized mainly by stone throwing and violent demonstrations. In the beginning, no one claimed responsibility for these incidents, but during the summer of 1997 a

⁹⁰ Hockenos, p. 24 cont.

spokesman appeared in Switzerland and declared the existence of a “Kosovo Liberation Army” (KLA) or “Ushtria Clirimtare e Kosoves” (UCK)⁹¹. It is difficult to pinpoint a clear date when the UCK actually went public, since there is conflicting information about this issue⁹². Nevertheless, the first public appearance of uniformed UCK fighters happened on 28 November 1997. At that time three masked men appeared at the funeral of Halit Geci, a teacher killed by Serbian policemen in the Drenica village of Llausha. 20.000 people, who witnessed the UCK’s public claim to be fighting for the liberation of Kosovo, attended the funeral. The event gained widespread media attention⁹³.

Despite the rather late public appearance of the UCK and only rather small scale violent incidents, for some Kosova Albanians armed struggle (or terrorism, in the Serbian view) was an option since as early as the nineteen-eighties⁹⁴.

Stephan Lipsius published an article in the *Frankfurter Allgemeine Zeitung* in 1998⁹⁵, giving a comprehensive insight into the emerging Kosova-Albanian armed resistance:

The roots of the underground movements can be traced back to the 1960s and 1970s. The oldest of these movements is the “People’s Movement Kosovo” (LPK). It was founded in Germany on February 17, 1982 as the “People’s Movement for a Republic Kosova” (LPRK). This was a merger of four different movements: The “National Liberation Movement Kosova and the other Albanian Regions in Yugoslavia” (LNCKVSHJ), the “Marxist-Leninist Organization Kosova” (OMLK), the “Communist Marxist-Leninist

⁹¹ Malcolm, p. 253 cont. In the following text the KLA will be abbreviated as UCK.

⁹² For example according to a report on a BBC website, the expression was used as early as 1996: “The name KLA was first used in a communiqué to the BBC Albanian service following an action in 1996.” (<http://news.bbc.co.uk/2/hi/europe/453897.stm>). Judah (Kosovo; p. 129 cont.) also mentions 1996 as the first time when KLA communiqués were made public. Lipsius (see the next footnote) maintains that the UCK made its first public appearance in April 1996 with letters claiming responsibility [for attacks] to Albanian newspapers in Kosova as well to the Albanian Program of the German news channel Deutsche Welle.

⁹³ Judah, p.136 cont. One of the UCK activists was Rexhep Selimi, who later was Minister of Interior in Thaci’s Provisional Government.

⁹⁴ An “official” story can be found at the website of the Kosovo Protection Corps, KPC (<http://www.tmk-ks.org/new/english/historiku/historiku.php>). The KPC is a civil protection organization that was founded with international support after the war. The intention was to create a structure where –among others– former UCK fighters were able to make a living under international supervision. Recently the KPC, which openly celebrates the tradition of the UCK, was disbanded in order to form a lightly armed military, the Kosovo Security Force.

⁹⁵ Stephan Lipsius: *Armed Resistance is Forming; Underground Movements Oppose Serbian Power in Kosovo*; *Frankfurter Allgemeine Zeitung*, March 4, 1998; online version summarized and translated by Nils Hoffmann, available at: <http://people.brandeis.edu/~hoffmann/Papers/Managing%20Ethnic%20Conflict%20Fall%2004/text%20Burg.doc>

Party of Albanians in Yugoslavia" (PKMLSHJ) as well as the "Red Popular Front" (FKB).

The leaders of these organizations had agreed on uniting the different movements after student riots in Kosovo in March and April 1981. Unity was originally scheduled for November 1981, but Serbian authorities prevented it. Another setback followed when Jusuf Gervalla, leader of the LNCKVSHJ was assassinated in Stuttgart/Germany on January 17, 1982.

The LPRK was the conspiratorial home for those political forces who wanted to achieve unity of Albanians in Yugoslavia until the "Democratic League Kosova" (LDK) was founded and the "Republic Kosova" was declared independent on July 2, 1990. The LPRK did not take part in the parliamentary elections in May 1992, but nevertheless it accepted the formation of the underground state built by LDK-leader Ibrahim Rugova – which can also be told from the fact that it no longer calls itself "People's Movement for a Republic Kosova" but only "People's Movement Kosova" (LPK). The work of the LDK led to a weakening of the LPK. Officials like OMLK-leader Hydajet Hyseni or Donika Gervalla joined the LDK instead of the LPK.

Little is known about the current structures and activities of the LPK. Already in 1985, 1988, and 1993 Serbian authorities had tried to destroy the LPK with mass arrests, which does not make public the names of its leaders. The highest decision-making body of the LPK in Kosovo is a "General Council". Moreover, the LPK has member's groups in many different West European states, which are subordinated to a "General Council for Foreign Countries" with a postal address in Luzern/Switzerland. The LPK is the only of the three underground groups in Kosovo publishing a newspaper: the weekly "Zeri i Kosoves" (Voice of Kosovo). First published in Bochum/Germany, the paper is now published in Switzerland. The members of the "General Council for Foreign Countries" are not known either. Fazlli Veliu is their speaker, and some papers also refer to him as "LPK foreign leader".

One of the political goals of the LPK is to achieve unity of all Albanians in former Yugoslavia – in Kosovo, Macedonia, Montenegro and South Serbia – in one state. The LPK is not generally opposed to violence as a means to achieve this goal and calls for political and financial support of the UCK. So far it has, however, not participated in any attacks. The fact that the letters claiming responsibility of the UCK are published in "Zeri i Kosoves" might lead to the conclusion that the LPK works as the political arm of the UCK – similar to "Sinn Fein" in Northern Ireland. This has always been denied by LPK-leaders, though."

[...] Besides the LPK and the UCK there is one more underground movement in Kosovo. It is the "National Movement for the Liberation of the Kosova" (LKCK). It was founded on May 25, 1993 in Prishtina. Some founding members had left the LPK before. The official reason for this splitting off was the programmatic closeness between the LPK and the LDK. In contrast to the strictly peaceful policies of the LDK, the LKCK supports militant action against Serbian authorities. Moreover, it supports the creation of a Greater Albania. Accordingly, the LKCK does not support the existence of the "Republic Kosova". Similar to the LPK, the LKCK has separate administration groups for Kosovo and the "Kosovo-Albanian Diaspora". In 1996 one of the LKCK's leaders, Avni Klinaku, was arrested and sentenced

to ten years in prison in 1997. The organization's new leader is Sejdi Veselin. Shukri Klinaku, the brother of Avni Klinaku, heads the "LKCK Coordination Council for the Diaspora", whose cover address is a culture center in South Germany.

According to information from LPK officials, contacts between LPK and LKCK have recently been suspended. The LKCK has a conflicting relationship to the UCK. Though the LKCK openly supports an armed fight against the "Serbian oppressors", it criticised some of the actions performed by the UCK as terrorist. One of the reproaches is that the UCK does not yet have enough popular support for its actions. The LKCK, which has more than 1000 members in former Yugoslavia and some hundred in Germany, has a military and a political wing. The military wing is known as "Guerrilla of the LKCK". In contrast to the UCK the LKCK has not yet performed military actions. The second general assembly of the LKCK worked out a plan for the "liberation of the occupied territories". The first phase is characterised by political educational campaigns of the population as well as structural preparations. In the following second phase there would be armed attacks; and the merger of LKCK, LPK, and UCK to a "National Front for the Liberation of Kosova" was envisioned for the third phase. The fourth phase, according to this plan, would be characterised by an all-out mobilization and riots against the Serbian forces. The LKCK presently sees itself in the second phase. But even if the merging of the different underground groups succeeds in the future, it will still be difficult to beat the Serbian forces.⁹⁶

Ramush Haradinaj describes⁹⁷ that already in 1994, illegal armed groups operated in Kosova under the umbrella of the LPK. Apart from his group there was another one in the Dukagjini region, one in the Llap region⁹⁸, founded probably as early as 1991 and led by Zahir Pajaziti, and the Drenica group. The Drenica group, with Adem Jashari from Prekaz, Rexhep Selimi and Hashim Thaci was also dating back to 1991 and became the core of the UCK. Xhavit Haliti was representing this group abroad.

⁹⁶ Judah (p.102 cont.) describes the background of the UCK as well. The Gervalla brothers Jusuf and Bardosh are still revered among the Kosova Albanians. The return of their and Kadri Zeka's remains to Kosova in February 2002 was viewed as a national event. It also caused serious differences between LDK and PDK, highlighting the rivalry for claiming the brother's achievements. See: <http://www.unmikonline.org/press/2002/mon/feb/lmm260202.htm>

Although the circumstances of the killing are unclear, most Kosova Albanians believe they were assassinated by the Yugoslav intelligence service. Other people mentioned in this article continue to play a prominent role today. For example Hydajet Hyseni is currently a leading member of the Democratic Party of Kosova (PDK). Fazli Velu's nephew, Ali Ahmeti, who was at that time unknown to the public, later became the political leader of the UCK in Macedonia in 2001 and afterwards founded the Democratic Union for Integration (BDI), currently the strongest ethnic Albanian party in Macedonia and participating in the government. Velu is the leader of the Macedonian UCK's War Veterans. Today, the LPK and the LKCK are no longer significant.

⁹⁷ Hamzaj, Bardh: A Narrative About War And Freedom (Dialog with the Commander Ramush Haradinaj); Zeri, Prishtina, 2000; p. 22 cont.

⁹⁸ The Llap region is located around Podujevo in the north-western part of Kosova, named after the Lab (Albanian: Llap) river.

Gradually, the conflict between the Serbian forces and the UCK intensified and the civilian population was increasingly involved. While Rugova even denied the existence of the UCK in early 1998, something that was perceived as treason and was never really forgotten by the UCK leadership, it was no longer possible to ignore the events⁹⁹.

10. the Rambouillet Conference and International Intervention

The early spring of 1998 saw another escalation of the war. In March, during a Serbian operation in Prekaz, in the Drenica area, one of the founding members of the UCK, Adem Jashari, and more than 50 members of his family were killed¹⁰⁰. Together with other similar incidents, the Jashari-massacre caused a massive outrage in Kosova, and internationally¹⁰¹. Under these circumstances, elections for the institutions of the “Republic of Kosova” took place. LDK was the main contender, and the party as well as Rugova personally scored a victory.

While the international community was increasingly worried about the violence, the UCK was able to control more and more areas in Kosova. Negotiations between Rugova and Milosevic, initiated after international pressure, were held. They eventually led to nothing, but further damaged Rugova’s reputation among the UCK. Former LDK-associated politicians like Hydajet Hyseni and Rexhep Qosja broke with the president and formed a new party, which was closer to the UCK. Additionally, the United States, which had previously condemned the UCK as a “terrorist organization”, changed their view. In June 1998, US Special Envoy Richard Holbrooke met with an UCK representative, and this move was widely seen as a signal that the organization was now officially recognized.

During 1998, several international attempts to facilitate negotiations took place. This was accompanied with increased monitoring on the ground and political pressure. Petritsch mentions¹⁰², that the rivalry between Rugova and the UCK was detrimental to the whole process, and that the international community was struggling to find

⁹⁹ See: Petritsch, Kaser, Pichler, Kosovo/Kosova, p 206 cont. Rugova argued that the UCK was invented by the Serbs to legitimate the oppressive measures against the ethnic Albanian population.

¹⁰⁰ Today the site and the graves of the Jashari family have the character of a national monument for the Kosova-Albanians. Adem Jashari is revered as a national hero.

¹⁰¹ Petritsch, Kaser, Pichler, Kosovo/Kosova, p 211 cont.

¹⁰² Petritsch, Kaser, Pichler, Kosovo/Kosova, p 248 cont.

someone within the UCK who was able to represent the organization in negotiations. In late 1998, the group around Hashim Thaci was identified as a potential partner. Meanwhile the war was going on, and in January 1999 the killing of 45 ethnic Albanians in Racak, close to Stimlje, led to another international outrage.

Eventually, it was possible to arrange negotiations and in early February 1999, a conference was held in Rambouillet, close to Paris. During this conference, the representatives of the UCK became an official factor in politics. Kosova's delegation consisted of representatives coming from the LDK, the UCK, Rexhep Qosja's LBD and two independent representatives¹⁰³. The Kosova-Albanian delegation was still marred by internal rivalries, but Thaci eventually managed to become the speaker, with Qosja and Rugova at his side.

Given the intent of this paper, it would lead too far to describe in detail what happened at the conference in Rambouillet and during a follow up in mid-March in Paris, but two aspects shall be emphasized.

Firstly, the UCK transformed into a serious political factor and especially Hashim Thaci gained a new status as a political leader. Despite his relatively young age (he was born in 1968), Thaci was now on an equal level with far senior representatives like Rugova and Qosja.

Secondly, the negotiations were one of the foundations for the future status negotiations, and they seem like a prequel to what happened in 2007. In Rambouillet/Paris in 1999, Serbia refused to sign the final accord, while the ethnic Albanians did. It remains disputed whether the Serbs were deliberately presented with unacceptable conditions, but eventually the failure of the negotiations was one of the reasons why NATO started a "humanitarian intervention". Due to Russian resistance in the UNSC, the UN did not approve the NATO intervention. During the UNOSEK-negotiations concerning the status of Kosova in 2007, it was also not possible to find a negotiated solution. Like in 1999, Serbia was supported by Russia, while –generally speaking- the Western countries, especially the US, supported the ethnic Albanians.

¹⁰³ It is interesting to note that several of the participants in the Rambouillet Conference were also involved in the UNOSEK-negotiations almost ten years later.

For the status issue, UNSC Resolution 1244(1999) caused a dilemma. The Rambouillet process attempted to re-establish autonomy and human rights, protected by the international community. On the other hand, the Kosova-Albanians were looking for nothing less than independence. Autonomy was obviously no longer an option, and after the disintegration of Yugoslavia, the former demands concerning the status of a Republic were equally irrelevant. For the Serbs and the Federal Republic of Yugoslavia, the whole issue was mainly a domestic matter, and the international community had no need to be involved. The compromise between these conflicting views on Kosovo was an attempt to establish self-governance for an interim period, but without actually making a decision concerning the status. An international administration, UNMIK, was created to implement the UN decision.

However, before taking a closer look at the political situation after the war, it seems necessary to point out that even before the NATO-intervention began in late March 1999, there were Kosova-Albanian attempts to prepare for the post-war situation. This led to a situation, where the post-war international administration had to deal with competing institutions.

11. The Provisional Government of Kosova

At the Rambouillet talks in February 1999, three main Kosova-Albanian political factions were recognised: the UCK led by Hashim Thaci; the LBD coalition under Rexhep Qosja; and Rugova's LDK¹⁰⁴. On 23 February, the three leaders signed an agreement to form a Provisional Government, which would represent the Kosova-Albanians until elections could be held. The Provisional Government was established officially on 2 April with Hashim Thaci as the Prime Minister. It consisted of a Prime Minister and a Deputy Prime Minister, together with eighteen ministers and several other cabinet officials¹⁰⁵. The agreement was soon challenged, because Rugova and the LDK refused to participate. Officially, LDK argued that they were not satisfied with

¹⁰⁴ This chapter is based on the ICG Balkans Report No.76: "Who's Who in Kosovo", published on 31 August 1999

¹⁰⁵ A detailed list together with the party affiliation of the cabinet members can be found in the ICG Balkans Report No.76: "Who's Who in Kosovo", page 10/11

the distribution of power and that the fact that Rambouillet agreement never came into force, but it seems more likely that the party hoped to have a better chance for success outside the government.

Within the Provisional Government, ministerial posts were reserved for the LDK, and some individual members joined, but they were acting outside the framework of the party. The official LDK kept her own government under Bujar Bukoshi.

In order to distribute the political responsibilities, it was agreed that a minister belonging to one political group would have deputies provided by the other parties. Since party allegiances changed and new political groups came into being, this political deal was difficult to uphold. The relationship with UNMIK was somewhat tense, since the Provisional Government had a distinct head start vis a vis the international administration, and it was far better able to operate in its own native environment. While UNMIK was legally in a stronger position, the Provisional Government had the advantage of being able to act immediately. It quickly established authority and began to collect taxes and illegally carrying out a far-reaching range of executive tasks, including policing.

12. 1999 - UNMIK and the International Mandate

After the NATO-intervention in Kosova, the United Nations were finally able to find a compromise about how to proceed further. The key document in this sense is UNSC Resolution 1244 (1999), adopted on 10 June 1999. This resolution decided to establish an international civilian and security presence in Kosova and authorized the Secretary General to appoint a Special Representative.

While the matter of the future status is left open, the document clearly states that the international community will establish an interim administration, and promote self-government in the province. The most important details of the resolution are given below:

10. Authorizes the Secretary-General, with the assistance of relevant international organizations, to establish an international civil presence in Kosovo in order to provide an interim administration for Kosovo under which the people of Kosovo

can enjoy substantial autonomy within the Federal Republic of Yugoslavia, and which will provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo;

11. Decides that the main responsibilities of the international civil presence will include:

- (a) Promoting the establishment, pending a final settlement, of substantial autonomy and self-government in Kosovo, taking full account of annex 2 and of the Rambouillet accords (S/1999/648);
- (b) Performing basic civilian administrative functions where and as long as required;
- (c) Organizing and overseeing the development of provisional institutions for democratic and autonomous self-government pending a political settlement, including the holding of elections;
- (d) Transferring, as these institutions are established, its administrative responsibilities while overseeing and supporting the consolidation of Kosovo's local provisional institutions and other Peacebuilding activities;
- (e) Facilitating a political process designed to determine Kosovo's future status, taking into account the Rambouillet accords (S/1999/648);
- (f) In a final stage, overseeing the transfer of authority from Kosovo's provisional institutions to institutions established under a political settlement;

In the resolution, the matter of independence is not mentioned. It refers only to "substantial autonomy within the Federal Republic of Yugoslavia", but -at least in the Kosova-Albanian mind- the matter of creating "provisional institutions for democratic and autonomous self-government" and the mentioned "transfer of authority" was pointing towards future independence. Annex 2 gave further details and stated that "Agreement should be reached on the following principles to move towards a resolution of the Kosovo crisis". In Paragraph 8 it was stated that:

"A political process towards the establishment of an interim political framework agreement providing for substantial self-government for Kosovo, taking full account of the Rambouillet accords and the principles of sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other countries of the region, (...)"

To Belgrade, this clearly indicated that without Serbian consent, independence would not be possible.

In order to implement UNSCR 1244(1999) UNMIK was created, and the Frenchman Bernard Kouchner¹⁰⁶ became the first Special Representative of the Secretary

¹⁰⁶ Kouchner was the founder, organizer and president of the NGO "Medecins sans Frontieres", and among other political functions he has been France's Minister of Health before his appointment.

General (SRSG). In this function, he was also the first head of UNMIK. In the war torn and chaotic territory, the mission with a contradictory mandate faced a seemingly impossible challenge. Tim Judah describes the dilemma of UNMIK¹⁰⁷:

“It was contradictory, because the Resolution stated clearly that Kosovo was part of Yugoslavia, but it also told UNMIK to prepare the province for something the vast majority of its people did not want, i.e., autonomy within Yugoslavia. What would happen if, after having vigorously promoted democracy, the assembly that the Kosovars elected was told by the international community that it could not do the only thing it wanted to do, which was to declare independence? (...)

While not really wanting to discuss this problem, officials of UNMIK were, for practical reasons, already giving the province all the attributes of statehood. With all Yugoslav authority gone, the UN had established customs on the border of Macedonia and Albania and was using the revenue to fund its administration of Kosovo. There were no Serbian banks left and so, for all practical purposes, the Yugoslav dinar was abolished in favour of the mark. The UN was planning to start issuing identity cards and travel documents along with number plates.”

Chesterman describes the mandate in a similar manner¹⁰⁸ as “near impossible”. He further elaborates that

“Some UN officials reported that Kouchner, head of the mission from July 1999 until January 2001, claimed to read the text of resolution 1244 (1999) twice every morning and still have no idea what ‘substantial autonomy’ meant”.

In order to accomplish the mission, UNMIK was structured into four pillars, each headed by a Deputy SRSG, and led by different international organizations:

- Pillar I: Humanitarian Affairs (led by UNHCR). When UNHCR left the structure in June 2000, de facto only three pillars remained. After the adoption of the Constitutional Framework in 2001, a new Pillar I responsible for “Police and Justice” (United Nations-led) was created.
- Pillar II: Civil Administration (United Nations-led)
- Pillar III: Democratization and institution building (led by the OSCE)
- Pillar IV: Reconstruction and economic development (EU-led)

Kouchner stayed in Kosova until early 2001. In May 2008 he became the French Minister of Foreign Affairs.

¹⁰⁷ Judah, Tim: Kosovo, War And Revenge. London, 2000, page 298

¹⁰⁸ Chesterman: You, the People; p 132 cont.

In addition to the four pillar heads, a Principal Deputy SRSG (PDSRSG) was the immediate Deputy of the SRSG. While the SRSG is traditionally a European, the PDSRSG came from the US¹⁰⁹.

