

The Kosovo Statebuilding Conundrum: Addressing Fragility in a Contested State



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Executive summary

Kosovo is one of the world's newest nations since declaring its independence in 2008. However, this small, poor and ethnically fractured land, which has been categorised by the World Bank as a fragile state, represents a conundrum for the efforts of development and diplomatic actors, particularly the European Union (EU). How can the state be built in a nation whose very existence is contested? What are the pitfalls of building an equitable political community in the aftermath of internal conflict and international intervention? And what insights can be gleaned from the weaknesses and challenges currently faced by international and local governance in the country?

This paper aims to deepen the understanding of the factors and processes which have led to the fragilities in Kosovo and examine how international actors and donors have reduced those fragilities. This paper also attempts to identify the gaps as well as draw lessons on how to improve both its governance and international actors' approaches to statebuilding as peacebuilding.

Kosovo is not a failed state, but it is critically weak along a number of axes, including its legacy of powerful regional clans, a criminal-political nexus, its extreme ethnic polarisation, dynamics of parallel authorities competing for legitimacy and its deep economic stagnation. These characteristics are known within both Europe and the wider international community, but the extensive externally-led administrative and security intervention that has been mounted in the last decade has not generated genuine state legitimacy nor created institutional strength. Indeed, external efforts have failed to address the underlying causes of conflict and state weakness, and may have even undermined state construction in a number of critical ways.

Geopolitical controversy over Kosovo's status is mirrored within the country by a large grey area of sovereignty, in which the jurisdictions of domestic and international actors overlap and compete.

A new social and political order has certainly been established by Kosovo's separation and independence, but its basis is to be found in ad hoc international responses and insufficiently sound planning, allowing a number of hybrid political powers to prosper. This paper argues that the consolidation of a resilient state requires a deep bond between government and people, and that this in turn requires the explicit construction of basic social capital and enhanced political participation. For this to happen, 'external agencies must start with a deeper understanding of how ordinary people relate to their governance system'.¹

¹ Edward Bell, 'Society in statebuilding: lessons for improving democratic governance', IfP democratisation cluster, 2009. Available at <http://www.initiativeforpeacebuilding.eu>

Contents

Introduction	1
The international dimension	1
A new approach	2
The emergence of the state in Kosovo	3
The struggle for independence	3
Ethnic fractures and supervised sovereignty	4
Manifestations of fragility and typology of the state in Kosovo	5
Obstacles to the consolidation of the state	7
A history of clans	8
Lack of social capital	9
Crime and corruption	10
Parallel powers, ethnic tensions	11
Economic stagnation	12
The flaws in Kosovo's international administration	14
A black hole of foreign aid	14
Statebuilding dilemmas	15
EU strategy on state fragility	18
Conclusion	19

Introduction

The state in Kosovo is weak and flawed on a number of axes, many of them connected to the exceptional characteristics and context of its emergence after the Yugoslav wars. When it declared independence in February 2008, this multi-ethnic country of 2.1 million people – with a population that is proportionately the youngest in Europe – became one of the newest states in the world. The challenges it faces in terms of institutional construction and statebuilding may rightly be regarded as immense.

In the first place, this new state is not a blank slate. It is built on inherited social, cultural, political, economic, administrative and legal realities and experiences – not all of them positive. The state of Kosovo is short-circuited in a number of ways, notably through informal networks, crime and ethnic separatism, which has left deficits in social capital and chronically poor economic performance statistics. The evidence of this state weakness can be found in numerous areas, such as low tax contribution and a system of power that is centralised in the hands of few. Meanwhile, there is a notable lack of bridging social capital between communities, and despite the existence of numerous civil society organisations there is hardly any civic engagement, and no strong trade unions or business lobbies. Indeed, the ‘contract’ binding state and society is practically non-existent in Kosovo.

Based on field research and extensive interviews with political and social actors, this paper’s first few chapters seek to disentangle the various drivers of fragility in contemporary Kosovo. Forming part of a broader FRIDE programme of research into institutionally weak states, this study understands fragility as a basic lack of state capacity, particularly in terms of the ability to exert authority over a given territory and to claim public allegiance. In line with other case studies in Angola, Guatemala and Haiti, the paper is particularly concerned with exploring the relatively stable systems of governance that have

emerged in poor post-conflict contexts. In all these cases, the stability in question has been obtained at a substantial cost: the emerging states have been marginal, predatory or ineffective, and have shown limited interest in generating public goods or broad-based economic growth.

Symptoms of fragility such as weak governance and corruption feed into undemocratic processes and behaviours. This paper argues that state fragility should not be understood as static, but as a political and social process. Governance has a dynamic nature, and is shaped by a constellation of social, political and economic forces. Understanding these processes is essential if the necessary support for social transformation is to be provided in conflict-prone countries. As Robert Gilpin has argued, changes in governance occur as part of a systemic process, involving alterations in the distribution of power and prestige, and the restructuring of rules and rights embodied in the system.²

By assessing with a critical eye the historical origins and emergence of the state in Kosovo, this paper hopes to show what is required to make strides towards greater peace and stability. As Alfred Fried states, ‘if we wish to eliminate an effect, we must first remove its cause, and if we wish to set a new and desirable effect in its place, we must substitute the cause with another which is capable of creating the desired effect’.³

The international dimension

The second major part of this paper is devoted to exploring the nature and effects of the international intervention in Kosovo. Over the past decade, liberal internationalism has brought with it a new emphasis on the risks and challenges posed by fragile states.

² Robert Gilpin, *War and Change in World Politics* (Cambridge: Cambridge University Press, 1981), p. 42.

³ Alfred Fried, *Probleme der Friedenstechnik* (Leipzig: Verlag Naturwissenschaften, 1918); Dieter Senghas, ‘The Civilization of Conflict: Constructive Pacifism as a Guiding notion for Conflict Transformation in *The Berghof Handbook for Conflict Transformation* (Berlin: Berghof Research Centre). Accessed at www.berghof-handbook.net

Britain's Department for International Development (DFID) maintains that instability, violence, insecurity and poverty are best tackled by capable, accountable and responsive states.⁴ But the term 'fragile states' has been given multiple definitions in terms of functionality, causes and effects, outputs and relationships. These variations reflect both the variegations of institutional malaise in different countries, and the diversity of donor approaches.

Despite these differences, aid agencies and multilateral institutions have generally agreed on the need for sound analysis and the importance of careful selection of tasks and sequencing. For this to be productive, effective donor coordination is essential.⁵ Moreover, to address the practical needs of a population in a fragile setting, it is crucial to base planning on sound analysis of how these needs can be met in the reality of a given political environment. Despite advice on engaging with fragility and conflict from the World Bank and the Organisation for Economic Co-operation and Development (OECD), and awareness of the need to understand country context, this has not yet sufficiently modified programmatic prescriptions and implementation.⁶

In the case of Kosovo, this paper makes the case that understanding of context and of the drivers of state fragility have been woefully lacking from the process of international administration since 1999. The international community has tended to adopt ad hoc measures with respect to its interventions, while the ongoing dispute within the European Union and the United Nations Security Council over Kosovo's sovereignty status has fed back into the country's internal governance processes by muddying lines of authority and the sense of clear political responsibilities and entitlements.

⁴ DFID-UK aid, 'Eliminating World Poverty: Building Our Common Future', July 2009.

⁵ Marcus Cox and Kristina Hemon, 'Engagement in fragile situations: preliminary lessons from donor experience', DFID, January 2009.

⁶ See Edward Bell, 'The World Bank in fragile and conflict-affected countries: how, not how much', International Alert, April 2008. Accessed at <http://www.international-alert.org/institutions>

A new approach

This paper underlines the first of the OECD's ten principles for engagement in fragile states,⁷ namely the need to take context as a starting point. Furthermore, it argues that to consolidate state resilience, a more inclusive bottom-up approach is necessary, rather than the current exclusively elite-based approach. 'Peace and state formation must go hand in hand. Statebuilding projects have to emerge from processes of peacebuilding and reconciliation and not the other way round.'⁸ Pockets of exclusion linked to territories, ethnic communities, gender or age must be avoided. International actors for their part must not damage this process by adding confusion and ineffectiveness through their own lack of coordination. Indeed, the OECD's list of principles for engaging effectively in fragile states could clearly be applied to improve international engagement in Kosovo.

On these bases, important lessons can be drawn as to how to improve governance in this nascent state, which still shares its sovereignty with both informal and criminal powers. As part of this process, it is essential to understand the underlying causes and power relations that perpetuate fragility, thereby enabling the transformation of attitudes and behaviour so as to help rather than hinder peace.⁹ It is important to understand the state using a whole polity approach with its formal and informal systems and relations between government and citizens.

The first chapter seeks to understand the state in Kosovo by exploring the struggle for independence, ethnic fractures, the nature of supervised sovereignty and current manifestations of fragility. The second chapter examines the obstacles to the consolidation of

⁷ From 2005, the OECD's Development Assistance Committee (DAC) piloted and developed a set of principles for Good International Engagement in Fragile States, which were endorsed in 2007. See www.oecd.org/fsprinciples.

