Building a multiethnic state in Kosovo: The management of minorities after independence

Marius-Ionut Calu
PhD Thesis

A thesis submitted to the School of Politics and International Relations, Queen Mary, University of London, in partial fulfillment of the requirements of the Degree of Doctor of Philosophy

April 2015
I, Marius-Ionut Calu, confirm that the research included within this thesis is my own work or that where it has been carried out in collaboration with, or supported by others, that this is duly acknowledged below and my contribution indicated. Previously published material is also acknowledged below.

I attest that I have exercised reasonable care to ensure that the work is original, and does not to the best of my knowledge break any UK law, infringe any third party’s copyright or other Intellectual Property Right, or contain any confidential material.

I accept that the College has the right to use plagiarism detection software to check the electronic version of the thesis.

I confirm that this thesis has not been previously submitted for the award of a degree by this or any other university.

The copyright of this thesis rests with the author and no quotation from it or information derived from it may be published without the prior written consent of the author.

Signature: Marius-Ionut Calu
Date: 20 April 2015
Abstract

This thesis examines the adoption of a multiethnic liberal democratic model of governance in post-independence Kosovo and the dual task of statebuilding to secure unity and accommodate diversity through the development of an extensive institutional and legal framework of minority rights. It defines the management of plurality as a fundamental element of contemporary statebuilding that seeks to build social cohesion and gain the obedience of all its constituent peoples. This thesis explains why in post-conflict and post-independence Kosovo, its domestic sovereignty and legitimisation have become conditioned by the integration, accommodation and protection of minorities.

In the context of the international involvement in Kosovo and its highly contested statehood, the existing literature highlights the imposing and exogenous character of statebuilding as largely responsible for its shortcomings. This research challenges this predominant view and draws attention to endogenous factors that may offer a more accurate analysis of how the state model designed for Kosovo has been transformed and limited by local idiosyncrasies. Through a collection of in-depth personal interviews and extensive analysis of laws, reports and official documents, this work answers the question of how successful Kosovo has been in managing diversity. These data reveals the legislation-implementation gap and the variation in the de facto levels of integration, depending on the will and capacity of each community to assume their rights and on their socio-economic, demographic and political particularities. The tensions and unintended consequences arising from the priority to address the situation of Kosovo Serbs through power-sharing and far-reaching provisions are highlighted in their asymmetrical impact on different communities and the enhanced risk of segregation and marginalization. Overall, this thesis shows that the adoption of a multiethnic state model is crucially limited by endogenous conditions and the state-society relationship in Kosovo remains largely undefined.
Acknowledgements

This thesis is the result of the advice, encouragement and support from many who deserve my thanks in appreciation. I owe a great deal to Adam Fagan. As my supervisor he has constantly guided, encouraged, revised and critiqued my work and has particularly helped me to remain focused on achieving my goal. His insightful comments and suggestions helped me to establish the overall direction of my research and to identify and express the most valuable ideas and contribution of my thesis. I have also not forgotten and am grateful to Adam for seeing the potential of my research ideas five years ago when I finished my BA.

My PhD is the culmination of my long journey as a student at the School of Politics and International Relations, Queen Mary, University of London. Therefore, I would like to thank those who, either by directly reviewing my thesis or by commenting during seminar presentations, have advised me or assisted me to clarify and refine my research for the past four years. This includes Brendan O’Duffy, Montserrat Guibernau, James Dunkerley and Bryan Mabee. I would also like to thank Patricia Owens, whose guidance for my MRes dissertation and memorable lectures on International Relations have inspired and encouraged me to pursue a PhD.

This thesis and the valuable period of fieldwork in Kosovo would not have been possible without the financial support of the College. With regards to my fieldwork, I am grateful for the time given by the respondents to my in-depth interviews. I am particularly indebted to Venera Hajrullahu and the excellent team from Kosovo Civil Society Foundation (KCSF), including Taulant Hoxha, Fatmir Curri and Besnike Kocani, who accommodated me during my stay in Pristina and helped me arrange many interviews and participate in workshops and conferences.

The last four years have been both exciting and challenging and for unconditional friendship and love I must thank Silviu Paicu, Oana Filote, Alex Hahn, Debra Sim, Jenna Marshall, Monica Mocanu and Arian Mehta. Lastly, my family has been wonderful and I am grateful for their long-distance continuous support, patience and understanding. To my dearly missed mother, who has never stopped inspiring and guiding my life, my dreams and my ambitions.
# Table of Contents

Abstract .............................................................................................................................................................................. 3
List of Abbreviations .......................................................................................................................................................... 7

**Introduction** ................................................................................................................................................................. 8

**Part I: Evolution of modern statebuilding and models of democratic governance**

**Chapter 1 - Conceptualising statebuilding** .................................................................................................................. 25
Introduction ........................................................................................................................................................................ 25
1. The modern liberal democratic state .......................................................................................................................... 27
  1.1. The State-in-society approach .............................................................................................................................. 30
  1.2. The nation-state ...................................................................................................................................................... 34
2. Exogenous statebuilding: Post-colonial sovereignty ................................................................................................. 41
  2.1. Limits of contemporary statebuilding ................................................................................................................ 46
3. Post-conflict statebuilding ............................................................................................................................................ 47
  3.1. Building peace after conflict ............................................................................................................................... 48
  3.2. EU post-liberal statebuilding ............................................................................................................................... 55
4. Legacy of communist authoritarian regimes ........................................................................................................... 57
5. State Failure and State Weakness ............................................................................................................................ 61
  5.1. Changing character of statebuilding .................................................................................................................. 65
Conclusion .......................................................................................................................................................................... 69

**Chapter 2: Models of Democratic Governance in Plural Societies** ........................................................................... 73
Introduction ........................................................................................................................................................................ 73
1. Inclusionary and Exclusionary State Responses to Diversity ................................................................................... 75
  1.2. Contemporary models of democracy .................................................................................................................. 79
  2.3. Multiculturalism .................................................................................................................................................. 82
2. Conflict management and statebuilding in multiethnic divided societies ............................................................ 84
  2.1. The Lijphart-Horowitz debate on power-sharing ............................................................................................... 88
  2.2. Consociationalism ............................................................................................................................................... 89
  2.3. The Integrative Approach .................................................................................................................................. 94
  2.4. Assessing Power-sharing .................................................................................................................................... 99
Conclusion .......................................................................................................................................................................... 103

**Part II: Management of Minorities and Statebuilding in Kosovo**

**Chapter 3: Historical context before and after 1999**
Introduction ........................................................................................................................................................................ 105
1. Kosovo before 1999 ..................................................................................................................................................... 106
2. Post-1999 UNMIK period .......................................................................................................................................... 108
3. The Ahtisaari plan ....................................................................................................................................................... 115
4. The Independence of Kosovo: *de facto* vs. *de jure* ............................................................................................... 117

**Chapter 4: The integration, accommodation and protection of Kosovo Serbs** ......................................................... 122
1. De jure integration and accommodation of minorities in Kosovo ............................................................................ 124
  1.1. Constitutional and institutional provisions for minority rights ......................................................................... 129
2. Challenges and shortcoming of the implementation of minority rights ............................................................... 140
2.2. Pragmatism and ethnic outbidding .................................................. 142
2.3. A turning point: the 2013 and 2014 elections .................................. 144
2.4. The effectiveness and legitimacy of Serb representation .................. 147
2.5. Kosovo Serbs: Between parallel institutions and integration .............. 151
3. Socio-economic challenges for the integration of Serbs ..................... 157
  3.1. Integration and pragmatism ..................................................... 157
  3.2. Employment in the public sector ............................................. 159
  3.2. Kosovo Serbs in the wider economic context .............................. 163
Conclusion ................................................................. 167

Chapter 5: The Situation of the Non-Serb Minorities in Kosovo
Introduction .......................................................................................... 170
1. Formal provisions for smaller communities ....................................... 171
2. Multiethnicity and employment in the public sector .......................... 177
3. Community Profiles of Non-Serb Minorities in Kosovo
   3.1. The Bosniak Community ....................................................... 183
   3.2. The Turkish Community ....................................................... 193
   3.3. The R.A.E. Communities ..................................................... 201
      3.3.1. The Roma Community ................................................... 204
      3.3.2. The Ashkali Community .............................................. 209
      3.3.3. The Egyptian Community .......................................... 214
   3.4. The Gorani Community ....................................................... 218
   3.5. The Montenegrin Community .............................................. 222
   3.6. The Croat Community ....................................................... 225
Conclusion ............................................................................................ 227

Chapter 6: Minority Rights at the Local Level. The vital role of decentralization
Introduction .......................................................................................... 229
1. Why Decentralization? ................................................................... 230
   1.1. Ethnic vs. territorial models of decentralization ......................... 233
2. The legal framework on decentralization and minority rights at the local level
   2.1. Post-conflict measures ......................................................... 236
   2.2. The Ahtisaari Plan ............................................................... 238
   2.3. The post-independence legislation ......................................... 240
   2.4. Particular challenges for the creation of new municipalities ........ 251
3. Municipal profiles
   3.1. New Serb-majority municipalities .......................................... 253
   3.2. Other Serb-majority municipalities ....................................... 267
   3.3. The Turkish-minority new municipality of Mamusa ................. 271
   3.4. The Multiethnicity Municipality of Prizren ............................. 274
Conclusion ............................................................................................ 278

Conclusion ........................................................................................... 282
Bibliography ......................................................................................... 294
List of Abbreviations

CoE – Council of Europe
EULEX - European Rule of Law Mission
ICR – International Civil Representative
ECMI – European Centre for Minority Issues
KIPRED – Kosovo Institute for Policy Research and Development
CCC Consultative Council for Communities
CRICR Committee on the Rights and Interests of Communities and Returns
CSO Civil Society Organisations
DCC Deputy Chairperson for Communities
DMC Deputy Mayor for Communities
ECMI Kosovo European Centre for Minority Issues Kosovo
ECRML European Charter for Regional or Minority Languages
EU European Union
EULEX European Union Rule of Law Mission in Kosovo
FCNM Framework Convention for the Protection of National Minorities
KJC Kosovo Judicial Council
KPC Kosovo Prosecutorial Council
MEST Ministry of Education, Science and Technology
MHRU Municipal Human Rights Unit
MOCR Municipal Office for Communities and Returns
NATO – North Atlantic Treaty Organisation
NDI – National Democratic Institute
OLC Office of the Language Commissioner
PER – Project on Ethnic Relations
POE Publicly Owned Enterprise
RTK Radio Television of Kosovo
UDHR Universal Declaration of Human Rights
UN United Nations
UNDP United Nations Development Programme
UNMIK United Nations Interim Administration Mission in Kosovo
WB World Bank
Introduction

The presence of minority groups with different ethnic, national, cultural, religious or linguistic identities within almost all contemporary societies has gradually gained more significance for both long-established and new states, particularly in post-conflict, post-communist and post-colonial contexts. Consequently, contemporary processes of state formation have included the management of diversity as a highly prioritised task in response to the historical changes in the practice and understanding of the relationship between state and society. In other words, the modern state has become more preoccupied with finding solutions for the integration, accommodation and protection of all its constituent peoples.

This thesis analyses and measures the impact of adopting a liberal-democratic state-model that aims to secure unity at the same time with accommodating diversity by looking at the process of statebuilding in post-conflict and post-independence Kosovo:

Why, how and to what extent has Kosovo been able to manage diversity as part of statebuilding by adopting a multiethnic legal and institutional framework designed to integrate, accommodate and protect the ethnic minority groups within its territory?

This is the fundamental research question that this thesis addresses. The management of ethnic diversity has been a fundamental challenge for Kosovo after its break-up from Serbia in the post-conflict and post-independence context as reflected by the interplay of three core statebuilding tasks:

1) the development of institutions, the implementation of a legal framework (institution-building/ setting-up the constitution, legal framework, democratization) and enshrining core liberal-democratic values;

2) post-ethnic conflict reconciliation through legislative and institutional power-sharing arrangements designed to foster inter-ethnic cooperation and accommodation of minorities (mainly minority Serbs and majority Albanians), and

3) the generic integration and protection of all other ethnic minorities (Bosniak, Turkish, Roma, Ashkali, Egyptian, Gorani, Montenegrin and Croat communities in Kosovo).

Given that the liberal-democratic (nation-state) model has become the dominant form of modern political organization of states, it is essential to understand how the mutual relationship between state and society, between rulers and subject, between institutions and people has transformed over time. Furthermore, while most Western and other long established states “are the result of centuries of context-specific social conflict, historically
contingent processes and institutional learning and adaptation”¹, contemporary new states are limited by their little experience of building and consolidating their sovereignty, legitimacy and capacity to offer security, socio-economic development and justice within its territory and in relation to the other states on international arena. Consequently, the ability to manage diversity and the solutions adopted for this purpose are also very different from what long established states have been practicing. In this sense, the recognition, integration and protection of minorities have become essential features of modern liberal-democratic state-formation and even more so for contemporary post-ethnic conflict statebuilding cases, where political authority needs to be legitimised by all the constituent peoples.

Drawing on Joel Migdal’s “state in society” approach², I adopt a view of the state as intrinsically embedded in society, thus reflecting the symbiotic state-society relationship confirmed by the mutual capacity to transform each other. From this perspective, the state is both the “image” of a unitary and clearly bounded political organization in control of a given territory and the “practices” of its different social actors and agencies.³ The state is not a fixed political entity and it can be seen as a process, as a changing form of political organization responding to the impact of society. Therefore, the analysis of the statebuilding process in Kosovo and of the impact of adopting a multiethnic liberal-democratic state model will be focused on the character of the state-society link.

Moreover, one way of understanding and evaluating the progress and results of statebuilding in Kosovo is by looking at the state’s ability to develop and maintain what Migdal describes as “social control”, indicated by the level of compliance, participation and legitimacy awarded by the people. In other words, the authority and strength of the state is validated by the will and the support of society, which may enable a state to mobilize people, collect taxes, monopolize coercion or respond to external threats.

The levels of state strength and legitimacy are tested in this thesis through an assessment of Kosovo’s efforts and capacity to manage diversity and gain the obedience of its population by particularly attempting to integrate, accommodate and protect the rights of its minority communities. Given the important role of minorities in legitimising a post-conflict state, the promotion and protection of minority rights is an indicator of Kosovo’s

³ Ibid, p. 18.
willingness and capacity to deliver essential political goods. This becomes a vital responsibility if the state has also experienced major discrimination of a certain ethnic group and/or a history of ethnic conflict, similarly to the case of Kosovo.

Furthermore, this will also help to examine Kosovo’s efforts to develop domestic sovereignty, which for Stephen Krasner refers to the actual strength of a state’s authority, as well as its capacity to use it effectively and secure legitimacy. Therefore, building legitimate domestic sovereignty depends on repairing or preventing social division and a broken state-society link, which is why the integration and protection of ethnic minorities have become fundamental statebuilding objectives. Political consensus and social cohesion are considered to be essential factors that work in favour of building a steady democracy, while political disagreement and deep social division are made responsible for the instability and potential breakdown.

When trying to understand what kind of state the international community has attempted to build in Kosovo, a useful model is that of the democratic legal authority, which according to Richard Ponzio is “based on a belief, by the people in a geographically defined polity, in the legality of democratically enacted rules and the right of democratic authorities to issue commands under such rules.” If this is the objective of post-conflict statebuilding missions, then the understanding of authority is essential for the functionality of statebuilding processes. However, the “gap in conceptions of authority” between international officials and the local population could represent the key challenge to all contemporary attempts to implement democratic legal authority in post-conflict societies. This is related to the concerns over the character of the under-construction domestic sovereignty and the risks of destabilizing democratization and reactivating latent tensions.

Consequently, two more research sub-questions become crucial for identifying and understanding the reasoning behind the state model adopted in Kosovo and the consequences of its implementation:

**What challenges has Kosovo been facing in its task to manage diversity and are the solutions used appropriate for dealing with all its minority groups?**

**What are the intended and unintended consequences of implementing the multiethnic institutional and legal framework in post-independence Kosovo?**

---

The origins of the modern liberal democratic state designated political authority through democratic practices and vested the legitimising power in the hands of a dominant people or nation. Nonetheless, the nation-state model had to face the immediate challenge of securing or developing a unitary national identity through (cultural) homogenisation. In this sense, the state has had to choose between rejecting and accepting societal plurality. In the absence of congruity between nation and state, the changing character of societies (heterogeneous, multi-ethnic, multi-national) has brought new tasks and challenges for the liberal state in order to maintain or expand its legitimacy guaranteed by all people living within its territory.

Equally important for this study is however not only to explore the limitations of new states in dealing with plurality and ethnic minorities, but also to understand why and how this has become an essential task for contemporary statebuilding, again in contrast with the traditional liberal-democratic state. The discussion about contemporary new states is more precisely referring to statebuilding in the contexts of post-colonialism, post-communism and post-conflict, where diverse societies have been most of the times divided by the existence of different ethnic, national, cultural, religious or linguistic identities. Contemporary processes of state formation in these three contexts have been often a response to the intersection or clash between ethno-national diversity and the spread of the modern western state model.

Dealing with diversity in post-conflict societies, for instance, is more complex than the situation of a plural society that has not experienced a recent violent conflict. The critique of contemporary statebuilding needs to look more carefully at fundamental differences between mature-plural-democratic states without any recent conflicts and young-plural post-conflict democracies that are importing external models of democratic governance. Therefore, the management of diversity has been a problem for the development and proliferation of liberal-democratic norms of governance, it has been the source of external and domestic violent conflicts in the peoples’ quest for self-determination and it has then become a fundamental task for contemporary statebuilding.

In the contexts of decolonization and then of the collapse of communism, a large number of ethno-national groups within multinational states and of minority groups have asked for full recognition of their rights to political participation, equality and protection of their identities, which has meant either autonomy on ethnic lines or self-determination. Contemporary new “polities” have experienced the challenge of internal disputes over
establishing what the identity of the political community and their members should be. This state legitimacy issue has been described by Linz and Stepan as the *stateness problem*\(^7\), originating in the relationship between the state, the nation and democracy and the difficulties in establishing territorial boundaries and the conditions of citizenship. While nationalism offers the possibility of defining the demos, this may not include the entire population or all the constituent peoples of the state. When “stateness” and “nationness” overlap, building democracy and legitimate governance is expected to occur more easily, while when they are not in congruity, the process is likely to be more challenging and unstable. For instance, democratization in post-communist countries like Poland, Czech Republic or Hungary are relevant examples of the first situation, whereas the conflicts and instability of states from former Yugoslavia illustrate “the severe consequences for states beset by contentious multinationalism and weak citizen-institutional loyalties.”\(^8\)

Therefore, given that popular sovereignty requires the democratic legitimization of political authority and embodies the interdependency between state and society, *social cohesion* has become an essential element for building stable and legitimate liberal democratic governance. However, securing unity and social cohesion has proven to be more complicated for contemporary young democratic states, in contrast not only with long established democracies, but also with the previous regimes that used to govern these transitional societies. Societies that used to be either under colonial/imperial rule or under totalitarian control could not continue preserving their unity by using merely coercive means. While challenges of diversity such as ethnic tension did not simply occur after the end of colonialism and the fall of the Iron Curtain, keeping them under control became problematic in the face of the weakening of states’ authority.

Furthermore, the absence of a strong political authority has also been an issue for the most recent examples of statebuilding in post-conflict societies, which have been under the administration of the international community. Similarly to former colonies and former communist societies, post-conflict societies have had to accept an external form of authority that did not need (direct) popular legitimisation while having to develop non-coercive means of governance. The common problem of all these three contexts of contemporary statebuilding is that they have produced states with little capacity to monopolise violence.

---


\(^7\) Ibid, p. 429.

and secure social cohesion. Therefore, the understanding and practice of state sovereignty in new plural liberal-democracies has been challenged by the absence of a bond between state and society.

The management of diversity has become both a challenge and an objective for contemporary processes of state formation. On the one hand, it has been a challenge primarily because it complicates the task to secure unity for the liberal-democratic nation-state model, built around the norms of popular sovereignty, social solidarity and reliance on a dominant nation. On the other hand, it has become a key objective for statebuilding not only because of the social-demographic and political changes of the 20th century, but also because of the increasing number of internal (ethnic) divisions, conflicts and civil wars. These issues have characterized the ex-colonial and ex-communist societies aiming to adopt the liberal state-model but struggling to synchronise the (proposed) state-society relationship with the ground realities.

Kosovo has been the topic of many international controversies and academic debates over the politics of interventionism, international law, ethnic cleansing, peacebuilding and statebuilding, the role of international administrators in post-conflict states, secessionism and the right to self-determination and, most recently, the problems around the 2008 unilateral declaration of independence. Kosovo has therefore declared itself an independent state nine years after the 1999 conflict, but the lack of unanimous international recognition continues to divide the international community on the status and future of the province. Although not the focus of this study, this situation is particularly important given that the international community has been involved in all stages of Kosovo’s development from intervention (the role of the North Atlantic Treaty Organization (NATO)), peacebuilding/statebuilding (the administration of Kosovo by UNMIK and by the European Union, but also the involvement of other organizations like OSCE and international donors) and post-independence (the continuing primary role of the EU by including Kosovo within the Europeanization process and also, more specifically, though its EULEX mission).

In these circumstances, Kosovo has been aiming to foster its international recognition and defend its status while also building-up its domestic sovereignty and continuing its transition to a sustainable liberal-democracy. In other words, in its post-2008 quest to meet

---

9 To this date, Kosovo has been recognised by 110 UN member states (57%), but it lacks UN membership as the UNSC remains divided on this issue, with Russia and China not recognising the declaration of independence. The EU member states are also divided as only 23 out of 28 members (82%) have recognised Kosovo.
international/EU standards and construct stable, functional and legitimate democratic governance, Kosovo continues to have a highly contested statehood and even lacks the support of five EU member states.

Challenges for contemporary post-conflict statebuilding practices have been generally studied within the critique of liberal interventionism.\(^\text{10}\) This literature has been focused on the imposing character of international involvement in peacekeeping and post-conflict administration such as the United Nations-led missions in Bosnia-Herzegovina, Kosovo, East Timor, South Sudan or Afghanistan. From this perspective, the international involvement in Kosovo has not only started with a controversial humanitarian intervention, but it has also imposed a multiethnic state model while administering the post-conflict reconstruction of the province. This suggests that the international community has also become highly responsible for the flaws of statebuilding in Kosovo and for creating a certain degree of external dependency in the detriment of democratisation and domestic legitimacy. International administration has been identified as the key problem because it installs an external source of legitimacy and undermines domestic sovereignty.

This literature\(^\text{11}\) underlines the non-democratic and illiberal character of liberal interventionism in its paradoxical quest to spread liberal-democratic ideals through statebuilding missions. At the same time, this criticism also questions the self-proclaimed universality of an externally generated political model. The identification of the flaws of international statebuilding is not however always supported by endogenous, case-specific and convincing explanations for the multifaceted causes of why states fail, for instance, to

---


\(^{11}\) Ibid.
develop sustainable democratic governance or to achieve long-term reconciliation and inter-ethnic cooperation.

Moreover, in the case of Kosovo its unresolved status is often over-emphasised and used to explain almost all deficiencies of the statebuilding process, despite the fact that scholars have observed that processes of democratic transition and institution-building are not unique to established states and can occur outside the state system as confirmed by the post-1999 *standards before status* approach in Kosovo. This highlights the dynamic character of the state under the impact of a multitude of external and internal processes. Furthermore, Krasner’s taxonomy of sovereignty is also relevant here because despite the absence of international/legal sovereignty, Kosovo has developed domestic sovereignty. This is extremely important for my research’ aim to contribute to these debates by analysing the capacity and willingness of Kosovo to integrate and accommodate its minorities as potential indicators of the legitimacy and strength of domestic sovereignty.

The solution to encourage local autonomy for self-governing capacity has then been seen by many policy-makers and scholars as a solution for progress and the development of internal popular legitimacy. However, in practice this may not work given that the problem of post-conflict societies to develop a democratic legal authority has more significant and complex origins. Furthermore, liberal-democratic measures and standards that define contemporary statebuilding are implemented improperly not necessarily because they are imposed and given a different character, but because they are in conflict with the internal fracture between the state and its population and because of the incompatibility between institutional/legal solutions and case-specific circumstances.

The literature that this thesis puts forth in the first two chapters includes therefore the critique of liberal interventionism, which emphasises the changing character of sovereignty and the society-state rift so as to explain why contemporary statebuilding has a paradoxical effect of state-weakening and state-failure. My thesis argues that a competing literature has been emerging with the aim of stimulating more consistent explanations of state weakness. This can be done by highlighting the legacy of the past in relation to the absence of social

---


cohesion and a strong state-society relationship. The aim of this theoretical comparison will be to show the importance of identifying valid causes for malfunctions in statebuilding by complementing exogenous explanations with endogenous factors.

Indeed, Kosovo represents a unique endeavour and a very ambitious case of statebuilding not just because of its internationally contested statehood\(^\text{14}\), the circumstances of the 1999 war and the subsequent international administration, but also because of the impact of the dual legacy of communism and conflict. My research will thus also explore why the literature on statebuilding in Kosovo has generally not been focusing enough on the role of endogenous factors.\(^\text{15}\) It is paramount for this thesis to explore whether endogenous challenges may obstruct the aims of building a multiethnic liberal-democratic state capable of securing unity and managing a plural society. In this sense, the “the twin and deeply intertwined dynamics of post-Communist and post-conflict transition”\(^\text{16}\) have simultaneously complicated the state-society relationship in Kosovo and the externally-led efforts to establish a multiethnic polity. This dual legacy has been characterised by illiberal practices and understanding of governance, substate forms of authority, ethnic, social and political fragmentation, the absence of national cohesion, economic dependency, institutional weakness and security issues.

The interplay between exogenous and endogenous factors indicate why a particular type of statebuilding has been developed in the contemporary context of post-conflict societies, which in the case of Kosovo has a multiethnic political-institutional model at the forefront of the process. Nevertheless, this interplay also helps to analyse the difference between theory and practice, between legislation and implementation and between intended and unintended consequences of adopting and implementing a particular state model.

Post-conflict statebuilding in Kosovo has been an externally-driven multifaceted process aiming to build peace, stabilise and reconcile ethnic tensions and to develop at the same time a functional liberal-democratic form of governance. Therefore, the immediate


\(^{16}\) Ibid, p. 13.
goal was to pacify the relations between Albanians and Serbs while keeping the province under the administration of the international community (UNMIK mission) until its future legal status would be resolved. Maintaining peace and achieving sustainable reconciliation has become part of the liberal statebuilding process. In Kosovo, this has consisted of adopting and implementing of a multiethnic liberal state-model aiming to develop the capacity to secure unity, perform the main tasks of a functional state and also manage ethnic diversity through a set of far-reaching legal and institutional framework for the integration, accommodation and protection of minorities.

For the purpose of this thesis, a minority is a group or a community that identifies itself as different by virtue of a shared ethnic, national, religious, cultural, linguistic or communal identity and has historically been marginalized by policies and practices of a state, and normally also constitutes a numerical minority within a state with a majority group. It is therefore crucial for the study of the management of plurality during statebuilding to establish the official position of the state as regards ethnic diversity and the relationship between majority and minority groups. A state may therefore recognise the dominance of an ethnic majority, it may associate the national identity with that of the majority group, it may disregard ethnic identities by promoting an overreaching civic identity or it may actually declare itself multiethnic/multinational/multicultural with a non-partisan national identity despite the existence of a majority group. What is particularly important for Kosovo is the intentional choice of terminology within the constitution. The notion of “community” is used to describe all ethnic groups living in Kosovo, including Albanians, which means that minorities are referred to as “non-majority communities”. As I will later discuss, another unique feature of the legislation is that Albanians are also treated as “non-majority communities” in municipalities where other groups constitute the local majority population.

This study is also interested in analysing the extent to which this intersection of pro-communality and pro-distinctiveness rationales of state formation may result in an oxymoronic form of statebuilding in Kosovo. By looking at post-conflict power-sharing models of governance for diverse societies this thesis will also analyse different ways in which minority rights can be institutionalised within constitutional and legal frameworks and how this is reflected by the implementation of territorial and non-territorial mechanisms. The suitability for Kosovo of different models and solutions for ethnic conflict regulation and management of plurality is assessed by taking up a number of issues such as: *Is the multiethnic political and institutional set-up of Kosovo an accurate representation of its*
actual social configuration? Do all minorities benefit equally and proportionally from the complex set of provisions and rights? How practical and beneficial are these measures?

Through an exploration of these dilemmas, this study aims to highlight that the understanding and practice of measures adopted to manage diversity in Kosovo vary among different minority communities, depending on various endogenous factors and on their will and capacity to assume their rights.

**Methodology**

Through qualitative data analysis consisting of the evaluation of the constitution, laws, policy-briefs, official local and international documents, treaties, reports, political debates, conferences and, most significantly, by conducting 64 semi-structured interviews, this thesis answers the questions on how the multiethnic character of (liberal-democratic) statebuilding has been adopted, accepted and implemented in Kosovo, as mainly illustrated by the impact of a far-reaching system for the protection and integration of its ethnic minorities.\(^\text{17}\) For this purpose, I have carried out extensive field research which consisted of in-depth interviews and the observation of the activity of minority representatives and their interaction with the civil society. The interviews were held with a range of stakeholders including politicians from majority and minority communities in Kosovo, representatives of government offices at central and municipal levels and members of the minority consultative bodies, civil society representatives, representatives of the international presence in Kosovo from the EU, UNDP and OSCE offices, legal experts, journalists and academics.

This exploratory study examines the post-independence application of these measures, particularly documenting the difference between post-ethnic conflict regulation solutions and standard approaches to integration of minorities. In concrete terms, while the former category has addressed the tensions between Serbs and Albanians, the latter has concerned the smaller non-Serb communities within the new context. Moreover, the interplay between developing liberal-democratic norms of governance and the focus on managing diversity is a constant theme that I analyse throughout this thesis in trying to reveal the intended and unintended consequences of statebuilding. This will result in a comprehensive study of some of the actual outcomes of multiethnic statebuilding and of the fragility of Kosovo in its dual task to secure unity at the same time with enshrining minority rights and accommodating diversity.

\(^\text{17}\) As regard the terminology and local names used in this thesis, while the English conventional terms are used mainly, the Albanian and Serbian versions are also used interchangeably.
The multiethnic legal and institutional framework of Kosovo was developed during the post-1999 international administration period and was then confirmed in the post-independence context. While the UNMIK context is examined when it has explanatory value for this study, the timeframe of my research is limited to the period after the declaration of independence on 18 February 2008. This choice derives from the focus of this thesis on the adoption and implementation of the legal and institutional arrangements designed to manage ethnic diversity in the context of a decreasing (direct) control of international actors.

The main independent variable in this thesis is therefore Kosovo’s novel constitutional model that incorporates multiethniciy as one of its fundamental principles of organising and developing the post-independence institutional and legal framework of liberal-democratic governance. While this is mainly tested in this study against the legislation-implementation gap, the arguments are formulated with the help of the following dependent variables:

- the will and capacity of each minority group to understand, accept and assume their rights and the provision for integration and accommodation (focus on social and political situation)
- the institutional capacity of central and local government to support these aims (short/medium/long-term commitment and capacity-building to sustain minorities)
- the levels of political participation and representation indicated by results in local and national elections and by the activity of minority representatives within the executive, legislative and consultative institutions
- the impact of the overall socio-economic and political situation in Kosovo (ethnic issues that affect all communities regardless of their identity)
- the practicality of rights and special provisions that target the management of ethnic minorities
- the distinction between cultural and political rights
- the difference between elite level representation/integration and the situation at the community level
- the sustainability of the cooperation with the majority group (Albanians) at both elite and community levels
- the socio-economic, political and cultural particularities and requirements of each minority

The virtue of these various factors makes integration and accommodation of minorities more concrete and measurable. Data for the analysis of these variables were mainly collected into the themes of statistical information of each community (demographics, geographical spread, turnouts in elections etc.), power allocation (election results, number of representatives, and significance of positions held by minorities) and socio-economic challenges (unemployment rates, access to education, returns). Moreover, this thesis reviews secondary data to build small case-studies such as the 2010 situation of proportional employment of minorities in the public sector, the establishment of new Serb-majority
municipalities and the investigation of the post-decentralization situation of the multiethnic municipality of Prizren. In terms of methodological limitations of my research, one problem encountered was the access to reliable data and limited information to analyse the situation of the smallest communities in Kosovo (Montenegrins and Croats) and also the lack of updated information for examining the situation of most non-Serb minorities, which meant that I had to rely on the reports made by OSCE and ECMI.

The single focus of this study on post-independence Kosovo and the evidence presented limit its scope to the particular analysis of the adoption and implementation of rights and provisions for the integration, accommodation and protection of minority communities in Kosovo. However, this case-study can also be used to illustrate the complexity of contemporary post-conflict statebuilding and the changing character of the practices and understanding of state formation under the impact of case-specific circumstances. Contemporary statebuilding processes have included the acceptance and respect for diversity as an indispensable element within their rationale of how to construct a functional, all-inclusive liberal-democratic polity. The character of statebuilding in Kosovo reflects the intersection of the traditional liberal democratic (nation-) state-model requiring some form of national cohesion (civic identity), with the contemporary focus on distinctiveness, and more specifically, on the accommodation of different ethnic communities co-existing within the same state.

With the purpose of arguing my case that local particularities need much more consideration by both policy-makers and scholars of post-ethnic conflict statebuilding, this study identifies both intended and unintended consequences of implementing the multi-layered institutional and legal framework for managing multiethnicity in Kosovo. The asymmetrical impact of the top-down measures among different communities and the risk of further political, linguistic, social and territorial segregation and marginalization may have a fundamental role in the long-term effects of statebuilding. Overall, this thesis aims to explain why regardless of how far-reaching the rights and institutional provisions for ethnic minorities may be, they cannot compensate for a sustainable de facto integration and accommodation of these communities. By the same token, Kosovo’s de jure identity and image as a multiethnic liberal-democratic state is not necessarily an accurate reflection of the complexities of ground realities and actual societal practices.
Outline of the thesis

This thesis takes up the central questions and arguments raised so far through an examination of the particular model of integrating, accommodating and protecting ethnic minorities in post-conflict and post-independence Kosovo and of its relevance for the general study of why and how statebuilding includes the management of diversity within its key tasks. In developing this line of thought, this study is divided into five chapters distributed within two different parts, theoretical and empirical.

Part 1 develops a conceptual framework that, firstly, investigates why the management of diversity has become a vital part of modern liberal-democratic state-formation, and, secondly, looks at different solutions and models of democratic governance for plural states and, more specifically, for post-ethnic conflict states with deeply divided societies and considers their relevance for Kosovo. Part 2 looks at historical context of the conflict and post-conflict Kosovo and at the development of the multiethnic framework of governance. It evaluates the adoption and implementation of post-independence legal-institutional tools and measures designed to integrate, accommodate and protect minority communities by focusing on three in-depth analyses of: a) the situation of Kosovo Serbs as the main objective of managing diversity, b) the situation of the non-Serb minorities and c) the use of decentralization as a key tool for multiethnic governance at the local level.

Chapter One provides a conceptual and historical analysis of the development of the liberal-democratic state model in trying to show why the management of diversity has become a fundamental task for contemporary processes of statebuilding. This chapter will explore how the growing social diversity and ethno-cultural complexity of modern states has become a problem for the development and preservation of authority and legitimacy of liberal democracies, very much dependent on socio-political cohesion. Furthermore, despite the perpetuation of the nation-state model, the actual multiethnic and multicultural composition of nearly all existing states has complicated the idea of congruence between nation and state. I look at different definitions and dimensions of the concepts of state sovereignty and legitimacy, indicate the state-society relationship as the core element of modern liberal-democratic governance and expose the reasons why I adopt Migdal’s view of the “limited” state. This will help to explain why in the contexts of post-colonialism, post-communism and post-conflict statebuilding, the ideal model has been shaped and adapted to the challenge and requirements of national, ethnic, cultural, religious or linguistic diversity. In short, this chapter demonstrates that the lack of social solidarity/cohesion represents a
threat to building legitimacy and domestic sovereignty, and, in the context of contemporary statebuilding, may be seen as a source of permanent state weakness.

In support of the theoretical arguments discussed in the first chapter, Chapter Two continues the analysis of the contemporary statebuilding dilemma of securing unity and managing diversity at the same time. This chapter answers the question of how can a state manage plurality efficiently and what are its concrete tools by examining different models and approaches for integrating, accommodating and protecting groups with different identities. However, it will be first useful to explain that states have historically been able to choose between accepting and rejecting ethno-cultural diversity and adopt different policies such as assimilation, elimination, segregation, integration or accommodation. I will analyse the solutions for building stable democratic governance in diverse societies and consider the distinctions between integrationists and accommodationist strategies for dealing with social divisions and between exclusionary and multicultural models of democratic states. Nonetheless, given the particular context of Kosovo, the second chapter will finally consider the power-sharing models of democratic governance. This final conceptual section will focus on the great debate between Lijphart’s consociational and Horowitz’ integrative approaches to ethnic conflict regulation and post-conflict statebuilding and will assess them by emphasising the deviating results of mixing unrealistic norms with the volatility of the socio-political, cultural and demographic particularities of each case.

The empirical component of this thesis starts with Chapter Three, which provides a detailed historical account of the political context before and after the 1999 conflict. It includes the key events before the declaration of independence and it introduces the role of the international administration in Kosovo after the war and the fundamental problems determined by the unsettled status of the province. This will help to develop a better understanding of the situation of minorities before 2008 and to evaluate the crucial impact of UNMIK period and of the Ahtisaari plan. The idea of “standards before status” will be examined and linked to the role of the EU and with the installation of a permanent dilemma in Kosovo as regards its domestic and international sovereignty. Altogether this historical account provides context to the analysis of how the necessary democratic link between state and society and the creation of civil society were instantly undermined by the external top-down control of the international administration.

Chapter Four looks at the situation of the Serb community in Kosovo. As the largest minority community, and politically the most difficult ethnic group to integrate within the new state, it seemed appropriate to begin an assessment of the efforts, solutions and
framework to manage diversity in Kosovo from this empirical perspective. Therefore, in this chapter I present the complex far-reaching legislation and measures taken for adopting a multiethnic framework. While emphasising how and why Kosovo Serbs have been the main target and the priority of designing this framework under the guidance of the international community, this chapter also examines the interplay of progress and problems characterizing the Serb minority after independence. I discuss how this framework provides extensive minority rights at central and local levels of governance, political rights, social benefits, language and cultural rights, but their implementation reveals the persistence of important shortcomings as regards the sustainable integration of Kosovo Serbs. After looking at the political participation and representation of Kosovo Serbs, I also examine the socio-economic challenges that influence the effectiveness of the measures adopted to integrate and accommodate the community. One factor is the presence of the Serbian parallel institutions, which besides representing a concrete support for the Kosovo Serbs, they have also been undermining the authority of Pristina and have been delaying the social-economic and institutional integration.

Chapter Five examines the situation of non-Serb minority communities in Kosovo and illustrates how promoting and protecting minority rights in Kosovo through legal and political provisions intersects with the complexity of needs and requirements coming from different minority groups. This chapter takes a similar approach by analysing the situation of each of the other minorities in Kosovo starting with the Bosniaks and the Turks and ending with the smallest, Montenegrins and Croats. Providing extensive rights can be beneficial for minority groups depending on the particular characteristics and priorities, as well as the will and capacity of each of community. Thus, this chapter seeks to understand the necessity and motivation behind offering far-reaching protection and provisions for even the smallest minorities in Kosovo. The individual data and results revealed in this chapter will help analyse whether the implementation of minority rights has been at risk of creating a hierarchy among minorities depending on the will and capacity to also reach smaller, more vulnerable and less visible minorities. Overall, evaluating the efforts made to integrate the non-Serb minorities will further stress the importance of the gap between legislation and implementation. While smaller minorities in Kosovo have legal equal collective rights with the Serb minority and could potentially benefit from this unanticipated status, in reality their situation varies from case to case. This chapter argues that the inconsistency regarding minority rights protection towards the smaller communities in Kosovo indicates a potential discrepancy between inappropriate measures and facilities that could become counter-
productive and cause segregation and marginalization instead of integration. This is a key hypothesis that the next chapter will re-enforce through more case-studies and examples of legislative-implementation gaps. *De jure* provisions and post-conflict specific measures like power-sharing consociational features cannot guarantee social cohesion and the legitimization of the state by all its constituent ethnic groups.

Finally, **Chapter Six** looks at the measures taken to integrate, accommodate and protect minorities at the local level of governance in Kosovo. In continuation of the argument that the multiethnic legislative and institutional framework in Kosovo has largely been put in place to address the Serb minority, this chapter will show how decentralization has also particularly addressed the situation of Serbs at the local level. It will thus discuss arguments that show both positive and negative aspects of combining decentralization with integration and accommodation of minorities. This chapter explains why one of the purposes of decentralization has been to give minorities some degree of local autonomy in exchange of a recognition of the authority of the Kosovan state and its institutions. However, this strategy risks to determine territorial and institutional isolation of minority-municipalities on the long term. By considering the demographics, economic, administrative and political situations of each municipality, this chapter will explain both the benefits and the challenges faced after decentralization and its impact on minority integration. It will be crucial to observe how the situation varies from one municipality to the other depending on the capacity of local actors, the support of Kosovo central institutions, the local economic opportunities, the willingness of the local population to integrate and the impact of the Serbian parallel structures.

The **Conclusion** that follows this chapter will summarise my research findings as regards the situation of each community, will link the case-specific elements with the relevant literature and will discuss some implications for future work in this area. It will thus present and evaluate the interplay of intended and unintended consequences of implementing the legal-institutional framework for managing minorities in post-independence Kosovo and measure its concrete impact on the situation of all minorities and on the cohesion of the state and society. Lastly, the conclusion will aim to explain how, why and to what extent the multiethnic liberal-democratic model imported by Kosovo has been transformed and limited by the local idiosyncrasies.

---

18 Minority municipalities represent municipalities where the majority of the local population belongs to one of the minority communities.
Part I: Evolution of modern state formation and models of
democratic governance

Chapter 1: Conceptualising statebuilding and the state-society
relationship.

Introduction

The theoretical framework set out in the first two chapters will be used to analyse Kosovo’s liberal democratic state-model of governing its multiethnic society in the post-conflict and post-independence context. At the same time, this will also complement the empirical study of my thesis focused on the gap between de facto and de jure integration of Serb and non-Serb minorities and the protection of their rights at both central and local levels of governance. One of the overall tasks of my thesis is to analyse the difference between the ideal type of contemporary states (which focuses, among others, on the integration and protection of ethnic minorities) and the actual character of the under-construction state in Kosovo as revealed by the mixture of intended and unintended consequences of adopting and implementing a multiethnic institutional and legal framework (actual level of integration and the risk of reversing or causing segregation).

Therefore, understanding the principles of (domestic) sovereignty, political authority and legitimacy is crucial for starting a valid assessment of the functionality of statebuilding in Kosovo. The character of sovereignty being built in Kosovo under the influence of the international community, the source and legitimacy of state authority and the effectiveness of governance are all indispensable elements that will help this research to examine Kosovo’s determination and capacity to perform its key state functions and manage diversity at the same time. This chapter looks specifically at how modern liberal-democratic statebuilding has become focused on developing and maintaining the support of all the constituent peoples of a state, particularly through the social inclusion/integration/accommodation of minorities. This highlights the dual task of modern statebuilding to construct social solidarity and secure unity at the same time with accommodating diversity, be that of ethnic, cultural, religious or national nature. It is thus important to observe why and how state-formation has distanced from its traditional (nation-state) focus on building national cohesion in the context of an
overarching assimilating identity to an increasing focus on accepting diversity and protecting distinctiveness.

Firstly, this chapter identifies the key characteristics of the modern liberal democratic state and puts emphasis on the idea of the “nation-state” which interpreted the nation as a unitary, homogenous group of people. In other words, it is important to mention that the origins of the modern liberal democratic state vests power in the hands of a dominant people or nation, which, at the same time, highlights why the concept of popular legitimacy was critical for the development of the liberal democratic state. Furthermore, this chapter shows why the state-society relationship is at the core of conceptualising the state as a form of political organization that is constantly evolving. By introducing Migdal’s “state-in-society” approach and the notion of social control, this chapter will discuss how the character of domestic sovereignty and political authority may be shaped by externally driven statebuilding efforts. This will re-enforce the argument that for the evaluation of statebuilding cases like Kosovo, the state cannot be simply conceived as a clear-cut set of institutions and rules separated from the society. The state is a dynamic political entity reflecting the interaction and mutual influence between society and state institutions (apparatus) and it is shaped by the actions and needs of both sides, which may or may not coincide. Therefore, the state conception needs to incorporate the role of society and the local factors that illustrate how values, perceptions and participation of people matter and shape the process of state-formation.

This chapter describes how the modern nation-state emerged based on the vital link between the state and the people (the nation), meaning that in order to secure legitimacy the state had to secure the support of its people through social solidarity. At this point, the chapter will highlight how the legitimacy of the modern liberal-democratic state has gradually become more conditioned by the accommodation or integration of diversity. Afterwards, it will be highlighted how the task of managing plurality has been a growing challenge for new states emerging in the second part of the 20th century. Post-colonial, post-communist and post-conflict states have been divided and likely to deal with ethno-national groups that have historically been alienated or actively denied access to the social and political life of the state. These new states indicate that it has gradually become more difficult to establish nation-states within plural societies that are divided by their multiple ethnic, national, religious or linguistic identities.
Moreover, the management of heterogeneous societies has proven to be challenging in the context of post- (ethnic)conflict statebuilding, which incorporates the accommodation of diversity as an indispensable component of reconciliation. Thus, statebuilding has historically become more focused on accommodating diversity so as to maintain or consolidate its legitimacy, which in the context of post-conflict societies is, to a large extent, conditioned by the integration and protection of minorities. For this reason, this chapter also interrogates what contemporary internationally-driven liberal statebuilding has done to help incorporate different ethnic minorities and build pluralist democracies. The ideas and practice of statebuilding have been mainly reflecting the Weberian view of the state as an autonomous organization/set of institutions, an authority with a capacity to dominate populations and the monopoly over the legitimate use of force. This view has been adopted by the externally-driven statebuilding with the aim of laying the foundations for a sustainable peace and good governance through strategies targeting, for instance, top-down institution-building. Nonetheless, the contemporary critique of liberal statebuilding has highlighted the risk of adopting a mainly institutionalist approach in the detriment of democratisation.

The final part of this chapter links the contemporary statebuilding task and the challenge of accommodating diversity with the reasons for the critique of the role of the international community in building post-conflict states. In other words, it is essential to explain why post-conflict states like Kosovo have been described as weak or as failed, while also examining to what extent the capacity to manage plurality or, more specifically, to integrate and protect minorities has become a benchmark for identifying state weakness. While this chapter mainly focuses on the characteristics of the optimal liberal-democratic state-model and how the management of plurality has become one of its primary tasks, it is also necessary to explore why the inability to overcome this challenge has become indicative of state weakness. It is thus useful to discuss why post-conflict societies are often described to have a perpetual state weakness that is fuelled by social, political, economic and cultural legacies of the conflict. The focus of liberal statebuilding missions has generally been on finding ways to consolidate societies emerging out of conflicts. However, there is a gradual decrease in attention given to the original issues that caused the conflicts and, as consequence, provoked state weakening or state failure.

---

1. The modern liberal democratic state

This chapter aims to analyse what constitutes an optimal state-model for contemporary statebuilding. It is thus important to look at some of the key concepts that define the modern liberal democratic state and thereafter to focus on the development of the nation-state and the subsequent challenge of managing plurality. I will firstly introduce the rationale behind the social contract theory, the idea of authorisation and the link between popular legitimacy and the internal dimension of sovereignty.

The conceptualisation and practice of state-formation or statebuilding has changed over history but the origins of the modern liberal state can be traced back to the ideas found in the social contract theory, the Weberian view of the state as a “corporate group” and the political theory that focuses on the juridical statehood of a state. The modern state as a solution for the issue of political order was also explained by Charles Tilly’s representation of “war-making and state-making as organized crime”, based on the idea that security is essentially offered in return for extraction. Altogether, these different conceptions on the modern state-formation mentioned so far indicate three core functions and responsibilities of the state as a provider of security, representation and welfare. Hence, the capacity and will of states to perform these main functions of governance have permanently been vital elements of modern state-formation.

State formations is defined as the extension of the effective powers of this state over a population within an identifiable geographical area on the one hand, and progressive political integration of the population into the exercise of state powers on the other.

Most significant, however, is the idea developed by the liberal tradition of political thought that state-formation depends on establishing a social contract between rulers and subjects. This has subsequently made legitimacy a vital element of modern statebuilding. The key elements of modern statebuilding that this first section has already introduced are:

---

state’s functions/responsibilities and state’s legitimacy authorised by its subjects. In order to evaluate the state-model for contemporary statebuilding, it is thus essential to examine not only why the state encompasses public institutions for extraction, security or representation but also why it is more extensive than government and it is subject to the relationship with its citizens.25

Sovereignty is considered the most important attribute of state power reflecting the supremacy and autonomy of states in both the domestic and international levels of authority. On the one hand, external sovereignty relates to a state’s position in the international order and its right and capacity to act as an independent and autonomous entity. This is used by international law and it is echoed by the concepts of “national sovereignty” and “sovereign state” when discussing the relationship between states and the idea of non-interference in the domestic affairs of sovereign governance.26 On the other hand, the internal dimension of sovereignty refers to the highest authority within a state that, as Max Weber famously described it, possess the monopoly over the legitimate use of physical force within a defined territory. Therefore, in opposition to the state of nature (anarchy), a sovereign state has an internal political framework characterised by centralisation and hierarchy.27 Nonetheless, internal sovereignty “is exercised within the borders of the state and refers to the relationship between sovereign power and the subjects of that power”28, from which arises the question of (popular) legitimacy to exercise authority.

The idea of domestic sovereignty29 confirms the exclusive right of a state to exercise its supreme political authority (executive, legislative and judiciary) over a defined territory and a group of people (nation) and the effectiveness of these authority structures. Domestic sovereignty is a key concept for this thesis in trying to examine how the accommodation of diversity has become a key element of statebuilding so that all its constituent peoples legitimise the political authority of the state.

28 Roepstorff, op. cit, p. 47.
29 Stephen Krasner suggested a concentration of the meanings of sovereignty in four categories: Westphalian, domestic, international and interdependence. Domestic sovereignty “involves both authority and control, both specification of legitimate authority within a polity and the extent to which that authority can be effectively exercised”. In Krasner, op. cit, p. 4.
By looking at the problem of order and by seeking to explain why a state is necessary and what form it should take, Thomas Hobbes developed a theory of human nature, sovereignty and political obligation, seeking “to prove that the state must be regarded as ultimately both absolute and legitimate, in order the worst evils -civil war- might be permanently averted”\(^\text{30}\). In his writing, peace and order are established through a covenant of every man with every man made “in such manner, as if every man should say to every man, I **Authorise** and give up my Right of Governing myself to this Man, or to this Assembly of men, on this condition, that thou give up thy Right to him, and Authorize all his Actions in like manner”\(^\text{31}\). Therefore, the character of state sovereignty is defined by this idea of authorisation, of giving consent for **legitimising** an **Artificial Man** to govern. This is Hobbes’ explanation for the contract that establishes “who makes the rules for how others behave, who forces his or her will on others, and when such patterns are transformed”\(^\text{32}\). Given the innovative argument for a contractual-based state formation it is important to highlight that the self-perpetuating, inalienable, indivisible and absolute idea of sovereignty is, in this way, established by an authority awarded by the people. The relationship between rulers and subjects, between institutions and people, between state and society is at the heart of understanding the origins of the modern state.

### 1.1. The State-in-society approach and the importance of social control

The state should not be taken as a free-standing entity, whether and agent, instrument, organization or structure, located apart from and opposed to another entity called society\(^\text{33}\).

In his *State in Society: Studying How States and Societies Transform and Constitute One Another*, Joel S. Migdal\(^\text{34}\) offered a thorough analysis of the relationship between state and society and argued that it is imperative to avoid analysing the state as a separate entity from society. He considered that the main problem with theorising the state as a stand-alone organization is that it can exaggerate its capabilities, while “an approach that focuses on the state in society, on the process of state engagement with other social forces highlights the mutual transformation of the state and other social groups, as well as limitation of the


\(^{32}\) Migdal, op. cit., p. 4.


\(^{34}\) Migdal, op. cit.
Migdal looks at the patterns of domination and change as explained, on the one hand, by the *social-system* approach and, on the other hand, by state-oriented theorists that have followed on Weber’s interpretation of the state. While the first approach puts emphasis on the set of social values and norms that connects elites and institutions from the social, political, religious and economic realms (normative solidarity of the West), the second approach portrays the state as an autonomous organization with extraordinary means to dominate: “Through law, bureaucracy, violence, and other means, the argument goes, the modern state has reshaped people’s behavior and, by extension, their sense of who they are”.

Moreover, Weber described the rational, goal-oriented character of the state symbolising a relation of domination regulated by the principle of legitimate violence: “the modern state is a compulsory association which organizes domination”. As Migdal highlights in his analysis of the definition of the state, Weber was very careful to include the quality of “successfully” monopolizing violence so as to show that this is not a feature of every state. In matter of fact, Weber noted “how limited the experience of states successfully centralizing and monopolizing violent means actually was”. From this perspective, in comparison with the ideal version of the Weberian state, in practice there can only be one type of state: the **limited state**.

In response, Migdal puts forward a state-in-society approach that offers an alternative definition of the state as: “a field of power marked by the use and threat of violence and shaped by (1) the image of a coherent, controlling organization in a territory, which is a representation of the people bounded by that territory, and (2) the actual practice of its multiple parts”. As a result, states are in practice determined by two elements, image and practice. **Image** refers to the internal and external perception of states as the chief and suitable rule maker within its territory and **practices** represent “the routine performance of state actors and agencies”. The latter may reinforce or weaken the **image** of the state and at the same time it may bolster or neutralise what Migdal describes as territorial and social

---

37 Migdal, op. cit., p. 8.
40 Ibid, p. 16.
41 Ibid, p. 18.
boundaries. Given the key aim of this thesis is to evaluate the process of building state/society cohesion (securing unity) while also accommodating diversity through a multiethnic model of governance, I intend to adopt this view of the state’s dual character shaped by:

(1) the powerful image of a clearly bounded, unified organization that can be spoken of in singular terms as if it were a single, centrally motivated actor performing in an integrated manner to rule a clearly defined territory; and (2) as the practices of heap of loosely connected parts or fragments, frequently with ill-defined boundaries between them and other groupings inside and outside the official state borders and often promoting conflicting sets of rules with one another and with ‘official’ Law.42

This confirms the challenge of both classical and contemporary forms of statebuilding to construct a state by following a specific model: the ideal type designed by Weber should not have been taken as the normal type as actual states are a deviation or a corrupted version of the ideal. The relationship between the state (the apparatus, set of institutions) and the people it claims to rule is crucial for evaluating how “successful” states have been in organizing and monopolizing violence and, consequently, in building domestic sovereignty. Therefore, the success or the failure of the modern state to gain obedience is related to the notion of social control, which affirms that a state’s control over its own society is reflected by three elements: compliance, participation and legitimacy.

Firstly, compliance shows who is in control of what and illustrates people’s obedience and the level of conformity with the norms, and “is often compelled by the most basic of sanctions, force”.43 Secondly, participation means that states seek more than compliance of the population by actively involving (integrating) people/citizens within its organizational structures. This way, people acquire specialised tasks in the institutional components of the state (public services). And, thirdly, legitimacy is the most inclusive indicator of social control and state strength, as it confirms “the popular acknowledgement of a particular social order”44 and by which people accept the state’s rules of the game and its social control as true and right.

An important distinction has also been made between being in authority and being an authority. According to this “an agent who is in authority has the right to do something, or to

42 Ibid.
43 Ibid, p. 52.
44 Ibid.
give someone else the permission to do something, on the basis of the position he occupies. On the other hand an agent who is *an* authority [...] can make claims to expertise and special knowledge, and should therefore be believed”.45 As a result, authoritativenes is different from someone being in authority because it does not imply the idea of obligation and it applies to domains beyond the political realm. The relevant characteristic of authority directly linked to the development of sovereignty is, thus, that of *being in authority* as it “predominantly refers to the exercise of political power, that is the monopoly of making, applying, and enforcing rules within an authority’s jurisdiction”.46

Given that authority reflects the relationship between two different agents, in the context of political authority, the principles of legitimacy and obedience are vital. During statebuilding, the task of differentiating between who is in authority and authoritativenes helps to identify whether legal/formal mechanisms of authority are capable of gaining both legitimacy and the position of being “in authority”. Authority describes the condition of people submitting willingly to the state’s ability both to regulate certain aspects of their behaviour and to threaten and enforce sanctions when rules are violated.

A democratic political authority “then describes state authority regulated by institutional checks and balances (constitutional democracy) and democratic norms, such as popular participation, the peaceful contestation of power, and the rule of law”.47 The exercise of political authority has always been a crucial aspect of state formation as reflected by the challenge to identify who is in authority and who is obeying, as well as trying to explain the reasons behind obedience and the development of authority. People’s loyalty represents an essential element for the modern (democratic) liberal statebuilding process and, thus, the questions of why and how the state obtains the support of its population to build legitimate authority reiterates the vital link between the state and the people. In order to examine how the state-society relationship has developed under the impact of social and political changes, the next section looks at the birth of the nation-state as the dominant model of modern political organisation.

---

45 Zaum, op. cit., p. 29.
47 Ponzio, op. cit., p. 2.
1.2. The nation-state

The idea of the state has been with us for a long time, but the nation-state, in the form in which we know it, is a rather recent phenomenon. It represents the coincidence in space of a number of principles of social and economic organization. It is the primary focus of collective identity, reinforced and transmitted through culture and socialization. This collective identity in turn provides the basis for social solidarity. The state […] is a set of institutions and mechanism for policy making. In this sense, the nation-state is the product of the modern era.48

The relationship between the state and its subjects was at the core of the development of the modern state as the political idea of nation became more significant concomitantly with the emergence of the sovereign state. The people living inside the borders of the same state were becoming more aware of the fact that they belonged to a national (political) community, that they shared a common history and most importantly that they had common interests that they could defend better as part of a state.49

A nation can be defined as “a human group conscious of forming a community, sharing a common culture, attached to a clearly demarcated territory, having a common past and a common project for the future, and claiming the right to self-rule”.50 Therefore, the key attribute of the nation as a political community has been its claim to self-determination, the right to decide its political fate based on a common will resulted from a sense of unity among members of the same nation. Consequently, in the 18th century took place the significant transition from monarch sovereignty to nation or peoples' sovereignty, stimulated by the Declaration of Independence of the United States of America and confirmed by the Universal Declaration of the Man and Citizen as well as by the constitution of revolutionary France. Even if the social contract theorists clearly established the way in which sovereignty of the people is delegated to those who govern, the later understanding of state sovereignty refers to the supremacy and the independence of power to evoke and realise the rulers’ will as the will of the state, different from the sovereignty of the people and national sovereignty.51

Jean-Jacques Rousseau considered that sovereignty is the expression of *general will*, characterised by inalienable and indivisibility and that by creating the state as a “public sovereign person”, through the social contract the will of the people controls the state when following the common good. In his words, sovereignty was “nothing less than the exercise of the general will”.

The first constitutional documents that were inspired by this theory (the French Constitution of 1791, article 3 of the Declaration of the Rights of Man and of the Citizen in 1789) have in common the fact that sovereignty (understood as power of command) is not anymore in the hands of the monarch but those of the nation (state sovereignty vs. national sovereignty).

In the context of the rise of the nation-state, the source of legitimacy was transferred into the hands of the people and as a result it changed the notion of political authority.

The French Revolution spread the idea that the nation has a right and an identity of its own. Sovereignty was lodged squarely in the nation. The Declaration of the Rights of Man and Citizen (1789) boldly proclaimed that “sovereignty resides essentially in the nation; no body of men, no individual, can exercise authority that does not emanate expressly from it”.

The issue of legitimacy has therefore been introduced in political theory in relation to the transition from direct rule to representative government, which introduces the separation between the “real” holders of legitimacy (the governed) and the formal holders (the elected). Nevertheless, since the French Revolution the civic/ethnic dichotomy has been attached to the idea of “nation”, which has come to mean either political community or cultural community.

The issue of legitimacy has since been used to make the distinction between a civic nation (political community) legitimised by the principle of *equality*, and an ethnic nation (cultural community) legitimised by *cultural distinctness*. It is has been however more difficult to clearly separate these principles in the practice of statebuilding as the political and cultural types of nation “cannot be empirically dissociated in concrete cases, since, [...] at the heart of every nationalism lies a ‘profound dualism’”.

---

53 Shinoda, op.cit., p. 61.
56 Ibid.
57 Ibid, p. 77.
Furthermore, this separation has challenged the conditions in which the state, as the key instrument of political power, rules and exercises power legitimately. In order to hold this position of authority, state power must produce social results in accordance to what the governed people expect.

what makes the modern state modern? – I can now add that it has not been only the sheer magnitude of the state’s claims upon individuals it govern in terms of taxes, personal and social behaviour, and the like. It has also been the effect of states through their practices to lay claim above all others to collective consciousness, that is, to identity of the nation.58

With the rise of the nation-state and the modern model of liberal-democracy, Hobbes’ principle of rulers’ authorisation by the subjects became more specific. State institutions representing the legislative, executive and judicial powers, had to be authorised through democratic practices by the people. The people (the nation) were empowered to decide the fate of the state (form of governance, institutions, laws and rulers), which also meant that it became more important to remain or develop as a cohesive/undivided nation with a common, general will. Therefore, the liberal doctrine of popular sovereignty developed the argument that “the authority of the final word resides in the political will or consent of the people of an independent state”.59

However, it is essential to say that the idea of nation was interpreted as a “homogeneous people”. In other words, the origins of the modern liberal democratic state vested power in the hands of a dominant people or nation, which meant that the (homogenous) nation-state had to face the immediate challenge of securing a unitary national identity. In this sense, the nation-state was developed as a “modern institution, characterized by the formation of a kind of state that has the monopoly of what it claims is the legitimate use of force within a demarcated territory and that seeks to unite the people subject to its rule by means of cultural homogenization”.60

Moreover, John Stuart Mill considered that the condition for the survival of representative democracy was “that the boundaries of governments should coincide in the main with those of nationalities”.61 In his view “free institutions are next to impossible in a country made up of different nationalities”62 given that these might not be united by a fellow-feeling, they might even speak different languages and therefore not capable to form a

58 Migdal, op. cit., p. 262.
59 Jackson, op. cit., p. 79.
common public opinion, an indispensable instrument allowing citizens to interfere in governance. In this respect, the concerns regarding democratic governance in countries with heterogeneous populations were put aside by the age of nationalism, dominated by the homogenising principle of one state, one nation, one culture, one official language.

However, as it will be shown later, the ethno-cultural complexity of many modern societies has been constantly modifying and growing since the second part of the 20th century when new states started emerging in the post-colonial, post-communist and post-conflict contexts. This has complicated the claim that states and nations are and should be congruent and has further challenged the task of nation-states to maintain and develop national unity based on an overriding collective identity. Instead, the increasingly heterogeneous character of modern societies has led states to re-consider homogenization and “take up the problem of how to combine pluralism and sociopolitical stability – more specifically, how to ensure the preservation of both subnational identities and national unity”.  

The main question that this chapter has raised is concerning the modern liberal-democratic states’ increasing determination to manage and accommodate diversity. One part of the answer can therefore be found when explaining why the presence of ethnic, cultural, religious, linguistic or racial forms of diversity has been a key problem for the nation-state (building). This is because of the risk of social division that can damage or break the state-society link and undermine the legitimacy of the state. Statebuilding has had a complex task of merging and securing the unity of the psychological, cultural, territorial, political and historical dimensions of a nation, while also having to consider the role of minority peoples, which are “culturally distinct groups in plural societies who seek equal rights, opportunities, and access to power within existing political communities”.

Diversity has become over time an increasingly important challenge and, consequently, the solutions for this have also evolved over time in reply to different contexts and objectives of statebuilding practices. In other words, different answers have been given to the question of how to deal effectively with diversity, of which assimilation and accommodation have been two dominant policies. In this regard, the second chapter will discuss how different contemporary models of democratic governance have been developed to deal with the management of plurality in diverse and divided societies.