According to Natsis¹¹⁰, UNMIK's activities can be divided into three phases: The first phase lasts from 1999 until 2000, and was characterized by the build-up of the mission and immediate post-conflict measures. In phase II, which lasted from 2000 to 2004, the emphasis was put on the establishment of the Provisional Institutions for Self-Government (PISG). The third phase, after 2004, was dominated by the international attempts to resolve the status issue. Extending this matter beyond the period covered in Natsis' paper, a fourth phase has to be added, covering UNMIK's development after the declaration of independence in February 2008. In the following paragraphs, the emphasis will be put on the UNMIK-related issues, while the developments concerning local politics will be covered later.

In his paper, Natsis gives an account of the various challenges that the International community faced in her early phase:

"On 25 July 1999, the first UNMIK regulation was issued stating that 'all legislative and executive authority with respect to Kosovo, including the judiciary, is vested in UNMIK and is exercised by the SRSG'. (...)

During the first phase of the international administration, emphasis was put on restoring the provision of the basic civil administrative services and the gradual transfer of power to the local authorities. To this end, six months after the deployment of the international civil presence, UNMIK set up the Joint Interim Administrative Structure (JIAS). JIAS was established with the purpose of eliminating the parallel administrative mechanisms that Serbs and Albanians had formed in light of the power vacuum caused by the withdrawal of the FRY forces. Moreover, during this first phase, the problems in the coordination, cooperation and interaction between and within the various parts of the international administration became apparent. As Alexandros Yannis, a former UNMIK official, stresses, UNMIK's structure itself, presented numerous problems of dualism, division as well as excessive diversity within each pillar's working methods and mentality. Significant problems were also present in the UNMIK-OSCE and the UNMIK-KFOR coordination of action. It is worth examining another negative aspect of UNMIK's approach pointed out by the Kosovo Ombudsperson with regard to the scope of powers that have been vested in the international civil authority. Mr. Marek Antoni Nowicki keeps emphasizing in his annual reports to

¹⁰⁹ An overview can be found on the UNMIK website at <http://www.unmikonline.org/srsg/former.htm>

¹¹⁰ Natsis, Yoannis: U.N. in Kosovo: 1999-2005 An Assessment of international administration. The document can be found at: <http://www.eliamep.gr/eliamep/files/PNO6.02.pdf>

the Special Representative that 'UNMIK itself is not structured according to democratic principles' while adding that 'it (UNMIK) entirely ignored one of the basic principles of democracy, namely the division of powers' and concludes that 'this disregard for democratic values continues to have negative ramifications for the functioning and above all the democratic legitimacy of the UN mission in Kosovo'. Adding to the last point made by the Kosovo Ombudsperson concerning the credibility of the UN mission in Kosovo, we should note that one of the most serious mistakes during the first steps of UNMIK was the solution it proposed on the question of the applicable law in Kosovo. UNMIK's first regulation stated that the legislative framework that would be implemented in Kosovo would be the one that had been implemented before the start of the NATO operation, causing the outrage of the Kosovo Albanians. This decision damaged, right from the onset, the relationship between UNMIK and the local Kosovo authorities. UNMIK corrected its mistake after four months with the endorsement of Regulation 1999/24 (12 December 1999) which cancelled the July Regulation and reinstituted the 1989 Kosovo autonomy provisions. One of the first successes of the international administration (under Pillar I and in cooperation with the OSCE) during the first phase was the holding of local municipal elections on 28 October 2000. The remaining Kosovo Serbs (about 100.000) did not take part in these much anticipated elections following Belgrade's propaganda of non-cooperation with the international administration mechanisms. In fact, the Kosovo Serbs' refusal to participate in the elections demonstrates clearly how difficult it was for the international civil authority to implement its mandate on the ground in connection with the local authorities. The reason for this was that from the very beginning the two major Kosovo communities (Kosovo Serbs and Albanians) tended to interpret every policy outlined by UNMIK as favouring the 'other' and thus focused their efforts on boycotting it. Therefore, in the case of the elections, the Kosovo Serbs accused UNMIK of allowing Kosovo Albanians to seize political control of Kosovo and thus, preferred not to legitimize that prospect by abstaining from the ballot."

12.1. Conclusion

As we have seen above, UNMIK was (and still is) an exceptional mission. It was the first attempt by the United Nations to directly govern a territory. From the beginning onwards, an ambiguous mandate, sometimes unclear and rivaling structures and a reputation for ineffectiveness had a negative effect on the perception of UNMIK within the local population. The ethnic Albanians were willing to accept the international administration as another step towards independence. With the same argument, the Kosovo-Serbs, under the influence of Belgrade, rejected the mission from the first minute. After the declaration of independence, the situation changed. For the Kosovo-Albanians UNMIK became irrelevant but is still tolerated, while the Serbs are now emphasizing the importance of the mission, since in comparison to independence, it represents the lesser evil.

The potential troubles of the mission were rather obvious from the beginning. Brand¹¹¹ mentions for example that the pillar structure had serious shortfalls with consequences that were felt in the day-to day work of the International administration:

This “pillar structure” was apparently chosen in an attempt to learn from the difficulties in coordinating international agencies in other comparable situations, such as post-Dayton Bosnia and Herzegovina. In practise, the “pillar structure” found its expression in daily executive meetings of the SRSG, his Principal Deputy (PDSRSG), COMKFOR and the pillar heads (the DSRSGs) as well as regular coordination meetings on the regional level. The day-to-day work, however, was carried out by each pillar separately, with little or no proper coordination at all. It is therefore hard to speak of UNMIK as one mission, except when one subsumes only the SRSG’s office and Pillar II, i.e. the UN Civil Administration, under the term UNMIK. At the same time, the UN and the SRSG’s office’s need to coordinate important decisions with the UN Secretariat in New York has often led to frustrating delays and factors for decisions which have little to do with Kosovo realities.

Apart from administrative difficulties, the lack of credibility concerning the mission statement set in Paragraph 11 (c)¹¹² of UNSC 1244(1999) was striking and has been criticized even by an internationally appointed representative, the ombudsperson of Kosovo:

“UNMIK is not structured according to democratic principles, does nor function in accordance with the rule of law, and does not respect 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.”

This statement was made in the Second Annual Report (2001-2002) of the Ombudsperson Institution in Kosovo, published in July 2002¹¹³. The report states further that:

“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. Amongst the earliest actions of the Special Representative of the Secretary-General of the United Nations (SRSG) was the promulgation of

¹¹¹ Brand, “The Development of Kosovo Institutions and the Transition of Authority from UNMIK to Local Self-Government”; p 10

¹¹² ...Organizing and overseeing the development of provisional institutions for democratic and autonomous self-government pending a political settlement, including the holding of elections...

¹¹³ The full text can be found at: <http://www.ombudspersonkosovo.org/?cid=2,74&date=2002-00-00>

an UNMIK Regulation vesting total executive and legislative powers in himself. In the same Regulation, he also accorded himself administrative authority over the judiciary. The SRSG can and does act outside the bounds of judicial control to restrict or deny fundamental human rights to individuals in Kosovo.”

Chesterman defines the dilemma of the UN administration¹¹⁴:

“How does one help a population prepare for democratic governance and the rule of law by imposing a form of benevolent autocracy? And to what extent should the transitional administration be bound by the principles that it seeks to encourage in the local population?”

Later, he gives an answer to this question¹¹⁵:

“Transitional administrations are generally created to help a population achieve some form of political transformation – most obviously from conflict to peace, but also from informal to formal political structures. In order to oversee such a transformation effectively and to ensure its durability, it is essential that the local population have a stake in the creation of these structures and the process by which power is transferred. Consultation is also important for the day-to-day governance of the territory. But final authority remains with the international presence and it is misleading to suggest otherwise. If the local population had the military and economic wherewithal to provide for their security and economic development, then a transitional administration would not have been created. Where a transitional administration is created, its role is –or should be– precisely to undertake military, economic and political tasks that are beyond existing local capacities.”

This statement can be used as a justification on why UNMIK was created and acted the way it was or still is. Nevertheless, an additional question immediately arises concerning the criteria necessary for the above-mentioned transfer of power. UNMIK’s mandate was deliberately unclear and there was no mentioning of a defined end-state. It took several years after the creation of the mission until this matter was addressed for the first time. In 2003, the concept of “Standards before Status” was developed as a way to measure progress and to define a way in which the increasingly urgent matter of Kosovo’s status could be addressed. The details are discussed below.

13. The Joint Interim Administrative Structure

¹¹⁴ Chesterman: *You, the People*; Chapter 4, p 127 cont.

¹¹⁵ Chesterman: *You, the People*; p 143

As mentioned above, the first phase of UNMIK was committed to manage the immediate post-conflict phase. Despite the inherently un-democratic character of the mission, it was clear that the mandate demanded to establish some form of cooperation with local political structures. Consultation with the local actors was a necessity. Despite the collapse of the former Yugoslav administration and the not yet fully established international presence, Kosovo was not a power vacuum. As a general reference to similar situations, Chesterman points out¹¹⁶:

“It is commonly assumed that the collapse of state structures, whether through defeat by an external power or as a result of internal chaos, leads to a vacuum of political power. This is rarely the case. The mechanisms through which political power are exercised may become less formalized or consistent, but (...) do not simply disappear when the institutions of the state break down. Non-state actors in such situations may exercise varying degrees of power over local populations, at times providing basic social services from education to medical care. Even where non-state actors exist as parasites on local populations, political life goes on.”

As mentioned above, the situation immediately after the war was thoroughly confused. There were two rivalling ethnic Albanian “governments”. One, representing the “Republic of Kosova” (RK) was based on Ibrahim Rugova’s LDK and her parallel structures. Although the RK government led by Prime Minister Bujar Bukoshi had spent most of its time in exile, local LDK structures were mostly functional. Despite controversial events during the war, like Rugova’s public appearance with Milosevic in April 1999, shortly after the beginning of the NATO intervention, he still was a vastly popular and respected figure.

The other institution, called the “Provisional Government” was formed around the UCK leadership, which claimed legitimacy simply because (in their perspective) they had won the war, whereas the Rugova’s structures had not achieved anything with their policy of passive resistance. Consequently, one main issue for UNMIK was to bring those two rivalling Kosova-Albanian factions together and formulate a power sharing mechanism. While only UNMIK was legitimate, the other two institutions were recognized by part of the local population and had at least a certain amount of power and influence, but they gradually had to be abolished.

¹¹⁶ Chesterman: *You, the People*; p 128

The Kosovo Serbs were virtually left in the open, because Belgrade's authority was officially replaced by the international administration, and they had no other representative institutions.

Brand gives a good account, how the situation on the ground actually was¹¹⁷:

When UNMIK began to deploy beyond Prishtina in summer 1999, the municipalities were soon recognised to be of central importance for the governance of the territory after the war. Remarkably, the parallel structures, in particular the "UCK-led Provisional Government of Kosova" (QPK), were much faster to establish (or retain, in the case of the Serb-majority municipalities) effective authority where the UN administration lost much of its credibility by considerable delays. In the immediate aftermath of the war and the massive return of Kosovo Albanians to their towns and villages, 'self-appointed' local structures, with the blessing of the UCK, re-established the fundamental conditions for normal life on an emergency basis, i.e. infrastructure and services. Many Kosovo Albanians, who had been dismissed in the early 1990s, simply went back to their old work places. There was no uniform picture across Kosovo: in some places, local structures went as far as issuing car license plates (Gjakova), in others, the achievements and level of organisation were much lower.

Without the effective assistance and coordination by the central authority, UNMIK, these structures were, however, not able to emerge from their emergency stopgap nature. Since the 'self-appointed' mayors initially refused to recognise UNMIK's supreme authority and rather expressed their loyalty to Thaci's QPK and his "Minister of Local Government", Rame Buja, UNMIK was unable to officially recognise them and normalise its business on the local level. Humanitarian agencies took a more pragmatic approach and often worked with whomever there was to get things on a local level done, which often included the unofficial, 'self-appointed' local administrations. In some areas, such as in Peja region, the regional UNMIK approach was not to compete, but to cooperate with these structures, and thereby indirectly legitimise them. In doing so, UNMIK sometimes succeeded in including representatives from other parties and minorities in local structures."

Therefore, while Kosova was in fact governed by UNMIK, it was necessary to establish some form of political structure and create a link with the local representatives. The so-called Joint Interim Administrative Structure (JIAS) was established within about six months, and not without significant frictions¹¹⁸. Its

¹¹⁷ Brand, p 24

¹¹⁸ In his paper (p 10 cont.), Marcus Brand gives a detailed description of the challenges that UNMIK had to face: "Only one day after the arrival of SRSG Kouchner in Kosovo did the Kosovo Transitional Council (KTC) have its first meeting. While both the UCK and some Kosovo Serbs participated, the LDK (Rugova's party) had not accepted the invitation. The LDK's position was that it would refuse to participate unless the other parties represented in the RK Parliament were also invited. After a massacre of 14 Kosovo Serbs on 23 July, the Serb representatives withdrew from the KTC in protest. Yet, they returned for a meeting on 21 August only to present a proposal for the "cantonisation" (i.e. ethnic division) of Kosovo, which was fiercely rejected by the Albanian KTC members. Only on 25

institutions resembled the separation of powers in a conventional state, but they were not yet democratically elected. The local representatives had no real executive power but merely an advisory role, and the judicial system was far from being functional.

Brand¹¹⁹ describes how the institutions came into being:

It was clear that UNMIK could only gain recognition by the Kosovo population, in particular its political elite, if it shared administrative responsibility with local representatives. In the absence of any reliable data on the level of support for each political faction, the SRSG eventually decided to bring the various Kosovo Albanian political factions in on equal terms. On 13 December 1999, SRSG Kouchner succeeded in brokering the conclusion of an agreement between Hashim Thaci, Ibrahim Rugova and Rexhep Qosja. The draft agreement was then sent to the UN Secretariat for approval, which was immediately received. Eventually, on 15 December 1999, the "Agreement on a Kosovo-UNMIK Joint Interim Administrative Structure (JIAS)" was formally signed by the three Kosovo political leaders, who each signed "for" their respective political party, while the SRSG "witnessed and accepted the agreement". Immediately after the signing ceremony, the first session of the Interim Administrative Council (IAC) was held.

A description of the institutions and their function is can be found on the UNMIK website¹²⁰:

From February 2000 on the JIAS officially replaced all previous parallel structures for revenue collection and provision of public services. It was intended to be a provisional set of institutions, until democratic elections would be held to enable a more permanent structure.

The JIAS had three distinct elements (shown in the chart below):

- the Office of the Special Representative of the Secretary-General (SRSG),

August did the KTC meet for the first time with the participation of all key leaders: Hashim Thaci, Ibrahim Rugova, and the Kosovo Serb representatives Bishop Artemije and Momcilo Trajkovic."

¹¹⁹ Brand; p 11. In a footnote on the same page he gives a description of Rexhep Qosja's background: "Rexhep Qosja, a well known Kosovo Albanian writer and professor of literature, had been a member of the LDK for some years, before he broke with Rugova and established his own political party. Subsequently he became the leader of a multi-party coalition (United Democratic Movement, Levizja e Bashkuar Demokratike or LBD), which for some time figured as the third political force next to the LDK and the UCK. In the course of 2000, the LBD lost much of its appeal to voters in Kosovo, and support for Qosja shrank. He eventually withdrew from politics." After the municipal elections in October 2000 the newly founded party of the former UCK leader Ramush Haradinaj (Alliance for the Future of Kosovo, AAK) emerged as the third-strongest political force among the Kosova Albanians. Consequently the SRSG appointed Haradinaj as a replacement for Qosja in the IAC.

¹²⁰ The picture as well as the basic description of the JIAS functions was taken from <http://www.unmikonline.org/1styear/jiaschart.htm>

- the Kosovo-wide oversight and advisory organs representing Kosovo's institutions and political groupings, and
- the Pristina-based administrative departments responsible for administration, service delivery and revenue collection.

At the municipal level, a second level of administrative organs comprised the offices of the UNMIK municipal administrators, administrative councils representing local institutions and parties, and administrative boards with recruited members responsible for local services. The police service remained solely an UNMIK responsibility, while NATO/KFOR remained responsible in the military field.

The oversight and advisory organs were divided into several institutions, representing a precursor to a future cabinet and parliament:

- The Interim Administrative Council (IAC): it was intended to make policy recommendations, to serve as an advisory cabinet for the SRSG and as an executive board for the JIAS. It achieved its full membership on 11 April 2000, when the Serb National Council nominated its representative to attend as an observer¹²¹. The IAC should define the policies that the other JIAS components, the 20 administrative departments and the municipal structures were to follow. It also recommended new regulations and amendments to applicable law.

The establishment of the IAC¹²² was based on the above mentioned agreement signed in December 1999 with the three Kosovo Albanian political leaders that were party to the Rambouillet Accords of June 1999 (Hashim Thaci for the PDK, Ibrahim Rugova for the LDK and Rexhep Qosja as a representative of LBD (United Democratic Movement)). As mentioned above, the institution was completed in April 2000, when the Kosovo Serbs decided to nominate Rada Trajkovic as an observer to this institution. Together with senior UNMIK officials, the IAC constituted a provisional mechanism for sharing the management of Kosovo's administration of the province until elections were held in late 2000.

¹²¹ The rather late decision to nominate a Kosovo-Serbian representative as well as the fact that this representative acted only as an observer can be seen as an indicator for the reservations that the Serbs had. With only one representative vis a vis three ethnic Albanians it was more than obvious that the Serbs were an ethnic minority and therefore had lost the privileged role they enjoyed under the Milosevic regime. Further, it has to be taken into consideration that the Serbian representative had to work in the same institution where a former UCK-representative played an official role.

¹²² Details were taken from: <http://www.unmikonline.org/1styear/iac.htm>

In addition to the four local representatives, the IAC consisted of four UNMIK members (usually the UNMIK Pillar Heads) and one observer for the local representatives and UNMIK. Decisions were taken either by consensus or by a three quarters majority of those present and voting, but not binding for the SRSG.

The other local institution was the

- Kosovo Transitional Council (KTC) was established in July 1999. Nominally, it had 36 members representing the full spectrum of Kosovo society. It was comparable to a parliament and constituted the highest-level advisory body of Kosovars to UNMIK. Under the JIAS Agreement of 15 December 1999 the KTC was expanded with the aim to reflect the pluralistic composition of Kosovo better. This increased the representation of political parties, and brought in representatives of minority and religious communities, as well as members of civil society.

In line with UNMIK's mandate, the (KTC¹²³) was viewed as a step to promote democracy and to lead towards the "substantial autonomy and self-government" envisaged by Security Council Resolution 1244. In general, the institution was seen as a "testing ground for democratic procedures and tolerance building in the institutions".

KTC members were appointed by the SRSG with the intention to function as representatives of the people. The KTC members were divided into five groups: the main political parties, members of the IAC, religious community leaders, representatives of national communities and independents together with representatives of civil society.

KTC members were regularly informed by representatives from the international administration, from KFOR and about matters concerning the IAC. Like in a parliamentary system, commissions and working groups were established to deal with details.

- The so-called Administrative Departments were divided among the UNMIK-Pillars and can be compared to ministries in a conventional state.

¹²³ Details were taken from: <http://www.unmikonline.org/1styear/ktc.htm>

They were led by a dual leadership consisting of a Kosovo representative nominated by a particular political party and one senior UNMIK international staff member¹²⁴. Both Co-Heads were subject to SRSG approval. As a group, the Kosovar Co-Heads reflected a formula agreed by the Interim Administrative Council under which co-management of the departments was shared among the three IAC members' parties, three national communities (Serb, Bosniac and Turk) and a political independent.

On the municipal level, Municipal councils and boards were established, they were seen as an instrument to decentralize the management and delivery of public services to a level where they can be influenced by the communities they serve¹²⁵. The administration of each municipality and day-to-day running of its services was the responsibility of a Municipal Administrative Board, headed by an UNMIK Municipal Administrator. The Administrator was authorized to appoint a president and vice-presidents of the Board, as well as department heads. After the first local elections in October 2000, democratically elected officials replaced them, while the Municipal Administrator and the basic system of municipal administration remained. While the Municipal Board acted as the executive body at the local level, it was guided in terms of policy by its Municipal Council, whose President and members represented a spectrum of local opinion. Pending municipal elections, they were also appointed and headed by the respective Municipal Administrator.

Concerning the Kosovo Serbs, the situation in the JIAS institutions remained complicated. Brand gives an account of the situation¹²⁶:

Much of the IAC's life has been characterised by the SRSG's endeavours to bring the Kosovo Serbs into the fold and make them participate fully in the JIAS. As mentioned above, the initial reaction of the Kosovo Serbs was hostile. Only gradually could the group around Bishop Artemije in Gracanica be convinced that Kosovo Serbs would be marginalized if they continued to exclude themselves from the decision making process. On 2 April 2000, the Serb National Council (SNC) in Gracanica decided to send observers to the IAC and the KTC for three months, and nominated two Serbs to take up the positions as Co-Heads for two Administrative Departments. (...)

¹²⁴ A detailed overview is available at: <http://www.unmikonline.org/1styear/jiasdept.htm>

¹²⁵ A similar idea can be found at a later time in Ahtisaari's CSP. In the CSP the concept of decentralization is viewed as an instrument of protecting and strengthening minority rights, especially for the Serbian community.