⁸ Report commissioned by DFID and the World Bank, 'A principled approach to donor engagement in Somalia', October 2005.

⁹ See further research on peacebuilding in fragile states and aid effectiveness at www.international-alert.org and www.fride.org

state in terms of the history of clans, the lack of social capital, crime and corruption, parallel powers and ethnic tensions, economic stagnation and donor approaches. The third chapter assesses the failed international approach to peacebuilding by analysing the flaws in international administration that have stimulated Kosovo's parallel dynamics, fluctuations in foreign aid and international finance, and finally the emergence of the EU strategy on state fragility and its implications for Kosovo.

The emergence of the state in Kosovo

The birth of the Kosovo state, in spite of its many institutional and economic weaknesses, must be understood in the context of the exceptional conditions of Yugoslavia's disintegration. A further conditioning factor was the extended role of the international community since the early 1990s in managing transitional administrations in territories that go on to acquire independence and democracy, such as Cambodia or East Timor, as well as in heavily conflict-prone nations, such as Haiti.

The struggle for independence

In the twentieth and twenty-first century context of two World Wars, the Balkan wars, numerous other wars and the upsurge of nationalism, two parallel dynamics have been observed: one of eclipsing states (decolonisations, disintegration of the Austro-Hungarian and Ottoman Empires, the Soviet Union, Socialist Federal Republic of Yugoslavia), and the dynamic proliferation of new states, some of which have been categorised as failing, weak or fragile.¹⁰

¹⁰ Serge Sur, 'Sur les États défailants', *Commentaire*, n°112, hiver 2005 ; Finn Stepputat, Lars Engberg-Pedersen, 'Fragile States: Definitions, Measurements and Processes', *Fragile Situations: Background Papers* (Copenhagen : Danish Institute for International Studies, 2008); Gunnar Myrdal, *Le défi du monde pauvre* (Paris: Gallimard, 1971).

Within Communist Yugoslavia, Kosovo had no central role or position, and any autonomy was nominal until the Constitution of 1974. As a result of the new constitution, Pristina could decide whether and how to invest in infrastructure, agriculture, light industry and/or heavy industry. From that point onwards, Kosovo was an equal member of the Yugoslav federation and a member of the rotating collective presidency, government and the rotating leadership of the League of Communists of Yugoslavia. Socially, K-Albanians were accepted with reservations: until after Tito's death, when they felt ever more marginalised by the Serbian nationalists.¹¹

The 1990s Balkan wars and Milošević's campaigns were followed by the break-up of Yugoslavia, the independence of the republics (Slovenia, Croatia, Bosnia and Herzegovina), and the separation from Serbia of both Montenegro and Kosovo. Despite certain claims such as those of the Sandjaks (on the border between Serbia and Montenegro), the Balkanic Pandora's Box has been closed, and Kosovo is likely to be the last new state in the region for the foreseeable future. However, the processes of resolving the final status of both Bosnia and Herzegovina and Kosovo could be considered unfinished. The issue of the north of Kosovo continues to be a bone of contention.

Kosovo declared its independence on February 17, 2008, to the sound of gunshots in the air and Beethoven's Ode to Joy (the EU's official anthem), while both Albanian flags and the new Kosovar flag were hoisted high. Despite the celebrations, this nascent state has still not been recognised by two of the five permanent members of the UN Security Council, or by five of the 27 members of the European Union, nor by Serbia.¹² Kosovo has, however, been

¹¹ In one of his final interviews Tito said that Kosovo should have been a republic but that the League of Communists of Serbia had blocked this and threatened to replace Tito if he were to try and push this through. See the English translation of Viktor Meier's *Yugoslavia - A History of its Demise*, trans. By Sabrina P. Ramet (London: Routledge, 1999).

¹² The permanent members of UNSC, China and Russia, and five EU member states, Spain, Romania, Slovakia, Greece and Cyprus do not recognise Kosovo's independence.

formally recognised by 62 UN countries, including seven of the G8 members, and benefits from strong support from the United States (US).

A crucial question remains: why did the big western powers back Kosovo's independence despite the international community's notorious reluctance to recognise new states once the decolonisation process, based on UN General Assembly resolution 1514, was over?¹³ There are several reasons as to why the international community had no alternative but to recognise Kosovo's independence, despite its small size and economic disadvantages. First, international powers (notably the US) supported and steered the process towards independence from the 1990s, including the so called 'standards before status' UN-managed process.¹⁴ Second, the conviction was that independence was the only solution for peace and stability as the international community wished to avoid a repetition of their passivity during the Srebrenica massacre in Bosnia in 1995. Third, Kosovo's geographical location in Europe meant that international powers feared instability could risk spilling over into EU territories.

Fourth, the stigmatisation of Serbia due to the Balkan wars facilitated the somewhat contentious and highly political international public law process towards independence despite the lack of agreement of all permanent Member States of the UN Security Council. Fifth, the reality on the ground was that rule by the United Nations' Interim Administration Mission in Kosovo (UNMIK) meant that Serbia had enjoyed no territorial control over Kosovo for nine years, and thus could not easily reabsorb its former province. Finally, the violence against Kosovar-Serbs in March 2004 precipitated international mediation efforts that failed to result in any agreement between the conflicting

¹³ UNGA 1514, 'Declaration on the Granting of Independence to Colonial territories and people', 1960. Later exceptions such as Eritrea did however occur in 1993.

¹⁴ The 'Standards before status' was a policy, articulated in 2003, of UN-endorsed benchmarks leading to certain standards which needed to be reached before Kosovo's status would be addressed. They focused on democratic institutions, rule of law, rights of communities, return of displaced persons, economy, dialogue with Belgrade, property rights and KPC. Despite these not being reached, the new status was then formed.

parties, followed by the imposition of international supervised sovereignty without a time limit.¹⁵

These pro-independence dynamics were in direct tension with Kremlin policies and the common interests of Belgrade and Moscow, which were popularised in terms of an Orthodox Christian solidarity in times of crisis.

The loyalty of Serb-Kosovars was in many ways stronger towards the Orthodox Church than to Belgrade political authorities,¹⁶ and the Russian refusal to agree to Kosovo's independence in the UN Security Council contributed to the blurred sovereign status of the new country and its internal political dynamics. But Russian foreign policy engendered economic and political benefits, as it was followed by substantial energy agreements with Serbia, and has underpinned claims to legitimate interventions on behalf of ethnic minorities in the Southern Caucasus, above all in South Ossetia and Abkhazia.

Ethnic fractures and supervised sovereignty

Kosovo has been internationally governed since 1999 under the framework of UNMIK, based on UN Security Council resolution (UNSCR) 1244. The handover of powers from the international transitional administration to local authorities was managed through the concept of 'Kosovarisation', elections and the Provisional Institution for Self-Government (PISG). However, the tensions between internal and external actors regarding sharing and devolution of power increased in the periods before and after independence.

UNMIK implemented the UNSCR 1244, aimed at developing local institutions and self-government, but interpreted these as purely Albanian institutions.

¹⁵ Susan L. Woodward, 'The Kosovo Quandary: on the International Management of Statehood', FRIDE, March 2007.

¹⁶ C. Cem Oguz, 'Orthodoxy and the re-emergence of the church in Russian politics', *Perceptions, Journal of International Affairs* IV, December 1999–February 2000.

UNMIK lost the opportunity to develop a truly multi-ethnic Kosovo instilled with the necessary checks and balances required to contain internal tensions. Reconciliation has not been a priority for the international community. Indeed, the integration of Serbs into public life and Kosovo institutions has also been particularly difficult due to the disagreements over Kosovo's status; until recently, Kosovar-Serbs who wished to engage in the Kosovo political and parliamentary system received huge political, security and economic pressure from Belgrade not to do so (for example, cars were blown up, or pensions and subsidies cut off, and they were treated as traitors).

Parliamentary elections were held in 2001, 2004 and 2007, as well as local elections in 2007. But K-Serbs have generally not participated in these elections. Parallel electoral dynamics have also emerged, such as the local elections organised by Serbia in Kosovo for Serbian-populated municipalities in May 2008. Participation of Serbs in Kosovo's municipal elections held in November 2009 remained very low.

As this indicates, Kosovo suffers very high levels of ethnic polarisation. Most Serbs in Kosovo live either in Northern Kosovo or Strpce or in segregated enclaves (Rrahovec, Fushe Kosova, Peja, Decani, Klinë or Lloqan), or in areas close to Serbian borders such as Djiljan. Since the end of the war, an estimated 200,000 refugees and internally displaced persons have left their homes in Kosovo. In addition, the ethnic-based conflicts of the 1990s had a significant impact on young people's inclination to interact with people from other communities. Kosovar Albanian youth are markedly opposed to forming relationships with members of other ethnic groups.