---

63 Safran, op. cit., p. 2.
64 Ibid.
2. The challenge of diversity for internationally-driven statebuilding

The difficulty to build and maintain stable democratic governance in plural societies has become over time a fundamental dilemma for the study and practice of statebuilding. As indicated before, political consensus and social homogeneity have been key factors that work in favour of building stable liberal-democratic states. Contrariwise, political disagreement and deep social division have been made responsible for the instability and potential breakdown of democratic governance particularly in diverse societies. The classical model of the nation-state survived the 19th and 20th centuries’ imperialism and two world wars, but new dilemmas of governance emerged in the post-1945 end of colonialism and, more recently, after the end of the Cold War and the collapse of communism. In countries that were settled free or constituted for the first time as independent democratic states, the diverse ethno-cultural groups used democratic prerogatives alongside ethno-political mobilisation so as to attain political power. However, the way they tried to promote their own communities’ interests came into conflict with the priorities of democratic consolidation and institution-building (securing unity) in post-totalitarian contexts. This new wave of democratisation of heterogeneous societies reiterated Mill’s dilemma of governing plural states.

One of the key challenges for contemporary democratic governance has been to guarantee fundamental individual rights as well as equal and proportional representation of citizens in state institutions, in the context of societies made up of people belonging to groups with different identities (cultural, ethnic, religious etc.). In other words, it has been difficult for neutral and all-inclusive state institutions to promote and protect fundamental rights of citizens (freedom of conscience, thought and expression, rights to education and health, economic and social rights, freedom of assembly and association), knowing that these institutions can be dominated by the will of one community (mainly, the ethno-cultural majority) for its own interests.

Therefore, special measures have been developed to prevent or combat the discrimination of minorities and their socio-economic and political disadvantages, which denote “socially derived inequalities in material well-being, political access or cultural status by comparison with other social groups”. As it will be highlighted later on, these particular challenges for democratic governance are even more significant for statebuilding in post-conflict societies.

---

66 Ibid, p. 139.
And the popular sovereignty that dictates the constituent power (‘We are the people…) point us to national sovereignty, by which the people must see themselves as the nation (une et indivisible) which surrounds itself with a state, in turn reinforcing its substantive unity and homogeneity. The purportedly self-evident national state implies that the nation, which is taken as an underlying assumption of democracy, becomes intellectually opaque. This opacity disappears in multinational states, where the demos turns out to be composed of various demoi, who do not accept as legitimate a political power which they challenge as foreign and imposed.67

As the passage above suggests, in cases where the transition to democracy must face the challenges of multiethnic/multinational environments there is a risk to develop politics of segregation. This tendency is reflected not only by societies divided by conflict, where the reproduction of a security dilemma makes it very difficult to build sustainable governance, but also by more peaceful processes of negotiation (parliamentary or such) between majority and minority groups as regards the institutional framework for coexistence. In these situations, prolonged negotiations and failure to make compromise can result in lack of communication and trust and a risk of adopting segregationist strategies. Such problems may occur when the majority perceives minimum requirements of the minority as a first step towards secession, while the minority regards the maximum offer of the majority as a first step towards assimilation.

Another problem facing young liberal-democratic states with plural societies, and particularly those in a post-conflict environment, is the applicability of solutions offered by internationally-driven statebuilding missions. Solutions formulated by the international community68 can be the adoption of multicultural policies or integrative institutional arrangements. The objectives of such solutions may be accepted by the groups that are in course of negotiating arrangements for coexistence within the same political community, but the irreconcilable character of interests and repetitive failures to make compromise have demonstrated over time that international recommendations are not necessarily effective and appropriate. Most of the post-colonial, post-totalitarian and post-conflict societies had to build democracy from the scratch and in spite of setting-up, for instance, an institutional

68 While there is much debate surrounding the definition of “international community”, the notion is used here in its larger meaning that refers to the community of actors participating in international relations, including all states, international institutions, organizations and bodies, multinational enterprises, non-governmental organizations and other non-state actors. See Focarelli, Carlo (2012) International Law as Social Construct. The Struggle for Global Justice, Oxford: Oxford University Press, pp. 159-161.
framework for the rule of law, they have not necessarily complemented this with a strong and efficient form of democratic governance. The quest to build stable democratic governance in these societies has been considered to be partially obstructed by the ethnic division and the permanent tension between different communities.

The main observation as regards the accommodation of diversity in democratic forms of governance is that unlike young, new and unstable democracies, consolidated democratic states have been much more capable of recognising and adapting plurality without affecting their political integrity. The challenge is thus to construct stable governance in young plural states that can be even more problematic if they are also in post-communist or post-conflict transition.

The nation-states-countries that attained political autonomy in an earlier era put the greatest emphasis on the pooling of loyalties and identities. This was the result of two basic circumstances: (1) the reliance of these countries on existing cultural bonds as the foundation of political community and (2) the timing of their initial nationalistic surge which coincided with the earliest period of modernization, a period in which modernization was more gradual and less overwhelmingly self-conscious than it is in our age.

By contrast, the later-developing state-nations have been compelled to rely heavily on non-cultural bonds and, just as importantly, they have been particularly sensitive to the pressures to modernize.

Western/European states that reflect the general standards of stable democratic governance have completed their process of (nation-) statebuilding a long time ago and have not necessarily used the same practices that they now recommend for emerging states. For traditional statebuilding, the accommodation of ethno-cultural diversity was not an indispensable condition for building liberal-democratic nation-states. However, in the context of more recent cases of statebuilding within multiethnic societies, one key challenge has been the rivalry between ethnic groups as regard defining the political community itself.

Furthermore, the competition over establishing the conditions of participation and representation that establish liberal standards for the accommodation of diversity can actually affect the unity of a new state. The subordination of intergovernmental authorities that control the implementation of such standards can weaken the state’s capacity to manage the conflict of interests. Such dilemmas regarding the democratisation of multiethnic states have

---

69 Rejai and Enloe, op. cit., p. 157.
nonetheless been challenging the complex relationship between fundamental components of modern statebuilding like sovereignty, legitimacy, democracy, self-determination, good governance or human rights.

2.1. Exogenous statebuilding: Post-colonial sovereignty

The common feature of contemporary statebuilding has become its externally-driven nature, be that as part of decolonisation, post-communist transition to liberal-democracy or as part of liberal interventionism and peacebuilding missions. It is thus important to firstly discuss the export of state-sovereignty outside Europe in the context of decolonisation and to highlight why the extremely heterogeneous character of ex-colonial societies has been such a critical challenge for statebuilding. Moreover, this section will also show how, in the age of decolonisation, full sovereignty was a distant unfeasible ambition for newly self-determined states and it was undermined by the lack of popular legitimacy.

At the beginning of the twentieth century the evolution of colonialism was still possible but at the same time the growth in popularity of national political forces within the dominions was already questioning the authority of the great colonial powers. A decisive moment was the Fourteen Points liberal speech of Woodrow Wilson (1918) arguing for the right to self-determination of nations. The significance of this concept was not only illustrated by the emergence of nation-states in Eastern Europe at the end of the First World War but also by the general rationale behind “the design and construction of new states” after the disintegration of the colonial system. Nonetheless, the problems surrounding the concept of self-determination also reflected the changing character of sovereignty.

The Western/Eurocentric origins of building new states were immediately challenged by the mission to align people and territory: “It is often problematic, both politically and morally, either to redraw territorial borders or to relocate populations in an effort to achieve alignment. The first raises the questions of partition or secession, the second questions of forced population transfers or what has come to be called ethnic cleansing”. The link between the people and the state, between the nation and the political authority required re-interpretation and, thus, the character of both territorial sovereignty and popular sovereignty transformed.

---

70 Jackson, op. cit., p. 99.
71 Ibid, p. 100.
The main question of this chapter can therefore be reversed so as to examine the impact of state-formation processes on diverse societies. It is essential to indicate that the consensus within international relations regarding the universality of the sovereignty of the nation-state and the inviolability of borders has actually been a factor of perennial division and conflict between different ethnic, racial, cultural or linguistic groups. Consequently, the mobilization, sometimes violent, of groups based on their different identities has not been as much of a challenge or an obstacle for contemporary statebuilding as it has been its direct consequence.

The end of the Second World War and the decline of the Western European empires determined major changes in the configuration of world politics. In this context, the imperial forms of authority were in contradiction with the principles included in the Charter that founded the United Nations in 1945. The principles of self-determination and equal sovereignty, followed by the process of decolonisation aimed to include the non-Western territories in the international system. As a result, the norms of “international legal sovereignty” facilitated “some kind of outcomes, and the would-be rulers of colonial areas seized upon them and demanded juridical independence and mutual recognition”.  

While state-formation in the Western world took centuries, “western state forms were ‘delivered’ like products to many parts of the Global South in a relatively short time span during the era of decolonisation”. Therefore, decolonisation replicated the European model of the liberal democratic nation-state. However, the sovereignty of these new states was instantly undermined not only by the perpetual dependency on external guidance but also by the divided character of these societies:

The result is a collection of states that have the formal trappings of sovereignty, including international recognition and equal votes in the United Nations, but not the functional capacity required to integrate their disparate parts into an effectively functioning political system.

As it will be discussed later, the incapacity to reduce external dependency while also developing and maintaining social control and internal unity (domestic sovereignty) is at the core of understanding the contemporary idea of state weakness in contemporary cases of statebuilding. One of the fundamental issues for these new ex-colonial states was that they

---

72 Krasner, op. cit., p. 187.
could not ask for legitimacy from their own societies as they lacked a sense of nationhood. As a result, they had to seek for legitimacy somewhere else, outside their own boundaries, thus going back to external actors. The ex-colonial territories found themselves obliged to adapt to the “universal” European model of nation-states without having the opportunity to question the difficulties, if not the impossibility of implementing it in radically heterogeneous societies. With the mission to respect the right to self-sovereignty of newly “imagined communities”\(^\text{75}\), the cultural, ethnic, religious, social and political factions within the ex-colonial territories were not a sufficient argument to undermine the self-proclaimed universalism of concepts like popular sovereignty.

This experiment in externally imposed democratisation raises questions about the relevance of sovereignty and political autonomy to the long-term success of the democratisation process.\(^\text{76}\)

Without a link between society and state, the character of domestic sovereignty in liberal democratic nation-states (legitimised and developed out of collective will) had to be re-constructed. The postcolonial critique\(^\text{77}\) emphasises here that the Western-centric norms of sovereignty must have predicted the difficulties for political self-creation in the absence of positive sovereignty: “This idea that states can fail is obviously the precursor to the idea that states need to be rebuilt”.\(^\text{78}\) Post-colonial statebuilding was an externally-driven top-down process that prioritised the construction of the state as an institution designed to govern the people within its borders under the umbrella of an artificial (civic) identity. These “people(s)” were however detached from the identity and authority of these new state-nations as they represented a complex mixture of different ethnic and cultural groups:

Thus we come full circle: the state precedes nationalism; nationalism is needed to legitimize the state's authority and to facilitate its expansion; given the disintegrative cultural attributes of the society, the state inclines toward a nationalism defined and promote at the top; downward-directed nationalism relies on manipulable links which in turn require

---


\(^{78}\) Bickerton, op. cit., p. 102.
modernization; because modernization involves the pooling of resources, mobilization instruments are given top priority by the state authorities.\(^{79}\)

In these new states, independence or legal sovereignty “was nothing more than an empty shell”\(^{80}\), as they generally lacked pre-colonial political unity and national identification of people (common culture, common language, common identity). It was difficult to envisage a sustainable statehood in this context, which re-confirms, nevertheless, the problems arising from detaching society from the conceptualisation of the state, and consequently, from the process of state-formation. In the absence of self-government and local ownership capacity, the ex-colonial states became quasi-states: “their populations do not enjoy many of the advantages traditionally associated with independent statehood. Their governments are often deficient in the political will, institutional authority, and organised power to protect human rights or provide socio-economic welfare. [...] empirical statehood in large measure still remains to be built”.\(^{81}\) The formal declaration of independence was associated with the formation of states by both political elites and the international community, disregarding the many challenges that statebuilding still faced.

Even though the contemporary discourse of liberal interventionism reiterates Western conceptions of sovereignty that claim universalism, the justification is no longer inspired by the need to protect the domestic from international chaos (anarchy). Instead, the conflicts that have characterised ex-colonial societies (civil wars) are portrayed in contrast with the relative harmony of the international realm: “quasi-states turn Hobbes inside out: the state of nature is domestic; and civil society is international”.\(^{82}\) Based on the dual character reinforced by the post-1945 settlements, the norms of full sovereignty generated responsibilities of the state towards other states, such as the duty not to intervene but they also generate responsibilities of states’ towards their own population, a point made by arguments regarding „standards of civilization” in the nineteenth and early twentieth century.\(^{83}\)

In this context, the accommodation of diversity becomes more than a task of statebuilding meant to secure social cohesion and popular legitimacy. It also represents a critical condition for the aim of new states to obtain the endorsement of the international community and to be recognised as strong states capable of monopolising violence within their borders despite the diverse character of their societies. Post-colonial quasi-states could

\(^{79}\) Rejai and Enloe, op. cit., p. 155.
\(^{80}\) Boege et al., op. cit., p.19.
\(^{81}\) Jackson, (1990) op. cit., p. 21.
\(^{82}\) Ibid, p. 169.
\(^{83}\) Zaum, op. cit.
not guarantee the control over their societies and could not develop a form of political authority deriving from “collective consciousness”\textsuperscript{84}, which meant that sovereignty as control was prioritised in the detriment of sovereignty as responsibility.

In so far as sovereignty is the exercise of the general will, the idea of sovereigns being responsible for their citizens is merely tautologous. Insofar as sovereignty is accountable to external power, it means that the sovereign is evidently not supreme, and therefore, logically speaking, not sovereign.\textsuperscript{85}

Quasi-states became protected by what Jackson described as the regime of “negative sovereignty”, which personified a formal-legal condition that guaranteed ex-colonial states freedom from outside interference and that symbolised the “foundation upon which a society of independent and formally equal states fundamentally rests”.\textsuperscript{86} In contrast, “positive sovereignty” indicates the active dimension of the concept, which in addition to non-intervention and territorial integrity, enables states to take advantage of their independent status. The non-Western world that emerged after the end of colonialism has had to catch up with the West in a rather paradoxical manner: so as to develop domestic positive sovereignty it had to first give up its right to popular sovereignty and self-governance and then continue under the supervision of the international community. Moreover, the legacy of colonialism has exacerbated division along ethnic, cultural or religious lines and has favoured the occurrence of civil wars in territories marked by boundaries that only used to reflect the imperial preferences of European powers. As a consequence, the legacy of colonial boundaries has undermined state authority right from the start:

Identity groups, cut off from their brethren in other states, were sometimes left too weak to provide for their security, too small to be economically viable, and incomplete in their identity, and they had strong incentives to change the status quo.\textsuperscript{87}

2.2. The limits of contemporary statebuilding

With the end of the Cold War the external restraints of the United States and of the Soviet Union were lifted, but in return the new situation revealed even more the fragile domestic structure of ex-colonial and ex-socialist states. Various factors like “resurgent identity politics, the weakening of intergroup reciprocities and linkages, the determination to

\textsuperscript{84} Migdal, op. cit., p. 263.
\textsuperscript{85} Cunliffe, (2007), op. cit., p. 51.
\textsuperscript{86} Jackson (1990) op. cit., p. 27.
\textsuperscript{87} Levy, op. cit., p. 29.
thwart state repressiveness, the flow of refugees across borders, have resulted in a revised view of the legitimate claims of the state upon society. In the new international context, the profound administrative weaknesses in many developing countries could not be obscured anymore by the legal form of state sovereignty.

Contemporary statebuilding outside the Western world has thus distanced itself from the traditional model and has developed different objectives, different mechanisms, different structures, different distribution of power and different state-society relationships. Unlike the world in which the European states came of age, post-colonial and post-communist states emerged within a context “characterised by external superpowers with both incentives and capabilities to maintain a stable international order and by international norms that discouraged both territorial conquest and secession”. As a result, in contrast to the traditional model that required resources and capacity to survive external competition while building-up their strength, contemporary statebuilding has been dealing with states that have weak institutions and limited resources, vulnerable to internal threats and unable to contain internal violence.

As this chapter has explained so far, the legitimacy of the political authority under the impact of the society-state fracture has been a fundamental challenge for the transition from the traditional to the contemporary model of statebuilding. Furthermore, this also reinforces the idea that both exogenous and endogenous factors have the ability to keep political authority away from the state: “both forces originating outside the boundaries that the state claims for itself and those within its borders have contested state efforts to monopolize the exercising of authority. The result has been the limited state”.

In the context of the liberal statebuilding framework, problems with identifying collective will, democratisation and institution-building or, more generally, with developing domestic sovereignty are related to the causes behind the absence of a strong state-society link. On the one hand, a cause of this rift derives from the exogenous character of externally-driven statebuilding that places the source of legitimacy outside the borders of the state. On the other hand, ethno-national diversity has been treated as an endogenous factor that challenges the development of social solidarity and of popular legitimacy. The task of

---

89 Bickerton, op. cit., p. 101.
90 Levy, op. cit., p. 29.
91 Ibid.
92 Migdal, op. cit., p. 263.
building an inclusive state has become dependent on the central governments’ capacity to put together a political regime that can promote, respect and assure the political participation of minorities in the exercise of power.

3. Post-conflict statebuilding: the exogenous perspective

The last part of this chapter looks at how contemporary international liberal post-conflict statebuilding missions have been heavily criticised not only for their externally-imposed character but also for not achieving their liberal peace goals and, paradoxically, perpetuating or even producing state failure or state weakness. Given the paramount role of managing diversity in post-(ethnic)conflict reconciliation and statebuilding contexts such as Kosovo, it is helpful to see why the success or failure of this task can also be indicative of how strong or weak a state is and, consequently, to study the impact of externally-driven contemporary statebuilding missions.

The purpose is not only to see why contemporary statebuilding produces weak states, but to also try to understand how and why post-conflict states are, in Migdal’s words, “limited” by their inability to secure unity, develop political authority and build popular legitimacy by accommodating all its constituent peoples.

3.1. Building peace after conflict

While peacekeeping missions started during the Cold War with the purpose of resolving conflicts between states, the concepts of peacebuilding and statebuilding have become central for discussing international intervention in post-conflict countries in the last three decades. Peacebuilding has many definitions and can have different meanings for different actors. For example, Lederach considered that:

The process of building peace must rely on and operate within a framework and a time frame defined by sustainable transformation... a sustainable transformative approach suggests that the key lies in the relationship of the involved parties, with all that the term encompasses at the psychological, spiritual, social, economic, political and military levels.94

93 There is a vast literature on the critique of liberal statebuilding and interventionism, also mentioned in the Introduction (p.14); See for instance Bickerton, op. cit.; Chandler op. cit. (2006; 2010), Paris and Sisk op. cit.; Richmond op. cit.
This suggests that peacebuilding must not look only at the immediate post-conflict problems, but instead to try to adopt a long-term strategy without neglecting factors of transformation. Peacebuilding in this sense must be able to predict and permanently ready to adapt to new challenges that may occur at different societal levels. Lederach’s definition is good starting point for the discussion of post-conflict societies as it underlines that peacebuilding depends on the evolution of the relationship between the parties involved in the process and helps differentiate between imposing and cooperating logics of peacebuilding. Furthermore the word “peacebuilding” was not officially included in the UN framework until 1992, when the former UN Secretary-General Boutros Boutros-Ghali defined "post-conflict peacebuilding" in An Agenda for Peace as “an action to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse into conflict.”

The UN’s particular version of peacebuilding has been the norm to a certain extent, but there has been much debate among agencies over the goals and implementation processes of peacebuilding. Moreover, different agencies have developed a variety of terms to refer to describe peacebuilding activities. While the UN Department of Political Affairs (DPA) defines post-conflict peacebuilding as “the external efforts to assist countries and regions in their transitions from war to peace” the European Commission (EC) has had a double standard:

1. Conflict prevention and crisis management: Activities aiming not only at easing a situation where an outbreak of violence is imminent (conflict prevention in a narrow sense) but also at preventing the occurrence of such a situation (conflict prevention in a wider sense).

2. Reconstruction and rehabilitation: Reestablishment of a working economy and the institutional capacities needed to restore social and political stability in developing countries that have suffered serious damage through war, civil disorder, or natural disaster.

Hence, the EU has put much emphasis on classifying post-conflict activities in two categories: reconstruction (transition to peace) and prevention (sustainable peace). This implies placing conflict prevention and management on equal terms with reconstruction, rehabilitation and institution-building, thus more in line with the principle of statebuilding.

97 Ibid.
**Liberal peacebuilding**

Given that “the underlying goal is to eliminate the root causes of conflict, to promote human security, and to create a stable peace”\(^98\), liberal peacebuilding missions support democratisation, establishing a legislative framework, equal rights, free elections and development of a civil society. The aim is to spread *liberal peace* by creating states organized around these liberal principles designed to maintain domestic and external stability. Therefore, peacebuilding missions have attempted to transplant and nurture these features, but by “[e]xhibiting their own brand of shock therapy, international peacebuilders attempt to transform nearly all features of the state and society, accomplishing in a matter of months what took decades in the West.”\(^99\)

The liberal theory of democratic peace has its origins in the political ideas of the Enlightenment thinker Immanuel Kant, who claimed that the basis for perpetual peace would be provided by three main pillars: republican constitutions (democracy), a commercial spirit (economic interdependence) and a pacific federation of states (international organisations).\(^100\) This concept, which mainly suggests that liberal states tend not to start war against each other, was revived by a modern debate between theorists like Singer, Rummel, Doyle, Maoz, Russet, Owen, Layne, Mansfield and Snyder.

The arguments developed by the proponents of democratic peace can be divided into two categories, the monadic hypothesis that “democratic states are more peaceful than nondemocratic states” and the dyadic hypothesis that “democracies are more peaceful with respect to one another than others are.”\(^101\) This theory was developed by drawing on fundamental liberal beliefs on freedom of the individual, tolerance, self-preservation, well-being and property. In order to promote and secure these values, it is assumed that a state should have good relations on the international level, and that is why a general interest for

---


\(^99\) Ibid.


liberal states is peace. Therefore, the normative incentive for liberal democracies is given by their ideological bond to the necessity to maintain peace.

In addition to liberalization, the democratic pillar has a vital role because “the democratic structures translate liberal preferences into policy” and then shape the foreign policy of the state. Moreover, contemporary liberal statebuilding practices indicate a clear departure from the basic conditions outlined by Kant as for some theorists the emphasis remains only on democracy. The normative model of liberal peace highlights therefore the role of the decision-making process within states to explain the absence of violent conflicts between democracies. If decision-makers support liberal-democratic norms, then in resolving conflicts they prioritise “compromise, respecting the rights and continued existence of opponents.”

There is also a reciprocal trust between democracies that they will follow the same norms, and overall, the only incertitude derives from the level of political stability, which can be lower in young democracies.

Some of the problems that young democracies have to face are the role played by the elites who had had access to power in the previous regime (autocracy, for instance), imperfect and immature institutions, or in general a political system with a democratic structure that lacks the experience and knowledge to implement the required norms. As already discusses, one of the most important phases of democratization emerged after the Cold War, when the fall of communism gave the states in Eastern Europe the opportunity to start a transition to democracy. However, as the arguments mentioned above indicate, there were several obstacles they had to face. In general, the challenges for this transition required great determination for reinventing politics, thus the difficulty to develop the ideology and institutionalism necessary to make democratic-peace possible in these states.

These ideas have been materialised during post-Cold War peacebuilding operations like those in Bosnia, Kosovo, Afghanistan, Iraq, Panama or East Timor. The emphasis has constantly been on exporting liberal norms: central role of liberty, representation,
constitutions, progress, development, rights. However, the implementation of these principles has been troublesome as indicated by three key dimensions of peacebuilding: a) to create **stability** (focus on the security/military factors-eliminate sources of conflict), b) the restoration of state **institutions** and c) the **socio-economic** dimension (develop the socio-economic infrastructure and underpin economic development).\(^{109}\)

Peacebuilding scholars like Michael Barnett\(^{110}\), who focuses on improving the liberal model, but also critical scholars such as Thomas Carothers\(^{111}\) and Roland Paris\(^ {112}\) have concluded that, in general, the second dimension referring to **building state institutions** has been neglected by peacebuilding activities in comparison with the other two dimensions. For this reason, the literature on post-conflict peacebuilding has underlined that peacebuilders are more concerned about the kind of state that they try to construct, thus the preference for a “liberal state, which respects human rights; protects the rule of law; constrained by representative institutions, a vigilant media, and periodic elections; and protects markets.”\(^ {113}\)

However, as critics\(^ {114}\) of externally-driven statebuilding have observed, even though these kinds of peacebuilding projects aim to establish liberal peace, they often end up by regenerating the conditions for conflict.

Where state-building from scratch had to be carried out, the core impulses and interests of powerholders—such as locking in access to power and resources as quickly as possible—ran directly contrary to what democracy-building would have required. In countries with existing but extremely weak states, the democracy-building efforts funded by donors usually neglected the issue of state-building. With their frequent emphasis on

---


\(^{110}\) Ibid.


diffusing power and weakening the relative power of the executive branch—by strengthening the legislative and judicial branches of government, encouraging decentralization, and building civil society—they were more about the redistribution of state power than about state-building. The programs that democracy promoters have directed at governance have tended to be minor technocratic efforts, such as training ministerial staff or aiding cabinet offices, rather than major efforts at bolstering state capacity.  

In the case of Bosnia and Herzegovina, for instance, the incomplete post-Dayton transition was characterised by the absence of political autonomy, accountability and legitimacy. The reluctance to build a strong state in the absence of a liberal society and continuing dependence on international support undermined the development of a framework of democratic regulation “derived from the formal assumption of equal self-governing individuals, responsible and accountable for their actions and capable of rational decision-making.”

Giving the artificial nature of law as a construct of men, the imposing character of liberal peacebuilding creates a paradoxical situation: people want and are allowed to govern themselves but have to follow the internationally imposed rule of law instead of developing it themselves. This generally explains why some contemporary post-conflict states do not have any sense of ownership. In this regard, this chapter will later explore how the failure of liberal statebuilding to create sustainable peace has inspired a rich literature on state weakness and state failure.

**Republican Peacebuilding and the “Institutionalization Before Liberalization” Strategy**

In response to the shortcomings of the liberal peacebuilding ideas and practices, the idea of republican peacebuilding attempts to offer a better alternative to strategies that have failed to manage post-conflict states and eliminate the initial causes of conflict. In his article on republican peacebuilding, Barnett argues that his approach would be more successful because of the priority to develop strong state institutions rather than quickly build an active liberal society. The interaction of three key elements would make the implementation of his republican model possible: deliberation, constitutionalism and representation. The result of these policies is a post-conflict state with a high/increasing level of stability and legitimacy.

Therefore, in the first phase it would be essential to get over the state’s crisis of legitimacy by developing capacity to provide security for its people. In this sense,

---

115 Carothers (2002), op.cit., p. 17.
deliberation is an essential factor to engage local actors on deciding what the objectives are and how to achieve it, suggesting the idea of reform from within. Deliberation does not only facilitate a sense of community but also makes collective decisions legitimate. The second element, representation refers to the necessity to consider the interests of all those affected by a decision before it is actually made. This principle implies an unelected body/authority that must have both inclusivity (make sure all different groups are represented) and publicity (transparency and reasoning of decision-making).

The third element of constitutionalism and divided power emphasises the reasons why a legitimate set of rules is essential to limit arbitrary power, conflict of interests and stimulate cooperation in sharing power (interim period). The ultimate goals are again stability and legitimacy but by following a more gradual implementation of principles, unlike liberal peacebuilding. Altogether, this republican perspective tries to show why peacebuilders should partner with the local authorities instead of imposing their principles.

Also in search of a new type of peacebuilding is the “institutionalization before liberalization” (IBL) strategy developed by Roland Paris. While he agrees with the Wilsonian argument that market democracies tend to consolidate peace both domestically and internationally, he opposes the methods generally employed by peacebuilding missions of the 1990s to reach this goal. More precisely, the aim of quickly building liberal market democracies has often increased the likelihood of renewed violence in post-conflict societies as result of stimulating the level of societal competition while lacking institutions capable of containing tensions within peaceful bounds.

Similarly to the idea of republican peacebuilding, Paris suggests that the focus should be on building effective institutions prior to economic and political liberalization. This strategy would be more complex and less democratic but it would be a necessary effort so as to consolidate peace and avoid the cost of lives and material resources produced by a potential escalation of violence. The high instability of the post-conflict societies justifies from this perspective why political and economic freedoms should be limited in the short run. For instance, quick elections may jeopardise the goal of establishing a liberal-democracy because the winners may actually use their power to control institutions, undermine democratic principles of governance and possibly foster populist and nationalist sentiments to gain electoral support. This argument has also been clearly put forward by

118 Ibid, p. 188.
Susan Woodward, who has written extensively on statebuilding and democratization in the Balkans:

What this discussion of the relation between stateness and democracy suggests is that the cause may indeed be its relation because the foreign policy goals of outsiders have reversed the sequence. Not only is democracy promoted to satisfy the foreign policy and international security goals of outside powers and interests rather than what democracy is supposed to accomplish – governments responsive to the interests of their citizens organized in political parties and interest groups and accountable to the sanction of electoral results. But also, democratic elections have become the primary vehicle of state-building and the obstacle themselves of further democratization.119

Consequently, this may reiterate division and spark conflict again. In the case of Kosovo, the post-conflict popularity of the ex-warring group KLA as the representatives of the Albanian majority community posed a great risk of undermining democracy and perpetuating ethnic politics. In the absence of stability and compliance, this could have placed all political power into the hands of one ethnic group.

In order to avoid such situations, Paris argues it is better to wait for ethnic tensions to fade away over time and suggests different methods to promote moderation of politics (appropriate electoral systems and constitutional rules, penalising extremism)120, to develop a “good” civil society (cross factional social groups), to control hate speech (thus limit freedom of speech through codes of conduct)121, to adopt economic policies that reduce the risk of conflict and, most importantly, to build effective and strong state institutions. However, what needs to be highlighted is that this approach also relies heavily on the role of the international administrators. Peacebuilding missions following this strategy would need to remain in place for as long as it takes to establish well functioning central institutions and make sure that democratisation and marketization are evolving in the right direction.122

---

122 Ibid, p. 207.
3.2. EU post-liberal statebuilding: discourse and impact

This chapter has examined the principal exogenous factors that have been shaping contemporary processes of post-conflict statebuilding. These factors can also be taken into consideration when analysing the role of the European Union in Kosovo, acting both as a statebuilder and as an agent of Europeanization in the Balkans. As regards the responsibility of the EU in Southeastern Europe, Chandler\(^{123}\) highlights the dual character of the intervention: reinforcing the EU’s projection of its power as a civilising mission while trying to minimise its direct political responsibility derived from this power by developing, what he names, a post-liberal discourse:

rather than legitimize policy-making on the basis of representative legitimacy, post-liberal frameworks of governance problematize autonomy and self-government, inverting the liberal paradigm through establishing administrative and regulative frameworks as necessarily prior to democratic choices.\(^{124}\)

The immediate risk of this model of governance is to undermine democratic accountability and the legitimacy of governing institutions in states that “have international legal sovereignty but lack genuine mechanisms for politically integrating society.”\(^{125}\) For this reason, Kosovo’s contested statehood (including by five EU members) creates an even more complex challenge for the EU’s involvement in the process of statebuilding.

According to this critique of EU’s statebuilding practices, an inverted logic of liberal statebuilding that prioritises institution-building rather than democritisation faces the downside of lacking popular legitimacy. By trying to diminish the imposing character of external administration during statebuilding, the EU statebuilding has been focusing on developing local ownership and setting up the administrative/bureaucratic apparatus prior to fully implementing liberal-democratic principles of governance.

These arguments regarding the EU’s model of governance highlight the negative effect on the relationship between state and society and thus encourage criticisms of the post-liberal state model, but overall they discount the endogenous roots of state weakness. Nevertheless, the focus on investigating the problems of prioritisation (liberal vs. post-liberal


\(^{124}\) Ibid, p. 95.

\(^{125}\) Ibid.
institutionalist) should include the question of whether the two approaches can actually be clearly separated in practice.

The inversion of the liberal paradigm is clear in that the rule of law is no longer perceived as part of the superstructure, i.e. determined by social forces and economic interests: law is understood as constitutive of the social and economic order. For it is the rule of law which is held to prevent the post-conflict state from falling back into collapse and social disintegration, not by imposing a strong state capable of suppressing opposition but by constraining the autonomy of the sovereign or governing powers.126

While domestic sovereignty is at stake in the absence of representative accountability and the state-society fracture that these states including Kosovo are facing, the fundamental problem might not actually be the absence of mechanisms of integration and social cohesion, but their functionality. The functionality argument might provides a more consistent response to understanding the relationship between state and society because it also focuses on endogenous factors like the inherited distrust for central government that have determined over time the lack of social cohesion. These elements of distrust in combination with the influence of post-1990 parallel structures incorporated later as both state and non-state agents have severally jeopardised the independence of the statebuilding process and the development of a pluralist civil society.

Even though state mechanisms are in place, they may not be fully functional because of the pre-established decentralised illiberal non-state notions of authority rooted in ethnic, national, economic or religious ties: “can a post-communist, post-conflict, contested entity such as Kosovo, with little or no experience of parliamentary democracy or a market economy and, despite the best efforts of the international community, develop such a political system without reverting to ethnic exclusion, with all the inconsistencies, nuance and idiosyncrasies that have been long compensated for by the local processes of donor states?”127

Given the detrimental legacy of communism and conflict, state weakness became visible with “malfunctions in terms of provision of national cohesion and public goods.”128 The risk of permanent state weakness has thus both structural and political roots.

---

126 Ibid., p.105.
Consequences of this dual weakness are: corruption and unofficial economy, hindered structural economic reform and development and inability to establish proper market institutions. Furthermore, in this type of political environment state institutions have limited credibility and legitimacy and must compete with alternative social institutions, “people” institutions. It is therefore essential to reiterate not only that (1) Kosovo remains a post-conflict, post-communist multi-ethnic political entity with contested statehood but also that (2) it represents a particular example of EU statebuilding, combining efforts in support of democratisation and institutional capacity while highlighting its role to advise and develop sustainable local ownership.

4. Legacy of communist authoritarian regimes

This section looks at some of the endogenous elements that are considered to have weakened the legitimacy of political authority in post-communist states, which similarly to ex-colonial states, had to manage heterogeneous societies with cultural, ethnic, racial, religious, social and political factions. The evolution of statebuilding in the 20th century has shown that the Weberian theory had only partially touched on the problem of legitimacy crisis and of the disintegration of political systems. Following on the arguments of Max Weber, analysts of the Soviet Union have shown that the right to use violent force does not represent a sufficient condition to secure domination in accordance with the conditions of a particular regime. All political systems, regardless of their nature-democratic, authoritarian or totalitarian- manipulate a set of social and cultural values. In the case of ex-socialist countries, political authorities represented by the single state-party have exercised the monopoly over power on the basis of the universal principles of the Marxist-communist doctrine. The communist system was initially imposed in the countries of Central and Eastern Europe through the military intervention of the Soviet Union, which created from the start a difficult situation for these regimes.

129 Ibid, p. 93.
Officials have dealt with the paradox of the state appearing to be above society but needing to seem an integral component of society in a number of ways, each of which aims to transform society. One has been the Communist path, to abolish society entirely.\textsuperscript{131}

These regimes had to follow specific policies that were mainly dictated by the Soviet Union, but they also tried to conceptualise and implement economic, social and cultural policies that would offer a certain popular support and a “cvasi-independence” over Moscow. After a so-called period of normalization during the 1960’s, the communist parties started to utilise alternative measures and extra-legitimacy. One of them included paternalism practiced as complete obedience of the citizens in relation to the socialist state, which, in return had to secure the fundamental needs/goods (homes, education, employment).

The ultimate and undeclared purpose of paternalism was to guarantee a passive obedience and a complicity of the masses in the exercise of authority: “the individual’s new status is that of state functionary, a role reserved not for a select subset of the population (public officials) but applicable to everyone”.\textsuperscript{132} Even though there where different methods used by communist parties in different countries to distance themselves from the Soviet practices and ideology, they all illustrate the impossibility of reforming the system from within. In matter of fact, by appealing to paternalism and/or despotism the political systems distanced themselves from modernisation and rule of law.

The resurgence of ethnicity as a conflictual battle cry in part results from the understandable attempt by many post –1945 states, in particular, to substitute ideology or technocracy for ethnic identity in the multinational society which nearly all new states inherited.\textsuperscript{133}

The combination of paternalism and subjugation created a culture of passive acceptance of the regime and the state became an authoritarian association with the role of deciding over individual choices and destinies and of securing the essential needs of human and social existence. In the end, paternalism did not manage to secure a permanent domination of the socialist regimes: “the demise of Communism elevated nationhood into ‘the logical depository of individuals’ hopes, fears, and activity- political, social, and economic”.\textsuperscript{134}

\textsuperscript{131} Migdal, op. cit., p. 258.
\textsuperscript{132} Ibid.
\textsuperscript{134} Kostovicova (2005), op. cit., p. 6.
Another key legacy of the communist regime is related to the state policies of institutionalising ethnicity and nationalism out of practical socio-economic interests. These measures did not have the purpose of creating nation-states as they differed from the “rational, based on statehood and citizenship’ nationalism more present in the West”\textsuperscript{135}, hence an example that necessary politically enforced conditions can become virtues that favour nation-building in multiethnic societies.

Post-communist nationalism was thus influenced by the communist state’ aim to reinforce national identities and to institutionalise nationhood. In Yugoslavia these state policies have gradually created ‘proto-states’ by favouring federal units defined by a majority national group. In ex-Yugoslavia, as a result of ethnic nationalism, making an economic privilege out of political loyalty, the decimation of the middle class and the states’ reluctance to confront the past, societies emerged as deeply fragmented along the lines of ethnicity, welfare and ideology.

In the example of the Soviet Union, the existence of the republics/non-Russian dominated areas was characterised by a central political control by the Communist Party and by an economic and military centralisation. In contrast, there was a degree of autonomy in the spheres of culture, education and social welfare, a contradictory attitude of the USSR best illustrated by the idea of “national in form-socialist in content”.\textsuperscript{136} This suggests that there was a clear difference between the right to cultural/linguistic identity and the right to self-rule, thus denying any political significance of the republics: “the regime institutionalised a sense of ownership of the republics by ethno cultural nations, but limited the political consequences of that sense of ownership”.\textsuperscript{137}

During communism centralised political power was thus crucial for the survival of the state. As a result, the domination of the one-party system was the continuing element that made the socialist society “incapable of allowing an autonomous ‘civil society’ to develop”.\textsuperscript{138} At the same time, the absence of civil society within ex-communist societies has been influenced by the insufficiency of benefits and links based on wealth, ideology or

\begin{thebibliography}{99}
\bibitem{135} Khazanov, op. cit, p. 79.
\end{thebibliography}
property relations. The leaders of Communist regimes “sought the extraordinarily ambitious goal of making the state the single authoritative entity and thus the only one with which people could ground their own identities”. 139

In the context of the Central and Eastern European communist regimes it can be observed that they developed a capacity to survive despite of the absence of popular support. This situation does not exclude though the concern of the political authorities to construct, fake or not, a type of popular support. Nevertheless, after the fall of communism, “the sudden change in the nature of the state and state-power has created space for the pursuit of nationalist politics aimed at the capture of a state that was no longer in control of society”. 140 Moreover, these transitional societies were “compounded by the post-communist culture of distrust of central government, breeding tradition of non-communication and non-cooperation with central government structures”. 141

As a result of the collapse of communism in 1989 and the disintegration of the Soviet Union in particular, representative democracy was extended to new regions of the world. The “successor” states were characterised by a high level of ethno-cultural diversity and the newly established democratic governments had to maintain stability, which had been secured until then by authoritarian practices. While the communist system developed and enforced a class consciousness that eclipsed ethnic and/or national identities, most post-communist states recovered their sovereignties and returned to a traditional nationalism that was now challenged by “ethnic subcommunities that refused to give up their collective identities and demanded a degree of cultural, if not necessarily political autonomy”. 142

The process of democratisation of regions that used to be under totalitarian rule included in the political process a significant number of ethno-cultural groups, which, on the basis of democratic rights, have mobilised ethno-politically. Their approach has however been undermined by the project of nation-building of the dominant groups. In consequence, competing groups found themselves in a democratic dilemma of ethnic diversity.

The success of the nation-building project of the dominant group depends on diminishing the alternative project of the minority while, at the same time, in spite of the

139 Migdal, op. cit., p. 258.
140 Kostovicova (2005) op. cit., p. 5.
141 Richmond & Franks (2009) op. cit., p. 133.
guarantee of civic and individual political rights, the minority will only feel safe if its right to self-determination and cultural autonomy are officially recognised. In this context of reciprocal threats there has been a risk of installing permanent mistrust, which nevertheless is a key obstacle for stable democratic governance. Neither the authority of the state nor the minority groups are safe in such an environment.

5.1. State Failure and State Weakness

In a systematic analysis of the contemporary world states, Robert Rotberg has categorised them in the following order: strong, weak, failing and collapsed. The criteria for such classification are mainly derived from the states’ ability or inability to deliver high qualities and quantities of “essential political goods— the critical ingredients of good governance”. The essential political goods that Rotberg highlights are security, good governance, effective rule of law, freedom and rights, functional economy and infrastructure.

Indirectly, the management of plurality has become one of the essential political goods that the modern state should be able to deliver, be that understood as the accommodation of different ethno-national groups or the integration and protection of minorities through specific measures and a set of collective rights and privileges. Furthermore, the focus is on domestic sovereignty when evaluating whether “the state has the capacity to govern and is able to exercise its powers and use its resources for the benefit of its people”. Security is the ultimate responsibility of the state, thus the need to maintain the monopoly on the use of force within its borders and reduce or eliminate external and internal threats. Security is about the needs of individuals who make up states and states cannot be secure if the individuals comprising them are insecure. These are necessary conditions for a state to maintain its authority and avoid state failure or civil wars, which often originate in ethnic, religious, linguistic, or other intercommunal enmities:

But the outbreak of civil war, whether ostensibly ethnic, linguistic or religious in character, is almost always a product of leadership decisions.

144 Ibid, p. 85.
that consciously deprive minorities or oppressed majorities of what they consider their human rights, their equal economic opportunities, their appropriate share of official positions, or the social and political goods that they believe they justifiably deserve.\(^{146}\)

Similarly to the competing approaches to describe state-formation and state-functionality, the analysis of failed or weak states is also inspired by different rationales. One way of evaluating states is by focusing on the idea that failure means “that the basic functions of a state are no longer performed”.\(^{147}\) It can thus be said, for instance, that a state is *failing* when it functions inefficiently and is incapable of applying its laws uniformly because of a high rate of criminality, corruption, impenetrable bureaucracy, judiciary insufficiency, military involvement in politics, or because traditional leaders have more power than the state in a certain field. In such situations, state authority is not only affected but also in peril of being replaced by substate/non-state actors. In this sense, Zartman’s study of the decimation of state power in Africa identified five signposts of proximity to state collapse:

Power devolves to the peripheries when (because) the centre fights among itself. […] Local authority is up for grabs and local power grabbers—future warlords—grab it.

Power withers at the center by default because central government loses its power base. It no longer pays attention to the needs of its social bases and they withdraw their support. The center instead relies on its innermost trusted circle: this may be an ethnic or regional group, or a functional group such as an army officers’ clique. […]

Government malfunctions by avoiding necessary but difficult choices. As a result, such measures mount in urgency and difficulty, facing the state with a governing crisis.[…]

The incumbents practice only defensive politics, fending off challenges and reducing threats, concentrating on procedural rather than substantive measures. […] What is absent is a political agenda for participation and programs. Elections are postponed; platforms are absent.

Probably the ultimate danger sign is when the center loses control over its own state agents, who begin to operate on their own account.\(^{148}\)

Another definition affirms that failed states are “marked by the collapse of central government authority to impose order, resulting in loss of physical control of territory, and/or the monopoly over the legitimate use of force. Crucially, it can no longer reproduce the

\(^{146}\) Rotberg, R. I. (2007), op. cit., p. 86.

\(^{147}\) Zartman (1995) op cit., p. 5.

\(^{148}\) Ibid, p. 10.
conditions for its own existence”. A failed state is thus incapable of providing stability and safety by losing all control over its territory and its borders.

While failure indicates the total collapse of central authority and governance capacity, weak states are those that do not have the capacity to provide or are not willing to provide some of the fundamental political goods associated with stability: physical security, legitimate political institutions, economic management and social welfare. The problem of these states is not only one of capacity but also one of will and they have fundamental problems in terms of security, performance and legitimacy.

By differentiating between the elements of will and capacity, there have been identified four types of weak states: states with relatively good performances (Senegal and Honduras), states that lack capacity despite willing to provide the fundamental political goods (Mozambique, East Timor), states that have the capacity but do not have the will as they are corrupted or repressive (Burma, Zimbabwe), states that lack both the capacity and the will to implement the basic state functions (Somalia). Similarly, Barry Buzan also offered a list of conditions that could be expected in weak states:

1. High levels of political violence (Afghanistan Cambodia, Israel, Sri Lanka, South Africa, Ethiopia).
2. A conspicuous role for political police in the everyday lives of citizens (Soviet Union, China, Iraq, North Korea).
3. Major political conflict over what ideology will be used to organize the state (Peru, El Salvador, Poland, Afghanistan).
4. Lack of a coherent national identity, or the presence of contending national identities within the state (Nigeria, Ethiopia, Sudan, Turkey, South Africa, Yugoslavia, Soviet Union, Sri Lanka).
5. Lack of a clear and observed hierarchy of political authority (Lebanon, Sudan, Chad, Uganda, increasingly Yugoslavia).
6. A high degree of state control over the media (Nicaragua before 1990, China, Iran, East Germany before 1989).

---


150 Rotberg (2007), op. cit.


Therefore, contemporary threats of state weakness differ from one state to another, while this chapter has focused on the absence of social cohesion in diverse societies. The analysis of state weakness and state failure confirms that they are multi-causal and multi-dimensional as they are determined by political/institutional factors (legitimacy, authority problems, poor governance, lack of political competition, weak institutional capacity), structural, economic factors (poverty, low income and economic, decline, violent conflict, presence of armed insurgents, natural resource wealth/lack of natural resource wealth, geography, demographic stress) and social factors (horizontal inequalities, severe identity fragmentation, social exclusion, gender inequality, lack of social cohesion-including lack of social capital, weak civil society).  

There are thus both immediate and mediate causes for state weakness included in analyses of global insecurity and under-development that underline the challenge of good governance: “while, in the West, it is understood that the state provides the institutional framework enabling its citizens to pursue their personal and economic interests within a framework of order and security, the failing state is seen to lack this institutional framework”. Furthermore, as I have indicated before, a statist approach to explain governance failure focuses on top-down factors (poor design or policies, incompetence of officials, lack of resources) and may neglect more complex circumstances of the problem. Hence, state weakness can be provoked by the domestic environment of conflict over the control of society:

- States must contend with opposing groupings, some of which are quietly and indirectly subversive [...] others of which are openly confrontational. These multiple groupings of opposition have created coalitions to strengthen their stance, and these coalitional struggles have taken their toll: state policy implementation and the outcomes in society have ended up quite different from the state’s original blueprints.

The role of society was also used in another study of the weak/strong states paradigm by Barry Buzan, who looked at the degree of socio-political cohesion to emphasise a fundamental particularity of weak states in “their high level of concern with domestically

---

155 Chandler (2010) op. cit., p. 5.
156 Migdal, op. cit., p. 12.
generated threats to the security of the government; in other words, weak states either do not have, or have failed to create, a domestic political and societal consensus.”

When security threats occur, strong political fragmentation and social-economic discrepancies make weak states extremely vulnerable not only to domestic disintegration but also to external intervention and control. In the context of high levels of social division, the state might be perceived as representing the interests of a particular group, or more precisely to ethnic groups in the case of multiethnic states. Given the state’s internal insecurity, it becomes necessary to strengthen its coercive power, thus the correlation between post-conflict statebuilding and the prioritisation of capacity/institution-building designed to create the conditions where states are capable to exercise social control.

5.2. Changing character of statebuilding

This chapter explained earlier that a state could be considered successful from a Weberian point of view if it has control over the legitimate use of violence within its own borders. Thus, when this control is broken and central authority collapses, the existence of the state itself is at threat and a vulnerable regime can turn into a failed state. Furthermore, the state does not need legitimacy to potentially control the means of violence, but it would need legitimacy if it made use of these means. In any case, legitimate authority can be evaluated by looking at:

a) the credibility of the institutions invested by free elections.

b) the capacity of political authority to fulfil its social tasks.

c) the compatibility of power with the system of values proposed and accepted.

d) the way in which those who govern have obtained power and the exercise of power itself.

Legitimacy is thus linked not only with legality, but also with the criteria of performance and certification: “transparency in governance and accountability in administration are important for sovereignty to become a meaningful exercise of power by the state and its apparatus”. This means that the development of civil society, the level of

157 Buzan, op. cit., p. 94.
159 Ponzio, op. cit., p.35.
160 Kumar, op. cit., p. 253
political culture among people, the indifference or the incompetence of those who govern are all additional yet fundamental elements of legitimacy and, implicitly, of modern strong states.

Generally, the ideas around state weakness and state failure have been discussed by adopting two different variants, which Trutz von Trotha identifies as a) “institutionalist” and b) “functionalist”. Furthermore, *internationally-driven* liberal statebuilding (particularly in post-conflict societies), has generally attempted to put into practice one of these approaches and export a particular state-model. The *institutionalist* variant reflects a view of the state which is narrowed beyond the Weberian conceptualisation of the state, as it “regards the OECD model of the strong state and democratic rule of law as the yardstick by which to measure statehood. Its criteria are specific institutions such as general and fair elections guaranteeing secrecy; parliaments; parties; independent judiciaries; and human rights”. The state in this view is mainly a clear-cut set of institutions and rules reflecting a Western-centric model (Weberian/neoliberal), and consequently, statebuilding is limited to establishing institutions without seriously challenging their appropriateness and their changing character under the impact of endogenous factors.

In contrast, the *functionalist* account measures the degree of state failure by going beyond the presence and mechanisms of specific institutions and by analysing the fulfilment of functions that the modern western state typically delivers. However, “[s]tate-centrism here is indirect, a kind of ‘second-order’ state-centrism, because the achievements of non-state political orders are measured against (and research criteria are orientated towards) the functions of the modern state”. By evaluating the functionality of the institutions, rules and mechanism put in place by processes/missions of liberal statebuilding, this variant tries to identify flaws of the model and find solutions like the re-focus on legitimising the state apparatus based on the efficiency of its functions.

This does not represent however recognition of the fact that the Westphalian-Weberian state is not necessarily a suitable model. Moreover, the critique to these state-centric variants is re-enforced by the fact that scholars to readily associate failed or anarchical states with the

---

lack of a central government. As Hagmann and Hoehne\textsuperscript{164} point out, life goes on with non-state actors performing many of the functions usually associated with the state, contrary to the state-centred approaches. This simultaneity of state and non-state actors claiming the monopoly of force over a territory also challenges the Weberian view of the state.

An alternative characterisation of the state failure model is offered by the concept of “hybrid political orders”\textsuperscript{165}, which captures the intersection of formal (modern state institutions) and informal (traditional, customary, social institutions) forces. This deviation from the standard state-model of governance means that in order to make institutions work, informal networks and actors are utilised (indigenous societal relations and institutions). On the one hand, state institutions may become the target of power struggles between competing social groups and their leaders, who utilise them for their own benefit and disregard the wishes of the “nation” or the “citizenry”\textsuperscript{166}. For this reason, “the whole debate about neopatrimonialism, clientelistic networks and patronage, for example in postcolonial African states, revolves around this usurpation of imported formal governance structures by indigenous informal societal forces”\textsuperscript{167}.

On the other hand, statebuilding impacts on non-state local orders too by re-forming customary systems of order when they are included in the central state institutions and processes. Non-state actors adopt then “an indefinite position with regard to the state, appropriating state functions and ‘state talk’, but at the same time pursuing their own agenda under the guise of the state authority and power. Taking state functions and state talk on board, however, also means changing one’s original stance. Some governments also try to deliberately incorporate traditional authorities, in order to strengthen state capacities and legitimacy”\textsuperscript{168}.

This re-affirms the importance of conceptualising the state as a process and a symbiosis of state structures (institutions, rules) and society. Moreover, “state failure, like state making, must be viewed as a process, not an event”\textsuperscript{169}, in order to highlight that it is not irreversible. It is a long-term degenerative process that, however, can be avoided as the state can recover its

\textsuperscript{165} Boege et al., op. cit.
\textsuperscript{166} Ibid, p. 21.
\textsuperscript{167} Ibid.
\textsuperscript{168} Ibid.
\textsuperscript{169} Ayoob, op. cit., p. 105.
balance and gradually restore its normal functions. The idea of a hybrid political order highlights not only the impact of the various local contexts, but also that the state and society spheres do not exist in isolation from each other, “but permeate each other and, consequently, give rise to a different and genuine political order”. Following on the state-in-society approach developed by Migdal, it can be affirmed that:

In reality the modern state is both an abstract and coercive macro-structure and a network of interdependent social actions in everyday life. Modern statehood consists of two dimensions: historically developed and relatively stable institutional structures, and culturally defined social processes.

The institutional structure gives societies politically isomorphic forms. In this sense, the sociological definition of the national state developed into a formal blueprint for the political organization of societies. Modern statehood is a central feature of world culture, and its ideal image has been formalized in most state constitutions [...]

Yet the second perspective, the state as social practice, characterizes the actual social content of statehood as forms of permanent interaction and ephemeral social groupings. On this level, we can observe a complex and often amorphous tangle of social actions of which we make sense in reference to the ideal image of the state.

Contemporary statebuilding, be that in the post-colonial, post-communist or post-conflict contexts, has imported a modern West-centric liberal-democratic model of governance but it has also inevitably adapted to the local understanding and practices of authority and to the particular necessity to manage plurality and accept the heterogeneous character of these societies. This analysis of the combination of formal and informal actors, institutions and societal relations will nevertheless help to understand why post-conflict states like Kosovo might have limited capacities to control means of violence via legitimacy but this does not mean they are inevitably heading towards state-failure. As mentioned before, the aim is rather to discuss to what extent and in what ways the state-model proposed to be constructed in Kosovo has been “limited” and transformed by the conditions of diversity and the task to manage this issue by pledging to the integration and protection of its minority communities.

---

170 Zartman, op. cit.
171 Boege et al, op. cit., p. 10.
Conclusion

With the aim of introducing the analysis of Kosovo’s multiethnic institutional and legislative framework designed to protect and integrate minorities in the post-conflict and post-independence context of statebuilding, this chapter has examined how the modern liberal-democratic state-model employed by contemporary statebuilding has historically included the management of diversity within its primary tasks. More precisely, as Kosovo’s example suggests, it is important to discuss why some new post-conflict states must develop a multiethnic democratic model of governance as part of their internationally-driven statebuilding process. The principles of sovereignty, political authority and legitimacy introduced here will support my thesis’ aim to understand what kind of statebuilding has been developed in Kosovo, as well as to explain the motivation and consequences behind placing the issue of multiethnicity at the core of its agenda.

Given this chapter’s emphasis on the state-society relationship as the key element of building modern legitimate liberal-democratic states, the answer to the above dilemma is in the consequences of not managing plurality efficiently. Measures like the integration and protection of ethnic minorities have become fundamental statebuilding objectives because they are designed to repair or avoid social division and a broken state-society link. The absence of social solidarity/cohesion represents a threat to building legitimacy and domestic sovereignty, and, in the context of contemporary statebuilding, may be seen as a source of permanent state weakness. Therefore, the management of diversity has not only become a key task for states with heterogeneous societies but also an indicator of a state’s capacity and willingness to deliver essential political goods. This becomes a vital responsibility if the state has also experienced major discrimination of a certain ethnic/national group and/or a history of ethnic conflict, similarly to the case of Kosovo.

This theoretical enquiry started by analysing some of the core conceptions on state and state-formation in order to explain why the state encompasses public institutions for extraction, security or representation, but also why it is more extensive than government and depends on its relationship with the citizens. In this sense, Hobbes’ contribution to the study of a contractual-based state formation revealed why the self-perpetuating, inalienable, indivisible and absolute idea of sovereignty needs to be established by an authority awarded by the people. The relationship between rulers and subjects, between institutions and people, between state and society is at the heart of understanding the origins of the modern state.
Furthermore, the development of the nation-state as the dominant model of statebuilding and the principle of popular sovereignty were discussed so as to indicate how political authority became designated through democratic practices. This also highlighted how the origins of the modern liberal democratic state vested power in the hands of a dominant people or nation, but at the same time, the nation-state had to face the immediate challenge of securing or developing a unitary national identity through cultural homogenisation.

This chapter then showed that while the modern nation-state emerged based on the crucial link between the state and the people (the nation), in the post-colonial, post-communist and the more contemporary post-conflict contexts, it has gradually become more difficult to establish nation-states for plural societies that have been most of the times divided by their different ethnic, religious or linguistic identities. Basic principles of the nation-state model have nevertheless been adapting and responding to the challenge of managing diversity. In the context of decolonisation the character of state sovereignty in new liberal-democratic countries changed because of the missing bond between society and state. The extremely diverse composition of post-colonial quasi-states meant that governments were incapable of building political authority based on social solidarity deriving from collective consciousness. The management of diversity became a critical condition for the new states’ objective to obtain the endorsement of the international community and to be recognised as strong states capable of monopolising violence within their borders.

Similarly to ex-colonial states, post-communist states had to adopt the liberal-democratic model of state while also managing heterogeneous societies with significant cultural, ethnic, racial, religious, social and political factions. Moreover, this section explained how the class consciousness developed by communist regimes eclipsed ethnic and national identities. However, after the fall of communism and the disintegration of the Soviet Union, post-communist independent states returned to a traditional nationalism that was challenged by ethno-national groups using their collective identities to demand a degree of cultural and even political autonomy. The communist legacies of centralisation, weak civil society, paternalism and the effects of institutionalised ethnicity/nationalism have further fragmented the society (ethnicity, welfare, ideology) and have obstructed the development of liberal-democratic states capable of accommodating diversity.
The challenges for statebuilding during different historical contexts (exporting the liberal-democratic nation-state model to post-colonial, post-communist and post-conflict heterogeneous societies and the contemporary concerns regarding state weakness and state-failure), are all different facets of the inevitable change in character for the state-formation process under the impact of endogenous and exogenous factors. As the last section of this chapter emphasised, while there is much critique of the role played by international statebuilders who intervene and manage/control/impose the subsequent top-down statebuilding process, there should probably be more focus on local (societal) idiosyncrasies. One of these is definitely the actual significance of (ethno-national) diversity for building state authority and legitimacy.

Therefore, modern liberal-democratic statebuilding had to respond and adapt to the conditions of diversity regardless of what normative frameworks or (external) blueprints defined the optimal model of a state. As a result, while it is not always straightforward to measure the actual impact of diversity on the success or failure of statebuilding, it can be safely affirmed that, depending on the case, it has changed and limited the development, export, adoption or imposition of the liberal-democratic model of (nation-) state. Altogether, the management of plurality has been both a challenge and an objective for statebuilding.

It has been a challenge mainly because of the difficulties brought to the vital role of securing unity for the nation-state model and its norms of popular sovereignty, social solidarity and reliance on the dominant nation. And it has become an objective/task for statebuilding not only because of the social-demographic and political changes that occurred in the 20th century but also because of the particular need to respond to the (ethnic) divisions, conflicts and civil wars that characterised the ex-colonial and ex-communist societies aiming to adopt the liberal state-model but struggling to synchronise the (proposed) state-society relationship with the ground realities.

It will thus be useful to further discuss these challenges in relation to particular models of democratic governance in plural (post-conflict) societies, which the second theoretical chapter focuses on. The difficulty to construct and maintain stable governance in plural societies has represented a fundamental dilemma for the study of democracy. Political consensus and social homogeneity are considered to be essential factors that work in favour of building a steady democracy, while political disagreement and deep social division are made responsible for the instability and potential breakdown.
By looking at different models of governance in plural societies the next chapter will provide a conceptual framework for considering how the protection and promotion of minority rights are essential for contemporary statebuilding practices. In support of this, I will examine different ways in which minority rights can be institutionalised within constitutional and legal frameworks and how this is reflected by the implementation of territorial and non-territorial mechanisms. These two initial chapters will therefore offer together a complex theoretical framework for analysing the multi-dimensional character of post-conflict statebuilding in Kosovo, which has aimed to build a functional liberal-democratic state with institutions capable of securing unity, while also trying to accommodate multiethnicity by adopting a far-reaching legal-institutional framework for the integration and protection of minority rights.

The interplay between developing liberal/democratic norms of governance and the focus on managing diversity (the integration, accommodation and protection of minority rights) is the constant challenge that this thesis analyses in trying to reveal the intended and unintended consequences of statebuilding. This will result in a comprehensive study of the actual outcomes of multiethnic statebuilding and of the fragility of Kosovo in its dual task to secure unity at the same time while enshrining minority rights and accommodating diversity.
Chapter 2: Models of democratic governance in plural societies.

The state’s self-definition as a unitary, a federal or even a multinational political institutions holds significant consequences for the peoples living within its boundaries [...] This is particularly evident in the case of a state that declares itself to be multinational, thus assuming the coexistence of more than one nation within its territory. Such a position entails an automatic distinction between nation and state that challenges the commonly accepted coincidence between the two. A multinational state explicitly acknowledges its internal diversity and, in doing so, influences the diverse definitions of nationalism that may emerge within its territory.\(^\text{173}\)

Introduction

This chapter expands the theoretical framework of this research by focusing on the challenges faced by deeply divided societies that must remedy longstanding conflicting identities and learn to co-exist peacefully and by interrogating various models and approaches for managing plural systems and considering their relevance for post-conflict Kosovo. Furthermore, this chapter explores the impact of the ethnic factor on power-sharing and democratisation and considers the key arguments for democratic means of managing inter-communal conflict in divided societies as developed in the writings of Arendt Lijphart and Donald Horowitz. I will therefore discuss not only the reasons for internal power-sharing but also the consequences for a divided society’s capacity to build a sustainable democracy. In this regard, I will expand on the debate between (a) more integrative approaches and (b) models of power-sharing that advocate for separation (consociationalism, regional devolution, federal structures) so as to better understand what is more suitable for contexts where divisions are very deep and the memories of recent violence are very real.

By looking at different models of governance in multiethnic societies this chapter will provide a conceptual basis for considering how the management of diversity and the protection and promotion of minority rights are essential for contemporary statebuilding practices. In support of this, I will also analyse different ways in which minority rights can be institutionalised within constitutional and legal frameworks and how this is reflected by the implementation of territorial and non-territorial mechanisms. The chapter will reiterate that the protection of minority rights was not integral to processes of classical nation-building that

\(^{173}\) Guibernau (2003) op. cit.: 116-117.
was merely concerned with the national and cultural unity of new states. However, contemporary statebuilding practices have become extremely interested in the accommodation and/or preservation of pre-existing diversity. Therefore, in a post-conflict context the challenge for (under-construction) states is twofold: securing unity at the same time as enshrining minority rights. Such rights will be particularly contentious in post-conflict societies where they may involve separatist factions and war-time militarised elites.

Overall, the main purpose is to investigate the aims and effectiveness of particular models of democratic governance in states with diverse societies, while also discussing the departure from the assimilationist nation-state model and the need to adapt to the conditions of young states with divided societies. Firstly, this chapter looks at the contrasting responses of states to the presence of diversity within their borders, as illustrated by exclusionary and accepting approaches. On the one hand, the rejection of diversity has not only manifested moderately and more or less peacefully through assimilating solutions, but it has also determined extreme and violent responses like genocidal and ethnic cleansing acts. On the other hand, the acceptance of diversity by states has generally been demonstrated by the adoption of policies of integration or accommodation of all the constituent peoples, groups, communities living within the same state.