¹²⁶ Brand, p 16

The decision of Gracanica was received with relief among the international community in Kosovo, while the reactions of Kosovo Albanian politicians and the media were positive, but more cautious. Several criticized the conditionality and the 'observer status' of the Serb offer. (In a footnote of Brand's original text it is noted that: Although the rival SNC in Mitrovica initially appeared to pursue a neutral position, now, a deep rift within the Serb community became apparent, as Oliver Ivanovic dismissed the Gracanica decision as a "historical mistake".)

13.1. Conclusion

The parallel structures on the Albanian side and the ethnic mistrust between Serbs and Albanians presented a special challenge for UNMIK. Despite the traditionally positive reporting from UNMIK, problems remained. Brand characterizes the role of the KTC especially critical¹²⁷:

"The KTC was, however, used rather as a platform for politicking for the various participants, than for any serious participation in UNMIK's policy-making process. It was marred by permanent crises and ruptures, and never established a working agenda."

One of the key elements in the creation of the JIAS was the end of the parallel administrations. As UNMIK stated, the idea was to dismantle the parallel structures of various governments and to enable cohesive governance under the guidance of the United Nations. As late as early February 2000, the IAC agreed and endorsed the dissolution of parallel structures, defined as "any body not authorized under Resolution 1244 that claimed or attempted to exercise any form of public authority in Kosovo". Officially, on that date, the "Provisional Government of Kosovo" established by the UCK and the LDK-led Government ceased to exist.

However, this was not the case in the Serbian dominated areas, where a parallel administration exists even after the declaration of independence almost ten years later. The foundation for this still extremely problematic situation was laid already at the immediate beginning of the JIAS institutions. Brand¹²⁸ mentions that the parallel structures were not directly abolished, but at least partially recognized, since the JIAS agreement mentioned that they "shall be transformed and progressively integrated, to the extent possible and in conformity with this agreement, into the Joint Interim

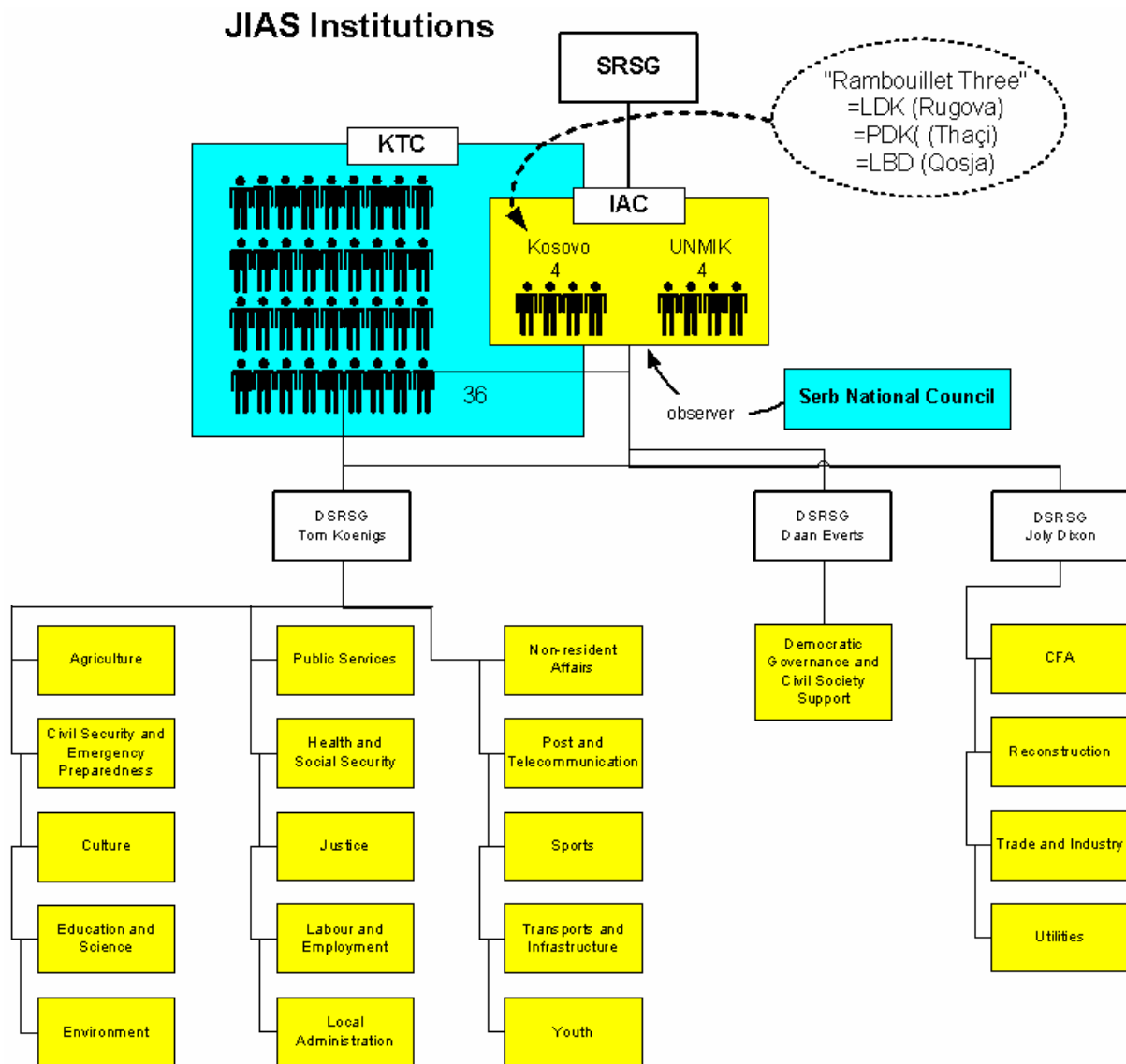
¹²⁷ Brand, p 11

¹²⁸ Brand, p 12 cont.

Administrative Structure". Consequently, the Serbs were able to maintain the status quo in their sphere of influence:

"Although the signatories [of the JIAS agreement] almost certainly did not intend to also include Serbian "parallel structures" into this formula, UNMIK's municipal administrators in Kosovo's Serb northern municipalities interpreted it in this way when they simply recognized the "existing" Serbian municipal assemblies and executives as the official JIAS ones in spring 2000. From the outset, the objective of participation of Kosovo Serbs was an integral element of the JIAS agreement, which stipulated that Kosovo Serb representatives would be included at all levels of the joint administration. However, the Kosovo Serbs were not ready to accede to the agreement, dismissed it as a violation of Resolution 1244, and instead demanded self-government for the remaining Serbs in Kosovo. Although a small part of the Kosovo Serb community later participated in certain JIAS structures as "observers", Kosovo Serbs never formally acceded to the JIAS agreement."

Generally speaking, while the Kosova Albanians at least gradually came to accept the JIAS institutions and –despite frequent attempts to undermine their efficiency– were part of the official political system, the Serbs never became fully integrated. It is striking how the situation concerning the Serbian population and their representatives in late 1999 and during 2000 resembles the situation even in 2009.



The illustration above was taken from: <http://www.unmikonline.org/1styear/jiaschart.htm>

14. The Constitutional Framework and Provisional Institutions for Self Government

From the beginning on the JIAS structure was meant to be provisional. In October 2000, the first municipal elections took place, and municipal administrative institutions (Assemblies and Municipal Presidents) were established. In addition, UNMIK was working to develop the political structures on the provincial level. Like a constitution in a regular state, a document establishing the rules of the game was necessary. The main document in that sense was the Constitutional Framework on Provisional Self-

Government, adopted on 15 May 2001. In the abstract of his paper, Brand¹²⁹ mentions that:

“The document is not a constitution as such, as all legislative and executive authority remains with the SRSG himself, it provides rules for the creation and functioning of and interaction between provisional institutions, such as the Kosovo Assembly, the President of Kosovo and the Government, comprised of a Prime Minister and Ministers. General elections were held in November 2001, and the provisional institutions were formed accordingly.”

Although formally the development constituted a significant progress in institution building, and democratic development, there are critical voices as well. For example, concerning the KTC and the JIAS, Chesterman¹³⁰ mentions that:

“No one was under the illusion that these institutions wielded any actual power. In the wake of the October 2000 regime change in Belgrade, Serbia increased cooperation with UNMIK, suggesting that some sort of autonomy arrangement might be possible within a reconstituted Federal Republic of Yugoslavia. This caused anxiety within the Albanian population (...). In the course of drafting the Constitutional Framework for Provisional Self-Government, adopted in May 2001, these tensions in the governance structures put UNMIK officials in the odd position of having to resist Albanian attempts to include reference to the ‘will of the people’. Such a concept remained controversial in Kosovo precisely because the one thing that excited all parties – the final status of Kosovo- was the issue on which senior UN staff officially had to profess not to have an opinion.”

Additionally, Chesterman points out¹³¹, that the adoption of the Constitutional Framework was by no means a process without frictions:

“These structures [established by the Constitutional Framework] reflected the fact that politics in Kosovo continued to be fought strictly along ethnic lines. With the exception of the conflation of the Roma, Ashkali and Egyptian communities (...) every active political party in Kosovo remained ethnically ‘pure’. (...) Quite apart from the implicit acceptance of ethnic politics, however, UNMIK’s stated hopes of inter- and intra-community compromise were not supported by the process that led to adoption of the framework. None of the local participants agreed to the text as finally adopted – a ‘compromise’ that had to be forced on them by [SRSG] Haekkerup.”

¹²⁹ Brand, “The Development of Kosovo Institutions and the Transition of Authority from UNMIK to Local Self-Government”

¹³⁰ Chesterman: *You, the People*; p 133 cont.

¹³¹ Chesterman; p 134

Nevertheless, as time went by, the necessity to create some form of legitimate, accountable and democratic institutions became more and more obvious. Brand mentions¹³² that:

While the international status or the status within the Yugoslav constitution might still be undefined for some time to come, in order to be called 'democratic', Kosovo needed to develop democratic state institutions based on constitutionality, legality, transparency, accountability, a system of checks and balances and a separation of powers. (...)

In the meantime, an interesting, but predictable rift between the Kosovars and the international administration had emerged. While Kosovars were calling for a constitution ever more loudly, the international community has been shying away from the notion or the concept of a constitution, as this would presumably prejudice the outcome of the political process determining the final status of Kosovo. The international community therefore preferred to speak of a "legal framework" instead. Seemingly, the dispute was about semantics and symbolism. As pressure grew to hold central level elections in Kosovo in order to determine a primary negotiating partner, the need arose for defining what body with what competences would be created by such elections. Initial thinking varied from a complete constitutional text (as the texts included in the Rambouillet draft agreement or a draft developed by a team of Swiss academics) to a mere inflated version of the regulation on Kosovo's recently established municipal assemblies. In any case, the text elaborated was intended to fall short of both Rambouillet and the 1974 provincial constitution. Before SRSG Kouchner left UNMIK, he had instituted a joint international and Kosovar "Working Group" to work out a draft regulation for creating a central consultative/legislative body. The Kosovar experts were appointed by the Kosovo IAC members.

The preparatory work was taken up by the Joint Working Group on the Legal Framework under the new SRSG Hans Haekkerup in January 2001. With the arrival of the new SRSG, the drafting was again reserved to a small group of internal international advisers, who were tasked to prepare a set of regulations determining the structure, competencies and the relationship of the central assembly to other institutions. Among the priorities outlined by the new SRSG, the highest was the establishment of a legal framework for provisional self-government on a Kosovo-wide level. During 2000, the Contact Group had discretely discussed drafts for the new legal framework. A draft thus elaborated already contained all the essential aspects, which were later formally incorporated into the legal framework. The only critical issues at the time were the extent to which the FRY's sovereignty would be explicitly stressed in the document and whether the FRY should be formally involved in the elaboration of the legal framework, an aspect that Russia in particular was insisting on, and the nature of the advice the Contact Group would give to UNMIK."

The document itself is divided into 14 Chapters preceded by a preamble. Apart from mentioning aspirations towards creating a democratic society and generally promoting a positive development for all Communities in Kosova, the Constitutional

¹³² Brand, p.30 cont.

Framework laid the foundation for those institutions that were to be developed after general elections. Since the status was still not defined and UNMIK wanted to avoid the impression of promoting any aspirations towards future independence, the somewhat awkward expression “Constitutional Framework for Provisional Self-Government” was chosen. De facto, the document had a close resemblance to a “real” constitution. The main Chapters are¹³³.

1. Basic Provisions
2. Principles to be Observed by the Provisional Institutions of Self-Government
3. Human Rights
4. Rights of Communities and Their Members
5. Responsibilities of the Provisional Institutions of Self-Government
6. Law and Order
7. Kosovo Protection Corps
8. Powers and Responsibilities Reserved to the SRSG
9. Provisional Institutions of Self-Government
10. Ombudsperson
11. Independent Bodies and Offices
12. Authority of the SRSG
13. Authority of KFOR
14. Final Provisions

Although the Provisional Institutions of Self-Government (PISG) had an important role, which are comparable to the respective institutions in other countries, the SRSG remained the final authority in Kosova. He had virtually unlimited political power and was only responsible to the UN Secretary General. Especially political matters traditionally associated with full statehood, like foreign policy, as well as internal and external security were kept under international responsibility.

Because of the special importance of the PISG, the main provisions of Chapter 9, as far as they concern the legislative and executive branch, shall be explained briefly:

The Assembly:

¹³³ The full document is available online at: <http://www.unmikonline.org/constframework.htm>

It was the highest institution of provisional self-government and consisted of 120 members, elected by secret ballot for a three-year mandate. 100 seats were distributed among all political entities according to a proportional system. Since there was no threshold for entering the Assembly, one percent of the votes roughly translated into one seat. The other twenty seats were reserved for minority communities. Ten belonged to the Serbs; the other ten were distributed among the other ethnic groups¹³⁴. The Assembly work was done in committees, and the main responsibilities were: adopting laws and resolutions in those areas defined in Chapter 5, electing the President of Kosovo, endorsing the Prime Minister together with his cabinet and instructing the Government to prepare draft laws. The procedure for adopting laws involved several readings and the necessity for a final signature by the President. Generally, it was comparable to the procedure in other countries. Nevertheless, one crucial provision was that laws were only effective after promulgation by the SRSG. The official languages of the Assembly were Albanian and Serbian; all promulgated laws had to be published in the Albanian, Bosniac, English, Serb and Turkish languages.

The President of Kosovo:

Elected by the Assembly for a three-year mandate in a secret ballot, the President had a mainly ceremonial function. The nomination was reserved for the party with the largest number of seats in the Assembly or it depended on the support of at least 25 members. In order to be elected, the candidate had to gain a two-thirds majority. If this was not possible after two rounds of voting, a majority of votes of all members of the Assembly was sufficient. The President had to “represent the unity of the people and guarantee the democratic functioning of the Provisional Institutions of Self-Government”. It was explicitly forbidden “to hold any other office or employment”¹³⁵. Representation of Kosovo, also possible in external relations, had to be done in coordination with the SRSG. An important political function was that the President had to propose a Prime Minister for endorsement by the Assembly.

The Government:

¹³⁴ Of these ten seats, four were reserved for the Roma, Ashkali and Egyptian Communities, three for the Bosniac Community, two for the Turkish Community and one for the Gorani Community.

¹³⁵ It is worth to mention that the first President of Kosovo, Ibrahim Rugova, kept his position as President of the LDK for nearly the full time of his tenure (he died during his second term in January 2006). Rugova's obvious breach of the Constitutional Framework was tolerated by UNMIK.

It represented the executive authority and consisted of the Prime Minister and the Ministers. At least two Ministers had to be from a minority Community, and out of these two, at least one had to be from the Serbian Community. If there were more than twelve Ministers, a third minority Community representative had to be included. While the President proposed the Prime Minister to the Assembly, it was the Prime Minister's responsibility to choose his cabinet. The majority of the Assembly then elected the Government. While it was possible for the Prime Minister to replace any cabinet member without the consent of the Assembly, an eventual resignation of the Prime Minister meant that the whole government had to be replaced. Government decisions had to be taken by consensus. In the case of a vote, the majority of the Ministers present and voting decided. The official languages of the Government were Albanian and Serbian, but the non-Serb minority Community members were allowed to use their own language.

As a consequence of the Constitutional Framework, the JIAS Departments were reorganised into a structure that resembled formal ministries. However, it has to be pointed out that matters generally connected with formal statehood, especially internal and external security, as well as foreign policy, remained exclusively under international control.

14.1. Conclusion

Considered from the point of institution-building, the Constitutional Framework was clearly some form of progress. While the document was not a constitution in name, it is difficult to deny that it was exactly that in a practical sense. Formal political structures and procedures were regulated, and the institutions associated with a regular state came into being. Although the matter represented a new step in the development of Kosovo, it has to be noted that this development was not exactly revolutionary, since already under the 1974 constitution the province had regular political institutions and bodies designed to facilitate the autonomy granted within Serbia and Yugoslavia.

From the viewpoint of the international community, an important step was made in the sense that -although still being the supreme authority- UNMIK was delegating

responsibility to local structures and thus had made some progress in implementing the mission's mandate. Nevertheless, the constant internal disputes among the local representatives and the eventual necessity to "dictate" a "compromise" clearly pointed out that Kosova still had a long way to go. Additionally, once again it became obvious that it was extremely difficult to get the Serbs on board. Although there were provisions to secure minority rights, especially those of the Serbian community, it was not possible to get substantial consent from the local Serbian representatives and to reduce the influence from Belgrade.

From the point of the local Kosova-Albanian majority, the constitutional framework was definitely positive. Although they were not able to produce a consensus on their own, it was clear that the international administration was now in a different position than before. Although the whole issue was resolved in a way that resembled colonial rule, with the creation of state-like institutions a new status had been achieved nevertheless. This new status was still far from the desired end-state of full independence, it more resembled something like the former autonomy in Serbia. However, although UNMIK was still formally in control, the international administration now had to take into account the views of the local representatives. Whether the local Serbs accepted the new situation did not matter too much to the Kosova-Albanians, since this matter was still mainly an international responsibility.

Brand points out the achievements as well as the shortfalls of the document and the process in general¹³⁶:

"On 15 May 2001, SRSG Haekkerup signed the Constitutional Framework for Provisional Self-Government ('Constitutional Framework') in the form of a regulation, which outlines the establishment and functioning of institutions following elections in November 2001. Strangely, the document was also formally signed by two of the four Kosovo representatives in the IAC (Rugova and Haradinaj) although this was untypical (to say the least) for an UNMIK regulation, as the IAC did officially not possess any legislative powers. Thaci refused to put his signature to the text as, in his view, it did not go far enough towards the establishment of statehood for Kosovo.

Crucially for the acknowledgment of Kosovo's identity and statehood, the Constitutional Framework explicitly recognized Kosovo's legal subjectivity, as it acknowledged Kosovo's tradition of partial statehood by reference to Kosovo's "historical, legal and constitutional development" and by setting out Kosovo as an "undivided territory", with a "people" and democratic self-government on the

¹³⁶ Brand, p 31/32

municipal and central level. (In a footnote, Brand explains: Before the long awaited clarification by the Constitutional Framework, Kosovo had an international administration, but no legal personality. Before 1989, Kosovo was one of the eight federal units of the later disintegrated SFRY, and enjoyed autonomy both within the Socialist Republic of Serbia and within the federal state. It had its own constitution and state institutions, such as a judicial system including a constitutional court, police, legislative assembly, executive government and representatives in federal organs.)

Yet, while the Constitutional Framework eventually goes quite far in undermining FRY sovereignty over Kosovo, it carefully protects UNMIK's own ultimate authority, steering clear of procedural or substantive limits to the exercise of its authority or even allowing any subordination under its own laws or standards."

It has been pointed out that the creation of the Constitutional Framework was the basis for formalized institution building and the creation of political structures based on elections. Before we discuss the practical consequences and the implications of the election results¹³⁷, it seems necessary to have a closer look at the political actors.

15. The Main Political Parties and Organizations

For a better understanding of the practical consequences connected with the various elections that were held based on the Constitutional Framework, it seems necessary to give a short description of the main actors. While the various political parties are the main representatives in the political system, it has to be pointed out that the political life in Kosova is very much driven by personalities and personal relationships. In most cases, those personal relations have a larger influence than in other countries and they sometimes overrule formalized structures.

15.1. Democratic League of Kosova (Lidhja Demokratike e Kosoves – LDK)

LDK is the oldest Albanian party in Kosova, and was formally established on 23 December 1989. It began as a protest movement against the increasing Serbian

¹³⁷ Municipal Elections were held in 2000, 2002 and most recently in 2007. Elections for the Assembly were held in 2001, 2004 and 2007.

repression in the late nineteen-eighties. For a long time LDK was associated with the legendary Ibrahim Rugova¹³⁸.

The founders of LDK had an academic/intellectual background. According to Tim Judah¹³⁹, the professional associations of writers and philosophers were instrumental in the creation of the party. At the core of the movement were people like Rugova, Fehmi Agani¹⁴⁰ and Bujar Bukoshi¹⁴¹. As a leader of the LDK, Rugova was only a compromise candidate, since the first choice, Rexhep Qosja, a prominent writer with nationalist background, did not want to be involved in politics. Qosja's involvement in Kosova's politics was already mentioned above.