Kosovo's struggle for independence also needs to be understood in the context of trends of international transitional governance missions of post-conflict territories.¹⁷ International interventions in

¹⁷ Such as in Trieste, Irian Jaya (UNTEA), Congo (ONUCA), Namibia, Cambodia (UNTAC), Bosnia and Herzegovina (OHR), Eastern Slavonia (UNTAES), East Timor (UNTAET). Arguably, lessons on local ownership appear to be applied more in Sierra Leone and Afghanistan.

statebuilding and territorial administration perpetuated certain problematic approaches drawn from the UN trusteeship system and colonial administration, considering post-conflict territories – such as East Timor or Kosovo – as 'blank slates' needing complete (re)construction of governments, economies and social systems.¹⁸

But the slate is never 'blank', and international intervention is never 'neutral'. International actors wishing to stimulate a transformation of the local state need to be aware of, and integrate into their plans, an in-depth understanding of local history, existing power relations, vested interests and the socio-political rules of the game. Should these be lacking, the risks entailed include the inhibition of local political elites' sense of responsibility and development of their capacities, an eternal blame game as seen in both Bosnia-Herzegovina and Kosovo, and a weakened local ability to forge a social contract. As the recent White Paper from Britain's DFID has argued, the construction of stability and peace is essentially a political process, in which an inclusive national agreement must be reached on how to share out power and resources.¹⁹

The way in which local and international actors have managed these processes has contributed to fragility.

Manifestations of fragility and typology of the state in Kosovo

Kosovo today remains a low-income post-conflict country characterised by weak institutional capacity and state legitimacy, lacking control of the whole national territory; without monopoly on the use of

For further information see Ralph Wilde, *International Territorial Administration: How Trusteeship and the Civilizing Mission Never Went Away* (Oxford: Oxford University Press, 2008); Gerald Knaus and Felix Martin, 'Travails of the European Raj: lessons from Bosnia and Herzegovina', *Journal of Democracy* IV/3. Available at <http://www.journalofdemocracy.org/articles/gratis/KnausandMartin.pdf>

¹⁸ See Stephanie Blair, 'Weaving the strands of the rope: A comprehensive approach to building peace in Kosovo', Centre for Foreign Policy Studies, Dalhousie University, 2002.

¹⁹ Department for International Development (DFID), 'Eliminating World Poverty: Building Our Common Future' (UK Government, 2009), p. 70.

force, and an inability to provide core functions and basic services to citizens. Senior international governance officials consider that the dysfunctions of the state are due to it being 'young and inexperienced'. International actors continue to work on the hypothesis that the fragilities of the Kosovar state are part of a transitional process that will gradually improve towards a Westphalian model. There are different types of fragile states. Kosovo is not easy to define, and can be seen to incorporate different aspects of fragility. It can be variously defined as a poor performer, a weak state, a shadow state, or as a neo-patrimonial state or quasi-state. The caveat with these categories is that often they only focus on formal state systems, and do not take sufficiently into account the benefits that can also be provided by informal governance systems. The state should not only be synonymous with government, a whole polity approach – of government and its citizens and the formal and informal systems – is needed in understanding and addressing fragility. This section aims to highlight causes and consequences of weak governance (patronage, legitimacy, lack of control of state organs) in Kosovo, considering that external actors need to grapple with these manifestations of fragility in their response. Indeed addressing manifestations of fragility and drivers of conflict in an effective statebuilding process is peacebuilding.

Kosovo could be categorised as a 'weak state', where the authorities often pay only lip service to good governance, whilst weakening the formal organs of government such as the anti-corruption agency and not engaging fully in the social contract. Moreover, Reno's insights on donors' response to weak states are particularly true for Kosovo; he states that 'donor attempts to build strong states fail because rulers' power rests on outside factors not on citizenry. Attempts to impose good governance as conditions of loans or aid rest on flawed assumptions about rulers' interests, and are subverted by local politics'.²⁰

²⁰ William Reno, 'The Distinctive Political Logic of Weak States', in *Warlord Politics and African States* (Boulder, CO: Lynne Rienner Publishers, 1998).

An additional relevant level of the representation of a weak state is that of a 'shadow state'. Warlords in Kosovo filled a power vacuum and took over certain functions of the state. Indeed, these warlords benefit from their military legitimacy and their reputation as national heroes, helping them become state-makers. But this type of politics has led to the development of a 'shadow state', where power is channelled through a patronage system.²¹ Each group has developed its own intelligence cell, for instance the ruling Democratic Party of Kosovo (DPK) is supported by the SHIK intelligence service, significantly hindering the political will to develop a national intelligence service, which is currently staffed by one person.

In Kosovo, state leaders have derived their legitimacy from peaceful resistance and dissident roles in the 1990s or national liberation roles during the 1998/99 insurgency, their perceived contribution towards Kosovo's independence and their business, regional and clan roots and backing. The two leading politicians are Hashim Thaçi (prime minister since January 2008, and former leader of the political wing of the Kosovo Liberation Army – KLA) and Ramush Haradinaj (leader of the Alliance for the Future of Kosovo – AAK, former prime minister, and leader of the armed wing of the Kosovo Liberation Army). These leaders differ in clan roots and political aspirations, which contributes to the differentiation between the two political parties. The discrimination suffered by the Albanians, particularly since 1989, and the war are crucial formative experiences and negative references influence several generations in the way they see and form their nascent state.

A third category that could be useful in describing Kosovo is that of a 'neo-patrimonial state', where public resources are exploited by the ruling elite and distributed to those in their clan, party and from their region in order to ensure their loyalty. The relevance of this category is confirmed by the weakness of both the rule of law and institutional capacity, while a fairly

²¹ A. Guistozi, 'The debate on Warlordism: The importance of Military Legitimacy' Crisis States Research Centre Discussion Paper 13, London School of Economics, September 2005.

strong leader, Taçi, sits atop the power pyramid. Moreover, the visible nexus between power and wealth has clearly not been conducive to developing social trust and cohesion. This neo-patrimonial dynamic affects the way the democratic transitional process unfolds,²² and pervades a political and administrative system constructed on an official and legal basis.²³

The fourth category would be that of a 'quasi-state', as Kosovo is simultaneously characterised by both external dependency and internal institutional weakness. The country's independent status has not been recognised by all five permanent members of the UN Security Council, nor has it achieved the required approval of three-quarters of the members of the UN, or even recognition by all EU members. Kosovo is still being supported by transitional governance missions of both the UN and EU in areas such as ensuring the rule of law, governance and institutional responsibilities for providing basic services to the people of Kosovo. Moreover, Kosovo depends on substantial economic aid from the EU, World Bank and others, and the security of its territory is ensured by NATO troops. The issue of sovereignty has shaped the statebuilding agenda of the international community for several years now. However, as Dominik Zaum rightly argues, sovereignty is linked to responsibility and these norms need to be met for Kosovo to be considered legitimate externally.²⁴

Sovereignty has clearly shaped the international community's statebuilding agenda for several years. But sovereignty is generally defined as recognition of the claim by a state to exercise supreme authority over a clearly defined territory, which is not the case yet. Beyond the financial dependence on foreign aid and

security forces (NATO-led military forces and EULEX police officers), there are multiple actors holding executive powers in Kosovo: the government, UNMIK, EULEX and the International Civilian Office (ICO). Additionally, there is the guidance provided by the International Steering Group for Kosovo, as well as the informal strongly influential power held by both the US Embassy in Pristina and regional clans.²⁵

Lastly, in parallel to the birth pains of this nascent 'nation' and its progressive acquisition of full sovereignty are the dynamics of acquiescing to increasing limitations on that sovereignty, notably through the substantial compulsory reforms in all administrative, legal, and economic domains following Kosovo's engagement in international fora such as the World Bank and International Monetary Fund, and particularly due to its aspiration to become a future member state of the European Union.

Obstacles to the consolidation of the state

A major weakness of the Kosovo 'state' is that it was self-declared outside the existing framework of the UNSCR 1244 and without the widespread involvement of Albanian and Serb communities, while being coordinated with the UN, EU and US. Beyond these circumstances of its birth, Kosovo's state consolidation has been undermined by numerous factors, ranging from the disunity of the international community, to Belgrade's persistent interference in the territory and the lack of a solution concerning the North, to the lack of effective accountability mechanisms both for the

²² N. Van de Walle, 'Neopatrimonial Rule of Africa: Regime Transitions in Comparative Perspective', in M. Bratton and N. Van de Walle (eds.), *Democratic Experiments in Africa: Regime Transitions in Comparative Perspective* (Cambridge: Cambridge University Press, 1997).

²³ Christopher Clapham, *Third World Politics: An Introduction* (London: Croom Helm, 1984); Louise Anten, 'Strengthening governance in post conflict fragile states', Netherlands Institute of International Relations, Clingendael, 2009. Accessed at <http://www.clingendael.nl/cscp/staff/publications.html?id=404>

²⁴ Dominik Zaum, *The Sovereignty Paradox: The Norms and Politics of International State Building* (Oxford: Oxford University Press, 2007).