Moreover, given the post- (ethnic) conflict statebuilding context of the case-study of this thesis, Kosovo, the focus of this chapter is on models that accept diversity and that are specifically designed to regulate ethnic conflict through power-sharing arrangements. In the context of Kosovo’s liberal-democratic statebuilding, the new state’s sovereignty and legitimacy could not have been built if it had denied the existence and importance of ethno-cultural diversity within its territory. However, integrationist and accommodationist solutions can produce very different outcomes and an active accommodation and/or integration of minorities will impact on the immediate and long-term relations between state, society and its constituent ethno-national groups. Similarly, the integrative vs. consociational approaches to power-sharing in divided post-conflict states have been creating different mechanisms and tools for statebuilding, reconciliation and the ultimate management of diversity.
1.1. Inclusionary and Exclusionary State Responses to Diversity

The first chapter explained how the growing social diversity and ethno-cultural complexity of modern states has become a problem for the development and preservation of authority and legitimacy of liberal democracies, very much dependent on socio-political cohesion. Moreover, despite the spread and perpetuation of the nation-state model, the actual multiethnic and multicultural composition of almost all contemporary states has complicated the principle of congruence between an ethno-national group and a state’s territory.

Indeed, the twentieth century revealed the general population of any state to be incorrigibly plural. The electoral franchise is broader; immigration and migration have diversified populations; and, just as importantly, people are much more aware of the vast array of their individual characteristics that distinguish them from others. However easy it once may have been to conceive the state as the reflection of an ethno-culturally homogenous population, it is infinitely more difficult to do so today—even in Europe’s apparently “national” states.\textsuperscript{174}

In response, the modern state has become responsible for securing socio-political stability and unity while also managing plurality, or more specifically, dealing with the existence of different ethnic, racial, national, cultural, religious or linguistic communities within its territory. The various policies that have been adopted by states \textit{vis-à-vis} diversity can be generally differentiated by looking at the level of acceptance of the presence of different ethno-cultural groups in combination with the state’s inclination towards a more civic or ethnic understanding of national identity (nationalism).

Table 1. State responses to group (ethno-cultural) diversity

<table>
<thead>
<tr>
<th>ACCOMMODATION</th>
<th>INTEGRATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>ETHNIC IDENTITY</td>
<td>CIVIC IDENTITY</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SEGREGATION/ELIMINATION</th>
<th>ASSIMILATION</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>EXCLUSION</td>
</tr>
</tbody>
</table>

As shown by the model of the nation-state, one answer to the challenge of diversity has been the policy of cultural homogenisation through assimilation. Assimilation means the absorption of all different ethno-cultural identities by one dominant “national” identity, generally that of the majority ethnic (national) group, and it can be achieved through either fusion or acculturation. Fusion requires mixing two or more communities to form a new one (A+B=C), while acculturation “involves one community adopting the culture of another and being absorbed into it (A+B=A).”\(^{175}\) However, the aim is that non-majority communities embrace the culture, the language and the customs of the assimilating identity. In this sense, the idea of diversity is excluded and the focus is on constructing and protecting one single national identity. Nonetheless, as the extreme forms of nationalism have shown throughout history, the rejection of diversity has also taken the aggressive form of trying to eliminate altogether any other forms of identities than the dominant or “superior” one. The genocidal and ethnic cleansing acts that have produced some of the most extreme forms of violence are the absolute manifestation of rejecting plurality.

The alternative to assimilation has been the actual acceptance of diversity by states willing or having to integrate or accommodate different communities. On the one hand, integration involves recognising and respecting sub-national identities (ethno-cultural) in the private domain but, at the same time, it does not accept differences in the public sphere and promotes a single public identity (civic) within “a common public space.”\(^{176}\) Integration seeks the equality of individual citizens regardless of their ethnic/national/cultural identities and aims to create public unity and stability by creating laws and institutions that are neutral towards these non-civic differences. Cultural rights (collective) are separated from political rights (individual basis). Social cohesion through public homogenization is equally important to the respect for diversity. Legitimacy of the state is secured by the single public identity.

On the other hand, accommodation does not only tolerate diversity but it also promotes public and private maintenance of cultural differences. Accommodation allows different communities to protect and manifest their identities both privately and publically through political participation and representation based on collective rights guaranteed by the state. Cultural rights are intersected with political rights (collective). Social cohesion is guaranteed


\(^{176}\) Ibid.
by the co-existence of different groups, not by uniformity. The legitimacy of the state may be more fragmented. Therefore, statebuilding strategies that accept and are willing to manage diversity can aim to integrate or accommodate the constituent groups (peoples) of the society. However, the impact on the state-society relationship and on the cohesion of the society as legitimising entity can vary:

While integration responds to diversity through institutions that transcend, crosscut, and minimize differences, accommodationist strategies seek to ensure that each group has the public space necessary for it to express its identity, to protect itself against tyranny by the majority, and to make its own decisions in domains of critical importance.\(^\text{177}\)

Moreover, the process of integration is multidimensional as it targets every level and sector of a society, which means that it needs to consider social, economic, political and cultural integration of minorities. Political integration is mainly focused on creating the necessary conditions for minorities to be able to exercise their rights as citizens and, at the same time, to stimulate political participation and representation. The socio-economic dimension of the process of integration mainly addresses the social and economic equality between minorities and the rest of the society, while cultural integration looks at the way minorities are permitted to protect and manifest their cultural values within the private and public spheres.

As a result of these different levels of acceptance or rejection of the idea of diversity and necessity to manage minorities, different nation- and state-building strategies have been developed. In this sense, Linz and Stepan\(^\text{178}\) distinguished between unifying and differentiating types of nation-building, respectively between inclusionary and exclusionary statebuilding.

\(^{177}\) Ibid.

Table 2. A typology of State-, Nation- and Democracy-building Strategies in Multinational Polities\textsuperscript{179}

<table>
<thead>
<tr>
<th>Nation-building Strategies: Ideology toward Demos/Nation Relationship</th>
<th>Statebuilding Strategies toward Non-national Minority or Minorities</th>
<th>Exclusionary Strategy</th>
<th>Inclusionary Strategy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Demos and nation should be the same</td>
<td>Type I Expel or at least systematically encourage the “exit” option</td>
<td>Type III Make major efforts to assimilate minorities into national culture and give no special recognition to minority political or cultural rights</td>
<td></td>
</tr>
<tr>
<td>Demos and nation can be different</td>
<td>Type II Isolate from political process by granting civil liberties but no political rights and thus discouraging “voice” option</td>
<td>Type IV Make major efforts to accommodate minorities by crafting a series of political and civil arrangements that recognize minority rights</td>
<td></td>
</tr>
</tbody>
</table>

As Table 2 illustrates, by combining these categories the result is four types of possible ethno-political strategies that could be used to address the situation of minorities:

a) Rejection. The demos is identified with the nation and the strategy toward citizenship is exclusionary, which means that minorities are encouraged leave or be expelled. In such cases, the state might use coercive policies that, however, might provoke civil war or a conflict with the homeland state of the minority. It is very unlikely that a liberal democratic state would be compatible with this typology.\textsuperscript{180}

b) Isolation. An exclusionary statebuilding and a differentiating nation-building granting minorities civil and social rights but not political ones. This model would not respect the idea of democratic inclusiveness by creating a regime of “ethnic democracy” with fully democratic processes for the majority “but only a subject status for the minority.”\textsuperscript{181}

c) Assimilation. An inclusionary statebuilding strategy and a unifying nation-building strategy which allows minorities to participate politically only if they assimilate into the dominant ethno-national culture. The result might be a democratic nation-state that may or may not be a success depending on the willingness of minorities to give up their identity and accept the utility of the dominant nationality. Moreover, a democratic state falling in this category must respect particular requirements of minorities and offer political rights in addition to the normal human rights: “freedoms of expression, assembly, and organization;

\textsuperscript{179} Ibid, p. 429.
\textsuperscript{180} Ibid, p. 430.
\textsuperscript{181} Ibid.
the formation of parties; presentation of candidates for office, and competition for a share of power by peaceful means.”

d) Balance. An inclusionary statebuilding strategy and a differentiating nation-building strategy which draws the minority into the construction of the state but does not seek in the process to take away their cultural particularity. Stable models in this category might be democratic multinational states or states recognizing the cultural and linguistic pluralism of their citizens.

1.2. Contemporary models of democracy

Another evaluation of different types of contemporary democratic states has been offered by Sammy Smooha, who looked at the impact of global and domestic challenges on the liberal democratic nation-state in relation to five possible models of democracies: individual-liberal democracy (ideal), republican-liberal democracy, consociational democracy, multicultural democracy and ethnic democracy. The first two types derive from the democratic nation-state as the dominant model for Western countries.

The individual liberal democracy places the individual citizen at the core of the society and the national identity of citizens is defined in relation to their respect for democratic principles, for the equality of rights for the individuals that belong to the society, for free competition and privatisation of religion and ethnicity. From this point of view, the nation-state is an impartial state because it treats its citizens with equal rights regardless of their ethnic, religious, linguistic, cultural or national identity. The society is composed of individuals who share only the common citizenship but do not “constitute a community, lack common goals, do not feel solidarity with fellow citizens and do not have moral commitment to the state.”

Nonetheless, the individual liberal democracy is only an ideal model, while in practice most of the Western states have developed as republican liberal democracies. As the first chapter illustrated the classical nation-state required homogenisation and imposed a single culture and a single language and denied ethnic groups the institutional mechanisms for

---

separate existence. The members of this type of society do not define themselves only as individual citizens of the state but also as members of a national community sharing a common civic identity. For instance, contemporary liberal democracies like France and the United States treat all their citizens as equal members of a common civic nation, while “ethnic cultures and identities are allowed but not recognised nor encouraged by the state.”

This is a key point as it highlights the difference between active and passive forms of accommodating diversity.

Smooha indicates that an important alternative to the republican liberal democracies has been the consociational democracy, which takes national and ethnic differences as given, grants official recognition of ethnic groups and aims to reduce or prevent ethnic conflict through a set of mechanisms. The special mechanisms of this model, famously conceptualised by Arendt Lijphart, include power-sharing, proportionality, veto-power and politics of negotiation, compromise, consensus and indecision, which will be examined in detail in the last part of this chapter. The role of a state in dealing with its minority groups and supporting them can thus be expressed indirectly through the configuration of state institutions or indirectly through special policies. In the first situation, the key elements are the electoral system, the party-system and the level of decentralisation, while for a direct impact the state develops, for instance, policies for the use of minority languages. As regards the concrete application of these policies, while there have been several empirical variations and partially consociational arrangements, Belgium and Switzerland remain perhaps the best known and long-standing examples.

In order to examine the next two types of democracies, it should be reiterated that the traditional type of liberal democracy has been influenced by different factors that activate either from “above” or from “below”. While the effects of regionalisation and globalisation dominate the first category, factors from “below” include immigration and the emergence of indigenous minority nationalism, thus challenging “the homogeneity of the nation-state and its tolerance of ethnic and cultural diversity.” In this context statebuilding has adjusted and has shifted away from full assimilation and toward multiculturalism by respecting “the desire

for separateness of small indigenous minorities, immigrants from former colonies or foreign workers.”

Therefore, another consequence has been the differentiation of the nation-state and the promotion of multiculturalism as an alternative ideology. In this sense, the model of \textit{multicultural democracy} involves recognition of ethnic differences without institutionalising particular political mechanisms to promote them. Given the lack of ethno-cultural homogeneity in states like those in Central and Eastern Europe, the nation-state model was not fully compatible with the particular conditions for democratisation or democratic consolidation after the fall of communism.\footnote{Smooha (2002b), p. 476.} According to Smooha, post-Apartheid South Africa and Netherlands are prime example of the nascent multicultural democracy, but many Western liberal democracies have also been leaning toward this model.\footnote{Linz and Stepan, (1996) p. 31.}

Multicultural democracies, the same author argues, have combined features of the liberal and consociational democracies and have created a hybrid civic form of democracy that “decouples state and nation, recognises cultural rights of minorities, but neither makes these rights official nor institutionalises the standard mechanisms of consociational democracy.”\footnote{Smooha (2002a), p. 425.} Nevertheless, similarly to the previously mentioned types of democracies, it values the interconnected principles of centrality of citizenship, equality of rights and civic nationalism. The management of diversity can thus differentiate between cultural (collective) and political (individual) rights and between ethnic and civic identities of citizens. From this perspective, citizens can have multiple identities, and, most importantly, the ethno-cultural identity of people (or minorities) does not necessarily need to translate into a political one too. As specified before, under this model minorities are integrated rather than accommodated.

The last type of democracy from Smooha’s classification is the \textit{ethnic democracy}. This model is defined by the presence of a core ethnic nation, which is the owner of the state and, which leads the state for its own benefit. There is a differentiation between national identity and citizenship while the groups that are not part of the dominant-nation have incomplete individual and collective rights. The marginal groups are perceived as a threat for the survival

\footnote{Smooha (2002b), p. 476.}
and the integrity of the core national group and in response their members are permanently isolated from state institutions.

For this type of democracy, ethnic identity prevails over civic identity and the defining element of the state is the ethnic nation rather than citizenship. It can barely be considered a democratic state since there is a lack of equality of rights. The majority is privileged and the “minority cannot fully identify itself with the state, cannot be completely equal to the majority and cannot confer full legitimacy of the state.”¹⁹⁴ This is a fundamental remark about this type of clearly exclusionary states as it underlines how in the absence of any kind of acceptance of diversity, a plural state that aims to be liberal democratic lacks legitimacy and cannot consolidate its domestic sovereignty by non-coercive means. The ethnic democracy typology is another example of sovereignty as control prioritised over sovereignty as responsibility, and consequently, of a state linking with only a part of its society. The state does not recognise all its constituent peoples, while the society remains divided between the nation (dominant majority) and the excluded minorities.

1.3. Multiculturalism

Exclusionary models of states and statebuilding therefore contest the significance of diversity and are against the co-existence of different ethno-national groups within the same state. In full contrast to this view, alternative models have been developed by supporters of multiculturalism, an approach that accepts, preserves and promotes cultural diversity of different communities (national, ethnic, cultural, linguistic groups). For multiculturalists, the co-existence of different communities is inevitable because people belong to different cultural identities/models and none of them are universally applicable or acceptable. Co-existence does not mean seeking for the ideal regime but achieving a reasonable compromise through institutional and social reconciliation of different cultural models. The presence of socio-cultural diversity makes this compromise necessary.

Furthermore, as indicated before, regardless of their self-definition almost all states are de facto multiethnic as they contain different ethnic communities/groups within its borders. A 2003 study on the ethnic/cultural diversity around the world indicated that approximately 70 percent of all countries “have an ethnic group that forms an absolute majority of the

population, although the average population share of such groups is only 65 percent and only 21 percent of countries are “homogenous” in the weak sense of having a group that claims 9 out of 10 residents.”\textsuperscript{195} The notion of multiethnic states is thus used here with an inclusive meaning that incorporates both types of multicultural states categorised by Kymlicka as polyethnic or multinational.\textsuperscript{196} In his view, polyethnic states are mainly formed by immigration of different ethnic groups (immigrants) while multinational states are populated by “national minorities”, defined by Kymlicka as previously self-governing and territorially concentrated cultural groups that wish to preserve themselves as distinct societies alongside the majority culture. National minorities are likely to seek different levels of autonomy or self-governance in order to preserve their culture, their language or their customs, while immigrants have left their homelands voluntarily and are more willing to integrate.\textsuperscript{197}

In this context, one state-model that pro-actively combines democracy with diversity is the multinational democracy. Contemporary examples of multinational democracies are Canada, United Kingdom, Belgium and Spain. The multinational democracy is established as a constitutional association of two or more nations recognised as self-governing peoples, equal in terms of their status within the state and with the right to self-determination as described by international law and the theory of democracy.\textsuperscript{198} Multinational democracies are also multicultural as the composite nations and “the multinational association as a whole are composed of individuals and cultural, linguistic, religious and ethnic minorities”,\textsuperscript{199} seeking recognition and accommodation of their cultural diversity.

Another feature of multinational democracies is the tendency to include both federal and confederate features as citizens participate both in the political institutions of their self-governing nations and in the larger, self-governing multination. Furthermore, the nations and the multination are constitutional democracies, as their legitimacy “rests on their adherence to the legal and political values, principles and rights of constitutional democracy and international law.”\textsuperscript{200} Therefore, the legitimacy of a multinational democracy departs from

\textsuperscript{197} Ibid, p. 10-11.
\textsuperscript{199} Ibid, p. 3.
\textsuperscript{200} Ibid.
the norms of single-nation democracies but does not run against the principles of constitutional democracy.

2. Conflict management and statebuilding in multiethnic divided societies

Ethnic conflict regulation

The discussion around different state models of dealing with ethno-national diversity in plural societies will now focus on the dilemma of how democracy can manage post-conflict divided societies efficiently. In other words, the biggest challenge yet for liberal-democratic statebuilding has been developing functional and legitimate governance in societies where diversity is not just a challenge for constructing (national) unity but it represented the source of violent conflict in the past. Moreover, diversity in post-conflict societies represents a risk of perennial social (ethnic, racial) division, thus the task of contemporary statebuilding to reconcile divided groups and secure social cohesion. The legitimacy of the state in such cases is directly linked to the promotion and protection of group rights and normally the key challenge is the integration and/or accommodation of minorities so as to avoid any potential discrimination by the majority community.

Similarly to the different approaches to dealing with diversity in general, a taxonomy of methods of ethnic conflict regulation (covering both termination and management of conflict) can be used to distinguish between: (i) methods of eliminating differences like genocide, forced mass-population transfers, partition and/or secession (self-determination) and integration and/or assimilation and (ii) methods for managing differences such as hegemonic control, arbitration (third-party intervention), cantonisation and/or federalisation and consociationalism or power-sharing. As already discussed, the most extreme responses to plurality have been attempts to eliminate differences by genocide or forced mass-population transfers, strategies which are incompatible with liberal democratic principles, have no moral justification and are an “abhorrent” response to the challenge of diversity.

The second strategy of ethnic cleansing was used in the 1990’s wars in Bosnia and Herzegovina and in Kosovo. The illiberal practices and the violation of human rights

---

provoked the intervention of the international community and the subsequent post-conflict
statebuilding in Kosovo, the case study of this thesis. Therefore, the post-1999
internationally-driven statebuilding mission in Kosovo with the UN and EU as the leading
actors, is related to the method of arbitration discussed by McGarry and O’Leary. Arbitration
involves the intervention of a neutral, bi-partisan or multi-partisan authority, and it is
therefore different from other strategies for stabilising “antagonistic societies because it
involves conflict regulation by agents other than the directly contending parties.”

In this sense, peacebuilding and statebuilding practices of liberal interventionism have been the
dominant externally-led forms of arbitration of contemporary conflict and post-conflict
societies.

Also in contrast with liberal-democratic norms is the idea of hegemonic control from
the second group of methods seeking to manage differences. Hegemonic control involves the
state’s control of diversity within its territory “through coercive domination and elite co-
option.” The example of former Yugoslavia is again relevant, as the ethnic domination by
Serbs in regions where they were not in majority (Kosovo too) established a system of
minority hegemonic control. Nonetheless, hegemonic control can occur in multiethnic
democratic regimes too (majority rule), in cases where ethnic parties are in a zero-sum
competition, which indicates that “a majoritarian system of liberal democratic government,
designed to create strong powers for the governing party, is no guarantee of liberty for ethnic
minorities.”

From the list of exclusionary measures designed to eliminate differences, integration
and/or assimilation has been in accordance with the norms of building unitary nation-states
with a common transcendent identity. Integration has been “the dominant goal and embodies
the received wisdom regarding conflict regulation and conflict resolution in the longer
established democracies” and it has been achieved either by creating a civic national
identity and integrate all different ethnic or national groups under its umbrella, or by seeking
to assimilate differences under a common ethnic identity. While contemporary examples like
the USA, Canada and Australia are considered to be cases of moderately successful
integration/assimilation, and thus potential models of managing (potential) ethnic tensions or

---

203 Ibid, p. 27.
205 Ibid, p. 25.
conflicts, what also needs to be highlighted is that they “involved migrations to a ‘new’ country, where the migrants, in principle, were willing to adapt their cultures to their new host country and accept a new civic identity.”

Moreover, these Western states’ willingness to accept and even encourage diversity has been favoured by the fact that the presence of different ethno-cultural communities within their borders has not been a serious security threat. Even if minority groups gain extensive autonomy and the right to self-determination and, consequently, may jeopardise the territorial integrity and social cohesion of the state, there is little risk of violent conflict.

New states that focus on consolidating national legitimacy are particularly prone to accentuating boundaries of exclusion. Well-established states, on the other hand, where the institutional infrastructure of the state is not under scrutiny, are more prepared to accommodate minorities on some levels, so long as the inherited national identity of the state is not questioned.

Therefore, in the context of post-conflict statebuilding, an integration/assimilation approach would be instantly challenged by the legacy of ethnic divisions and by the mere fact that it would not necessarily be complemented by a voluntary decision of different communities to integrate and/or be assimilated. The risks of inconsistent integration and maintenance of segregation and unequal opportunities for different communities will all be discussed in relation to the case of Kosovo. As already mentioned in the previous section, the alternative to the idea of eliminating differences, supported by liberal integrationists, is offered by liberal multiculturalists who have considered ways of resolving conflicts by managing differences instead.

By looking at how human rights are a response to the practical needs of minority groups, Will Kymlicka criticises the solution proposed for diminishing the source of conflict by separating the state from ethnicity following the model of secularisation. Kymlicka considers that classical liberal democracies are not neutrally from an ethno-political perspective because neutrality is nothing more than an illusion denied by all the symbols

---

207 McGarry and O'Leary (1993) op. cit., p. 18.
promoted by the state but at the same time associated most of the times with one of the ethnic
groups: national language, anthem or culture.  

He considers that a separation of state from ethnicity is unrealistic because as regards
the official languages, territorial boundaries and power-sharing, the state cannot avoid
supporting one of the ethno-cultural groups or make decisions regarding the majority
(education, national holidays, symbols or immigration policies). In a democratic society the
ethnic group in majority will always have protection of its own language and culture, as well
as the legislative power to protect its interests. The task is nonetheless to understand to what
extent minority groups can be granted similar benefits and opportunities. For a long period
of time it has been considered that citizenship and granting equal rights are sufficient
elements to respect the interests of different minorities within the territory of a state. However, the debates over minority rights from the last few decades, as Kymlicka argues,
have shown that the human rights doctrine is not capable of addressing all the problems
regarding minority groups. In different parts of the world, majorities and minorities have
been in dispute over language rights, representation, education, autonomy, federalism,
national symbols, and thus have showed that some forms of diversity can only be
accommodated through measures that reach beyond citizenship rights.

Other solutions that have been proposed to advance and encourage cooperation in
ethnically divided societies are specifically targeting territorial reorganization. Different
forms of territorial administration (based or not on ethnic identity) are very important for
minorities. A common territorial principle of macro-political ethnic conflict regulation in
multiethnic societies has been decentralization. Decentralization offer communities a chance
to work out differences where elites fail and, consequently, build cooperation and moderation
starting with the local level (bottom-up). Different degrees of decentralization, going as far as
federalism, are designed to allow local ethnic communities decide on many aspects of their
lives without threatening the integrity of the state. Federalism and autonomy do not only
support preserving the identity and representation of minorities but also favour the active
participation of minorities in the decision-making process, “with obvious moral advantages
over pure control.”  

210 McGarry and O'Leary (1993), op. cit., p. 35.

87
diversity will be discussed in detail in the last chapter of this thesis, which looks at the decentralization process in Kosovo.

The following section will focus on the (ethnic) conflict management solution of power-sharing, which involves integrative and/or consociational strategies targeting the reform of political, electoral and institutional norms of democratic governance.

2.1. The Lijphart-Horowitz debate on power-sharing

The idea of power-sharing between different (ethnic) groups that form a society is the common point of the two key approaches as regards the management and (re)construction of ethnically divided states. These approaches were initiated by Arendt Lijphart and Donald Horowitz and they became known as (1) the group building-block approach or consociational and (2) the integrative approach. They both start from the assumption that “[a] democracy in which crosscutting cleavages interact with the institutions of competitive politics to moderate political behaviour is a centripetal democracy; [and] a democracy in which the institutions of competitive politics interact with segmental cleavages is a centrifugal democracy that will literally fly apart.” What separates the two theories are the arguments they give about whether ethnic cleavages should be officially recognised and used to build peace (accommodationist) or whether differences between groups should be diminished while aiming to integrate society along the line of division (more integrationist).

The consociational approach argues that ethnic division needs to be constitutionalised and become the basis of the political system and depends on the accommodation by ethnic group representatives at the political centre and guarantees for group autonomy and minority rights. According to Lijphart’s theory of consociationalism, when a society fragmented by race, language or religion intends to shift to democracy, it faces several risks such as tension, instability or competition among elites. Moreover, Lijphart argues that a winner-take-all majoritarian system is likely to install a very instable democracy. One of the reasons consociational democracy is a better alternative in a divided society is that the leaders of rival

---

groups “can build institutions and foster policies to stabilize democracy by constraining certain forms of democratic competition.”

On the other hand, the integrative approach claims that the political system should not be constructed on the lines of ethnic division and it should try instead to integrate ethnic groups. Horowitz argues that it is important to have an electoral system that is capable “to create ongoing incentives for interethnic cooperation” and to promote federalism or regional autonomy, to implement “policies that give regionally concentrated groups a strong stake in the center”, thus avoid separatism by supporting devolution.

2.2. Consociationalism

Lijphart’s proposal for the challenges of democracy in ethnically divided societies is the concept of consociational democracy. This was presented as an alternative to the democratic system that has a majority government and a homogenous and secular political culture, or what Gabriel Almond named as the “Anglo-American” model. According to Lijphart, consociationalism “means government by elite cartel designed to turn a democracy with a fragmented culture into a stable democracy.” Lijphart highlights from the start of his analysis that it is not possible to eliminate the differences between ethnic groups once they appear. Consequently, if a conflict involved the use of the differences between the ethnicity of particular groups it is better to accept these differences and to build a new state so that it includes, confirms and constitutes these ethnic distinctions. Otherwise, one would need to try to eliminate or ignore ethnic divergence, which Lijphart does not consider achievable.

Although the replacement of segmental loyalties by a common national allegiance appears to be a logical answer to the problems posed by a plural society, it is extremely dangerous to attempt it. Because of the tenacity of primordial loyalties, any effort to eradicate them not only is quite unlikely to succeed, especially in the short run, but may well be counterproductive and may stimulate segmental cohesion and intersegmental violence rather than national cohesion.

214 Ibid.
Given that the removal of the ethnic cleavages is not a realistic objective, Lijphart indicates two possible solutions for the management of a multiethnic state: (1) the partition of a state and secession or (2) a power-sharing approach. With regard to the first one he writes that both partition and secession are unpractical, as a division of territory would unavoidably involve violence among the conflicting parties. He also suggests that violence is rather provoked by the efforts to prevent the partition than by the very fact of this partition. There is always a power centre tempted to fight for keeping the territory of a country together at any cost. This devotion to counteract the partition stimulates violence, which would be avoidable otherwise.

Although Lijphart perceives the division of a territory as a possible option he also highlights its disadvantages. The biggest opposition is that in most places ethnic groups are geographically intermixed so that it is impossible to draw a fine line between territories occupied by one or another group. In this case the division of a territory is from the beginning accompanied by the discussion about which territory should be allowed to whom. This in itself is a highly conflict-generating dispute. Moreover, it is not only a matter of dividing territory along the lines of the settlement of particular groups, but also of the distribution of natural resources. Naturally, when talking about the partition of a territory, each of the ethnic groups would like to gain the maximum: not only the biggest amount of the land, but also the best quality of it as this could guarantee relatively fast development after separation.

Taking into account all these disadvantages of the partition of a territory, Lijphart puts forward the idea of accommodating most of the interests of all the ethnic groups within one state and the adjustment of the state structure so that those groups have equal influence on the decision-making process and the governing of the country. Furthermore, consociationalism reflects the experience of countries with a distinctive plural structure of the society. Their particularity is given by the grouping of political subcultures (political cleavages) in different and independent pillars (segments of the society) that interact and become institutionalised and organised in a hierarchal order. In “pillarized” societies different communities have not only set-up their “own ideologically sensitive organizations (e.g., a political party, a youth movement, schools, a newspaper, libraries and a broadcasting company), they also established many organizations and institutions with purely secular social functions (e.g.,
hospitals, sport clubs, housing associations, insurance companies and even animal protection societies and associations of stamp collectors).”

The implementation and the functionality of consociational democracy depend mainly on the relationships that are established between subcultures, but also on the relationship between elites and their followers within each subculture. The cartel of elite’ collaboration is accomplished when they become capable of conciliating the interests and requests of the pillars, while also aiming to secure the stability of the system. This means developing the political culture of consensus. Lijphart also considers that the potential for conflict of plural societies can be reduced if the members of different segments of the society live relatively isolated from each other and mentions that level of isolation must correspond with the society’s level of homogeneity. Furthermore, the loyalty of each segment’s members towards the elites must be secured. The pillar-system assures the necessary level of isolation and the development of a framework for representation.

There are several conditions for the good functioning based on cooperation among elites: the absence of a majority that is not interested in power-sharing and which, contrariwise, is in favour of adopting a majoritarian model; similar socio-economic levels of subcultures; reduced number of subcultures; balance between subcultures; reduced territory; existence of an external threat or danger; tradition of consensus. Based on the example of four consociational democracies, Netherlands, Switzerland, Belgium and Austria, Lijphart remarked that in plural societies, structural cleavages become over time cleavages of the party system. In cases of social segmentation, the result is segmental parties. In Belgium, for instance, the Flemish and the French communities have gradually created their own political parties. These have detached themselves from national parties so as to represent the interests of one linguistic community only.

The defining four elements of the consociational model are: (1) grand coalition (elites of each segment of the society come together to rule so as to avoid the risks of non-cooperation), (2) segmental autonomy (protecting the plural character of the society), (3) proportionality (for the electoral system, for recruiting public servants and for distributing public funds) and (4) mutual veto (for the benefit of political minorities). The grand coalition is the key feature of the consociational democracy as is brings together representatives of all

---

communities to govern a country. It can take many different institutional forms. The simplest form is that of a grand coalition government within a parliamentary system, while in presidential democracies power-sharing can be accomplished by rotating presidency and other key executive roles between the different communities. The norms of the grand coalition are therefore in contrast with the majoritarian principle of representative democracies where power can be hold by one political entity (party) within non-coalition governments.

The second consociational element of *segmental autonomy* aims to delegate powers directly to the communities, thus enabling self-governance for ethnic communities/minorities in areas that are of exclusive interest for them.\(^{218}\) While all matters of common interest are resolved by decisions made by all segments of the society together, on particular matters concerning communities (minorities), decision-making belongs to them. Thus, ethnic communities/minorities can be delegated with special legislative and executive powers and with proportional allocation of public funds to stimulate political/institutional representation and participation of different communities in central and local governance. Segmental autonomy can take the form of territorial and/or non-territorial autonomy depending on the geographic distribution of the ethnic communities. Therefore, if the territorial borders coincide with ethnic, cultural or linguistic ones, then autonomy is allocated territorially to each group and can take the form of federalism. At the same time, non-territorial autonomy can refer to special powers given to communities in the areas of cultural affairs and education. In any case, segmental autonomy is also in contrast with the unitary and centralised character of majoritarian democracy.

*Proportionality* is also a significant consociational element that deviates from democracy based on majority rule as it aims to allocate political and public positions (civil service) proportionally to all communities and distribute public funds among different segments in proportion to their population size.\(^{219}\) Therefore, whereas the grand coalition secures representation of all communities, proportionality is more specific by making groups represented proportionally within decision-making institutions and, thus, acting as a “neutral and impartial standard of allocation.”\(^ {220}\) Moreover, proportionality models can vary and go further by either deliberately offering overrepresentation of small communities (minorities)

\(^{218}\) Lijphart (1977), op. cit., p. 41.
\(^{219}\) Ibid, p. 38.
\(^{220}\) Ibid, p. 39.
or by parity of representation: “the minority or minorities are overrepresented to such an extent that they reach a level of equality with the majority of the largest group.”221 The aim is to protect minorities in situations where proportionality is not sufficient to manage the power of the majority community, especially when a diverse society is divided between two communities of unequal size.

The fourth element of consociational democracies is the *mutual veto* highlighted by Lijphart as a procedure that prevents the minority from being outvoted by the majority. The presence of minorities within a grand coalition does not guarantee their full protection as long as their political interests can be outvoted. The risk posed by the use of veto is that it can undermine political cooperation, but Lijphart does not see this as a big problem for three reasons.

Firstly, the veto is *mutual*, which means that it will not be used very frequently because it can work both for and against minorities. Secondly, the veto represents a potential weapon for minorities and offers a sense of security even if it is not used. And, thirdly, each community will aim to cooperate and avoid the risk of political deadlock which can be provoked by unlimited use of the veto. In addition, Lijphart has revised the consociational model recently by classifying the mutual veto and proportionality as secondary elements designed to support the two key principles of grand coalition and segmental autonomy:

the successful establishment of democratic government in divided societies requires two key elements: power sharing and group autonomy. Power sharing denotes the participation of representatives of all significant communal groups in political decision making, especially at the executive level; group autonomy means that these groups have authority to run their own internal affairs, especially in the areas of education and culture. These two characteristics are the primary attributes of the kind of democratic system that is often referred to as power-sharing democracy or, to use a technical political-science term, "consociational" democracy”.222

---

221 Ibid, p. 41.
2.3. The Integrative Approach

While the consociational solutions for power-sharing focus on the elite level representation and participation of different groups in divided societies, the integrative approach developed by Horowitz, or centripetalism\(^{223}\), affirms that cross-ethnic links are necessary at all levels of society through socio-political and institutional integration. At the political level, for instance, instead of stimulating representation of groups by their own parties, integrative measures seek to encourage them to cooperate as part of multiethnic parties so as to reduce the significance of the ethnic cleavage. The two contrasting approaches to power-sharing in divided societies make therefore a fundamental contribution to the broader debate between accommodationist and integrationists.

With the purpose of facilitating reconciliation and the integration of all constituent groups of a society, the integrative approach sees inter-ethnic cooperation as more important than the consociational emphasis on minority representation. In other words, adopting measures that stimulate cross-ethnic social, political and institutional cooperation does not mean that minorities are more vulnerable. Moreover, the idea of protecting and promoting minorities should not be understood as a right or as a necessity of communities to differentiate themselves from the others not only culturally but also socially, politically, institutionally, economically or territorially. Horowitz criticises the fact that the success of consociational democracy relies exclusively on the willingness of different groups to work together. In his view this is not sufficient because the leaders of a majority group will not be interested in compromise and will want majority decisions while the elites of different groups are not necessarily less ethno-centric or more moderate than the people they represent. Moreover, by collaborating with representatives of other groups, elites risk being accused by more radical rivals from their own community of betrayal and of not representing and defending their particular interests.

Consociationalism is therefore a constraining approach. It aims to limit the extreme behaviour of groups instead of trying to develop solutions that would instead encourage moderation. Consociational frameworks use institutional constraints like the mutual veto (negative approach) without offering real incentives for elites to cooperate. Horowitz suggests instead that a positive strategy is necessary for building effective democratic governance in divided societies. This can be done by rewarding moderation and stimulate

integration across communal divides so as to motivate politicians to reach beyond their own communal segments for support. Politicians are seen as rational actors by Horowitz and given that their main purpose is to be re-elected, an effective solution would be to create a political and institutional setting where moderation increases the chances of leaders to be elected.\textsuperscript{224}

The key element of the integrative approach’s aim to moderate elites is the electoral system. For this reason, Horowitz rejects the proportionality element of consociational democracy because, in his view, it stimulates the formation of parties reflecting the social segmentation and re-enforces communal cleavages. The inclusion of all communities in the political life of a state requires more than their mere representation within different administrative bodies and institutions, it needs their actual input and influence on decision-making. Another issue with the proportional system is that elites are likely to form coalitions only after the results of the elections are known (coalitions of convenience), their purpose being to form a majority parliament and not ethnic reconciliation, for instance.

For the integrative approach, a truly efficient electoral system for divided societies must stimulate coalitions of commitment, in which its members have the key objective of reconciliation and cooperation. Thus, the aim is to de-ethnicize politics by making politicians, as much as possible, mutually dependent on the voters of other groups other than their own: “[s]ince the parties must pool votes rather than pool merely seats, they must find ways before the election to communicate their ethnically and racially conciliatory intentions to the voters.”\textsuperscript{225} Horowitz considers that there are at least three main methods that could help reducing political fragmentation on ethnic lines. The first one is related to presidential elections and relies on introducing additional conditions for victory besides securing the majority of the votes. One example he used in his studies was Nigeria, where between 1979 and 1983 the elected candidate had to win not only an absolute majority, but also at least 25% of the votes in no less than two-thirds of the total then nineteen federal states.\textsuperscript{226}

The immediate advantage of this model is that it prevents the election of a candidate who could claim popular legitimacy but was actually supported by only one ethnic group. A president legitimised by all constituent peoples of a state can be an important “centripetal

\textsuperscript{225} Ibid, p. 196.
\textsuperscript{226} Ibid, p. 184.
However, the disadvantage is that it does not guarantee that there will be a winner as it is possible that no candidate will manage to secure the necessary support. This would create a political impasse and would require an effective backup solution, thus complicating the efficiency of the model.

A second solution for the de-ethnicization of politics is to make parties build ethnically mixed candidate lists (ethnically mixed slates). Horowitz gives the example of Malaysia, where even if this is not a prerequisite by law, in practice the coalition partners found the single slate to be more advantageous. A more formal application of this idea was though found in Lebanon, where the electoral system between 1943 and 1976 consisted of reserved seats, mixed constituencies and communal rolls, which stimulated candidates “to exchange with each other the votes of their supporters and thus to put up what were tantamount to mixed lists.”

The third solution that Horowitz put forward is alternative voting (AV), the preferential electoral system in which second and subsequent preferences of voters whose first preferences is not one of the two top candidates are reallocated until a candidate attains a majority. Horowitz considers that by using AV in ethnically mixed constituencies, vote pooling between different groups is stimulated because candidates cannot be elected only with votes from their own community and have to moderate their attitude towards other groups and be interested in their problems and their interests. A similar electoral system is the single transferable vote (STV), which is appropriate for constituencies with more than one member. The voters make a hierarchal list of the candidates based on their preferences (primary, secondary, third, etc.) and the candidates must overpass a certain quota to be elected. If after the counting of the first choices none of the candidates have reached the quota, the candidate least chosen as a primary preference is eliminated and his/her votes are transferred. This process of redistribution repeats until either a winner is found for every seat or there are as many seats as remaining candidates. Moreover, all surplus votes belonging from already elected candidates are also transferred to the other candidates. The advantage of SVT is argued to be the fact that it produces a result that is more proportional than alternative voting. All these electoral options put forward by Horowitz for democracies with divided

228 Ibid, p. 195.
229 Ibid, p. 196.
230 Ibid.
societies promise to moderate candidates and to make them reach beyond their own communities to gain votes and support from other groups.

In addition to an electoral system that stimulate vote pooling, the integrative approach also recommends the adoption of a presidential regime and the federalization of divided states. As regards presidentialism, Horowitz supports it because the presence of two centres of power is more favourable for power-sharing by reducing the possibility of having one single group in control of the state. Moreover, the majoritarian character of presidentialism can be controlled by adopting an appropriate electoral system that, as discussed earlier, encourages vote pooling between divided groups.

Horowitz also uses federalism as a method of conflict regulation. Democratic federations are compound sovereign states in which the power and constitutional competencies are distributed between at least two governmental units, the federal and the regional. Horowitz highlights four function of federation that make it a suitable political system for managing divided societies. Firstly, it can complement an accommodative electoral system. Secondly, federal units can offer politicians a first opportunity to work on crucial issues for a divided society before doing so at the national level of governance. Thirdly, territorial devolution of power can also help to dissolve conflict by proliferating the points of power vertically. Lastly, federal units can support a sustainable democratic governance by “making hegemony more difficult to achieve.”

Furthermore, while this approach is similar to the consociational focus on the devolution of power, the integrative strategy of managing conflict/division in multiethnic societies through federalism is not based along ethnically homogeneous lines. In contrast to Lijphart’s approach, Horowitz supports strong national federations based on heterogeneous federal units that favour interethnic cooperation, prevents regional majoritarianism and can stabilize and unify the state. The ethno-national, cultural, linguistic or religious diversity of a state should not determine the territorial-administrative structure of a federation so as to avoid segregation. A federation with a plural society should seek to unite people who desire a common political unit that nonetheless respects and protects diverse ethnic identities, while heterogeneous regional units (local governance) stimulate interethnic cooperation at all levels.

---


levels. In other words, federalism is another element that indicates how consociational and integrative approaches have developed different strategies for the common goal of power-sharing in divided societies. From Horowitz’s perspective, federalism recognises the plural character of the society and the co-existence of different groups but devolves power with the purpose managing their different (collective) interests at the local level. This is different from Lijphart’s view of federalism as an opportunity not only to give autonomy to different groups but to institutionalise this through (ethno) territorial units.

Therefore, federalism and devolution of power in multiethnic societies has two options for their implementation. Federal units are established either on ethnic lines (homogenous character) or with a non-ethnic rationale used to demarcate federal borders. In support of the integrative view on this is the fact that the demographic structure of a society may not necessarily coincide with the territorial demarcation. This can make it impossible to create homogenous federal units or it can result in a mixture of homogenous and heterogeneous federal/administrative units that further complicates the aim to develop and maintain social cohesion.

This draws attention to the dilemma of the mutual influence between the administrative/political/institutional model and the actual shape of the society. Is the geographic distribution of individuals belonging to different communities (homogeneously or heterogeneously) going to determine the actual demarcation of (federal, regional, municipal, local) borders or is a solely top-down territorial organization going to regulate the demographic composition of local units of governance? A top-down artificial division of regional boundaries that supports devolution on ethnic-territorial basis, be that federalization or other forms of decentralization, is seen by Horowitz as a stimulus for secession. However, this is not an argument in favour of centralisation as the attempt to strengthen central authority in fear of separatism is more likely to discriminate minorities at the local level and provoke a reaction and mobilisation against the (unitary) state in seek of autonomy and self-determination:

The fact of the matter is that early, generous devolution is far more likely to avert than to abet ethnic separatism. Where a territorially based ethnic minority is politically out of step with other groups, uncompromising centralism in the guise of democratic majoritarianism will inevitably suppress that minority and provoke a reaction. Where, however, regional autonomy or federalism—on a territorial and not an ethnic or "homeland"
basis—allows such minorities nationally to form majorities locally, the result is unlikely to be an aggravation of separatism.\textsuperscript{233}

It is not therefore accurate to disregard federalism or decentralization as potential tools for conflict regulation in multiethnic societies because autonomy and self-rule for minorities can undermine the territorial integrity of a state. As Horowitz suggests, the problem may rather be with the character of federalisation (federation model) that needs to be integrative and encourage inter-ethnic cooperation at the local level (heterogeneous local units) instead of perpetuating or creating segregated homogenous units.

Both Horowitz and Lijphart are in favour of decentralisation so that different communities benefit from relatively large amount of self-rule. The most important advantage of awarding a certain degree of local autonomy and instruments of better protection of their rights is that it helps ethnic groups/minorities not to feel dominated by another group/the majority. Minorities, for instance, should not feel dominated and should have an influence over the decision-making process. This should make all communities feel secure under the authority of a state that respects their particular collective interests and reflects the general will of all individuals and all groups, not only that of a single (majority) community.

\subsection*{2.4. Assessing Power-sharing}

Both the consociational and integrative elements of power-sharing have been applied to statebuilding cases in divided societies, but their efficiency and sustainability has been limited and the constitutional and institutional design has reflected a mixture of the two.\textsuperscript{234} Furthermore, the inefficiency of externally-driven measures for power-sharing has highlighted that there is no universal solution to manage diversity and that consociational and/or integrative arrangements must be carefully adapted to the circumstances of each society and state.\textsuperscript{235}

Proponents of “imposed” power sharing will not only have to look more closely at the best practices in power-sharing systems around the world, but also will have to work in close conjunction with the “bottom-up” approach of proponents of social transformations in order to achieve democratic and cohesive plural societies.\textsuperscript{236}

\textsuperscript{233} Ibid, p. 226.
Moreover, as Snyder\textsuperscript{237} highlights, the consociational arrangements alone with the institutionalised ethnic divisions may not be enough to stimulate permanent reconciliation of conflicting groups. This is a significant critique of the power-sharing strategies because, in the case of post-conflict liberal statebuilding for instance, the task is not only to stop a conflict but also to build and maintain sustainable peace. The management of diversity in this context is not only an immediate task (bring violence to an end and build peace through strong institutional/legal provision for all groups), but also a long-term commitment to develop necessary conditions where different communities (previously in conflict with each other in some cases) learn and accept to co-exist within the post-conflict state. Thus, while consociational measures seem more appropriate for short-term peacebuilding, a long-term strategy is more likely to also use integrative tools for building an efficient and sustainable governance of diverse societies. However, making power-sharing a durable solution for divided societies is difficult to achieve as both approaches depend on volatile political, social and cultural factors.\textsuperscript{238}

Nonetheless, the role of the international community is of fundamental importance in choosing between models of integration or accommodation for post-conflict states and needs to be addressed before summing-up the power-sharing debate. In this sense, the first chapter discussed some of the key points of the critique of contemporary international statebuilding and underlined its top-down character. While this identified the imposition of a generalised version of the Western liberal-democratic state model, it should be emphasised that post-conflict reconstruction has also promoted power-sharing as an essential structuring principle in divided societies.\textsuperscript{239} Power-sharing arrangements have been included in the institution-building processes in cases like Northern Ireland, South Africa, Bosnia-Herzegovina, Cyprus, Kosovo, Macedonia, Burundi or Afghanistan.

Therefore, the outcome of statebuilding is marked by the international actors’ preference for integration or accommodation, for consociationalism or centripetalism in the design of post-conflict constitutional and institutional frameworks. Furthermore, this is sustained by the dependency of these states on the international community and its military, financial and technical assistance for ethnic conflict regulation: “international organizations


\textsuperscript{239} Bieber (2005) op. cit., p. 85.
influence both the policy choices that states make regarding the diversity and the likelihood that the chosen policies will succeed. What is also noteworthy then is that, while Western states, the UN and other international organizations have generally favoured integration as the dominant approach to manage plurality and minority rights (more appropriate with longer established states), in the actual practice of case-specific management of diversity in new states with deeply divided societies, the accommodationist approach has been endorsed as a necessary alternative:

In order to manage these real-world conflicts, inter-governmental organizations supplement their legal norms with case-specific interventions that are more accommodationist. However, these case-specific interventions in support of autonomy are often arbitrary and ad hoc.

This combination of unrealistic legal norms and arbitrary case-specific interventions has a number of perverse results, including encouraging and rewarding the resort to violence.

As already indicated by Horowitz’s response to Lijphart, consociationalism has been criticised for issues like the reliance on elites and the support of their communities for reconciling behaviour. Nonetheless, there also significant implementation challenges for the integrative model of power-sharing for democratic management of divided societies. Firstly, the role of elites can also be problematic for the integrative approach, as they need to gain political support not only from their own community/ethnic group, but also from voters belonging to other groups. Therefore, a strong and sustainable support for political elites becomes even more difficult to achieve under these conditions.

Furthermore, consociational democracy is also considered vulnerable because elites from the majority group will not easily accept the system’s constrains and may decide to dissolve or reduce special collective rights of minorities when they get an opportunity to do

Similarly then, elites belonging to the majority can also be a problem for the integrative model, as its electoral system expects majority elites to moderate their discourse so as to gain some support from minority voters too. The volatility of elites is a key threat to the durability of power-sharing arrangements.

But power-sharing practices are likely to have conflict-mitigating effects only if the disputant arrive at them through a process of negotiation and reciprocity that all significant parties perceive as fair and just, given their own changing interests and needs. Equally, there are pitfalls in power-sharing agreements that may be premature, based on unrealistic expectations, agreed to with ill intent, or simply built on too narrow foundation.245

As regards the alternative voting favoured by the integrative approach, consociationalists point out246 that it remains a majoritarian electoral system. As a result, if applied in a constituency where one of the ethnic groups has absolute majority, then the results will be similar to that of a purely majoritarian system. The effectiveness of the AV system in integrative models is thus preconditioned by the dominance of mixed, heterogeneous constituencies. Demarcation of constituencies in order to achieve this is, however, subject to the geographical spread of different communities/ethnic groups.247 In the case of states with geographically concentrated groups (ethnically homogenous regions), creating heterogeneous electoral districts would require a demarcation of constituencies that is not congruent and intersects with ethnic boundaries. The implementation of this measure would be inevitably contested as it would be very difficult for different groups (particularly minorities) not to see this as a disadvantage and a threat to their collective power and/or to their particular interests.

These multifaceted challenges highlight that power-sharing arrangements assume groups to be unitary entities and overlook the actual character and structure of each community by not taking into consideration intra-ethnic divisions or the wishes and interests

of individuals. Furthermore, if the power-sharing toolbox used for the reconstruction of post-conflicts societies is going to be effective, “it must complement its political and social environment.”

In this regard, Pildes argues that, depending on the context, there can be a dynamic relationship between the design of democratic institutions and the ethnic identities expressed. Democratic institutions can be designed to accommodate ethnic differences for practical reasons but “the aim should be to do this while also building in as much flexibility as possible to enable democratic institutions to be responsive to changes in ethnic identifications over time.”

Power-sharing therefore attempts to manage ethnic division either by utilising consociational elements that empower minorities with veto, offers autonomy and secure their proportional representation or by adopting integrative measures focused on cross-ethnic cooperation stimulated by vote pooling, presidentialism and federalisation. Their effectiveness, however, depends on the good will of the constituent groups that make-up the society and is influenced by the volatility of the socio-political, cultural and demographic particularities of each state and of each community (endogenous factors).

**Conclusion**

This chapter has addressed the key concepts and debates around the state models, political solutions and institutional mechanisms for managing diverse societies in process of building or consolidating democratic governance. In general terms, the state has reacted to the challenge of plurality by either excluding or accepting the presence of different ethnic, national or cultural groups within its territory. Consequently, the liberal-democratic state has adopted different policies and has re-modelled its political and institutional structure, but at the same time, it has also changed the character if its society with an overarching aim of building or maintaining social cohesion and legitimacy by all its constituent peoples.

Originally designed to homogenise its population through assimilation under the identity of one nation and one culture, the modern nation-state model has had to adapt its liberal-democratic principles and its system of governance so as to respond to the

---


250 Ibid.
particularities of heterogeneous societies. For this purpose, this chapter analysed the main models for establishing stable democratic governance in plural societies and highlighted the main distinction between integrationists and accommodationist strategies for dealing with social divisions. It then focused on the power-sharing models of democratic governance and the great debate between consociational and integrative approaches to ethnic conflict regulation and post-conflict statebuilding.

The examination of political solutions for democracies with plural societies will help to evaluate the multiethnic post-conflict model of democratic governance built in Kosovo and its legal and institutional framework. The departure from the Western liberal-democratic state model, on the one hand, and the rift between ideal models of governance (promoted by the international community) and the actual practice of post-conflict statebuilding, on the other, are both relevant to the study of the case of Kosovo. In this respect, I will look at the design and activity of the main institutional components that confirm the efforts made to construct a multiethnic republic requiring both majority rule and minority protection and representation, both accommodation of minorities and their civic integration, both securing unity and accommodating diversity at the same time. The concepts discussed in this chapter contribute to this thesis’ aim to make a balanced study of Kosovo’s progress by focusing on the gap between the de jure measures for integration and protection of minorities and the inconstancies that may be observed in practice.

While the first chapter showed the reasons why the management of diversity has become a key challenge and task for contemporary statebuilding, the second chapter has examined how statebuilding has responded and adapted to this by proposing and implementing specific models of liberal-democratic governance in diverse societies. Overall, this analytical framework provides an overview of both the obstacles and proposed solutions for constitutional design and institution-building dealing with one of the most complex dilemmas of contemporary statebuilding: securing social, institutional and political unity of the state at the same time with enshrining ethnic diversity and minority representation and participation in governance.

The second part of this thesis will examine the adoption and implementation of a multiethnic liberal-democratic state model in Kosovo and will discuss the motivation, the mechanisms and the de facto results of the objective to integrate and accommodate minorities and build social cohesion in the post-independence context.
Part Two: Management of Minorities and Statebuilding in Kosovo

Chapter 3: Kosovo before and after the 1999 conflict

Introduction

However, a Western Balkan state lacks cohesion in two ways. It is typically an ethnified state, for which the notion of national cohesion is elusive. It is also a state in which the privilege of majority nations is a fact of life, even though it may not be a fact of law. An equally important line of division runs along the position towards the responsibility for the crimes committed by members of one’s nation, denialists vs. liberals calling for reckoning and ethnic reconciliation.251

Before starting the empirical analysis of the post-2008 situation of minorities in Kosovo, it is important to look at the historical context prior and after the 1999 conflict and then introduce the role of the international administration in Kosovo after the war and the problems determined by the unsettled status of the province. After 1999, Kosovo Albanians and the leaders of the Kosovo Liberation Army (KLA) adjudicated the contest for political authority in a peacebuilding framework that, at least under UNMIK, ignored the historical, socio-political and cultural factors while imposing a liberal peace model.252

More attention should have been devoted to the post-1990 political context of the region, when in response to the drastic measures of the Milosevic regime, the Kosovo Albanian leadership declared the independence of the “Republic of Kosova” in 1991 “and stared to organize a parallel state, financed by taxes on Albanians in Kosovo and in the diaspora”.253 This represented a peaceful resistance that even organised unofficial elections and designated Ibrahim Rugova as President, but could not eventually prevent the radical aggressiveness of the Serbian state in parallel with the “increasing attacks by the Kosovo Liberation Army (KLA)”.254 The violent contest over the autonomy of Kosovo reached its climax with the March 1999 NATO bombing campaign against Yugoslavia, which

252 Richmond and Franks (2009), op. cit., p. 140.
253 Zaum, op. cit., p. 129.
254 Ibid, p. 130.
consequently established the international authority in Kosovo (UNMIK) through Resolution 1244 of the UN Security Council. The immediate problem with this resolution was the ambiguity of its aim to facilitate transitional administration while developing self-governing institutions, but with no reference to a potential final status of Kosovo.

1. Kosovo before 1999

Kosovo had been a troublesome region for a long time. For instance, under the impact of various sources of authority, the inter-ethnic relations between Albanians and Serbs living in Kosovo changed constantly at the beginning of the 20th century. That period was initially marked by the end of the First Balkan War in 1912 and the Treaty of London that recognised Serbia’s control over Kosovo. Afterwards, the First World War brought Kosovo under the occupation of Austria-Hungary and Bulgaria, but in 1919 it became part of the new the Kingdom of Serbs, Croats, and Slovenes, eventually renamed as Yugoslavia in 1929. During the Second World War the region was occupied by Italy, while the end of the war finally reincorporated Kosovo under the jurisdiction of Belgrade and the Federal People’s Republic of Yugoslavia. It should be mentioned that, during this period, not only the territory of the region was constantly under different rule and modification, but the population also suffered significant changes as both Albanians and Serbs migrated inside and outside Kosovo. 255

The 1946 Yugoslav constitution granted Kosovo and Metohija the status of an Autonomous Region within Serbia and demarcated the contemporary boundaries of the region. In the following decades Kosovo Albanians demanded greater autonomy and ultimate recognition as a republic of federal Yugoslavia, alongside Serbia, Croatia, Bosnia and Herzegovina, Slovenia, Macedonia and Montenegro. Marshal Tito, the leader of Yugoslavia, did not accept these requirements and could not recognize Kosovo Albanians as a nation within Yugoslavia, but only as one of the minority “nationalities”. 256 However, Yugoslavia adopted a new constitution in 1974 that now called Kosovo an Autonomous Province, which elevated its status nearly equivalent to that of a republic. It authorized Kosovo to adopt its own constitution, assembly and awarded the province a seat on the federal council.

Despite these concessions, Kosovo Albanians continue to aspire towards the recognition of Kosovo as a republic, and after Tito’s death in 1980 a series of demonstrations by Albanian students highlighted the growing ethnic tensions in the region. Meanwhile, Serb

256 Ibid, p. 10.
nationalists were increasingly arguing that Kosovo Serbs lived under threat and were discriminated by Albanians. This context favoured the nationalist rhetoric and ascendance to power of Slobodan Milosevic, who in 1989, revoked Kosovo’s autonomous status and replaced the local officials in order to re-establish the Serbian domination of the region.

As already mentioned, in the context of the collapse of Yugoslavia in 1991 and the declaration of independence by Croatia and Slovenia, the Kosovo Albanian leaders part of the Democratic League of Kosovo (LDK) responded by organizing a referendum on independence, followed by the 1992 unofficial election of Ibrahim Rugova as president and the formation of parallel political, economic and social service institutions. The war in Bosnia between 1992 and 1995 diverted the attention of the international community largely away from Kosovo. The exclusion of Kosovo’s independence from the agenda of the Dayton peace talks further discredited Rugova’s policy of non-violent resistance and favoured the emergence of KLA at the forefront of a more assertive approach. The earlier sporadic violence became increasingly frequent and better organised and the first planned attacks by the KLA took place in February 1996 against a police patrol. The intensifying attacks primarily aimed at Serb police forces, but also targeting Albanians loyal to the Serb administration and by late 1997 the KLA controlled many rural areas of Kosovo.

The Serbian government considered the KLA a terrorist organization, a viewpoint that was also famously confirmed by the US special envoy for the Balkans, Robert Gelbard. In early 1998 Serb forces responded with a campaign of intimidation, followed by bolder attacks against Albanian civilians and supposed KLA enclaves. Paramilitary police led the attacks with support from army and regular Serbian forces. The member of the Contact Group, consisting of France, Germany, Italy, Russian Federation, United Kingdom, and the United States confirmed Kosovo as a matter of high priority and established a working group to address the situation. Several resolutions of the UN Security Council have characterised Milosevic’s actions as a threat to international peace and security especially that the Serbian leader ordered deportations and ethnic cleansing campaigns. However, the lack of agreement and a persistent reluctance to take action beyond condemnation and appeals for dialogue hindered the development of a lasting political solution. It was not until the heightened level of violence and destruction endangered the fragile post-Dayton stability of the region that the international community began to take a more active role. More than 800,000 Kosovo
Albanians\textsuperscript{257} had to leave their homeland and about 13,000 people died during the period of conflict.\textsuperscript{258}

After the failure of the negotiations at Rambouillet and in the absence of an explicit mandate from the UNSC, but not on contradiction with the purpose of its previous resolutions, NATO launched a strategic aerial bombardment campaign on the night of 24 March 1999. The war lasted for 78 days and was used as a preventive measure against Milosevic so as to stop the abuse towards the Albanian civilians. The outcome of the campaign was the de facto withdrawal from Kosovo of the Serbs and the decision to place the province under the authority of the UN. The UN’s actions were going to be secured by the NATO-led Kosovo Force (KFOR) in order to avoid reoccurrence of an ethnic conflict and to ensure public order and safety. More specifically, KFOR’s initial tasks were:

to deter renewed hostilities, establish a secure environment and ensure public safety and order, demilitarize the Kosovo Liberation Army, support the international humanitarian effort and coordinate with the international civil presence.\textsuperscript{259}

2. Post-1999 UNMIK period: minorities at risk during “Standards before status”

After 1999, Kosovo was under the administration of the UN in accordance with UNSC Resolution 1244, which established a status of autonomy. The Resolution established the United Nations Interim Administration in Kosovo (UNMIK) with the role to administer the province “while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants in Kosovo.”\textsuperscript{260} As a consequence, UNMIK set up an international presence in Kosovo and was tasked with:

undertaking a major reconstruction programme to establish democracy, stability and self-government […] facilitating the process that would determine the future status of Kosovo, coordinating the international humanitarian agencies, supporting the reconstruction of key infrastructures, maintaining law and public order, promoting human


\textsuperscript{259} “NATO’s role in Kosovo”, NATO website, http://www.nato.int/cps/en/natolive/topics_48818.htm [last accessed: 06.01.15]

\textsuperscript{260} UNSCR 1244 (1999).
rights, and guaranteeing security and safe return of displaced persons.\(^{261}\)

As these key responsibilities indicate, UNMIK had a very difficult objective to govern the province and to secure peace while coordinating the local authorities to develop capacity for self-government without pre-settled future status. UNMIK structure was divided into four pillars “with a Special Representative of the UN Secretary-General (SRSG) to hold overall authority and coordinate the different international agencies involved.”\(^{262}\) These were: Pillar I: Police and justice, Pillar II: Civil Administration, Pillar III: Democratization and institution building and Pillar IV: Reconstruction and economic development. While the first two pillars were to be led by the UN, Pillar III came under the administration of the Organization for Security and Co-operation in Europe (OSCE) and Pillar IV was in the hands of the European Union.

Even though “these efforts led to a greater level of involvement of local actors in the process of Kosovo’s governance, the balance of authority still lay clearly with UNMIK and the SRSG retained final executive and legislative authority.”\(^{263}\) Giving the multiple responsibilities of the international community, it can be affirmed that UNMIK was a robust mission from the beginning “especially at the levels of executive powers and the ability to intervene in all aspects of the province’s political and socio-economic life.”\(^{264}\)

It is important to highlight here the official involvement of the EU under the fourth pillar as for the first time in history “the EU took the lead over a policy area of a UN mission.”\(^{265}\) The same report illustrates that the EU’s contribution to state-building in Kosovo was already introducing crucial innovations to the ‘traditional’ approach of UN past activities as it “pointed out the necessity to create viable, competitive economic institutions and the costs of non-action in terms of development and stability foregone … [EU Pillar’s policies] were driven by the goals of fostering the sustainable development of a market economy in Kosovo.”\(^{266}\)

The EU thus became determined to promote Kosovo’s regional integration (Bilateral free


\(^{263}\) Ibid, p. 5.


\(^{266}\) Ibid, p. 8.
trade agreements, energy policy, transport integration), which was also perceived as part of the EU’s plans for integration of the Balkans area. The EU’s participation also highlights the approach of functional engagement permitting a direct involvement of representatives of Kosovo’s institutions in the negotiations of different agreements. Overall, as part of UNMIK, the EU played a significant role in the development of Kosovo’s institutions and as the Report on the EU Pillar affirms, the innovative measures “have proven that the institutional integration is the key to create long-term structures of cooperation and peaceful handling of disagreement.”

Another essential part of EU’s role in Kosovo has been reflected by The Stabilisation and Association Process, the framework for EU’s engagement with the Western Balkans for guidance regarding the eventual accession of the states from this region.

In 2001 a constitutional framework was adopted to prepare general elections and the creation of an assembly, a government and the presidency. This also “gave the SRSG extensive powers, including the authority to dismiss the Assembly, control the budget, and appoint and remove judges and prosecutors.” The Assembly had the duty to elect the President and the Prime Minister. In 2007 three sets of legislative elections were already organised having the Democratic League of Kosovo (LDK) and the Democratic Party of Kosovo (PDK) as main contenders. And during 2002 and 2006 the two presidents elected by the Parliament were Ibrahim Rugova and Fatmir Sejdiu. An eloquent conclusion was that:

A coalition government is in place, and a vigorous opposition regularly questions government policy and action. The Constitutional Framework provides a legal foundation for the operation of government, and specifies the competencies of the various branches of the political structure. While Kosovo lacks official recognition of statehood, and has an uncertain political future, it has nonetheless developed many of the core features of a democratic political regime.

In order to understand the evolution of statebuilding during that period it would be useful to analyse the 2007 Communication from the European Commission on the subject of the Enlargement Strategy. This included a comprehensive evaluation of the progress of UNMIK under the UNSCR 1244 and described the progress that was made in as regards the political criteria. In the area of Democracy and the rule of law, the report said that “Kosovo has made progress in addressing some key partnership priorities. The provisional institutions of self-government (PISG) have fulfilled their core roles in their areas of competence. However, the

267 Ibid, p. 31.
United Nations Interim Administration Mission in Kosovo (UNMIK) still bears ultimate legislative and executive responsibility.”

The Commission therefore that Kosovo institutions had made some progress as indicated by the overall stability, transfer of responsibilities, a more active assembly, stable coalition government and a more efficient public administration.

The report showed however that some of the key problems continued to be the “weak and unstable” judicial system as well as the widespread corruption. As regards Regional issues and international obligations, the report was rather vague stating that “Kosovo participates actively and constructively, to the extent its present status permits, in regional co-operation initiatives.”

This Communication also talked about the economic development and suggested that there was still much to improve before fulfilling the EU standards (internal market, competition, employment and social policies, sectoral policies). Both the political and the economic criteria were clearly still affected by the Kosovo’s ongoing status issue.