According to Malcolm, the basic policy of Rugova and the LDK¹⁴² was preventing a violent revolt, "internationalizing" the problem of the Kosova-Albanians and systematically denying the legitimacy of Serbian rule in Kosova. Especially concerning the third issue, the LDK was instrumental in creating the famous parallel society as well as organizing the (illegal) referendum for independence in 1991 and the parallel Presidential and Parliamentary Elections in 1992 and 1998. In that way, LDK laid not only the foundations for the (illegal) "Republic of Kosova" of 1991, but also for the situation after the war. Until 1998, the party dominated ethnic Albanian political life, but as the election results after 1999 have shown, the party is in decline.

In November 2001 the ICG described the LDK as follow¹⁴³s:

¹³⁸ Ibrahim Rugova was born 1944 in the village of Cernice, near Istog. Both his father and grandfather were executed in early 1945 by Yugoslav partisans. In 1971 he graduated in Albanian Studies at the University of Pristina, during 1968 Rugova participated in protests. After further academic education, including two years in Paris, he received his doctorate in 1984. In Pristina he was employed at the Institute for Albanian Studies. His formal membership of the Yugoslav Communist Party was revoked when he signed a protest note against Milosevic's suspension of Kosova's autonomy in 1989. In 1988 Rugova was elected chairman of the Kosovo Writers' Union.

¹³⁹ Judah, page 66 cont. Judah gives a rather critical insight on the background of Rugova and the events around the founding of LDK.

¹⁴⁰ Agani was born in Djakovica in 1932 and had a successful academic career. After the 1981 student protests he was dismissed from his post as dean of Pristina University's Faculty of Philosophy. When the situation deteriorated in the 1990s, Agani was still trying to negotiate with Belgrade. Eventually, he fell out with Rugova, because Agani believed in a more pro-active course of the LDK. He stepped down as Vice President of the party in early 1998, but nevertheless remained actively engaged in politics and trying to bring along inter-ethnic dialogue. He was part of the delegation in Rambouillet in 1999 and remained in Kosova after the beginning of the NATO air war. The circumstances of his death are unclear, but he was supposedly killed by Serbian forces in early May 1999. The facts above were taken from Agani's obituary, published by Violeta Orosi in: *The Independent*, London, May 19, 1999.

¹⁴¹ Bukoshi was born in 1947 near Suva Reka and went on to become the Prime Minister of the unofficial Republic of Kosova between 1991 and 2000.

¹⁴² Malcolm; page 348 cont.

¹⁴³ ICG Balkans Report No 120: "Kosovo: Landmark Election", p 8 cont.

“The LDK, with its leader, Ibrahim Rugova, derives much of its strength from its record as the political movement that led the campaign of passive resistance to Serbian rule during the 1990s. The LDK initiated the parallel system of schools, medical facilities and other services that underpinned that resistance. It has been unswerving in its support for independence, while at the same time maintaining a generally cooperative stance towards the international authorities. Thus the LDK holds a venerable place on the political scene, and much of its support derives from inertia among its supporters rather than positive preference. (...)

Many thought that the party and its leader were politically dead in the aftermath of the NATO bombing campaign in 1999. During the campaign, Rugova was televised in the company of former Yugoslav President Slobodan Milosevic in Belgrade, and was accused by some of being an appeaser. Following the campaign, the KLA moved swiftly to fill the vacuum left by the departing Serb forces, while Rugova remained abroad for some weeks. However, only a minority of Kosovo Albanians actively participated in the KLA. Loyalty to the LDK and Rugova was rekindled by widespread revulsion at the perceived arrogance of the KLA in seeking to take over all the reins of political and economic power in the chaos before UNMIK established itself. The LDK's strong performance in the October 2000 municipal elections re-established it as the dominant political force in Kosovo.

The LDK is perceived as having rested on its laurels, and its loss of support in this election was not a surprise. It is in many ways a passive presence in Kosovo politics, and many, including within the party, have accused the leadership of complacency in the face of the challenge from the newer PDK and AAK. Critics of Rugova's leadership include the former prime minister-in exile, Bujar Bukoshi. Such critics express fears that Rugova is aloof and has lost touch with the electorate. While Bukoshi is frustrated with his party's performance, he still prefers the LDK to its rivals, seeing it as relatively tolerant, broad-based, and untainted by the violence of the other parties.

Some observers close to the party predict that it will split after the election. In that case, Bukoshi would likely play a leading role in one of the emergent factions. Campaign speeches by LDK leaders have laid stress on the party's record as the longstanding champion of independence. Rugova continues to lobby European capitals in hopes of building international support for recognition of Kosovo's independence. At a rally in Klina, Rugova stated the party's core position: ‘As you know, we declared independence in 1991 and we have built our state for more than ten years. Therefore we ask for the official recognition of Kosovo's independence by the United States, the EU and the international community.

(...) Even if there is no early attempt to push the issue in the Assembly, Rugova, who expects to be the new Kosovo president, can be expected to devote himself above all to trying to win diplomatic support for Kosovo independence.

In the campaign for the October 2000 election, a high incidence of attacks and intimidation on LDK officials may have gained the party extra sympathy. In the run-up to the November 2001 election, the atmosphere was considerably calmer, with far fewer violent incidents. Nevertheless, the pro-LDK newspaper *Bota Sot* reported numerous incidents against LDK officials, presenting them as evidence of a wide campaign of violence and intimidation. The other political parties accuse the LDK and *Bota Sot* of habitually casting the LDK in the role of innocent victim, wringing maximum mileage out of every act that could possibly be construed as an attack on the party.”

The negative trend continued, and in 2005, another ICG report gives a rather unflattering characterization of the party¹⁴⁴:

“Lacking any impetus for a different model, the LDK has in effect inherited the former Communist party's network and modus operandi. Even in the early 1990s, when it was a mass movement including writers, academics, and a sizeable bloc of former political prisoners, it never had democratic instincts.

(In a footnote it is stated that: According to a recent analysis, "from its birth [the LDK] demonstrated stark authoritarian tendencies....Dissenting and even questioning voices were pushed to the side". See Paul Hockenjos, *Homeland Calling: Exile Patriotism and the Balkan Wars* (Ithaca/London, 2003), p. 230. During the 1990s the LDK presidency never convened the parliament elected in Kosovo Albanian underground elections, preferring to retain the political monopoly and limit debate. The LDK's control of the current Kosovo Assembly demonstrates similar characteristics - it meets in plenary session only at long intervals.)

Its newspapers have been far from liberal. The party's electoral support has held firm despite several waves of defections since the late 1990s and lack of internal reform. Habit, a valued continuity, a virtuous circle of electoral success, and the iconic immutability of its leader, Rugova, have all helped keep the LDK as the central, virtually immovable feature of the political landscape. With a war won for it by the KLA and NATO, and having ended up "on the right side of history", it is in the rare position of a party in the Eastern European Communist mould that lacks pressure to change, from within or without. It is the least accessible of the Kosovo Albanian parties for researchers and journalists and has shrugged off donors' offers of technical assistance. Despite emerging as the largest party at each of the last two general elections, the LDK has shied away from leading the executive, yielding the prime minister's office to the PDK in 2002, then the AAK in 2004. It prefers others to do the spadework, take the limelight, or play the fall-guy, while consolidating benefits for its own network. (...)

The LDK's internal environment, however, has gradually become rougher. It is no longer a unified national movement. It has been intellectually hollowed out by defections and has fewer figures willing to maintain relations with other political parties - a bridging role its late vice president, Fehmi Agani, used to play. The LDK-affiliated newspaper Bota Sot mounts vitriolic campaigns against party dissidents, defectors and political foes. (...) Assassinations of LDK officials from 1999 to 2002 created fear among party members. Nearly all went unsolved but were generally attributed to the KLA and its successors. Localised incidents seem to confirm the coarsening of the party's internal environment. A gathering in Pristina's Grand Hotel in July 2004 to agree on the list for the general election ended with two senior party figures physically beaten.”

Rugova's leadership style is also viewed critically¹⁴⁵:

“The party's underdeveloped internal democracy and Rugova's mix of inactivity and authoritarianism render it vulnerable to a creeping internal takeover. Its formal structures risk becoming a hollow façade, masking control by unaccountable circles close to Rugova. The LDK's statute does not stipulate secret balloting for

¹⁴⁴ International Crisis Group: Kosovo After Haradinaj; Europe Report No163, 26 May 2005; p 14 cont.

¹⁴⁵ ICG, Kosovo After Haradinaj; p 15 cont.

party posts. Nominees for bodies such as the general committee tend to be determined by the leadership and are confirmed by acclamation, without open competition in party branches. The LDK appears to convene its general assembly only to satisfy UNMIK regulations. Its first after the war was in June 2002. While it held another in June 2004, just inside UNMIK's time limit, voting for key party posts was again by acclamation. Unless UNMIK presses harder, the formal retirement of President Rugova as party president it achieved in February 2005 will only accelerate the tendency for him and his favourites to concentrate power outside the party's formal governing structures.

While preserving his Sphinx-like persona and a strongly developed sense for inter-party positioning, Rugova has since the mid-1990s gradually adopted a rigid, remote and indolent "do-nothing" style. He rarely leaves his gated residence, which until 20-22 April 2005 was guarded by a bloated parallel security structure rather than the Kosovo police. He increasingly relies upon a narrow circle of advisers, (...)"

After Rugova died of cancer in January 2006, open conflict emerged. He did never nominate a successor and took care that potential rivals never became too influential. Internal rivalries broke out and when Nexhat Daci, at that time President of the Assembly failed to become the LDK leader, the party broke up. In early 2007, Daci founded the Democratic League of Dardania (LDD), and took with him several Assembly Deputies and local LDK-organizations. Fatmir Sejdiu, formerly the General Secretary of the party, was elected as the new leader of LDK, and he became Rugova's successor in the office of the President of Kosova as well.

The Assembly elections of November 2007 were a disaster for LDK. While the party was able to get about 45% of the votes during the 2004 elections, three years later LDK ended up with only 22%. For the first time ever, the party did lose her leading position, and in order to stay in power, serious concessions had to be made towards PDK, the clear winners of the elections. Sejdiu was able to retain office as President of Kosova, but PDK-leader Hashim Thaci won the office of Prime Minister.

Because of the same constitutional restrictions that affected Rugova, Sejdiu is only nominally the president of LDK. Initially Eqrem Kryeziu managed the party, but in mid 2007 a collective leadership took over. The fact that Blerim Kuci, a former Minister of Internal Affairs, who took over as Chief Executive Officer of LDK in July 2008 resigned only a short time later is an indicator for the ongoing internal struggles within the party.

15.2. Democratic Party of Kosova (Partia Demokratike e Kosoves, PDK)

After the Rambouillet Conference, the political leader of the UCK, Hashim Thaci¹⁴⁶ emerged as the strong man when he became Prime Minister of the Provisional Government, and he has been the leader of his party ever since. However, as the International Crisis group describes¹⁴⁷,

“In July 1999 there was an apparent challenge to Thaci’s political authority from within the KLA, when Bardhyl Mahmuti¹⁴⁸ and some others formed a new party of their own, the PBD (Partia e Bashkimit Demokratik – Democratic Union Party). For a time Thaci’s position, as titular head of the KLA and the provisional government but without a party of his own, looked weak. But in September, just after demilitarisation was declared complete, Thaci and his supporters agreed with the PBD to unite to create a new party, the PPDK (Partia e Progresit Demokratik te Kosoves – Party of Democratic Progress of Kosovo). The political profile of its members ranges from left to right, from radical to liberal, but on the whole the PPDK represents the present-day descendant of the LPK (Levizja Popullore e Kosoves – People’s Movement of Kosovo), the group of exiled dissidents in Switzerland and elsewhere who became the political leadership of the KLA during the summer of 1998. Fourteen out of 21 members of the presidency of the PPDK come directly from the LPK; some others, like Mahmuti himself, indirectly, through a short time in PBD.”

Despite “winning the war” Thaci’s associates were in danger of losing the peace. As the ICG writes¹⁴⁹:

“The PPDK, the provisional government and its municipal representatives have used their positions to try to control Kosovo’s structures and society. They have sometimes gone too far, using violence and coercion, and the image of the whole KLA network has suffered as a result. (...) Many such stories establish a clear pattern of political and economic heavy-handedness and bullying by people whose direct link to the PPDK is less and less deniable. (...) During the witch-hunt against Serbs, and now during the continuing violent attacks on “collaborators”, Thaci and his colleagues made statements disowning and condemning the violence, but the statements had an air of formality, of being what the international community expected, and they were not accompanied by any firm action against the perpetrators of violence.”

¹⁴⁶ Hashim Thaci was born in the Drenica Region in 1968. During the early nineteen-nineties, he was a student leader at the University of Pristina, but in 1993 he emigrated to Switzerland. In exile, he joined the LPK and was involved in the foundation of UCK. During the war he emerged as a political leader of the UCK and in the Rambouillet negotiations of 1999 he was the leader of the Kosova-Albanian delegation.

¹⁴⁷ ICG Balkans Report No.88: “What Happened to the KLA”, published in March 2000; page 3 cont.

¹⁴⁸ Much later Mahmuti returned to his native country Macedonia. In 2007 he tried to revive his political career by founding the Albanian Democratic Union (BDSH), but failed to gain much support.

¹⁴⁹ ICG, “What happened to the KLA”, page 5 cont.

In October 1999, the PPDK changed her name into PDK. Later, in 2001, the ICG described Thaci's party as follows¹⁵⁰:

"The PDK remains the second strongest party, and has narrowed the gap on the LDK. While its share of the overall vote remains similar, taking into consideration that Serbs turned out to vote this time, the PDK's share of the Albanian vote has increased. The PDK is led by Hashim Thaci, who spoke for the KLA at the Rambouillet negotiations in 1999. The party, which was formed in September 1999, was seen as the political successor to the KLA. Wearing the mantle of the KLA, for a time it seemed that, with the prestige of having led the war of liberation against Serbia, Thaci and the KLA would inherit political power in Kosovo. As the Serb forces withdrew, former KLA fighters, not all of them Thaci allies, initially stepped into the breach, taking over all 26 municipalities with an Albanian majority and forming a provisional government. New managers were appointed to nearly all socially owned enterprises. However, what seemed at first to have been a major victory became a burden that contributed to electoral defeat. Only in a few cases did the mainly young ex-KLA fighters have the necessary experience to run municipalities and enterprises. More experienced people not affiliated to the movement were either sidelined or chased out.

The KLA takeover came to be widely seen as a usurpation. Subsequently the PDK and Thaci were widely held responsible for the chaos, corruption and criminality of the immediate post-war period.

Rugova's LDK, which sat quietly on the sidelines in 1999 and early 2000, benefited from the dissatisfaction with the PDK. The October 2000 municipal election results were a major disappointment for the PDK, although much of the international community barely disguised its relief that a party that they associated with extremism, organised crime and violence had been beaten.

The PDK won majority support mainly in Thaci's Drenica-region power base, west of Pristina. The party has since tried to improve its image, to re-invent itself as a responsible party that can be trusted with political power. To this end, it recruited Flora Brovina, a human rights activist, former political prisoner in Serbia, paediatrician, poet, and president of the Albanian Women's League of Kosovo, as the PDK candidate for president. Brovina proved an effective political advocate. The party also built up its organisation around the province, in the hope of increasing support beyond its core areas. Given its increased share of the Albanian vote, the PDK has some reason for satisfaction.

While moderating its image, the PDK has sought to present itself as the party that can be most trusted to achieve independence. Of the three main Kosovo Albanian parties, the PDK was the most outspoken critic of the Constitutional Framework. Thaci argued that it left all real decision-making to the SRSG. He declared that this document will hold hostage the aim of the people of Kosovo, which is political independence.

Nevertheless, the PDK has accepted political reality and intends to work within the Framework as it stands. This willingness to fit into the space granted to the Kosovo political parties cannot be taken for granted, however. If the party leadership comes to feel that the international community is taking steps, for example in UNMIK's relations with Belgrade, which ignore the interests of Kosovo

¹⁵⁰ ICG Balkans Report No 120: "Kosovo: Landmark Election", p 10 cont.

Albanians, as they themselves define them, a cooperative approach by the PDK may not last long.”

Over the years, PDK developed and was able to increase her support. In the 2001 elections, the party gained 25%, and was able to nominate the Prime Minister in a coalition with LDK. Due to obvious reservations by the international community, Thaci did not take the post for himself. After a coalition agreement with LDK was achieved in early 2002, Bajram Rexhepi, a moderate doctor originating from Mitrovica, became Kosova’s first Prime Minister after the war.

The 2004 elections confirmed PDK’s position as the second strongest party, but a deal between LDK and AAK, the first and third ranking parties, prevented a revival of the previous coalition. PDK was left out of the power sharing agreement and had to contend with the role of an opposition party. It seems safe to assume that the obvious enmity between PDK-president Thaci and AAK-leader Ramush Haradinaj was further aggravated when the later was able to foil Thaci’s ambitions to become Prime Minister after the 2004 elections. Finally, in 2007, PDK was able to defeat LDK and become the strongest political force. With about 34% of the votes for PDK, the LDK (22%) was clearly defeated and it was no longer possible to prevent Thaci from becoming Prime Minister at last.

Meanwhile the PDK was able to transform her image from being the political successors of a guerrilla movement to becoming an established political entity. Nevertheless, PDK still counts on her image of being the “liberators” of Kosovo. This impression is supported by the fact that Fatmir Limaj, a close associate of Thaci during the war, was tried for war crimes but acquitted in late 2005¹⁵¹. In the current government, Limaj is Minister of Transport and Telecommunication. Finally, in a symbolic coincidence, Thaci, once Prime Minister of the Provisional Government, found himself in the position of being Prime Minister again when Kosova declared independence in February 2008.

15.3. Alliance for the Future of Kosova (Aleanca per Ardhmerine e Kosoves, AAK)

¹⁵¹ ICTY press release on 30 November 2005

AAK was established as a coalition of political parties and citizen movements in 2000, among them the LPK. In 2002, it transformed into a unified political party. Ever since 2000, Ramush Haradinaj, born in Western Kosova in 1968, was its leader.

In 2001, the Alliance was described as follows¹⁵²:

“The youngest of the three main political groups, the AAK was founded in May 2000 as an alliance of six parties (later reduced to four) under the leadership of Ramush Haradinaj. Haradinaj was a prominent KLA commander, and his image as a war hero gives him great credibility among many Albanians, especially in the Dukagjin region where he served during the conflict. The appearance of the AAK challenged both the LDK and the PDK, and the AAK took some 8 per cent of the vote in the October 2000 municipal elections. Its challenge to the PDK lay in the fact that the PDK was no longer the only credible successor party to the KLA. Nevertheless, like the PDK the AAK hoped to take support away from the less dynamic and increasingly troubled LDK. Its performance in the Assembly election was below its expectations.

However, as with the PDK, while its share of the overall vote remains much the same, its share of the Albanian vote increased. Thus the general impression is that the AAK as well as the PDK have gained at the expense of the LDK.

The AAK fought perhaps the slickest election campaign of the main parties. Under its slogan. Neither Left, nor Right, but Straight, it sought to present itself as a party of the centre, more pragmatic than either of its rivals. The AAK shares the uncompromising attitude of the other two parties on independence. However, Haradinaj has fostered a more cooperative relationship with UNMIK. The party has sought to differentiate itself from its rivals by claiming to represent hard work and effective government. For example, at a rally in Klina, Haradinaj stated that .If anyone asks you why you think that the AAK is the best, I would ask you not to say that we are patriots because we are all patriots and we all love Kosovo. Say that the AAK works more than other parties, that AAK members wake up earlier than members of other parties and that they will do more for you than the others. I can say that personally I work more than Thaci and Rugova.

In a bid to broaden its appeal, the AAK recruited the highly respected former communist leader in Kosovo, Mahmut Bakalli. Like the PDK's presidential candidate, Brovina, Bakalli insists that despite being on the AAK's list of candidates, he remains independent and is not a party member. Bakalli considers that the electorate is becoming more politically mature and that the AAK can respond by stressing practical issues instead of untimely posturing over independence.

There is a certain ambiguity in the international community's attitude towards Haradinaj and the AAK. There is respect for the party's professional approach and effective organisation, and for Haradinaj's energy, as well as appreciation for the party's moderate, pragmatic and cooperative stance. On the other hand, questions have been raised about his connections with alleged criminal and extremist elements. Like Thaci and the PDK, Haradinaj has adapted to changing circumstances, acknowledging that Kosovo's leaders have to prove they can run

¹⁵² ICG Balkans Report No 120: “Kosovo: Landmark Election”, p 11 cont.

an administration, promote the rule of law, respect minorities etc. However, given his record, he will be expected to prove himself.”

After the 2004 elections, Haradinaj was able to prove himself, when the AAK rather unexpectedly entered a coalition with the LDK, and he became Prime Minister. This coalition, formed by the third strongest and the strongest parties, left Thaci, who had expected to become Prime Minister himself, out of the game. Ever since, the relationship between those two politicians is extremely strained. However, Haradinaj's career as Prime Minister lasted only from December 2004 until March 2005. He was forced to step back when the International Criminal Tribunal (ICTY) in The Hague issued an indictment against him. During his tenure, he established a close relationship with UNMIK, which led to serious criticism about possible collusion between the UNMIK leadership and Haradinaj¹⁵³. The International Crisis Group published a detailed analysis of the situation at that time¹⁵⁴. In April 2008, Haradinaj was acquitted, although the process was marred by several incidents of intimidation and allegations that witnesses were murdered¹⁵⁵. In addition to the ICTY-affair, various reports and incidents link Haradinaj and his family with organized crime structures¹⁵⁶.