²⁵ EULEX: EU mission of rule of law composed of police, judges and prosecutors, penitentiary and custom officers); the ICO mandate is to support the implementation of the comprehensive proposal for the Kosovo state settlement; the International Steering Group for Kosovo was set up to steer and guide Kosovo's democratic development and promote multi-ethnicity and rule of law in accordance with Ahtisaari's plan for Kosovo.

local leaders of Kosovo as well as for international actors providing guidance and serving as models.

For the purpose of this study, the key obstacles and root causes of fragility to the consolidation of the peaceful state will be examined. Kosovo lacks social capital, connective social tissue and the sort of networks that could function as a springboard to move the nation forward. Moreover, the entrenched political economy and incentive structures perpetuate the state's fragility.

A history of clans

The continued existence of inward-looking social capital in Kosovo, rooted in clan and regional ties and interests, constitute the primary causes of the current difficulties in building a social contract. These clans promote the material, social and political interests of their members. But their concern for public goods, national development and welfare is very limited, despite the lip-service paid by clan leaders to international donors.

The laws and customs of the Kanuns (Lekë Dukagjini, Kanun of Skenderbeg, of Labëria, of Dibër, etc.) have served for more than five centuries as the foundation of social behaviour and order for the Albanian people, as well as serving as a code of vengeance (accepted as based on self-evident natural principles).²⁶ These customary laws were considered to take precedence over the rules of the Ottoman Empire and the Yugoslav Federation, and to carry greater authority than the two main religious faiths; Christianity and Islam.²⁷ The precepts of the Kanun continue to exercise considerable influence, and to be a competing model of morality.²⁸ In practice, the Kanun is also sometimes instrumentalised simply as a justification for violence.

²⁶ See similarities regarding socially acceptable vengeance in Italy, in Codice Penale art.587 'delitto d'onore'.

²⁷ Leke Dukagjini (trans. Leonard Fox), *The code of Leke Dukagjini* (New York: Gjonlekaj Pub Co, 1989).

²⁸ Fatos Tarifa, *Vengeance is mine: Justice Albanian Style* (Chapel Hill, NC: Globic press, 2008).

However, this social order relating to moral and ethical rules, family and clan ties, property and modes of litigation does not have a centre of gravity. The Kanun focuses on the individual's family, clan, village or provincial community; it is fundamentally inward-looking and inhibits to the development of social capital. It is legitimate and socially acceptable to indulge in crime to help family and village, and there is no social restraint to focus at any cost on one's vested interest.

Why did the Ottoman Empire or Communist Yugoslavia not break or damage these Kosovo-Albanian clan ties? The Ottoman Empire had limited reach in northeastern Albania (the Vilayet Skadar/Shkodra/Scutari) due to the region's geographic isolation and lack of infrastructure. The result of the absence of rule of law was the development of an unwritten code of common law that differed slightly from clan to clan. The population of these clans eventually exceeded the ability of their arable land to support them, and they moved in large numbers in the seventeenth and eighteenth centuries to the Vilayet of Kosovo, which was undergoing waves of emigration of Serbs northwards to the Danube valley in Hungary. The Albanians arriving in Kosovo brought with them their clan identities and their adherence to their common law codes, or Kanuns.

The Ottomans gradually induced the Albanians in Kosovo to give up Roman Catholicism in favour of Islam through tax concessions. By giving up Christianity, these Albanians – who were soon in the majority – also surrendered their given and family names, taking on Turkish and Arabic ones. A major shift in population size and composition occurred during the two decades following World War II. In the early 1950s, Belgrade organised a massive resettlement of almost half a million people mainly from Bosnia, Kosovo and Macedonia. Moreover, due to Tito's security concerns and Albanian leader Enver Hoxha's isolationism, the border remained sealed for some four and a half decades after the war, preventing contact between the clans' offshoots in Kosovo and their mother clans in Albania. Tito's

Yugoslavia also engaged in a concerted attempt to de-Balkanise the country, razing historic urban centres and replacing them with modern structures.

The political elites that now dominate Kosovo are the result of this long history of mistrust of people and state.²⁹ The main political parties, the PDK, AAK and the Democratic League of Kosovo (LDK), are fairly centrist, national-populist parties, without strong politically determined orientations and substantially differentiated programmes.³⁰ They have insufficient understanding and even perception of the need to serve their voters and be responsive and accountable to their constituency. The predominant focus is on business and regional interests; they concentrate on their own prosperity; the prosperity of the family, not of the country. Just as a rancher must keep his cattle well fed and with access to regular supplies of water for him to maintain his situation and prospects, so must Prime Minister Thaçi maintain his Drenica Valley, PDK's cradle and stronghold. So too does Haradinaj and his clan, his region in the Dukagini region, his AAK party and KLA followers.

Lack of social capital

This behaviour of the political elite weakens the possibilities of developing a sense of citizenship, or a public watchdog role within a system of democratic checks and balances. There is a lack of interaction between government and society that causes the detachment of the population from their leaders.

Social capital is lacking both on country-wide and ethnic levels, despite the huge focus on national independence over the past decade. There has been little pressure from citizens on the authorities to hold them to account for their promises and responsibilities, since the political landscape was dominated by the final status issue and inflected by the legacy of Communism. Moreover, accountability has been

confused by the presence of multiple actors holding governing responsibilities.

Furthermore, the first constitution of this new state, based on the UN special envoy Maarti Ahtissari's international mediation efforts and on the guidance of the ICO, was an elite-negotiated process lacking widespread public participation. This was a lost opportunity to pave the way for sustainable political governance, as well as constituting a risk factor for the future.

Additionally, bridging social capital between Kosovo-Serbs and Kosovo-Albanians is virtually non-existent, and atrophied entirely during the war. Bridging social capital does exist between certain other communities, such as between K-Gorani and K-Albanians, illustrated not only by trade flows but by voting trends, as could be observed in the 2004 elections in the Dragash/Dragaš municipality.

Beyond clan and regional ties, it is important to understand generational divides and trends. In Kosovo the older forms of solidarity and social behavioural values have not been replaced, but have progressively given way to a vacuum of reference points for the younger generations. This could be aggravated by the particularly high unemployment rates amongst the Kosovar youth.

In the light of these dilemmas, how might socio-economic modernisation trigger changes in Kosovo's social capital? How can social capital be created, how can it be protected where it is weak and how can this process be fostered and facilitated? As highlighted by the Svendsens, there is a need to create 'glue' in the form of bridging social capital, with cooperative relations across social boundaries.³¹ One effective method is that of supporting entrepreneurship and business cooperation across conflict divides.³² The most important impact of shared standards and interests is the building of trust.

²⁹ See Michael Pugh (ed.), *Regeneration of War-Torn societies* (Basingstoke: Palgrave Macmillan, 2000).

³⁰ Democratic League of Kosovo (LDK) is the party of the current president Fatmir Sediju and follows in the footsteps of Ibrahim Rugova.

³¹ Gunnar Lind Haase Svendsen and Gert Tinggaard Svendsen, *The Creation and Destruction of Social Capital: Entrepreneurship, Cooperative Movements and Institutions* (Northampton, MA: Edward Elgar publishing, 2004).

³² See International Alert's work with the CBDN initiatives in the South Caucasus as illustration of this at <http://www.international-alert.org/caucasus/index.php>.

As agreed by DFID and OECD-DAC, in order to carry out effective statebuilding in situations of conflict and fragility, international engagement needs to focus on the relationship between state and society. This has been too often forgotten by international actors in Kosovo.³³

Crime and corruption

In post-conflict contexts, there is a scramble for power, and money derived from wartime activities can often buy political influence and legitimacy.³⁴ In the early 1990s in countries such as El Salvador and Guatemala, people used their arms and networks to nurture criminal networks. Misha Glenny notes that 'when diplomats succeed in bringing the fighting to a halt, they are confronted with a wrecked local economy and a society dominated by testosterone-driven young men who are suddenly unemployed, but have grown accustomed to omnipotence. If you want lasting stability, you have to find useful jobs to occupy them,'³⁵ as impoverished and disaffected men can easily be recruited by 'entrepreneurs of violence'.³⁶

However, the level of criminal activities and illicit revenue in Central America were not comparable at the time to those in the Balkans, where wars and sanctions allowed the criminals' potential to blossom, enabling them to finance military activities. The KLA smuggled arms, women and drugs. But the trend of capture of public assets for personal wealth and the tactical placing of cronies began earlier, during the Milošević era in Serbia. Once Serbia was ejected, however, the 'roving bandits' became 'stationary bandits':³⁷ the transition towards democracy has been seized as an opportunity by criminal networks to use their

connections and coercive power to dominate the privatisation process and establish power structures. In Kosovo, where there is 43 per cent unemployment, the political economy of grey and black markets predominates, and illicit wealth wields power. It is crucial to understand the nexus between wealth and power, since peace, national economic development and the consolidation of the state will hardly be able to prosper if the political-economic incentives of the current settlement continue to be overlooked. Transnational smuggling, embezzlement of state funds, consolidation of local monopolies and fiefdoms and the control of vice markets have been crucial elements in the process of state weakening in Kosovo. A state captured by criminalised elites sustained in part by illicit sources of revenue, which also manipulate the markets to extract maximum resources, deprives the legitimate economy of revenue and growth, and impairs public service delivery to its citizens.³⁸

The experience of UNMIK, and now the challenge facing the EU, demonstrates how diplomats, political leaders, economists and those exercising executive powers in a context of transitional governance need to develop, right from the early days, integrated thinking on transforming the political economy of war-torn societies. Indeed it is precisely in the early post-conflict stages, when government structures are not yet stabilised and power relations are still in flux, that international actors should build sustainable peace through long-term economic growth.³⁹ It is also essential in the early stages to establish the rule of law so as to avoid inculcating a system of corrupt classes that capture political space instead of fostering democracy.⁴⁰ However, neither UNMIK, the US nor the EU has been willing to accept the risks to social stability that would be caused by disentangling illicit sources of wealth from political power.