Despite the fact that policy and legislation have been developed and approximated in line with European standards, the key problem remained the lack of an efficient and complete implementation process. Similar to the case of peacebuilding and statebuilding in Bosnia and Herzegovina, implementation has been a key challenge for an approach that hurries to elaborate rules, laws, guiding principles, measures to be taken and so forth but without having the legitimacy, capacity and means to make all of these work in practice. The difficulty of transferring the authority to local actors is all the more highlighted by the fact that UNMIK’s preliminary role was also to smooth the transition to local ownership. Even supposing structures such as UNMIK manage to put into practice some of its immediate objectives, prolonged external peacebuilding gradually reduces the chances of efficient and legitimate local ownership:

Standards may have been set in terms of governance and human rights but they cannot be imposed or are not readily accepted, when there is no agreement on the final status- on whom these rights will be applicable to and who will guarantee them.

As regards Human rights and the protection of minorities, there was little progress concerning religious freedom, women’s rights, children’s rights and property rights, while minority rights are “guaranteed by law but restricted in practice because of security concerns.” In this regard, the 2004 riots were the most violent events in Kosovo after the 1999 war. As mentioned before, KFOR was made responsible for the transition to peace in

---

271 Ibid, p. 53.
272 Economides (2007), op. cit., p. 244.
273 Ibid.
Kosovo while also guaranteeing the safe return of the refugees from all communities.

After five years without any major incidents, ethnic clashes occurred again in March 2004 after unfounded rumours about the drowning of three Albanian children provoked major riots across Kosovo, particularly in Caglavica and Kosovska Mitrovica, involving more than 50,000 Albanians.\textsuperscript{274} The three days of rampage left 19 people dead, nearly 900 injured and over 4,000 people displaced, while also damaging or destroying over 700 Serb, Ashkali and Roma homes, 30 Serbian churches and some public buildings.\textsuperscript{275} The revolt only stopped after NATO transferred further 3,000 soldiers in the province and the Albanian leadership managed to calm things down. Nonetheless, the spontaneous and quick escalation of violence confirmed the fragility of the post-war situation:

The violent explosion revealed Kosovo Albanian society to be deeply troubled, lacking institutions, leadership and the culture to absorb shocks and contain its violent, criminal minority. In its current state, this society will continue to push out minorities and ultimately consume its own wafer-thin layer of liberal intelligentsia.\textsuperscript{276}

Therefore, the post-conflict domestic insecurity in Kosovo was marked by the perpetuation of ethnic division and the challenge to protect the Kosovo Serb community, now representing a decreasing minority in the province that was no longer under the authority of Belgrade. The situation of other minorities was also at risk, particularly Roma, Ashkali and Egyptian communities, who were trapped in the middle of the Serb-Albanian conflict. After 1999 they were generally perceived by the majority Albanians as having collaborated with Serbian and Yugoslav forces during the conflict and, thus, also became a target of discrimination and marginalisation.\textsuperscript{277}

As a result, the hopes of the international community to re-construct a multiethnic Kosovo still had many obstacles to surpass. Kosovo Serbs remained the largest minority

\textsuperscript{274} The Economist, “The audit of war”, 9\textsuperscript{th} September 2004, http://www.economist.com/node/3178765 [last accessed: 09.01.2015]
\textsuperscript{275} ICG Europe Report N\textdegree 155, “Collapse in Kosovo”, 22 April 2004
\textsuperscript{276} Ibid.

The same report specifies: “The mass return of displaced Kosovo Albanians was immediately followed by the expulsion or flight of non-Albanians, including Roma, Ashkali and Egyptians from and within Kosovo. Every Romani, Ashkali and Egyptian community visited by the ERRC during the mid-1999 field mission had half or fewer of its pre-war inhabitants. According to some sources, more than 100,000 Roma, Ashkali and Egyptians left the province prior to the conflict, during the conflict and after the NATO intervention.”
group in the province, and, as the following empirical chapters will reveal, two key problems have been affecting the situation of the community since the end of the war: the mass flight of Serb population and the isolation of the remaining Serbs in mono-ethnic regional enclaves. It will be therefore very interesting to link this post-conflict environment with the de jure territorial enclavisation of Kosovo after the 2008 declaration of independence.

Nevertheless, in addition to the multitude of domestic problems, the uncertainty of post-conflict Kosovo has also had an international side. The permanent statebuilding dilemma installed during the UNMIK period was embodied by the policy of standards before status: “although the resolution provides a clear mandate for the building of political institutions, it does not determine the scope of authority these institutions could eventually have. UNMIK was effectively tasked to engage in statebuilding without statehood.”

The problem of “limited statehood” has been a key challenge for the international presence in Kosovo as it has created problems at all levels. First of all, after 1999 Kosovo has become a subject of international controversy in terms of the implications of the causes of the war, international law, NATO’s involvement, relation with Serbia, ethnic tensions, regional context, issue of secessionism and all these have been reflected by the ever contestation of Kosovo’s status, territory, identity, legality and sovereignty.

Given the context in which Kosovo has departed from the authority of Serbia, it has been put forward the argument that Kosovo has established “the principle that states can lose their sovereignty over a portion of their territory if they so oppress the majority population there that they rise in revolt and successfully enlist international support for their rebellion”. While this argument has been used by the Albanian Kosovars to reject any potential claim from Serbia to re-integrate Kosovo within its territory it has also become a key test for Kosovo’s independence and claim to build its legitimacy both domestically and internationally by securing the protection and integration of all its constituent peoples.

The multi-layered contestation of Kosovo has had both a domestic and an international character. The first period under the administration of UNMIK meant that standards in terms of governance and human rights had been set but with limited implementation in the absence of an agreement on the final status of the province. In other words, the limited statehood of

---

279 Borzel (2005) op. cit.
280 Ignatieff (2003) op. cit., p. 70.
Kosovo under UNMIK raised the questions of who would be the legal and legitimate guarantors and on whom these standards and rights would be applicable to.

In a similar fashion to the case of post-conflict statebuilding in Bosnia, implementation has been the main problem for a strategy that hurried to elaborate rules, laws, guiding principles, measures to be taken and so forth but with the challenges of legitimacy, capacity and means to implement it. The difficulty of transferring the authority to local actors is all the more highlighted by the fact that UNMIK’s preliminary role was also to smooth the transition to local ownership, but the prolonged external statebuilding has gradually undermined the conditions for developing efficient and legitimate local ownership.

External actors face different challenges in building states after insurgent victory. Often the challenge is to provide security for the vanquished army and for the population associated with it. In Kosovo, for instance, NATO failed sufficiently to protect Serbs. Moreover, state building here tends to focus on constraining or shaping the victorious groups occupying the state and on empowering the vanquished in both the design and the staffing of the post-war state.281

Furthermore, the establishment of the Kosovo Transitional Council (KTC) with a purely consultative role was insufficient to prevent alternative sources of authority from taking over at the local level. The unrecognised “Provisional Government of Kosova” that was led by KLA had the opportunity to appoint mayors and establish “a parallel governmental structure reporting to its Minister of Local Government, not to UNMIK”.282

The necessary democratic link between state and society and the creation of civil society were therefore instantly undermined by the external top-down control of the international administration, but at the same time a perennial state weakness was installed under the co-influence of illiberal non-state authority formations: “what appears to have emerged is that the development of ‘civil society’ has been monopolised by foreign internationals and exploited by local entrepreneurs”.283

282 Zaum, op. cit., p. 135.
283 Richmond and Franks, op. cit., p. 131.
3. The Ahtisaari plan

Kosovo shall be a multi-ethnic society, which shall govern itself democratically, and with full respect for the rule of law, through its legislative, executive, and judicial institutions. […]

Kosovo shall guarantee the protection of the national or ethnic, cultural, linguistic and religious identity of all Communities and their members. Kosovo shall also establish the constitutional, legal and institutional mechanisms necessary for the promotion and protection of the rights of all members of Communities and for their representation and effective participation in political and decision-making processes […].

In 2005 the talks on the status of Kosovo were re-launched and the UN Secretary General named Martti Ahtisaari as the UN Special Envoy at the Kosovo status process negotiations. The two parties involved in the Kosovo issue had completely different positions. While the Serbs were ready to offer Kosovo a large autonomy under the condition that it remained part of the Serbian territory, the Pristina officials considered that giving up the independent status was unacceptable.

In February 2007 Martti Ahtisaari presented at the UN his plan for the status of Kosovo, which was designed to supersede UNSC Resolution 1244 (1999), establish Kosovo’s internal settlement and minority-protection mechanisms, mandate a new international presence and allow for supervised independence. According to the Ahtisaari Plan, formally the Comprehensive Proposal for the Kosovo Status Settlement (CSP), the EU and the US were going to be invested with the leading role in setting-up Kosovo’s future, which was supposed to become independent under the supervision of an International Civilian Representative with superior powers to the Kosovar government. For instance, the International Representative could have dismissed the members of government in case they did not respect the international accord. Furthermore, the core of the plan was decentralization as it was trying to find solutions for the de facto influence of Serbia over the north of Kosovo.

The plan was seeking for a compromise offering Kosovo Albanians the prospect of independence, Kosovo Serbs security, extensive rights and privileged relations with Serbia, and “Serbia the chance to put the past behind it once and for all and realise its European

285 Judah, op. cit., p. 113
future." However, even though this was considered to be an efficient way of governing multiethnicity in Kosovo, it was not what the Kosovo Albanian local leaders had envisaged:

Decentralisation runs contrary to Kosovo Albanian ideas of achieving state “functionality” through centralised administrative control. It is instead linked with contemporary European ideas of “subsidiarity”, devolving decision-making down to the lowest level authority, propelled by the idea that the closer governance is to the people it affects, the more likely it is to reflect their interests.

After additional meetings with Belgrade and Pristina sides in Vienna, the UNOSEK status negotiations formally ended on 10 March. Ahtisaari declared that additional efforts would not bring them closer to a compromise and that “a sustainable solution of Kosovo’s status is urgently needed.” During the discussions, Serbs and Kosovo Albanians kept their irreconcilable positions, Pristina asking for Kosovo to become an independent state, while Serbia and Kosovo Serbs wanted Belgrade to regain its sovereignty. Furthermore, prior to adopting the Ahtisaari Plan there was one more obstacle to surpass: the approval of a new UN Security Council Resolution and the unanimity of its five permanent members. The right to veto used by Russia on March 26, 2007 obstructed the plans of the US and the EU as Moscow continued to oppose any potential threat to the territorial integrity of Serbia.

As mentioned earlier, the EU’s involvement in Kosovo had from the start the goal of supporting local ownership not only as an implementation of the UNMIK interim administration’s initial task to facilitate self-government but also as part of the strategy to assist Kosovo’s regional and European integration. This strategy refers to the conditionality factor that has been motivating the Western Balkan countries to satisfy the EU’s criteria for potential membership. The EU was therefore worried that after the failure to get the UN’s authorization to put into operation the Ahtisaari Plan, there was a permanent risk that the indeterminate status and the unstable situation within Kosovo “could again rekindle ethnic violence and destabilize the region.”

In the second half of 2007 the trio of EU, US and Russia attempted in a number of “Troika”-led talks to determine Kosovo’s future status as mediators between Serbia and Kosovo. The final troika report that was forwarded in December 2007 to Ban Ki-moon, the

---

UN Secretary General, confirmed that even though they had not been able to reach an agreement, they were re-affirming Kosovo’s degree of autonomy from Serbia. The report mentioned: “there will be no return to the pre-1999 status… Belgrade will not govern Kosovo….Belgrade will not re-establish a physical presence in Kosovo [and] will not interfere in Pristina’s relationship with international financial institutions… Pristina will have full authority over its finances (taxation, public revenues, etc.).”

Kosovo’s self-governing in the area of finance was also in accordance with EU’s emphasis on the Stabilization and Association Process.

Therefore, despite the fact that it became clear that Russia would still veto against Kosovo’s independence, the report also confirmed that the future of Kosovo was going to continue reducing Serbia’s influence. A return to constitutional ties between Kosovo Albanians and Serbia was not an option given that “Belgrade has offered little beyond proposing that Kosovo remain an integral part of the Serbian state. It has done nothing over the past eight years to try to integrate Kosovo Albanians or to offer them meaningful and concrete autonomy arrangements. Instead it has tried to establish the basis for an ethnic division of Kosovo and partition along the Ibar River, […] Partition, however, would not only destroy the prospect of multi-ethnicity in Kosovo but also destabilise neighbouring states.”

4. The independence of Kosovo: de facto vs. de jure

The Kosovo elections that took place in November 2007 and were won by the Democratic Party of Kosovo (PDK) with over 34% of the vote had a great significance as the elected Prime Minister, Hashim Thaçi, confirmed then that he would declare Kosovo as an independent state immediately after the 10th of December. Under the pressure of the international community and especially of the EU, the declaration of independence was postponed for 2008 in the waiting of the presidential elections in Serbia.

As it happened, in February 2008 Serbia elected the pro-Western Boris Tadic as President and on the 17 February 2008 the Assembly of Kosovo declared Kosovo an independent and sovereign state. Since then, Kosovo’s unilateral declaration of independence

290 Letter to UNSC, Dec. 2007, pp. 11-12, 
has remained a matter of dispute at the international level and still lacking the UN’s recognition. To date, Kosovo has been recognized as an independent state by 110 out of 192 United Nations (UN) members, of which 22 are EU Member States.\(^{292}\) Therefore, the EU itself remains divided on the topic as Spain, Romania, Slovakia, Cyprus and Greece refuse to recognize Kosovo’s independence.

The debate over the implications of Kosovo’s unilateral declaration of independence is far too complex to be addressed in detail by this research project. However, what must be underlined here is that just as important as the struggle for international recognition is the fact that Kosovo has also been trying to demonstrate capacity for self-governance before claiming independence. This refers directly to the opportunity for de facto local ownership in Kosovo in the absence of the official recognition of its statehood. This is in agreement with the main argument of this paper because it shows that state-building in Kosovo has been trying to become more functional by investing local actors with more authority.

As Tansey has argued, “although it is not a sovereign state, and may not be recognized as one for some time (if at all), a process has been underway within the entity to establish the structures of a democratic political regime. Developments over recent years in Kosovo reveal significant moves in the creation of a political regime for democratic self-government, albeit in the context of significant levels of international creation of a political regime for democratic self-government.”\(^{293}\) This suggests that the international debate over Kosovo’s right to declare independence is not the only relevant aspect for evaluating the capacity of Kosovo to self-rule since state institutions are in place and have gradually become capable of governing outside the international authority of UNMIK.

The “Kosovo (under UNSCR 1244/99) 2008 Progress Report” released by the European Commission outlined the situation in Kosovo since the proclamation of independence:

Following the declaration, the security situation remained relatively calm, with the exception of two serious incidents in northern Kosovo. In February, two border posts in northern Kosovo were destroyed, and the storming of the court house in Mitrovica/Mitrovicë in March resulted in the death of an UNMIK policeman and several serious injuries. On 9 April, the assembly adopted the Constitution of the Republic of Kosovo, which entered into force on 15 June 2008. The constitution is based on the CSP and envisages a significant role of the European Union in Kosovo. It also

\(^{292}\) For up to date information visit [http://www.kosovothanksyou.com](http://www.kosovothanksyou.com)

provides for the international civilian representative as ultimate supervisory authority as set out in the CSP.\textsuperscript{294}

On the one hand, the post-declaration situation was generally stable and the fears over a possible exodus of the Serbs living in the north region of Kosovo were realized. This permitted the local authorities to adopt a constitution and to continue reforms as regards political institutions, judiciary, police and public administration. On the other hand, the same EC report mentioned that Kosovo remained under international supervision as it had been established by the 2007 Comprehensive Status Proposal and also indicated the increasing responsibility of the EU during the transition from UNMIK.

As mentioned before, Tansey\textsuperscript{295} analysed the relationship between democratisation and statehood with reference to the political developments in Kosovo before the declaration of independence and identified three separate dimensions of statehood: recognition, capacity and cohesion. In the case of Kosovo, as a new political entity that emerged after the 1999 NATO intervention, all three dimensions have been either contested or limited by both endogenous and exogenous factors:

a) limited international recognition denying Kosovo’s legal sovereignty, b) the challenges of building a new state with new institutional, administrative, legislative and economic capacities and c) the divided character of the new territorial entity with a multiethnic society living under the supervision of an international administration and a highly contested state authority. This suggests not only that international recognition of statehood was not viewed as a prerequisite for democratisation, but also that problems of state capacity or state cohesion present far more fundamental challenges to successful democratic regime change. The post-1999 Kosovo followed international standards of democratisation and despite the external administration by UNMIK, local actors build and increased their authority progressively.

Despite the lack of international recognition of statehood, domestic democratic structures have developed over time, and have evolved into an unconventional hybrid political system, part domestic democratic regime, part international authority. Kosovo's recent political trajectory thus highlights the fact that processes of democratic transition are not unique to established states, and can occur outside the state system.\textsuperscript{296}

\textsuperscript{295} Tansey (2007), op. cit.
\textsuperscript{296} Ibid, p. 11.
This overview of the post-conflict statebuilding in Kosovo highlights the dynamic character of the state under the impact of a multitude of external and internal processes. Nonetheless, Kosovo’s international legitimacy has been contested from the moment it declared independence and it has continued to lack the support of the UN Security Council. In this regard, Kosovo’s independence has paradoxically confirmed it as an “unfinished state” given the layers of contestation, as outlined by Surroi:\(^{297}\):

- territorial/regional (Serbia defending its territorial integrity in the post-Yugoslav context),
- global (many of the UN member states have not recognised Kosovo as an independent state and hostility within the Security Council comes from both Russia and China) and
- the obstacles for Kosovo’s perspective for European integration arising from the fact that five EU member states have refused to recognise its independence so far.

This latter obstacle has a major significance given the European Union’s leading role in Kosovo\(^{298}\) as an agent of economic reform, as an institution-builder, as an actor in the domestic process of political reform and accommodation and as a provider of security. The EU presence in Kosovo has had three main component: firstly, the EU Special Representative in Kosovo (EUSR) has been the political factor supporting the local authorities to meet their obligations while promoting overall EU political coordination and who had a double-hatted role with extensive executive powers as the International Civilian Representative. The current EUSR is Samuel Žbogar, appointed initially until 30 June 2014, but his mandate was then extended until 28 February 2015.

The second component has been the European Union Rule of Law Mission in Kosovo (EULEX) with an operational role to monitor, mentor and advise Kosovo’s authorities on police, justice, correctional services and customs. The mission has aimed to develop and strengthen a Kosovo independent multiethnic rule of law system while prioritising immediate problems regarding the protection of minority communities, corruption and the fight against organized crime. The third entity has been a reform driving European Commission Liaison


\(^{298}\) Pond (2008), op. cit.
Office (ECLO) that helps Kosovo in its long-term reforms efforts and that has been deploying enlargement tools under the Stabilisation and Association Process (SAP) in support of institution-building, economic development and meeting European standards (democratisation, rule of law, legislation). Therefore, while this thesis mainly looks at the limited domestic capacities of Kosovo’s political and economic institutions, it also needs to be highlighted that Kosovo’s future in terms of statebuilding progress and its path towards the EU indicates that “for a variety of legal and political reasons, it seems highly likely that Kosovo will need to be fully and wholly sovereign, and its status uncontested, both within the EU and the wider international community.”

The mix of endogenous and exogenous factors considered here highlights not only that Kosovo is a post-conflict, post-communist political entity with contested statehood but that it also represents a unique example of statebuilding. Statebuilding in Kosovo has been combining efforts in support of international recognition, reconciliation, democratisation and institutional capacity while highlighting the importance of developing sustainable local ownership and implementing a multiethnic model of governance capable of securing unity at the same time as enshrining far-reaching minority rights.

Chapter 4: The integration, accommodation and protection of Kosovo Serbs

Can a post-communist, post-conflict, contested entity such as Kosovo, with little or no experience of parliamentary democracy or a market economy and, despite the best efforts of the international community, develop such a political system without reverting to ethnic exclusion, with all the inconsistencies, nuance and idiosyncrasies that have been long compensated for by the local processes of donor states?300

Introduction

This chapter aims to explain how the adoption of the Constitution of Kosovo and the implementation of key legislation on minority rights protection have influenced the integration of the Serb minority in the post-independence context. The focus on promoting a multiethnic democratic model of governance with important consociational elements of power-sharing for Kosovo has pushed reforms to integrate minority communities. In the context of building a multiethnic Kosovo through legal, institutional and administrative reforms, a dilemma discussed here is regarding the balance between de jure measures for the integration of minorities with focus on Kosovo Serbs and the de facto implementation process targeting political, socio-economic, legal and cultural rights of minorities.

This chapter offers an assessment of the political integration of the Serb communities across Kosovo. As the largest minority community, and politically the most difficult ethnic group to integrate within the new state, it seems appropriate to begin an assessment of the development of minority rights protection in Kosovo from this empirical perspective. The overriding aim here is to explore the development of formal legal rights appertaining to minority protection, and the actual implementation of such collective rights “on the ground”. Recognising the potential gulf between de jure and de facto minority protection and empowerment is at the core of the thesis. The task here is to consider such issues from the perspective of the Serbian communities across the territory.

In the post-independence stage the will and capacity to integrate minorities has become a condition for the development of domestic sovereignty in Kosovo. The analysis of the situation of the Serb community is discussed in relation to the institutional commitment,

capacity and sustainability to implement the post-independence multiethnic model of governance. Furthermore, these elements can help explain better the different levels of effectiveness when implementing minority rights in Kosovo and the shared responsibility between state institutions and the Serb community for the success or failure of a comprehensive and sustainable integration.

While highlighting that Kosovo Serbs have been the main target and the priority of designing the multiethnic framework under the guidance of the international community, this chapter also examines the interplay of progress and problems characterizing the Serb minority after independence. I discuss how this framework provides extensive minority rights at central and local levels of governance, political rights, social benefits, language and cultural rights, but their implementation reveals the persistence of important shortcomings as regards the sustainable integration of Kosovo Serbs. After looking in detail at the political participation and representation of Kosovo Serbs, I also examine the socio-economic challenges that influence the effectiveness of the measures adopted to integrate and accommodate the community.

Firstly, regarding the issue of commitment to foster the integration and implementation of minority rights, the level of understanding and the acceptance of the new context by both the majority Albanians and the Serbs indicates that Kosovo’s official pledge to multiethnicity has many limitations too. While the Kosovan authorities have been collaborating for the protection of minority rights as a one of the key conditions for independence, minority Serbs have been highly divided and even though they have shown some commitment to integrate, they are not willing to fully drop their non-constitutional ties with Serbia. Secondly, the institutional capacity to deal with the integration and accommodation of minorities plays a fundamental role in helping Serbs to assume their rights and integrate as equal political partners. However this has not been fully developed and, as this chapter will discuss, Kosovo has a poor capacity to support its constitutional commitments to the management of diversity given its overall severe socio-economic problems and its limited experience as a new state.

---

301 Personal Interviews with Kosovo Albanian and Serb politicians and civil society representatives, February-June 2012, Pristina, Kosovo.
The domestic context of post-war Kosovo has been challenging for the Kosovo Albanians’ aim to assume their new status and build a new state, but also for the Kosovo Serbs and the other smaller minorities affected by the conflict and by the secession from Serbia. In this divided and confusing environment, trying to construct and secure unity has been challenging. However, Kosovo’s path to independence and sustainable statebuilding has required stability and the construction of social cohesion. The point I am making here is that these domestic factors have made it very difficult for Kosovo to pursue the twofold task of integrating its citizens and promoting multiethnicity concomitantly.

One of the conditions for Kosovo’s partially recognized independence has been to show real and full commitment to respect and include Kosovo Serbs and the other minorities in the governance of the new state. Furthermore, while achieving full international recognition (legal sovereignty) may remain the most difficult task for Kosovo, becoming capable of managing its minorities and, thus, protecting all its citizens equally regardless of their identity is a feature of functional post-ethnic conflict states (domestic sovereignty). The legitimacy of its independence and authority may depend more on a real and comprehensive inclusion of all communities.

1.1. *De jure* integration and accommodation of minorities in Kosovo

We declare Kosovo to be a democratic, secular and multiethnic republic, guided by the principles of non-discrimination and equal protection under the law. We shall protect and promote the rights of all communities in Kosovo and create the conditions necessary for their effective participation in political and decision-making processes.

After the declaration of independence on the 17 February 2008, the Constitution was promulgated and defined the Republic of Kosovo an independent, sovereign, democratic, unique and indivisible state and as a “multi-ethnic society consisting of Albanian and other Communities, governed democratically with full respect for the rule of law through its legislative, executive and judicial institutions”. Given this thesis’ aim to discuss the

303 Ibid.
304 From the Declaration of Independence adopted by Assembly of Kosovo on 17 February 2008, full text available at: [http://news.bbc.co.uk/1/hi/world/europe/7249677.stm](http://news.bbc.co.uk/1/hi/world/europe/7249677.stm) [last accessed: 23.08.14]
interplay between the *de jure* and *de facto* management of diversity in Kosovo, it is important to highlight from the start that declaring Kosovo a multiethnic society can be perceived as an overestimation of the ethnic diversity of its population. According to the 2011 census, Kosovo has approximately 1.7 million citizens, of which the Albanian majority represent approximately 93% of the entire population while the rest of 7% consists of Serb, Bosniak, Turkish, Gorani, Montenegrin, Croat and Roma, Ashkali, and Egyptian communities. In concrete terms, independent Kosovo was from the start a *de jure* multiethnic society with a *de facto* largely homogenous society. At the same time, even if the emphasis of the constitution is on establishing a multiethnic civic based Kosovan identity, the formulation “Albanian and other Communities” differentiates the majority community, the Albanians, from the rest of communities, the minorities. As I will indicate later, a similar formulation that is used within several laws and other official documents singles out the Serbian community from “the other communities”, therefore suggesting that the risk of installing a hierarchal order of communities in Kosovo is both of *de jure* and *de facto* nature.

**“Community” not “Minority”**

The Law on Communities also provides a general definition of communities as:

> national, ethnic, cultural, linguistic or religious groups traditionally present in the Republic of Kosovo *that are not in the majority*. These groups are Serb, Turkish, Bosnian, Roma, Ashkali, Egyptian, Gorani and other communities. Members of the community in the majority in the Republic of Kosovo as a whole who are not in the majority in a given municipality shall also be entitled to enjoy the rights listed in this law.

This definition gives the notion of “community” a clear meaning as the equivalent of “minority” and, in consequence, differs from the text of the Constitution that includes the Albanians in the category by saying that communities are: “inhabitants belonging to the same national or ethnic, linguistic, or religious group traditionally present on the territory of the Republic of Kosovo.” Moreover, by using this general understanding of “communities”, the Constitution further divides the notion in two categories: “non-majority communities”

---


307 In the context of the boycott of the census by Serbs in northern Kosovo, the data has not been seen as reliable. However, all estimates indicate the Albanian population at about 90%.


310 Constitution of the Republic of Kosovo, Chapter III, Art. 57 (1).
and “majority community” (Albanians), which are both also present in the constitutional text and in other laws and official documents of Kosovo.

These inconsistencies of using the term “community” instead of “minority” and of also giving different definitions derive from the intention to avoid referring to any group as minorities.\textsuperscript{311} This came as a consequence of Kosovo’s unsettled status under Resolution 1244 and the symbolically important divisions of the past between “constitutive and/or non-constitutive nations.”\textsuperscript{312} Resolution 1244 preserves the sovereignty of the Federal Republic of Yugoslavia (FRY), suggesting that Kosovo Serbs identify themselves as the majority community in the general context of FRY. At the same time, Kosovo Albanians reject any legal connection with FRY and therefore define themselves as a majority within Kosovo.\textsuperscript{313}

It is also important to say that, initially, both the Constitution and the Law on Communities mentioned only 7 minorities in Kosovo (Serb, Turkish, Bosnian, Roma, Ashkali, Egyptian, Gorani) by omitting the Montenegrin and the Croatian communities. As a result, until recently these two minorities were not protected by the Kosovo legislation in the post-independence period and, for instance, were not awarded guaranteed seats in the parliament and were not included as ethnic categories in the 2011 Census. After three years of lobbying and discussion on this issue,\textsuperscript{314} Kosovo authorities agreed to include Montenegrin and Croatian as minority communities and amended the Law on Communities on December 2011.\textsuperscript{315} However, the two communities will remain unrepresented in the Assembly at least until the current electoral mandate finishes. After the amendment, the only visible inclusion was on the list of representatives for the Consultative Council for Communities (CCC),\textsuperscript{316} where Croats and Montenegrins shall each have “two (2) representatives respectively, one (1) of each of whom may be a member of the Assembly of Kosovo.”\textsuperscript{317} Nevertheless, the list of representatives mentioned by CCC specifies only one representative each for the Croatian and Montenegrin communities.

\textsuperscript{311} Personal Interview with Suzana Andelkovic, Advisor Ministry of Communities and Return, 29.05.12, Fushe Kosove.
\textsuperscript{313} Ibid.
\textsuperscript{315} Law No. 04/L-020 “On Amending and supplementing of the Law NO.03/L-047 on the protection and promotion of the rights of communities and their members in Republic of Kosovo”.
\textsuperscript{316} CCC website, http://www.ccc-president-ksgov.net [last accessed: 03.06.14].
\textsuperscript{317} Ibid. Art. 2.
Furthermore, using the notion of “community” instead of “minority” does not have any impact on the commitment to respect human rights and minority rights in accordance with international standards as guaranteed by Article 22 of the Constitution, which mentions the international agreements and instruments that are directly applicable in the territory of Kosovo and that in the case of conflict, have priority over provisions of laws and other acts of public institutions.\footnote{Constitution of the Republic of Kosovo, Art. 22:} Likewise, the constitutional chapter on “Rights of Communities and Their Members”, Article 58 specifies that Kosovo shall respect the standards set forth in the Council of Europe Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages.\footnote{Ibid, Chapter III, Art. 58 (2).} Therefore, by mentioning its commitment to international standards, the Constitution of Kosovo does have two direct references to the term “minority”: “national minorities” and “minority language”.

Article 58 also describes the proactive responsibilities of the Kosovo state to help minority groups protect and promote their identities, to support reconciliation, to develop and enforce anti-discrimination measures, to promote socio-economic, political and cultural equality, to preserve cultural and religious heritage of all communities and to ensure that all communities and their members exercise their constitutional rights. Moreover, “the Republic of Kosovo shall refrain from policies or practices aimed at assimilation of persons belonging to Communities against their will, and shall protect these persons from any action aimed at such assimilation.”\footnote{Ibid, Art. 58 (6).} Therefore, not only the Kosovo Constitution makes the state responsible and proactive in the promotion and protection of minorities, but it also specifies that policies or practices of assimilation are outlawed and against the multiethnic character of Kosovo.

Moreover, despite having been criticised by both supporters and opponents of Kosovo’s independence, the provisions included in the CSP\footnote{The Comprehensive proposal for Kosovo Status Settlement, UNSC, 26 March 2007.} document remain the cornerstone of the
multiethnic democratic model of governance installed in Kosovo. Therefore, in addition to the constitutional framework, by signing several fundamental laws and especially the Law on the Protection and Promotion of the Rights of Communities and their Members, the Kosovo government has constructed a solid system of rights that “should meet Kosovo’s international commitments and requirements for European integration, as long as they are effectively implemented”. As the following sections will illustrate, Kosovo has developed a complex system for minority rights protection that even though it was not envisaged by all its minority communities, it was necessary for dealing with the new position of Serbs in Kosovo. After the war, not only did Serbs become isolated and had to live in small enclaves but their status also changed completely. Serbs needed to be provided with special rights because it was very difficult to become a minority after having been the majority and the community in charge of Yugoslavia and Serbia for such a long period of time.

From this point of view, Kosovo was defined as a multiethnic society so as to help with establishing power-sharing institutions and to give ethnic autonomy and representation as part of the international peace-building toolbox. Nevertheless, all these measures will have a great impact on the long-term as they are also designed to help finalise the status of Kosovo.

---

324 Personal Interviews with Serb, Bosniak, RAE, Turkish politicians and civil society members, Pristina, Prizren, February-June 2012 and 2013.
326 Personal Interview with Lutfi Haziri, PDK MP and ex-minister of Culture and Local Self-Governance, Head of the Negotiation Team for Kosovo, 08.05.12, Pristina, Kosovo.
1.1. Constitutional and institutional provisions for minority rights protection

Kosovo has a solid legal basis for the protection of minorities and of cultural heritage. These guarantees are directly enshrined either in Kosovo's constitution and regulated by the law on the protection and rights of minorities. As the Council of Europe Framework Convention for the Protection of National Minorities is directly applicable in Kosovo and takes precedence over Kosovo legislation, Kosovo has clear obligations to ensure that its own legislation, policies or practices meet the international requirements.\(^{327}\)

The Constitution not only has a chapter on minority rights but also includes special guarantees for participation of non-majority communities in the decision-making process at all levels of governance. To start with, the power-sharing tools that have been included in Kosovo’s constitution can be identified as follows: grand coalition government (ministers from minority groups must be included in the executive; role of community consultative bodies), proportionality (composition of parliament and the judiciary, electoral system, local government and employment in public administration and state-owned companies), veto rights (right to veto on constitutional amendment procedures and on the adoption of vital laws and amendment procedures) and segmental autonomy (special cultural autonomy and protection for minorities as regards language, religion, education, media and symbols).

The most visible political rights of representation are therefore the guaranteed seats in the Assembly and the less visible is their participation within other institutions (vice-president, deputy-mayor and deputy-chair or deputy-speaker in local assemblies). At the central level, Kosovo Serbs have hold several important government offices, including a deputy prime minister, three ministerial and two deputy ministerial posts. Moreover, the director of the Prime Minister’s Office of Communities Affairs (OCA) has been a Serb, while five others have been appointed to the Consultative Council for Communities (CCC), the advisory body operating under the auspices of the President of Kosovo.\(^{328}\)

The Constitution follows the recommendations and responsibilities included in the Ahtisaari package, which emphasizes the rights and freedoms granted to minority communities living in Kosovo.\(^{329}\) Furthermore, Kosovo has not signed human rights treaties

---

\(^{328}\) OSCE “2010 Kosovo Communities Profiles”, Kosovo Serbs Profile, Pristina, February 2011, p. 33.
\(^{329}\) Articles 1.2. “The exercise of public authority in Kosovo shall be based upon the equality of all citizens and respect for the highest level of internationally recognized human rights and fundamental freedoms, as well as the promotion and protection of the rights and contributions of all its
given its unsettled international status, but Art. 22 in the Constitution obliges Kosovo to give priority over its laws to several of the main international agreements such as the Universal Declaration of Human Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the International Covenant on Civil and Political Rights as guarantee for election standards. Kosovo’s constitutional commitment to these international agreements is even more important given that 82% of Kosovo Serbs are dissatisfied with respect for human rights while they also mainly define democracy in terms of “protection of human rights”.

Furthermore, Article 58 of the Constitution affirms the responsibilities of the state in protecting and promoting the rights and interests of communities and mentions the areas in which Kosovo must have a proactive role towards minorities. The responsibilities are:

1. ensure appropriate conditions enabling communities, and their members to preserve, protect, and develop their identities…
2. promote a spirit of tolerance, dialogue and support reconciliation among communities…
3. take all necessary measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their national, ethnic, cultural or religious identity…
4. adopt adequate measures as may be necessary to promote, in all areas of economic, social, political and cultural life, full and effective equality among members of communities…
5. promote the preservation of the cultural and religious heritage of all communities as an integral part of the heritage of Kosovo…
6. take effective actions against all those undermining the enjoyment of the rights of members of communities…
7. The Republic of Kosovo ensures, on a non-discriminatory basis, that all communities and their members may exercise their rights specified in this Constitution.

These responsibilities highlight the positive role that must be taken by state institutions and bodies not only to avoid discrimination but also to achieve equality among communities. Furthermore, Article 59 contains specific rights of communities and their members for maintaining and preserving their culture, receiving public education in one of the official languages or in their own language for pre-school, primary and secondary education, use
their language in public institutions where they represent a sufficient share of the population, and have access to and special representation in public media.

In addition to the constitutional provisions, the Kosovo government passed in 2008 the Law on the Protection and Promotion of the Rights of Communities and their Members in Kosovo, also known as the Law on Communities. Its purpose is to enable minorities to cultivate, preserve and develop their identity by taking affirmative measures to promote full and effective equality in all spheres of life.\(^\text{332}\) The Law mainly repeats the protections laid out in the Constitution, making the state responsible to protect the identity, language, culture, religion, education, media access, and health of all communities. The positive role of the state should especially be targeting areas of socio-economic opportunities, education and political participation.

Article 4 of the Law on Communities outlines the language rights for all communities in Kosovo that shall be respected and regulated in accordance to the provisions of the Law on the Use of Languages.\(^\text{333}\) The Law on languages and Article 4 of the Law on Communities both confirm that Albanian and Serbian are the official languages in Kosovo and “have equal status in its institutions”.\(^\text{334}\) At the municipal level, other community languages (Turkish, Bosnian, Roma) are also languages in official use. Therefore, in addition to the rights of all communities to preserve, maintain and promote their linguistic identity and the local level language rights, Serbian can be equally used in all Kosovo institutions and all official records, documents and laws also have to be kept, issued and published in Serbian. The use of Serbian is guaranteed at all levels of government, from municipal to central level, public companies, schools and all other social environments. The equal status between Albanian spoken by more than 90% of the population and a minority language spoken by only about 3% of the population\(^\text{335}\) is another key privilege for Kosovo Serbs that is designed to help with their accommodation under the authority of Pristina.

Regarding use of language in education, the law stipulates that “all persons belonging to communities shall have the right to receive public education at all levels in one of the official languages of Kosovo of their choice … [and] are entitled to pre-school, primary,
secondary public education in their own language, even if it is not an official language”. These provisions indicate that while non-Serb minorities should always also study one of the official languages, Kosovo Serbs have the right to undertake their studies exclusively in Serbian language. However, given the similarity between the Slavic languages of Kosovo, Bosniaks, Gorani, Montenegrins and Croats are also reported to pursue education solely in Serbian in Belgrade sponsored schools. Furthermore, the Law on Education in the Municipalities of the Republic of Kosovo grants municipalities the opportunity to develop education in Serbian. Schools that teach in Serbian are permitted to follow the curricula and use textbooks “developed by the Ministry of Education of the Republic of Serbia, upon notification to the Ministry of Education, Science and Technology of Kosovo (MEST)”.

The law also requires the Ministry of Education in Kosovo to create an independent commission responsible for reviewing the educational material in Serbian, so as to ensure its conformity with the Kosovo legislation on education. The commission is composed of three Serb representatives, one international member and three representatives selected by MEST. Lastly, the Law on Education offers a special provision for the Serb municipality of Mitrovicë/Mitrovica North as it makes the University of Mitrovicë an autonomous public institution of higher education and give the municipality the “authority to exercise responsibility for this public Serbian language university”. Funding for the university shall be ensured from the budget of Kosovo, but the law nonetheless mentions the possibility of support from the government of Serbia, which must be transparent and made public.

Article 6 of the Law on Communities provides another guarantee for minorities regarding their right to information in their own languages and to establish their own electronic and printed media. As regards the Serb community, “The Government of Kosovo shall be obliged to take all measures within its powers to secure an international frequency plan that will allow the Kosovo Serb Community access to a licensed Kosovo-wide independent Serbian-language television channel operating effectively and without discrimination in accordance with law”. The establishment of a TV channel in Serbian is

336 Law on Communities, Art. 8(1).
337 Law No. 03/L-068 “On Education in the Municipalities of the Republic of Kosovo”, Chapter V, Art. 12.
338 Ibid.
339 Ibid, Art. 13
340 Ibid..
343 Law on Communities, Art. 6(5).
also guaranteed by the Law on Radio Television of Kosovo, which nonetheless ensures that 15% of all programmes are broadcasted in the minority languages.\textsuperscript{344} In terms of religious and cultural rights of minorities, it is noteworthy to mention that the Serbian Orthodox Church in Kosovo “is afforded the protection and enjoyment of its rights, privileges and immunities according to the Law on the Establishment of Special Protective Zones”\textsuperscript{345}

The legal framework in Kosovo stipulates that non-majority communities should also be represented in the judiciary as the Constitution requires that at least 15% of the judges of the Constitutional Court, Supreme Court and any other court established with appeal jurisdiction across Kosovo shall be from Communities that are not in majority in Kosovo, out of which 8% of positions should be allocated to Serbs.\textsuperscript{346} District courts are required to reflect the ethnic composition of the municipalities constituting the district thus allowing for a balanced representation even at the first instance level.

Representation is also guaranteed in the prosecutorial system, Kosovo Judicial Council, Ombudsman Institution and Central Election Commission. In jurisdictions where Serbs are the majority population, there is another extra privilege for their community as candidates for judicial positions within basic courts “may only be recommended for appointment by the two members of the Council elected by Assembly deputies holding seats guaranteed or reserved for the Serb Community in the Republic of Kosovo acting jointly and unanimously”.\textsuperscript{347}

\textbf{Executive level institutions}

As regards central level institutions, Kosovo has a Ministry for Communities and Return (MCT) founded in 2005 with the aim to protect the rights of minorities and returnees as defined in articles 3 and 4 of the Constitution of Kosovo. Besides its task to create conditions for the return of members of all communities in Kosovo, the Ministry’s mandate is also to promote inter-community dialogue, trust and reconciliation and to monitor and coordinate the activities of the Government and other central and local institutions related to minority rights protection:

\begin{quote}
Assuring that policy on Central as well Municipal level contains dispositions for protection of communities right, Human rights and interest of returnee, including fields of free movement, language usage, freedom
\end{quote}

\textsuperscript{344} Law No. 04/L-046 “On Radio Television of Kosovo”, Art. 8(3).
\textsuperscript{345} Law on Communities, Art. 7(6).
\textsuperscript{346} Kosovo Constitution, Article 103, p. 36 AND UNMIK Regulation 2006/25, 27 April 2006.
\textsuperscript{347} Kosovo Constitution, Article 108(10), p. 39.
of expression, equal representation, education, employment and equal approach to jurisdiction, residential settlement, Local services and functions.\textsuperscript{348}

Another important body at the executive level is The Office on Good Governance, Human Rights, Equal Opportunities and Gender (OGG) that has been operational within the Office of the Prime Minister since 2002. This Office has operated in conformity with UNMIK Regulation No. 2001/19 on the Executive Branch of the Provisional Institutions of Self-Governance and oversees the implementation of the Law on Gender Equality, the Anti-Discrimination Law, the Law on the Use of Languages, the Law on Access to the Official Documents, the Administrative Instruction on Equal Opportunities and the Law on Religious Freedoms.

OGG has been mainly mandated with overseeing and advising ministries involved in matters of good governance, human rights, equal opportunity and gender, and with developing relevant policies and guidelines. It can also review legislation, policies, programmes and practices “for compliance with applicable standards of human rights and good governance”.\textsuperscript{349} Although the OGG is not a body explicitly dedicated to minority rights and interests, it is mandated to engage with all communities in relation to its commitment to protect human rights, encourage equal opportunities, address gender issues and sustain good governance.

Furthermore, since 2007, Kosovo has also established Human Rights Units (HRUs) at in all ministries and municipalities of Kosovo.\textsuperscript{350} While closely cooperating and overseeing the implementation of the recommendations of the Ombudsperson Institution, these ministerial Human Rights Units were created to monitor compliance with policies, legislation and activities with applicable human right standards, which implicitly include minority rights. Each Kosovo municipality is also required by law, to have a Human Rights Unit mandated to monitor compliance of human rights at the municipal level: anti-discrimination, gender equality, children’s rights, disabled persons, the rights of communities, use of languages and anti-human trafficking.\textsuperscript{351}

\textsuperscript{348} Ministry for Community and Return website, http://www.mkk-ks.org/?page=2,57, [last accessed: 03.06.14]
\textsuperscript{349} Office for Community Affairs website, http://www.kryeministri-ks.net/zck/?page=2,74 [last accessed: 03.06.14]
\textsuperscript{350} Article 4 of OPM AI No. 2005/08 and Article 3(4) of MLGA AI No. 2011/04.
\textsuperscript{351} Administrative Instruction –MLGA- No.2008/02.
Legislative branch

Kosovo is a parliamentary democracy and according the Constitution, and repeated in the Law on General elections, its unicameral Assembly has 120 deputies. Representatives of minority communities have guaranteed a number of 20 seats. Ten of the guaranteed seats are for Kosovo Serbs and ten for the other communities.\textsuperscript{352} Minority communities are also guaranteed one of five deputy presidents in the Assembly presidency.

For the first two electoral mandates upon the adoption of the constitution, minorities in Kosovo had an additional advantage of also participating in the distribution of the 100 seats outside the guaranteed ones.\textsuperscript{353} Moreover, the 5% threshold necessary for regular political parties did not apply to minority parties, which helped the Independent Liberal Party (SLS) to become part of the governing coalition despite the fact that they received only 2.05% of the votes in the elections.\textsuperscript{354} Therefore, because of the set-aside seat system for minority political parties, the 2010 general elections allowed Serb parties to win 3 additional regular seats, which meant that between 2010 and 2014 the Assembly had 13 Serb deputies representing 3 parties, 8 of which were from SLS.

Overall, the minority political parties had together 25 out of 120 seats in the parliament, representing 20% of the total number of deputies and making them the second biggest parliamentary caucus. This opportunity for minority parties to have such strong decision-making power is even more noteworthy given that in 2010 they won the 25 seats with approximately only 55,000 votes altogether while, for example, the Democratic League of Kosovo (LDK) Albanian party came second in the election by receiving around 170,000 votes and won 27 seats.\textsuperscript{355}

The participation of minorities in decision-making was made even stronger by the consociational-like veto power offered for constitutional amendment procedures. In order to pass proposed laws affecting minorities’ vital interests like language and education, concurrent majorities are necessary: not only a majority of the whole Assembly, but also a majority of minority representatives. Repeal of any relevant laws must also have concurrent-majority consent. By having to be present and vote, minority representatives in the Assembly should be prevented from boycotting the adoption of legislation. Article 81, therefore, names

\textsuperscript{352} Constitution of the Republic of Kosovo, Article 63, p.20.
\textsuperscript{353} Article 148 [Transitional Provisions for the Assembly of Kosovo]: “Any seats gained through elections shall be in addition to the ten (10) reserved seats allocated to the Kosovo Serb Community and other Communities respectively”, Constitution of the Republic of Kosovo, p.57.
the laws that in order to be adopted, amended or repealed, require both the majority of the deputies present and voting and the majority of the deputies present and voting holding seats reserved or guaranteed for representatives of Communities that are not in the majority:

1. Laws changing municipal boundaries, establishing or abolishing municipalities, defining the scope of powers of municipalities and their participation in intermunicipal and cross-border relations;
2. Laws implementing the rights of Communities and their members, other than those set forth in the Constitution;
3. Laws on the use of language;
4. Laws on local elections;
5. Laws on protection of cultural heritage;
6. Laws on religious freedom or on agreements with religious communities;
7. Laws on education;
8. Laws on the use of symbols, including Community symbols and on public holidays.

Furthermore, according to the constitution, the amendment or adoption of laws must be validated by both a majority of the Assembly (two thirds) and a majority of the parliamentary members representing minority communities present and voting (two thirds). Therefore, the inclusion of two supermajorities in the constitution made subsequent constitutional changes very difficult and unlikely. As Korenica and Doli explain this in their analysis of the rigidity of the Kosovo constitution:

It means that, a two-thirds majority at the level of ethnic minority MPs is not a monopoly of Serbian MPs alone, with Serbs being the largest ethnic minority in Kosovo. This, therefore, suggests that the two-thirds minority MPs’ vote in Parliament is neither a prerogative of one ethnic community’s MPs, say Serbian MPs, nor an easily reachable bar from the perspective of other ethnic communities’ MPs.

---

356 Ibid, Article 144: “Any amendment shall require for its adoption the approval of two thirds (2/3) of all deputies of the Assembly including two thirds (2/3) of all deputies of the Assembly holding reserved or guaranteed seats for representatives of communities that are not in the majority in the Republic of Kosovo”.
Consultative Bodies for minorities

Another fundamental opportunity for the promotion and protection of minority rights in Kosovo has been the development of an institutional framework of minority consultative bodies composed of the Communities Consultative Council (CCC), the Committee on Rights and Interests of Communities (CRIC) and the Office for Community Affairs (OCA). The plan to establish these bodies was initiated by the international community with the purpose of “ensuring that constitutional commitments on minority rights are effectively implemented through direct engagement with minority representatives in consultative, decision-making and coordination processes”.

The Communities Consultative Council (CCC) is based in the Office of the President of Kosovo and has a mandate defined by Article 60 in the Constitution and by the Kosovo Law for the protection and promotion of communities: to provide a mechanism for regular exchange between communities and state institutions, to afford the communities the opportunity to participate at an early stage on legislative or policy initiatives, to provide a forum for coordination and consultation amongst communities, to enable communities to participate in the needs assessments, design, monitoring and evaluation of programs that are aimed at their members or are of special relevance to them, to make recommendations during the decision-making process concerning the apportionment of funds for projects aimed at communities, to raise awareness of community concerns within the Republic of Kosovo and to contribute to harmonious relations between all communities within the Republic of Kosovo.

The CCC was founded in 2005 as an informal body of minority representatives linked to the Kosovo Delegation to the status settlement process. The CCC completed a “Framework for the Protection of Rights of Communities in Kosovo”, which offered a complex system of constitutional and legal measures to secure the full protection of rights for members of the non-majority communities in Kosovo. Furthermore, this framework served as the foundation for the “Law on the Promotion and Protection on the Rights of Communities and Their Members”, which was passed in 2008. Since 2008, the CCC has been

359 Law on Communities [03/L-047], Article 12.
a constitutionally-mandated institution that consists of civil society and political minority representatives as well as government officials.

Given the mixed composition of the Consultative Council and its strategic position within the cabinet of the President, minorities in Kosovo have been provided “with a forum from which to monitor and influence the legislative process, and to advance their needs and interests within government programmes and policies”.361 As defined by the law, the Serb community “shall have five (5) representatives, up to two (2) of whom may be members of the Assembly of Kosovo”362, while the other minorities have 14 representatives altogether. Thus, the Consultative Council has been another body offering a privileged position for Serbs as the most important minority community in Kosovo. Nevertheless, the nomination and election of representatives within the CCC have been difficult especially for Kosovo Serbs363 and this is reflected, for example, by the fact that on the list with civil society organizations accredited by the Council, there are only 2 Serb organizations out of a total of 36.364 In comparison there are 8 organizations from the Gorani community and 9 from the Bosniak community. Moreover, even though the head of CCC, Mr. Petar Miletic, is from the Serb community, there are only two Serbs currently working for the Council.

A second minority body in Kosovo has been the Committee on the Rights and Interests of Communities (CRIC), which was created prior to the declaration of independence as one of the key committees in the Kosovo Assembly. The 2001 Constitutional Framework granted the body with co-decision powers and with the responsibility of reviewing laws and making recommendations on draft laws so as to protect the rights and interests of minorities in Kosovo.365 Since 2008, CRIC has been re-confirmed by Article 78 in the Kosovo Constitution as a permanent committee in the Assembly with the purpose to be consulted about proposed laws that may affect the interests of minority communities and with the

361 Ibid.
362 Law on Communities [03/L-047], Article 12 (6).
364 Accredited Serb organizations: Communication for Social Development (CSD) and Center for Peace and Tolerance (CPT), http://www.ccc-president-ksgov.net/tmp/index.php?option=com_content&view=article&id=58&Itemid=68&lang=en [last accessed: 03.06.14]
opportunity to propose laws to address the concerns of minorities, or, in other words, “to act as a legislative catalyst for minority rights in Kosovo”.  

Regarding its structure, CRIC “is composed of one third of one third (1/3) of members who represent the group of deputies of the Assembly holding seats reserved or guaranteed for the Serbian Community, one third (1/3) of members who represent the group of deputies of the Assembly holding seats reserved or guaranteed for other communities that are not in the majority and one third (1/3) of members from the majority community represented in the Assembly”.  

In the 2010 elections the Serb party SLS won 8 seats in the Kosovo Assembly and as a result CRIC had a Serb MP as chairperson, Goran Marinkovic, and a total of 4 Serbs members in the committee.

The Office for Community Affairs (OCA) is another minority consultative body founded in 2008 under the authority of the Office of the Prime Minister. OCA was established to advise the Prime Minister on all issues concerning all communities in Kosovo, including Albanians as a minority in some municipalities. The body aims to help the Government in its efforts to implement the legal framework on the rights of communities and to ensure that governmental policies and measures meet the needs and interests of communities. Its mandate includes: advise the Prime Minister on communities’ related issues, coordinate governmental bodies, independent institutions and also donors and international organizations to ensure that communities’ issues are being effectively addressed throughout Kosovo, monitor and evaluate the implementation of communities related laws and policy and address practical needs of communities by using available funds.

The first director of OCA was Srdjan Sentic, a Kosovo Serb former advisor for Minorities to the Special Representative of the Secretary General for Kosovo and his successor was another Serb representative, Srdjan Popovic, who was also a Senior Advisor of the Prime Minister on community issues. This is therefore another example of Kosovo Serbs holding key upper-level positions in institutions and bodies dealing with the protection and promotion of minority rights.

So far, I have outlined the legal extensive rights and opportunities that have formally established Serbs as the most important minority in Kosovo. Given the provisions offered by

366 Visoka and Beha, op. cit., p. 15.
367 Constitution of the Republic of Kosovo, Article 78.
368 Cabinet Decision on the creation of the Office, No. 06/34, 3 September 2008.
369 Mandate of the Office for Community Affairs, [last accessed: 03.06.14]
370 HLC (2012), op. cit., p. 98.
the constitution and laws relevant for minorities, Serbs can be considered legally as the “most positively discriminated community”\(^\text{371}\) in terms of their political, language, cultural, religious rights. However, as the next section will illustrate there are many challenges for further and permanent integration depending on the commitment, capacity and sustainability efforts proved by both the Serb community and Kosovan authorities.

### 2. Challenges and shortcoming of implementing minority rights

#### 2.1. Kosovo Serb political parties after 2008: SLS and JLS

In the post-independence context, the Serb caucus in the Kosovo Assembly has been mainly divided between the pro-government Independent Liberal Party (Samostalna Liberalna Stranka, SLS) and opposition United Serb List (Jedinstvena srpska lista, JSL). None of the smaller Kosovo Serb parties managed to win more than 1000 votes in the 2010 general elections.\(^\text{372}\) Independent Liberal Party (SLS) has been the largest party representing the Kosovo Serb community within the political system of Kosovo. SLS was established in 2006 in Graçanicë/Gračanica during the Serb boycott of Kosovo institutions and after several years since its foundation the party was still in the stage of growth and geographical expansion in all the regions of Kosovo.

At that time, the international presence in Kosovo was seeking to support a new generation of Serb political elites and SLS focused on adapting to the new context and on what would be more beneficial for the Serb community rather than focusing on the political problems around Kosovo’s unsettled status.\(^\text{373}\) However, their attitude was perceived by Belgrade and its parallel institutions in Kosovo as an act of betrayal.\(^\text{374}\) As a result, SLS had little support in the beginning and had to face opposition even from the Serb community in South Kosovo.

We as a political party decided to participate in the Kosovo institutions because we believe that is the only way to protect the rights of the

---

\(^{371}\) Personal Interviews with Suzana Novoberdali, LDK MP, 15.05.12, Pristina, Kosovo and with Albert Kinolli, Roma MP, 14.05.12.


\(^{374}\) Personal Interviews with SLS politicians, February-June 2012.
community. Otherwise, we would not have had any Serbs left in Kosovo after 2006. So, really and honestly, we have been trying to keep Serbs here. There is no meaning of leading any kind of politics if there are no people here.\textsuperscript{375}

As this statement indicates, one section of the Serb community in Kosovo has understood the fact that the post-conflict and post-independence context has inevitably changed their status and their position within Kosovo. Thus, SLS became the “voice” of the Serbs who did not want to or simply could not depart and who realized that remaining in total opposition and silent within Kosovo politics would have been detrimental for themselves.\textsuperscript{376}

The SLS party has been involved in all areas with Serb population, apart from the northern region of Kosovo. Party representatives believe that they have shown it was the right decision to work with and for Kosovo institutions and that the positive steps to protect the rights of the Serb community and to improve the conditions of life has increased the confidence of the Serb electorate.\textsuperscript{377}

The growing support for SLS was evidenced by the number of votes received in 2010 (14,352) compared to 2007 when SLS participated in elections for the first time and managed to get only 855 votes.\textsuperscript{378}

In the 2007 general elections SLS gained 3 Assembly seats with a limited number of votes and joined the government dominated by the Democratic Party of Kosovo (PDK) and the Democratic League of Kosovo (LDK). During that mandate, SLS ran two ministries, the Ministry for Communities and Returns and the Ministry for Social Welfare and provided two Deputy Ministers. SLS has since benefited from the support of PDK and of the international presences in Kosovo. Nevertheless, the low number of votes won by SLS politicians in 2007 shows the initial difficulty to mobilise Kosovo Serbs and gain their support. The SLS candidates who were then allocated seats in the Kosovo Assembly were Bojan Stojanovic with 281 votes, Slobodan Petrovic with 248 votes and Kosara Nikolic with 172 votes.\textsuperscript{379}

Other important SLS politicians also had extremely low number of votes as it was the case of one future minister, Nenad Rasic, who in 2007 won only 163 votes.\textsuperscript{380} Moreover, the initial lack of popular support for Kosovo Serb representatives was even more accentuated by the

\textsuperscript{375} Personal Interview with Jasmina Živković, Serb Community, MP for SLS, Pristina, 04.04.13.
\textsuperscript{376} Personal interviews with Serb politicians and civil society representatives, February-June 2012 & February-June 2013.
\textsuperscript{377} Ibid.
\textsuperscript{378} Source: Kosovo Central Electoral Commission (CEC) at \url{http://www.kqz-ks.org}.
\textsuperscript{379} \textit{2007 Kosovo Assembly Elections Results} - Detailed results by parties and candidates, July 2007, \url{http://www.osce.org/kosovo/38258}, and \textit{2007 Kosovo Assembly Elections Results} - Seats allocation, \url{http://www.osce.org/kosovo/38259} [last accessed: 03.06.14]
\textsuperscript{380} Ibid.
high number of votes obtained by representatives of smaller minorities. For example, all Bosniak and Turk representatives elected in the 2007 Assembly had over 1000 votes each and, thus, more than the votes won by all SLS candidates together.\textsuperscript{381}

The breakthrough for SLS came in the 2009 municipal elections, when the Kosovo Serb (south of the Ibar) turnout “was ten times higher than in the elections in November 2007”\textsuperscript{382}, with a number of over 10,000 Serbs casting their ballots in both rounds. The certified Kosovo Serb parties competed in the following municipalities: Gjilan, Istog, Kamenica, Lipjan, Novo Brdo, Obiliq, Rahovec, Shterpe, Ferizaj, Viti, Vushtrri, Gracanica, Ranilug, Klokot, Zvecan, Zubin Potok and Leposavic. The 2009 elections represented a great opportunity for SLS to strengthen its influence in the municipalities south of the Ibar after developing “a powerful party structure, and using their participation in the government of Kosovo”.\textsuperscript{383} SLS mayors were elected in the newly formed Serb-majority municipalities of Gračanica/Graçanicë and Klokot-Vrbovac/Klokolet-Vërboc, as well as in the existing municipality Štrpce/Shërpcë. Another SLS mayor was elected in Parteš, a Serb-majority municipality established in June 2010. This offered SLS the foundation from which to become the most successful Kosovo Serb party in the 2010 general elections.

### 2.2. Pragmatism and ethnic outbidding

After the encouraging results in the 2009 municipal elections, the SLS anticipated success in the forthcoming national elections was challenged by the emergence of a new Kosovo Serb party, the United Serb List (JSL). JSL was created with the support of Serbia as a coalition of prominent Serb politicians with links to parties in Belgrade and officials running the parallel institutions in Kosovo.\textsuperscript{384} Among the JSL leaders have been Rada Trajkovic, the head of the Gracanica medical centre and Randjel Nojkic, who the manager of the post office in Gracanica. With kind of assistance from Serbia and the support of Kosovo Serbs working for these institutions, JSL was expected to have an easy win.\textsuperscript{385}

Therefore, the 2010 campaign in Serb areas was dominated by the competition and mutual accusations between SLS and JSL. SLS focused on its achievements, including the

---

\textsuperscript{381} Ibid. The Turk and Bosniak representatives with the lowest number of votes were Mufera Sinik (1040 votes) from KDTP party and Spresa Murati (1061 votes) from VAKAT party.


\textsuperscript{383} Ibid, p. 9.

\textsuperscript{384} Ibid, p. 7.

\textsuperscript{385} Personal Interview with Dragana Milutinovic (Serb minority), Forum ZFD, 05.04.2012, Pristina, Kosovo.
infrastructure improvements it had made in Gracanica and alleged that JSL leaders who are in charge of parallel institutions pressured employees to get their votes.\textsuperscript{386} On the other hand, JSL campaigned against the SLS involvement in central and local institutions, its relationship with the Democratic Party of Kosovo (PDK), the party of prime-minister Thaçi and “alleged that it was buying votes and taking old people’s ID card numbers”.\textsuperscript{387} Nevertheless, the fact that JSL was participating in parliamentary elections for the first time did not help the party to win more than 4 seats in the Assembly (6004 votes and 0.86\% electoral score), which “lead many to question Belgrade’s real influence over the Serbs south of the Ibar”.\textsuperscript{388}

JLS tried to maximize their ethnic votes by choosing a more radical strategy in the competition with its main competitor, SLS. The clear refusal to consider cooperation with the main Albanian party in Kosovo, PDK, as well as the support for the parallel system in Serbian enclaves and the close links to Belgrade put them in contrast with the more pragmatic strategy adopted by SLS.\textsuperscript{389} The two contrasting strategies of the main Serb parties in Kosovo indicate the application of the outbidding model of ethnic politics\textsuperscript{390} according to which, in the case of intra-ethnic competition, parties prefer radical over moderate strategies so as to outdo each other in nationalist rhetoric and receive the support of the ethnic voters.\textsuperscript{391} In these situations, each party seeks to prove that it is more nationalistic than the others by raising its electoral offer for its community. The radical position of JLS has thus created a risk of extremist politics among Kosovo Serb parties that could have destabilized the community and could have undermined “ethnic conflict regulation within a democratic framework”.\textsuperscript{392}

Moreover, as the outbidding thesis explains, extreme parties are expected to gain substantial votes from switches from previous supporters of more moderate parties and this further explains the initial hopes for a JLS success in Kosovo. Nevertheless, the outbidding theory can also predict incorrectly in cases where the existence of power-sharing institutions and consociational arrangements may encourage ethnic parties to compete on more moderate

\begin{footnotesize}
\textsuperscript{387} Ibid, p.41.
\textsuperscript{388} Ibid, p.8 and Personal Interviews with Kosovo Serb representatives between February-June 2012.
\textsuperscript{389} Personal Interviews with JSL and SLS members, February-June 2012, Pristina, Kosovo.
\end{footnotesize}
platforms. Ethnic parties may gain support because they are seen as the strongest voice to represent their community because they reinforce “the perception that they most effectively represent their group’s ethnonational interests.” Pragmatism and willingness to cooperate with the majority represented by Albanian parties have thus been transformed into an advantage for SLS.

What is the point of being part of the Kosovo institutions and boycotting them? If you part of the institutions you should try to get more support and make a change. You cannot help the community if you are boycotting the institutions.

In this context, two elements influenced the performance of JLS in the elections. On the one hand, the support of Serbia and the popularity of the party leaders should have persuaded Kosovo Serbs to vote for JLS and maintain a more negative attitude towards Pristina. One of the party leaders and an important figure within the Serb community, Mrs. Trajkovic, highly criticised SLS’ cooperation with PDK and declared she would not accept to be part of a government coalition led by Hashim Thaci. On the other hand, the Kosovo context was not favourable for JSR because SLS had already developed as the representative political entity of the Serbs south of the Ibar. In the end, JSR won 4 seats in the Assembly and while this can be considered a success for “a newcomer to the political scene”, it was also seen as an indicator of South Kosovo Serbs’ decreasing loyalty to Belgrade and willingness to cooperate more with Pristina by supporting the pro-government approach of SLS.

The fact that SLS entered the elections as part of the former governing coalition and as the winner of local elections in four Serb-municipalities helped the party to get a 2.05% score with around 14,000 votes in the elections (up from 0.15% in 2007) and earn a total number of eight seats in the Assembly, two of which are seats through ballots and six are seats through quotas. The 2010 results made SLS, together with The New Kosova Alliance (AKR) the fifth biggest party in the Assembly and the biggest minority party.