After Haradinaj had to leave office, Bajram Kosumi¹⁵⁷, one of the deputy leaders of the party became the new Prime Minister for AAK. About one year later, in March 2006, he was replaced with Agim Ceku. Ceku previously served as the Commander of the Kosovo Protection Corps, a paramilitary organization that developed out of the UCK¹⁵⁸. He joined the AAK only after his nomination as Prime Minister, and obviously

¹⁵³ Criticism was directed against SRSG Soren Jessen-Petersen, who described Haradinaj as a “friend” and against the Deputy SRSG, Steven Schook. After allegations of misconduct, Schook's contract with the UN was not extended and in late 2007 he left UNMIK. Meanwhile, Schook was rehabilitated and is officially an advisor for AAK.

¹⁵⁴ ICG Europe Report No163: “Kosovo after Haradinaj”, published in May 2005

¹⁵⁵ The relevant ICTY press statement can be found at: <http://www.un.org/icty/pressreal/2008/pr1232e-summary.htm>

¹⁵⁶ In 2002 Ramush's brother Daut was sentenced to five years in prison, because of his involvement in the murder of several Kosova Albanians. The alleged criminal connection of the Haradinaj's is discussed for example in the Swiss “Weltwoche” magazine (edition 43/2005).

¹⁵⁷ Kosumi was born in 1960. For his role as a student activist during the 1981 demonstrations, he was jailed and spent 10 years in prison. In 1993 he became the President of the Parliamentary Party, one of the smaller parties that later joined the AAK. In 1999 he participated in the Rambouillet negotiations. An account of his time as Prime Minister can be found in Kramer, Dzihic: Die Kosovo Bilanz p 21 cont.

¹⁵⁸ Among the Kosova Albanians Ceku is a highly respected figure. He was born in 1960 near Pec and he became a professional soldier in the Yugoslav Army. During the break-up of Yugoslavia, like several other Kosova-Albanians he fought with the Croatian Army against the Serbs. His actions during the war made him a hero in Croatian and Albanian eyes, but Belgrade accuses him of war

never developed a strong link to the party. After the elections in 2007 the AAK-LDK coalition ended and the party found herself in opposition. Ceku left the AAK and joined the small Social Democratic Party in early 2008.

When Ramush Haradinaj returned to Kosova in April 2008, he again took the reins of the party into his hands. Currently he is a leader of the political opposition¹⁵⁹.

15.4. Ethnic Minorities, Kosovo-Serbs

Although the minorities in Kosova are relatively small in numbers, they are organized in several parties, all of them structured along ethnic lines. Mostly the non-Serbian groups collaborate with one of the main ethnic Albanian parties, but their influence is limited. According to the constitution, twenty seats are reserved for ethnic minorities; ten out of these twenty are for the Serbs. Additionally, some ministerial positions are reserved for the non-Albanians as well. Due to the limited overall role of the non-Serbian minorities, they will not be discussed in detail, and the focus will lie on the ethnic Serbs.

Initially, the same parties that were present in Serbia proper represented the Kosovo-Serbs. When the first elections were held in Kosova in 2000¹⁶⁰, it was a main challenge for the international community to convince them to participate. A big step was made before the first Assembly elections in 2001, when the Serbs in Kosova formed the “Coalition Povratak” (Coalition Return, abbreviated KP), which gained 11% of the votes¹⁶¹. As the name says, the main aim of the coalition was to facilitate returns and to improve the situation of the remaining Serbs in Kosovo. The coalition was formed by cooperation of a number of moderate Serbian parties, among them In addition to the ten reserved seats in the Assembly, they won twelve of the proportionally distributed remaining 100. Cooperation in the Assembly was difficult, and on numerous occasions, the Serbs boycotted the work of the Assembly. Initially,

crimes and has issued an international arrest warrant. At the end of the war in Kosova he was the military leader of UCK.

¹⁵⁹ International Crisis Group: Kosovo's Fragile Transition; Europe Report Nr 196 – 25 Sep 2008; p.22

¹⁶⁰ See also the description of elections below.

¹⁶¹ More details as well as an assessment of Belgrade's position are in: International Crisis Group: Kosovo's Ethnic Dilemma: The Need For A Civic Contract; Balkans Report Nr 143 – 28 May 2008; additionally, see: Kramer/Dzihic, p 67 cont.

Ms. Rada Trajkovic, a doctor from Gracanica and former member of Vojislav Seselj's Serbian Radical Party was the leader of KP, she was already active in the JIAS. After internal rifts, she was replaced, and in 2004, most of the Kosovo-Serbs withdrew from the Provisional institutions. This step came as a consequence of the massive riots in mid-March of the same year, when nineteen people were killed, several hundred houses owned by ethnic minorities were destroyed and around 4.500 Serbs were displaced¹⁶². Overall, the 2004 riots had an extremely negative influence on the relationship between Kosovo-Serbs and the ethnic Albanian majority, because the few moderate Serbs now found it impossible to continue with their policy.

In the elections held in October 2004, it was extremely difficult for the international community to convince the Serbs to participate. While the Coalition Povratak virtually fell apart, another group, the Serbian List for Kosovo and Metohija (SLKM) decided to participate in the elections. Due to the almost complete Serbian boycott, the SLKM, led by Oliver Ivanovic¹⁶³, received only 0,2 % or less than 1.500 votes. While this translated into eight deputies in the Assembly due to the system of reserved seats, one can hardly say that the result reflected an actual representation of the Serbs in Kosovo. Additionally, despite being elected as deputies, the SLKM pursued a policy of boycott. In the government, the SLKM was awarded the position of Minister for Agriculture, but her representative, Goran Bogdanovic (now Belgrade's Minister for KosMet) never actually took office. The Civic List of Serbia, led by Slavisa Petkovic, gained the other two seats. In accordance with to the Constitutional Framework, Petkovic later became Minister for Returns in Haradinaj's cabinet, but it seems obvious that he lacked support by his own community. After allegations about the misappropriation of funds, Petkovic was forced to resign as a minister in late 2006. Nevertheless, he is still a deputy in Kosova's Parliament.

Currently, there are two Serbs represented in the Government: Sasa Rasic, Minister for Communities and Returns, and Nenad Rasic, Minister for Labour and Social

¹⁶² Although more ethnic Albanians than Serbs were killed, the Serbs and other non-Albanians were the clear victims of those riots. The International Crisis Group in her Europe Report Nr. 155 provides a detailed analysis: "Collapse in Kosovo", published on 22 April 2004.

¹⁶³ Ivanovic originates from Kosovska Mitrovica and has played an important role ever since 1999. He changed his political allegiance several times, but was eventually viewed to be on the moderate side. Currently he is the State Secretary in Belgrade's Ministry for Kosovo and Metohija, led by Goran Bogdanovic, another Kosovo Serb. Bogdanovic was Minister for Agriculture in the PISG between 2002 and 2004. Details about both politicians are published in the International Crisis Group Europe Report Nr. 200: Serb Integration in Kosovo: Taking the Plunge; released on 12 May 2009

Welfare. Both belong to the Independent Liberal Party (SLS), which was founded only a short time before the 2007 elections.

The most influential Serbian political institution (not counting the Serbian-Orthodox Church) is not a political party, but an informal organization called the Serbian National Council (Srpski Nacionalni Vejce or SNV)¹⁶⁴. This organization was founded as early as 1998 in Northern Kosovo. It included representatives of various political parties, but not Milosevic's Socialist Party of Serbia (SPS), which ruled Serbia at that time. After the war, it gained influence across Kosovo, and the orthodox Bishop Artemije (another member of the JIAS) was its head. In 2000, when Rada Trajkovic and Bishop Artemije joined the Provisional Administrative Council of Kosovo against the wishes of the majority of the SNV's northern wing, an internal division took place. Ever since, the organization is split. The more powerful and radical northern wing is under the leadership of Milan Ivanovic and Marko Jaksic, two doctors from the North Mitrovica hospital. Rada Trajkovic represents the relatively moderate wing in central Kosovo, south of the river Ibar. After the declaration of independence, the moderate Serbs in the South became more vocal. While the Serbs in the North de facto maintain their status as a part of Serbia, those in the enclaves seem more moderate and driven by a need for compromise.

15.5. Conclusion

The Kosova-Albanian parties, but also the UNMIK system, are characterized in an International Crisis Group (ICG) report as follows¹⁶⁵:

"In many respects the three largest Kosovo Albanian political parties strongly resemble each other. They function in a top-down hierarchy, each carrying a perhaps over-large party branch structure that, due to the closed list election system, is partially insulated from local electoral outcomes and is dependent upon Pristina leadership for patronage and representation on the party list. Each of the newer parties has put up structures to match the LDK, which started in the early 1990s as the Albanians' new one-party shadow state and remains the only really "national" Kosovo Albanian party. Both the PDK and AAK are virtually regional parties.

¹⁶⁴ A detailed account about the Belgrade-sponsored parallel structures and the relationship between the Serbs and Kosova is given in the International Crisis Group Europe Report Nr. 200: Serb Integration in Kosovo: Taking the Plunge; released on 12 May 2009.

¹⁶⁵ International Crisis Group: Kosovo After Haradinaj; Europe Report Nr.163 – 26 May 2005; p 12

Each of the three parties strives to possess as much as possible of the fixed "cake" of government, which is still largely envisioned in the communist model. (...)

Each party leadership dates from the war and pre-war period of the 1990s and is as yet unchallenged by lower ranks no matter what its performance over the last five years. UNMIK, and in particular its institution-building pillar run by the Organisation for Security and Cooperation in Europe (OSCE), have not pressed the parties hard enough on developing internal democracy and transparent mechanisms and procedures. The weakness of UNMIK's approach has allowed the leadership elites to retain their monopoly. Kosovo's unresolved final status has also helped keep the parties' evolution on ice; none has developed a distinct policy profile. Challenged at a recent seminar to develop policies as the product his party must sell itself with, PDK grandee Xhavit Haliti replied: "You ask too much of us. We just produce MPs".

Kosovo Assembly members are little accountable to their constituents. Given Kosovo's tendency to fissure along regional and local lines, the rather artificial "delivery" of its population to central institutions in Pristina along the three party avenues may not be the worst outcome that could have been engineered. However, instead of nourishing and sustaining the organic growth of a shared national identity and security community, the parties have planted themselves like rival trees jostling for the light - with leaves and branches as their public faces, their mutual exclusivity reinforced by separate large root structures of rival intelligence, underworld and criminal networks to feed and be fed by."

It is still difficult to compare the local parties in Kosova with traditional western countries. On one hand they are rooted in the Yugoslav/Communist tradition, on the other hand, the social structures in Kosova are different from the traditions that prevail in Western Europe. Considering the not always consistent influence of the international community, one has to recognize that political parties in Kosova will continue to develop in a specific way.

Generally, party structures are focused on a strong leader; they are usually led top-down and bound together by strong clan and family-ties¹⁶⁶. Additionally, their methods of acquiring funds are not overly transparent, and allegations about connections with criminal structures are frequent. Politically, the traditional categories of "left" or "right", liberal, conservative or social-democratic are difficult to apply in Kosova's context. Sometimes these attributes are related to international connections with Western parties. At least before independence was achieved, the main political message of all ethnic Albanian parties was exactly this issue, and party programs had little other content. Meanwhile this has changed somewhat, and LDK is

¹⁶⁶ See: Kramer, Dzihic, „Die Kosovo Bilanz“, p 64 cont.

perceived to be in the conservative camp while PDK leans towards Social Democracy. Nevertheless, these attributes should not be overestimated.

Multi-ethnic parties still do not exist, and it remains doubtful, whether any such party has a realistic chance to develop in the foreseeable future. Most Kosovo-Serbs still support the nationalist spectrum of Belgrade's political establishment, and those Kosovo-Serbs that participated in the institutions of Kosova do certainly lack popular support and the legitimacy to represent a significant portion of the electorate.

16. Elections and their influence

In accordance with the UNMIK mandate, several elections were held under the international administration. The first Municipal elections had in some way the character of a test run and, like all the other subsequent elections; they were held without any significant trouble or unrest. Over time, the political system developed, and the main Kosova-Albanian parties mentioned above (especially PDK, LDK and AAK) emerged as a constant factor in Kosova's domestic politics. On the Serbian side, lasting local political structures did hardly emerge. The Kosovo Serbs are still mainly oriented towards Belgrade. Therefore, local parties in their community have little possibility for development. Additionally, Belgrade's obvious opposition to any election held in the province made it extremely difficult for any Kosovo-Serb to participate in the local political process. Overall, the Serbian election boycott in Kosova has a long "tradition" and seriously undermines the credibility of those representatives who were elected nevertheless.

In the following paragraphs, the result of the municipal elections will be discussed only briefly. Due to their greater relevance for the political developments in Kosova, the focus will be on the Assembly elections. Detailed results for the elections held so far can be found at the OSCE Mission in Kosovo (OMIK) elections website¹⁶⁷.

¹⁶⁷ <http://www.osce.org/kosovo/13208.html>

A discussion of the various results and trends concerning the elections can also be found in Kramer/Dzihic: Die Kosovo Bilanz; p 59 cont.

16.1. Municipal Elections 2000

The Municipal elections held on 28 October 2000 were the first democratic poll after the war¹⁶⁸. Since this was the first democratic procedure in a long time where the majority of the population actually participated, their significance can hardly be underestimated. Although the UNMIK-appointed international Municipal Administrators still remained in control, now the Kosova-Albanian majority was able to have a democratically legitimate voice in matters affecting their administration. The people voted to elect a Municipal Assembly which in turn elected a President. Comparable to the provincial level, a Chief Executive Officer and a Board of Directors for the municipality were elected by the Municipal Assembly, based on the Municipal President's proposal. Since the whole process was new, and it was not really possible to foretell how the system would work, the tenure was limited to two years. The elections were held in all of Kosova's thirty municipalities, but due to a Serbian boycott, the results in the three northern municipalities of Leposavic, Zvecan and Zubin Potok were not certified.

Brand describes the procedures after the elections¹⁶⁹:

"(...) the establishment of democratic local self-government proved to be difficult and took much more time than generally expected. Kosovo's first democratically elected municipal assemblies, the highest representative bodies at the municipal level, were sworn-in on 11 November 2000 in more than two dozen simultaneous ceremonies held throughout Kosovo. In municipalities with substantial minorities, SRSG appointed additional minorities' representatives. The municipal law already foresaw the precise steps to be taken in the days and weeks following the elections. Political sensitivities, and especially the position of previously self-appointed, UCK-blessed local administrations which were initially loyal to Thaci's provisional government and then incorporated into JIAS local structures, were far from friction free.

The municipal assemblies elected presidents, usually from the biggest political factions in the assemblies (at times in coalition with smaller parties or individual representatives), which, in 22 municipalities out of 27, was the LDK, which had

¹⁶⁸ The Council of Europe's Election Observation Mission Report can be found at [http://www.coe.int/t/e/sg/Secretary-General/Information/Documents/Numerical/2000/SGInf\(2000\)40E.asp#P1169_70894](http://www.coe.int/t/e/sg/Secretary-General/Information/Documents/Numerical/2000/SGInf(2000)40E.asp#P1169_70894). Appendix III of the report also includes an overview of the political groups that were contesting the elections. A detailed account of the situation at the time can be found in a report by the International Crisis Group, published in July 2000: "Elections in Kosovo: Moving toward Democracy?" (ICG Balkans Report No.97) The report is available at the ICG website. Another paper, the ICG Balkans Report No.79: Waiting for UNMIK, Local Administration in Kosovo; published in October 1999 gives additional detailed insight.

¹⁶⁹ Brand, p 28/29

won an absolute majority of votes in most municipalities. The PDK was able to muster presidents in the other five municipalities. (...)

The SRSG appointed the members of the municipal assemblies and the presidents of the three northern municipalities Leposavic, Zubin Potok and Zvecan, where the results of the municipal elections had not been certified because of the insignificant voter turnout. The appointed members have been carrying out many of the same tasks as their elected counterparts in the rest of Kosovo. The main difference was that when it came to financial issues and by-laws the Municipal Administrator had to countersign decisions. Originally, the SRSG underlined the temporary nature of the new assemblies and announced that there would be by-elections in 2001 in these predominately Serb municipalities. However, probably due to political preferences in these municipalities, which were expressed during the Yugoslav and Serbian elections in September and December 2000, UNMIK refrained from putting its appointees to the test of a public endorsement. Voters in these municipalities and in northern Mitrovica showed a strong backing for Milosevic's Socialist Party and Seselj's Radical Party, hardly the partners the international presence in Kosovo wanted to deal with. It was far more convenient for UNMIK to appoint cooperative Serb politicians than risking a radicalisation of positions through elections."

Several trends were visible as a result of the elections. Firstly, the Serbian community was obviously not willing (or, due to pressure from Belgrade, not able) to be an integral part of the new development. This was already visible during the voter's registration process before the elections, where the Serbian turnout was significantly low. Ever since these first elections, any attempt to integrate the Kosovo-Serbs seriously into the political system has failed. Although later some representatives –at least nominally- participated in the Assembly and the government, due to a widespread election boycott they always suffered from a lack of democratic legitimacy. For the international administration, it was obviously not possible to force the Serbs in the country to participate in the new process. Nevertheless, by accepting the situation as it was, unwillingly the foundation for the practical separation of the North was laid. Unfortunately, the situation has not changed since, and the Declaration of Independence makes the situation even more complicated. Since the international administration has tolerated this murky status quo ever since 2000, the local decision makers in Pristina can hardly be held responsible for not being able to change this dilemma.

Further, on the Kosova-Albanian side it became clear, that the LDK had re-emerged as the dominant political force. With an overall percentage of 58% it won 22 municipalities and thoroughly defeated the PDK, which won only about 27% and five municipalities. One main reason that has been given for this result was the behaviour

of UCK-appointed officials immediately after the war¹⁷⁰. There are numerous reports that the UCK took over institutions and facilities and behaved less like liberators but more like conquerors. Obviously, this caused a lot of disaffection and frustration among the Kosova-Albanian population, and drove them back into the arms of the LDK.

The geographical distribution of the votes pointed out where the respective parties enjoyed the biggest amount of support. Unsurprisingly, the Drenica Region, where the UCK came into being, was the heartland of PDK. Rexhep Qosja's LBD, which was transformed into a pre-election alliance under the name of Coalition for Independence (KP or Koalicioni Per Pavaresi) was defeated thoroughly and gained only 0,4% or less than 3.000 votes in absolute terms. This was virtually the end of Qosja's political aspirations. On the other hand, Ramush Haradinaj and his AAK emerged as the third-strongest political force. Although he gained only close to 8%, he eventually replaced the unsuccessful Qosja. As it was the matter with the PDK and Thaci; the AAK's election result reflected Haradinaj's influence in his former area of operations during the war. The AAK's strongholds were and still are in Western Kosova's Dukagjini Region, especially the municipalities of Decani, Djakovica and Pec.

16.2. Assembly Elections 2001¹⁷¹

While (at least concerning the Kosova-Albanian population) the election process went basically without problems, the aftermath gave a clear indication of the problems that Kosova had to confront. The LDK under Ibrahim Rugova was able to gain almost 46% of the votes and scored a clear (relative) victory. Nevertheless, compared with the 58% that the party scored in the Municipal elections only a year before, the result was a virtual slap in the face. The PDK, with nearly 26%, was the second strongest party, but still with a significant distance to Rugova. With close to 8% Haradinaj's AAK was the third strongest party in the Albanian sector; all other contestants reached negligible results. On the Serbian side, the KP (Koalicija Povratak, or in

¹⁷⁰ Some accounts of this behaviour and about intimidation before the Municipal elections can be found in the ICG Report "Elections in Kosovo: Moving Toward Democracy?" p. 8 cont.

¹⁷¹ A detailed analysis can be found in the ICG Balkans Report No.120: "Kosovo: Landmark Election", published on 21 November 2001.

English, Coalition Return) was able to get about 11%, bringing it to the third place in the overall count. Apart from the above-mentioned political groups, ten other entities gained a seat, making it difficult to find a stable majority. The participation rate was 64% and generally considered a success, although the two mainly Serbian municipalities in the North, Zubin Potok (less than 30%) and Zvecan (less than 19%) had a significantly low turnout.