³³ DFID, *Building the state and securing the peace*, June 2009, <http://www.gsdrc.org/go/display&type=Document&id=3210&source=rss>

³⁴ Jock Covey, Michael J. Dziedzic and Leonard R. Hawley (eds.), *The Quest for Viable Peace: International Intervention and Strategies for Conflict Transformation* (Washington DC: United States Institute of Peace, 2005).

³⁵ Misha Glenny, *McMafia: Seriously Organized Crime* (London: Vintage, 2009).

³⁶ Paul Collier, *Breaking the Conflict Trap: Civil War and Development Policy* (Washington DC: World Bank, 2003).

³⁷ Mancur Olson, 'Dictatorship, democracy and development', *American Political Science Review*. 87/3 (September 1999).

³⁸ The 2005 report of the Bundesnachrichtendienst (BND: German secret service) states that 'Thaci and Haradinaj are key players which are intimately involved in inter-linkages between politics, business and organised crime structures in Kosovo'.

³⁹ Ed Bell, seminar on the transition from conflict to peace, International Alert, 2008.

⁴⁰ Lord Paddy Ashdown, 'The European Union and Statebuilding in the Western Balkans', *Journal of Intervention and Statebuilding* 1/1 (March 2007).

Therefore the question remains: do international actors in Kosovo share the responsibility for the weaknesses of the state that are rooted in criminalised political-economic linkages? Did their turning a blind eye to criminal and corrupt activities, their lack of understanding of the context and the disastrous management of public utilities consolidate state capture, making peace and economic growth more difficult ten years down the road? Was UNMIK or some of its officials even complicit in this process? Significantly, reports from the UN and from the Kosovo Centre for Women and Children have emphasised the international peacekeepers' responsibility for the increase in demand for commercial sexual services, thereby fuelling a market for sexual exploitation and trafficking.⁴¹

The different legal systems operating simultaneously, without legal hierarchy or a clear mechanism to resolve conflicts between them, constituted an obstacle for the international administration, as did the focus of consecutive UN Special Representatives on maintaining social stability during their mandate without addressing causes of fragility. Furthermore, the fight against crime did not benefit from a sluggish response to the rapid evolution of illicit networks, flows and activities, nor with their changing levels of sophistication.⁴² In Kosovo, the focus both in terms of research and law enforcement has been on traditional organised crime activities such as cigarettes, cars, drugs, arms and human trafficking, which are lucrative trades in the whole region. This illegal smuggling was boosted by the UN Security Council resolution 754, adopted in 1992, which imposed economic sanctions on Serbia and Montenegro.

The traditional traffic of amphetamines and heroin coming from the east was amplified by the addition of the Colombian–Balkan channels following the end of

the war in Kosovo in 1999. But in contemporary Kosovo, those traditional organised crime activities are not necessarily the predominant sources of revenue; now it is particularly important to track money laundering, petrol, privatisations and litigations concerning Socially Owned Enterprises (SOEs), property issues, the creation of clan-based fiefdoms controlling public revenues in certain sectors, and the challenges of corruption and accountability. The government for its part has paid lip service to the fight against corruption, yet there is both a lack of capacity and a lack of will to fight organised crime and corruption in Kosovo due to the entrenched nexus between power, wealth and crime.

There are massive financial transactions in Kosovo, but a capable financial control unit is absent. The list of policies required to limit corruption include: a substantial regulation of the acceptance of gifts; obligatory declaration of assets by politicians, including control over the origins of revenue; and regulation on conflicts of interests. Above all, institutional endorsement of these rules and the will to enforce them are required, whatever clan, regional origin or political party the investigated person comes from.

Parallel powers, ethnic tensions

Kosovo is steeped in parallel state structures, which respond to neglect by ruling powers and lack of provision of reliable, efficient, non-discriminatory public services, as well as a tradition of non-cooperation with the state. As we have seen, the social contract between citizens and the state is moulded by a long history of distrust of public authorities and communal self-sufficiency. Today's citizens still have limited expectations of their rulers. Informal systems of governance help people to survive, while widening the gap between governing and governed. Furthermore, the numerous corruption charges and the rapid rise of the politico-economic elite have weakened the public's sense of identification with the state.

A mirror of previous K-Albanian parallel dynamics can be found in the Serbian community in North Mitrovica

⁴¹ United Nations Office on Drugs and Crime, 'Crime and Stability in South East Europe' (UN, 2008).

⁴² Lucia Montanaro-Jankovski, 'Good cops, bad mobs? EU policies to fight trans-national crime in the Western Balkans', European Policy Centre, EPC Paper N.40, October 2005; Lucia Montanaro-Jankovski, 'The interconnection between European Security Defence Policy and the Western Balkans', *Southeast European and Black Sea Studies* 7/1 (March 2007).

and those in the central region. The Kosovo-Serbs are developing their parallel governance system as a sign of resistance, retaining Serbia's currency, the dinar, and control by Belgrade over hospitals, university, schools and education curricula, courts, social, health and pension systems as well as their local assembly. Overall, the north constitutes a part of the national territory that is not managed by the government of Kosovo, and remains predominantly under Serbian control.

However, there are numerous political and economic realities on the ground in Kosovo, with variations often depending on the region and the community. Serbian communities in the central region feel excluded and are more isolated both physically and politically. The language barriers, different school curricula and different ways of teaching history, identity and nationhood risk contribute to a worsening of the inter-ethnic divide.

The tensions have heightened between communities as a result of the 2008 declaration of independence. This declaration was followed by a political tug of war (with some violent incidents) between Belgrade and UNMIK over recognition of the Serbian institutions in the north, with the Serbian parallel systems developing through Kosovo municipal elections in May 2008 organised by Belgrade, and the establishment of a Serbian ministry and assembly in northern Kosovo. This situation, which was triggered by the one-sided status resolution, is tense and uncertain.

Economic stagnation

A major source and consequence of state weakness is Kosovo's continuous economic malaise. Former UN Special Envoy and Nobel Peace laureate Martti Ahtisaari observed that 'Kosovo's weak economy is, in short, a source of social and political instability'.⁴³ Kosovo is plagued with high poverty levels, weak macroeconomic performance, low incomes, large pools of unemployed youth, unmet basic needs and growing

inequality.⁴⁴ Indeed an early focus in post-conflict states must be on the preconditions for long-term economic growth, contrary to what actually happened in Kosovo.⁴⁵ To do so, an integrated political economy approach should address the nature of power and social vulnerability.⁴⁶

Kosovo has the lowest GDP per capita in Europe. Unemployment is extremely high and the population is very young: 70 per cent are under 30. In a post-conflict and volatile environment such as Kosovo, youth unemployment may contribute to social unrest. Female unemployment in Kosovo is likewise high at over 70 per cent, and women are also denied property rights. The ongoing gender roles, perceptions and relations greatly influence access to the labour market. There are numerous NGOs focusing on gender issues, but there is a notable lack of women's business associations to support, facilitate and encourage women's entrepreneurship.

Prior to the break-up of Yugoslavia, Kosovo provided the rest of the country with various ores and minerals, some textiles and cooking wine. From the late 1960s, Kosovo became increasingly dependent on remittances from Kosovo-Albanians employed as guest workers in Switzerland and southern Germany. These in turn ensured an inflow of cash and weapons to Kosovo in the late 1990s.

Kosovo was the poorest part of Yugoslavia, but when Yugoslavia broke apart, Kosovo became even poorer. During the 1990s, Kosovo went through deep political, economic and social turmoil. Unsuitable economic policies, international sanctions, limited access to external trade and finance and the ethnic conflict damaged the economy. For the duration of this period, massive disinvestment and neglect of operations and maintenance caused de-industrialisation, negative

⁴³ Martti Ahtisaari, report March 2007.

⁴⁴ Levent Koro, 'Economic and social stability in Kosovo', UNDP, 2007.