Furthermore, after the 2010 elections SLS had two ministers in the government, Nenad Rasic as a continuing minister of Labour and Social Welfare and Radojica Tomic as minister of Communities and Returns. This was again a great reward for SLS joining the governing

---

394 Personal Interview with Jasmina Živković, Serb Community, MP for SLS, Pristina, 04.04.13.
397 Ibid, p. 23.
coalition as holding such important positions exceeded constitutional rights. The constitution says that the government shall have a minimum of two non-Albanian ministers (one Serb and one from another minority community) and four minority deputy ministers (two Serb and two from other non-majority communities). If there are more than twelve ministers there shall be one additional minister and two additional deputy ministers from the non-majority communities.

2.3. The 2013 and 2014 Local and National Elections: A new dominant coalition for the Serbs

A turning point for the political participation and representation of Serbs in Kosovo was the November 2013 Local Elections. These elections came five years after the declaration of independence and, for the first time, they covered the whole territory of Kosovo, including therefore the four Serb-majority municipalities in the northern part of the country. Moreover, in the context of the agreement reached between Belgrade and Pristina in April 2013, Serbia supported and encouraged the participation of Serbs in these local elections with the general aim of securing control at the local level. Of the total 103 political entities that participated in the elections, there were 27 representing the Serb community.

A crucial change also came with the entrance in the elections of a new Serb political entity, the Civic Initiative “Srpska” (GIS), created and financed by Belgrade and bringing together the Serb parties in Kosovo linked with the Serbian government. The support of Belgrade for these elections proved to have a major impact on mobilizing the Serb minority in Kosovo as shown by the high turnout rates: over 50% on average for the Serb municipalities with numbers as high as 64% in Partesh, clearly over the Kosovo average turnout of 46% in the first round.

The results confirmed a strong dominance for the newcomer GIS Srpska as it won 9 out of 10 municipalities in mayoral elections and a total of 40% of the seats held by Serb

representatives in municipal assemblies throughout Kosovo. Therefore, this victory marginalized SLS and the other Serb parties, while also predicting that GIS Srpska would “become the dominant political force of Kosovo Serbs in the 2014 national elections and most likely the third political force represented in Kosovo Assembly (through the guaranteed minority seats) and the next Serb party in the future government of Kosovo. This will make Serbia a de-facto governing partner of the next government of Kosovo”.  

At the same time, the results for the municipal assemblies show that G.I. Srpska did not manage to secure the absolute majority in any of the Serb-majority municipalities, making necessary the formation of coalitions. Nevertheless, while SLS won only 26 seats across Kosovo, G.I. Srpska secured 72 seats in total, making them the third biggest political entity/party in Kosovo (including Albanian parties) in terms of number of representatives in local assemblies. The 2013 elections suggested the development of a new political landscape for the Kosovo Serbs and a departure from the pro-government strategy materialized by the presence of SLS in the governing coalition with the Albanian majority parties.

The new dominant political representation for Kosovo Serbs at the local level may manifest in the form of a more radical policy in its relationship with the Pristina authorities as suggested, for instance, by the declaration of the elected mayor of North Mitrovica, Krstimir Pantić: “We have won nine municipalities where Serb citizens will never recognize the independence of Kosovo”. However, the Serb community is still highly fragmented as indicated by the fact that only 7 out of the 27 political entities representing Kosovo Serbs managed to obtain more than 3% of the votes, while 15 others scored lower than 1% overall.

As regards the 2014 parliamentary elections, the impact of the “normalization” of the relations between Kosovo and Serbia was again visible in the participation of northern Serb municipalities and in the almost doubled number of recorded votes among Kosovo

---

403 Deda, op.cit., p. 3.
404 ECMI Kosovo, November 2013, op. cit.
405 Törnava, op.cit, p. 8.
406 ECMI Kosovo, December 2013, op. cit.
407 ECMI Kosovo, November 2013, op. cit.
Serbs compared to the 2010 elections (from 24,138 to 46,663). Moreover, as predicted by the results of the 2013 local elections, the Belgrade-backed G.I. Srpska coalition won the majority of votes from the Serbian community. As a result, they replaced the SLS’ supremacy (8 out of 14 Serb seats between 2010-2014) and gained 9 of the 10 guaranteed seats for Kosovo Serbs in the Assembly. Moreover, among the list of the newly elected Srpska MPs are previous leading politicians of the SLS, including its founder and president, Slobodan Petrovic. The only other Serb party that will be present in the new legislature is PDS (Progressive Democratic Party/ Progresivna demokratska stranka), also represented by a former SLS MP and minister, Nenad Rašić.

Lastly, what needs to be mentioned about the 2014 elections results is that the main Albanian party, PDK, has not been capable to form again a new government under its command. Instead, another coalition of the remaining Albanian parties has been trying to form a government. Even though the Serbs MPs still represent a potential important parliamentary group capable of supporting a future coalition, the new political environment and the clear statement made by the Belgrade-oriented Srpska that it would not join an eventual cabinet with the nationalist Vetëvendosje (Self-Determination Movement), makes the future role of the community’s political representatives more difficult to predict.

### 2.4. The effectiveness and legitimacy of Serb representation

By law, the extensive rights and powers that representatives of Kosovo Serbs and other minorities have been awarded give them the consociational option to block important government actions that may undermine their interests. In reality, the situation has been more modest as minority representatives have lacked the political will to put pressure on the central institutions because they depended on the support of the Albanian main parties and they did not want to jeopardise their positions or create problems for the community they have

---

410 The 2014 elections introduced the Guaranteed Seats System for the representation of minorities in the Assembly, replacing the Reserved Seats System, which was applied in previous national elections. Other former SLS MPs who changed to Srpska are Saša Milosavljevic, Jasmina Živkovic and Jelena Bontic (*ECMI Kosovo*, July 2014, op. cit.).
Moreover, as regards the consociational character of the executive, despite minority representation at the highest level of governance, the system is weak. If ministers from minority communities are MPs, then they do not necessarily require majority support from minority MPs, meaning that “the system is more concerned with minority representation than with minority consent”.\textsuperscript{414}

In order for minorities to represent a stronger and effective political force, there is need for more consensus among their representatives. This is difficult to achieve and maintain given that opportunism or self-interest can be exploited by the main parties to place different groups or politicians against each other. Although the public political debate is focused on policies and governmental strategies, voters of all communities in Kosovo believe that their political representatives are fighting to prolong their stay in power to maximize their own private gains at the expense of their constituencies.\textsuperscript{415} This also applies to the public perception of the Serb politicians, as one Serb civil society representatives observes:

> Serbian politicians are not real representatives of the Serbian community in Kosovo as they do not work for the interest of the people they represent but for their personal interest. Having to more or less limit your cooperation to representatives of your own community is inevitable in Kosovo.\textsuperscript{416}

For instance, the post-2010 government coalition depended on the votes of minority representatives who, despite constantly complaining about the position of their communities,\textsuperscript{417} have not entirely used this political leverage to advance their influence and become more active in spite of having the institutional tools to protect their rights.\textsuperscript{418} Instead, they continued to be fragmented and in competition with their political rivals. As regards the Kosovo Serb politicians, a 2012 Crisis Group Report concluded:

> Infighting, mutual accusations of corruption and cronyism and jockeying for better positions with Belgrade, Pristina and key embassies are the main features of Serb politics. The SLS and JSL accuse each other above all of corruption and not having Serb community best interests at heart. The JSL sees the SLS as sell-outs following Pristina’s orders; the SLS sees JSL as politicians who have been in charge of Serbia-funded health care and other

\textsuperscript{413} Personal Interview with Andrea Najvirtova, \textit{ECMI Kosovo}, 10.05.2012, Pristina, Kosovo.
\textsuperscript{415} UNDP Public Pulse Reports for Kosovo, I-VII, 2010-2014.
\textsuperscript{416} Personal Interview with Nenad Maksimovic, Center for Peace and Tolerance, Gracanica, Kosovo, 06.03.12.
\textsuperscript{417} Personal Interviews with political representatives of Serb, RAE, Bosniak communities in Kosovo, February-June 2012, Pristina, Kosovo.
\textsuperscript{418} This behaviour was confirmed by most NGOs working with minority rights protection in Kosovo (ECMI, KFOS, CIVIKOS, Balkan Sunflower, YIHR, HLC), Personal Interviews February-June 2012, Pristina, Kosovo.
institutions for over a decade with only financial mismanagement as a visible result. Many in the Serb population are left disillusioned, while youth interested in social, economic and political development finds a home in the growing NGO sector.\(^\text{419}\)

Another critical issue is the level of credibility of politicians, which nevertheless characterizes the entire political environment in Kosovo. The population has been reported to be more and more skeptical about politicians, viewing the disputes within and between parties as irrelevant, self-interested and far removed from their needs, while confidence in parties and political institutions has been plummeting. When Kosovars were polled in 2012 regarding their faith in political party leaders, results reveal that a majority of the population (33\%) did not trust any political leaders, up from 23\% in 2010.\(^\text{420}\) An explanation for this situation was given by one of the key political figures in Kosovo, the Serb minister Nenad Rasic:

Democratization and statebuilding take time. Firstly, education is necessary. Secondly, implementation depends on the attitude of both people and politicians (tolerance, patience). Politicians have a great responsibility and currently a key problem in Kosovo is that they lack consistency in their speeches, opinions or political views. As a result Kosovo politics is not stable and does not have one direction when it comes to essential issues that should not even be disputed.\(^\text{421}\)

Contestation from inside the Serb community has also affected the legitimacy of their representatives, who were advantaged by the existence of guaranteed seats despite the small numbers of votes that they won in elections. The reply to such accusations has normally been that they reflect resentment for not being in power or the lack of willingness and incapacity to understand the practical and inevitable need for collaborating with Kosovo authorities.\(^\text{422}\) In the words of Suzana Andelkovic, Advisor of the Minister of Communities and Return, “there is a lack of capacity to use rights but also a need of better understanding of their rights”.\(^\text{423}\) In the post-independence context of Kosovo, the fragile legitimacy of Serb representatives has represented a key disadvantage for the wider aim of integrating the Serb community as a whole.

\(^{421}\) Personal Interview with Nenad Rasic, Minister of Labour and Social Welfare, 18.05.2012, Pristina, Kosovo.
\(^{422}\) Council for Inclusive Governance, “Serbs in Kosovo’s Institutions”, February 2012.
\(^{423}\) Personal Interview with Suzana Andelkovic, Advisor of the Minister of Communities and Return on 29.05.12, Fushe Kosova, Kosovo.
At the same time, the growing participation of Kosovo Serbs in local and national elections has been a positive development for building the legitimacy of both their political representatives and the institutions these work for. This positive trend nonetheless challenges the argument that the only obstacle to integration is the lack of will that characterizes the Serb community. As Briscoe and Price put it, “[t]here is no shortage of other institutions, provisions and procedures designed to safeguard and promote minority participation. The challenge is getting ethnic Serbs to use the mechanisms and participate in the political process”.\textsuperscript{424} The idea of convincing Serbs to use political mechanisms is not only about how much willingness there is within the community but also about the capacity of Kosovo Serbs to actually take advantage of all their constitutional privileges that reach far beyond using elections to gain strong political representation. However, even in the case of total participation, the \textit{de facto} integration and acceptance of the Serbs would continue to be a challenge, given the general non-recognizing position and perception of the community:

No Kosovo Serb recognizes the independence of Kosovo in reality and if they say the contrary it is only for personal interests and for creating a good image of themselves.

Albanians affirm that if Serbs want to benefit of their rights than they must recognize the authority of Kosovo. Rights should not be the subject of one’s political vision and they should not be violated in any way. Rights provided by the constitution cannot be taken away for having a different political view.\textsuperscript{425}

Employment, education, cultural and religious rights as well as the decentralization of power for Serb-majority municipalities are the other key opportunities designed to help promoting and protecting Serb integration. Nevertheless, besides the integration progress that has been done in some of the Serb-majority municipalities, the participation of Serbs in public affairs outside these areas has been highly limited:

Kosovo Serb community is neither represented in the legislative nor the executive branch of any of the municipalities in which they comprise a minority. The community relies mainly on minority community participation mechanisms, such as communities committees, municipal community offices, deputy chairperson of the municipal assembly for communities, and deputy mayor for communities where these have been established. This is partly due to neglect by Kosovo institutions, but also due to the ongoing lack of engagement of the community in local level elections.\textsuperscript{426}


\textsuperscript{425} Interview with Nenad Maksimovic, Serb civil society representative.

\textsuperscript{426} OSCE “2010 Kosovo Communities Profiles” - Kosovo Serb Profile, p. 33.
So far, I have looked at the institutional set-up and some of the key policies on minority rights protection in Kosovo but also looked at some of the integration challenges deriving from within the Serbian community. Some of these are the lack of unity and cooperation, different views on how to help the community (participation or support the parallel system), lack of commitment from self-interested actors and representatives, contested support from Albanian parties and limited capacity to develop a self-sustainable strong position of the entire Serb community in Kosovo. Furthermore, the Serb community has been rather skeptical about their new status in post-conflict and post-independence Kosovo and the idea of integration will be harder to penetrate beyond the elite level institutional forms of representation and participation. The next section will pay more attention to the capacity and sustainability challenges faced by the Serb community.

### 2.5. Kosovo Serbs: Between parallel institutions and integration

The role and influence of the Kosovo Serb community in the political and socio-economic landscape of Kosovo has changed significantly over the past 50 years. From playing a leading role during the early days of the Socialist Federal Republic of Yugoslavia, when Kosovo Serbs held key posts in the then, provincial administration, to the present day when the community’s influence is primarily confined to the municipalities where the community is the numerical majority.\(^{427}\)

Before 1999, Kosovo Serbs made up around 10% of the population.\(^{428}\) They dominated urban centres and virtually monopolised employment in public institutions and state-owned industries. By 1999 the population had further declined relative to the Albanian population (down to an estimated 5% to 8% of the population). Following the flight of an estimated 200,000 Serbs and Roma after July 1999, 100,000 Serbs, including internally displaced persons (IDPs), were thought to remain in Kosovo.\(^ {429}\) A third of them were living in the predominantly Serbian municipalities of Zvečane/Zveqan, Leposavić/Leposaviq, Zubin Potok, Štrpce/Shtërpec and Mitrovica/ë North. These municipalities, with minority Albanian populations, are still helped by the Serbian government through parallel structures, which

\(^{427}\) OSCE “2010 Kosovo Communities Profiles”- Kosovo Serb Profile, Pristina, February 2011, p. 3.
\(^{429}\) Ibid, p. 19.
fund municipal and other services, including hospitals, schools and a parallel university in the divided town of Mitrovica/e.\textsuperscript{430}

Approximately 74,000 Serbs have been thought to live south of the Ibar\textsuperscript{431}, in dispersed, generally small, rural settlements outside two bigger towns, Gračanica on the outskirts of Pristina and Štrpce on the border with Macedonia. The Office for Community Affairs (OCA) mentions that Kosovo Serbs make up about 6% of the country’s overall population, which corresponds to roughly 114,000 people.\textsuperscript{432} However, if we consider the results of the 2011 Kosovo Census, the number of registered Serbs in Kosovo is 25,532\textsuperscript{433}, data obtained without the northern municipalities of Zveçan/Zvečan, Leposaviq/Leposavić and Zubin Potok, where the Central Census Commission could not establish Municipal Commissions. The data from the census shows that the Serb community is significantly more represented compared to the other minority communities. It could also have important consequences in terms of quotas and proportionality of minorities given that official numbers now place the Serb community third after the Albanian majority and the Bosniak minority.\textsuperscript{434}

Nevertheless, after the 2008 declaration of independence the process of decentralization created new municipalities throughout Kosovo, raising the number of Serb-majority municipalities to nine. The new Serb-majority municipalities were Ranilug/Ranillug, Klokot/Kllokot and Novo Brdo/Novobërdë (enlarged) in the Gjilan/Gnjilane region, Gračanica/Graçanicë in the Prishtinë/Pristina region and since June 2010 the new municipality of Parteš/Partesh was established in the Gjilan/Gnjilane region as well.\textsuperscript{435}

After the war and in the new post-independence context, the position of Kosovo Serbs has remained dependent on Serbia. The installation of the parallel education, health, hospital and police systems in northern Kosovo close to the Serbian border and in enclaves where Serbs are a majority has been of great support for the Serb community.\textsuperscript{436} However, this undermines the authority of Kosovo and as long as it cannot replace and competes with the parallel system, the integration of Serbs can remain unsustainable. On-going language barriers and separate Albanian and Serbian health and education systems are negative factors

\textsuperscript{432} The Office for Community Affairs (OCA) website, http://www.kryeministri-ks.net/zck/?page=2,65 [last accessed: 19/02/2014]
\textsuperscript{434} GAP Institute for Advanced Studies, “Population Census Data and their Impact on Public Policies”, Pristina, October 2012.
\textsuperscript{435} OSCE “2010 Kosovo Communities Profiles”- Kosovo Serb Profile, Pristina, February 2011, p. 3.
\textsuperscript{436} ICG Report, “Serb integration in Kosovo: taking the plunge”, p. 16.
for integration, with the reality being that after the declaration of independence, many members of the Kosovo Serb community continue to live separately from the majority. This is the dominant view among Kosovo Serbs as regards the tools for protecting and integrating them in the post-independence context and as one civil society representative observes:

The provisions for minorities can also be seen from a different angle. After the war, Serbs have been actually become isolated in in Kosovo and more or less forced to leave in small enclaves that are now being turned into municipalities.

Moreover, 2011 statistics indicated that while 58% of Kosovo Albanians and 84% of non-Serb minorities were satisfied with relations between different communities in Kosovo, 72% of Kosovo Serbs were dissatisfied. In the context of promoting minority rights that highlight cultural differences (language rights, religious rights) there is a need to balance them with integration so as to prevent people using them as an excuse to reduce social ties and segregate communities.

Reconciliation has not happened yet in Kosovo. We have a continuation of war by other means. As long as there is no reconciliation the situation cannot improve, despite the examples of Serbs who have integrated, who speak Albanian and who accept the new state. The problem is the position taken by the majority of Serbs and the impact of Serbia’s determination to motivate them against integrating within Kosovo.

The lack of contact between Serbs and Albanians also represents a problem for reconciliation and the improvement of inter-ethnic relations. The UNDP Public Pulse Report from the beginning of 2012 showed that a majority (70%) of all Kosovars, regardless of their ethnicity, had not had contact with other ethnic groups within the past three months. When analysed by ethnicity, the proportion of those who had not had any contact with other ethnic groups in the past three months was the highest among Albanians (70%), followed by Serbs (65% as opposed to 46.5% in polls from November 2011), and then other minority respondents (18%). Moreover, because this chapter highlights the role of pragmatic

---

437 Personal Interviews with Albanian and Serb civil society representatives, February-June 2012.
438 Interview with Nenad Maksimovic
441 Personal Interview with Sami Kurteshi, Kosovo Ombudsperson, Pristina, Kosovo. 18.05.12.
442 *UNDP* Public Pulse Report 4, August 2012, p. 15.
443 Ibid.
measures and socio-economic incentives for integration it is important to note that when those that had inter-ethnic contacts were asked about the reasons for their contacts with other ethnic groups, the majority of 27%, stated that they met in the marketplace, followed by 25% reporting to live in the same neighbourhood, while only 11% had business relations with other ethnic groups.\textsuperscript{444}

Serbia continues to deny Kosovo’s independence and supports parallel institutions so as to undermine the Kosovo government’s ability to develop inclusive democratic institutions and convince Kosovo Serbs to fully accept its authority. Following the political developments of February 2008, many Kosovo Serbs withdrew from Kosovo’s institutions and public sphere, reversing the trend of the previous nine years in which Kosovo Serbs had gradually started to participate in Kosovo’s public life.\textsuperscript{445} While in some regions the presence of parallel institutions is mostly symbolic, in other, they deliver the bulk of the local governance and services required by the Kosovo Serb community, including administration, education and health. However, the current process of transferring competencies and the creation of new Kosovo municipalities with Serb majority has reduced their influence.\textsuperscript{446} In response, the Government of Serbia has begun to streamline and restructure its institutions and service provision in Kosovo.\textsuperscript{447}

Kosovo Serbs access municipal services and public utilities through a combination of the Serbia-run and Kosovo institutions. The selection of a service provider is based on needs and pragmatism, particularly in relation to proximity, availability and cost.\textsuperscript{448}

This indicates that, generally, Serbs have better opportunities to access Kosovo services especially in the new municipalities with a Serb-majority population. Unlike the Serbs in the north who live in a mono-ethnic environment, a growing number of Serbs in the south have been more willing to cooperate with Pristina, pending concrete and tangible measures of good will are offered by the Kosovo Government and the international community. The formula that some Serbs are in the process of adopting is to respect the laws of Kosovo.

\textsuperscript{444} Ibid, p. 16.  
\textsuperscript{445} KIPRED Policy Brief #8, “Kosovo Serbs after the Declaration of Independence: the right momentum for Confidence Building Measures”, 2008, Pristina.  
\textsuperscript{447} OSCE “2010 Kosovo Communities Profiles”- Kosovo Serb Profile, p. 21.  
\textsuperscript{448} Ibid, p. 22.
without accepting its full independence\textsuperscript{449} and to sustain decentralization as a vital process that will ensure their future in Kosovo. As many Serb political and civil society representatives in Kosovo highlight,\textsuperscript{450} it is essential that Kosovo’s leaders show openness and understanding to this political evolution. These issues will be discussed in detail in the last chapter of this thesis.

Furthermore, despite the increasing turnout and the number of benefits gained by the Serbian community within central institutions, the public perception of the political environment in Kosovo has not been positive. A 2011 post-election survey showed that Kosovo Serbs were more dissatisfied with the overall situation in Kosovo (80\%) than both Kosovo Albanians and non-Serb minorities (61\%) and also that Kosovo Serbs identified general political problems as a main concern at triple the percentage of Albanians (39\% and 13\%, respectively).\textsuperscript{451}

Another contrast was revealed in relation to the assessment of democratization, as while the majority (57\%) of Kosovo Albanians and non-Serb minorities view Kosovo as a democracy, 90\% of Kosovo Serbs do not believe Kosovo is a democracy.\textsuperscript{452} Such a drastic opinion of the most important minority community cannot be ignored in the context of Kosovo’s focus on the multiethnic character of its democratic system of governance. It is nonetheless a worrying situation for the Serb politicians in Kosovo in their attempt to reach out to their community for electoral support and build up their legitimacy. The government of Kosovo has been investing and offering support to the Serb minority in order to integrate them,\textsuperscript{453} but at the same time it has also been challenged by Serbia’s efforts to convince Kosovo Serbs to remain loyal and deny the authority of Pristina. As previously mentioned, the post-2013 emergence of G.I. Srpska as the new main political force of Kosovo Serbs further complicates the \textit{de facto} participation and integration of the minority.

A key issue for the Kosovo government has thus been the elimination of the parallel system that limits the integration of Serbs in the society, which is not easy to accomplish given that in practical terms the health centres and hospitals “are larger and better equipped than their Kosovo rivals, and schools are almost entirely in the Serbian system”.\textsuperscript{454} Access to

\textsuperscript{449} Personal Interviews with Serb political and civil society representatives, February-June 2012 and March-June 2013.
\textsuperscript{450} Ibid
\textsuperscript{451} Post-Election Public Opinion in Kosovo, \textit{IFES}, 2011, p. 2.
\textsuperscript{452} Ibid, p. 3.
health services, access to education and access to justice are fundamental rights that Kosovo needs to respect and provide for all its communities.

There have been about 40,000 people (mainly Serbs but also Roma, Goranis, etc.) in Kosovo receiving support from the Government of Serbia and around 21,000 individuals on payroll receiving at least minimal wages. Nevertheless, Serbia has been pressured to cease its funding by both Kosovo authorities and the international community. In this context, the alternative for Kosovo Serbs would be to find jobs in the Kosovo public or private sectors. In Kosovo there are three major possible areas of employment: public companies (PTK, the energy company, the airport), public institutions and private businesses. In this context, the private option is challenging given it is very difficult for Serbs to find an Albanian private employer as they do not have to meet quotas for employing minorities. Consequently, there is much dissatisfaction among Kosovo Serbs about the lack of employment opportunities and the gap between elite and community levels of integration is further highlighted by the fact that there has been little progress in this regard despite having Serbs holding key ministerial roles:

The minister of labour, who is an “Albanian” Serb, has not been interested to change the legislation so as to help dealing with under-representation. He does not use his ethnicity for the benefit of its community but Albanians are using his ethnicity for the national interest of Kosovo.

As the next sections will illustrate, regarding the other employment options, the number of Serbs working for Kosovo public companies has been extremely low (approximately 0.74%) , despite the constitutional guarantees for proportional representation for communities in public enterprises (Article 61). Moreover, in public institutions, the law on civil service provides that 10% of communities should work in public institutions and be equally represented at all levels. In practice, the number of Serbs working for public institutions is only about 5% and besides some ministries that respect the quota, most of them

---

458 Interview with Nenad Maksimovic.
460 Assembly of Kosovo, 13 May 2010. Law on the Civil Service of the Republic of Kosovo. Law No. 03/L-149, Article 11.3.
have very small percentages of minority employees and some do not have any Serbian employees at all.

3. Socio-economic challenges for the integration of Serbs

3.1. Integration and pragmatism

Surrounded by Kosovo government authority, the southern Serbs are constantly balancing their loyalties and adjusting their interests and emotions to reality. They depend on a mix of heavy Belgrade subsidies and small-scale agriculture, but relations with Pristina are improving. Serbs are taking Kosovo documents and registering with state authorities, paying electricity bills to the Kosovo Energy Company (KEK) and using Kosovo mobile phones after their power was cut and Serbian mobile service was forcibly dismantled. This pragmatic approach is based on need to remain safe and commitment to staying where they live. Confidence can grow gradually, but full integration in Kosovo society is harder to imagine.\(^{461}\)

The passage above describes how the position of the Serbs in southern Kosovo in relation to accepting or not the steps towards integration has not been completely dependent on the unsettled status of Kosovo. On the one hand, the international presence in Kosovo has been a great factor through its constant financial and technical support directed especially towards the integration of the Serb community.\(^{462}\) On the other hand, as this chapter explains, the situation of Kosovo Serbs south of the Ibar in the post-independence context has mainly been affected by practical issues and policies applied by both Kosovo and Serbia.

The dependency of Kosovo Serbs on the support provided by Serbia could not have been instantly eradicated by the newly born state of Kosovo going through a multifaceted process of statebuilding, economic development and democratization. Kosovo Serbs have also resisted employment in Kosovo institutions under the influence of the Serbian Government’s policy to boycott the authority of Pristina after the declaration of independence and the development of the Serbian parallel system. Therefore, this has been one of the main reasons for the high unemployment numbers within the Kosovo Serb community.

However, the so far pragmatic measures and policies developed by Pristina, varying from constitutional and legal extensive minority rights to the inclusion of Serbs within public institutions and the implementation of decentralization, have determined some progress in

\(^{462}\) Personal Interviews with Kosovo Albanian and Serbian civil society representatives, February-June 2012, Pristina, Kosovo.
Personal Interview with Chris Decker, Programme Coordinator, UNDP, 18.05.2012, Pristina, Kosovo.
regard with Kosovo Serbs’ willingness to cooperate more with the authorities and participate within Kosovo’s public life. Statistics show that Kosovo Serbs express less confidence in Kosovo institutions than all other communities as only 28% have confidence in the municipal assemblies, 24% in the police, 23% in the media, 8% in political party leaders, 5% in Courts in Kosovo and, at the bottom of the list, only 4% of Serbs have confidence in the Kosovo Assembly.  

The concern of Kosovo Serbs for their safety at the same time with their desire to stay where they live are fundamental issues that may require pragmatic policies and actions from the authorities so as to improve the communities’ standards of life through socio-economic development and cultural opportunities but also through equal representation and anti-discrimination measures. While some key steps have been made in this direction, the main challenge for sustainable integration of Serbs may require not only enhancing the current strategy and support for high-level representation and participation, but also extending the integration efforts at the community level even more. As Gjuljeta Mushkolaj, former judge at the Kosovo Constitutional Court remarks, “Kosovo leaders are not creative enough and do not discuss these possibilities”. From this point of view, the will and capacity of the Kosovo state are key factors in progressing with the integration of the Serb minority. Therefore, Kosovo Serbs’ decision to accept or not Kosovo’s authority as their new state has much to do with pragmatism and the necessity to adjust to reality (rational choice). As the attitude of most Serbs living in south Kosovo shows, integration is not merely dependent on arguments about secession and losing Serbian citizenship.

---

463 Post-Election Public Opinion in Kosovo, IFES, 2011, p. 16.
464 Personal Interview with Refik Saciri, Deputy Minister for the Ministry of European Integration, 28.05.2012, Pristina, Kosovo.
465 Personal Interview with Gjuljeta Mushkolaj, judge at the Constitutional Court and former member of the Constitutional Commission in Kosovo, 25.05.12, Pristina, Kosovo.
3.2. Employment in the public sector

Since the Public Sector in situation poverty is often the biggest employer, many groups will be vying for positions (jobs) not only in government but in the Public sector in general. [...] Managing diversity in the Public Service is critical in post conflict situations. If not well handled, it will disrupt any efforts in reconstructing capacities for Public service. Political leadership needs to take an integrative and strategic stand on this issue providing a political framework as well as a strategic objective of tapping and utilising the full potential and contribution of all segments of the population for development.466

As indicated by this extract from one of the UN reports on building capacities for public service in post-conflict countries467, in a divided post-war society such as Kosovo the number of minorities employed in the public sector can have great significance. To discuss this in relation to the integration of Kosovo Serbs and the consociational proportionality principle in public administration, I will use the information provided by a policy study on community employment in Kosovo public institutions that was published in 2010 by the Office for Community Affairs within the Office of the Prime Minister.468

In this report, a number of measures have been recommended to increase employment of minorities throughout the public sector in Kosovo. Some of the main recommendations were related to: (a) harmonization of recruitment procedures in publicly owned enterprises; (b) advertisement of positions through a newly established information sharing network between central and local level; (c) development of guidelines and professional criteria for specific vacancy positions; and (d) apply a quota system in which all communities would be represented equally in the Kosovo Civil Service and Publicly Owned Enterprises. In practice, a more recent policy review of the Kosovo Government from 2012469 indicated that the ethnic composition of Civil Service was as follows: out of a total of 20,531 civil servants, there were 18,480 Albanians, 997 Serbs and the rest belonging to other minorities. Kosovo Serbs therefore represented 4.9% of the civil servants in Kosovo.

467 See also UN Department of Economic and Social Development Report, “Building Capacities for Public Service in Post-Conflict Countries”, 2007.
468 “Policy Study No.1”, p. 35.
Moreover, according to the 2010 Policy Study the two representative institutions of Kosovo, the Assembly and the Office of the President, had together a total number of 182 civil servants, of which 160 were members of the majority community and 10 were Serbs. Percentages are as follows: 87.91% are members of the majority community and 12.09% belong to non-majority communities, respectively 5.49% are Serbs. The Assembly of Kosovo had a total of 147 civil servants, out of which 128 were members of the majority community (87.07%) and 10 belonged to the Serbs community (6.8%).470 As regards the Office of the President, all 6 political appointees were Albanian, while at the civil service level the Policy Study reported that there were no Serbs.471

The Government of the Republic of Kosovo, without the Office of the Prime Minister, employed a total of 5489 civil servants, out of which 5051 were members of the majority community and 438 belong to non-majority communities. There were 279 Serbs representing 5.08% of the total employees and at managerial level there were 29 (3.2%) Serbs out of 907 staff members in total. The Office of the Prime Minister confirmed it had only 2 Serbs from a total of 207 employees. However, one of these two Serb representatives was also the only minority member of staff to hold a political/managerial position across the hierarchy.

Another relevant example is that of the Ministry of Communities and Returns (MCR), which indicated a total of 96 employees with 50% members of the majority and 50% of non-majority communities. There were 2 Serbs (25%) out of 8 employees at the political level and 28 Serbs (31.81%) working as civil servants, making it the most positive example of Serb representation within ministries. The report also showed that the Ministry of Culture, Youth and Sports (MCYS) had a total of 317 employees with only 11 Serbs (3.55%) with all employees at the political level belonging to the Albanian community.

Within other ministries, the numbers of Serb employees tended to be much lower: 44 Serbs in the Ministry of Internal Affairs (MIA), 26 in the Ministry of Justice, 17 in the Ministry of Public Administration (MPA), 1.8% in the Ministry of Economy and Finance (MEF), 2 Serbs in the Ministry of Education, Science and Technology (MEST) only 1 Serb working in the Ministry of Local Government Administration (MLGA) and 1 for the Ministry of Environment and Spatial Planning (MESP), no Serbs in the Ministry of Trade and Industry (MTI), the Ministry of Energy and Mining (MEM) or the Ministry of Foreign Affairs (MFA). Furthermore, the independent institutions, executive agencies and regulators included in the

470 Policy Study No.1, p. 36.
471 Ibid, p. 36.
2010 study employed a total of 571 civil servants, out of which 63 were Serbs (11.03%).\footnote{472} Altogether, the number of Serbs within central level institutions represented \textbf{5.08\%} of the total employees.

Regarding local level governance, combined, the municipalities included in the 2010 study employed a total of 9,197 civil servants, out of which there were only 280 employees belonging to the Serb minority.\footnote{473} In percentages, the Serb representation in municipality level was of \textbf{3.06\%}, out of which only 17 were employed at the management level. In regards with Publicly Owned Enterprises (POEs), the study showed that out of a total of 12,243 staff, there were only 91 Serbs (\textbf{0.75\%}) and 3 working at the management level.\footnote{474} Another positive example is however the composition of Kosovo Police (KP) as it reflected the ethnic diversity of the population of Kosovo. Out of the total 8346 KP officers and civil staff there were 758 Serbs representing \textbf{8.99\%}.\footnote{475}

While the quota system may have its flaws, without the quota system the numbers would be even lower. Today there is a growing realization that better representation across the board would contribute to political stabilization and the integration of minorities into all levels of Kosovo’s public sector. The responsibility is manifold and lies primarily with the authorities to bring decision-making closer to the people. The Serb community has a major responsibility to be more assertive and engage in deliberation, not only in its most immediate interests but also on national priorities.\footnote{476}

Furthermore, the 2010 report indicates that the quota system should be based on UNMIK regulation 2001/19 which stipulates that “the non-majority community representation in the composition of the Civil Service at all levels shall be closely proportionate to the representation of non-majority communities in the Assembly”.\footnote{477} Consequently, in order to respect the system of guaranteed seats in the Assembly, provided by Article 64(2) of the Constitution, communities should be represented as follows in the Civil Service and POEs: 83.33\% for members of the majority community and 16.67\% for members of non-majority communities, while the quota for members of the Serb community should be 8.33\%.\footnote{478}

\begin{footnotesize}
\footnote{472} Ibid, p. 55.  
\footnote{473} Ibid, p. 60.  
\footnote{474} Ibid, p. 73.  
\footnote{475} Kosovo Government, June 2012, op. cit., p. 223.  
\footnote{476} PER-K and D4D, March 2012, op. cit., p. 12.  
\footnote{477} UNMIK/REG/2001/19, Section 4(2), September 2001, p. 4.  
\footnote{478} Policy Study No.1: Employment of Members of Non-majority Communities within Kosovo Civil Service and Publicly Owned Enterprises”, Office for Community Affairs (OCA), 2010, p. 97.}
\end{footnotesize}
However, the Law on the Civil Service\textsuperscript{479} mentions a 10\% quota that applies to all the non-majority communities as a single group. This made it possible for authorities to fulfil the quota by employing more of one minority at the expense of others. Serb representation is low and the Serb community is often represented in fewer numbers than the other communities. By comparing any of these two quota criteria with the actual level of representation, the Serb representation is clearly bellow what the legal documents say, with around 5\% at central level institutions, 0.75\% within Public Owned Companies and 3.06\% at municipal level.

Other quotas that have been mentioned before in this chapter are those regarding employment in the Kosovo judiciary and prosecutorial service that were introduced to ensure at least 15\% representation of non-Albanians and 8\% of the Kosovo Serb community.\textsuperscript{480} A 2010 report looking at the access of minorities to justice in Kosovo states that in spite of the quotas, the proportion of minority representatives among judges and courts administrative staff remains much smaller than the numbers of majority employees. The predominant majority of judges in Kosovo courts belonged to the Albanian community as 234 out of 254 judges were Albanians, 6 Turks, 8 Bosniaks and only 3 Serb judges.\textsuperscript{481} Regarding the administration officers, of the total 884 employees there were 830 Albanians, and only 18 Serbs, 11 Turks, 16 Bosniaks and 9 belonging to the RAE communities.\textsuperscript{482}

As far as magistrates are concerned, of the total 366 employees, 332 were Albanians, 17 Serbs, 9 Bosniaks, 5 from RAE communities and 3 Turks. The report findings reflect that the overall underrepresentation of minorities can be explained by “unsuccessful recruitment efforts by the Kosovo judicial system, at times hindered by a lack of applications or qualified candidates from non-majority communities”\textsuperscript{483} At the same time, the report highlights the lack of interest especially among the Serb community “since the salaries offered by Kosovo courts are lower in comparison to the salaries offered by the Serbian parallel structures”\textsuperscript{484} Therefore, similarly to the influence of other Serbian parallel institutions, the higher salaries offered by Serbia represent a practical reason for Serbs not to work for Kosovo courts.

\textsuperscript{479} Assembly of Kosovo. 13 May 2010. Law on the Civil Service of the Republic of Kosovo. Law No. 03/L-149, Article 11(3).
\textsuperscript{480} Kosovo Constitution, Article 103, p. 36 and UNMIK Regulation 2006/25.
\textsuperscript{481} Policy Study No.1, p. 98.
\textsuperscript{482} Ibid.
\textsuperscript{483} Ibid, p. 122.
\textsuperscript{484} Ibid, p. 123.
3.3. Kosovo Serbs in the wider economic context

Although little can be done to improve the overall economic situation without political stability and substantial investment, there is sufficient room to activate the economic potential of the Serb community. An economic activation of the community could bring great benefits like encouraging growth and utilising the underused human resources. Before the conflict, many Kosovo Serbs were working for both the public sector and for socially owned enterprises, while in the present “many remain unemployed or informally employed”. Even though Serbs used to be the urban population most of them are now living in rural areas, relying heavily on agriculture and social and welfare assistance provided by Serbia for their survival.

Moreover, their access to property and housing has been “impaired by the illegal occupation of their homes, business and arable land”, a problem which still persists even after more than ten years since the end of the conflict.

Kosovo Serbs were the majority and they are now a minority in the new context. Also, they used to be the urban population but most Serbs are now living in rural areas. This indicates capacity problems for the Serbian community: illiterate, un-educated population, lack of elites. How can then Serbs consume their rights and how can they be represented properly? They need to become aware of their position and understand their rights. There is sufficient legal basis for demanding respect of their rights. What is needed is for them to become educated in this direction and capable of consuming their rights.

This situation indicates capacity problems for the Serb community in the new Kosovo context: poverty, illiterate and un-educated population and the lack of elites that prevent Serbs from assuming their rights and become properly represented. Any community with such existential challenges cannot be defined as sustainable in the long run and while the state holds great responsibility in dealing with these community problems, Serbs also need to

486 Ibid.
488 Personal Interview with Suzana Andelkovic, Serb community.
489 PER-K and D4D, March 2012, op. cit.
become aware of their position and understand how much legal basis there is for demanding respect of their rights.\textsuperscript{492}

However, self-sustainability of the Serb community in Kosovo should be considered within the wider economic context in Kosovo. Despite the economic growth in recent years (estimated to 3.8\% in 2012)\textsuperscript{493}, Kosovo’s economy continues to be in a worrying situation especially with regard to poverty and unemployment. Kosovo remains the poorest country in Europe\textsuperscript{494} with over 40\% of the population living in poverty with less than 1.42 euros per day, and approximately 15\% in extreme poverty with less than 100 cents per day.\textsuperscript{495}

According to the 2012 Analytical Report of the European Commission, the overall unemployment rate in Kosovo was the highest in Europe at about 43\% and 80\% of all unemployed have been without a job for more than a year, more than 70\% of the youth (from 15-24 years) are without a job, most of the labour force is unskilled or semi-skilled and “the lack of perspective for a job, especially among the young population, is putting strains on social cohesion and encourages emigration”.\textsuperscript{496} Such statistics are very troublesome given that Kosovo has the youngest population in Europe, with 50\% under the age of 25, and 19.1\% considered youth (15-24).\textsuperscript{497}

The economic problems of Kosovo are also reflected by the public perception as unemployment has been constantly identified as the biggest problem facing Kosovo by all ethnic groups (92\%), while general economic problems and poverty are also among the top concerns of all communities in Kosovo.\textsuperscript{498} Another UNDP poll from April 2012 showed that 79\% of all respondents and 84.3\% of the Serb respondents were either dissatisfied or very dissatisfied with Kosovo’s current economic direction.\textsuperscript{499} Moreover, when asked to indicate who is the most responsible for Kosovo’s current economic situation, about 80.5\% of all

\textsuperscript{492} Ibid and Personal Interviews with Kosovo civil society representatives, February-June 2012.

\textsuperscript{493} Real GDP growth: 2009 (2.9\%), 2010 (3.9\%), 2011 (5\%), 2012 (3.8\% est.) and projections: 2013 (4.1\%) 2014 (4.6\%), International Monetary Fund, “World economic outlook: Growth Resuming, Dangers Remain”, April 2012, p.182.


\textsuperscript{496} European Commission, Kosovo Analytical Report 2012, p. 16.


\textsuperscript{498} Post-Election Public Opinion in Kosovo, IFES, 2011, p. 7.

\textsuperscript{499} UNDP Pulse Report 4, August 2012, p. 9.
Kosovars and 67% of Kosovo Serbs assigned this responsibility to the Government of Kosovo.  

Key challenges like inflation, underdeveloped private sector, reliance on the import of goods, low domestic growth and high trade deficit are correlated with Kosovo’s problems highlighted in all of the European Commission’s Progress Reports (2008-2012): a large informal economic sector, widespread corruption, weak rule of law, organized crime and poor infrastructure. In this economic context, not only minority communities but also the entire Kosovo society heavily relies on remittances from the diaspora and foreign aid. The 2012 OSCE “Community Rights Assessment Report” highlights among the main obstacles for the integration of minorities in Kosovo are unemployment and absence of socio-economic opportunities.

The report also criticizes the government because its three-year strategy plan for economic development published in 2011 does not mention “individual communities within Kosovo, how their economic opportunities can be developed or how they can be utilized to improve the economic situation of Kosovo”. This is a matter of serious concern because the labour market in Kosovo is also characterized by long-term unemployment of minorities (more than 12 months). In 2011, out of the total 29,711 registered unemployed persons belonging to non-majority communities, 29,598 were long-term unemployed.

Official unemployment is also high for Kosovo Serbs and many of them are dependent on the social payments from the Serbian government. The number of registered unemployed Serbs at the end of 2011 was of 12,810 and positioned in negative values of the 12 months increase rate (-1.6%). Despite high unemployment, Kosovo Serbs are relatively better off than other minorities thanks to the subsidies granted by Belgrade, Kosovo institutions and

---

500 Ibid, p. 4.
504 Despite their decline from 17.5% of GDP in 2004 to 13% of GDP in 2010, remittances are vital for Kosovo’s economy and thousands of livelihoods. KRHS 2011 data show that a quarter, 25% of Kosovan households receives remittances. From UNDP, “Kosovo Remittance Study”, July 2012.
505 OSCE Community Rights Assessment Report on Kosovo, July 2012.
507 OSCE Community Rights Assessment Report on Kosovo, July 2012, p. 32.
509 Ibid, p. 15.
international donors in the form of pensions, social welfare and donations. Nevertheless, “the community’s prospects for integration, especially among the younger generation, who rarely possess Albanian language skills, remain low”\textsuperscript{510}. According to a 2011 poll, 62\% of Kosovo Serbs thought unemployment was the biggest problem facing Kosovo and of most concern to them.\textsuperscript{511}

Based on the latest data of the Ministry of Labour and Social Welfare (MLSW)\textsuperscript{512}, the total number of active jobseekers registered in September 2012 was 256,546, which represents a promising annual decrease of -23.5\% compared to September 2011. In the case of Serbs however, the same report indicated 12,215 unemployed Kosovo Serbs in September 2012, representing a much slower annual reduction of -6.6\% since September 2011 and with recent monthly increasing rates of about 1\%. If we consider the results of the 2011 Census, almost half of the registered Kosovo Serb population is unemployed.

The Office for Community Affairs (OCA)\textsuperscript{513} states that in municipalities where the Serb community represent over 40\% of the population, the rate of unemployment within the community ranges from 40\% and 75\%. The exception is Novobërđe/Novo Brdo, where unemployment among Serbs is 90\%, a particularly high rate of unemployment, even for domestic standards. In areas where the Serb community represents between 5\% and 20\% of the municipal population, the rate of unemployment among Serbs is somewhat higher, ranging from 75\% to 90\%.\textsuperscript{514} The reasons identified by the government for this situation are: “lack of qualifications, language issues, an absence of investment in the development of small businesses and the agricultural sector, a lack of employment opportunities, as well as information on existing opportunities and a lack of public companies”.\textsuperscript{515}

As this chapter has illustrated, Serbs are represented at the visible political level within both central and local governance, but underrepresented at the managerial and civil service level of public institutions and public companies. With the purpose of integrating its Serb minority in terms of employment in the public sector, Kosovo has adopted a strategy that began with Serb representation at the elite level (Assembly, Government, Consultative

\textsuperscript{510} OSCE “2010 Kosovo Communities Profiles”, p. 6.
\textsuperscript{511} Post-Election Public Opinion in Kosovo, IFES, 2011, p. 7.
\textsuperscript{513} The Office for Community Affairs (OCA) website, http://www.kryeministri-ks.net/zck/?page=2,65 [last accessed: 03/06/14]
\textsuperscript{514} Ibid
\textsuperscript{515} Personal Interviews with Kosovo MPs, February-June 2012, Pristina, Kosovo.
Bodies, Municipal governance), which is expected to become a positive example and stimulate integration at the wider level of the community:

This is where political leadership is called up on to live by example in ensuring that there is no feeling of exclusion in employment in the Public service. […] The way political leadership positions in all levels of government are filled will provide a hint to the public on the way diversity will be managed in the public sector. The political level therefore needs to set example of how diversity should be managed across the board in the Public Service.  

From this perspective, as the Kosovo Serb community grows more vocal about its rights through its representatives, there could also be an increase in the willingness at all levels of the community to work within the system. However, as the socio-economic challenges for Serbs in Kosovo have shown, an adequate integration will require much more than access to upper-level positions. Even with more positive change in Kosovo Serbs’ willingness to integrate, the vital challenge will remain to build sufficient capacity for both the community itself and the Kosovo state to secure a sustainable integration.

**Conclusion**

This chapter evaluated the progress of the integration of the Serb minority in post-independence Kosovo by looking at the development of the system of minority rights protection and at the challenges that have influenced its implementation so far. A first challenge derives from the Serb community’s will and capacity to understand, accept and assume their rights. A second challenge for Kosovo Serbs is to find and secure the support of governmental institutions at both central and local levels of governance. Besides adopting the current constitutional framework, the Kosovo government also needs to prove long-term commitment and build capacity to sustain its minorities.  

A third challenge is the sustainability of the cooperation between Serbs and Albanians at both elite and community levels. The political cooperation build so far is contested not only by the Albanian opposition and the civil society but also by the Serb community itself.

The first part of this chapter outlined the *de jure* minority rights in Kosovo that were incorporated in the Constitution as initially recommended by the Comprehensive proposal for

---

the Kosovo Status Settlement (CSP) as well as the legislation that has been adopted subsequently so as to improve the representation and participation of non-majority communities. This showed that with the purpose of integrating Kosovo Serbs and other minorities under the authority of a new state, a complex multiethnic institutional and constitutional framework was put in place.

While this framework provides extensive minority rights at central and local levels of governance, political rights, social benefits, language and cultural rights, in practice there are still important shortcomings despite all the efforts that have been made so far. This was illustrated by the second part of this chapter where I focused on political and socio-economic challenges for the integration of the Serb minority in Kosovo. Firstly, I analysed the effectiveness of the political representation of Serbs from South Kosovo within central and local institutions. The intra-ethnic Serb political competition was, until recently, dominated by two parties, SLS and JSL. Their activity was influenced by factors like the lack of trust and contestation within the community, limited legitimacy given the small turnouts in the elections, capacity problems and Serbia’s policy to encourage the boycott of Kosovo institutions.

However, SLS managed to improve its public support as shown by the 2010 results in national elections and it was part of both governmental coalitions after 2008. Other important positions within central institutions and their dominance within Serb-majority municipalities have been positive results and a recompense for SLS pro-government pragmatic approach to the new situation of Serbs in Kosovo. Moreover, despite the challenge brought by the tactic of ethnic outbidding used by its main competitor, JSL, the pragmatic strategies and policies developed by both the SLS representatives and Kosovo officials proved more efficient for the first two post-independence governments.

Nonetheless, the 2013 local elections were a turning point for the political participation and representation of Kosovo Serbs given the support of Belgrade and the creation of a GIS Srpska, a new party funded and created with the support of Serbia. After a record high turnout for the Serbs, this party’s clear victory within most Serb-majority Kosovo municipalities indicated the end of SLS’ dominance and the emergence of a new political representation for Kosovo Serbs as it was also confirmed by the 2014 national elections.

After looking at the political participation and representation of Kosovo Serbs, this chapter examined the socio-economic challenges that influence the effectiveness of Serb integration. One factor is the presence of the Serbian parallel institutions, which besides representing a concrete support for the Serbs living in Kosovo they have also been
undermining the authority of Pristina and are delaying the full integration of the minority community. Furthermore, this chapter also presented the employment opportunities within the public sector that confirm the underrepresentation of Kosovo Serbs, a situation in contrast with the Serb representation at the upper level. At the same time, the problems characterising the wider context of Kosovo’s efforts for statebuilding, economic development and democratization damage the effectiveness of integrating Serbs. High unemployment rates, poverty, low salaries, poor infrastructure and lack of investments are just some of the factors that affect the entire population of Kosovo, but that nonetheless also have a detrimental impact on stimulating the Serbian minority to fully integrate in Kosovo.

Overall, given the opportunities provided by the complex system of minority rights in post-independence Kosovo, there have been some positive results with the integration of Serbs living south of the Ibar. The main progress has however been made only at the upper level as shown by the political representation of Kosovo Serbs within the Assembly, the minority consultative bodies, the government and the municipal institutions. Even though signs of progress at the community level are indicated by the higher turnout in national and local elections, Kosovo Serbs continue to rely on the existence of the parallel system and have limited socio-economic incentives to accept Pristina’s authority. As my research findings demonstrate, pragmatic strategies and policies have been effective at the higher level of representation and participation of Serbs. However, this has not been properly expanded at the community level in order to motivate and create sustainable opportunities for all members of the Serb minority to integrate. The legislative framework and the formal provisions for protecting minority.
Chapter 5: The situation of the non-Serb minority communities in Kosovo

Introduction

This chapter considers the situation of non-Serb minorities in Kosovo and the post-independence impact of adopting and implementing the legislation on minority rights protection. The aim here is to illustrate how promoting and protecting minority rights in Kosovo through legal and political provisions intersects with the complexity of needs and requirements coming from different minority groups. This may act in favour or not of minority groups depending on the particular characteristics and priorities, as well as the will and capacity of each of them. In order to illustrate this, the first part will complement the examination of the formal provisions for minorities started in the previous chapter and the second part will examine the different situations of the Bosniak, Turkish, Roma, Ashkali, Egyptian, Gorani, Montenegrin and Croat communities in Kosovo.

The legal and institutional framework in Kosovo vis-à-vis the integration of minorities requires two main areas of investigation. On the one hand, this chapter seeks to understand the incentives for providing far-reaching protection for even the smaller minorities in Kosovo as well as the immediate results and consequences of the relevant policies. It is vital to observe the immediate results and consequences of adopting post-conflict specific consociational measures that apply to all minorities, regardless of their implication in the conflict or their actual need of integration. On the other hand, what also cannot be neglected is that the primary purpose of developing a multiethnic institutional and legal framework has been to address the integration of Serbs. Kosovo has thus designed a multiethnic framework to mainly integrate its largest and most important minority while this inevitably also impacts on the other communities. Therefore, the individual data and results revealed in this chapter will help examine whether the implementation of minority rights has been at risk of creating a social and political hierarchy among minorities depending on the will and capacity to also reach smaller, less visible minorities.

Altogether, presenting the efforts made to integrate the non-Serb minorities will further emphasise the significance of the gap between formal and actual implementation of minority rights protection in Kosovo. While smaller minorities in Kosovo have equal legal collective rights with the Serb minority and could potentially benefit from this unanticipated status, on the ground their situation varies from case to case. Therefore, the main problem that this
chapter investigates is the variation regarding minority rights protection towards the smaller communities in Kosovo as reflected by the possible discrepancy between excessive measures and facilities that could become counterproductive. Formal provisions and post-conflict specific measures like power-sharing consociational features cannot guarantee social cohesion and the legitimization of the state by all its constituent ethnic groups. This chapter argues that the inconsistency regarding minority rights protection towards the smaller communities in Kosovo indicates a potential discrepancy between impractical measures that could cause segregation and marginalization instead of integration.

1. Formal provisions for smaller communities in Kosovo

The previous chapter looked at some of the main components of the multiethnic constitutional and institutional framework adopted by Kosovo with the primary aim of integrating the Serb community under its authority as a new state in the post-independence context. This framework however needs to be further analysed by looking at the rest of provisions for minority rights protection incorporated in the Constitution and the Law on Communities as well as at the role of the Ministry for Communities and Return, the minority consultative bodies and the integration strategy through municipal decentralization. In terms of representation and participation of minorities as well as the protection of their identities, the legislation was developed for both the central and local levels of governance and deals with political rights (guaranteed seats in the parliament and municipal councils), proportional employment in public institutions and state owned enterprises, socio-economic benefits and education, language and cultural rights.

Fundamental rights of minorities and political representation

Article 59 of the Constitution specifies that members of all communities have the right, individually or in community, to:

1. express, maintain and develop their culture and preserve the essential elements of their identity, namely their religion, language, traditions and culture;
2. receive public education in one of the official languages of the Republic of Kosovo of their choice at all levels;
3. receive pre-school, primary and secondary public education, in their own language to the extent prescribed by law, with the thresholds for
establishing specific classes or schools for this purpose being lower than normally stipulated for educational institutions;

4. establish and manage their own private educational and training establishments for which public financial assistance may be granted, in accordance with the law and international standards;

5. use their language and alphabet freely in private and in public;

6. Use their language and alphabet in their relations with the municipal authorities or local offices of central authorities in areas where they represent a sufficient share of the population in accordance with the law. The costs incurred by the use of an interpreter or a translator shall be borne by the competent authorities;

7. use and display community symbols, in accordance with the law and international standards;

8. have personal names registered in their original form and in the script of their language as well as revert to original names that have been changed by force;

9. have local names, street names and other topographical indications which reflect and are sensitive to the multi-ethnic and multi-linguistic character of the area at issue;

10. have guaranteed access to, and special representation in, public broadcast media as well as programming in their language, in accordance with the law and international standards;

11. to create and use their own media, including to provide information in their language through, among others, daily newspapers and wire services and the use of a reserved number of frequencies for electronic media in accordance with the law and international standards. The Republic of Kosovo shall take all measures necessary to secure an international frequency plan to allow the Kosovo Serb Community access to a licensed Kosovo-wide independent Serbian language television channel;

12. enjoy unhindered contacts among themselves within the Republic of Kosovo and establish and maintain free and peaceful contacts with persons in any State, in particular those with whom they share an ethnic, cultural, linguistic or religious identity, or a common cultural heritage, in accordance with the law and international standards;

13. enjoy unhindered contacts with, and participate without discrimination in the activities of local, regional and international non-governmental organizations;
14. establish associations for culture, art, science and education as well as scholarly and other associations for the expression, fostering and development of their identity.\(^{519}\)

As regards the political participation of minorities at the national level, the most visible and important feature is the right to guaranteed seats in the Kosovo Assembly. As previously mentioned, out of the 120 seats in the Kosovo parliaments, 20 are guaranteed for the non-majority communities. Kosovo Serbs hold 10 seats while the remaining 10 guaranteed seats are divided among the other minorities included in the Constitution as follows:

- the Roma community, one (1) seat;
- the Ashkali community, one (1) seat;
- the Egyptian community, one (1) seat; and
- one (1) additional seat will be awarded to either the Roma, the Ashkali or the Egyptian community with the highest overall votes;
- the Bosnian community, three (3) seats;
- the Turkish community, two (2) seats; and
- the Gorani community, one (1) seat if the number of seats won by each community is less than the number guaranteed.\(^{520}\)

In addition, for the first two electoral mandates upon adoption of the constitution, minorities were allowed to also participate in the distribution of the 100 seats outside the guaranteed ones.\(^{521}\) This advantage combined with the fact that the 5% electoral threshold did not apply to minority parties, allowed minorities to win 5 extra seats in the general elections of 2010. While Serbs have been the most advantaged with 3 additional seats, Bosniaks and Turks also won 1 additional regular seat each. Despite of a strong political lobby by minority representatives to extend this electoral privilege for the upcoming national elections,\(^{522}\) the 2014 change to Guaranteed Seats only has limited the representation of minorities to 20 seats altogether.

**Institutional representation**

At ministerial level, the legislation says that at least one Minister must be from the Serb community and another from a non-Albanian community, while at least two Deputy Ministers must be from the Serb community, and another two from non-Albanian communities.\(^{523}\) Moreover, if there are more than twelve Ministers, “the Government shall...”

\(^{519}\) Constitution of the Republic of Kosovo, Art. 59.

\(^{520}\) Ibid, Chapter IV, Assembly of the Republic of Kosovo, Art. 64 (2) [Structure of the Assembly].

\(^{521}\) Ibid, Article 148 [Transitional Provisions for the Assembly of Kosovo]: “Any seats gained through elections shall be in addition to the ten (10) reserved seats allocated to the Kosovo Serb Community and other Communities respectively”.

\(^{522}\) Personal interviews with Serb, Bosniak and Turkish MPs, Pristina, Kosovo, February-June 2013.

\(^{523}\) Constitution of the Republic of Kosovo, Article 96 (3) (4) [Ministries and Representation of Communities].
have a third Minister representing a Kosovo non-majority Community524 and two additional Deputy Ministers, one representing the Kosovo Serb Community and one for another non-majority Community. In the 2010-2014 legislature there was only one minister representing non-Serb minorities, Mr. Mahir Yagcilar, from the Turkish community, holding the post of Minister of Public Administration. It should be mentioned that prior to 2008, as a result of the UNMIK requirements, the post of Minister of Health was reserved for non-Serb minorities.525 As a result, Numan Balić, a Bosniak, became the first Minister of Health in 2002, followed in 2003 by Resmije Mumgjiu, an ethnic Turk and then by Sadik Idrizi, an ethnic Bosniak who became Minister after the formation of a new Government in 2004.526

As regards specific bodies for communities, the primary mechanism of minority consultation for Kosovo is the previously mentioned Consultative Council for Communities (CCC), which functions under the authority of the President and should be composed of representatives of all minorities in Kosovo:

From the Roma, Egyptian and Ashkali communities, there shall be two (2) representatives respectively, one (1) of each of whom may be a member of the Assembly of Kosovo. The Bosniak and Turk communities shall have three (3) representatives respectively, one (1) of each of whom may be a member of the Assembly of Kosovo. The Serb community shall have five (5) representatives, two (2) of whom may be members of the Assembly of Kosovo, and the Gorani community shall have two (2) members, one (1) of whom may be a member of the Assembly of Kosovo. In relation to each member, a substitute member may be appointed.527

Even though Montenegrins and Croats have been formally recognised since 2011 with the amendment of the Law on Communities, CCC is the only official body mentioning that the Montenegro and the Croat communities have one representative each, while the CCC list with accredited NGOs contains one Croat and four Montenegrin organizations.528 The Kosovo Assembly should also play an important role in building more constructive majority-minority relationships. The Constitution established a Community Rights and Interests Committee (CRIC) of the Assembly with a mandate to examine and comment on all

524 Ibid.
526 Ibid.
527 Law on Communities, Art. 12 (6).
legislation affecting minority communities. Overall, it is a potentially effective check on the tendencies of the majority to advance legislation without thinking through the implications for Kosovo’s minority communities.

CRIC should be composed of two members from each community (MPs) and its recommendations to the Assembly are adopted by majority vote of its members. The composition of this committee can be given as another example of the inconsistency regarding the use of the term “communities”. Given that it includes 5 members from Albanian parties, CRIC does not represent a minority body per se. Its chairperson has been Goran Marinković, one of the 4 Serb members in the committee, which has had only 3 other minority representatives: 1 Roma representative (Albert Kinolli), 1 Turkish (Müfera Şinik), and 1 Bosniak (Rasim Demiri).

The Kosovo Judicial Council is another fundamental institution that is tasked with ensuring not only that Kosovo courts are independent, professional and impartial but also that they fully reflect the multiethnic nature of Kosovo. Moreover, the Kosovo Judicial Council is also instructed by the constitution to “give preference in the appointment of judges to members of Communities that are underrepresented in the judiciary as provided by law.” Among the 13 members of the Judicial Council, “two (2) members shall be elected by the deputies of the Assembly holding reserved or guaranteed seats for the Kosovo Serb community and at least one of the two must be a judge; [and] two (2) members shall be elected by the deputies of the Assembly holding reserved or guaranteed seats for other Communities and at least one of the two must be a judge."

Therefore, these constitutional provisions represent another example of the emphasis on institutionalising a multiethnic character of Kosovo. The composition of the Judicial Council is designed to combine the principles of professionalism and expertise with the issue of underrepresentation of minorities and the specific inclusion of Serb representatives in the appointment process. One essential aspect here is again the privileged position of Serbs in comparison with the other minorities in Kosovo given the distribution of power on the principle of splitting any number of seats for all minorities as follows: 50% for Serbs and 50% to be divided among the rest. The results of this may be the intended overrepresentation

---

530 Ibid
531 Ibid, Art. 108 (6).
of Serbs through positive discrimination but also the unforeseen confusion and competition between the other minorities.