Among the Kosova-Albanian parties, soon a conflict erupted. Ibrahim Rugova was not able to get enough support to be elected president and therefore it was also not possible to form a government¹⁷². Especially the PDK was disappointed with the result and took measures to slow down the procedures after the constituting session of the Assembly in December. During the first round of voting, in December 2001, 50 out of 120 Assembly members did not vote, and in subsequent rounds Rugova continued to fail to obtain a sufficient majority. This stalemate, which lasted for several months, was only broken with UNMIK support, but at the expense of the Constitutional Framework. Brand¹⁷³ describes:

“Eventually the deadlock was broken by breaking the constitutional rules. (...). After months of haggling, the newly arrived SRSG Steiner was able to strike a power sharing agreement among the three major Kosovo Albanian parties, the LDK, the PDK and the AAK. The ‘Agreement on the President and the Government of Kosovo’ of 28 February 2002 contained a package deal, according to which Bajram Rexhepi of the PDK would become Prime Minister, and the PDK in turn would support Rugova’s election for President. It also included an eight point list of priorities for the new government and a coalition formula (LDK – four ministers, PDK and AAK – two ministers each). On 4 March, the Kosovo Assembly voted in the President and the Government, which had just been presented, in a single, open ballot. Nine ministers were appointed. In order to accommodate the political aspirations of all coalition partners (two ministries were reserved for minorities) the originally foreseen Ministry of Health, Spatial Planning and the Environment was divided in two separate ministries. The candidate for the post of Minister of Agriculture, Forestry and Rural Development, which was reserved for a Serb of the Coalition Return, was not confirmed. Finally, on 15 March 2002, the new government under Bajram Rexhepi had its first ordinary meeting.”

Bajram Rexhepi, the new Prime Minister was a medical doctor from Mitrovica who did not play a prominent role before being elected. His nomination was considered to be

¹⁷² See above. According to the Constitutional Framework, the President has to choose a Prime Minister, who was responsible to form a government. Therefore, without a President it was technically not possible to form a government.

¹⁷³ Brand: p 37/38

a compromise, because although being a member of the UCK, he had no specific record from this time. PDK leader Hashim Thaci, who was generally considered to be the main contender for the function of Prime Minister, had to curb his ambitions. Although it never was officially mentioned, it seems that firstly his bad personal relationship with president Rugova and secondly his alleged involvement in criminal activities contributed to this outcome.

Although eventually a government was formed, it was clear that the local politicians were not able to find a solution without UNMIK intervention. Instead of electing the President and Government step by step, as it was foreseen in the Constitutional Framework, a “package solution” was found. While such a pragmatic approach was successful at last, this practice remains questionable, since UNMIK itself gave an example that the rules can be bent. The situation became even more problematic, since Ibrahim Rugova continued to be the LDK President, although it was explicitly stated in the Constitutional Framework¹⁷⁴, that the President of Kosovo shall “hold no other office”. By tolerating this practice for years, UNMIK did not give a good example.

On a domestic level, Rugova’s insistence on maintaining his position as “President of Kosova”, now officially legitimized, led to frictions as well. It was widely perceived that not only the PDK’s frustration of having “lost” the elections, but also Rugova’s unwillingness to make concessions contributed to the political deadlock. In their perception, LDK was the undisputed winner of the elections, and the party saw little reason to share power, although they needed a partner to have the President elected. Within his own party, Rugova caused frustration, because it was perceived that he sacrificed the victory in the elections only to satisfy his personal ambition of becoming President. Interestingly, this problem still haunts the LDK today. Meanwhile the party has lost about half of their support, but now Fatmir Sejdiu, Rugova’s successor in both functions (LDK’s and Kosova’s president) seems to follow this questionable example.

Finally, it seems worth to note that as a representative of the Kosovo-Serbs, Goran Bogdanovic, became Minister for Agriculture and Forestry and Rural Development.

¹⁷⁴ Constitutional Framework for Provisional Self-Government, Chapter 9.2.7

Practically he never really took over office, so that his ethnic Albanian Deputy was holding this office.

In 2008 Bogdanovic again gained a ministerial post, but this time in Belgrade. After being elected to the Serbian Parliament as a representative of the Democratic Party in 2007, he was appointed to be Minister for Kosovo and Metohija in July 2008. Another prominent Kosovo-Serb, Oliver Ivanovic became the State secretary in Bogdanovic's ministry.

16.3. Municipal Elections 2002

As mentioned above, the first term of office for the municipal level was limited to two years. Therefore, on 26 October 2002 for the second time municipal elections were held. The officials now had a four-year term of office. A turnout of slightly less than 54% confirmed the overall tendency of a decreasing participation rate.

While the LDK was able to retain their position as the strongest party, and gained about 45%, they experienced a decrease of support and lost their absolute majority in nine municipalities. The PDK was able to slightly improve their overall amount of votes and gained some 30%, along with the majority in several new municipalities. Haradinaj's AAK was also able to improve, and got stronger mainly in their traditional heartland in Western Kosova.

Brand¹⁷⁵ described the voting result of the Kosovo Serbs, where only about 20% of the electorate participated¹⁷⁶:

"Most importantly, Serbs won in all five municipalities where they represent a majority of the local population (Leposavic, Zubin Potok and Zvecan in the north, as well as in Novo Brdo and Strpce). However, Serbs boycotted the vote in Mitrovica, and their turnout was extremely poor in most other places as well. Their overall turnout fell by about 57 per cent compared with the November 2001 assembly elections, when Kosovo Serbs supported the only Serb group, Koalicija Povratak ("Return Coalition"). Since then, a striking fragmentation has occurred among Kosovo Serbs: In the October 2002 municipal elections, a total number of 31 political entities competed. The Return Coalition, which since 2001 represents Kosovo Serbs in Kosovo's provisional institutions (see below), received about 37

¹⁷⁵ Brand, p 40

¹⁷⁶ Kramer/Dzihic; Die Kosovo-Bilanz, p. 64. The OSCE election results sheet does only give figures for the various municipalities, but no statistics concerning participation of the various ethnic groups.

per cent of the votes cast, while the Democratic Party of Serbia (Vojislav Kostunica's DSS) received some 23 per cent. Almost forty per cent of the votes cast were in support of groups receiving less than five per cent of the overall Serb votes. Interestingly, the DSS managed to win 29 per cent of the 93 Serb seats on municipal assemblies, while the Return Coalition will only have 25 of these seats."

16.4. Assembly Elections 2004

The second regular Assembly elections were held on 24 October 2004. They were overshadowed by the riots that had happened in mid-March, and constituted the worst outbreak of violence that Kosova had experienced since the end of the war in 1999. Among other things, the events of March 2004 led to massive criticism of UNMIK's policies and a virtual breakdown of the already problematic relations between Kosova's Albanians and the Serb community¹⁷⁷. The riots in March were in many ways associated with the Kosova-Albanian dissatisfaction concerning the status process, and naturally, this matter played an increasing role in the election campaign. On the international level, Kai Eide's report to the United Nations¹⁷⁸ and reforms concerning the PISG led to increased anxiety among the Kosova-Albanian side¹⁷⁹. It was generally perceived that the political representatives that were to be elected would be responsible for negotiating the independence of Kosova and therefore fulfil a "historic mission" for their country.

The result was not very different from the first Assembly elections, although the LDK suffered slight losses whereas the PDK gained, although not at a dramatic amount. The LDK came out with slightly more than 45%, while her main rival, Thaci's PDK, gained almost 29% of the votes and Ramush Haradinaj's AAK ended up with slightly more than 8% support. The overall turnout fell slightly below 50%¹⁸⁰. Considering the events in March and the traditional policy of boycott, it came hardly as a surprise that the Serbian participation was extremely low. Although the newly elected Serbian President Boris Tadic took a critical position, most Kosovo Serbs followed Belgrade's

¹⁷⁷ Details can be found in Kramer/Dzihic, p 187 cont. A discussion of the events in March 2007, especially the consequences for the status process, follows below.

¹⁷⁸ Commissioned by the UN Secretary General, the Norwegian diplomat reviewed UNMIK's "Standards before Status Policy". Although this review, delivered in July 2004, was critical, it nevertheless recommended to intensify the status process.

¹⁷⁹ The term of office for the Assembly, the President and the government was extended to four years, and new ministries under local responsibility were created.

¹⁸⁰ This figure is based on the Certified Results Spreadsheet, whereas in another OSCE publication the turnout is given as almost 54%. The Party results do not differ.

call for a boycott, issued by Prime Minister Vojislav Kostunica and supported by the Serbian Orthodox Church¹⁸¹. Only 0,2% of the votes were cast for the main Serbian coalition, the Serbian List for Kosovo and Metohija (Srpska Lista za Kosovo i Metohiju, SLKM) under Oliver Ivanovic. This figure seems even more dramatic, when one considers that those 0,2% translated into about 1.400 votes, out of almost 700.000 that were actually cast. Due to the set-aside seats for minorities, the SLKM nevertheless gained eight (!) seats in the Assembly and therefore was the fourth-strongest party in the Assembly¹⁸². The other two set-aside seats went to the newly established Serbian Citizen's Initiative (Gradjanska Inicijativa Srbija, GIS), under the leadership of Slavisa Petkovic, who later became the Minister for Returns. With less than 400 votes for the GIS, it seems difficult to claim that the party truly represented the Kosovo Serbs. His participation in the government made it possible to at least partly fulfil the provisions set down in the Constitutional Framework.

Eventually, the formation of the government turned out as a surprise, since the LDK and the AAK were able to reach an agreement and left the PDK out of the game. AAK leader Ramush Haradinaj became the new Prime Minister, although speculations about a possible indictment by the ICTY in The Hague already overshadowed this decision¹⁸³. Nevertheless, he had the blessing of UNMIK and the international community. SRSG Sören Jessen-Petersen¹⁸⁴ from Denmark, who had replaced the Finn Harri Holkeri¹⁸⁵ only a few months before, actively supported the formation of the government. He mentioned that the creation of a strong opposition (meaning PDK as the second-strongest party) would help to promote democracy. LDK-leader and President Rugova remained in office, and by choosing a relatively weak coalition partner, he was able to maintain a position of relative strength for himself and his party. Haradinaj's short tenure as Prime Minister is generally viewed

¹⁸¹ See Kramer/Dzhic; p 197 cont.

¹⁸² One has to consider that the AAK got nine seats with almost 58.000 votes and Vetton Surroi's ORA achieved seven seats with about 43.000 votes. Under these circumstances, it seems difficult to explain to the ethnic Albanian majority population that the set-aside-seats transformed 1.400 votes into eight mandates in the Assembly.

¹⁸³ See Kramer/Dzhic, p 199 cont.

¹⁸⁴ Jessen-Petersen took office in mid-June 2004, and remained as SRSG for about two years. It was already mentioned that his overly supportive reaction after Haradinaj's ICTY indictment caused a substantial amount of criticism. Additionally, there were allegations that Jessen-Petersen's Deputy SRSG, Steven Schook, maintained an unprofessionally close relationship with AAK. His contract was not renewed by the UN in late 2007, but eventually he was cleared. It was already mentioned that Schook is now an official advisor for the AAK.

¹⁸⁵ Holkeri's tenure was overshadowed by the March riots of 2004, and eventually he left Kosova after less than one year in office.

as positive, and he received credit for bringing a previously unknown dynamic to the office. When he was forced to resign after the ICTY-indictment in March 2005¹⁸⁶, Bajram Kosumi (until March 2006) and later Agim Ceku (until January 2008) followed in the office of Prime Minister.

16.5. General Elections 2007

On 17 November 2007, for the third time, Assembly and Municipal elections took place. Municipal elections were already due in 2006, but with regard to the ongoing status process, UNMIK had decided to postpone them¹⁸⁷. In 2007 new electoral system was in place, in addition to voting for the Municipal and Kosovo-wide Assemblies, Mayors were elected directly for the first time. Since the last elections, several significant developments had happened. Although significantly delayed, the status process was well under way, and it seemed obvious that a solution was imminent. The next government would be the one to lead Kosova towards independence; therefore, the election was highly symbolic, at least for the ethnic Albanians. President Rugova had died in January 2006 and his party LDK was still in disarray, although Fatmir Sejdiu was able to succeed Rugova as both President and leader of LDK. Nevertheless, Nexhat Daci's defection and the establishment of Democratic League of Dardania (LDD) in January 2007 had a serious impact on LDK. Daci took several LDK officials and Assembly Deputies with him¹⁸⁸.

In March 2006, another new contender had entered the political stage. Behgjet Pacolli, a prominent businessman, based in Switzerland, founded the New Alliance for Kosovo (AKR). Pacolli, originating from Kosova, sometimes touted to be the richest Albanian person, is a highly controversial figure. His company, Mabetex, is prominent for her activities in Russia and the Former Soviet Union, and there are allegations about corruption during the Jelzin era, when Mabetex was involved in the renovation of the Kremlin¹⁸⁹. Nevertheless, for a significant part of the Kosova-

¹⁸⁶ See: Kramer/Dzihic, p 209 cont.

¹⁸⁷ UNMIK Press Release dated 16 June 2006. See: [http://www.unmikonline.org/dpi/pressrelease.nsf/0/BCABFE5B2C3F9DC5C1257196002A5001/\\$FILE/pr%201567.pdf](http://www.unmikonline.org/dpi/pressrelease.nsf/0/BCABFE5B2C3F9DC5C1257196002A5001/$FILE/pr%201567.pdf)

¹⁸⁸ Among those who changed their allegiance were members of Ibrahim Rugova's nephew Naser Rugova and other prominent party members.

¹⁸⁹ See for example an article in the online version of the German news magazine "Der Spiegel": <http://wissen.spiegel.de/wissen/dokument/dokument.html?id=14443542&top=SPIEGEL>

Albanian population Pacolli represents the prototype of a successful self-made-man, and he conducted an intensive election campaign.

For AAK the situation was not perfect as well, although Ceku held the office of Prime Minister. The status negotiations went too slowly, and especially PDK blamed the government for not achieving quicker results. Ramush Haradinaj was still in The Hague and not able to conduct an election campaign, but at least he could draw some sympathies and capitalize on his image as a war hero. Nevertheless, it was unclear how the trial in The Hague would end, and an eventual prison sentence, meaning a prolonged absence, would have posed a serious threat for the future of AAK.

For the Serbs, the situation remained as problematic as ever and especially in the light of the ongoing status negotiations, Belgrade continued with her policy to call for a boycott. This led to the withdrawal of the majority of previously registered Serbian political entities, and eventually less than one percent of Kosovo-Serbs cast their ballot.

The result of the Assembly elections was an overturn of the previous balance of power. LDK was punished severely and lost about half of their voters. The party gained only about 22 % (2004: 45 %). For the first time ever, Hashim Thaci's PDK was able to replace the LDK at the top. PDK included a few smaller parties into a pre-election coalition and was supported by 34 %, a significant increase to the 29 % they had in 2004. Although the AAK could gain a few votes and ended up with slightly more than 9 %, it was one of the losers of the election. They lost their third ranking position to Pacolli's AKR, which was able to achieve 12 %. Even Daci's LDD, beat the AAK by a few thousand votes and achieved 10%. Unfortunately, with slightly more than 40 % the turnout was low (2004: 50 %). This was attributed to a widespread frustration among the population, concerning not only the delay in the status issue but also an increasing mistrust against politicians and the lack of improvements in everyday life¹⁹⁰. This feeling was also perceived as favourable for Pacolli's AKR, since he represented economic success and a "new" type of politician.

¹⁹⁰ In her preliminary statement on 18 November the Council of Europe Election Observation Mission in Kosovo commended the peaceful electoral process in general, but criticized the low turnout: "The confirmation of this continuous downward trend, which started in the 2001 elections, reveals

On the municipal level, the PDK success was reflected, and the party was able to win a majority of the municipalities. LDK suffered losses and the AAK remained on top in the municipalities of Western Kosovo, their traditional stronghold. For the Serbs, the boycott proved again detrimental, since they lost influence in ethnically mixed municipalities, where they were previously represented. In the North, the SRSG annulled the result. Representatives of the local ethnic Albanian minority in the North, who ran for election, were voted into office due to the Serbian boycott, but these results were not feasible and therefore cancelled. The overwhelming majority of Kosovo-Serbs held their Municipal elections together with the rest of Serbia in May 2008, but this was not acceptable for UNMIK and therefore considered illegal¹⁹¹.

On the Kosovo-wide level, the formation of a new government took until January 2008. On 10 December 2007, an ultimatum for the UN-appointed Troika to conclude their mission about the future status ran out. Kosova was under pressure to create functional institutions quickly, but the political situation was complicated. LDK was shocked by her losses, while Thaci saw a historic chance to become Prime Minister, and Haradinaj still was not present. Less than two months later, coalition talks were concluded and on 9 January, Thaci became Prime Minister in a PDK-LDK coalition, while Sejdiu retained his function as President. In the new coalition, PDK was able to secure the key ministerial posts, and LDK had to contend with the role of junior partner¹⁹². In line with the constitutional provisions, two Serbs participate as well¹⁹³.

dissatisfaction among the population, due to the lack of improvements expected following the previous four elections. To a certain extent, this turnout reflects a particular loss of trust due to widespread discontentment with the prevailing socio-economic situation, which affects all communities living in Kosovo in their day-to-day life." The full statement is available at: http://www.coe.int/t/dc/files/events/2007_kosovo/prelim_statement_en.asp

¹⁹¹ This practice of competing elections led to some chaos about who is the legitimate local representative. For example in the Southern enclave of Strpce, there are two competing ethnic Serb mayors, one installed after the Kosovo-wide elections in 2007, the other after the Serbian elections in 2008. Details are in the ICG Europe Report Nr. 200: Serb Integration in Kosovo: Taking the Plunge; released on 12 May 2009.

¹⁹² By entering the coalition, the predicament for LDK continued. Like Rugova before him, Sejdiu was accused to put his personal ambitions before the interests of his party. Thaci demanded that all of the LDK-ministers who served in the previous coalition with AAK had to be replaced. Naturally, this loss of power meets resistance, and this group of former ministers is now threatening the cohesion of the party. For example see: the "Zëri" newspaper article: "New coalition followed by inter-party discontent". available at the 11 January 2008 UNMIK Media Monitoring website: http://www.unmikonline.org/dpi/localmed.nsf/f0300?OpenForm&Seq=1#_RefreshKW_Media

¹⁹³ More details are at the Prime Minister's website: <http://www.kryeministri-ks.net/?page=2,1>

16.6. Conclusion

The various elections on Municipal and Kosovo-wide level held between 2000 and the declaration of independence in February 2008 undoubtedly helped to establish relevant political institutions. All of the elections were held without incidents, and – with international support- they were in line with international standards. Out of a non-existent party system, several political parties emerged. While it is true that virtually all of them have deficits concerning transparency, internal democratic structures or a structured program to deal with the challenges facing Kosova, one has to contend that the political landscape has developed.

State related structures like the Assembly and the executive developed as well, although there are still significant deficits and a serious amount of dealings behind the scenes. In order to guarantee a positive development, the international community remains present. Basically, the elections held so far gave proof that the institutional level of state-building has developed and that – with the continued support of the international community – a constructive path was taken.

Despite an overall positive assessment, at least concerning technical issues, the shortfalls need to be mentioned as well. Firstly, it was never possible to integrate a substantial share of Kosovo-Serbs into the system. Although there are far-reaching provisions in the electoral system and in the constitution, most of them simply refused to accept the system. They are still bound to Serbia proper and continue to listen to Belgrade more than to Pristina's institutions or the international community. The few Kosovo-Serbs that participate in the institutions are not representative and often viewed as traitors by their own community. Even if they accepted a political office or a mandate in the Assembly, boycott was more the rule than the exception. In the end, nothing substantial was achievable for the Kosovo-Serbs within the PISG.

On the side of the ethnic Albanian majority, frustration seems to prevail. The rate of participation in elections is constantly falling, and polls show that the bad socio-economic situation as well as corruption and inefficiency shed a negative light on the political representatives. Despite the newly won democratic rights and opportunities, scepticism and a feeling of indifference seems to take hold. It is a responsibility of the elected political representatives as well as the international community to take care

that this potentially dangerous amount of frustration among the general population will not prevail.

17. UNOSEK and the Status Issue

The status issue was deliberately left unresolved after the war in 1999. After the unilateral intervention of NATO in 1999, the obvious priority was to find a way how the international community could work together and resolve the problems that arose from this issue. On the ground, UNMIK was forced to deal with the basic problems of post-conflict rehabilitation. Initially, the international discussions circled around the matter of legitimacy of the intervention, but for the Kosova-Albanians, the aim was always full independence from Serbia¹⁹⁴. This did not change when the Serbs brought down the Milosevic-regime in October 2000. To the international community, the riots in March 2004 functioned as a painful reminder that Kosova-Albanian patience was running low¹⁹⁵. Despite the unanimous rejection of the violence, the international community was forced to tackle the status issue more actively.

17.1. "Standards before Status"

Already in March 2002, the International Crisis Group wrote¹⁹⁶:

"Since Kosovo became an international protectorate under United Nations administration in June 1999, much has been done to stabilise the province and set up a functioning administration. Yet nothing has been done to resolve the question at the heart of the conflict in Kosovo, and which remains the issue of overriding importance for the province's inhabitants: the issue of final status."

The status issue was not only of importance for Kosovo, but also for a democratic Serbia, which should have clarity about what lay ahead. Uncertainty was seen as a potential source of instability, not only in Kosovo and Serbia, but also for the whole region. The armed conflicts in Southern Serbia and in Macedonia during 2001 were

¹⁹⁴ A huge number of documents, studies and books was published about the legitimacy of the NATO intervention in 1999 and the status issue in general. Some are mentioned in the bibliography of this document.

¹⁹⁵ See: ICG Europe Report Nr.155: "Collapse in Kosovo", published on 22 April 2004.