⁴⁵ Carl Bildt, 'Address 2006', Pardee RAND graduate school, 2006.

⁴⁶ Sarah Collison, 'Power, livelihoods and conflicts: case studies in political economy analysis for humanitarian action', HPG report 13, February 2003.

growth and a return to the agrarian economy. By the end of the decade, output had more than halved, income had collapsed, less than a quarter of the population was employed and more than half was living in poverty.⁴⁷

Following the conflict, a limited economic recovery can largely be attributed to diaspora transfers (estimated at 17 per cent of GDP in 2005) and financial assistance (21 per cent of GDP in 2005). The international donor community successfully mobilised and spent a total of €1.96 billion of donor funds on Kosovo between 1999 and 2003. These produced tangible benefits such as reconstruction of houses, as well as the repair of roads, schools and health centres. The international community also began providing public services, putting in place a new legal framework and establishing a civilian administration in Kosovo.

However, these improvements cannot conceal the dismal position of Kosovo when compared to its European and Balkan neighbours. At present, 45 per cent of the population lives below the poverty line, while 15 per cent are classified as destitute (subsisting on less than 0.93 euros a day).⁴⁸ Poverty is most common among older people, single mother households, families with children, people with disabilities, the unemployed and non-ethnic Serb minorities such as Roma and Slav Muslims. These high levels of poverty and unemployment are considered potential destabilising factors due to their impact on inter-communal conflict. Serb communities receive pensions and social aid from Serbia, providing Belgrade with leverage over these groups and diminishing the Kosovar-Albanian government's sense of responsibility towards and influence over them.

Meanwhile, educational performance and secondary school attendance are low. The health statistics are amongst the worst in South East Europe. Infant

mortality rates are the highest in the region, and malnutrition is a persistent problem.

The massive foreign aid disbursed in Kosovo could not be converted into sustainable development for a number of largely structural reasons. Most people work outside the formal economy, in casual or unregistered labour. This includes large numbers of subsistence farmers, who live almost entirely outside the cash economy. However, this great agrarian density has not been complemented by a structure for cultivating different products. The main focus of government action has been on economic development in urban areas rather than rural areas, stimulating further migration from rural zones.

The structure of exports is still predominantly composed of raw materials and unfinished products, with 60 per cent of these exports consisting of unprocessed scrap metal (iron, steel, copper and aluminium) and mineral products. As a result, membership of regional mechanisms to boost international trade is a top priority for Kosovo. There is still no export agency in Kosovo, but the Kosovar Ministry of Trade and Industry is developing a plan to improve foreign trade and liberalise the local economy, as well as strengthening sustainable production capacities in industrial sectors, including construction of infrastructure.

Improvements in the investment and business climate and support to small- to medium-sized enterprises are evidently crucial. Yet it is clearly difficult for small- and medium-sized businesses to operate under conditions that are marked by uncertainty and limited legal guarantee, with unreliable electricity supplies, limited credit facilities, cumbersome regulatory procedures and rampant corruption, for instance regarding fuel.

⁴⁷ World Bank, 'Kosovo property assessment: promoting opportunity, security and participation for all', 2005.

⁴⁸ World Bank, 'Kosovo country brief 2009'. Available at <http://web.worldbank.org>

The flaws in Kosovo's international administration

Despite their injections of huge diplomatic, security, financial and human resources into Kosovo over the past decade, it appears that the international community has not managed to support a process of laying the foundation of a strong state and a peaceful society. Instead of reducing Kosovo's fragilities, international intervention and donor approaches have consolidated them.

This chapter will assess the roots of this failure in two main ways. The first of these relates to certain policy flaws in economic aid and interim international governance, which have in turn done little to curb the social and ethnic tensions present in contemporary Kosovo, or boost the limited economic opportunities for the relatively young population. In themselves, these have increased distrust in international actors and provided the space for the emergence of hybrid political-criminal powers.

Secondly, and more significantly, the structures through which international administration operated as well as the geopolitical dispute over Kosovo's final status have tended to accentuate the trend, already present in the country's social traditions, towards parallel dynamics of political authority and limited state–society relations. Extricating Kosovo from its current problems and narrowing the gap of its fragilities now requires a major effort, combining the construction of social capital from the bottom-up with the consolidation of an accountable and transparent administration.

The chapter concludes by exploring the relevance of the new EU strategy on fragile states for Kosovo.

A black hole of foreign aid

Donor approaches in Kosovo have failed to foster economic growth. A total of €1.8 billion in aid was distributed by European countries to Kosovo from 1999 to 2006, making Kosovo the biggest recipient of EU aid in the world. But the huge amounts poured into Kosovo have not ensured sustainable development. There has not been sufficient focus on medium- and long-term growth, for example by building highways, substantially improving the provision of water and electricity, and stimulating the economic environment to make it more propitious for employment. Instead, donors have been reactive, providing ad hoc assistance for short-term fire-fighting, such as the efforts to mend coal-based power plants rather than modernise the energy infrastructure. Growth has proved unsustainable and the trade deficit of Kosovo remains high, at 42.8 per cent of GDP in 2008, if aid flows are excluded. Some areas in Kosovo still receive only one to two hours of electricity per day.

International actors and donors have focused predominantly on security, ignoring the role that equitable economic development can play towards peace. Kosovo has had one of the highest concentrations of security personnel in the world: one police officer or soldier for every 40 persons.

On a macro-level, there has been no national economic development plan, despite the €2 million grant provided in 2003 by the European Commission to local authorities for this purpose. The EU has clearly not sufficiently utilised its capacity to exert pressure and employ conditionality tools on Kosovo's local authorities to ensure fulfillment of this crucial commitment. Furthermore in 2005, 82 per cent of the aid allocation to Kosovo was reported to be delivered as technical assistance and international salaries, meaning the majority of the funds were being recycled back to donor countries.

In conclusion, the international community and particularly the EU, which was in charge of the economic pillar under UNMIK, failed to develop

Kosovo's economy, build infrastructure or create jobs. Despite the vast financial resources channelled into Kosovo particularly by DFID, the EU, USAID, the World Bank and the UNDP, the impact on poverty reduction and on the general well-being of the Kosovar people has been insufficient. The same holds true for other related areas of governance. In the realm of rule of law, local capacity-building for effective police, judicial and correctional services was lacking. The backlog of pending court cases were alarming, standing at 160,238 in March 2007. In the civil administration field, there were major inadequacies in the evaluation and monitoring of local ministries' and municipalities' preparedness for the transfer of powers, and a lack of support to the central government to monitor this.

It is important to remember that it is not how much aid is provided that matters, but how the process of expenditure is carried out and what its impact is.⁴⁹ A coherent economic plan would thus seek to improve the possibilities for licit economic activity while also reducing the power of criminal networks and nepotism in public appointments. Finally, efforts should be made to support business activities that contribute to reconciliation between communities.

Global finance and the credit crisis

On June 29, 2009, Kosovo joined both the International Monetary Fund and the World Bank. This marked the beginning of Kosovo's formal integration into the global financial system. It can, however, be considered a blessing that it was not part of this interdependent system earlier, for it has not been substantially affected by the financial crisis. Instead, informal economic and social lifelines are still very strong, and as a consequence citizens tend to make limited use of the formal banking system.

Despite EU member states' commitment to continue to increase aid to reach the Millennium Development targets and counterbalance the effects of the food, fuel and financial crisis, aid has dropped in the Balkans. In

Kosovo, for instance, British expenditure – a key source of aid in recent years – has dropped by 50 per cent. Medium-term forecasts for 2009 indicate a decrease of 10 per cent for Foreign Direct Investment, a decrease of less than 20 per cent in remittances and a decrease of 10 per cent in exports. However, it is important to understand that the fall in exports from Kosovo is not due to the economic crisis, but essentially to Serbia and Bosnia-Herzegovina's blockage of products from Kosovo following independence.

In the case of Kosovo, one could even consider that the financial crisis has been in certain aspects a blessing in disguise, as in practice it has stimulated a more pragmatic and less hostile approach from Belgrade, which has decided to reduce its subsidies for Serbian parallel authorities in Kosovo as a result of the economic squeeze. Nevertheless, it is also clear that the impact of the crisis reinforces the need for renewed attention to Kosovo's structural economic weaknesses.

Statebuilding dilemmas

International concern over cross-border and global threats has increased in recent years alongside recognition of the idea that a functioning state is crucial to reducing poverty and conflict. This entails a need for greater awareness of external and internal risk factors, as well as support for a country's capacity to serve its people and build state resilience, particularly in moments of crisis.⁵¹ Moreover, it requires a deeper understanding of the link between fragility to conflict and that effective statebuilding can and should contribute to peacebuilding.