The second challenge for implementing the constitutional rights given to minorities in the election of members for the Judicial Council is regarding the actual capacity of these communities to assume their right/responsibility. Firstly, the representatives of minorities in the Assembly should possess the necessary skills and experience to make valid and responsible nominations. And, secondly, finding and recommending qualified candidates for the positions will be an extremely difficult task given the scarcity of skilled labour force that characterises some of the minorities in particular.\textsuperscript{532} The possibility of not being able to find suitable candidates is nonetheless foreseen by the constitution as it specifies that if the group of Council members representing minorities “fails to recommend a candidate for a judicial position in two consecutive sessions of the Council, any Council member may recommend a candidate for that position.”\textsuperscript{533}

The same principle of giving preference to members of underrepresented communities applies to the appointment of prosecutors in the Kosovo Prosecutorial Council, while also reflecting “the ethnic composition of the relevant territorial jurisdiction.”\textsuperscript{534} Regarding the composition of the Constitutional Court, Article 114 of the Constitution specifies that it shall be composed of 9 judges proposed by the Assembly. While for a number of 7 judges nominations require a two thirds (2/3) of the majority of the deputies present and voting, “[t]he decision on the proposals of the other two (2) judges shall require the majority vote of the deputies of the Assembly present and voting, but only upon the consent of the majority of the deputies of the Assembly holding seats reserved or guaranteed for representatives of the Communities not in the majority in Kosovo.”\textsuperscript{535}

The Kosovo Police needs to facilitate cooperation with municipal authorities and community leaders through the establishment of Local Councils as provided by law and the ethnic composition of the police within a municipality shall reflect the ethnic composition of the population within the respective municipality to the highest extent possible.\textsuperscript{536} The Ombudsperson office has one or more deputies and their number, method of selection and

\textsuperscript{532} Personal Interviews with Andrea Najvrtova, Project manager at ECMI Kosovo, 10.05.12, Pristina AND Suzana Andelkovic, Advisor Ministry of Communities and Return, 29.05.12, Fushe Kosove.
\textsuperscript{533} Ibid, Art. 108 (9).
\textsuperscript{534} Ibid, Art. 110 (2).
\textsuperscript{535} Ibid, Art. 114 (3).
\textsuperscript{536} Ibid, Art. 128 (4)
mandate are determined by the Law on Ombudsperson, which also says that at least one Deputy Ombudsperson shall be a member of a Community not in the majority in Kosovo.\textsuperscript{537} Another important institutional example is the Central Election Commission, which is composed of 11 members. 6 members are appointed by the 6 largest parliamentary groups represented in the Assembly, which are not entitled to guaranteed seats. If fewer groups are represented in the Assembly, the largest group or groups may appoint additional members. One member is appointed by the Assembly deputies holding seats reserved or guaranteed for the Kosovo Serb Community, and 3 members are appointed by the Assembly deputies holding seats reserved or guaranteed for other communities that are not in majority in Kosovo.\textsuperscript{538}


As the previous chapter mentioned, among other rights guaranteed by the Constitution, Article 61 deals specifically with the employment rights of minorities in public institutions and publicly owned enterprises and affirms that “communities and their members shall be entitled to equitable representation of employment in public bodies and publicly owned enterprises at all levels.”\textsuperscript{539} In addition, Article 101(1) says that the composition of the civil service shall reflect the diversity of the people of Kosovo. The Law on Communities also stipulates that with regard to the employment of minority members, Kosovo needs to develop anti-discrimination initiatives like public employment programs and specially targeted measures with the aim of overcoming direct and indirect forms of discrimination, with special consideration “to improving the situation of Roma, Ashkali and Egyptian communities.”\textsuperscript{540}

The Law on Communities ensures minority representation in specific sectors, “including the security sector, the Judiciary, the prosecution service, government agencies related to the administration of justice and correctional facilities, defence, security, and intelligence”.\textsuperscript{541} The Law additionally stresses that special measures shall be provided for persons belonging to communities who find it difficult to meet standards for admission to

\textsuperscript{537} Ibid, Art. 133 (2).
\textsuperscript{538} Ibid, Art. 139 (4).
\textsuperscript{539} Constitution of Kosovo, Art. 61.
\textsuperscript{540} Law on Communities, Art. 9(2).
\textsuperscript{541} Ibid, Article 9(5).
positions in public services, including in particular higher-level positions.\textsuperscript{542} Regarding employment in the civil service representation should also create a multiethnic environment, but, as I will later illustrate, in practice this has not been accomplished yet. Formal requirements for employment in the public sector also reflect the focus on ethnic diversity and integration of all communities in Kosovo. For instance, during the selection process the central institutions are asked to establish selection panels consisting of three members that are multiethnic and gender balanced. Moreover, each panel is instructed to pay special attention to the representation of the Serb community.\textsuperscript{543}

In 2012 it was reported that as regards the employment in Kosovo Civil Service, from a total number of 20,531 civil servants, there were 573 belonging to non-Serb minorities: 227 Bosniaks (1.3%), 229 Turks (1.1%), 20 Gorani (0.1%), 40 Roma (0.2%), 39 Ashkali (0.2%), 18 Egyptians (0.1%) and 431 (2.1%) in the category of “others”.\textsuperscript{544} Thus, these minorities represented together 5.1% of the ethnic structure of Civil Service, the same percentage with the one indicated for the Serb community. The same report also showed that at the local level of Civil Service, there were 115 Bosniaks, 73 Turkish, only 5 Gorani, 16 Roma, 24 Ashkali, 11 Egyptians and 415 “others”.\textsuperscript{545} These numbers were low and overall, most of the minority civil servants were working at the central level, with the exception of Ashkali and Egyptians who had more employees at the local level. At the same time, the category of “others” has 415 civil servants at the local level and only 16 at the central level. In the context where Croats and Montenegrins were not included as ethnic categories, it would have been very useful to know the precise identity of “other” groups, given their significant percentage as employees at the local level.

The only post-independence detailed Policy Study on employment in the public sector made in 2010 showed that at the central level, within the Office of the President (OP) and the Kosovo Assembly, from the total number of 182 civil servants, 22 belonged to non-majority communities. From the non-Serb communities there were 7 Turks (3.85%), 4 Bosniaks (2.2%) and 1 identified within the “others” category (0.55%).\textsuperscript{546} Within the Assembly of Kosovo, there were 19 civil servants who belonged to non-majority communities (12.93%),

\textsuperscript{542}Ibid, Article 9(6).
\textsuperscript{543} Policy Study No.1, p.80.
\textsuperscript{544} Kosovo Government, “Answers to the questionnaire on the preparation of the Feasibility Study for a Stabilisation and Association Agreement”, June 2012, p. 42.
\textsuperscript{545} Ibid.
\textsuperscript{546} Policy Study No.1, 2010, p. 36.
including 6 Turks (4.08%), 2 Bosniaks (1.36%) and 1 identified within the “others’ category (0.69%). The Office of the President (OP) indicated a total of 35 employees, of which only 3 from minorities: 2 Bosniaks (6.9%) and 1 Turk (3.46%). As a result, the Office of the President has been one of the only institutions with non-Serb minorities represented but no Serb employees. On the positive side, the report on the OP also mentions that these 3 non-majority employees were holding both management and administrative positions. However, “as far as trainings are concerned, 2 staff members belonging to non-majority communities (one management and one administrative) have received a total of less than 3 months of training, while 1 of them (management level) has received less than a month.”

This highlights the difficulty of finding highly skilled professionals from minority communities.

With regards to central executive institutions, the Government of Kosovo reported that there were 438 employees from minority communities out of the total of 5489, respectively 76 Turks (1.38%), 45 Bosniaks (0.82%), 8 Roma (0.15%), 7 Ashkali (0.14%), 4 Gorani (0.03%), 2 Egyptians and 17 others (0.31%). Moreover, at the political level out of 83 staff members in total, 8 belonged to non-Serb minorities: 4 (4.82%) Turks, 3 (3.62%), Bosniaks and 1 (1.2%) Gorani, while at the management level out of 907 employees, there were 11 (1.21%) Turks, 6 (0.66%) Bosniaks, 2 (0.22%) Gorani and 1 (0.11%) Ashkali.

In addition, the Office of the Prime Minister indicated a total of 207 employees (both political appointees and civil servants), 199 of which were members of the Albanian community, while only 8 (3.86%) belong to non-majority communities: 5 Turks (2.42%), 2 Serbs (0.96%) and 1 Bosniak (0.48%). None of the Turkish or Bosniak employees had positions at the managerial or political levels. The ministry that has been designed to deal specifically with integration and protection of minorities in Kosovo, the Ministry of Communities and Returns (MCR), reported 96 employees and the representation of non-Serb minorities was indicated as follows: at the political level there was 1 Turk (12.5%) and 1 Bosniak (12.5%) out of 8 political employees and at the civil service level, from the total of 88 employees, there were 7 Bosniaks (7.95%), 5 Turks (5.68%), 1 Gorani (1.14%), 1 Ashkali (1.14%), 1 Egyptian (1.14%) and 1 categorised as “other” (1.14%). Moreover, at the management level there were only 3 non-Serbs (2 Bosniaks and 1 Gorani) in comparison to 9 Serbs (31.03%).

[549] Ibid, p. 38.
Another example is The Ministry of Foreign Affairs (MFA), which indicated a total of 63 employees: 8 political appointees and 55 civil servants. At the political level, all employees belonged to the majority community and at the civil service level, out of 55 employees in total, the minority communities were represented by just 1 individual (1.9%), a male member of the Bosniak community, while 54 (98.1%) were members of the Albanian community.\textsuperscript{551} At the same time, The Ministry of Internal Affairs (MIA) reported a total of 811 employees. Minorities were not represented at the political level an at the civil service level (811 staff members in total), the majority community was represented at 92.73\% (744 staff members) and minorities at 7.27\% (59 staff members), of which only 15 were non-Serbs: 5 (0.62\%) Turks and 10 (1.23\%) others, with the latter category divided into two groups: Bosniaks and Gorani, and Roma, Ashkali and Egyptians.\textsuperscript{552}

In the same report, the Ministry of Local Government Administration (MLGA) had a total of 87 employees: 9 political appointees and 78 civil servants. At the political level, 8 (88.88\%) employees were members of the majority and 1 (11.12\%) was a member of a minority community (Bosniak), whereas at the civil service level, out of a total of 78 employees, the overwhelming majority (75) were members of the majority community and non-Serb minorities were represented by only 2 members from the Turkish community (2.56\%).\textsuperscript{553} The Ministry of Labour and Social Welfare (MLSW) indicated a total of 882 staff members with no political appointees from the non-Serb communities but with 114 minority staff members at the civil service level, of which 11 (1.25\%) Bosniaks, 8 (0.91\%) Turks, 3 (0.34\%) Ashkali and 1 (0.14\%) Roma. Another important ministry, the Ministry of Justice (MoJ) reported a total of 270 employees, with minority staff members only at the civil service level: out of a total of 262 staff members, 224 were Albanians, 26 were Serbs and 12 belonged to other minorities: 4 (1.53\%) Bosniaks, 4 (1.53\%) Turks, 3 (1.14\%) Ashkali and 1 (0.38\%) Roma. Moreover, there was 1 Ashkali representative working at the management level.\textsuperscript{554}

At the same time, the independent institutions, executive agencies and regulators included in the 2010 study employed altogether a total of 571 civil servants, out of which 490 were members of the majority community, 63 were Serb and 18 belonged to non-Serb minorities: 13 Turks, 3 Bosniaks, 1 Roma and 1 Ashkali. Translated into percentages, the

\textsuperscript{551} Ibid, p.49.\textsuperscript{552} Ibid, p.50.\textsuperscript{553} Ibid, p.51.\textsuperscript{554} Ibid, p. 53.
overview was as follows: 85.81% from the majority community while 14.19% were members of non-majority communities, with 2.28% Turks, 0.52% Bosniaks, 0.18% Roma and 0.18% Ashkali. The situation at the management level was as follows: out of a total of 124 staff members, 113 (91.13%) were members of the majority community and 11 (8.87%) belonged to minority communities: 9 (7.25%) Serbs, 1 (0.81%) Turk and 1 (0.81%) Bosniak.555

There are no employees belonging to non-Serb minorities working for the Central Election Commission (CEC). The Kosovo Anti-Corruption Agency (KACA) indicated a total of 35 civil servants: 33 (94.28%) are members of the majority community and 2 (5.72%) belonged to non-majority communities, both Turkish. The Kosovo Property Agency (KPA) indicated a total 225 civil servants, out of which 190 (84.44%) were members of the majority community and 10 (4.44%) from non-Serb minorities: 7 (3.12%) Turks, 2 (0.88%) Bosniaks and 1 (0.44%) Roma. The Ombudsperson Institution, another body dedicated to the integration of minorities, indicated a total of 37 civil servants, out of which 32 (86.49%) were members of the majority community, 4 Serbs and only 1 (2.7%) employee representing non-Serb minorities, once again from the Turkish community.

At the local level of governance, the 2010 study confirmed 9,197 civil servants across Kosovo, out of which 8,696 were members of the Albanian community and only 221 belonged to non-Serb minorities: 105 Bosniaks, 45 Turks, 31 Ashkali, 13 Roma, 7 Egyptians, 6 Gorani, and 14 “others”.556 As a result, the overview of community representation was as follows: 94.55% members of the majority community and 5.45% belong to minorities: 3.04% Serbs, 1.14% Bosniaks, 0.49% Turks, 0.34%, Ashkali, 0.14% Roma, 0.08% Egyptians, 0.06% Gorani, and 0.16% “others”.557 Moreover, at the management level within local governance, the only minority represented was the Bosniak one with 10 employees (2.26%).558

The 2010 study also covered the Publicly Owned Enterprises, which were reported with a total of 12,243 staff, out of which 11,981 were members of the majority community, 91 were Serbs and 171 belonged to non-Serb minorities: 68 Turks, 66 Bosniaks, 14 Roma, 1 Ashkali and 22 grouped under the “others” category.559 There were no non-Serb employees at the policy (board) level and only 1 representative each for Bosniaks and Turks at the

555 Ibid, p. 56.
556 Ibid, p. 60.
557 Ibid, p. 61.
558 Ibid, p. 61.
559 Ibid, p. 73.
management level. The Kosovo Energy Corporation (KEK), a major public enterprise, indicated 8,126 (98.67%) employees from the Albanian community, 28 (0.34%) Serbs and 81 from non-Serb minority communities: 31 (0.37%) Bosniaks, 28 (0.34%) Turks, 3 (0.05%) Roma, and 19 (0.23%) “others”. Interestingly, the Serb community had fewer employees in KEK than the Bosniaks and the same number as Turks.

As mentioned before, the representative character of the Civil Service was evaluated based on the principle of inclusiveness defined by the UNMIK Regulation 2011/19. This affirmed that minorities should be represented within Kosovo civil service proportionally with their representation in the parliament. Therefore, in accordance with the guaranteed seats in the Assembly, members of the non-Serb communities should be represented as follows: a) members of the Bosniak community – 2.5%; b) members of the Turk community – 1.66%; c) members of the Roma community – 1.12%; d) members of the Ashkali community – 1.12%; e) members of the Egyptian community – 1.12% and f) members of the Gorani community – 0.84%.

In quantitative terms, the overall representation of members of non-majority communities cannot be considered as representing the multiethnic character of Kosovo in the sense of UNMIK Regulation 2001/19 in any of the institutions and POEs.

This chapter has analysed so far the legislation concerning minority rights in Kosovo and has also looked at the data regarding the equitable representation of minorities in the public sector. The next section of this chapter will use this information to further evaluate each of the non-Serb minorities as regards their demographics, cultural identity, socioeconomic situation, language and education rights, as well as their political participation and representation at both central and local levels of governance. Altogether, this will provide a thorough reflection on the meaning and understanding of minority rights in the post-independence context of Kosovo and their impact on the particular needs and demands of each of the minorities in question.

---

560 Ibid, p. 74.
561 Ibid, p. 74.
564 Ibid, p. 98.
3. Community Profiles of Non-Serb Minorities in Kosovo

3.1. The Bosniak community

Demographics

According to the results of the 2011 Census\[565\], there were 27,533 (1.6%) members of the Bosniak community living in Kosovo, which confirmed them as the second largest minority group after the Serb community. As indicated before, in the context where Serbs boycotted the census (exclusively in northern municipalities not included in the study and partially in the rest of Kosovo), the official data places Bosniaks above the number of Serbs (25,532).\[566\] The exclusion of the mainly Serb-inhabited northern Kosovo meant that about half of the Serb population was not included at all in the final data, but it has also affected the census figures of Bosniaks and Roma minorities who live in that area.\[567\] As a result, the census number for Bosniaks is around 18% lower than previous OSCE estimates (33,524).\[568\]

Most Bosniaks in Kosovo live in the municipality of Prizren, south of Kosovo, where they constitute about 10.01% of the local population (16,896 residents), mainly in the city of Prizren, in Zupa Podgor and also in the rural part of Prizren. It should be mentioned that the result of the census is with about 5,000 less people than previous estimates for Bosniaks in Prizren that provided figures of around 22,000.\[569\] Other important locations are the municipality of Dragash, with 4,100 Bosniaks residing mainly in the Gora region, Pejë municipality with 3,786 Bosniaks and Istog with 1,142 members of this minority\[570\], but also in three northern municipalities that were not fully included in the census: Mitrovicë, Leposavic and Mitrovicë North with representation between 2%-3% of the local population as reported by the Office for Community Affairs (OCA).\[571\] In other municipalities, Bosniaks are in much smaller in number and make up between 0.02% and 1% of the municipal population: Deçan– 0.57%, Zvecan– 0.3%, Prishtinë – 0.2%, Ferizaj– 0.02%, Fushë Kosovë– 0.08%, Gjakovë– 0.02%.

\[566\] Ibid.
\[568\] Ibid, p.5.
\[569\] Ibid.
\[570\] Previous estimates: 1,650. Ibid.
\[571\] Office for Community Affairs (OCA), Overview of Kosovo Communities.
Identity

Bosniaks are a Muslim Slav community that does not necessarily trace its origins to Bosnia and Herzegovina but with strong cultural and religious links to the country. Consequently, Bosniaks can be divided in two groups. The first consists of those who migrated to Kosovo from Bosnia, Montenegro and, mostly, from the Sandzak region, especially after the end of Ottoman rule in the Balkans. These are concentrated around the Peja, Istog and Mitrovice regions and, to a lesser extent, in Prishtinë. The second group includes those who have traditionally lived predominantly in the regions of Prizren, Dragash and Zupa.

As speakers of a Slavic language, Bosniaks are believed to have converted to Islam during the Ottoman times and since then developed a sense of separate ethnic identity. The group was first recognized as a distinct category in 1961 by a Yugoslav census that included them as “Muslims in the ethnic sense.” In the 1990s, during the Bosnian war, the term “Bosniak” was adopted for this ethnic group of Slavic Muslims, and the Bosnian language promoted as different from Serbian and Croatian. In this context, in the Prizren region, and especially in the municipality of Dragash, the divide between Kosovo Bosniak and Gorani (also Slavic Muslims) is porous, as both minorities share a number of key characteristics, with the main difference deriving from their political affiliations. Generally, Kosovo Bosniaks have managed to live peacefully alongside both the majority of Albanians (religious ties) and Kosovo Serb community (linguistic ties). Therefore, the Bosniak community can be considered among the well-integrated minorities in Kosovo. In the words of a Bosniak representative:

We are for integration but not for assimilation. But at the same time, this discussion is problematic because we are already integrated, we have been co-existed peacefully with the Albanians for a long time.

---

572 OSCE Communities Profiles, “Kosovo Bosniaks”, p. 3.
573 OCA, Overview of Kosovo Communities.
574 Ibid.
575 OSCE Communities Profiles, “Kosovo Bosniaks”, p. 3.
578 OSCE Communities Profiles, “Kosovo Bosniaks”, p. 3.
579 Personal Interview with Ćerim Bajrami, Bosniak community.
The main responsibility lies with each community as it mainly depends on them to foster inter-ethnic cooperation and diminish social division. The idea of integration itself is controversial given that we are already part of the Kosovo society. It is one thing to ask migrants for instance to integrate in a society that they emigrate to and another thing to ask communities that are already a substantial part of the society.\textsuperscript{580} This represents a powerful perspective on the meaning of integration and indicates a potential incompatibility between the rationale and political design of \textit{de jure} measures for integration and \textit{de facto} reality on the ground. The context of the war, the post-conflict developments and the more recent post-independence socio-political processes have all required the Bosniak community to reassess their position within the Kosovo society. Bosniaks have thus generally understood the need of institutional social integration as a problem and as a partial threat to their historical status within Kosovo.\textsuperscript{581} Furthermore, the idea of a civic identity of Kosovars is hard to be accepted by Bosniaks and other minorities in the context where the majority population, Albanians, do not see themselves as Kosovo citizens before identifying with their ethno-national group.

\textbf{Political representation and participation}

The Kosovo Bosniak community is fairly well-represented in public life compared to other non-Albanian communities. At the central level, the community has 3 guaranteed seats in the Assembly of Kosovo and 4 positions of deputy ministers within Kosovo Government. In addition to that, 3 seats are reserved for Kosovo Bosniaks in the CCC, the advisory body operating under the auspices of the office of the President of Kosovo.

The two major opposing Bosniak political entities have been Coalition VAKAT and the New Democratic Party (NDS). VAKAT Coalition is an alliance of three political parties which represent Bosniaks in Kosovo: Democratic Party of Bosniaks (DSB/ Demokratska Stranka Bo\v{s}njaka), Democratic Party Vatan (DSV/ Demokratska Stranka Vatan) and Bosniaks Party of Kosovo (BSK/ Bo\v{s}nja\v{c}ka Stranka Kosova). Mr. D\v{z}ezair Murati, Mr. Xhezair Murati and Mr. Nazim Demiri have been the leaders of this coalition formed in 2004 and covering all important regions with Bosniak population in Kosovo. After the national elections in 2010, VAKAT held two seats in the Kosovo Assembly and by winning 5,296 (0.76\%) votes it also managed to keep its electorate in comparison with the previous elections.

\textsuperscript{580} Personal Interview with Refik Saciri, Deputy Minister of European Integration, 28.05.12.
\textsuperscript{581} Personal Interviews with Bosniak representatives, February-June 2012 AND March-June 2013.
in 2007 when it won 5,428 votes and in 2004 when VAKAT scored 4,972 votes. It is important to say that one of its seats was won through ballot in addition to the one won through quotas, making VAKAT the second non-Serb party after the Turkish KDTP to win seats in parliament through threshold. The two VAKAT deputies in the Kosovo Assembly have been Rasim Demiri, who in 2010 won 1,574 votes and Duda Balje with a lower score of 748 votes. The two MPs regained their seats in the 2014 elections, which brought an increase for VAKAT total number of votes to 6,476 (0.89%) in line with the overall increase among the Bosniak community.

VAKAT Coalition has been mainly challenged by NDS. Emilija Redžepi, the party’s leader, has also been an MP in the Assembly she won the necessary votes to be granted the third guaranteed seat for Bosniaks both in the 2010 and 2014 elections. The fourth Bosniak seat in 2010 was won by Hamza Balje (816 votes) from the Bosniak Party of Democratic Action of Kosovo (BSDAK/Bošnjačka Stranka Demokratske Akcije Kosovo) that gained a total of 1,818 votes (0.26%). At the same time, the Party of Democratic Action (SDA/Stranka Demokratske Akcije) was not allocated a seat in 2010 (1,602 votes (0.23%)), even though its main candidate, Numan Balic, won more votes (1,048) than the result of BSDAK’s deputy in the parliament. Nevertheless, the BSDAK MP lost his seat in 2014 after the new electoral system for minorities was introduced.

Therefore, the results of these main Bosniak parties in the 2010 national elections indicated a total electoral score of 11,194 votes (1.6%) for the community, which represent, for instance, a higher score than the 1.22% result of the Turkish KDTP party, yet approximately half of the Serb minority parties’ overall score of 3.05%. In 2014 the Bosniak community slightly increased its total result to 13,296 (1.83%) votes. Overall, the Bosniak participation in public affairs could be even stronger if there was more unity among its political representatives, thus more on the model of the Turkish community, which had only one main political party representing the interests of its community prior to 2013.

582 CEC, 2010 Results of all candidates.
584 Ibid.
585 CEC, 2010 Results of all candidates.
586 CEC, 2010 General Results.
As regards the local level, despite the constant lobbying by the community’s leaders, no Kosovo Bosniak majority municipalities have been established. The planned new municipalities would be formed in and around the villages of Recan (current Prizren municipality) and Vitomiricë (current Pejë municipality) and would give the minority a much desired control over local affairs. However, this has not negatively impacted the community’s participation in public affairs in the municipalities where Bosniaks live. The community holds prominent positions in the legislative and executive branches and assembly seats in the more densely Kosovo Bosniak-inhabited municipalities of Prizren, Pejë and Dragash.

In these municipalities, where members of the Bosniak community constitute over 4% of the municipal population, there is additional Bosniak representation within the local institutions. In the 2009 local elections, VAKAT won in Dragash 1,529 votes (12,54%) and SDA won 4,24% of the total electorate. This confirmed 4 members of the Bosniak community in the municipal assembly, while the Municipal Community Office and the Committee on Communities were both headed by a Bosniak representative, Mr. Uzair Hamza. In addition, the Dragash Municipal Assembly deputy chairperson for communities was also a Bosniak, Mr. Šerif Aga from VAKAT, same as the deputy mayor for communities, Mr. Çasip Kuši. The 2013 elections however indicated a lower score for VAKAT in this municipality and reduced the Bosniak representation in the assembly to 3 seats in favour of a more important role played by the Gorani community.

In Prizren, 3 Bosniaks were elected to the Municipal Assembly in 2009 and VAKAT Coalition has been one of the four political entities that formed the municipal ruling coalition. Moreover, Mr. Cemailj Kurtiši (Coalition VAKAT) has been second Deputy Chairperson for Communities. However, the 2009 results in Prizren also confirmed NDS with the highest number of votes among Bosniak parties (2,364- 4,27%) in comparison with VAKAT’s score of 1,826 votes (3,29%). The situation repeated in the November 2013 elections when NDS won again more votes than VAKAT and increased the number of Bosniak members of the local assembly to 5. In Pejë, the 2009 elections confirmed 3 Bosniak representatives elected

---

587 Personal Interview with Ilir Deda, Director of KIPRED, Pristina, 16.03.12 AND Ćerim Bajrami, Bosniak Community, Deputy Minister, Pristina, 28.03.13.
588 Ibid.
589 OSCE Communities Profiles, “Kosovo Bosniaks”, p. 7.
590 CEC, 2009 Local Elections Results.
591 CEC, 2013 Local Elections Results,
592 CEC, 2009 Local Elections Results.
to the Municipal Assembly, more than all other minorities after SDA won 808 votes (2.37%) and VAKAT 514 votes (1.51%). The Municipal Community Office and the Committee on communities was chaired by the Bosniak representative Mr. Rustem Nurkovic, who was also the Deputy Chairperson of the Municipal Assembly for communities. The 2013 elections results in Pejë decreased the number of Bosniak seats to 2. Nonetheless, even in areas with smaller Bosniak communities, there is some direct representation for the community. In Istog, for example, one Bosniak representative was elected to the Municipal Assembly and in Ferizaj, two Bosniaks have been reported to work for the municipal administration.

Bosniaks are therefore well represented at local and central levels of governance and are generally aware of the fact that although Kosovo Serbs have been the priority and have been advantaged by the legislation, this has nevertheless benefited all other minorities. But at the same time, legislation needs to be also backed-up by de facto provisions and benefits.

Language and Education

Bosniaks speak a Slavic language, Bosnian, which represents a vital element for defining their position within the Kosovo society. While this characteristic is a reason of great cultural pride and distinguishes them from other minorities, it also has a negative impact on the community’s integration, especially that “the inability to speak Albanian among the majority of the Kosovo Bosniaks remains a determinant factor for the sense of insecurity and the level of freedom of movement exercised by the community.”

Moreover, Bosniaks have been reported as facing increasingly limited recognition of their language rights, even though Bosnian is currently recognized as a language in official use in 4 municipalities, namely Pejë, Prizren, Istog and Dragash, which requires local authorities to provide interpretation, translation, municipal services and documents into Bosnian upon request. There is also a shortage of textbooks in Bosnian for primary and

593 Ibid.
595 Personal Interview with Duda Balje, Bosniak Community, MP for VAKAT, Pristina, 05.04.13.
596 Personal Interview with Mustafa Balje, Bosniak Community, Journalist for RTK, Prizren, 11.04.13.
597 OSCE Communities Profiles, “Kosovo Bosniaks”, p. 4.
598 Ibid.
599 The Law on the Use of Languages, Law no. 02/1-37, Article 2(4), specifies that in municipalities inhabited by a community whose mother tongue is not one of the official languages of Kosovo and which represents above 3 (three) percent of the total population of the municipality, the language of the community shall have the status of a language in official use.
secondary education, and some Bosniak children educated in Albanian have no option to learn in Bosnian or about Bosniak culture history and tradition, even in supplementary classes. These important challenges for the community indicating unforeseen consequences of the legislation and focus on multiethnicity, as observed by Bosniak representatives themselves:

Education is the main tool for preserving and promoting the identity of a community in the context where people have two live with both their ethnic/cultural heritage and their affiliation with the state through citizenship.\(^{600}\)

Furthermore, the access to secondary mother-tongue education is further hampered by the lack of curricula translated into their own language and the low quality of textbook translations. Given that Pristina University mainly offers courses taught in Albanian and Bosniaks have also been excluded from attending higher education in Serbian in Mitrovica, “Kosovo’s only tertiary education options in Bosnian are a business school in Pêja and an education faculty in Prizren.”\(^{601}\)

In this context, Bosniaks feel that they need decentralization as much as the Serb community does, not only for their cultural survival but also for their socio-cultural development.\(^{602}\) The Office for Community Affairs indicates that in Prizren, for instance, public education is offered at pre-school, primary and secondary levels in both Albanian, and Bosnian: “3495 Bosniaks are enrolled in the official public education system, which employs 315 Bosniaks.”\(^{603}\) Nevertheless, the lack of high quality secondary education in Bosnian is considered a fundamental problem. In Pejë the official Kosovo public education facilities also offer both Albanian and Bosnian education at the primary and secondary level, with 782 Kosovo Bosniaks receiving education in the Bosnian language\(^{604}\), while in Istog there are two Bosnian-language primary and secondary schools.\(^{605}\) In Dragash there is one multiethnic secondary school with 40 Bosniak students providing education in both Albanian and Bosnian languages.\(^{606}\)

---

600 Personal Interview with Ćerim Bajrami, Bosniak community.
601 Stevens, G., p. 8.
602 Personal Interviews with Bosniak representatives, February-June 2012 AND March-June 2013.
603 Office for Community Affairs (OCA), *Overview of Kosovo Communities*.
605 Ibid.
189
Overall, the possibility to study only in Bosniak and in Serbian means that young Bosniaks have little incentive to learn the language of the majority population, Albanian. Moreover, “the students who attend universities abroad in Serbia or Bosnia to obtain valuable degrees and professional skills but upon their return to Kosovo they cannot employ these and cannot find work because they do not speak Albanian…if we live in Kosovo we have to learn Albanian, it is normal.” Thus, linguistic segregation is a real challenge for Bosniaks as shown not only by the difficulties experienced by young generations but also by the fact that Bosniaks representatives and MPs themselves cannot speak Albanian.

**Socio-economic challenges**

In the post-war and post-independence contexts, the socio-economic situation of the Bosniak community in Kosovo has been difficult, with one of the key challenges being the access to employment, similarly to all communities in Kosovo. The overall unemployment rate for Bosniaks in 2011 was reported at 37.68%, which is a significant number, but, on the positive side, it indicates a better situation than all other communities including the Albanian majority.

At the same time, the situation of Bosniaks varies depending on the region they live in. Bosniaks are employed mainly in the agricultural sector (Dragash), physical labour (Gjakovë), small businesses and also working in the public sector, though in small numbers as mentioned in the section on employment of minorities in the civil sector. According to the numbers provided by the regional employment office in 2010, out of 58,605 persons registered as job seekers, 3651 were Bosniaks from Prizren, and 1322 were Bosniaks from Dragash. Furthermore, all Kosovo Bosniaks over 65 years of age receive pensions from Kosovo institutions, while some also receive pensions from parallel institutions financed by Serbia.

In the Prizren area, where most Bosniaks reside, many challenges remain while many have their own commercial activities or engage in construction and seasonal work in Montenegro. In Prizren, the 2010 Policy Report indicated that there were 26 Bosniaks (8.72%) working in the civil service, from a total of 298 employees and 54 belonging to all

---

607 Personal Interview with Duda Balje, Bosniak Community.
608 UNDP Public Pulse 2012, p. 31.
609 OCA, *Overview of Kosovo Communities*.
610 OSCE Communities Profiles, “Kosovo Bosniaks”, p. 6.
611 Ibid.
612 Ibid, p. 5.
minority communities.\textsuperscript{613} Moreover, the municipal court in Prizren reported one Bosniak judge as the only minority representative among the total ten judges while the district court had two Bosniak judges and the municipal prosecutor’s office one Bosniak.\textsuperscript{614} Bosniaks also have the highest number of minority police officers within the Prizren police station: 36 out of the total 210 officers.\textsuperscript{615}

In Dragash, in 2010 there were 37 Bosniak (31.36\%) employees from a total of 118 civil servants and only one other minority represented, Gorani with 3 employees.\textsuperscript{616} There were no Bosniak judges reported to work for the municipal or the district courts in Prizren, but the police station in Dragash indicated 5 Bosniak members among its 54 police officers.\textsuperscript{617} Another municipality with a significant Bosniak population is Pejë, which indicated that in 2010 it employed 13 Bosniaks (4.94\%) out of a total of 263 civil servants.\textsuperscript{618} Same as in Prizren there were no Bosniak judges but the police station of Pejë has Bosniak representatives among its officers.\textsuperscript{619} The 2010 OSCE report on profiles of Kosovo minorities mentions that in the Pejë region among Kosovo Bosniaks there were also qualified doctors, engineers, teachers and nurses, but unemployment continues to affect the community and “many Kosovo Bosniaks rely on social assistance, financial support from the diaspora, agricultural activities and seasonal work or selling their products during market days.”\textsuperscript{620}

As regards the security and freedom of movement for Bosniaks, the community has not had significant problems in the five regions of Kosovo besides a number of security incidents reported in the municipalities of North Mitrovicë and Pejë, where “[b]oth men and women have been the targets of reported harassment and assaults.”\textsuperscript{621} Furthermore, as OSCE reports, Bosniaks enjoy unhindered access to social services and social welfare and relatively good access to property and housing.\textsuperscript{622}

Another fundamental issues for the Bosniak minority has been the situation of returns and reintegration, as a high number of Kosovo Bosniaks were forced to leave Kosovo during

\textsuperscript{613} Policy Study No. 1. (2010), p. 70.
\textsuperscript{614} OSCE Municipal Profiles (2011), “Prizren”.
\textsuperscript{615} Ibid.
\textsuperscript{616} Policy Study No. 1. (2010), p. 62.
\textsuperscript{617} OSCE Municipal Profiles (2011), “Dragash /Dragaš”.
\textsuperscript{618} Policy Study No. 1. (2010), p. 68.
\textsuperscript{619} OSCE Municipal Profiles (2011), “Pejë/Peć”.
\textsuperscript{620} OSCE Communities Profiles, “Kosovo Bosniaks”, p. 5.
\textsuperscript{621} Ibid.
\textsuperscript{622} Ibid, p. 10.
and after the conflict due to concerns for their own safety, lack of economic opportunities and the difficulty to find jobs.\footnote{Ibid, p. 8.}

Bosniaks displaced during the war have not returned for reasons similar to those of many from other smaller minority communities: a combination of bad memories, mistrust of the ability and willingness of local authorities to protect them, and lack of economic prospects in Kosovo.\footnote{Stevens, op.cit., p.8.}

The returns have been low and UNHCR reports show an annual decrease in voluntary returns. Between January 2010 and September 2012, a total number of 1,740 persons belonging to the Bosniak minority have voluntarily returned to Kosovo, which represents 7.24\% of the total voluntary returns.\footnote{United Nations High Commissioner for Refugees (UNHCR), “Kosovo Statistical Overview”, September 2012, p. 4, http://www.internal-displacement.org/8025708F004CE90B/(httpDocuments)/D108F6188A98652EC1257A9200494DE2/$file/Statistical+overview+September+2012.pdf [last accessed: 03.06.14].}

Moreover, there are no return and reintegration projects specific to the Kosovo Bosniak community in any region of Kosovo.\footnote{OSCE Communities Profiles, “Kosovo Bosniaks”, p. 5.} After some encouraging upward trends in 2010 and 2011, in 2012 there were only 39 Bosniak returnees, a figure smaller than those reported for the Serb, Egyptian, Ashkali, Gorani and Roma minorities.\footnote{UNHCR, 2012, p. 4.}
3.2. The Turkish community

Demography

The Turkish community represents the third largest minority in Kosovo with a population of 18,738 (1.1%).\textsuperscript{628} The results of the 2011 Census are important especially because previous estimates had suggested that there were about 30,000 Turks living in Kosovo.\textsuperscript{629} Kosovo Turks are mainly concentrated in the municipalities of Prizren (9,091 Turks), Mamushë (5,128) that is also a Turkish municipality and Pristina with 2,156 Turks. There are also small Turkish communities in: Mitrovicë- 3%, Gjilan– 1.3% (978 Turks), Vushtrri – 0.45%, Ferizaj– 0.02%.

Identity

Integration is a very, very wrong word. Nobody explains what it means to be integrated. I don’t need to be integrated. I am here, I have always been here. To whom do I have to be integrated?\textsuperscript{630}

This perspective on the idea of integration is shared by most communities in Kosovo and highlights the discrepancy between legislation and \textit{de facto} situation and the confusing context in post-conflict and post-independence Kosovo. The rationale behind protection and promotion of minority rights in Kosovo does not necessarily takes into consideration all cultural, social and regional particularities of each community apart.

The Turkish community has had a significant presence and influence in Kosovo since the Ottoman conquest of Kosovo in the 14th century and it has been composed by both descendants of the Ottoman Empire and indigenous population that converted to the Muslim religion and adopted the Turkish language and culture.\textsuperscript{631} Their privileged status during the Ottoman Empire, the fact that they share the Muslim faith and many cultural traits with Albanians and the notion of Turkish as an elite language among many people in Kosovo, have all helped Turks to become active and well integrated into Kosovo’s society over time.\textsuperscript{632} It is worth mentioning that the 1974 Constitution of Yugoslavia, which granted Kosovo an autonomous status, also named Turkish as one of the official languages in the province,\textsuperscript{633} thus equal status with Serbian and Albanian. However, the post-conflict UNMIK

\begin{itemize}
\item \textsuperscript{628} Kosovo 2011 Census.
\item \textsuperscript{629} OSCE Communities Profiles, “Kosovo Turks”, p. 3.
\item \textsuperscript{630} Personal Interview with Tahir Luma, Turkish Community, Member of CCC, Prizren, 06.04.13.
\item \textsuperscript{631} OSCE Communities Profiles, “Kosovo Turks”, p. 3.
\item \textsuperscript{632} Ibid.
\item \textsuperscript{633} OCA, \textit{Overview of Kosovo Communities}.
\end{itemize}
administration did not keep this official status and after 2008, Turkish was only recognized as an official language at the local level.

**Political representation and participation**

The Turkish community in Kosovo has been almost exclusively represented by the Turkish Democratic Party of Kosovo (KDTP- Kosova Demokratik Türk Partisi), which until 2010 was also the only party from the Turkish minority to participate in elections.634 KDTP is a conservative party established in 1990 and registered in 1999 during the UNMIK administration. The party’s head office is in Prizren and the other local branches are in Mamušë, Prishtinë, Gjilan, Vushtrri and Mitrovicë.635 The leader of the party is Mr. Mahir Yahcilar, who was elected in 2000, and during the UNMIK administration was a member of the Interim Administrative Council, Minister of Health and also president of the Kosovo Assembly during the 2001-2004 legislative mandate.636 KDTP’s open statement to its supporters has been:

…to preserve the identity of the Turkish community. In particular, this identity is reflected through preserving education, language and culture of the Turkish community in Kosovo. In addition, KDTP works for a tolerant life among all communities in Kosovo and is always willing to support this cause.637

In the 2010 national elections, in addition to KDTP, the Kosovo Turkish Union (KTB- Kosova Türk Birliği) registered as the second Turkish party to take part and create internal political competition within the community. However, they did not manage to win any seats in the Kosovo Assembly as they gained 1,364 votes (0,2%), while KDTP re-confirmed its dominance with a total score of 8,548 votes (1,22%).638 In the previous elections in 2007, KDTP had won 4,999 votes (0,9%).639 Therefore, the improvement in the 2010 elections made KDTP not only the second minority party in Kosovo after SLS but also the non-Serb minority party with the highest electoral score as it had over 3,000 more votes than the next non-Serb party, VAKAT from the Bosniak community.

635 KDTP website, [http://www.kdtp.org/?page_id=5](http://www.kdtp.org/?page_id=5) [last accessed: 03.06.14].
636 Ibid.
638 CEC, General Results.
639 OSCE 2007 Election Results, [http://www.osce.org/kosovo/38257](http://www.osce.org/kosovo/38257) [last accessed: 03.06.14].
The 2010 elections also secured for KDTP 3 seats in the parliament: 2 through quotas (guaranteed) and 1 through ballot (passed the minority threshold of 1%). The Turkish deputies in the 2010 legislature were: Enis Kervan, who won 2,303, Fikrim Damka with 2,187 votes and Müfera Şinik with 2,036 votes. These Turkish MPs have held important positions, like the Vice President of the Assembly, head of the Committee for Health, Labor and Social Welfare and also four positions of vice-presidents among other parliamentary committees.

At the same time, the party’s leader, Mahir Yahcilar, gained 3,570 votes but did not take his MP position as after 2008 he became the Minister of Environment and Spatial Planning (MESP). KDTP was part of the ruling coalition supporting the Hashim Thaçi government. After 2008, the Deputy Minister of Communities and Returns and the Deputy Minister of Agriculture also came from the Turkish community. Overall, the political success of KDTP confirmed the benefits of the initial strategy of the Turkish community to avoid creating new political parties so as “to ensure a greater representation in the Assembly of Kosovo.”

Three Turkish representatives have also been selected to the Communities Consultative Council and a Kosovo Turk judge has been member of the Constitutional Court. The 2014 national elections were marked by a small decrease in the total number of votes for Turkish representatives, against the general trend across Kosovo. KDTP managed to win the elections among the Turkish community, although its votes dropped as a result of the challenge posed by the new Kosova Türk Adalet Partisi (KTAP, Kosovo Turkish Justice Party). Same as the Bosniak community, Turkish representatives lost their extra seat in the Assembly after the introduction of the new Guaranteed Seats system.

At the local level, the most important gain for the Turkish community in the post-independence context has been the creation of the Turkish municipality of Mamushë (Mamuşa in Turkish), located in the south-east region of Kosovo. As mentioned before, Turks are the only non-Serb minority in Kosovo to have been awarded a municipality where they are in majority. In the 2009 local elections, by winning 73% of the votes, KDTP secured an overwhelming majority in the municipal assembly with 11 seats and Seylan Mazrek as its chairperson. Moreover, the mayor of the municipality has been Arif Bütuç (KDTP) and the deputy mayor as well as all directors of different departments have been from KDTP.

---

640 KIPRED (2012) “Strengthening the statehood of Kosovo through the democratization of political parties”, p.32.

195
2013, however, the fracture within the political representation of Turks was confirmed by the new KTAP party’s win in Mamuša over KDTP (8 seats for KTAP and 5 for KDTP) and by the mayor’s migration to the new party.\footnote{643}{OSCE Municipal Profiles (2014).}

The municipality of Prizren, where most Kosovo Turks reside, has also had a strong political representation for this minority. The municipal assembly has included 3 seats hold by KDTP, which was also one of the four parties in the ruling coalition after winning 4,022 votes (7.26%) in the 2009 local elections.\footnote{644}{CEC, 2009 Local Elections Results.} Mr. Ercan Spat also represented the Turkish minority as deputy chairperson of the assembly.\footnote{645}{OCA, Overview of Kosovo Communities.} These were important achievements for the Turkish representatives, especially that Prizren is the second largest municipality of Kosovo with 177,781 inhabitants, of which 145,718 are Albanians and 16,896 are Bosniaks.\footnote{646}{2011 Kosovo Census Results} These facts will be further discussed in the next chapter, which uses both Mamuša and Prizren as case-studies in relation to the impact of decentralization.

In Pristina/Prishtinë, the biggest municipality and the administrative, political, economic and cultural centre of Kosovo, the Turkish community has been the most numerical minority after 2008. After gaining 1,21% in the 2009 elections,\footnote{647}{CEC, 2009 Local Elections Results.} Turks became the only minority represented in the local assembly of Prishtinë with 1 seat of the total 51 seats and with Engin Beyoglu (KDTP) in the position of assembly deputy chairperson for communities.\footnote{648}{OSCE Municipal Profiles (2011), “Prishtinë/Priština”.} The same situation with Turks as the only minority holding a seat in local assemblies has been present in 3 other Kosovo municipalities: Mitrovicë, Gjilan and Vushtrri. In addition, according to the 2009 local election results there has been only one municipality where KDTP participated and did not manage to win a seat, namely the municipality of Lipjan where the party scored only 0.94% of the total votes.\footnote{649}{CEC, 2009 Local Elections Results.}

Our politicians are not thinking about Turkish people. They are working for their coalition and their positions in the Assembly. This is wrong. They were elected by us for our interests. We do not work for them, they work for us.\footnote{650}{Personal Interview with Tahir Luma, Turkish Community, Member of CCC, Prizren, 06.04.13.}
As previously mentioned, the main force of the Turkish community has been its political unity \(^{651}\) as reflected by the political gains at both central and local levels of governance in the 2009 and 2010 elections. Nevertheless, the subsequent fractions within the political leadership of the community and the creation of a new main party has destabilized the Turkish representation. The other challenge for the community is common to all non-Serb minorities in Kosovo and refers to the hierarchical division of the society and their marginalisation by the relationship between Albanians and Serbs. Similarly to the war context, the new situation in Kosovo has also placed “The Turks and other minorities in the middle of the conflict between Serb and Albanian politics, which has nonetheless been in the detriment of our rights and has reduced the rights we had before the war”. \(^{652}\)

**Language and education**

One of the fundamental aims of the Turkish community as a whole and of its political representatives has constantly been the protection and promotion of their language, given the pre-war constitutional status of Turkish as a state language next to Albanian and Serbian. Consequently, “the Turkish minority now feels much more alienated because the 1974 constitution of Kosovo had recognized them as equal with the now, positively discriminated, Serbs” \(^{653}\).

Nevertheless, in accordance with the Law on the Use of Languages (Art 2.4), Turkish has gained the status of language in official use at the local level in 4 municipalities: Gjilan, Mitrovicë, Vushtrri and Prizren. Moreover, this Law stipulates the linguistic rights of minorities and the specific obligations of the municipalities, such as providing interpretation and translation into Turkish upon request. According to OSCE, this task has remained largely unfulfilled. \(^{654}\) As regards the access to education, like in the case of Bosniaks, a main concern is the shortage of textbooks in Turkish, which has a negative impact on “the community’s enjoyment of the right to education.” \(^{655}\) In more general terms, the main problems facing Turks in accessing education are: a shortage of good school books, a lack of proper transport, and poor educational infrastructure. Municipalities with a larger Turk community offer some

---

\(^{651}\) Personal Interview with Turkish representative, 15.05.12, Pristina.

\(^{652}\) Personal Interview with Tahir Luma, Turkish Community.


\(^{654}\) OSCE Communities Profiles, “Kosovo Turks”, p. 12.

\(^{655}\) Ibid, p. 8.
public education in Turkish: in Prizren and Mamuşa municipalities, where most of the Kosovo Turks live, Turkish language education is available for pre-primary school level, in 7 primary schools (a total of 1,853 pupils) and 5 secondary schools (with 767 students). \(^{656}\)

Moreover, the increasing numbers of young Turks going abroad to study universities in Turkey may generate a new long-term problem. \(^{657}\) While they obtain valuable degrees, upon their return to Kosovo their access to the job market is still limited because they do not speak fluent Albanian as a result of completing their full education cycle exclusively in their mother tongue.

### Socio-economic situation

In the context of the poor state of the economy as a whole, the socio-economic situation and employment opportunities for the Kosovo Turk community are reported as relatively good. \(^{658}\) Generally, the older generation’s ability to speak Albanian and a high degree of integration have helped them to access the labour market and maintain the community’s unemployment rate at 37.98%, just above the one reported for Bosniaks but below the rest of the communities in Kosovo. \(^{659}\) Moreover, the minority’s high level of integration into the Kosovo society \(^{660}\) is also demonstrated by the fact that Turks do not generally make use of the Serbian parallel institutions and services. Instead, Turks choose to use the services and facilities provided by Kosovo institutions and enjoy full access to social services and welfare throughout Kosovo. \(^{661}\) As regards the security and freedom of movement, the situation of the Kosovo Turks is generally good, with no significant security incidents reported by the community, which also seems satisfied with the general performance of the security forces, including the Kosovo Police (KP).

Many Turks work in the private sectors and have managed to develop successful private enterprises, but there is also a significant presence of the community in the public

---

\(^{656}\) OSCE Communities Profiles, “Kosovo Turks”, p. 9.

\(^{657}\) Personal interviews with Turkish and Albanian civil society representatives, May-June 2013, Prizren, Kosovo.

\(^{658}\) Ibid, p. 4.

\(^{659}\) UNDP 2012 Public Pulse Report, p. 31.

\(^{660}\) Personal Interview with Nora Ahmetaj, Director of Centre for Research, Documentation and Publication (CRDP), 19.03.12, Pristina.

\(^{661}\) OSCE Communities Profiles, “Kosovo Turks”, p. 6.
Furthermore, Turks have traditionally been residing in urban areas, which means that they generally do not participate in the economic opportunities available via agriculture in rural area. Nonetheless, in the Turkish municipality of Mamuša, the economy is primarily based on small scale farming and trade activities. There are about 70 registered private businesses but given the lack of investment, the municipality is characterized by a high level of unemployment (75% among Turks) and the main source of employment remains the administrative public sector. In Prizren, the economy of the municipality is mainly based on private enterprises in agriculture, trade, construction and food processing and there are some 5,200 registered private businesses.

Unemployment is however high and in 2010 the rate was at 70% among the Turks in Prizren. In the Prizren civil service, out of 298 employees there were 22 Turks (7.38%), which thus indicates a good representation of the Turkish community within the public sector. In the Pristina region, the overall socio-economic situation of the Kosovo Turkish minority is stable, without any significant shortfalls, with its members mainly employed in public institutions, international organizations or carrying out small and mid-scale trade activities. With a rate of unemployment around 40%, Turks in Pristina are much less represented in the public sector, where in 2010 there were reported only 8 Turks (1.1%) working as civil servants in the municipality.

Nevertheless, the 2010 figures regarding employment of minorities in the public sector found that the Turkish community was the minority with the most equitable representation. While the overall representation of minorities cannot be considered reflecting the multiethnic character of Kosovo, the Turk community was the only one with equitable representation (4.08%) within the representative institutions. In regards with independent institutions, executive agencies and regulators, only the Serb and Turkish minorities were “equitably

---

662 Ibid.
667 OSCE Communities Profiles, “Kosovo Turks”, p. 4.
669 Ibid, p. 98.
represented at 11.03% and 2.28% respectively." The equitable representation for the Turkish community was further proved by its proportional number of civil servants in many institutions: Assembly of Kosovo (4.08%), Office of the President (3.46%), Office of the Prime Minister 2.42%) and numerous ministries - the MCYS (2.3% Turk), the MEM (3.06% Turk), the MESP (4.52% Turk), the MEST (2.55% Turk), the MLGA (2.56% Turk), the MoH (2.5% Turk), the MTI (4.86% Turk) and the MTT (2.94% Turk).

Lastly, unlike other minorities in Kosovo, the Turkish community has not been very concerned about the returns and reintegration of its displaced members, mainly because the 1999 conflict did not cause significant migration among Turks. The departures that have occurred after the war have been generally motivated by the poor economy. As a result, UNHCR reported that between 2008 and 2010, 30 Kosovo Turks were forcibly returned to Kosovo and that between 2000 and 2012, only 2 Turks were returned voluntarily, which is the smallest number of all communities in Kosovo. Therefore, this represents another positive feature of the Turkish minority as it absolves the community from dealing with this complex challenge that has such a big impact on most other Kosovo communities.

---

670 Ibid.
672 OSCE Communities Profiles, “Kosovo Turks”, p. 6.
673 UNHCR, 2012, p. 4.
3.3. R.A.E. communities: Roma, Ashkali and Egyptians

Roma, Ashkali and Egyptians identify themselves as persons belonging to three distinct communities, and are as such recognised by the Kosovo legislative framework, Kosovo institutions, and international organisations. The Organization for Security and Cooperation in Europe Mission in Kosovo (OSCE) fully recognises the existence of three distinct communities.674

As the above OSCE statement suggests, in the post-conflict and post-independence context in Kosovo, it has been very important to identify and treat these minorities as three different ethnic groups instead of including them all as one single group under the notion of “RAE community”. While the grouping of these three communities together by both international and domestic actors has also had positive and practical motivations like creating a stronger social and political representation for them, “the perceived attempt for the creation of a new identity has created serious identity and political troubles for these communities.”675

Perhaps the most visible example of grouping them is the distribution of seats in the Kosovo Assembly, where besides one seat guaranteed for each of the three minorities, one additional seat is offered to either the Roma, the Ashkali or the Egyptian community with the highest overall votes. Another example is the Law on Communities, which in regards to the economic and social opportunities of minorities in Kosovo, stipulates that “special consideration shall be given to improving the situation of Roma, Ashkali and Egyptian communities.”676 Furthermore, using the “RAE” formula can be considered as against one of the basic constitutional rights of the Roma, Ashkali and Egyptian minorities to “freely express, foster and develop their identity and community attributes.”677 However, it should be observed that this constitutional right has a positive character, while before 2008, under the UNMIK Constitutional Framework there was a more firm and clear statement that “no person shall be obliged to declare to which Community he belongs, or to declare himself a member of any Community. No disadvantage shall result from an individual’s exercise of the right to declare or not declare himself a member of a Community.”678

674 OSCE Communities Profiles (2010) “Disclaimer for the Sections on Roma, Ashkali and Egyptian communities”.
676 Law on Communities, Article 9(2).
677 Constitution of Kosovo, Art.57(3).
678 UNMIK Regulation No. 2001/19 on the Executive Branch of the Provisional Institutions of Self-Government in Kosovo.
These legal provisions have had a significant meaning in the context where, historically, the members of these minorities have either not been recognised belonging to three different groups, or they have not declared or expressed their identity clearly. Also important is that while Kosovo Roma have traditionally lived in Serb-populated areas and besides their mother tongue, Romani, they can generally also speak Serbian, a fundamental distinctive feature of the Ashkali and Egyptians communities has been the fact that they natively speak Albanian. Therefore, this linguistic characteristic has either facilitated the voluntary assimilation of Ashkali and Egyptians as Albanians or it has simply become the key element of differentiation from the Roma minority. However, the common perception among Roma and the majority Albanians that Ashkali and Egyptians are “Albanian-speaking Romas who do not want to acknowledge their origins and are looking for new identities”, complicates even more the identity problems of these communities.

After the return of refugees in the summer of 1999, and still today, urban myth has it that “the Roma were collaborators with the Serbs [against the Albanians].” Consequently, it has been important for many individuals to distance themselves from the undesired community for safety purposes.

Until recently and especially prior to the 1999 conflict, only the Roma were largely recognized as one of the different ethnic groups living in Kosovo given that “Ashkali and Egyptian communities were not yet widely referred to under their current names.” During the former Yugoslavia and Serbia regimes their official marginalization was sustained through non-recognition, but at the same time, a major factor has also been the decision of a large number members from all three communities to declare themselves as “Albanians”, making self-identification and social cohesion all the more difficult. These issues, in addition to the massive migration of these minorities both before and after the 1999 conflict, are some of the key reason why population estimates for Roma, Ashkali and Egyptians have always been much higher than official statistics. In the late 1990s the best estimates indicated

680 Ibid.
684 Ibid.
the total of these three communities to be between 100,000 and 150,000 Roma (10% of the population). However, the 1991 census reported that 45,745 (2.3%) Roma lived in Kosovo, and while it included the category of “Egyptian” for the first time ever, the Ashkali community was not officially recognized before 1999. Furthermore, in the recent census organised in 2011, the aggregated figure for the three communities was of 35,784 individuals, which is around 20-30% lower than that of previous estimates.

We are struggling with 99.9% of Kosovo on this issue of not differentiating between the three communities. The government, the internationals, people are all treating us like one community, like a new one, R.A.E., which doesn’t exist in any paper. and this is a human right, to respect the identity of others.

Therefore, the lack of social cohesion within the communities and their troublesome official recognition have contributed to the continued marginalization of Roma, Ashkali and Egyptian minorities in Kosovo and have affected their ability to “participate in the civic and political life in Kosovo.” Nonetheless, regardless of how these complex issues of ethnic identity and recognition have obstructed their integration, the fundamental concern is that all three remain the most vulnerable, disadvantaged and discriminated communities in Kosovo, with the worst education and “almost certainly the highest unemployment rates.” In this context, the constitutional provisions for the integration of minorities cannot be expected to have the same impact on these communities as in the examples of minorities that have a better socio-economic or/and political situation like Serbs, Bosniaks and Turks. The next sections will offer an overview of the particular situation of each of these communities.

---

687 ECMI Kosovo – Policy Brief, 18 December 2012, p. 5.
688 Personal Interview with Muhamed Arifi, Ashkali member of CCC, 06.03.12, Pristina.
689 NHC (2007), op.cit., p. 6
690 Stevens, G., op. cit., p.8. See also OSCE Communities Profiles & OCA, “Overview of Kosovo Communities”.
691 Personal Interview with Lutfi Haziri, LDK MP, 08.05.12, Pristina.

203
3.3.1. The Roma community

Demography

The 2011 census indicated that there were 8,824 people in Kosovo belonging to the Roma minority. According to the same data, the municipality with most Roma is Prizren with 2,899 residents from this community representing approximately 4.2% of the local population. Other municipalities with significant numbers of Roma are: Pejë (993), Graçanicë (745), Gjakovë (738), Obiliq (661) and Mitrovicë (528). However, previous estimates declared around 21,300-27,000 Roma in Kosovo and, for example, at the municipal level the census indicated only 745 Roma inhabitants in Graçanicë as compared to 1,900-2,000 from previous estimates.692

These differences can be explained by several factors like the exclusion of northern Kosovo and the fact that a large number of Romas live in Serb-inhabited areas, such as Graçanicë, and have also partially boycotted the 2011 census.693 Furthermore, it is often not easy to disaggregate the data on Roma, Ashkali and Egyptians, while migration trends can also be a factor: “around 10,000-12,000 Kosovo residents, including members from the Roma community, emigrate every year (overall, for each returnee, there are two residents emigrating abroad).”694

Identity, Language and Education

Roma people have lived in Kosovo since the thirteenth century and therefore represent one of the traditional communities in Kosovo.695 The Roma community traces its roots to India, from which they migrated between the 8th and 10th centuries.696 Kosovo Roma are predominantly of the Muslim faith, but some identify themselves as Christian Orthodox. They speak mainly Romani as their mother tongue but most Roma are bilingual in Serbian, although, in some predominantly Albanian municipalities, they speak Albanian (Kaçanik, Malishevë).697 Overall, there are little efforts made to protect and promote the cultural identity of Roma as, for instance, “there are no designated protected sites of cultural or

692ECMI Kosovo Policy Brief, 18 December 2012, p. 5.
693Ibid.
694Ibid.
695Stevens, G., op. cit., p.8.
696OSCE Communities Profiles, “Kosovo Roma”, p. 3.
697OCA, “Overview of Kosovo Communities”.

204
religious significance, nor plans to undertake the identification of such sites in the near future.”

I am the first and only Roma in Kosovo with a Masters degree. But I am not happy about this, I want all people to be educated. What is even worse is that I still cannot find work. This is a problem for all Kosovo.

Roma children continue to encounter problems to access and complete their education as they face common factors like social exclusion, poverty, large number of cases of early drop outs from school and cultural tradition affecting many families, whereas Roma girls are particularly affected. Improving education of the Roma community is therefore a critical issue, especially that reports found that the level of illiteracy among Roma is as high as 24.3%.

Even though the Kosovan legislation guarantees members of minorities the right to receive public education in their own language and in 2011 the Ministry of Education adopted a new curriculum for Romani language classes, there are no schools or classes in the Romani language in Kosovo. Moreover, despite provisions to review and draft textbooks and promote the values, heritage and identity of Roma, Ashkali and Egyptian communities, between 2009 and 2011 the Kosovan educational system did not contain “curricula and textbooks specific or adequately tailored to the culture and history of Roma, Ashkali and Egyptians.”

Political representation

In Kosovo there was initially only one Roma party, the United Roma Party of Kosovo (PREBK- Partia Rome e Bashkuar e Kosovës) and the Roma minority has generally been underrepresented at both central and local levels of governance in Kosovo. The United Roma Party of Kosovo (PREBK) has been led by Haxhi Zyllfi Merxha and was founded in 2000

698 OSCE Communities Profiles, “Kosovo Roma”, p. 24.
699 Personal Interview with Kutjim Pacaku, Roma Community, Member of CCC, Pristina, 03.04.13.
700 OSCE Communities Profiles, “Kosovo Roma”, p. 16.
with the main office in Prizren with the aim to promote the security, rights and employment of the Roma minority in Kosovo.\footnote{OSCE (2004) “The Political Entity Brochure”, p. 21.} At the central level the community has been represented by one deputy in the Kosovo Assembly holding the Roma guaranteed seat and by two members in the CCC. The Roma deputy for the 2010 legislature was Mr. Allbert Kinolli, elected with 393 votes in the 2010 elections, while his party had a total of 690 votes (0,1%).\footnote{CEC, 2010 General Results.} The 2014 elections results confirmed the ascendance of the newly created party Kosovaki Nevi Partia Roma (KNPR, New Kosovo Roma Party), which secured the Roma seat in the Assembly by winning only 3 more votes than PRBEK.\footnote{ECMI Informational Bulletin (July 2014), p. 12.}

At the municipal level across Kosovo, there has also only been one Roma representative, Mrs. Gjyzel Shaljani, who was elected in 2009 in the Prizren municipal assembly by participating on the list of the Albanian majority party the Democratic League of Kosovo (LDK).\footnote{CEC, 2009 General Results.} At the same time, PREBK did not manage to win any seats in the 2009 elections despite its participation in 4 Kosovo municipalities. In Fushë Kosovë, the Roma party came last with only 46 votes, in Ferizaj it won 0,69% of votes, in Pejë PREBK’s score was 0,36% and in Prizren, where most Roma live (2,899), PREBK gained only 383 votes (0,69%).\footnote{Ibid.} Moreover, the Roma minority does not have any representatives in the municipal executive branches.

Our representatives are not efficient and do not know how to make use of their positions. They are not connected with the communities they represent. One key issue is that they do not collaborate with the civil society and they see us as being in opposition…This means that important and potentially useful projects and recommendations from the civil society are completely disregarded... The needs of the community are not respected.\footnote{Personal Interview with Daut Qulangjiu, Roma Community, Member of CCC, Prizren, 06.04.13.}

Therefore, the poor participation and representation of Romas in the public affairs of Kosovo represents for this minority both a cause and a consequence of marginalisation. On the one hand, a critical factor influencing their participation has been “the lack of professional and educational credentials that undermine the self-confidence of community representatives to actively engage in municipal politics.”\footnote{OSCE Communities Profiles, “Kosovo Roma”, p. 21.} Generally, the Roma minority fails to organize efficiently and promote its political engagement and it rarely participates in
public discussions organized across Kosovo at both central and local levels. On the other hand, the low turnout among Romas in the elections has also deprived them of representation, even where they represent a significant part of the local population. As the Prizren example of the only Roma deputy in local governance shows, when Romas do engage in politics, they tend to vote or participate for majority Albanian parties. In the words of the Roma MP Albert Kinolli: “It is very difficult to get the support of their community because the big Albanian parties convince Roma people to vote for them, most of the time with non-democratic means like buying votes.” Moreover, local authorities “have not proactively reached out to Roma to promote their participation in the electoral process and voter registration”, despite the fact that in 2009 the Kosovo government adopted the Action Plan for the Implementation of the Strategy for Integration of Roma, Ashkali and Egyptians Communities.

Socio-economic situation

While the legislation for minorities is excellent, the implementation is very poor because the Roma community lacks education, because we are discriminated and we have very little representation in both the private sector and the public sector…poor representation in public institutions and ministries.

As mentioned before, the Roma community is one of the most vulnerable minorities in Kosovo with a large proportion of its population living in extreme poverty and with fundamental problems like discrimination, unemployment, lack of education and professional skills placing them in an even worse position than Ashkali and Egyptians. In this context, it is extremely difficult for Romas to obtain employment in either public institutions or private companies that are reluctant to hire them, which leaves “many individuals and families to

---

712 Personal Interviews with Kosovo civil society members & Roma representatives, February-June 2012, Pristina, Kosovo; & OSCE Communities Profiles, “Kosovo Roma”.
713 OSCE Communities Profiles, “Kosovo Roma”, p. 21.
714 European Roma Rights Centre (ERRC) (2011) op. cit. p. 44.
715 Personal Interview with Albert Kinolli (Roma MP), 14.05.12, Pristina.
716 OSCE Communities Profiles, “Kosovo Roma”, p. 21
717 The plan introduces concrete measures to improve the representation and participation of the Roma, Ashkali and Egyptian communities in Kosovo society.
719 Stevens, G., op.cit., p.8.
rely on social assistance and pensions paid either by Kosovo institutions, Serbian authorities or both.”

Roma thus access both Kosovo and Serbia-run institutions, depending on their place of residence and the availability of services, but the lack of civil registration documents prevents many of them from accessing social services. Similarly, the lack of correct documentation, destruction during the war of documents proving ownership, the recurrent malfunctioning of municipal cadastral offices and the misconception within the community about property rights are some of the issues preventing Roma to repossess their lost properties. Moreover, the minority’s access to municipal services remains a challenge across all regions in Kosovo and among the main concerns are “the affordability of utilities and administrative fees, the lack of necessary personal documents, and limited awareness on relevant institutions and offices where Roma can address their concerns.”