¹⁹⁶ Executive Summary of the ICG Balkans Report Nr 124: A Kosovo Roadmap (I) Addressing Final Status; published on 1 March 2002.

related to the situation in Kosovo and made the regional dimension of the status issue obvious. Already at that time, a form of “conditional independence” was recommended as a potential solution to accommodate the competing views of Serbia and Kosovo.

The implementation of the Constitutional Framework in May 2001 marked a first step towards creating sustainable political institutions, and naturally, the elected Kosova-Albanian officials focused on the issue of independence. In April 2002, SRSG Michael Steiner formulated a strategy to tackle the problem¹⁹⁷. The idea was to create benchmarks for development, covering a broad field of the social, political and economic issues. The catchword for this strategy was “Standards before Status”, meaning that a process to determine the future status would commence only after certain criteria were achieved.

Steiner defined eight benchmarks, later called the “Standards for Kosovo”¹⁹⁸:

1. existence of effective, representative and functioning institutions;
2. enforcement of the rule of law;
3. freedom of movement;
4. respect for the right of all Kosovans to remain and return;
5. development of a sound basis for a market economy;
6. clarity of property title;
7. normalised dialogue with Belgrade; and
8. reduction and transformation of the Kosovo Protection Corps in line with its mandate.

In a report to the UNSC, Steiner gave an assessment about the prospects for the future status:

“He could not predict with certainty the shape of Kosovo’s future, but he could say there would be no partition, no cantonization, and no return to the “status quo ante” of 1999.”¹⁹⁹

¹⁹⁷ See: Kramer/Dzihic, p167 cont.

¹⁹⁸ SRSG Steiner’s address to the UNSC, published in an UNMIK Press Release dated 17 April 2002, available at: <http://www.unmikonline.org/press/2002/pressr/pr719.htm>

¹⁹⁹ Press Release SC/7472, concerning the Security Council Meeting on 30 July 2002. The text is available at: <http://www.un.org/News/Press/docs/2002/sc7472.doc.htm>

Initially, the international community determined the Standards alone, but later, Steiner's successor as SRSG, Harri Holkeri, included the PISG. A possible timeframe for further progress in the status issue was mentioned in November 2003, when US Under Secretary of State Marc Grossman mentioned publicly that an evaluation of the standards should be held in mid-2005. This statement was agreed with the European Union and within the Contact Group²⁰⁰.

Eventually, in December 2003 Holkeri launched the program together with Prime Minister Bajram Rexhepi (PDK). A few months later, in late March 2004, a document called the Kosovo Standards Implementation Plan (KSIP) defined concrete actions, a timeframe and responsibilities to meet the Standards²⁰¹.

The inclusion of the Kosova-Albanians into the "Standards before Status" process was a success, but it was only natural that with the prospect of finally addressing the status issue they were motivated to cooperate. For Belgrade and the Kosovo-Serbs the situation was different. In their view, the KSIP was a prejudice of the future status, which implied independence.

It would lead too far to discuss the Standards in detail, but as a conclusion the following points shall be mentioned: Firstly, by determining benchmarks and developing the KSIP, the local representatives were given a responsibility to contribute to the progress in Kosovo. This was a chance to prove themselves as well as an obligation towards their constituency. By promising a concrete date for the Standards review process, a "carrot" was shown to the ethnic Albanians. Secondly, the international community gained time. This time was needed to support further development in Kosova and to find a possible strategy on how to tackle the tricky status issue. Thirdly, a signal was sent to the Serbs, that the international community did care about their worries, but that the situation could not be left in limbo forever. Nevertheless, at least in the eyes of the ethnic Albanians, some of the Standards remained problematic: "Representative and functioning institutions", as laid down in

²⁰⁰ The Contact Group, an informal group of countries, includes France, Germany, Italy, Russia, the United Kingdom and the United States. It emerged in 1994 as a response to the crisis in Bosnia and Herzegovina. Because the Contact Group includes four of the five Permanent Members of the UN Security Council, and the most influential EU-countries it plays a crucial role. Within the Contact Group the "Quint", meaning the five Western Countries plays a specific role.

²⁰¹ Details, as well as a link to the KSIP document can be found at: <http://www.unmikonline.org/standards/>

Standard 1, were only possible with Serbian participation. The returns mentioned in Standard 4 needed support from Belgrade; the same goes for Standard 6, because in 1999 the departing Serbian forces took a large amount of administrative documents with them. Finally, Standard 7, concerning dialogue with Belgrade, was impossible to achieve if Serbia did not cooperate. In this sense, Belgrade and partially also the Kosovo-Serbs had it in their hand to derail the whole process. Nevertheless, with the decision by the international community, everyone was committed and an irreversible process was set in motion.

17.2. The Eide-Report

By mid 2005, the date envisioned to hold the status review process, the situation had changed profoundly²⁰². After the riots of March 2004, the relationship between Pristina and Belgrade and the Kosovo-Serbs deteriorated significantly. In the eyes of the Kosova-Albanians UNMIK had lost a lot of credibility, and SRSG Holkeri was replaced with Sören Jessen-Petersen. The Assembly elections in October 2004 led to a change in the government, and especially the relationship between PDK and AAK was strained, because AAK-leader Ramush Haradinaj pushed the PDK away from power and entered a coalition with LDK. After the ICTY-indictment in March 2005, Bajram Kosumi replaced Prime Minister Haradinaj. Again, the PDK and Thaci were disappointed, because Thaci's hopes for early elections and a potential return to power did not come true.

After international consultations about how to proceed with the status issue, in June 2005 UN Secretary General Kofi Annan nominated the Norwegian diplomat Kai Eide as his "Special Envoy to carry out a comprehensive review of Kosovo"²⁰³. Eide's task was to "assess whether the conditions are in place to enter into a political process designed to determine the future status of Kosovo". In October 2005, the Secretary General expressed support for Eide's Report and forwarded the matter to the UN

²⁰² In the Europe report Nr 161: "Kosovo: Toward Final Status" published on 24 January 2005, the International Crisis Group gives an account of the situation in early 2005 and the developments that happened after the creation of the KSIP.

²⁰³ United Nations Press Release SG/A/927, dated 3 June 2005
<http://www.un.org/News/Press/docs/2005/sga927.doc.htm>

Security Council²⁰⁴. The report was rather critical about the achievements concerning the Standards, but nevertheless recommended to commence with the status process.

Eide mentioned that progress has been made in the development of the institutional and legal framework, and he pointed out, that a “significant transfer of competences has occurred”, but criticized the high amount of nepotism among the local structures. The Serbian boycott of the institutions in Kosova and Belgrade’s continued support for a parallel system was mentioned negatively, and Eide explicitly called on Belgrade to encourage the Kosovo-Serbs to participate in the institutions. He expressed concern about the widespread influence of organized crime, corruption and the general lack of rule of law. Additionally, the ambitious aim of creating a multi-ethnic society had made hardly any progress, and the return process had made little process.

Eventually, the “Standards before Status” policy had transformed into a “Standards and Status” policy, and based on Eide’s recommendation to commence the status process, on 14 November 2005, the UNSG nominated a “Special Envoy for the future status process for Kosovo”. This task was entrusted to the former Finnish President Martti Ahtisaari, with the Austrian diplomat Albert Rohan as his deputy. The United Nations Office of the Special Envoy for Kosovo (UNOSEK) was established in Vienna, Austria. The UN Security Council explicitly supported the UN Secretary General’s decision to move forward with the status issue, and welcomed the intention of the Contact Group to engage in the process. Consequently, apart from UNOSEK, also the Contact Group played a significant role. It published “Ten Guiding Principles” on the status process²⁰⁵. Apart from the demand that: “The final decision about the future status of Kosovo should be endorsed by the Security Council”, Paragraph 6 mentioned:

- [that the settlement should...] “ensure that Kosovo does not return to the pre-March 1999 situation.
- Any solution that is unilateral or results from the use of force would be unacceptable.

²⁰⁴ UN document S/2005/635: “Letter dated 7 October 2005 from the Secretary-General addressed to the President of the Security Council”; available at: <http://www.unosek.org/docref/KaiEidereport.pdf>

²⁰⁵ The document is available at the UNOSEK website: <http://www.unosek.org/docref/Contact%20Group%20-%20Ten%20Guiding%20principles%20for%20Ahtisaari.pdf>

- There will be no changes in the current territory of Kosovo, i.e. no partition of Kosovo and no union of Kosovo with any country or part of any country.”

There was no official interpretation of these points, but they were generally understood to mean that a forceful solution (in 1999 the UCK was at war with Yugoslav forces; the NATO air war commenced on 24 March 1999) was unacceptable. Further, while partition (in reference to the situation in Northern Kosovo) was excluded, a “Greater Albania” (meaning the unification of Kosovo with Albania and/or parts of Macedonia) was excluded as well. With hindsight, the points that excluded unilateral solutions and demanded endorsement by the Security Council were not fulfilled.

On 31 January 2006, the Contact Group, in accordance with the EU, NATO and the UN, issued another statement²⁰⁶, emphasizing the necessity to come to a conclusion during 2006. They reiterated the Guiding Principles and called on Pristina to put more emphasis on the implementation of the standards. Belgrade was reminded that the “disastrous policies of the past lie at the heart of the current problems, and that a solution must be “acceptable to the people of Kosovo” (n.b. 90% ethnic Albanians). For Pristina and Belgrade, this was an indication that at least some form of independence was envisioned.

17.3. The UNOSEK-led Negotiations

Initially, UNOSEK started the negotiation process with meetings in the region, including Kosovo’s neighbouring countries. Direct talks between Serbian and Kosovo Albanian negotiation teams began on 20 February 2006 in Vienna. The nomination of Ambassador Frank Wisner as US representative to the status talks ensured that not only UNOSEK, but also the United States were at least informally involved in the whole process.

²⁰⁶ The document is available at the UNOSEK website: <http://www.unosek.org/docref/fevrier/STATEMENT%20BY%20THE%20CONTACT%20GROUP%20ON%20THE%20FUTURE%20OF%20KOSOVO%20-%20Eng.pdf>

The so-called “Team of Unity”, consisting of the President as well as members of the government coalition and the opposition, represented Pristina²⁰⁷. The situation on the ethnic Albanian side was complicated; one has to remember that only a short time before President Rugova died, and the relationship between the governing coalition and especially the PDK was strained. Only a few weeks after the beginning of the negotiations, Agim Ceku replaced Kosova’s Prime Minister Kosumi. Additionally, each of the politicians involved was interested to claim the fame for “negotiating Kosova’s independence” for himself. The obvious involvement of the international community in creating and mentoring Pristina’s team was proof that the Kosova-Albanian side was challenged to negotiate on their own. President Boris Tadic and Prime Minister Vojislav Kostunica, two politicians that were also involved in domestic power struggles, represented Belgrade. For them, the later inclusion of Ceku into the negotiation team was hard to take. They were in a situation of having to negotiate with Thaci and Ceku, two former UCK-leaders they considered to be terrorists.

Apart from the High-level meetings, several rounds of talks concerning specific issues took place. Those negotiations, dealing with matters like decentralization and community rights, economic matters or cultural and religious heritage, were held on a lower level. The Kosovo-Serbs participated on Belgrade’s side, which was a clear indicator for the irreconcilable positions.

Pristina’s and Belgrade’s positions were not compatible. For the Kosova-Albanians, nothing less than independence from Serbia was acceptable, while the Serbs were absolutely opposed to exactly this demand. Both sides claimed that history was on their side. The Albanians were counting on the Milosevic-era and previous

²⁰⁷ There can be doubts whether the expression “Team of Unity” is appropriate. Some insight can be gained from a local comment about the team, published about one year into the talks on 26 Jan 2007: “The international community supported the creation of the team. The big powers want to make sure acceptance of UN proposals –likely not to deliver the full independence Kosovars want - does not founder over a government crisis, or the government’s lack of a majority in the Kosovo assembly. [...]The team was first formed and led by Kosovo’s late president, Ibrahim Rugova. After his death, several major changes occurred and it now includes the president of Kosovo, Fatmir Sejdiu, the speaker of the assembly, Kule Berisha, Prime Minister Agim Ceku and opposition leaders Hashim Thaci and Vetton Surroi. Representing a broad coalition of all major political parties, it has been seen as a factor of unity, though some complain of a lack of transparency in its work. “ Full text available at: <http://kosovo.birn.eu.com/en/1/70/2152/>

oppressions, while the Serbs argued that Kosovo was the “cradle of Serbian culture” and mentioned those about 250.000 Serbs that left Kosovo after 1999²⁰⁸.

In November 2006, it was clear that no substantial progress was possible. In his periodic report to the Security Council²⁰⁹, the SG commended the PISG for making progress in the Standards implementation, and criticized the Kosovo-Serbs for the lack of participation in the PISG. In August, a new SRSG, Joachim Rücker of Germany had replaced Jessen-Petersen. In late October 2006, Serbia adopted a new constitution that reiterated the country’s claim on Kosovo. The peaceful separation of Montenegro in June made the adoption of a new constitution a necessity, but it also had a serious impact on Serbian national feelings. What was more important was that the new constitution demanded elections, which were set for 21 January 2007. Considering the domestic political situation in Serbia during that time, it seemed inappropriate to conclude the status negotiations before the Serbian elections took place. Although no official statements were made in that sense, it was widely believed that Serbia would eventually loose Kosovo, and there was a worry that this would strengthen the extreme nationalists in Belgrade, having potentially destabilizing consequences for the whole region. After consultations, UNOSEK decided present the status-proposal only after the conclusion of the elections in Serbia²¹⁰. Therefore, the original timeframe of settling the status issue until the end of 2006 was no longer feasible²¹¹.

17.4. The UNOSEK-Proposal

In Serbia, Vojislav Kostunica remained in the office of Prime Minister, although the Serbian Radical Party (SRS) came out of the elections as the strongest single grouping (29% for SRS, while President Tadic’s pro-european Democratic Party was second with 23%). Kostunica used the Kosovo-issue for his campaign, and it seemed

²⁰⁸ A full history o Serbia’s official statements on Kosovo is available at the Serbian Government website: <http://www.srbija.gov.rs/vesti/sekcija.php?id=160>

²⁰⁹ Document S/2006/906, dated 20 November 2006; available at: http://www.unosek.org/docref/S-2006-906-20_November_2006-UNMIK.pdf

²¹⁰ UNOSEK Press Release 10 November 2006

²¹¹ The ICG issued two reports which give a deep insight on the negotiation process and the situation after the delay: Europe Report Nr.177: “Kosovo Status: Delay is Risky”, published on 10 November 2006; and Europe Briefing Nr.45: “Kosovo’s Status: Difficult Months Ahead”, published on 20 December 2006

impossible that he or any other Serbian politician would make the slightest concession in the status issue. Additionally, among the Kosovo Serbs, the Radicals and Kostunica's DSS were the strongest parties.

Finally, Secretary General Ban Ki-moon endorsed and presented Ahtisaari's proposals for a solution to the UN Security Council on 26 March 2007²¹². Ahtisaari mentioned that the negotiations failed to produce an agreement and the two sides remained "diametrically opposed" in their positions. The proposal envisioned "internationally supervised independence" for Kosovo, together with twelve annexes containing provisions to secure minority rights and address the shortfalls connected to the Standards. The details, and especially Ahtisaari's arguments pro independence are written down in the relevant documents. One central point was that nothing could be gained by further negotiations, but further delay of a solution had the potential to destabilize the whole region.

The basic statements in Ahtisaari's report were²¹³ that:

- Reintegration into Serbia is not a viable option
- Continued international administration is not sustainable
- Independence with international supervision is the only viable option

Without going into every detail, Ahtisaari's proposal would give Kosova the legal and institutional attributes of an independent state, but with limited sovereignty. He pointed out that since 1999, Kosovo and Serbia had been governed in "complete separation", which created an "irreversible" situation. Neither a reintegration into Serbia nor a continued international administration would be feasible or possible. The political institutions would be transformed from a provisional to a definite status;

²¹² Actually, the proposal was presented in two documents sent from the Secretary General to the Security Council. Document S/2007/168, contained Ahtisaari's report to the secretary General, outlining his recommendations, <http://www.unosek.org/docref/report-english.pdf> The other one was an addendum to the first document and contained the actual Comprehensive Proposal, including the detailed annexes concerning the implementation of the proposal. http://www.unosek.org/docref/Comprehensive_proposal-english.pdf Accordingly, a distinction between the "report" and the "proposal" should be made. Both documents are often referred to as the "Ahtisaari Plan".

²¹³ Report of the Special Envoy of the Secretary-General on Kosovo's future status; attached to the Letter dated 26 March 2007 from the Secretary-General addressed to the President of the Security Council; UN Document S/2007/168; available at <http://www.unosek.org/docref/report-english.pdf>

additionally Kosova would get (limited) Armed Forces and responsibility to manage her Foreign Affairs.

The international civilian presence would change significantly. UNMIK should close down after a transitional period, while a new International Civilian Representative (ICR, functioning also as EU Special Representative) would be established. Comparable to the situation in Bosnia and Herzegovina, the ICR/EUSR would have an international mandate to supervise the Settlement, but without administrative powers. He would be supported by an European Security and Defence policy (ESDP) Mission with limited executive powers to support the rule of law. The international military presence would not change immediately, but get the additional task of supporting the creation of a lightly armed Kosovo Security Force.

Minority rights would be guaranteed by the international presence, and reinforced by special provisions, especially for the Serb community. Additional municipalities with a Serb majority would be created, and the concept of decentralisation would transfer more responsibility to local municipality structures. In that way, the local bodies would be able to ensure better rights for minorities. Within certain limits, the municipalities would have increased possibilities for cross-border cooperation.

Naturally, Pristina accepted the plan, but Serbia rejected it immediately, calling for further negotiations. In Belgrade's view, neither supervised nor unsupervised independence were acceptable, only autonomy within Serbia's borders would be an option. Belgrade considered independence for Kosovo as a violation of international law and UN rules, because a substantial part (around 15%) would be taken away without consent.

Backing Belgrade's position, Russia blocked a Security Council decision supporting the Ahtisaari proposal for a solution. According to the plan, Resolution 1244(1999) would have been replaced by another resolution, allowing the closure of UNMIK and blessing the independence of Kosova. After several attempts to negotiate a UNSC-Resolution, in July 2007 the UNSG endorsed a Contact Group sponsored EU-US-

Russian troika to hold new talks between Belgrade and Pristina²¹⁴. Rather unsurprisingly, after a deadline set by the Secretary General, the negotiations ended on 10 December 2007, again without a deal.

17.5. Declaration of Independence

After the failure of the troika, it was virtually impossible to reconcile the opposing views on both sides. Due to the blockade in the Security Council the United Nations were de facto paralyzed. The initiative for progress lay mostly with the Quint countries, because the Contact Group was blocked by Russia. In addition, and related to the Quint, the European Union was under pressure to act.

For Serbia, the situation was relatively acceptable, because de facto, nothing had changed in comparison to the years before. For Pristina and her Western allies, the situation became increasingly untenable. A solution had been promised until the end of 2006, and now, after a delay of more than a year, caused by the elections in Serbia and Russia's blockade in the UNSC, no way out was visible. Almost a year ago, Ahtisaari had stressed the need for a timely solution of the status issue. Both, the local politicians and the international representatives, were about to lose their credibility²¹⁵. The low turnout of the Kosovo elections in November 2007 was seen as one indicator about the general frustration of the population. In addition, there were speculations whether the situation might lead to another outbreak of violence like in 2004. It was even pondered whether Serbia would actually want to provoke another riot in order to discredit Kosovo's ambitions and the policy of the Western countries.

In order to break the stalemate, the Council of the EU decided on 4 February to establish the envisioned rule of law mission, called EULEX KOSOVO²¹⁶. Preparations to transform the international presence in Kosovo according to the Ahtisaari-Proposal were long underway, but the stalemate in the UNSC prevented a

²¹⁴ Members of the troika were the German diplomat Wolfgang Ischinger for the EU, the Russian diplomat Alexander Botsan-Kharchenko, and Frank Wisner for the US. Wisner, former US envoy to the INOSEK status talks, was the only Troika member with previous active involvement in the process.

²¹⁵ The ICG published two reports urging for a solution of the crisis. On 14 May 2007, Europe Report Nr.182, "Kosovo: No Good Alternatives to the Ahtisaari Plan"; and on 21 August 2007, Europe Report Nr. 185: "Breaking the Kosovo Stalemate: Europe's Responsibility".

²¹⁶ See: http://www.eulex-kosovo.eu/home/docs/JointActionEULEX_EN.pdf

transformation of these structures (the decision to establish an EU Preparation Team for a later rule of law mission was already made during April 2006).

Eventually, after intense behind the scenes coordination with Western countries, the Assembly of Kosova finally declared independence on 17 February 2009. Naturally, the Kosovo-Serbian deputies were not present during the session. Belgrade and her allies immediately rejected this move, while most of the EU countries and the US supported this move. As of late May 2009, about 60 countries have recognized the independence of Kosovo. Parallel with the declaration of independence, Pristina invited the International community to deploy the ICR foreseen in the Ahtisaari Plan. In mid-June of 2008 the new constitution of Kosova, based and developed in line with the Ahtisaari-proposal entered into force.