However, international statebuilding missions are often confronted with inherent dilemmas that weaken their potential of success if not managed effectively. The intrinsic tensions and contradictions of statebuilding need to be managed as dynamic processes. These tensions include that between international transitional

⁴⁹ Edward Bell, 'The World Bank in fragile and conflict-affected countries, how, not how much', International Alert, April 2008. Accessed at <http://www.international-alert.org/institutions>

⁵⁰ Louise Anten, 'Fragile States: Statebuilding is not enough', in Japp de Zwaan, Edwijn Bakker and Sico van der Meer (eds.), *Challenges in a Changing World: Clingendael Views on Global and Regional Issues* (Cambridge: Cambridge University Press, 2009).

governance and promotion of self-government, the external definition of legitimate local leaders, the prevention of dependence, or striking a balance between short-term imperatives and long-term objectives, such as managing the peace 'spoilers' who can get in the way of building broader political representation.

As will be seen below, in the case of Kosovo these tensions gave rise to an array of different administrative structures involving national and international actors. Added to the overlapping jurisdictions of the principal international bodies involved in Kosovo (above all the EU, NATO and UN), the result has been a proliferation of parallel lines of authority, preventing the creation of anything resembling a focused, unitary state.

Stimulating parallel dynamics

Looking at international intervention from 1999 until the present day one can question whether international actors in Kosovo have increased state legitimacy. Far from creating a coherent state in Kosovo, international intervention has done the opposite by contributing to the competing sources of legitimacy on the ground. Due to its disunity over recognition and its competing dynamics, it has added to the blurred layers of powers and responsibilities, and therefore contributed to a lack of clarity on the ground and indirectly to ineffective governance. The international interventions should have aimed at narrowing the gap between legal and legitimate and fostered more constructive interactions. This is still linked to the tension between stability and peace. An increased awareness is needed of the fact that international actors can both undermine and bolster state legitimacy.

The parallel structures in the post-war and pre-independence period were composed of a number of strands: the Federal Republic of Yugoslavia rule with the Serb National Assembly and Serb majority municipalities and enclaves, based on its own constitution and elections; the Republic of Kosovo under the leadership of President Rugova and Prime Minister Bukoshi, with its own Parliament, education

and health systems, based on its constitution and elections; and the Provisional Government of Kosovo under the leadership of Prime Minister Thaçi, benefiting from KLA support, 20 ministries, and municipal administration. The final parallel structure was the UNMIK, itself composed of four pillars, which was based on UNSCR 1244 and drew on regional administrators and support from NATO's Kosovo Force (KFOR).

This confusion between different lines of authority and legality has been passed on to post-independence Kosovo. A crucial obstacle to the effective and reliable provision of the basic service of justice stems from the legislative framework, which lacks clarity due to the multiple systems operating simultaneously, including: Yugoslav laws, UNMIK regulations (with some incoherence between continental and common law approaches), and the pre and post-Ahtissari regulations from the national assembly. Furthermore, laws used in Serbian courts in northern Kosovo and K-Albanian court procedures, based on the Kanun, are also distinct.

Hybrid political powers also persist. Multiple powers and structures hold executive powers and strong informal powers, as seen in the diagram below. The local ripples of influence are derived from remittances from the diaspora in Germany and Switzerland, family circles in Kosovo, the five main clans, and rings of power involving the PDK and AAK parties.

The normative pluralism in Kosovo, featuring conflicting models of social and political organisation and legitimacy, has resulted in a widespread perception of a gap between the legal and the legitimate. There is little sense of the ultimate rules of the game which structure society, providing an overall social and cultural framework.

The uncertainty over Kosovo's sovereign status and the contradictory mandates of international actors on the ground perpetuate the confusion. UNMIK, NATO, EULEX and the Organisation for Security and Co-operation in Europe (OSCE) are all under status-

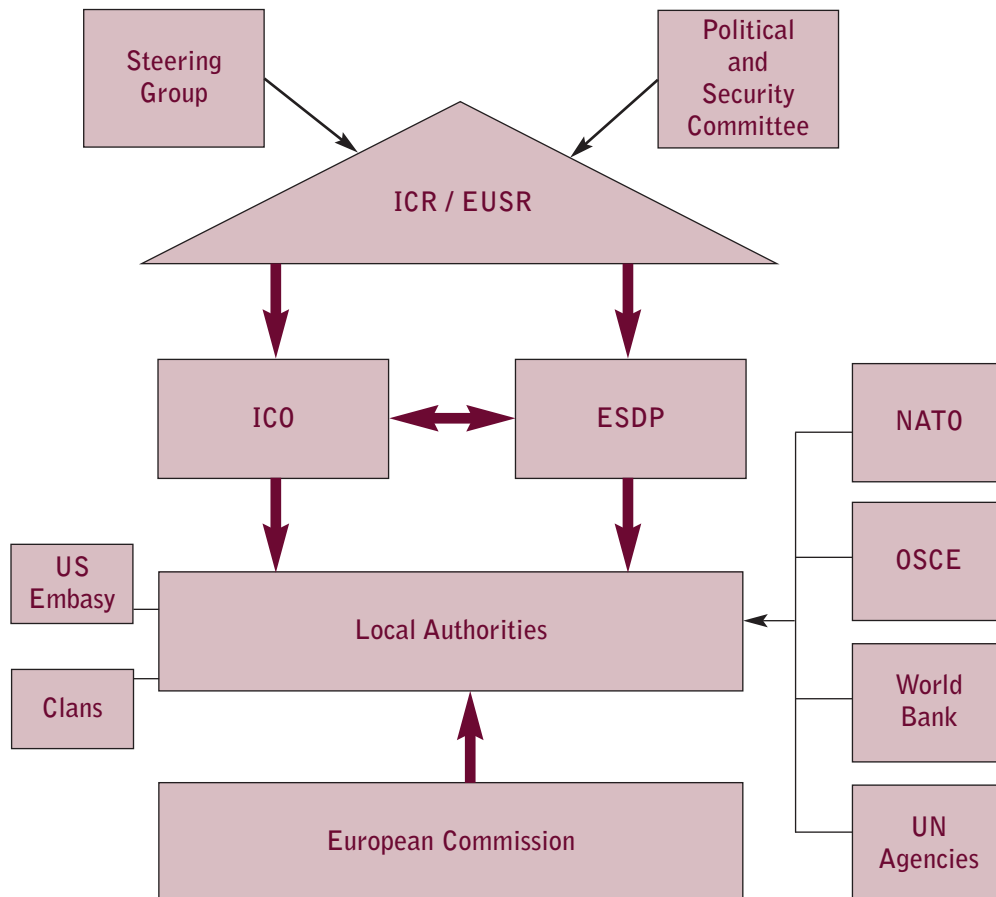


Figure drafted by the author.

neutral mandates based on UNSCR 1244, whereas the ICO and US embassy mandates are based on independence and the Ahtisaari proposal. The government, UNMIK, ICO and EULEX all hold certain executive powers, inevitably creating competing dynamics.

Moreover, KFOR provides support by ensuring a safe environment (with 16,000 boots on the ground), while EULEX, the EU's rule of law mission composed of police and penitentiary officers, judges and prosecutors, customs officers, holds certain executive powers for serious crimes. In short, it is impossible to maintain that the Kosovo authorities hold the monopoly on legitimate force over the territory.⁵¹

The EU has increased its role in Kosovo, and demonstrates substantial commitment to Kosovo's

peace and stability with a triple-pronged approach. This is translated into the political dimension of the EU strategy, with the ICO, composed of 200 staff and led by the double-hatted International Civilian Representative/European Union Special Representative Pieter Feith; the EULEX European and Security and Defence Policy mission as the technical/operational leg, composed of 2,000 staff; and finally, the European Commission liaison office supporting Kosovo's future EU integration, employing the carrot-and-stick approach by enticing authorities with EU membership and financial assistance to ensure that the goals of European governance standards are reached.

However, the EU's disunity on Kosovo's recognition, with five states remaining unwilling to do so – Spain, Romania, Slovakia, Greece and Cyprus – weakens the effectiveness of its policies, and the leverage that EULEX, ICO and the European Commission have on the ground.

⁵¹ See James Putzel, 'Development as State-Making', research plans undertaken at the London School of Economics, 2008.

The International Civilian Office (ICO) is predominantly EU led, financed and staffed, but also includes 23 per cent US input. The legal basis of the mission is rather ambiguous, given that the Ahtissari plan was not accepted by the two conflicting parties, making adoption of a new UNSC resolution on Kosovo's status impossible. Therefore the ICO oversees, guides and supports the implementation of constitutional reforms in which the Ahtisaari proposal has been integrated. The ICO holds executive powers to oversee and steer authorities in certain areas, but it does not run Kosovo on behalf of the government, nor is its purpose to take decisions on their behalf. The ICO can, however, remove key officials from their positions if they don't behave in accordance with the Ahtisaari plan.

Following the reconfiguration of UNMIK, the current Special Representative of the Secretary General Lamberto Zannier has dedicated more commitment than former SRSG's to dialogue between Belgrade and Pristina and local reconciliation, and when needed has acted as Kosovo's buffer in international fora. Under the present leadership, UNMIK has finally chosen an equidistant position between the conflicting parties.