Some Roma engage in seasonal work in agriculture and construction, but the most common source of income is from informal labour like collecting scrap metal and low paid cleaning activities. Moreover, only a very low number of Roma work in the public sector in publicly owned enterprises or as civil servants in Kosovo or in Serbian parallel institutions. In 2011, the Roma community had an unemployment rate of 60.22% and as the section on minority employment in the public sector illustrated, Roma were among the least represented minorities in Kosovo. For instance, in the 2010 Policy Study the only public institution that represented equitably the Roma community was the Ministry of Education Science and Technology (MEST) with 1.53% Roma civil servants. Other important public bodies and institutions like the Assembly reported that they did not have any Roma employees, while, within the central executive institutions there were only 0.15% Roma civil servants.

Moreover, local level executive institutions employed across Kosovo a total of 13 Roma (0.14%) and only 1 of them holding a political position (municipality of Pejë). The municipality where most Roma live, Prizren, had 5 (1.68%) Roma employed in the civil service. Other Roma populated municipalities had maximum 1 Roma employee each: Pejë- 1 (0.38%) Roma, Gjakovë- no Roma civil servants, Obiliq- 1 (0.22%) Roma, or Mitrovicë- no

---

720 OSCE Communities Profiles, “Kosovo Roma”, p. 5.
721 Ibid, p. 15.
723 Ibid, p. 5.
Roma civil servants. Moreover, this low representation of Roma is even more problematic given that many of these municipalities “have in some cases lowered the standards of the job requirements in order to give priority to applicants from a nonmajority community.”

These socio-economic problems characterising the Roma community have been an even bigger burden in the context where about two thirds of the estimated pre-war population of 150,000 Roma, Ashkali, and Egyptian residents were displaced during and after the 1999 conflict. Dealing with the return of such a large number of persons has created serious difficulties for Kosovo authorities given that “returnees in Kosovo are adversely affected by inadequate housing, limited access to reconstruction assistance and uncertainty of tenure in informal settlements.” In addition, the lack of security and difficulty of finding employment are also fundamental problems for returnees. However, until now very few Roma, Ashkali and Egyptians have returned to Kosovo  as according to UNHCR figures, between 2000 and 2009, 2,760 Roma and 5,171 Ashkali and Egyptians returned.

3.3.2. Ashkali community

Demography

The 2011 census represented the first ever inclusion of the Ashkali community in official statistics and the result confirmed the Ashkali community as the fourth largest minority in Kosovo with a population of 15,436. Unlike the situation for most of the other communities, this figure was higher than previous estimates suggesting that approximately 12,000 Ashkali are living in Kosovo. The largest Ashkali communities are located in the municipalities of Ferizaj with 3,629 Ashkalis, and Fushë Kosovë, where they represent almost 10% of the municipal population (3,230). Furthermore, in these municipalities they constitute the largest minority groups, same as the situation in Lipjan with 1,812 Ashakalis, and in the municipalities of Shtime, Podujevë, Mitrovicë and Suharekë.

---

725 Policy Study No. 1. (2010).
726 Ibid, p. 85.
727 OSCE Communities Profiles, “Kosovo Roma”, p. 8.
729 Ibid, p. 66.
730 UNHCR, 2012, p. 4.
731 OSCE Communities Profiles, “Kosovo Ashkali”, p. 3.
Identity, Language, Education

The Ashkali is one of the recently recognized minorities in Kosovo and their name originates from the post-1999 conflict period since when it has been supported by UNHCR and the international community as a distinct minority community in Kosovo.\textsuperscript{732} Ashkali are Albanian-speakers, generally of Muslim faith and identify their origins in Ancient Persia. The fact that the Ashkali community’s mother tongue is Albanian facilitates their interaction with central and local level institutions and service providers, has a positive impact on their freedom of movement as well as on their access to information in electronic and media.\textsuperscript{733} Nevertheless, “continuing marginalisation suffered by the Ashkali community means that lack of engagement in institutional or grassroots dialogue processes and forums may have less to do with inter-community conflict and more to do with widespread prejudice and social exclusion.” \textsuperscript{734} Therefore, despite the closer connection with the Albanian majority community linguistically and religiously, in many areas of Kosovo Ashkali continue to live separately from mainstream Albanian communities.

As regards their access to education, Ashkali children have been affected by non-enrolment and high drop-out rates. The reasons for this situation derive both from the general limited capacity of Kosovo institutions to invest in education and also from the community’s particular issues: “poverty, parental choices favouring boys, child labour, early marriage, and girls called to perform household work and care for younger brothers and sisters.”\textsuperscript{735}

Socio-economic situation

What is the use of a nice constitution if implementation is not in place? If you do not have laws that cannot be implemented why is the constitution existing?... One of the causes for poor implementation is the lack of budget. Another one is the lack of political will. Also, the lack of capacities among people and most important is the lack of coordination between different mechanisms at the local and central levels of governance.\textsuperscript{736}

The socio-economic situation of the Ashkali community remains precarious, with high levels of unemployment and social exclusion throughout Kosovo. The 2010 unemployment rate for the Ashkali minority was 60.46%,\textsuperscript{737} representing the second highest percentage after

\begin{itemize}
  \item \textsuperscript{732} \textit{NHC} (2007), op. cit., p. 6.
  \item \textsuperscript{733} \textit{OSCE} Communities Profiles, “Kosovo Ashkali”, p.17.
  \item \textsuperscript{734} Ibid, p. 19.
  \item \textsuperscript{735} Ibid, p. 13.
  \item \textsuperscript{736} Personal Interview with Muhamet Arifi, Ashkali community.
  \item \textsuperscript{737} \textit{UNDP} Public Pulse 2012, p. 31.
\end{itemize}
the Egyptian community in Kosovo. As regards the employment in the Kosovo public sector, the Ashkali minority is also characterised by a disproportionate and widespread under-representation. For instance, in 2010 there were no Ashkali working for the Kosovo Assembly, while the Government of Kosovo reported 7 Ashkali (0.14%) civil servants: 3 Ashkali working for the Ministry of Justice, 3 for the Ministry of Labour and Social Welfare and one working for the Ministry of Communities and Returns. Moreover, the Independent Institutions, Executive Agencies and Regulators employed in 2010 only one Ashkali. At the municipal level of public service, the institutions across Kosovo reported a total of 31 Ashkali (0.34%). In Ferizaj, where most Ashkali live, the community had the largest representation among minorities with 9 (3.66%) employees, unlike the second Ashkali populated municipality, Fushë Kosovë, with only 3 (0.95%) Ashkali civil servants, or Lipjan with no Ashkali employees.

High drop-out rates from school lead to low literacy and a widespread lack of educational or vocational qualifications among the community hamper the access to the labour market for member of the Ashkali community. However, a number of individuals are self-employed, while small numbers are employed in the civil service. Many Ashkali families rely on social assistance and pensions mainly from Kosovo, although some receive social assistance from Serbia, or from both. Pensions and social assistance from Kosovo are not adequate to ensure dignified living conditions, especially for those living with extended families. In addition, the law sets strict criteria for inclusion in the social assistance scheme and many Ashkali, although socially vulnerable, are excluded from it often due to a lack of civil registration documents. Ashkali women continue to be among the most disadvantaged groups in society. The majority of the Ashkali population continues to rely extensively on the social welfare assistance. In some cases, the Kosovo department of social welfare delayed the provision of monthly social assistance but no discriminatory actions have been noted. However, the effect that social assistance has on reducing poverty amongst Ashkali is very limited. Many complain that the scheme is not comprehensive enough to reach out to the very poor, leaving most without support owing to the narrow criteria for eligibility.

---

739 Ibid, o. 66.
740 Ibid, p. 4.
Regarding the return and reintegration problem, a large number of Ashkali remain displaced both internally and throughout the region and in Western European countries.\textsuperscript{742} The Ashkali residing outside of Kosovo continue to be mainly forcibly repatriated as the voluntary returns process has been slow under the impact of the lack of opportunities for employment and the poor economic integration of returnees.\textsuperscript{743} Between 2000 and 2012, UNHCR reported only an aggregated figure of 6537 Ashkali and Egyptians that returned voluntarily, representing 27.21\% of the total number from all Kosovo communities\textsuperscript{744}, but nevertheless a small figure given the 150,000 estimated population of Roma, Ashkali and Egyptian residing in Kosovo before the war. Other factors affecting the return and reintegration of Ashkali include: “difficulties in repossessing property due to their widespread lack of registered property titles and personal documents; security concerns; insufficient donor support; and insufficient representation in returns elated bodies at the local and central level.”\textsuperscript{745}

**Political representation and participation**

Minorities are not respected equally. Putting Serbs first and the others after that is not fair. This is a major obstacle in the attempt to implement the constitution…

The representation of Ashkalis in public institutions is a disaster and does not respect the constitutional provisions. For instance, in Fushe Kosovo Ashkalis represent 10\% of the local population with only 2 employees in the municipality, while Serbs are 1\% of the population but have 13 people working for the municipality. Is that fair?\textsuperscript{746}

The Ashkali community is generally under-represented politically, although the situation has been slightly better at the local level as a result of the 2009 municipal elections. There have been two Ashkali deputies in the Kosovo Assembly and two Ashkali holding guaranteed seats in the Community Consultative Council. The Ashkali community has been represented by two political parties: the Democratic Ashkali Party of Kosovo (PDAK- Partia Demokratike e Ashkanlive të Kosovës) and Ashkali Party for Integration (PAI- Partia Ashkalinjëve për Integrim). PDAK was founded in 1999, after the end of the conflict in

\textsuperscript{742} OSCE Communities Profiles, “Kosovo Ashkali”, p .7.
\textsuperscript{743} Ibid.
\textsuperscript{744} UNHCR, 2012, p. 4.
\textsuperscript{745} OSCE Communities Profiles, “Kosovo Ashkali”, p .7.
\textsuperscript{746} Personal Interview with Muhamet Arifi, Ashkali community.
Kosovo to represent and protect the interests of the Ashkali minority. The first leader of PDAK was Sabit Rrahmani, who was also one of the three Ashkali deputies during the first two legislatures of the Kosovo Assembly (2004-2007 and 2007-2010). In the 2007 national elections in Kosovo, PDAK got three seats in the Kosovo Assembly with 3,433 votes.

The party experienced some difficulties between 2007 and 2008 when Mr. Rrahmani, the party leader, was arrested and then sentenced for six months of imprisonment of unpaid debts and fraud charges. Moreover, he resigned from his party and in December 2008, the Assembly also decided to end his mandate as representative of the Ashkali community, as he had reached the limit of six months of abstention from Assembly proceedings. This was the first time that the Assembly of Kosovo decided to end the mandate of one of its members. Moreover, PDAK split in September 2008 and the Democratic union of Ashkalis (BDA) was established, which then held one of the 2 Ashkali seats in the Assembly. The two parties were reunited in April 2010. Danush Ademi has been since PDAK’s new president and lead the party in the 2010 national election to win 1,411 votes out of the party’s total of 2,871 votes (0.41%) and secure one seat in the Assembly.

The Ashkali Party for Integration (PAI) was founded in 2010 and took part in the elections, thus challenging the supremacy of PDAK within the Ashkali community. PAI obtained a good score in 2010 of 1,386 votes (0.2%) and entered the assembly with one seat as well hold by Etem Arifi who had an individual number of votes of 1,003. The results of the 2014 elections did not change anything as the number of votes for Ashkali parties was again higher than that for the Roma or Egyptian minorities, which secured an additional guaranteed seat in the Assembly, as it did during the previous election. The same two Ashkali MPs have kept their seats.

In the 2009 elections, the community won a total of 3 municipal assembly seats across Kosovo in the municipalities of Ferizaj and Fushë Kosovë, where the community has a significant presence. In Ferizaj there have been 2 Ashkali from PDAK and the municipal

---


748 According to the rules of procedure, if a member of the Assembly throughout a period of six months attends none of the sessions of the Assembly or of a committee, of which he/she is a member, and cannot show good cause to the satisfaction of the president of the Assembly, the president shall propose to the Assembly that the member concerned cease to be a member.


750 CEC, 2010 General Results.

751 Ibid.
assembly deputy chairperson for communities has also been Ashkali, Rexhep Bajrami from PDAK. In Fushë Kosovë, the municipal assembly has included one Ashkali from PDAK. Given the significant number of registered Ashkali voters in Lipjan, a higher turnout would have enabled the community to gain an assembly seat in this municipal as well. Furthermore, the community is not generally represented in the executive branches of the municipalities but they are represented in the municipal offices for communities and community committees in most municipalities where Ashkali reside.

Overall, the factors influencing the community’s low participation in public affairs include the lack of professional and educational credentials that undermine the reputation of Ashkali representatives and their motivation to actively engage in local politics and the lack of initiatives by municipalities to support and promote their participation.

3.3.3. Egyptian community

Demography

The 2011 census reported that the Egyptian minority in Kosovo had a population of 11,524 members, almost half of which live in the municipality of Gjakovë (5,117 Egyptians), where they also represent the largest minority group. The municipality of Pejë is second with a number of 2,700 Egyptians, followed by Istog (1,544) and Klinë (934). Nevertheless, it should be mentioned that for the Egyptian minority there have been discrepancies in the data provided by different sources (Kosovo census, ECMI and OSCE data), mainly “also due to the fact that data on the Roma, Ashkali and Egyptian communities often cannot be easily disaggregated.” Nonetheless, unlike the Ashkali community, the Egyptians were previously included as one of the ethnic categories in the Yugoslav census of 1991 when 3,307 people (0.2 %) declared themselves as Egyptians.

Identity, Language, Education

The Egyptians represent one of the communities considered to have lived traditionally in Kosovo despite having started to declare their identity only in the early 1970s, claiming

---

753 OSCE Municipal Profiles, “Fushë Kosovë/ Kosovo Polje”, http://www.osce.org/kosovo/13118
754 Personal Interview with Muhamet Arifi, Ashkali member of CCC, 06.03.12, Pristina and OSCE Communities Profiles, “Kosovo Ashkali”, p. 16.
ancestry in ancient Egypt.\textsuperscript{757} Kosovo Egyptians speak Albanian as their mother tongue and are predominantly of Muslim faith. Moreover, the fact that Egyptians speak Albanian facilitates their access to services and information and to electronic and print media and contributes to their freedom of movement.\textsuperscript{758} This also means that pupils from the Egyptian community can make use of the official public education system with no language barriers. However, similarly to the Ashkali and Roma minorities, the Egyptian community is affected by social exclusion and poverty that hamper the school attendance and performance of children in Kosovo, while girls also remain the most affected: “[m]any Egyptian families can rarely afford basic school textbooks and supplies, contributing to high numbers of drop outs and the frequent choice to keep only boys in school.”\textsuperscript{759} Most Egyptian pupils do not continue their studies after the compulsory-level education and only a few enrol in university, even though there are quotas of guaranteed seats for Egyptian students in Kosovo.

**Socio-economic situation**

The Egyptian minority has a similar situation to that of Roma and Ashkali communities in Kosovo as it is also facing fundamental problems like poverty, unemployment, social exclusion, discrimination, lack of education and professional skills.\textsuperscript{760} Furthermore, the lack of information regarding job opportunities, the lack of investment in the development of small businesses and the agricultural sector, the lack of qualifications as well as the poor state of the economy as a whole, are key reasons why the Egyptian minority was reported with the highest rate of unemployment in Kosovo (69.14 %).\textsuperscript{761} The community has been relying on social assistance, on contributions from relatives residing abroad and donations from aid agencies, while “seasonal agricultural works and self-employment activities are still the dominant types of employment for this community.”\textsuperscript{762}

As regards the Egyptians employed in the Kosovo public sector, the community is clearly underrepresented at both central and local level of governance. In 2010, there were no Egyptians employed within the central representative institutions while the central executive institutions confirmed only 2 Egyptians (0.03%), representing the lowest representation from

\textsuperscript{757} OSCE Communities Profiles, “Kosovo Egyptians”, p. 3.
\textsuperscript{758} Ibid, p. 15.
\textsuperscript{759} Ibid, p. 11.
\textsuperscript{760} Ibid, p. 4.
\textsuperscript{761} UNDP Public Pulse 2012, p. 31.
\textsuperscript{762} OSCE Communities Profiles, “Kosovo Egyptians”, p. 3.
all minorities in Kosovo. The two Egyptians within the Kosovo Government were employed for the Ministry of Trade and Industry and the Ministry of Communities and Returns, the latter being the only public institutions an equitable number of Egyptian civil servants (1.14%). The same report indicated that at the local level, all Kosovo municipalities combined employed only 7 Egyptians (0.08%), with one more than the Gorani minority. The municipalities with Egyptian civil servants were: Decan with 2 (1.61%) Egyptians, Pejë with 1 (0.38%) Egyptian and Istog with 4 (2.74%) Egyptians employees. The situation is even more worrying given that the municipality of Gjakovë did not report one single Egyptian within its members of staff despite having a population of over 5,000 members of this minority.

In this context, the previously mentioned problem of returnees also affects the improvement of the situation of the Egyptian community. The process has been slow for this minority even though a number of initiatives dedicated specifically to the return and reintegration of Egyptians have been undertaken in the Pejë region, where most Egyptians reside. It also appears that the “representation and participation of Egyptians in relevant returns-related mechanisms is hampered by the fact that many municipalities failed to establish them or to convey regular meetings.” Another crucial problem for the community is the fact that many Egyptians do not have birth or civil registration certificates that generally prevents them from enjoying full access to social services like employment assistance, health care and social welfare.

**Political representation and participation**

The Egyptian minority in Kosovo has been mainly represented politically by one party, the New Democratic Initiative for Kosovo (IRDK- Iniciativa e Re Demokratike e Kosovës). IRDK was established in 2001 under the leadership of Bislim Hoti and it has been aiming to protect the identity, traditions, culture of Egyptian. The IRDK is a western Kosovo regionally based party and has been in close relations with the Alliance for the Future of Kosovo (AAK), one of the main Albanian parties in Kosovo. IRDK represents an interesting

---

763 Policy Study No. 1. (2010).
764 OSCE Communities Profiles, “Kosovo Egyptians”, p. 7.
765 Ibid. p. 8.
case among minority parties in Kosovo given it has been in coalition with a majority party (AAK) having formed a parliamentary group together in all three legislature so far. In the first two legislature of the Assembly, IRDK had two deputies each time, while after the last elections in 2010, there was one deputy (guaranteed seat) representing the Egyptian minority in the parliament. The current IRDK leader, Mr. Xhevdet Neziraj won his deputy position by leading his party list with 1,109 votes. At the central level, Egyptians also have two representatives in the CCC. The 2014 elections confirmed the position of the newly-founded Partia Liberale Egjiptase (PLE, Liberal Egyptian Party) as the largest party representing the Egyptian minority by taking over the one guaranteed seat from IRDK.

The participation of the Egyptian minority in public affairs is better at the local level as the 2009 municipal elections were deemed a success for the community. Egyptians gained a municipal assembly seat in each of the municipalities of Fushë Kosovë, Gjakovë, Istog and Pejë. In Gjakovë, the municipal assembly deputy chairperson for communities has been an Egyptian, Bislim Hoti (LEK), same as in Istog where the position has been hold by Fazli Stollaj. Nevertheless, the Egyptian minority has been unrepresented in the executive branches of the municipalities where they reside.

---

767 CEC, 2010 General Results.  
769 Personal Interview with Muhamet Arifi (Ashkali member of CCC), 06.03.12, Pristina.  
770 OSCE Municipal Profiles, “Istog/Istok” and “Gjakovë/Dakovica”.  
771 OSCE Communities Profiles, “Kosovo Egyptians”, p. 13.
3.4. The Gorani community

Demography

The Gorani minority has 10,265 residents in Kosovo and is mainly concentrated in the municipality of Dragash where there are 8,957 Goranis.\(^{772}\) This means that together with the Bosniak community, they make up almost 50% of the population of the Dragash municipality. In other municipalities, the Gorani community accounts for less than 3% of the local population: Prizren, Mitrovicë, Prishtinë and Pejë. In the past it was difficult to estimate the numbers of Gorani accurately because they have traditionally been migrant workers and also because in the pre-1999 censuses, Gorani (together with Bosniaks and Torbesh) had been generally categorised as "Muslim Slavs".\(^{773}\) As a result, the 2011 census figure is higher than that of previous estimates and “the changes in figures for Bosniaks and Gorani may potentially be linked: despite being separate ethnic groups, each of them with a separate cultural identity and speaking different Slavic dialects, figures concerning Bosniaks and Gorani are often merged or confused.”\(^{774}\)

Identity, Language and Education

The Gorani are closely related to Bosniaks but constitute a separate Slavic Muslim community that originates from, and resides primarily in Kosovo’s mountainous and most southern municipality of Dragash (Prizren region). Moreover, the name “Gorani” derives from the Gora area, which is also a Slavic word meaning mountain.\(^{775}\) Gorani speak a Slavic language referred to as Našuski (roughly meaning “ours”), which is similar to the language spoken in the western part of Macedonia and different from other Slav dialects spoken in Kosovo.\(^{776}\) The language has not been standardised and no descriptive scholarly work on the Gorani dialect is available. This, together with continuous fights between two political factions, one supporting the usage of Serbian and the other the usage of Bosnian, prevents the Gorani community from advancing a coherent demand for language rights.\(^{777}\) As a result, the language is not recognized as a language in official use in any of the municipalities of Kosovo. Furthermore, the 2011 census questionnaire did not include Gorani as one of the

\(^{772}\) Kosovo 2011 Census
\(^{773}\) OCA, Communities Profiles.
\(^{774}\) ECMI Kosovo Policy Brief, 18 December 2012, p. 6.
\(^{775}\) OSCE Communities Profiles, “Kosovo Gorani”, p. 3.
\(^{776}\) OCA, Communities Profiles.
\(^{777}\) Ibid.
surveyed “mother tongues”. Therefore, in the municipality of Dragash, where the largest Gorani community resides, 6,978 individuals indicated “other” as their mother tongue. Therefore, within the community there are those who identify themselves as Gorani and a smaller number who identify themselves as Bosniaks. This split is also caused by the political division between the two groups as the main distinguishing feature between them continues to be that of political affiliation. Nevertheless, the Gorani identity has also been claimed by Macedonia and Bulgaria by providing passports. Moreover, in post-conflict Kosovo the Gorani minority educated in Serbian was caught in the middle of the political stand-off between Kosovo Serbs and Albanians that included the creation of two education systems in Kosovo. Education in Serbian is available in regions where Serbs, Gorani and Roma reside and it is currently managed and funded by the Serbian Ministry of Education, and follows a Serbian curriculum that differs from that in other Kosovo schools. Most Gorani in the Dragash municipality “prefer to enrol their children in Serbia-run schools where instruction is in the Serbian language, which in turn affords greater opportunities for enrolment in Serbian Universities.”

Socio-economic situation

The 2010 OSCE report on minorities in Kosovo evaluated the socio-economic situation of Gorani in Kosovo as “relatively good.” Given that half of the Gorani people are unemployed and the number of Gorani working in the public sector is very small, the main source of income within the community is from private family-run businesses. Moreover, Dragash municipality, where most Gorani live in one of the most underdeveloped municipalities in Kosovo.

779 Personal Interview with Murselj Halili, Gorani Community, MP for GIG Pristina, 04.04.13.
780 Personal Interview with Gazmen Salijevic, Roma community, *ECMI Kosovo*, 29.02.12, Pristina
781 *OSCE* Communities Profiles, “Kosovo Gorani”, p. 3.
782 Personal Interview with Murselj Halili, Gorani Community.
783 Ibid, p. 10.
784 Ibid, p. 4.
785 UNDP Public Pulse 2012, p. 31.
786 *OSCE* Communities Profiles, “Kosovo Gorani”, p. 4
In this context, marginalization is a challenge for Gorani people as well, especially that a part of the community complains “to face discrimination when seeking employment in Kosovo institutions or the private sector due to their ethnicity. Thus they often declare themselves as Kosovo Albanians and take advantage of their frequent proficiency in the Albanian language.”\textsuperscript{787} Other sources of income for this minority group are pensions and social welfare from both the Kosovo and Serbian systems, as well as remittances from the diaspora.

The Gorani have also been under-represented in the civil service. The central representative institutions do not have any Gorani employees, while the central executive institutions reported in the 2010 Policy Study only 4 Gorani (0.07\%) in total.\textsuperscript{788} At the local level across Kosovo there were indicated only 6 Gorani (0.06\%) employees, the lowest representation of all minorities in municipal institutions. In the municipality of Dragash there were 3 (2.54\%) Gorani reported to work in civil service, in Ferizaj 2 (0.82\%) Gorani and in Prizren only one (0.34\%) Gorani employee in the public sector.

Moreover, the poor access to employment and livelihoods and the challenges in relation to the choice of an educational system represent the main obstacles for the sustainable return and reintegration of Gorani displaced persons.\textsuperscript{789} UNHCR reported that between 2000 and 2012 a total of 1403 Gorani (5.84\%) returned voluntarily. Overall, the main problems facing Gorani in the municipalities where they reside have been a lack of qualifications, a lack of information regarding job opportunities, language issues, an absence of development in industry, as well as the poor state of the economy as a whole.\textsuperscript{790}

\textbf{Political participation and representation}

The Gorani community has been mainly represented by the Gora Citizen’s Initiative (GIG -the Gradanska Inicijativa Gora), created as a citizens’ association that took part in the 2000 municipal elections.\textsuperscript{791} In 2002, under the leadership of Rustem Ibiši, GIG became a political party based in the municipality of Dragash with the main purpose of advancing the rights and interests of the Gorani minority in Kosovo. GIG held the Gorani guaranteed seat in

\footnotesize{\textsuperscript{787} Ibid.  \\
\textsuperscript{788} Policy Study No. 1. (2010), pp. 37-60.  \\
\textsuperscript{789} OSCE Communities Profiles, “Kosovo Gorani”, p. 6.  \\
\textsuperscript{790} OCA, Communities Profiles.  \\
the Kosovo Assembly after Mr. Murselj Haljilji won 427 votes in the 2010 elections. He subsequently joined the Serb parliamentary group of SLS in the Assembly, which indicated the party’s and the community’s close links with the Serbs.

The political representation of the Goranis is fragile as a lot of issues that happen at the top level of governance influence the smaller communities significantly. Moreover, division within the community itself, political division and the fact that many voters have been co-opted by other parties like the Serb JLS, are all factors weakening our representation within decision-making in Kosovo.

GIG has been one of the minority parties in Kosovo that has gradually lost ground as its support fell from 1,789 votes in the 2000 local elections and 1,358 votes in the 2004 parliamentary elections to 454 votes in the 2009 locals and 787 votes in the national elections of 2010. In this context, their votes went “to the better organised and funded Bosniak parties”, while no new Gorani party was created. However, in the 2014 elections, the newly established Koalicijaza Gora (KG, Coalition for Gora) won the majority of the increased number of votes for Gorani representatives and secured the one seat of the community in the Assembly.

At the local level, The Gorani community only plays a relatively active role in the public life of Dragash municipality, where 2 Gorani have been elected to the 27-seat municipal assembly, and 3 participate in the 9 member committee for communities. Although all communities are represented by the municipal Committee on Communities and the Municipal Community Office, in no municipality does a member of the Gorani community chair these institutions.

Furthermore, in areas where communities constitute more than 10% of the municipal population, general community interests are also be represented in the Municipal Assembly though a Deputy Chairperson for Communities, but again, in no municipality is this position occupied by a member of the Gorani community.

792 CEC 2010 Elections, General Results.
793 Personal Interview with Murselj Halili, Gorani Community.
797 OSCE Communities Profiles, “Kosovo Gorani”, p. 13.
798 OCA, Communities Profiles.
3.5. The Montenegrin community

We are part of the Kosovo society as we have always been here. But we do not feel as part of the society.\textsuperscript{799}

Kosovo Montenegrins and Croats were not included in the 2008 Constitution of Kosovo or the initial Law on Communities and both minorities were officially recognized only in December 2011.\textsuperscript{800} As a result, they have been generally excluded from most legal provisions regarding the promotion and protection of minority rights in Kosovo and therefore they are not represented politically and have not been yet granted the right to guaranteed seats in the Assembly.

The situation of these two very small communities is illustrative for some of the key problems with the legislation on minority rights in Kosovo. On the one hand, the focus on developing a framework for the main minority, the Serbs, combined with the inconsistency of the understanding and application of the notion of “community” have undermined the equal inclusion of all minorities and, in the cases of Montenegrins and Croats, their exclusion through non-recognition.\textsuperscript{801} On the other hand, the development of a far-reaching system of minority rights protection has stimulated the very small communities to ask for recognition and inclusion in the political life of Kosovo in accordance to the constitutional provisions for minorities. This could become, at least formally, a clear example of overrepresentation and excessive rights leading to segregation rather than integration of minorities.

Demography

Given the circumstances described above, Montenegrins and Croats were not included as ethnic categories in the 2011 Census and as a result there is still no accurate data on the population of these two minorities. They had the possibility of declaring themselves as “other” in the question on ethnic/cultural background, a category which resulted with a figure of 2,352 persons, but without representing a valid basis for comparison and analysis.\textsuperscript{802}

\textsuperscript{799} Snežana Karadžić, Montenegrin Community, Political Adviser, Ministry of Local Government Administration (MLGA), and former Member of CCC, Pristina, 03.04.13.
\textsuperscript{800} Law No. 04/L-020 “On amending and supplementing of the law no. 03-L-047 on the protection and promotion of the rights of communities and their members in Republic of Kosovo”, 08 December 2011.
\textsuperscript{801} Personal Interviews with Kosovo civil society representatives, February-June 2012, Pristina.
\textsuperscript{802} ECMI Kosovo Policy Brief, 2012, p. 6.
Kosovo Montenegrins are known to have mainly lived in the Kosovo regions of Pejë and Prishtinë, in the municipalities of Deçan, Istog, Lipjan, Obiliq, Klinë, Fushë Kosovë, Graçanicë and Prishtinë. However, because they have lived alongside Serbs “no specific settlements/neighbourhoods have been identified due to difficulties in distinguishing the two communities.” OSCE has estimated a population of about 5,000 Montenegrins in Kosovo, with most of them living in the Prishtinë region.

The Montenegrin population was included in the past in censuses completed by former Yugoslavia and over time the figures varied between 20,000 and 30,000 persons, but since the last official estimate (1991: 1% of the population), there has been a dramatic fall in the numbers of Montenegrins living in Kosovo in the context of war and massive migration in the region due to security and to socio-economic concerns.

Identity, Language, Education

Montenegrins are a South Slavic community that originates from Montenegro, they are predominantly of Christian Orthodox faith and they speak Montenegrin or Serbian as their mother tongue. Montenegrins were recognised as one of the constituent nations of the Socialist Federal Republic of Yugoslavia and they share with Serbs a similar history as well as “many cultural, linguistic, religious, and traditional traits.” The development of a different Montenegrin identity has been mainly inspired by historical reasons (some parts of Montenegro were not under the rule of the Ottoman Empire), geographical reasons (its remoteness) and then by their recognition as separate ethnic group and the proclamation of its territory as one of the constituent republics of Yugoslavia. The most important and recent development was the independence of Montenegro from Serbia as a new state in 2006.

We are an old and traditional community in Kosovo. But after the war, it was a big mistake to be associated with the Serb community. This was not true. We are our own community, this is our country too, and we are diaspora of Montenegro. We have tried to integrate for the last ten years by participating and getting involved in the public sphere in Kosovo.

803 OSCE Communities Profiles, “Kosovo Montenegrins”, p. 15.
805 Ibid, p. 3.
806 Ibid.
807 Personal Interview with Snežana Karadžić, Montenegrin Community, Political Adviser, Ministry of Local Government Administration (MLGA), and former Member of CCC, Pristina, 03.04.13.
Even though the Kosovo Montenegrin political leaders strongly advocate for disassociation from the Serbs, “many are still reluctant to publicly self-identify as Kosovo Montenegrins, particularly in areas where they are integrated into the Kosovo Serb community, and benefit from institutions financed by the Republic of Serbia.” As a result the situation of Montenegrins is similar to that of Kosovo Serbs and given the linguistic resemblance with Serbian, children from this community in the Pejë and Prishtinë regions follow the Serbian curriculum system and attend classes in the Serbian language.

**Socio-economic situation**

As indicated above, Montenegrins face similar problems to those of the Kosovo Serb minority and a poor socio-economic situation given the limited employment opportunities, the limited freedom of movement and the poor knowledge of the language spoken by the majority community in Kosovo, Albanian. Nevertheless, there is no specific data on the dominant types of employment or level of unemployment for the Montenegrin minority, although the community “receives social welfare assistance from Serbia and minimum salaries derived from pre-1999 employment by state-owned enterprises.” Therefore, the existence of the Serbian parallel institutions in Kosovo have had an essential role for the Montenegrins living in Kosovo as well.

**Participation and representation**

Despite the deferred recognition, the Montenegrin minority in Kosovo has developed a political presence from which to promote and protect the community’s interests. Initially, they created in 2008 an Association of Kosovo Montenegrins, which helped them to participate in public affairs and gain a seat within the Communities Consultative Council, held by Snežana Karadžić. The main political problem for the Montenegrin community remains the fact that they still do not have a guaranteed seat in the Assembly despite the recognition of their status as non-majority communities.

We are feeling very unhappy as we still do not have a seat in the parliament. We were promised a seat but this has not been respected. How can we prepare our political campaign in this context?...

---

808 Ibid.
809 Ibid, p. 5.
In any case, in order to gain our seat in the Assembly we need to cooperate with all communities in Kosovo.\textsuperscript{810}

However, in 2009 and 2010 there were established 3 Montenegrin political parties: the Montenegrin Democratic Party (CDS), the Montenegrin People’s Party (CNS), and the Montenegrin Liberal Party (CLS).\textsuperscript{811} CDS has been the most important Montenegrin party under the leadership of Predrag Despotović and took part in the 2009 local elections and the 2010 national elections. CDS ran in 5 municipalities and managed to win 470 votes\textsuperscript{812} and secure one seat in the municipal assembly of Fushë Kosovë, where its candidate, Radoman Doderović gained 377 votes (4.63 %).\textsuperscript{813}

In the 2010 elections, CDS won 771 votes (0.11\%) in total and 513 votes for its main candidate Predrag Despotović,\textsuperscript{814} which gave CDS no chance for a seat in the Assembly given the Montenegrins were not then allocated a minority guaranteed seat. The result was nevertheless significant as it represented the same percentage as the one obtained by the Gorani party GIG and even better than the number of votes won by the Roma party PREBK (0,1\%), both of which have had a minority seat assigned in the Kosovo Assembly since 2010.\textsuperscript{815}

3.6. The Croat community

Demography

The Croat minority was not included either as a separate ethnic group in the 2011 census, but represents by far the smallest community in Kosovo with an estimated population of only 259 residents.\textsuperscript{816} The few Kosovo Croats live in small villages located in two different regions: the Gjilan region, municipality of Viti (villages of Letnicë, Shashar, Vërnavokollë and Vërnez), where they constitute approximately 0.05\% of the population and in the Prishtinë region, Lipjan municipality (Janjevë village) where they represent

\begin{itemize}
  \item Personal Interview with Snežana Karadžić, Montenegrin Community.
  \item Ibid, p. 9.
  \item \textit{OSCE} Municipalities Profiles, “Fushë Kosovë/Kosovo Polje”.
  \item \textit{CEC} 2010 Elections, General Results.
  \item Ibid.
  \item \textit{OSCE} estimates in Communities Profiles, “Kosovo Croats”, p. 14.
\end{itemize}

225
approximately 0.29% of the local population. In the past, several thousand Croats used to live in these two regions as the 1991 census reported 4,331 Croats in Viti and 2,914 Croats in Lipjan. However, most Kosovo Croats left Kosovo in the 1990s and especially during the 1999 conflict because of the lack of security and economic opportunities in combination with the support for relocation offered by Croatia.

**Identity, Language, Education**

Kosovo Croats are Catholic Slavs thought to originate from 14th century traders that came to Kosovo from Dubrovnik and who speak Croatian as their mother tongue. Therefore, their religious background and the local Roman Catholic Church represent the key elements for preserving the distinct Kosovo Croat identity. In general, Kosovo Croats make free use of their mother tongue in most public spaces, but the community does not feel completely at ease to do so in all public spaces and use Serbian to interact with public authorities, “thus at times experiences difficulties in relation to the lack of adequate translation and interpretation in the two municipalities where the community resides.” Moreover, the very few Croats children who are still in Kosovo attend the Serbian-supported educational system and follow its curriculum.

**Socio-economic Situation**

The employment and socio-economic situation of the Croat minority is extremely worrying, especially that the majority of the population are elderly. As OSCE reported, the Croat community is a “vulnerable and isolated community [that] lives in extreme poverty and inadequate housing conditions.” In the Gjilan region, most Croats are pensioners receiving assistance from Croatian, Kosovo and Serbian pension funds and social welfare. Moreover, there are no Croats employed in the Serbian parallel institutions in the Viti municipality, while the Kosovo Croats in the Prishtinë region have almost no employment opportunities.

A few people have found work in the Janjevë primary school, including 7 school teachers and, generally, “other sources of income for the community include trading in items,

---

819 Ibid, p. 4.
820 Ibid, p. 10.
821 Ibid, p. 4.
822 OSCE (2011), op. cit., p. 4
crafts, farming and agricultural activities." In this context, other problems like the lack of public transportation and access to health care, lack of access to telecommunication services and lack of property titles are all contributing “to a marked sense of isolation amongst the community.”

**Representation and Participation**

There is no participation of Croats in public affairs mainly because of the small size of their community, the late official recognition of their status as one of the Kosovan minorities and the absence of a guaranteed seat in the Assembly. Moreover, the community has no representation in the municipal executive and legislative bodies or civil service in the Gjilan region, while in Viti, the contracts of the only two Kosovo Croat civil servants employed in the municipal administration were terminated in 2009.

In addition, “neither municipality has been involved in any outreach activities to the community to promote their participation in public affairs and break the isolation of this small, vulnerable and aging community.” The only public forum where the community had participated was in the former Vrbovac Local Public Safety Committee (LPSC). Nevertheless, after the establishment in 2010 of the new municipality of Klokot, the Kosovo Croat villages of Viti municipality remained outside of the remit of the LPSC, leading to the removal of the community’s representative from the membership without being subsequently invited to join the LPSC that exists in Viti municipality.

**Conclusion**

As this chapter has illustrated, the process of integrating non-majority communities in Kosovo has been accelerated in the post-independence period by the promulgation and adoption of a strong legislation vis-à-vis the protection and promotion of minority rights. However, the implementation of the multietnic legal and institutional framework at both central and local levels of governance has had so far an asymmetrical impact on the different minorities in Kosovo. The first factor has been the overall priority to integrate the Serb minority, which I discussed more largely in the previous chapter. The second element has

---

823 OSCE Communities Profiles, “Kosovo Croats”, p. 5.
825 OSCE Communities Profiles, “Kosovo Croats”, p. 10.
826 Ibid.
been the will and institutional capacity of the state not only to target the integration of all minorities but also to implement the constitutional provisions as equitably as possible. This was exemplified by the second part of this chapter that analysed the proportional employment of minorities in the public sector. The third and core element of this chapter has been the particular will and capacity of each minority community to accept, assume and take advantage of the far-reaching set of minority rights.

The in-depth investigation of each of the non-Serb minority in Kosovo therefore helped to better reflect on the various interpretation and application of minority rights. This has been dependent not only on the support of the Kosovo authorities but also on the individual socio-economic and political situation of each community apart, as well as their different needs and demands. While it is important to underline the benefits and positive impact of the promotion of diversity and the protection of all minorities in Kosovo, this chapter has indicated why instead of integrating communities, the institutional focus on multiethnicity may also foster new divisions by promoting an ethno-political identity. There is evidence presented here of competition not only between the Albanian majority, the Serbs and other minorities, but also among the non-Serbian minorities themselves (Turks, Bosniaks, Gorani, R.A.E.).

Promoting multiethnicity with an actual main purpose to integrate only one community (Serbs) has brought the risk of a worsening trend as regards the situation of other minorities. In other words, to promote ethnic diversity by emphasising each group’s own identity, disregarding its appropriateness and assuming the uniform need of integration, may actually nurture division. The issue of what kind of “identity” is promoted (cultural or political) explains how multiethnicity permits actors to reinterpret or exploit the concept when it reaches areas beyond its real scope. The next chapter will use the process of decentralization to further illustrate the unintended consequences of Kosovo’s approach to manage diversity after independence.
Chapter 6: Minority Rights at the local level. The vital role of decentralization

Introduction

This chapter analyses the measures taken to integrate, accommodate and protect minorities at the local level in Kosovo while mainly addressing the situation of the Serb community as the key target of the process of decentralization. The first part of the chapter takes into consideration general arguments that show both positive and negative aspects of using decentralization as a tool for managing diversity. This may involve, for instance, the creation of decentralized governance on ethnic lines by empowering minorities that are in majority in a certain area. One positive outcome can be determining minority communities to accept and legitimise the authority of state institutions in exchange of a high degree of local autonomy. However, a key risk of this strategy, which Kosovo has also been using in the post-independence context, is to cause territorial and institutional isolation of minority-municipalities on the long term. Furthermore, the practical and non-ethnic benefits of decentralization (good governance, local democracy, etc.) may not be compatible with the ethnic criteria of establishing or empowering minority-municipalities because the new administrative units may lack the necessary capacities for sustainable local-self-governance.

This chapter then looks at the legislation starting with the Comprehensive proposal for the Kosovo Status Settlement (CSP), which represents the foundation of the decentralization strategy in Kosovo. This document had as priority addressing the needs of Kosovo Serbs by empowering them at the local level so as to gradually diminish the influence of parallel structures sponsored by Serbia and encourage them to accept the authority of Kosovo. The evident influence of the Ahtisaari Plan on drawing the post-independence legislation is analysed in the section on the post-2008 legal framework that has been regulating local government and decentralization in Kosovo. This will confirm the *de jure* high degree of transfer of powers from central government to municipal level in terms of political, administrative and fiscal responsibilities and competencies. Nonetheless, the particular provisions for Serb-majority municipalities, especially observed in the category of enhanced competencies, further demonstrate that the Serb community has been the main target of decentralized governance.

---

828 Minority municipalities represent municipalities where the majority of the local population belongs to one of the minority communities.
However, the creation of new municipalities in post-independence Kosovo is the most important case-study that this chapter employs to illustrate the empowerment of Serbs at the local level. This has consisted of a territorial and administrative reorganization of Kosovo so as to increase the number of Serb-majority municipalities to ten. In comparison, Kosovo Turks are the only other minority community with their own municipality, while only two other Albanian majority municipalities were newly established as a result of decentralization.

The last section of this chapter will examine one by one the Serb-majority municipalities located south of the Ibar River, but also the Turkish municipality of Mamuša and then the most ethnically diverse municipality in Kosovo, Prizren. This will consist of looking at the demographics, economic, administrative and political situations of each municipality so as to explain both the benefits and the challenges faced after decentralization, as well as to evaluate its impact on the levels of integration and accommodation of minorities at the local level. It will be essential to examine how the situation varies from one municipality to the other depending on the capacity of local actors, the support of Kosovo central institutions, the local economic opportunities, the willingness of the local population to integrate and the particular role of the Serbian parallel structures.

1. Why Decentralization?

Local self-government is based upon the principles of good governance, transparency, efficiency and effectiveness in providing public services having due regard for the specific needs and interests of the Communities not in the majority and their members.829

Decentralization has thus been the primary element in regards with the management of minorities at the local level of governance in Kosovo. This has had the aim of transferring decision-making powers from central to municipal level and of re-defining territorial boundaries for municipalities in Kosovo in the advantage of all minority communities.830 This section will combine Kosovo-specific examples and measures with theoretical arguments so as to explain how decentralization can be used as a key instrument for conflict management and integration of minorities in divided societies.

Similarly to the national legislation and central level measures for protecting minority rights in Kosovo, the strategy for developing an enhanced and sustainable system of local-

830 Personal Interview with Gjuljeta Mushkolaj, judge at the Constitutional Court and former member of the Constitutional Commission in Kosovo, 25.05.12, Pristina.
self-governance has also had the Serb minority as a main target. Consequently, there are currently ten municipalities in Kosovo that have a Serb majority. However, given the lack of implementation and the de facto administration by Serbian institutions of the four Serb municipalities in North Kosovo, this chapter will only examine the six Serb municipalities south of the Ibar River. As regards the other minorities, only the Turkish community has also benefited directly from decentralization through the establishment of the municipality of Mamusa in 2008. The Bosniak community has also been lobbying for the creation of two municipalities where they would be in majority, one in Vitomiricë and one in Recane, but they have not been approved yet.831 Furthermore, the last case-study of this chapter will be the Albanian-majority municipality of Prizren, which has the most ethnically diverse population in Kosovo.

In the context of statebuilding, decentralization in Kosovo has become a key part of the administrative, political, economic and territorial reforms that have two main objectives: a) the pure organizational purpose of developing the most efficient and accountable model of government and institution-building and b) to act as a post-conflict solution to the problems caused by a centralized system and build a legitimate and effective government, that in the case of Kosovo, mainly needs to address the integration of the Serb minority.

On the one hand, the overall strategy to transfer power at the local level by strengthening the status and capacity of municipalities aims, therefore, to secure an increased space for decision-making by local authorities and also a better provision of public services for citizens of these localities.832 In other words, this concerns the non-ethnic generic needs of all citizens that can be better managed through more control at the local level of governance and by bringing decision-making closer to the people. The transfer of authority away from the central level is thus planned to assure a better efficiency and accountability of local governments, limit the size of the public sector, reduce corruption, respond better to citizen preferences, enhance democracy and protection of rights and stimulate local development as well as intergovernmental competition.833 Furthermore, this transfer of powers to lower governmental tiers is part of the “global trend towards devolution [that] is based on subnational legitimacy and implies greater transfers of authority and resources from

---

831 Personal Interviews with Bosniak representatives.
the centre to the states or regions. In most cases, and as in previous waves of decentralization, regional legitimacy has historic, linguistic, religious, and/or cultural roots.”

On the other hand, the particular purpose of decentralization in Kosovo has been to address the situation of minorities and the protection and promotion of their rights at the local level (ethnic reasoning). Thus, the decentralization strategy has incorporated the idea that a decentralized government has a better potential to protect minority communities and, thus, offer equal participation for all minorities in the socio-economic and political life of Kosovo.

If minorities inhabit an area with a certain degree of self-government, decentralization essentially grants them the right to be free as a collective. Thus, decentralization offers the possibility of combining democratic ideals with guarantees for minorities and can provide a means of accommodating problems arising from ethnic diversity. By guaranteeing local autonomy, especially to questions considered important to ethnic identity, the potential for conflict within the national political arena is reduced.

Much of the literature that discusses the role of decentralization in post-conflict contexts does not include significant research on the specific impact of decentralization on the integration and accommodation of ethnic minorities. However, as also discussed in Chapter Two, the post-conflict studies of power-sharing have generally been in favour of either group-building (consociational) or integrative approaches and have revealed the difference between more traditional top-down methods that target the central level (quotas, electoral reform, veto power) and local-level mechanisms (decentralization) that “can contribute to the bottom-up transformation of conflicts.”

---

1.1. Ethnic vs. territorial models of decentralization

Given that the ethnic problems that motivated decentralization in Kosovo are the focus of this chapter, it is useful to mention a distinction made recently by Loew \(^{838}\) between the *ethnic* and *territorial* models of implementing decentralization based on the way the way the borders of local administrative units (municipalities) are drawn. Ethnic decentralization creates ethnically homogenous entities by using the distribution of ethnic groups as criteria of territorial demarcation. By contrast, territorial decentralization builds ethnically heterogeneous units (municipalities) by drawing “borders based on traditionally and socio-economically defined territories […] in which ethnic minorities constitute and important percentage of the overall population of the municipality.” \(^{839}\)

The territorial decentralization model can be described as an integrative tool for constructing power-sharing that aims to “de-ethnicise” politics and secure the transformation of conflict. Rather than focusing on mechanisms that give autonomy and empower ethnic minorities as unitary groups at the local level, territorial decentralization has the purpose of creating heterogeneous administrative-territorial units that work in favour of interaction, cooperation and trust-building between individuals belonging to different ethnic minorities: “By making individuals aware of the heterogeneity of interests within their ethnic group, it intends to contribute to the creation of cleavages cross-cutting ethnic affiliation.” \(^{840}\) In this way, there is more incentive for joint decision-making at the local level and for drawing attention away from ethnic politics while focusing on non-ethnic issues/interests.

A vital observation here is that ethnic groups themselves have a heterogeneous character based on the other interests/needs of individuals (economic for instance). Thus, the issues that cross ethnic lines become more important in this context and can oblige elites/politicians to address other ethnic groups than their own. Nevertheless, a fundamental challenge for this model is not addressing the issues of self-determination and of finding quick solutions for the mediation/integration of conflicting groups in the immediate context of post-conflict societies. This is affected by the lack of security for minorities as regards their participation in the decision-making, the peril of assimilation and of falling under the control of the majority population and not prioritising the specific minority issues at the local level (cultural, education, language rights).

\(^{838}\) Ibid, p. 11.
\(^{839}\) Ibid.
\(^{840}\) Ibid.
In cases of post-conflict statebuilding like Kosovo the focus is on reconciliation and on creating the necessary conditions for sustainable peace. Nonetheless, as this paper has been showing too, all ethnic minorities in such plural societies are be affected by the process regardless of their level of implication in the conflict. Therefore, in relation to the use of decentralization as a tool of conflict management/transformation, the *ethnic* model of decentralization has generally been chosen as a potential solution for post-conflict societies.\footnote{841} The main advantage of ethnic decentralization is that it creates the conditions for a high degree of autonomy and ethnic self-determination. This model seeks to improve the representation of all citizens through their ethnic elites and to provide incentives for cooperation with the central government and other ethnic groups as by transferring the “decision-making to ethnically defined territorial entities, the state guarantees that the concerns of ethnic groups living in these territories will be heard and considered in political decisions.”\footnote{842}

On the downside, ethnic decentralization creates homogeneous territories that can trigger segregation rather than integration of different ethnic minorities. Local ethnic elites can set-up their own power bases\footnote{843} allowing them to secure their legitimacy based on ethnicity and perpetuate ethnic politics in the detriment of democratization.\footnote{844} Furthermore, the benefits of ethnic decentralization are unlikely to be uniformly distributed among all minority groups or even among all members of the same ethnic group. The smaller ethnic communities might not be in the capacity to constitute a majority at the local level which would thus exclude them “from this instrument of conflict resolution and will in consequence also lack an important instrument for the representation of their interests at the central level.”\footnote{845} In other words, not only ethnic decentralization does not benefit the integration of smaller ethnic groups but it can obscure the overall protection and promotion of their rights. The empowerment of a certain group at the local level can also create new minorities and thus complicate the inter-ethnic relationships.

\footnote{842}{Loew, op. cit., p. 11.}
\footnote{843}{Ibid.}
\footnote{845}{Loew, op. cit., p. 11.}
In this context, the situation and role of members of minority groups outside larger ethnic enclaves becomes uncertain and at the risk of being neglected. Overall, there is a high risk of causing competition/conflict over establishing (new) ethnically homogeneous territorial units and, at the same time, causing an imbalance of power and distribution of rights. Benefits of ethnic decentralization is thus conditional on factors like geographical spread of the population and the model proves desirable for groups spatially concentrated or that have a local majority, while for other it may have no effect or be harmful.846

[...] in the past decade decentralization has gained traction as an international peace and state-building tool but it has encountered significant problems due to the difficulties to establish effective mechanisms of public accountability, both at the local and central levels of government. In some cases, this has been related to the use of decentralization as a narrowly conceived peace-building tool, i.e. aiming to separate previously warring parties/population groups and protecting the rights of minorities, without paying sufficient attention to the requirements of decentralization as part of a broader state-building effort. In other cases, it simply turned out to be extraordinarily difficult to imbue decentralization with life because formal mechanisms of public accountability proved powerless and toothless in contexts dominated by domestic ‘uncivil forces’ (Barnett et al. 2007: 52) and the interests of powerful external actors.847

Ethnic decentralization can therefore encounter many implementation challenges and can have unintended consequences such as an imbalanced exercise of rights among different ethnic groups or new reasons for inter-ethnic competition in the detriment of integration. This model of decentralization may target the immediate empowerment of ethnic minorities at the local level and thus create strong conditions for the protection of their rights and stimulate integration in the post-conflict environment (temporary conflict management). However, this may not be the best solution for the long-term aim of conflict transformation as “there are few signs suggesting that the policy has a positive impact on the reduction of the salience of ethnicity and the establishment of cross-cutting cleavages.”848

Therefore, while territorial decentralization may be less effective on the short-term and is not directly targeting the integration of minority groups, it cannot be evaluated as a post-

---

848 Loew, op. cit., p. 11.
conflict tool per se. On the other hand, the ethnic model of decentralization is particularly
designed to target the situation of minorities at the local level and for this reason it requires
more consideration. As the analysis of Kosovo will also illustrate, the fact that ethnic
decentralization may negatively affect the transformation of conflict through territorial
polarization represents a matter of great concern.

2. The legal framework on decentralization and minority rights at the local level

2.1. The Kosovo measures

Decentralization in Kosovo has consisted of policies mixing both ethnic and territorial
models for the demarcation of local units of governance and have thus established both ethnic
heterogeneous and ethnic homogenous municipalities. As the arguments discussed in the
previous section suggest, decentralization can have a positive effect in post-conflict
environments mainly by guaranteeing local autonomy and for this reason it “had been long
discussed as a potential mechanism for resolving some of Kosovo’s ethnic differences”\textsuperscript{849}
and it became a central point on the international agenda during the interim period under
UNMIK.

Before the war and the break-up of Yugoslavia, decentralization in Kosovo had a
different role. During the communist period, decentralization had the same ideological
purpose as in other communist regimes to strengthen the effectiveness of political control
exerted by the party over local affairs.\textsuperscript{850} The two basic constitutive elements of Yugoslav
federalism were communism and nation reflecting an interdependent relationship that while it
supported the regimes’ principles, structure and functioning it also caused its eventual
disintegration.\textsuperscript{851} At the same time, decentralization in Kosovo was also used in the past by
the Belgrade government “as a means to influence the ethnic power balance in the region in
favor of the Serbian community.”\textsuperscript{852}

As explained before, after the 1999 conflict the Serb community in Kosovo became
gradually isolated from the Albanian majority and the provisional administration and

in William Bartlett, Sanja Maleković and Vassilis Monastiriotis (eds.) Decentralization and Local
Former Yugoslavia” in Juergen Rose and Johannes Ch. Traut (eds.) Federalism and Decentralization.
Perspectives for the Transformation Process in Eastern and Central Europe, Basingstoke: Palgrave
\textsuperscript{852} Hajnal & Péteri, op. cit., p. 102.
institutions in Kosovo and settled in geographical, socio-political and economic enclaves with the fundamental support of the parallel system sponsored by Serbia. Moreover, before the 2008 declaration of independence, the integration of Kosovo Serbs clearly became a matter of great concern as indicated by the declining participation of Serbs in southern Kosovo and the successful boycott of the 2007 local and general elections.\footnote{853}{Burema, op. cit., p. 103.}

UNMIK created municipalities to coordinate humanitarian aid and the development of local administrative units and, afterwards, decentralization became a key point of discussion during the negotiation process over the future status of Kosovo between the international community, Serbia and Kosovo representatives that started in 2006.\footnote{854}{Loew, op. cit., p. 14.} The failure of these negotiations lead to the proposal for the status settlement (the Ahtisaari Plan) that set-up “a far reaching decentralization policy designed to achieve acceptance of the Kosovar authorities and the population of all ethnic communities, to reduce the struggle for dominance and legitimacy over the territory and to enable peaceful coexistence of all ethnic communities on its territory.”\footnote{855}{Ibid.} Therefore, this was perceived as an additional efficient way of governing multiethnicity in Kosovo, but it was not what the Kosovo local leaders had envisaged:

Decentralisation runs contrary to Kosovo Albanian ideas of achieving state “functionality” through centralised administrative control. It is instead linked with contemporary European ideas of “subsidiarity”, devolving decision-making down to the lowest level authority, propelled by the idea that the closer governance is to the people it affects, the more likely it is to reflect their interests.\footnote{856}{ICG, “Kosovo: No Good Alternatives to the Ahtisaari Plan”, Europe Report no. 182, May 2007, p. 9.}

Decentralization was thus considered as a key tool for post-conflict reconciliation and an opportunity to convince the Serb minority to accept Kosovo institutions in exchange of a high degree of local autonomy. But while decentralization has been utilised to primarily deal with the integration of Kosovo Serbs, the situation of the other minorities in Kosovo has nevertheless been affected. In addition to the general legal and institutional tools developed to address the protection of minority rights at the local level (participation and representation in political structures, decision-making powers, consultative bodies), of particular significance is the ethnic-based creation and empowerment of (minority) municipalities.

All these factors indicate a major challenge for Kosovo’s use of decentralization as a key tool for integration of minorities at the local level. Success in the long term might depend
on whether the implementation process is capable of linking together the minority rights protection strategy with the general aim of dealing with crucial non-ethnic issues like poverty, unemployment, under-development, unemployment and quality of public services. Decentralization in Kosovo may serve as a positive element for effective post-conflict and post-independence statebuilding in Kosovo but at the same time there is a risk of entrenching ethnic divisions through geographical, social, political and economic segregation. Once again, differentiating between immediate and long-term results is essential for understanding the efficiency and sustainability of decentralization.

2.2. The Ahtisaari Plan and decentralization

The process of decentralization has been mainly initiated and designed on the same lines with some of the key provisions from the 2007 Ahtisaari Plan or the Comprehensive proposal for the Kosovo Status Settlement (CSP). Annex III of the Proposal was entitled “Decentralization” and its purpose is clearly outlined in the first paragraph:

To address the legitimate concerns of the Kosovo Serb and other Communities that are not in the majority in Kosovo and their members, encourage and ensure their active participation in public life, and strengthen good governance and the effectiveness and efficiency of public services throughout Kosovo, an enhanced and sustainable system of local self-government in Kosovo shall be established.

Therefore, the text promotes the principle of local self-government as a solution for the particular needs of minority communities in Kosovo and correlates the participation and protection of minority rights with conditions for good governance, as well as with effective and efficient public services, “based upon the principles of the European Charter of Local Self-Government and, in particular, the principle of subsidiarity.”

The priority of this document was certainly to address the needs of the Kosovo Serbs by empowering them at the local level and creating the necessary conditions for them to be in charge and manage issues that are of particular interest for the Serb community.

This had the aim to limit the influence of the Albanian majority while at the same time it offered the possibility for Serb self-rule at the local level in exchange of recognition of the authority of the Kosovo government. Therefore, integration was supposed to be facilitated by developing a system of local self-government that would also incorporate the ethnic

---

857 Ahtisaari Plan, Annex III. Art. 1(1).
858 Personal Interviews with Serb political and civil society representatives, February-June 2012 and March-June 2013.
(minority) criteria. As the implementation of the decentralization plan shows, the ethnic criteria has been applied as much as possible to secure self-rule for Kosovo Serbs. The CSP document also indicates that Kosovo “shall enact basic legislation, in accordance with the principles set forth in this Annex, in order to ensure equitable treatment and minimum standards for all municipalities with regard to the regulation and management of the public affairs under their own responsibilities, respecting, in particular, the principle of subsidiarity, and having due regard for the municipalities' and the central government's fiscal sustainability.”

Moreover, in addition to the general lists of competencies, certain municipalities were going to have enhanced competencies, such as three particular cases of Serb-majority municipalities of Mitrovicë/Mitrovica North, Gracanica/Gracanica and Shtrpcë/Strpce, with extensive control over education and healthcare. However, the enhanced competences were solely meant to address concerns of the Serb community given that all municipalities where Serbs constitute the majority were going to have:

a. Authority to exercise responsibility for cultural affairs, including protection and promotion of Serbian and other religious and cultural heritage within the municipal territory, as well as support for local religious communities, in accordance with the provisions of Annex V of this Settlement
b. Enhanced participatory rights in the appointment of Police Station Commanders, as set forth in Article 2.6 of Annex VIII of this Settlement.

Furthermore, the Article on Education of the Decentralization Annex in CSP solely addresses issues regarding education in the Serbian language in schools and the University of Mitrovica as an autonomous institution. Another key proposal of the CSP chapter on Decentralization focuses on the cooperation of municipalities with institutions of the Republic of Serbia, which “may take the form of the provision by Serbian institutions of financial and technical assistance, including expert personnel and equipment, in the implementation of municipal competencies”, thus also entitling municipalities to receive financial assistance from Serbia. Lastly, the decentralization provisions offered by the Ahtisaari Plan also addresses the establishment of new municipalities: Gračanica/Graçanicë, Novo Brdo/Novobërdë, Ranilug/Ranilluk, Parteš/Partesh, Klokot-Vrbovac/Kllokot-Vërboc and Mitrovicë/Mitrovica North. Among the steps indicated in this article, it is worth

859 Ibid, Art. 2(3).
860 Ibid, Art.4.1 (1) & (2).
861 Ibid, Art. 7.
862 Ibid, Art. 10(1).
863 Ibid, Art. 11.
mentioning that “Kosovo shall engage in consultations with a non-majority Community where that Community makes up at least 75% of the population of a concentrated settlement with a minimum total population of 5000 inhabitants, with a view to establishing other new municipalities.” This specific criteria for the establishment of new municipalities could be of great help to compare CSP with the present legislation but also to analyse the practicality and results of the actual implementation of decentralization in Kosovo.

Altogether, the provision of the Ahtisaari package were set to use decentralization as an instrument of gradually limiting the presence of Serbian parallel structures in Kosovo, or at least changing the way they function by consolidating the authority of the Pristina government while also providing autonomy, rights and particular linkages with Serbian institutions for Kosovo municipalities with a Serb majority.

2.3. The post-independence legislation

Local self-government is based upon the principles of good governance, transparency, efficiency and effectiveness in providing public services having due regard for the specific needs and interests of the Communities not in the majority and their members.

The legal framework regulating local government and the process of decentralization in Kosovo consists therefore mainly of three laws: The Law on Local Self-Government, The Law on Administrative Municipal Borders and The Law on Local Government Finances. Therefore, the post-independence context of statebuilding has also comprised of a complex process of political, administrative and fiscal decentralization. Furthermore, in the Action Plan on the Implementation of Decentralization, the Kosovo Government presents its strategy to create a sustainable system and effective local government meant to ensure good living conditions for all citizens while paying particular attention to special needs and concerns of the minority communities in Kosovo:

Implementation of this process requires an action plan that should be undertaken, and an integrated inter-sectoral approach to ensure development of a decentralized system of local self-government. The Action Plan should be implemented by all the ministries under the lead of the Inter-Ministerial Group on Decentralization (IGD), chaired by Minister of the Ministry of Local government Administration, as a responsible governmental body for coordination of policies and actions related to the establishment of the new municipalities and implementation of the decentralization plan in the Republic of Kosovo, with tasks and

864 Ibid, Art. 12(4).
The IGD, in accordance with the abovementioned strategic intention shall fulfil the following objectives:

OBJECTIVE I – REFORM OF THE LOCAL GOVERNMENT LEGISLATION;

OBJECTIVE II – ESTABLISHMENT OF NEW MUNICIPALITIES;

OBJECTIVE III – DEVOLUTION OF COMPETENCIES AND RESOURCES

OBJECTIVE IV – CAPACITY BUILDING AND DEVELOPMENT OF NEW MUNICIPALITIES.  

According to the national and municipal legal framework, the following municipal institutions/posts are envisaged for minority communities at the level of municipal executive and assembly: Deputy Mayor for Communities, Deputy Chairperson of the Municipal Assembly for Communities and the Assembly Committee on Communities that has the status of permanent committee. The introduction of the Deputy Chairperson of the municipal assembly for communities aims to promote inter-community dialogue and serve as formal focal point for addressing concerns and interests of minorities in meetings of the assembly. Furthermore, claims by minorities or their members concerning the violation of their constitutional rights by the acts or decisions of the municipal assembly are referred by the Deputy Chairperson to the assembly and if the claims are rejected, “the Deputy Chairperson of a Municipality for Communities may submit the matter directly to the Constitutional Court, which may decide whether to accept the matter for review.” On the other hand the Deputy Mayor has a vaguer role to “assist the Mayor and provide him/her advice and guidance to the Mayor on issues related to the non-majority communities.” Moreover, the Communities Committee was created to include at least one representative for any community living in the municipality and has the following responsibilities:

- to review compliance of the municipal authorities with the applicable law and review all municipal policies, practices and activities related with the aim to ensure that rights and interests of the Communities are fully respected and shall recommend to the Municipal Assembly measures it considers appropriate to ensure the implementation of provisions related to the need of communities to promote, express, preserve and develop


867 Law on Local Self-government, Art. 54 (1)”In municipalities where at least ten per cent (10%) of the citizens belong to Communities not in the majority in those municipalities, a post of the Chairperson of the Municipal Assembly for Communities shall be reserved for a representative of these communities.”