Pristina is officially committed to fulfil the obligations according to this document, and those countries who support independence took on the obligations even without formal UN approval. Nevertheless, the lack of support in the UN continues to create challenges. UNMIK is not in a position to close down the mission, although it has lost support among the ethnic Albanians. Additionally, the situation within the EU, where five countries²¹⁷ do not recognize the independence of Kosova, has a detrimental effect on the functioning and decision-making of the international community²¹⁸. There is a rivalry between UNMIK and the ICO, and EULEX is technically operational on the whole territory of Kosova, but its mandate had to be adapted. Serbia's support for the EULEX-deployment to northern Kosova was only given after the mission agreed to operate under the framework of UNSCR 1244(1999).

18. Final Conclusions

The chapter about UNMIK started with a statement from the Ombudsperson of Kosovo. About five months after the declaration of independence the Acting

²¹⁷ Those countries are Cyprus, Greece, Romania, Slovakia and Spain.

²¹⁸ On 18 March 2008, the ICG published an initial assessment about the declaration of independence: Europe Briefing Nr.47: "Kosovo's First Month".

Ombudsperson, meanwhile no longer an international representative, but a Kosova-Albanian, describes the situation in the Eighth Annual Report (2007-2008)²¹⁹:

“For the vast majority of the population who celebrated on 17 February, the Declaration of Independence was not only a moment they had been waiting for several decades; it also carried the promise of new opportunities for the future and the improvement of their daily life. The focus of the new State is logically on establishing a dynamic economic development and improving the conditions for investments in Kosovo. However, achieving this goal will remain a challenge due to the weakness of the rule of law in Kosovo. The partial lack of implementation of Laws and Regulations applicable in Kosovo, the lack of legal certainty and execution of court decisions, the complexity of the legal framework, along with the widespread corruption, the existence of organized crime and the general lack of accountability of judges, prosecutors and authorities at central and municipal level, etc. do not only reflect badly and even impede the future economic prospects of Kosovo and its integration in the European Union. They constitute and contribute to the ongoing human rights violations of the Kosovo population.”

The Ombudsperson's comment can be taken as a clear indication that Kosova has not yet fully achieved the goals that were envisioned in the UNMIK standards. The commitment of EU in the form of EULEX KOSOVO gives further proof that there is still a long way to go, otherwise such a mission would not be necessary. Nevertheless, from a pragmatic point of view, it remains doubtful that a further delay of the process that was set in motion in 2002/2003 would have brought more progress. Already in 1999, when the international community took over responsibility in Kosova, the irreversibility of the process seemed clear. Ever since the disintegration of Yugoslavia started, Kosova was moving away from Serbia, and Belgrade did little to give her ethnic Albanian population in Kosova an incentive to feel attached to Serbia. After the international commitment in 1999, a new state-building effort was set in motion, although at that time no one (apart from Kosova's Albanians) would say so publicly.

Fukuyama is quite explicit in his criticism of nation-building efforts, which he defines as “[...] political power exercised directly by countries or consortia of countries as occupation authorities or through a strong direct relationship with the local government. [...] most countries in need of nation-building are failed states or other

²¹⁹ After the International Ombudsperson, Marek Nowicki, left office in late 2005, Hilmi Jashari was appointed as Acting Ombudsperson. Due to the fact that no Ombudsperson has been appointed by the Assembly of Kosovo, Jashari is still in this function. More details as well as the full report can be found at: <http://www.ombudspersonkosovo.org/?cid=2,74> The above mentioned lines were taken from page 10 of the report.

types of post-conflict societies with far more severe governance problems than the average recipient of a conditional loan. If nation-building means the creation of self-sustaining state capacity that can survive once foreign advice and support are withdrawn, then the number of historical cases where this has happened successfully drops to a depressingly small handful.”²²⁰

Kosovo represents a different situation and stands in contrast to those successful examples that Fukuyama cites, post-war Germany and Japan: Firstly, opposed to the countries mentioned before, Kosovo never was a functional state. Secondly, the above-mentioned definition of nation-building implies the existence of a local government working together with an occupation authority, something that was not the case in Kosovo immediately after the war. Actually, there was no authority at all, and the international community was tasked first with creating something that resembled a government, or at least institutions that could legitimately represent the local population.

Only after the declaration of independence in 2008, the formal situation has changed. At least for those countries that have recognized this act, there is a legitimate government of Kosovo, and nation-building efforts in the above-mentioned sense can continue. All the effort that was made before Kosovo’s declaration of independence can be viewed as laying the groundwork for the actual nation-building. The International Civilian Office (ICO), an institution that represents only those nations that recognize Kosovo’s independence, stands for “Foreign advice and support”. UNMIK, on the other hand is not in a legal position to recognize independence and – at least in the eyes of Pristina’s institutions- has lost virtually all authority. This dilemma of various international institutions dealing with Kosovo on different legal levels (recognition of independence and dealing with the state institutions on an equal level or not) continues to be a challenge.

In this sense, it cannot be finally determined whether the (technical and institution-minded) state-building process is concluded, and the nation-building process must continue to aim to create a functioning and inclusive society, or whether Kosovo is

²²⁰ Fukuyama, p 50 cont.

still in a situation where, although internationally recognized state institutions were established, the existence of a state is still denied.

A few arguments shall help to structure the various points of view, but due to the controversial nature of this issue, a final decision seems impossible.

- Serbia and a variety of other countries are unlikely to recognize Kosovo in the future. Nevertheless, there are other regions and countries in a comparable situation, e.g. Taiwan or the Palestinian Authority. The Ahtisaari report and other statements refer to Kosova as being a “unique case that demands a unique solution”, but “does not create a precedent for other unresolved conflicts.”²²¹
- Serbs in Kosovo have never accepted the formal loss of Belgrade’s influence. They are even less likely to do so after the declaration of independence. It is highly unlikely that they will recognize independent Kosova as “their state”. While this fact continues to be a significant challenge for Pristina and the international community, it is by no means unique. The same argument can be made for the Kosova-Albanian relationship with Belgrade, or with any number of minorities in other countries. The Russian Federation created a rather similar situation after her intervention in Georgia in August 2008, when Southern Ossetia and Abkhazia declared independence and were recognized. On the international stage, the situation concerning Kosova and the territories in Georgia are two sides of the same coin, with both parties (Kosova and her supporters on one side, Russia, Serbia and their supporters) playing virtually the same game. In this sense, pragmatism rules.
- For the ethnic Albanians, Kosova’s independence was the conclusion of a long and natural development. They constitute at least 90% of the population, and very early on, their view had the support from a significant part of the Western countries. It was argued that it is not viable to ignore the virtually unanimous and long standing will of such a large portion of a territory’s population. Of course, the necessary provisions must be in place to guarantee the rights of other minorities. If they remained within Serbia, Kosova Albanians

²²¹ Report of the Special Envoy of the Secretary-General on Kosovo’s future status; par.15

would represent about 20 to 25% of Serbia's overall population²²². There would be a necessity on Belgrade's side to offer minority rights and proper representation. Overall, it remains doubtful whether the Kosova-Albanians would be willing to accept this offer, or even if Serbia's institutions would be able to absorb a share of roughly 20% ethnic Albanians. During the status negotiations, Belgrade offered a maximum of autonomy within Serbia, but it remains unclear what that actually meant. Currently, not even the status of Vojvodina, the other Autonomous Province of Serbia, is fully clear. Kosova's Albanians have experienced autonomy under Tito, but after Milosevic, this ceased to be a realistic option.

- It is unlikely that Pristina will gain control of the Northern part of Kosova, therefore statehood in the sense of exercising authority on the full territory is questionable. However, the same argument applies to Serbia since 1999, when Kosovo came under international administration. Kosovo is roughly 15% of Serbia's territory, and Belgrade argued during the status negotiations, that it would be a violation of international law, if the territory is taken away by a UN decision.
- Kosova's sovereignty is limited by the international presence, and this is unlikely to change in the immediate future²²³. However, this also applies to Bosnia and Herzegovina (BiH), which is undisputed as an independent state. Moreover, compared with the support that BiH and her state institutions have on her own territory, Kosova is legitimized by the support of a much higher percentage of her citizens.
- As for the functioning of state structures, compared with other countries, (like Fukuyama's example of Mexico or Kenya, and other states), Kosova is certainly not worse. Crime²²⁴, the lack of rule of law and other shortfalls are well known and this is the reason why the EU decided to establish EULEX KOSOVO. Nevertheless, there are numerous states with internal instability or on the brink of being failed states. In Kosova's case, at least the international community remains actively involved to prevent such a development.

²²² The Statistical Office of Serbia estimates about 7,3 million inhabitants without Kosovo. Kosovo's population is estimated to be around 2 million.

²²³ According to the Comprehensive Proposal, the presence of the international community should be reviewed for the first time no later than two years after the entry into force. (Annex IX, Article 5).

²²⁴ See the article about alleged involvement of Haradinaj, Thaci and other prominent politicians in the Swiss magazine "Weltwoche", edition 43/05. The article can be found at: <http://www.weltwoche.ch/ausgaben/2005-43/artikel-2005-43-rechtsstaat-lieber-nicht.html>

The issue of state failure is mentioned in a UN University document²²⁵

Much discussion of “state failure” elides a series of definitional problems, most obviously about the nature of the state itself. If the state is understood as the vehicle for fulfilling a social contract, then state failure is the incapacity to deliver on basic public goods. If the state is defined by its capacity to exercise a monopoly on the legitimate use of force in its territory, state failure occurs when authority structures break down. Or if the state is constituted by its legal capacity, state failure is the incapacity to exercise such powers effectively. Rather than choosing between these Lockean, Weberian, and juridical lines of thought, (...) such definitional questions are misleading: it is not generally the state that “fails,” it is the government or individual leaders. In extreme cases, the institutions of governance themselves may be severely undermined. But it is only through a more nuanced understanding of the state as a network of institutions that crises in governance may be properly understood and, perhaps, avoided or remedied. In many situations the remedy will depend upon variables that are political rather than institutional, though the sustainability of any outcome depends precisely upon institutionalizing procedures to remove that dependence on politics and personality. The key actors in these situations are almost always local. Nevertheless, international actors may also play a critical role, if only in creating the opportunity for local actors to establish legitimate and sustainable governance.”

Irrespective of the internationally disputed legal status of Kosovo, it seems clear that continued international support and presence is still essential. Although the various parties have a very different idea about the aims and legal basis for this presence, it can be in no-one’s interest to see a failure. The unwanted alternative to a successful international engagement is a failure of the institutions in Kosovo with negative consequences for all parties involved.

²²⁵ Chesterman, Ignatieff, Thakur: Making States Work. From State Failure to State-Building; July 2004; p. 2

Abbreviations

AAK	Alliance for the Future of Kosovo (leader: Ramush Haradinaj)
AKR	Alliance for a New Kosovo (leader: Beghjet Pacolli)
DS	Democratic Party (leader: Boris Tadic)
DSS	Democratic Party of Serbia (leader: Vojislav Kostunica)
ESDP	European Security and Defence Policy
EUSR	European Union Special Representative
ICR	International Civilian Representative
ICTY	International Criminal Tribunal for the former Yugoslavia (located in The Hague)
KFOR	(NATO's) Kosovo Force
KLA	Kosovo Liberation Army
LDD	Democratic League of Dardania (leader: Nexhat Daci)
LDK	Democratic League of Kosovo (leader: Fatmir Sejdiu)
LKCK	National Movement for Liberation of Kosovo
LPK	People's Movement of Kosovo
NATO	North Atlantic Treaty Organization
PDK	Democratic Party of Kosovo (leader: Hashim Thaci)
PISG	Provisional Institutions of Self-Government
SRSG	Special Representative of the Secretary-General
UCK	Kosovo Liberation Army (Albanian: Ushtria Çlirimtare e Kosovës or UÇK)
UNMIK	UN Interim Administration Mission in Kosovo
UNSC	UN Security Council
UNSG	Secretary-general of the United Nations
UNSCR	UN Security Council Resolution

Map of Kosovo / Kosova



Bibliography

Books

Biermann, Rafael: Lehrjahre im Kosovo. Das Scheitern der internationalen Krisenprävention vor Kriegsausbruch. Verlag Ferdinand Schöningh, Paderborn 2006

Bieber, Florian; Daskalovski, Zidas (Hg): Understanding the War in Kosovo. Frank Cass, London, Portland 2003

Chesterman, Simon: You, The People; The United Nations, Transitional Administration, and State-Building. Oxford University Press, New York 2004

Chiari, Bernhard; Keßelring Agilolf; (Hrsg.): Wegweiser zur Geschichte Kosovo, 3. durchgesehene und erweiterte Auflage, Paderborn u.a. 2008

This document can also be found at: <http://www.mgfa-potsdam.de/html/einsatzunterstuetzung/kosovo>

Demaj, Violeta: Kosovo/a Recht auf Unabhängigkeit? Neuer Wissenschaftlicher Verlag; Wien, 2003

Fukuyama, Francis: State-Building. Governance and World Order in the Twenty-First Century. Profile Books Limited, London, Paperback Edition 2005.

Hamzaj, Bardh: A Narrative About War And Freedom (Dialog with the Commander Ramush Haradinaj); Zeri, Prishtina, 2000

Jochen Hippler (ed.); Nation-Building. Ein Schlüsselkonzept für friedliche Konfliktbearbeitung? Verlag Dietz; Bonn, 2004

Hockenos, Paul: Homeland Calling: Exile Patriotism and the Balkan Wars; Cornell University Press, Ithaca, 2003

Judah, Tim: Kosovo, War And Revenge. Yale University Pres; New Haven and London, 2000

Kola, Paulin: The Search for Greater Albania. Hurst & Company, London, 2003

Kramer, Helmut; Dzihic, Vedran: Die Kosovo Bilanz. Scheitert die internationale Gemeinschaft? Lit Verlag, Vienna 2005

Kronawetter, Karin: State- und Nation-Building im Kosovo. Diplomarbeit, Universität Wien, 2007

Malcolm, Noel: Kosovo, A Short History. Papermac, London, 1998

Maleninsky, David: Post Conflict Kosovo. Eine Analyse über die Zusammenarbeit der internationalen Organisationen beim Wiederaufbau des Kosovo. Diplomarbeit, Universität Wien, 2005

Mappes-Niediek, Norbert: Die Balkan-Mafia. Ch.Links Verlag, 2. Auflage Berlin 2003

Meier, Viktor: Yugoslavia. A History of its Demise. Routledge, London and New York, 1999

Mingst, Karen: Essentials of International Relations; W.W. Norton & Company, New York and London 1999

Mühlmann, Thomas: Internationale Verwaltung am Beispiel des Kosovo. Dissertation, Universität Wien, 2002

Natsis, Yoannis: U.N. in Kosovo: 1999-2005. An Assessment of international administration. ELIAMEP Postgraduate Notes, Hellenic Foundation for Defence and Foreign Policy (ELIAMEP)

Petritsch, Wolfgang; Kaser, Karl; Pichler, Robert: Kosovo/Kosova. Mythen, Daten Fakten. Wieser Verlag, Klagenfurt, 1999

Pettifer, James: Kosova Express. A Journey in Wartime. The University of Wisconsin Press, Madison, Wisconsin 2005

Prorok, Christiane: Ibrahim Rugovas Leadership. published as: Band 1, Politik und Demokratie; Peter Lang Europäischer Verlag der Wissenschaften, Frankfurt 2004

Reiter, Erich; Selten, Reinhard (Ed.): Zur Lösung des Kosovo-Konfliktes. Die Anwendung der Szenariobündelanalyse im Konfliktmanagement. Nomos Verlagsgesellschaft, Baden-Baden 2003

Vickers, Miranda: The Albanians. A Modern History. I.B.Tauris, London. Paperback edition, published 1999

Zippelius, Reinhold: Allgemeine Staatslehre. Vierzehnte, neubearbeitete Auflage, C.H. Beck, München 2003

Papers and Reports

Brand, Marcus: The Development of Kosovo Institutions and the Transition of Authority from UNMIK to Local Self-Government. Published by the Centre for Applied Studies in International Negotiations (CASIN), Geneva, January 2003
Available at <http://www.casin.ch/web/gover/cluster/newpublic.htm>

Chesterman, Simon; Ignatieff, Michael; Thakur, Ramesh: Making States Work. From State Failure to State-Building; International Peace Academy, United Nations University, New York, July 2004

Chesterman, Simon: Kosovo in Limbo: State-Building and „Substantial Autonomy“. International Peace Academy Report, August 2001
Available at: www.ipacademy.org/pdfs/KOSOVO_in_Limbo.pdf

Dzihic, Vedran: Prospects for the Europeanisation of State-Building Efforts in Kosovo and Bosnia". Published in: Overhaus, Marco; Maull, Hans W.; and Harnisch, Sebastian (ed.): Foreign Policy in Dialogue (Volume 8, issue 23); State-Building and Regional Dialogue in the Western Balkans: Europe's Engagements Twelve Years after Dayton, Trier, November 2007

Available at: <http://www.deutsche-aussenpolitik.de/newsletter/issue23.pdf>

The Responsibility to Protect. Report by the Independent International Commission on Intervention and State Sovereignty (ICISS), Ottawa, 2001

Available at <http://www.iciss.ca/report-en.asp>

Pouyé, Raphaël: 'Shadow States'? State building and national invention under external constraint in Kosovo and East Timor (1974-2002); in: Questions de Recherche / Research in Question N° 13 – February 2005; Centre d'études et de recherches internationales Sciences Po, Paris

Sundhaussen, Holm: Staatsbildung und ethnisch-nationale Gegensätze in Südosteuropa. In: „Aus Politik und Zeitgeschichte“ B10-11/2003, Beilage zur Wochenzeitung „Das Parlament“, published by Bundeszentrale für politische Bildung, Bonn

United Nations documents

Security Council Resolution 1244 (1999), adopted on 10 June 1999

Letter dated 7 October 2005 from the Secretary-General addressed to the President of the Security Council (Annex: A comprehensive review of the situation in Kosovo) S/2005/635

Letter dated 26 March 2007 from the Secretary-General addressed to the President of the Security Council (Report of the Special Envoy of the Secretary-General on Kosovo's Future Status) S/2007/168

Letter dated 26 March 2007 from the Secretary-General addressed to the President of the Security Council (Addendum Comprehensive Proposal for the Kosovo Status Settlement) S/2007/168/Add.1

Secretary-General's Statement on the New Period of Engagement on Kosovo; New York, 1 August 2007

Websites

Assembly of Kosova <http://www.assembly-kosova.org>

ECIKS (Economic Initiative for Kosova)

http://www.eciks.org/english/invest.php?action=total_invest&main_id=14

International Crisis Group (Kosovo reports and briefings, as mentioned in the text)
<http://www.crisisgroup.org/home/index.cfm?id=1243&l=1>

Movement for Self-Determination <http://www.vetevendosje.org/>

OSCE Mission in Kosovo (OMIK) <http://www.osce.org/kosovo>

Statistical Office of Kosovo <http://www.ks-gov.net/esk/>

UNMIK <http://www.unmikonline.org>

UNOSEK <http://www.unosek.org/unosek/index.html>

UN Security Council documents <http://www.un.org/Docs/sc/>

Abstract in deutscher Sprache

Bei Kriegsende Mitte 1999 wurde der Kosovo einer internationalen Verwaltung unter Verantwortung der Vereinten Nationen unterstellt. Die Frage des künftigen Status blieb offen, gleichzeitig wurde aber die Schaffung politischer Institutionen gefördert. Mit der international umstrittenen Unabhängigkeitserklärung im Februar 2008 wurde die Statusfrage zwar de facto gelöst, die Legalität dieses Schrittes bleibt aber umstritten.

Die vorliegende Arbeit orientiert sich im theoretischen Teil an einschlägigen Werken zum state-building und nation-building, dabei wird auch auf die spezifische Situation des Kosovo eingegangen. Anschließend werden die Entwicklungen und Zusammenhänge, die zum Unabhängigkeitsbestreben der ethnisch-albanischen Mehrheitsbevölkerung geführt haben, beleuchtet. Das Schwergewicht liegt auf einer Darstellung und Analyse der politischen Strukturen und quasi-staatlichen Institutionen. Diese waren teilweise lange vor Kriegsausbruch entstanden. Ab 1999 entwickelten sie sich unter aktiver Mitwirkung und Förderung der internationalen Verwaltung weiter. Entstehung und Aufwuchs der wichtigsten politischen Institutionen, sowie die Rolle der UNMIK-Verwaltung, werden dargestellt. Neben den institutionellen Einrichtungen sind auch die wesentlichen Akteure in ihrer Entwicklung sowie in ihren Beziehungen untereinander zu analysieren. Dabei dienen u.a. die bisher abgehaltenen Wahlen als Grundlage. Die Rolle der serbischen Volksgruppe und deren ablehnende Haltung zu den Entwicklungen seit 1999 ist im Zusammenhang mit den oben angeführten Ereignissen zu betrachten. Eine Darstellung und Bewertung der Ereignisse bis zur Unabhängigkeitserklärung 2008 rundet das Bild ab. Zuletzt wird versucht, eine Bilanz des state-building für die „Republik Kosova“ nach der Unabhängigkeitserklärung zu ziehen, und Herausforderungen für die Zukunft zu erkennen.

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