Furthermore, the US Embassy has an extremely powerful informal hold on the government's directions and actions. The current government's power is concentrated rather than shared: Prime Minister Thaçi and Deputy Prime Minister Kuci keep a tight grip on executive powers, minimising that of ministers, and have a tendency to ignore parliamentary questions (despite the fact that officially Kosovo is a parliamentary system).

EU strategy on state fragility

State fragility is among the handful of security threats to Europe identified in the 2003 European Security Strategy. Efforts to improve the EU's response to these situations were signalled in 2007 by a European Commission communication on the subject, Council

conclusions and by the Portuguese EU presidency.⁵² But how has the EU improved its understanding as well as its policy design and implementation to improve its response to fragile states? There has been progress in the understanding of the phenomenon which is illustrated in two key documents that are expected to be published by the end of 2009: the EU joint action plan of the European Commission and the General Secretariat of the Council of the European Union, 'towards an EU approach to situations of fragility and conflict' as well as in the joint report on budget support in situations of fragility outlining a shared approach between the World Bank, IMF, European Commission and the African Development Bank. Two elements from these documents are to be emphasised; the importance of the development of the 'whole EU approach' and the understanding that statebuilding and stabilisation are first and foremost endogenous processes, driven by state–society relationships.

Efforts have been made to create more flexible procedures for fragile states as well as greater coordination between the Council and the Commission over decisions and funding. There is also a drive to link the fragile states agenda with that of another EU objective, the security and development nexus. However, the predominant focus of the EU remains on crisis response, whereas the EU's ability to prevent fragility and conflict at early stages by improving the link of early warning to action is still limited. But this entails moving beyond the EU's focus on traditional governance responses or reforming legislative frameworks, even if a certain foreign policy evolution can be noted in the increased emphasis on non-state forces.⁵³ There also needs to be more attention given to long term sustained peacebuilding support. Moreover, the EU and its member states need to capitalise further on important peacebuilding and conflict

⁵² Communication from the Commission to the Council, the European Parliament, the European Economic and social committee of the regions, 'Towards an EU response to situations of fragility, engaging in difficult environments for sustainable development, stability and peace', COM (2007) 643, Brussels, 25.10.2007.

⁵³ UN Secretary General Boutros Boutros-Ghali, 'An Agenda for Peace', A/47/277-S/24111 (New York: United Nations, 1992); Ivan Briscoe, 'The EU response to Fragile States', *European Security Review* (ISIS Europe) 42, December 2008.

prevention initiatives carried out by NGOs, and draw on their knowledge of the dynamics in the field.

Kosovo is particularly important for the EU, due to its location in the EU's 'back yard', the implications of developments there for European security, and the prospect that this nation will become a member state. It is still too early to evaluate the EU's role and actions in Kosovo under the new administrative format, but the lessons from past errors of international actors seem not to have been absorbed. It is vital that the EU puts its massive political, diplomatic, security, human resources and financial commitment behind an effort to secure sustainable peace in Kosovo, with sound analysis and political will finally addressing the underlying causes of fragility with a 'whole of the EU approach'.

Moreover, after a decade in which numerous errors were made by the international community, Kosovo's society has limited expectations. Furthermore, despite vibrant civil society organisations such as KWN, women have often been marginalised from political processes and under-represented in decision making positions. Transparent, democratic, inclusive and effective governance structures provide for the human security of women and men. Gender equality and women's empowerment should thus be at the heart of good governance. The EU member states need to support this by developing effective and conflict-sensitive national action plans informed by UNSCR 1325.⁵⁴

Conclusion

A clear gap can be noted between Kosovo's statebuilding needs and the role the international community has played in seeking to reduce those fragilities: in numerous areas, international actors and donors actually did precisely the opposite, and have to some extent consolidated those fragilities. The reason

for this can also be found in the international actors' prioritisation of establishing short-term security in Kosovo at the price of long term sustainable peace and economic development.

In contrast, international actors engaged in statebuilding as a means to consolidate sustainable peace need to view governance in its dynamic nature, shaping a constellation of social, political and economic forces. Building peace implies changing bad habits, and transforming behaviours and structures, as well as addressing the underlying causes of fragility. In general, international missions have lacked this understanding and the necessary courage to achieve this. The objective of immediate stability, and the appearance of reform by the domestic elite and the international mission, leads to the reinforcement of previous state–society relations and patrimonial politics. Fundamentally, addressing manifestations of fragility and drivers of conflict in an effective statebuilding process is peacebuilding. The way a state is built and that that process is supported can either contribute or hinder peace depending on how it is done. Peacebuilding includes a set of interventions in conflict-prone territories designed to influence transformational processes in order to build lasting peace and prevent a return to a dangerous status quo ante. The aim is to have a holistic approach based on curbing risks to the provision of security, as well as the socio-political and economic foundations generating reconciliation and enabling long-term peace.

This paper argues that to be more effective, the international posture on fragile states and contexts must be more political and less technocratic. A transformation of the political economy needs to be supported in the early post-war stages, disentangling illicit sources of wealth and power, to avoid a consolidation of the capture of political space. Statebuilding missions need to have the courage to ensure the roots of peace and democracy.

Moreover, it argues that one cannot assume that the establishment of legal systems and strengthened police and judiciary necessarily translate into acceptance of

⁵⁴ Andrew Sherriff and Karen Barnes, 'Enhancing the EU response to women and armed conflict, with particular reference to development policy', study for the Slovenian EU Presidency, ECDPM, International Alert, April 2008. Accessed at www.ecdpm.org/dp84

social regulation tools and increased state legitimacy. As DFID's recent white paper states, the focus needs to be on building peaceful states and societies. The support needs to go beyond institutional construction and support the development of the peaceful multi-ethnic society. International actors need to support the strengthening of the social contract and enhanced participation of all communities in the political decision making.

The aim of the international actors in Kosovo should ultimately be sustainable peace and development, supporting the government's capacity to provide by itself security and social welfare for all citizens.⁵⁵ But over a year after independence, the dynamics in Kosovo allow little room for the maturing of a true democracy and the consolidation of an effective state. The hollowness of public institutions, the political elite's stranglehold, the self-serving factionalism of the political system, administrative passivity, lack of state competence and will, the absence of a social contract, consolidation of the nexus between illicit wealth and political power, the very weak system of checks and balances in the institutional architecture and, lastly, Kosovo's dependence on international donors and supporters, do not give grounds for great optimism.

The effective provision of public services such as healthcare, sanitation, water, electricity, education, public transport, justice and security needs to be conflict-sensitive to avoid amplifying current flaws in governance and social tensions, as well as nepotism and corruption. Indeed, dysfunctional public institutions mirror and echo polity-wide failings. On the other hand, equitable provision of services can be a constructive vehicle for improving peaceful relations across the conflict divide, and between state and society. There is also an urgent need to improve incentives towards good governance by strengthening meritocracy in public administrative and the security forces.

The state in Kosovo is not delivering the full spectrum of essential basic services to its citizens, and the

present formal and informal forces and incentives system continue to weaken its resilience. As indicated by the OECD's 'Principles for Good International Engagement in Fragile States and Situations', it is crucial that the core objectives in statebuilding efforts in Kosovo be focused on legitimacy, capacity-building, accountability and peacebuilding.

The local and international oversight and accountability mechanisms need to be strengthened – even guardians need to be guarded. The EU missions would benefit from establishing an equivalent to the UN Office of Internal Oversight Service.

To consolidate the state and build self-sustaining peace, greater efforts must be made to curtail the sway of organised crime and cut back the shadow economy. This will help improve the business climate and reduce the flow of illicit revenues into state structures. Moreover, business activities that contribute towards reconciliation between communities need to be supported.

Above all else, statebuilding within a sustainable peacebuilding process is a long-term endeavour. Peace requires profound social change. The contexts and conditions which define poor people's opportunities and choices require gradual reshaping. Statebuilding should not be seen as a technical exercise, nor should solutions to state fragility perpetuate the institutional weaknesses and violence rooted in traditional political practices. The underlying causes of fragility, including vested interests resisting change, need to be addressed with the necessary understanding, political will, peacebuilding focus and integrated international approach.

⁵⁵ Megan Burke, 'Statebuilding: can the international community get it right?', FRIDE, 2008.

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Kosovo is critically weak and flawed on a number of axes. This paper aims to deepen the understanding of the factors and processes which have led to the fragilities in Kosovo, examine the role of international actors and glean certain insights to improve international and local governance. Effective statebuilding needs to be context-based and have a sustainable peacebuilding approach. This paper argues that despite the complex challenges of statebuilding in a contested state, international actors need to address the weaknesses and support the processes to reduce those fragilities. Contrary to the transitional governance practices on the ground, this needs to be undertaken with courage and long-term vision. External efforts have failed to address the underlying causes of conflict and state weakness, prioritising short-term security at the price of long-term sustainable peace and economic development.

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