870 Ibid, Art. 61 (4).
their ethnic, cultural, religious and linguistic identities, as well as to ensure adequate protection of the rights of communities within the municipality.\footnote{Ibid, Art. 53 (2).}

In 2009, a year after the declaration of independence, it was reported that the total number of representatives for each minority in communities committees across the 26 municipalities of Kosovo was as follows: Bosniaks (12 members), Turks (8 members), Roma (17 members), Ashkali (12 members), Egyptians (10 members), Gorani (3 members), Croats (2 members) and no representatives for the Montenegrin community.\footnote{OSCE (2009) “Protection and Promotion of the Rights of Communities in Kosovo: Local Level Participation Mechanisms”, p. 30.}

As regards the Law on the Use of Languages, Article 2(3) defines the official language in the municipality as the language of a community which is not official (not Albanian or Serbian), when this community constitutes at least 5\% of the population of the municipality. In addition, when a community within a municipality represents above 3\% of its population, and its language is not an official language, based on Article 2(4), this language has the status of the language in official use in the municipality. The same Article gives the same status, of the language in official use in the municipality, to languages of the communities that have been traditionally spoken in a municipality. As a result, Turkish, Bosnian and Roma languages have the status of the official languages at the municipal level or will be in official use at all levels as provided by law.

The Law on Local Self-Government

Both the Constitution and the Law on Local Self-Government confirm that the Municipality represents the basic unit of local self-government in Kosovo, “made up of community of citizens of a specific territory defined by law and shall exercise all powers which are not explicitly reserved for the central institutions.”\footnote{Law on Local Self-government, Chapter II, Art. 4(1).} This Law immediately indicates that municipalities should have policies and practices designed to promote coexistence and peace between citizens while creating the necessary conditions to enable “all communities to express, preserve, and develop their national, ethnic, cultural, religious, and linguistic identities.”\footnote{Ibid, Art. 4(3).} The Mayor represents the executive body presiding over the local administration, directly elected by the population for a 4 years term with powers to appoint
and direct the administration, propose the annual budget, municipal regulations and other acts that require approval from the municipal assembly.\textsuperscript{875} The legislative body of the municipality is the assembly, which is also elected by the population for a 4 years term.

As previously mentioned, subsidiarity is the principle in accordance to which all the competencies of municipalities shall be exercised. The significant number of competencies transferred to the local level suggest that “the Republic of Kosovo can be regarded as highly decentralized.”\textsuperscript{876} Furthermore, the competencies of municipalities fall into three categories: own, delegated and enhanced. The own competencies are full and exclusive powers in several areas:

\begin{itemize}
\item a) local economic development;
\item b) urban and rural planning;
\item c) land use and development;
\item d) implementation of building regulations and building control standards;
\item e) local environmental protection;
\item f) provision and maintenance of public services and utilities, including water supply, sewers and drains, sewage treatment, waste management, local roads, local transport, and local heating schemes;
\item g) local emergency response;
\item h) provision of public pre-primary, primary and secondary education, including registration and licensing of educational institutions, recruitment, payment of salaries and training of education instructors and administrators;
\item i) promotion and protection of human rights;
\item j) provision of public primary health care;
\item k) provision of family and other social welfare services, such as care for the vulnerable, foster care, child care, elderly care, including registration and licensing of these care centres, recruitment, payment of salaries and training of social welfare professionals;
\item l) public housing;
\item m) public health;
\item n) licensing of local services and facilities, including those related to entertainment, cultural and leisure activities, food, lodging, markets, street vendors, local public transportation and taxis;
\item o) naming of roads, streets and other public places;
\item p) provision and maintenance of public parks and spaces;
\item q) tourism;
\item r) cultural and leisure activities;
\item s) any matter which is not explicitly excluded from their competence nor assigned to any other authority.\textsuperscript{877}
\end{itemize}

\textsuperscript{875} Ibid, Art.58.
\textsuperscript{876} Loew, op. cit., p. 15.
\textsuperscript{877} Law on Local Self-government, Art. 17.
Therefore, the **own competencies** at the local level of administration cover all key areas, starting with economic development and continuing with education, healthcare, culture, environment and, of course, human rights issues. All these confirm the challenging and wide-ranging responsibility of municipalities to build-up and promote good governance, economic development and efficient delivery of public services. The second category is that of **delegated competencies** that are passed on by central authorities in Kosovo to municipalities, which mainly have to deal with cadastral records, civil registries, voter registration, business registration and licensing, distribution of social assistance payments (excluding pensions) and forestry protection on the municipal territory within the authority delegated by the central authority.\(^{878}\) These competencies require specific capacities adding on more challenges especially in the case of new municipalities, and, as a result, the law also mentions that delegated competencies must be accompanied by necessary funding “in compliance with objectives, standards and requests determined by the Government of Kosova.”\(^{879}\) The support of central institutions is thus vital for the development and sustainability of municipalities in Kosovo.

The third category of **enhanced competencies** applies to certain municipalities in the areas of health, education and cultural affairs, while also offering participatory rights in selecting local station police commanders.\(^{880}\) Given that the capacity of municipalities has been a key test for the sustainability and practicality of decentralization, it is worth mentioning that the law specifies how central authorities are meant to monitor the exercise of enhanced competencies in accordance with “minimum quality and quantity standards in the provision of public services [and] minimum qualifications of personnel and training facilities.”\(^{881}\)

The article on enhanced competencies nevertheless reproduces the suggestions of the Ahtisaari plan and names the municipalities of Mitrovicë/Mitrovica North, Gračanica/Gracanica and Shtërpcë/Štrpe in charge of the provision of secondary healthcare, while Mitrovicë/Mitrovica North is also given the competence for the provision of higher education.\(^{882}\) Nonetheless, all Serb municipalities in Kosovo with a Serb majority have the right to select the local police commander and “shall have authority to exercise responsibility for cultural affairs, including, protection and promotion of Serbian and other religious and

---

\(^{878}\) Ibid, Art. 18 (1).

\(^{879}\) Ibid, Art. 18(3).

\(^{880}\) Ibid, Art. 19(1).

\(^{881}\) Ibid, Art. 19(2).

\(^{882}\) Ibid, Art. 20-21.
cultural heritage within the municipal territory as well as support for local religious communities in accordance with the applicable law.” Moreover, the cross-border cooperation of municipalities permitting the direct support of Serbian institutions are also derived from the Ahtisaari plan. As a result, the purpose of CSP to accommodate the Serbs in Kosovo by providing rights and competences at the local level that solely target the Serb community was adopted by the Kosovo legislation. The promulgation of these special provisions for Serb-majority municipalities is very important in the context of the continuing presence of Serbian parallel institutions.

The legislation, thus, clearly empowers Kosovo Serbs to be in charge of their own affairs at the local level, but while this should be in exchange of full recognition of the authority of Pristina, the dependency on parallel institutions will require great efforts to be gradually diminished and eventually replaced. Kosovo institutions need to be capable of substituting the role of the Serbian parallel system in order to accomplish a proper implementation of the legislation. In this context, the capacity problem could be more crucial than the willingness of Kosovo Serbs to accept the full authority of Pristina.

In this multi-layered process of decentralizing powers, The Law on Local Government Finances focuses on the principles of financial autonomy and mentions that municipalities in Kosovo are entitled “to adequate financial resources of their own that they may dispose of freely in the discharge of their municipal competencies in accordance with the applicable laws of Kosovo.” As a result, the law allows municipalities to raise their own revenue through local taxes, services and donations, while it also takes into consideration the special conditions that may be necessary for the municipalities with enhanced competencies:

The Minister of Economy and Finance, the Government and the Assembly shall ensure that the KCB provides to the concerned municipalities the funds needed for the performance of such competencies. If the enhanced competency involves the provision of a public service, the funding shall be sufficient to permit the municipality to provide it in accordance with minimum quality and quantity standards, as expressed by the standard rules of the central public authority having principal responsibility in Kosovo for the delivery of such service; and, such funds shall be provided

883 Ibid, Art. 22(1).
885 Personal Interviews with Serb representatives from Gracanica, Strpce and Serb MPs, March-June 2013, Pristina, Kosovo.
886 Law No. 03/ L- 049 “On Local Government Finances”, Art. 2(1).
at a level that is sufficient to cover the municipality’s reasonable costs incurred with such performance. 887

These specifications can only highlight again the importance of enhanced competencies that mainly target municipalities with a Serb majority and, thus the needs and interests of Kosovo Serbs. It is also worth mentioning that the law includes financial assistance from the Republic of Serbia on the list of financial resources for Kosovo municipalities. 888 Another significant information that was included in the law on finances at the local level is regarding the data used for the allocation of the General Grant for each municipality. The General Grant is meant to assure a reasonable degree of stability in municipal income, an appropriate measure of equalization between municipalities, while taking into account the particular ability of the inhabitants of each municipality to access public services, and, nonetheless provide an adequate allocation of resources for the non-majority communities in the respective municipalities.

Furthermore, according to the national and local legal framework, the following municipal positions are envisaged for minority communities at the level of municipal executive and assembly: Deputy Mayor for Communities, Deputy Chairperson of the Municipal Assembly for Communities 889 and the representatives who make up the Committee on Communities as one of the permanent committees of the municipal Assemblies. On the one hand, the introduction of the Deputy Chairperson of the municipal assembly for communities aims to promote inter-community dialogue and serve as formal focal point for addressing concerns and interests of minorities in meetings of the assembly. 890 Furthermore, claims by minorities or their members concerning the violation of their constitutional rights by the acts or decisions of the municipal assembly are referred by the Deputy Chairperson to the assembly and if the claims are rejected, “the Deputy Chairperson of a Municipality for Communities may submit the matter directly to the Constitutional Court, which may decide whether to accept the matter for review.” 891

On the other hand, the Deputy Mayor not only has a vaguer role to “assist the Mayor and provide him/her advice and guidance to the Mayor on issues related to the non-majority

887 Ibid, Art. 6.
888 Ibid, Art. 7(1).
889 Law on Local Self-government, Art. 54 (1)”In municipalities where at least ten per cent (10%) of the citizens belong to Communities not in the majority in those municipalities, a post of the Chairperson of the Municipal Assembly for Communities shall be reserved for a representative of these communities.”
890 Ibid, Art. 55.
891 Ibid, Art 55(4).
communities”, but his/her appointment and dismissal are proposed by the mayor, thus limiting the independence of this position. Moreover, the Communities Committee was created to include at least one representative for any community living in the municipality and has the following responsibilities:

- to review compliance of the municipal authorities with the applicable law and review all municipal policies, practices and activities related with the aim to ensure that rights and interests of the Communities are fully respected and shall recommend to the Municipal Assembly measures it considers appropriate to ensure the implementation of provisions related to the need of communities to promote, express, preserve and develop their ethnic, cultural, religious and linguistic identities, as well as to ensure adequate protection of the rights of communities within the municipality.

In 2009, it was reported that the total number of representatives for each minority in functional Communities Committees across 26 municipalities of Kosovo was as follows: Serbs (37), Bosniaks (12 members), Turks (8 members), Roma (17 members), Ashkali (12 members), Egyptians (10 members), Gorani (3 members), Croats (2 members) and no representatives for the Montenegrin community. Such statistics indicate that although in heterogeneous municipalities minority representatives cooperate more in the local administrations and assemblies, in homogeneous municipalities the small minority communities are often not represented at all in these institutions. Although the Committees for Communities should act as permanent platforms for interethnic contact, they “do not provide regular contact and are often exclusively attended by representatives of nonmajority communities, being perceived as an institution only representing the interests of these communities.” This can marginalise the minorities and prevent them from developing common interests and objectives.

**The Law on Administrative Municipal Borders**

This law was adopted in February 2008 and its opening statement explains again the aim of bringing decision-making closer to citizens while the focus is clearly on the “special

---

892 Ibid, Art. 61 (4).
893 Ibid, Art. 53 (2).
895 Loew, op. cit., p. 19.
896 Ibid.
needs and concerns of the non-majority communities in Republic of Kosova. It then motivates the adoption of the law:

> a democratic society is sustainable and functional when all the communities are integrated in the existing system and take part in the democratic and political life of the country, [...] For the purpose of integrating the non-majority communities, especially the Serb community, establishing of a functional state throughout the whole territory and creating a sustainable system of the self-government, to improve the efficiency of public services.

This statement resumes the rationale behind the process of decentralization in trying to develop a multiethnic democratic model of governance thorough administrative reforms and measures meant to facilitate self-government for minorities, while especially targeting the areas populated by Kosovo Serbs. The establishment of new municipalities, delineating the territory and boundaries of each municipality have thus been included in this law. The law included the following changes to the previous territorial organization: an extension for the municipality of Novoberde/Novo Brdo with residency in Bostan/Bostane and the division of the municipality of Mitrovicë/Mitrovica in two new municipalities, Mitrovicë/Mitrovica North and Mitrovicë/Mitrovica South and the establishment of 7 other completely new municipalities. Altogether, changes were confirmed for a total of 9 municipalities:

- Municipality of Novoberde/Novo Brdo with residency in Bostan/Bostane;
- Municipality of Mitrovicë/Mitrovica North with the residency in Mitrovica;
- Municipality of Mitrovicë/Mitrovica South with the residency in Mitrovica;
- Municipality of Junik with the residency in Junik;
- Municipality of Hani i Elezit with the residency in Hani i Elezit;
- Municipality of Mamusha with the residency in Mamusha;
- Municipality of Graçanica with the residency in Graçanica;
- Municipality of Ranilluk with the residency in Ranilluk;
- Municipality of Partesh with the residency in Partesh;
- Municipality of Kllokot with the residency in Kllokot.

As a result, the law confirmed 6 new municipalities with a Serb majority (Mitrovica North, Novo Brdo, Graçanica, Ranilluk, Partesh, Kllokot) in addition to the already existing 4 Serb-majority municipalities (3 North of Ibar: Zubin Potok, Zveçan and Leposaviq/Leposavić, 1 South of Ibar: Shërpce/Strpce). Therefore, 10 of the current total 38 municipalities in Kosovo have a Serb majority population. Among the new municipalities there also is Mamuša, making Kosovo Turks the only non-Serb minority with a municipality

---

897 Law Nr. 03/L-041, “On Administrative Municipal Borders”.

248
where they are in majority. In addition, 2 new Albanian-majority municipalities were established by the law: Junik and Hani I Elezit.

The structure of all new municipalities is the same, and according to this structure the new municipalities should have 7 functional departments since their establishment:

1. Department of Administration and Personnel includes activities related to Territorial organization, personnel training and dealing with the administration of the municipality.
2. Department of Health and Social Welfare, includes activities related to primary health care, monitoring of the main center for family health care and other centers and issuing licenses, employment, pay and training of municipal social workers.
3. Department of Education, Culture and Sport includes activities related to managing preschool, primary, secondary schools and institutions for people with disabilities.
4. Department of Economics, Finance, Budget and Inspection includes activities related to development of municipal provision of finance and economics, monitoring procedures and budget execution system, maintenance of registers of the collected revenue from own sources, etc.
5. Department of Urban Planning, Cadastre and Geodesy includes activities related to monitoring and participating in the development of municipal plans of development and protection of forests, granting permission for the construction and their revocation, water management, public parks management, etc.
6. Department of Local Infrastructure.

Table 3. Municipalities with minority communities in majority (excluding North of Kosovo)

<table>
<thead>
<tr>
<th>Municipality</th>
<th>Population</th>
<th>Ethnic majority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gračanica/Graçanicë</td>
<td>10,675</td>
<td>Serb</td>
</tr>
<tr>
<td>Shtërpcë/Štrpce</td>
<td>6,942</td>
<td>Serb</td>
</tr>
<tr>
<td>Novo Brdo/Novobërdë</td>
<td>6,729</td>
<td>Serb</td>
</tr>
<tr>
<td>Ranilug/Ranilluk</td>
<td>3,866</td>
<td>Serb</td>
</tr>
<tr>
<td>Parteš/Partesh</td>
<td>1,787</td>
<td>Serb</td>
</tr>
<tr>
<td>Klokot/Vrbovac</td>
<td>2,556</td>
<td>Serb</td>
</tr>
<tr>
<td>Mamushë/Mamuša</td>
<td>5,507</td>
<td>Turkish</td>
</tr>
</tbody>
</table>

Another key feature mentioned by this law is in regards with the possibility of establishing new municipalities in the future for minority communities. Thus, Article 12 explicitly addresses the “Consultation with Non-Majority Communities” on the issue:

The Government shall engage in consultations with a non-majority Community where that Community makes up at least 75% of the population of a concentrated settlement in one or more adjacent cadastral zones with a minimum total population of 5000 citizens, with a view to establishing other new municipalities.\footnote{899}

As a result two more precise elements were added for future projects of establishing new municipalities with minority communities in majority at the local level: firstly, the minimum percentage of the minority population (75%) and, secondly, the minimum size of the total population being 5000 citizens. Overall, the ethnic composition of population at the local level in Kosovo indicates a predominance of ethnic homogeneous municipalities (10 with Serb-majority, 1 with Turkish-majority, 15 with Albanian-majority) over the approximately 12 municipalities that can be regarded as heterogeneous.\footnote{900} The outcome of the decentralization design reveals different standards for Serbs and for other minorities. As regards the Serb community, the legislation has key elements of ethnic decentralization that may separate the different ethnic groups and secure self-determination through far-reaching competencies at the municipal level.\footnote{901} Nevertheless, an important number of Serbs still live in Albanian-majority municipalities.

In the case of other minority groups, the legislation follows the model of territorial decentralization as “a significant number of individuals belonging to non-majority groups live in heterogeneous municipalities in which they enjoy a special representation in the municipal assembly and the administration who is supposed to represent their interests at the local level.”\footnote{902}

\footnote{900} Loew, op. cit, p. 15.  
\footnote{901} Ibid, p. 16. AND Personal Interviews with representatives of non-Serb minorities, February-June 2012 and March-June 2013.  
\footnote{902} Loew, op. cit., p. 16.
2.4. Particular challenges for the creation of new municipalities

The design of the decentralization process reflects its origin as a solution for the international conflict on the status of Kosovo. It is obvious that the aim of decentralization has been to establish municipalities with Serb majorities. To achieve this aim, municipal borders have been altered cutting across socioeconomically linked areas [...] and very small municipalities have been established which, in the long run, are hard to sustain given the high costs of municipal structures and services.903

The implementation of decentralization in Serb majority municipalities has been troubled by several issues. Firstly, the continuing presence and influence of the Serbian parallel institutions has been successfully substituting Kosovo’s delivery of services in the key areas of health, education and justice. Changing this situation will depend not only on Belgrade’s willingness to continue supporting Kosovo Serbs in the same manner, but also on the capacity of Kosovo institutions to offer Serbs the same quality of public services.

Secondly, the passing of competences form central to local level has faced problems like inadequate funding, lack of qualified staff, limited cooperation between different levels of government, abuse of political positions, lack of proximity to citizens, strong control of municipalities by central government as well as limited efforts and support by the Kosovo Government to increase the local administrative capacity to manage public affairs.904 Furthermore, the creation of new municipalities made the local government system more fragmented and the Serb dominated municipalities are among the smallest in Kosovo.

Other vital capacity challenges that municipalities in Kosovo must face are lack of necessary infrastructure, the weak economy and a high unemployment rate, a context that is even more problematic given that the newly established municipalities lack a long-term strategy and action plan to develop capacity or natural resources so as to increase economic development and create new employment opportunities for their citizens.905 Furthermore, while some residents of Serb dominated areas have complained because after the demarcation of municipal borders they remained in Albanian-majority municipalities, others have “objected being cut off from the social services provided in their Albanian neighbourhood.”906

903 Ibid.
904 HLC Report (2011) p. 73-75. AND Personal Interviews with political and civil society representatives from both minority and majority communities, Feb-June 2012 and March-June 2013.
905 Ibid, p. 75.
906 Loew, op. cit., p.18.
The full and effective implementation of competences by municipalities is running into difficulties. In the first place, municipalities have limited capacities to embrace and carry out all the responsibilities assigned by the law. In the second place, there has been a lack of sufficient resources and support by the central government, including line ministries. As a result, responsive and effective service delivery at the local level has been heavily challenged.  

The lack of long-term strategies to stimulate economic development is a clear indicator of how implementation has been so far focusing more on setting-up the institutional framework that formally empowers Serbs and other minorities at the local level while disregarding the practicality and efficiency of decentralization, especially on the long-term. The new and small municipalities in Kosovo have been so far mainly co-financed by international and governmental donors with large investments in infrastructure and capacity-building. Therefore, given the temporary nature of external funding, the limited budget of Kosovo, the dependency on the mother-municipalities and the potential cut of funding of the Serbian parallel structures, these new municipalities will be facing great challenges of becoming self-sustainable. The integration of the Serb community and other minorities would be highly affected by a possible decline of local services and economic backwardness.  

Moreover, in addition to the specific capacity challenges at the local level, there is also the element of central level institutions accepting the transfer of competencies as the government and some of the political elites continue to exert control over local municipalities. Other matters of concern are the top-down structure of some political parties, the delayed transfer of financial competencies as well as the general transfer of competencies from the mother municipalities to the newly established ones. Therefore, “despite the relatively broad competencies set by the law, the scope of real local autonomy is limited. The actual municipal powers are constrained by the central control over municipal decisions and by the methods of fiscal planning and allocation of public funds.”  

The official empowerment of minorities at the local level risks to be limited to a formal institutional arrangement that may be detrimental as regards the socio-economic situation of

---

908 Loew, op. cit., p. 22.
909 Ibid.
910 Loew, op. cit., p. 16. AND Personal Interviews with representatives of all minority communities.
911 Ibid.
these communities, which, in consequence, can also harm the integration process. These problems derive from the top-down character of a decentralization process that transfers competencies “to municipalities that possess neither the capacities nor the democratic structures to carry out these new responsibilities efficiently and democratically.”

3. Municipal profiles

With the exception of Mitrovica North, all planned new municipalities in Kosovo have been established and become operational. As a result, the November 2009 municipal elections included 3 new Serb-majority municipalities, Gracanica, Ranilug and Kllokot, while separate elections for Partesh were delayed until June 2010 in order for all necessary conditions to be ready. The November 2013 local elections in Kosovo included all new municipalities but also, for the first time, the Serb municipalities located north of the Ibar River.

3.1. New Serb-majority municipalities

Municipality of Gracanica/Graçanicë

The municipality of Gracanica/Graçanicë is located in the central part of Kosovo and consists of 16 cadastral areas with 17 villages or settlements and a total of 131 km², bordering the municipalities of Pristina, Lipjan and Fushë Kosovë. The municipality represents the largest Serb-majority municipality in South of Ibar Kosovo, with an official population of 10,675 residents as confirmed by the 2011 Census, while the ethnic composition in Gracanica according to the census is as follows:

1. Kosovo Serbs: 7,209
2. Kosovo Albanians: 2,474
3. Kosovo Roma: 745
4. Kosovo Ashkali: 104
5. Kosovo Gorani: 22
6. Kosovo Turkish: 15
7. Kosovo Bosnian: 15
8. Kosovo Egyptian: 3
9. Other: 45
10. Not specified: 43

---

913 Personal Interviews with civil society representatives from both minority and majority communities, Feb-June 2012 and March-June 2013.
914 Loew, op. cit., p. 17.
917 Kosovo Agency of Statistics (2012),
However, due to the partial boycott of the Census, the real numbers are considered to be much higher and “[a]ccording to the special advisor to the mayor and the Municipal Development Plan the total Kosovo Serb population in the municipality is estimated at 21,534.” Previous estimates also indicated that out of the total inhabitants of Gracanica, Serbs constituted 85.7%, Albanians 3.7% and other communities 10.6%.

Gracanica was the first municipality created from the process of decentralization and several reports have indicated to be one of the municipalities that have made significant progress since its establishment, “ranging from technical reforms, capacity-building, of human resources and capital investments, all of which are closely related to the transfer of power.” This period of transition has mainly been consisting of a complex transfer of powers from the so-called “mother municipalities”, in this case those of Pristina, Fushe Kosove and Lipljan. More precisely, this has included a transfer of documents regarding archives, cadastral areas, property taxes, spatial and urban planning, the use of property and the civil register. However, the more challenging task has definitely been to build the necessary capacity of municipal officials to take over the responsibilities and duties of new municipalities.

In regards with the provision of public services, the municipality of Gracanica created 7 executive directorates of: Administration, Finance, Urban Planning and Cadastre, Health, Public Services, Culture, Youth and Sports and Inspectorate. The MLGA 2012 report on decentralization mentions that Gracanica administration consists of 60 civil servants who work in the municipality, “whereas the overall number of the employed staff in the municipal administration which is paid from the budget of the Republic of Kosovo is 441.” However, these numbers are low and indicate the lack of capacities to make the municipality fully functional given the increasing number of competences and responsibilities.

The budget of the municipality of Gracanica has increased annually from €2,719,850 in 2010, €4,538,780 in 2011 and €4,978,470 in 2012, showing not only a transition from a budget fully supported by government grants, but also that “Gracanica had budget rise from

http://esk.rks.gov.net/rekos2011/repository/docs/Final%20Results_ENG.pdf [last accessed: 03.06.14].

OSCE (2013) “Gračanica/Graçańicë”.


year to year and that is revenue collection capacities rose, too.”

Gracanica is thus considered the biggest and the most successful municipality established by the decentralization process as it has become capable of generating own-source revenues, initiate and implement more local projects, and “in which local businesses –especially the construction sector - have shown interest in expanding their local investments.” In addition, the economy is based on agriculture and small trade businesses with about 500 registered private businesses in the municipality.

Nevertheless, an important aspect discussed by the previously mentioned HLC (2011) report is that public investments in the Albanian villages of Gracanica are scarce, as the example of Kishnicë/Kišnica, where “not much has been invested, even in road infrastructure and sewage, despite the fact that such investments have been made in other localities with a majority of Serbian residents.” Therefore, if villages with Serb majority have better living conditions and more investments than Albanian ones because of the different ethnic composition, decentralization could produce discrimination and segregation between communities at the local level depending on who controls the municipality.

OSCE also reports that the health and education systems in Gracanica continue to be mainly provided by Serbia-run institutions, thus still outside the control of Kosovo local or central institutions. The municipality does not participate in the management of secondary healthcare and this “[t]his is partly due to lack of attempts by the central government and partly due to challenges that the situation on the ground presents.” Given that the influence of parallel structures in the healthcare sector has been stronger here in comparison with other Serb-majority municipalities, the medical staff have refused to cooperate with the officials and have not recognized the authority of Gračanica/Graçanicë municipality.

Despite all efforts of the Ministry of Health to establish talks and start cooperating with them, the situation has been hard to improve. In addition, having the head of the parallel primary healthcare institution as an MP in the Kosovo Assembly should have helped with integration. However, Rada Trajkovic’s and her party’s confusing strategy to be part of the Kosovo parliament while also boycotting and rejecting the legitimacy of Kosovo as an
independent state has also been reflected in the concrete functioning of the parallel healthcare system. The municipality has nonetheless been run by representatives of the SLS party that have agreed to cooperate with the authority of Kosovo. Therefore, the political division within the Serb community between SLS and JSL, between cooperation and boycott of Kosovo institutions, has been found at the local level as well.

At the same time, education is mainly provided by schools following the Serbian curriculum not approved by Kosovo and the 3 pre-primary schools, 8 primary schools and 8 secondary schools in Gracanica are all operated by employees and teachers paid by the Serbian government. The lack of finance and the refusal of Serb employees to cooperate with the legitimate local authorities make it very difficult for Kosovo institutions to take concrete steps in improving the situation. The example of the Albanian village of Kishnice/Kišnica is relevant again as it represents an exception through its Prishtinë/Priština municipality-run small health centre and primary school, thus under the authority of Kosovo. Moreover, the elementary school in Kishnice/Kišnica has been operating under bad conditions and the HLC 2011 report emphasised that the municipality of Gracanica did not invest in schools located in Albanian-majority villages:

Gračanica/Graçanicë municipality should invest in all schools and strengthen cooperation with directors of schools, in order to create the pre-conditions for further cooperation, eventually leading to the unification of the educational system in Kosovo. Even though unification of schools remains a political issue, this step could create the necessary platform for needed dialogue. In other words, the schools under the influence of the parallel structures could see possible benefits from Kosovo institutions.

Therefore, the lack of willingness from the Serb community and the lack of capacity characterising Kosovo institutions seem to represent the key obstacles in trying to reduce and replace the role of Serbian parallel institutions at the local level of governance.

Political representation

The municipality of Gracanica held its first elections during the November 2009 local elections that took place in Kosovo. The total number of voters registered then was 16,317 and the voter turnout was 23% (3,532 people). The elections were won by SLS (33% of votes) and its candidate Bojan Stojanović became the mayor of Gracanica. SLS won 12 seats

933 Ibid.
935 Personal Interviews with Serb political and civil society representatives, February-June 2012 and March-June 2013.
936 OSCE (2013) “Gračanica/Graçanicë”
of the total 19 seats in the municipal assembly and Igor Aritonović, also a SLS member, was named deputy mayor. As regards the ethnic composition of the municipal assembly after these elections, 18 were Serbs and only 1 member was Albanian. Furthermore, despite the fact that the law on local self-government requires a municipality with more than 10% of residents belonging to communities not in majority in that municipality is required to appoint a deputy municipal assembly chairperson for communities, the Gračanica/Graçanicë municipal assembly did not appoint a deputy chairperson for communities and did not establish a permanent human rights unit.937

As analysed before, in November 2013 a new round of local elections were held across Kosovo. These elections had a major significance for the Serb minority in particular given the official involvement of Belgrade that encouraged Kosovo Serbs to vote, triggering political mobilization and a clearly higher turnout among the community. In Gracanica, the turnouts for the two rounds of elections were 54.6% and 49.37%.938 The results meant Gracanica has a newly-elected mayor, Branimir Stojanović from the new party G.I. Srpska, who secured his win over the ex-SLS mayor Bojan Stojanović with 58,48% of the votes.939

However, the winning party, G.I. Srpska, was forced to make coalition with another Serb party given it was one seat short of the absolute majority in the municipal assembly (9 seats out of 19). It must be highlighted here that SLS managed to maintain only 3 seats, thus 9 seats less than the previous mandate when it held an absolute majority in addition to the mayoral post. The elections showed therefore not only a significant increase in turnout of Kosovo Serbs but also an important political shift away from the dominance of SLS, the Serb party that had been active in Kosovo politics prior to Pristina and Belgrade reaching an agreement. Moreover, the impact of the support coming from Serbia for the 2013 local elections in Kosovo was clearly visible in Gracanica, one of the key municipalities belonging to the Serb community.

937 Ibid.
Municipality of Ranilug/Ranilluk

The municipality of Ranilug/Ranilluk is situated in eastern Kosovo in the Gjilan/Gnjilan region and covers an area of 77.62 km² including the town of Ranilug/Ranilluk and 12 villages. As a new municipality, Ranilug/Ranilluk has 13 cadastral areas and was created out of 15% of the territory of the municipality of Kamenicë/Kamenica, with which is now bordering to the north. It also borders the municipalities of Novo Brdo/Novobërdë to the west and Gjilan/Gnjilan to the southeast. Ranilug/Ranilluk was officially established on January 2010 when the Municipal Assembly was first held after the 2009 elections.

The population of Ranilug/Ranilluk is of 3,866 according to the 2011 census, however, the estimates are higher and the municipal information office approximated a total of 5,800 inhabitants, still making it one of the smallest municipalities in Kosovo. The Kosovo census also confirmed the ethnic composition:

1. Kosovo Serbs: 3,692
2. Kosovo Albanians: 164
3. Kosovo Bosniaks: 1
4. Other: 3
5. Not specified: 6

The number of Kosovo Serbs is higher in reality with 5,718 thought to live in Ranilug/Ranilluk. The important aspect is that the municipality is almost completely populated by Kosovo Serbs, making it one of the most ethnically homogenous municipalities with only 1-2% residents belonging to non-Serb communities.

The municipality of Ranilug/Ranilluk has also been presented as a positive story of decentralization. A reason for this has been the smoother transfer of competences from its mother municipality, Kamenicë/Kamenica, unlike the situation in Gracanica and Klokot-Verbovac, but also the fact that the new municipality started to see relatively quickly the benefits of decentralization and the investments that can come with it. Ranilug has thus been used to “illustrate that Kosovo municipal institutions can generate acceptance and support when they are able to provide efficient social services and are actively shaping municipal policies.”

The municipality has 55 civil servants and it has established 5

945 Loew, op. cit., p. 19.
directorates of: a) Budget, Finance, and Economic Development, b) Administration and Personnel Department, c) Department of Urbanism, Cadastre and Geodesy, d) Department for Education and Health and e) Department of Public Services. However, as in the case of other municipalities in Kosovo, Ranilug has also been facing a shortage of professional staff that makes it very difficult to handle the responsibilities of a new municipal administration and local governance.

The budget of the Municipality of Ranilug has increased annually, similarly to the case of Gracanica. From €693,634 in 2010 (all governments grant), to €997,071 in 2011 (only €40,000 were own revenues) and €1,090,365 in 2012 (€59,000 own revenues). This indicates a yearly budget rise but not accompanied by a reduction of the dependency on government grants. This will represent a long-term challenge for all new municipalities in Kosovo given that the support of governmental funds and international donors needs to be gradually replaced by local self-sustainable resources.

On the negative side, the 2011 HLC report on decentralization also underlines that there is significant control and influence over the municipality by central institutions, preventing “the proper functioning of the new municipality to create greater opportunities for new working places and local implementation plans.” Moreover, the municipality has a high unemployment rate, the economy is mainly based on dairy production and small trade businesses, while the main investments in Ranilug have been used for infrastructure, such as roads, sewage and water supply. As regards the health and education systems, the role of the Serbian parallel structures is evident as its employees are paid by Belgrade and refuse cooperation with local authorities that were legitimised by the 2009 municipal elections. Nevertheless, despite the reluctance to cooperate, all health workers have received double salaries from parallel structures and from the Kosovo Ministry of Health, the second being considered by Serb employees as “an additional payment and not seen as a salary.”

The removal of parallel structures is one of the priorities for the municipality of Ranilug, next to reducing youth unemployment, development of agriculture as the main

---

949 Personal Interviews with political and civil society representatives from both minority and majority communities, Feb-June 2012 and March-June 2013.
potential resource for economic development, attracting new investments from abroad and development of economy and more support for the NGO sector.

**Political representation**

One of the key challenges for the ethnically homogenous and newly established municipality of Ranilug has been to build its fragile legitimacy undermined the very low level of public support. Thus, the rejection by the local Serb community and the presence of parallel structures manifested both before and after the 2009 elections, given that “[t]he elected officials were faced with distrust and even threats from their community.” Prior to decentralization, there were also elections in 2007 but the locals had no interest to participate. At the local elections held on November 15, 2009, out of the total number of 4,822 registered voters, the turnout was very low (OSCE reports 17.92% (895 voters), while other sources mention a smaller percentage of 12.4% (568 voters)).

The elections were won by Gradjanska Inicijativa za Opstinu Ranilug/ Citizens Initiative for Ranilug Municipality (GIZOR) with 78.70% of votes that secured 11 out of the total 15 seats in the municipal assembly, while 4 seats were won by the Serbian Party of Kosovo and Metohija (SKMS). The Mayor of Ranilluk/Ranilug is Gradimir Mikić (GIZOR), who was elected with 421 votes (71.11%). It should be remarked that Ranilug is one of the Serb municipalities that did not have SLS in power in the post-independence context. Another interesting fact about the local representatives is that although Ranilug has less than 10% residents from communities not in majority at the local level, in 2010 the municipal assembly appointed Kosovo Albanian, Lulzim Canaj (non-affiliated) as the municipal deputy mayor for communities.

Despite the very low participation in the 2009 local elections, a positive sign was the much higher turn-out in the 2010 parliamentary elections when the percentage of voters increased to 34.12%. This indicated that the local population started to develop trust in the Kosovo institutions even though “34% for a small municipality such as Ranilug is still a low

---

960 Ibid.
turn-out, underscoring the importance of good services and improvements of economic life in the municipality as determinants for increasing the legitimacy of the municipality.”

Furthermore, the 2013 elections indicated an approximately tripled turnout percentage in Ranilug compared to 2009: 58.4 % for the first round and 57.66% for the second round. This illustrates once again the crucial impact of the new attitude of Belgrade to encourage Kosovo Serbs to take part in the elections organized by Pristina. As regards the results, Gradimir Mikić was re-elected with 52.34% of the votes, but now as a representative of the new party supported by Belgrade, G.I.SRPSKA, which also won 6 of the total 15 seats in the municipal assembly. However, this did not guarantee the mayor the support of a majority in the assembly as a possible coalition was between SNPK (5 seats) and SLS (3 seats).

**Municipality of Klokot-Vërbovc/Klokot-Verbovac**

The municipality of Klokot/Kllokot is located in southeastern Kosovo and consists of four cadastral areas that includes the town of Klokot/Kllokot and 3 villages, covering a total area of approximately 24 km². Moreover, Klokot is an enclave inside the territory of Viti/Vitina municipality, to which it belonged before the decentralization process (mother municipality). The 2011 Kosovo Population and Housing Census indicated that Klokot had a total population of 2,556 inhabitants, which is however approximately half of the actual number, estimated at about 5,145 residents. Klokot has a Serb-majority population, but due to their partial boycott of the 2011 census, the results do not offer a reliable ethnic composition:

1. Kosovo Albanians: 1,362
2. Kosovo Serbs: 1,177
3. Kosovo Roma: 9
4. Kosovo Turks: 1
5. Others: 6
6. Not specified: 1

---

963 CEC, Local Elections 2013, Statistics based on Municipalities for Mayors.
964 CEC, Local Elections 2013, Results based on Municipalities for Mayors.
968 OSCE (2013) “Klokot/Kllkot”.

261
The decentralization process in Klokot has been one of the most, if not the most challenging in Kosovo\textsuperscript{969} not only because of the resistance of the local Serb community but also because of the opposition of the Albanian population to the establishment of the new municipality on the territory of Viti/Vitina, “because of the strong influence of the Self-Determination Movement.”\textsuperscript{970} As a result, the municipality of Klokot experienced some initial difficulties in cooperating and communicating for the transfer of competences from its mother municipality and “experts registered intimidations, extortions and few cases of violent acts.”\textsuperscript{971}

Meanwhile, the situation has improved after the two municipalities signed a Memorandum of Understanding and, thus, Viti/Vitina municipality started to help with the exercise of the new competencies of Klokot and transfer of powers ranging from civil registry and cadastral documents to spatial planning, transfer of archive and property taxes. The shortage of professional staff has nonetheless been a key challenge for making the municipality fully functional.\textsuperscript{972} The inaugural session of the municipality was held on 8\textsuperscript{th} of January 2010, when the mayor and the members of the municipal assembly were sworn in. The administration of Klokot municipality has employed 47 civil servants\textsuperscript{973} and it consists of 5 municipal directorates: a) for Administration, b) of Urban Planning and Cadastre, c) of Budget, d) for Education, Health, Youth and Sports, e) for Agriculture, and hydro-economy.\textsuperscript{974}

In regards with the health and education sectors, the role of Serbian institutions has been significant, but “the success of decentralization and decrease in the impact of parallel structures are best observed in the municipality of Klokot-Verbovac/Kllokot-Verbovc.”\textsuperscript{975} The primary healthcare system includes a municipal health centre in Klokot town and one health house in Vrbovac/Vërbovc village, while the important aspect is that all communities have access to healthcare facilities.\textsuperscript{976} Klokot has four elementary schools with 3 being taught in Serbian following the Serbian curriculum, while one follows the Kosovo curriculum being a mixed Serbian-Albanian school.\textsuperscript{977} Problems remain in the education sector as some

\textsuperscript{971} Loew, op. cit., p. 19.
\textsuperscript{975} Ibid, p. 92.
\textsuperscript{976} OSCE (2013) “Klokot/Kllokot”.
\textsuperscript{977} Ibid.
teachers refuse to cooperate with legitimate local authorities because of political reasons, despite the fact that they receive double salaries: “The feeling of belonging to the Serbian State is evident in this municipality, along with lack of trust in Kosovo Institutions. Citizens integrated into the Kosovo system are considered traitors by the Serbian community.”

The economy of the municipality of Klokot is mainly based on natural resources (mineral water), tourism (2 spas), agriculture and small trade businesses, but the high unemployment rate remains the biggest problem for the local population. The budget of Klokot for 2010 was €719,601, all of them being government grants, for 2011 it was €855,745, of which only €8,390 as own revenues and for 2012 the budget was €929,097 with €43,300 as own revenues. Similarly to the other new municipalities, Klokot has had thus a yearly budget rise accompanied by a rise of its collection capacities too.

Furthermore, the municipality has received multiple funds not only from the Kosovo Government but also from different international donors like USAID, LOGOS, UNCHR or the EU, making Klokot in 2010, for instance, as one of the municipalities with the biggest funds reaching around €3 million in total. These funds have started several project in the municipality in numerous sectors. In addition, the municipal assembly approved on April 2011 a Strategy for Sustainable Development and Integration 2011-2014 in the fields of Economy, Education, Employment, Health and Social Welfare, making Klokot “the first municipality to have such a long-term strategy.”

**Political representation**

In the 2009 elections, Klokot had a total number of 2,706 registered voters and the turnout was 25.2%. There were two parties competing in the elections (SLS and LDK) and as a result of winning 68.2% of the votes, SLS was given 10 of the 15 seats in the municipal assembly. In the mayoral contest there was only one candidate, Saša Mirković (SLS), elected with 510 votes. Given the ethnic composition of the municipality, with Albanians

---

979 OSCE (2013) “Klokot/Kllokot”.
980 MLGA Report (2012), p. 34.
983 Ibid, p. 15.
985 OSCE (2013) “Klokot/Kllokot”.
986 Ibid.
in minority at the local level, the municipal assembly deputy chairperson for communities in Klokot/Kllokot has been an Albanian, Nasip Sinani from LDK.\textsuperscript{987}

The 2013 local elections marked for Klokot a substantial increase in the turnout numbers during the two rounds of voting, with 61.2 % in the first round, respectively 56.12% in the second round.\textsuperscript{988} The political contest here resulted this time in a more complex situation for several reasons. On the one hand, the G.I. Srpska candidate, Sredko Spasić, was elected as mayor (54.80% of the votes) in the detriment of the ex-mayor Saša Mirković (SLS) who came second.\textsuperscript{989} On the other hand, SLS managed to win most seats in the municipal assembly (5), thus one more than G.I. Srpska, while the other 6 seats were distributed among other 5 different political parties. Potentially, SLS could have built a majority coalition with Albanian parties and in the new mandate “make the daily administration of the municipality relatively challenging.”\textsuperscript{990} Despite the positive turnout in the latest elections, increasing competition and division at the local level between Kosovo Serb political parties could thus actually increase the role of Albanian representatives even in municipalities that have a clear Serb majority population.

**Municipality of Parteš/Partesh**

The municipality of Parteš/Partesh has been the last municipality with a Serb-majority population to be established as a result of decentralization. Partes is located in the eastern part of Kosovo, covering an area of approximately 18.3 km\textsuperscript{2} with 3 small cadastral zones: Parteš/Partesh town and 2 villages.\textsuperscript{991} According to the 2011 Census, the total population of Parteš/Partesh was 1,787, but as in the other Serb-municipalities, the real number is much higher given that the approximate figures mention a total of 5,300 people living in the municipality.\textsuperscript{992} Moreover, the census indicated only 2 non-Serb people living in Partes, making it the most homogenous non-Albanian municipality with almost all of its inhabitants belonging to the Serb community.

Partes was thus established later than the other new municipalities, on 19 August, 2010, when the first municipal assembly constitutive session was held.\textsuperscript{993} The delay was caused by

\begin{itemize}
\item \textsuperscript{987} Ibid.
\item \textsuperscript{988} CEC, Local Elections 2013, Statistics based on Municipalities for Mayors.
\item \textsuperscript{989} CEC, Local Elections 2013, Results based on Municipalities for Mayors.
\item \textsuperscript{990} ECMI Kosovo (December 2013), op.cit., p.6.
\item \textsuperscript{991} OSCE (2013) Municipal Profiles, “Parteš/Partesh”.
\item \textsuperscript{992} Ibid and MLGA Report (2012), p. 34.
\item \textsuperscript{993} OSCE (2013) “Parteš/Partesh”.
\end{itemize}
the incapacity to organise local elections in 2009 because of the very strong opposition from the local Serb population. The elections were eventually held on June 20 2010, which then permitted starting the implementation of the decentralization process in Partes, which previously belonged to the municipality of Gjilan/Gnjilane. The administration of Partes municipality consists of 6 directorates of: a) Administration and personnel, b) Budget and finance, c) Urban planning, cadastre and geodesy, d) Education, health, social services, youth, culture and sports, e) Public services, security and emergencies and f) Agriculture, forestry and rural development.

Meanwhile, the mother municipality of Gjilan/Gnjilane has successfully transferred powers over property, competencies and other assets to the new administration. The economy of the municipality of Partes is mainly based on agriculture (dairy production) and small trade businesses, but same as in the rest of Kosovo, the high unemployment rate of approximately 60% of population is the main problem along with the worrying emigration rate indicating that about 50% of the young people and 70% of the overall population has emigrated abroad. The presence of parallel structures is less visible in Partes within its healthcare facilities (1 municipal family health centre and 3 health houses) and schools (2 primary schools and 5 secondary schools), but teachers and support staff are nonetheless also paid by the Serbian Ministry of Education.

The 2010 budget of Partes municipality was €410,652, all of which were government grants, for 2011 it was €905,424, with all being government grants as well and in 2012 the budget was €922,459 out of which only €35,000 are own revenues. This means that the budget of Partesh has been rising, but remains even more than in the case of other new municipalities, very much dependent on investment and funding provided by the central government.

---

995 OSCE (2013) “Parteš/Partesh” and Personal Interviews with Serb political and civil society representatives, February-June 2012 and March-June 2013.
997 Ibid.
998 OSCE (2013) “Parteš/Partesh”.
1000 Ibid.
Political representation

Despite the initial problems with decentralization in Partes and the delay of its inauguration, the 2010 local elections had an impressive turnout of approximately 56% of the 3,426 registered voters. Therefore, this represented a great achievement for the establishment of Partes as a new Serb-municipality of Kosovo, especially in the context of previous resistance by locals and the examples of much lower turnout rates in other new municipalities. The results confirmed the Citizens Initiative Zavičaj (GIZ) as the party with most votes (40%), giving them 6 seats of the total of 15 municipal assembly seats. The rest of the seats were distributed as follows: 3 for JSL, 3 for the People’s initiative (NI), 2 for the Citizens Initiative Together for Survival (GIZO) and 1 for the Serbian Social Democratic Party (SSDS). Thus, in addition to the very positive turnout, local elections in Partes were also distinctive because of the higher number of political parties that took part. The first mayor of Partes was Nenad Cvetković from the GIZ party.

The 2013 local elections in Partesh were marked by the only major incident that actually took place in Southern Kosovo, as on the evening after the count, the ballot boxes were set to fire and a TV crew was attacked. These events meant that a re-vote was necessary in the polling stations involved. The re-run was successful and, overall, Partesh had the highest turnout of all municipalities in the first round (63.8%) and 64.07% in the second. The results here also changed the mayor as Nenad Cvetković, now representing SLS, lost to the representative of G.I. Srpska, Dragan Nikolić (52.16% of the votes). However, similarly to the situation in Klokot, despite not winning the mayoral completion, SLS secured most seats in the local assembly of Partesh (6 seats), thus 3 more than G.I. Srpska. The difference is though that the assembly is composed exclusively of Serb representatives from SLS, G.I. Srpska and other 4 parties. It will be challenging nonetheless for the new mayor to secure a majority given the fragmented composition of the assembly.

---

1001 OSCE (2013) “Parteš/Partesh”.
1002 Ibid.
1003 Ibid.
1004 ECMI Kosovo (December 2013).
1005 CEC, Local Elections 2013, Statistics based on Municipalities for Mayors.
1006 CEC, Local Elections 2013, Results based on Municipalities for Mayors.
1007 ECMI Kosovo (December 2013).
1008 Ibid.
3.2. Other Serb-majority municipalities

Municipality of Novobërdë /Novo Brdo (extended municipality)

The municipality of Novobërdë, located in central Kosovo, is not a new municipality but its territory was enlarged in 2009 to cover Serb settlements in neighbouring municipalities: 9 cadastral zones of Gjilanë municipality with 90% Serb population and 5 cadastral zones of the municipality of Kamenica. Therefore, after an expansion of its old territory by 120%, at present the municipality of Novoberde covers an area of approximately 204 km² that includes Novoberde town and 31 villages, which also makes it the largest Serb-majority municipality in terms of territory. As regards the population, the 2011 census indicated a total of 6,729 inhabitants in the municipality, but the municipal office for communities and returns offered more accurate numbers that take into consideration the partial boycott by local Serbs: total population of 9,670 and the following ethnic composition:

1. Kosovo Serbs: 5,802 residing in town and 24 villages,
2. Kosovo Albanians: 3,771, residing the town and 14 villages.

Given that the municipality was extended, the decentralization process was different from the cases of new municipalities and did not require, for instance, a transfer of competences from mother municipalities or the full development of a new administration. However, the executive branch of the enlarged municipality was constituted in January 2010 and it has afterwards consolidated 10 directorates while also making “significant progress compared to other municipalities, in service areas such as social welfare, road construction, sewage system construction, youth, culture and sport activities, as well as in citizen participation in all these activity areas.”

However, the economic situation of Novoberde is not very good with a high unemployment rate as despite attempts to improve conditions for business development, investments have been limited by the lack of infrastructures and unfavourable geographical position of the municipality. The economy remains based on agriculture, rural tourism and

---

1011 Ibid.
1012 Tahiri (2011) p. 16.
1013 Ibid, p. 15.
small trade businesses.\textsuperscript{1014} The healthcare and education systems have been in need of much support for both developing the infrastructure and raising the necessary funds to assure salaries for its employees, while many doctors, teachers and other medical staff have been receiving second salaries from Serbia.\textsuperscript{1015}

**Political Representation**

The situation at the political level in the municipality of Novoberde has been unique mainly because despite the large majority of the population being Kosovo Serbs, Albanian parties dominate the assembly and the mayor of Novoberde is Albanian. After 1999, Novoberde was one of the first municipalities in which Serbs and Albanians began to cooperate and in which, more and more Serbs worked with local institutions as they even secured Serb majority in the municipal assembly after the 2003 elections.\textsuperscript{1016} However, under the strong pressure of Belgrade, local Serbs started boycotting elections and thus in the 2009 municipal elections, the results gave Albanian parties a clear majority in the assembly: LDK (34% of votes and 5 seats), PDK (13% and 2 seats) and AKR (13% and 2 seats).\textsuperscript{1017} Altogether, 10 members of the Novoberde municipal assembly were Albanians and only 5 were Serbs.

Nonetheless, the Albanian mayor of Novoberde, Bajrush Imeri (LDK) has generally been perceived positively by many members of the Serb community, who even voted for him in the elections because of its commitment and past actions to help all citizens of Novoberde regardless of their ethnicity.\textsuperscript{1018} He has also been making efforts to include as many Serbs as possible in the local governance. The deputy chairperson for communities in Novoberde is a Serb representative, Srđan Todorović (SNSD), same as the deputy mayor for communities, Radovan Denić (SNSD).\textsuperscript{1019} This reflects the unique situation in Novoberde also given that, normally, the political representation should reflect the Serb-majority within the municipality, and the post of deputy chairperson for communities should belong to Albanians as the actual minority community at the local level.

The different context of the 2013 local elections in Kosovo had a significant impact on the political situation in Novoberde as well. The turnout was high as well: 58.3% in the first

\textsuperscript{1014} OSCE (2013) “Novo Brdo/Novobërdë”.
\textsuperscript{1015} Serb community in Kosovo (2012), p. 62.
\textsuperscript{1016} Ibid, p. 61.
\textsuperscript{1017} OSCE (2013) “Novo Brdo/Novobërdë”.
\textsuperscript{1018} Tahiri (2011) p. 16.
\textsuperscript{1019} OSCE (2013) “Novo Brdo/Novobërdë”.

268
round and 56.94% in the second round.\textsuperscript{1020} Although, LDK won again most seats in the assembly (4 seats), the increased Serb participation brought a clear majority for the Serb representatives and the election of a new mayor from G.I. Srpska, Svetislav Ivanović (57.05% of the votes).\textsuperscript{1021} An important change given that the previous mayor was Albanian. Nonetheless, the municipal assembly is extremely fragmented with 8 political entities sharing the 15 seats of the assembly, and thus offering different options to establish an absolute majority.\textsuperscript{1022}

**Municipality of Shtërpec/Štrpe**

Štrpe is located in the southern part of Kosovo on the border with FYR of Macedonia and represents one of the key Serb enclaves in Kosovo. Its territory covers an area of approximately 247 km\(^2\) that includes the Štrpe town and 16 villages, making it the largest Serb-municipality South of Ibar.\textsuperscript{1023} The 2011 census results for Štrpe were also influenced by the boycott from the Serb population and indicated a total number of 6,949 residents in the municipality, while the more accurate numbers given by the municipal office for communities and returns approximate a total population of 13,630 with the following ethnic composition:

1. Kosovo Serbs: 9,100 residing (67%)
2. Kosovo Albanians: 4,500
3. Kosovo Roma: 30\textsuperscript{1024}

As regards the local economy, the municipality of Štrpe relies mainly on agriculture, tourism and small trade businesses. The Sharri/Šara National Park and the ski resort of Brezovica have a great potential to attract tourists and provide jobs for local population as they are two areas which present some of Kosovo’s prime real estate potential.\textsuperscript{1025} However, the privatisation of the Brezovica ski resort has been long delayed and blocked by the contest between Serbian parallel structures and the official local government respecting Kosovan laws.\textsuperscript{1026} If this problematic context changes, Štrpe could have a great opportunity to unite representatives of different ethnic communities under a common economic project and

\begin{itemize}
\item \textsuperscript{1020} CEC, Local Elections 2013, Statistics based on Municipalities for Mayors.
\item \textsuperscript{1021} CEC, Local Elections 2013, Results based on Municipalities for Mayors
\item \textsuperscript{1022} ECMI Kosovo (December 2013).
\item \textsuperscript{1023} OSCE (2013) Municipal Profiles, “Štrpe/Shtërpec”.
\item \textsuperscript{1024} Ibid.
\item \textsuperscript{1025} ICG (2009) “Kosovo: Štrpe, a Model Serb Enclave?”, Policy Briefing, no. 56, p. 2.
\item \textsuperscript{1026} Ibid, p. 1.
\end{itemize}
decrease “the salience of ethnicity in political decision-making.” Therefore, the municipality has had two local government operating at the same time. It is a clear personification of the division among Kosovo Serbs on accepting or not the authority of Kosovo in the post-independence context. The Serbian assembly of the municipality has a staff of 188 employees and is convened in the same building as that of the official assembly working under the Kosovo law. The deputies of the parallel assembly were elected on May 2008 and their terms of office have expired since.

The parallel healthcare and education institutions have had a significant presence in Štrpce and, for instance, approximately 300 employees paid by the Serbian Ministry of Health have been working in the municipal family health centre and health houses located in different villages within the municipality. Altogether, more than 1,300 residents of Štrpce receive Serbian salaries and another 1,245 receive minimal pay checks from the same source.

**Political representation**

The current political situation in Štrpce is also interesting and reflects the importance of improving participation of Kosovo Serbs and higher turnout rates in elections. The boycott of the 2009 local elections by Serbs affected their political representation in the Kosovo based institutions. The overall turnout rate was 48.87% and even though SLS gained most votes (42.10%), 3 Albanian parties (PDK, PSK and LDK) managed to win altogether 10 of the total 19 seats in the municipal assembly seats, leaving Serbs in minority with only 9 seats. However, in the mayoral runoff in December 2009, 6,343 voters turned out (54.3%), out of which 4,345 Serbs, helping the SLS candidate Bratislav Nikolić to win the position with 65% of votes. The Serb turnout was superior to any previous elections and much higher than in the 2008 parallel elections organised by Serbia, as employees of the parallel structures participated as well, representing “a silent consensus among the Serbs in Shtërpec/Štrpce to support the SLS, given the upcoming privatization of the ski resort and the supporting facilities. Also, the Serbs are aware of the importance of the new municipality and the

---

1027 Loew, op. cit., p. 19.
1029 OSCE (2013) “Štrpce/Shtërpecë”.
1031 OSCE (2013) “Štrpce/Shtërpecë”.
benefits it will provide to them.”\textsuperscript{1033} Moreover, the deputy mayor after 2009, Rodoljub Mladenović (SLS) was also Serb.

At the same time, the deputy mayor for communities in Strpce has been an Albanian representative, Beqir Fejzullahu (PDK), which therefore, unlike the situation in Novoberde, is in accordance with the requirements of the Law on local governance.\textsuperscript{1034} The 8 directorates that make up the administration of the municipality were distributed between SLS (5 Serb directors) and PDK (3 Albanian directors).

In the context of SLS’ control over Stprce as one of the key Serb municipalities in South Kosovo, the November 2013 municipal were going to draw much attention here too because of the participation of the newly formed G.I. Srpska. Similarly to the other Serb municipalities, the turnout was higher than in previous elections: 58.6 % in the first round and 48.80% in the second.\textsuperscript{1035} As regards the results, the SLS mayor Bratislav Nikolić was re-elected with a 56.25% score in front of the G.I. Srpska representative.\textsuperscript{1036} Strpce, is thus, the only one of the ten Serb-majority to re-elect its mayor. However, in the municipal assembly contest, G.I. Srpska secured 6 seats, one more than SLS, meaning that the SLS mayor will have to offer “a coalition to Albanian parties PDK and LDK if he intends to reach an absolute majority in the assembly.”\textsuperscript{1037}

3.3. The Turkish-minority new municipality of Mamuša/Mamushë/Mamuša

Mamusa is a Turkish-majority municipality and represents the only municipality where the majority of the population belongs to a non-Serb minority community in Kosovo. Mamusa obtained its status of fully-fledged municipality in October 2008 after a period of 3 years in which it had existed as one of the pilot municipalities in Kosovo. Out of the 5 initial proposed pilot municipal units, only 3 functioned before 2008 (Mamusa, Junik and Hani Elezit / Đeneral Janković), while the 2 Serb pilot municipal units of Gračanica / Graçanicë and Parteš / Partesh were never functional,\textsuperscript{1038} even though they later became municipalities as a result of decentralization. The municipality of Mamusa is located in the south of Kosovo in the Prizren region bordering Gjakovë and Suharekë municipalities, while prior to its

\textsuperscript{1033} Ibid.
\textsuperscript{1034} Ibid.
\textsuperscript{1035} CEC, Local Elections 2013, Statistics based on Municipalities for Mayors.
\textsuperscript{1036} CEC, Local Elections 2013, Results based on Municipalities for Mayors.
\textsuperscript{1037} ECMI Kosovo (December 2013).
foundation it was part of Prizren municipality. Mamusa covers an area of approximately 11km², making it by far the smallest municipality in Kosovo with only 1 cadastral zone. According to the 2011 census in Kosovo, its population is of 5,507 inhabitants in total, of which:

1. Kosovo Turks: 5,128
2. Kosovo Albanians: 327
3. Kosovo Roma: 39
4. Kosovo Ashkali: 12
5. Kosovo Bosniaks: 1

These figures thus indicate that Mamusa is a very homogenous municipality with over 90% of the population belonging to the Turkish community. As a pilot and thereafter as one of the new municipal units in Kosovo, Mamusa has been successful in building its administrative and economic capacities. Mamusa has been taking over the competences from the mother municipality of Prizren in the fields of administration of education, financial management, health services, and urbanism and it has been “promoted as a model of local government reform, when it comes to non-majority communities being given equal opportunities for participation in local government administration.”

The economy of Mamusa municipality is based on small scale farming and trade activities with about 70 registered private businesses operating in the municipality. A very important indicator of the positive economic situation in Mamusa was the placement of the municipality as the clear top performer in the 2011 “Municipalities Competitiveness Index” (MCI) report of USAID, which evaluated data on the business environment in all municipalities of Kosovo, “based upon the direct experiences and circumstances facing local businesses.”

As mentioned before in the chapter on the situation of non-Serbian minorities in Kosovo, the Turkish community in Kosovo is generally not only better represented but also with a better economic situation than the other minorities. One of the key factors contributing to this is the support and role of Turkey in Kosovo that has clearly benefited the Turkish

1039 OSCE Municipal Profiles (2013) “Mamuša/Mamushë/Mamuša”.
1042 OSCE (2013) “Mamuša/Mamushë/Mamuša”.
minority as showed by the fact that they have their own municipality. Mamushe has thus been receiving “financial and technical assistance from Turkey that similarly may also impact the business environment.” However, it should also be mentioned that the 2012 MCI report shows a significant drop in Mamushe’s score, “warranting a deeper investigation into the reasons for this sudden change in perceptions by local businesses.” This negative recent developments thus indicate a potential problem of sustainability even in one of the most successful examples of new municipalities formed during the process of decentralization.

**Political representation**

In the 2009 local elections, Mamusa had a total of 2,835 voters registered and the turnout was very good as it reached 65.1% (1,759 voters). The domination of the KDTP party within the Turkish community was reflected by the results as it managed to win 73% of votes and secure 11 of the total 15 seats in the municipal assembly of Mamusa. As consequence, the assembly has 14 Kosovo Turks and only 1 Kosovo Albanian as members. The mayor of Mamusa has been Arif Bütüç (KDTP), one of the key political leaders of the Kosovo Turkish community and a rival of other Turkish politicians with position at the central level. Nonetheless, despite not being a municipality with more than 10% of residents belonging to communities, the Mamusa municipal assembly has appointed an Albanian representative, Ganimete Sadiku (PDK), as the deputy chairperson for communities.

The 2013 local elections marked the entrance of a new influential Turkish party in the political life of Kosovo, the KTAP, which threatened the dominance of KDTP and the political unity of the Turkish community in Kosovo. In Mamusa, KTAP was victorious in both the assembly and the mayoral elections as the incumbent mayor Arif Bütüç, who moved from KDTP to KTAP, was re-elected after the first round on 3 November. At the same

---

1045 Personal Interviews with civil society representatives from both minority and majority communities AND with representatives of international actors from EU Office, UNDP, OSCE. Feb-June 2012 and March-June 2013.
1048 *OSCE* (2013) “Mamuša/Mamushë/Mamuša”.
1049 Ibid.
1050 Personal Interviews with civil society representatives from the Turkish community, April-June 2013.
1051 Ibid.
1052 *ECMI Kosovo* (December 2013).
time, KTAP secured the absolute majority within the municipal assembly with 8 seats, while KDTP won 5 seats, the Kosova Türk Birligi (KTB) one seat, and the Albanian PDK one seat.\textsuperscript{1053} Despite this victory of KTAP, it should be mentioned that KDTP won more seats across Kosovo in the 2013 local elections. Overall, the Turkish community has therefore become more divided as regards its political representation and participation in Kosovo.

3.4. Multiethnicity in an Albanian majority municipality: Municipality of Prizren

Prizren is located in the South of Kosovo and because of its geographical location it is an important commercial and business centre. It has a long history and tradition of ethnic diversity. It is culturally rich, not least because of the diversity and the ethnic heterogeneity of its population. It has a long tradition of co-operation and tolerance among its different communities.\textsuperscript{1054}

The municipality of Prizren is located in south-eastern Kosovo and its territory covers an area of approximately 284.2 km\textsuperscript{2} and has 75 cadastral zones, including the second largest town in Kosovo, Prizren, and 74 villages.\textsuperscript{1055} Although Prizren has an Albanian majority population, it represents the most culturally and ethnically heterogeneous municipality of Kosovo with significant population from 7 minority communities. According to the 2011 Census, Prizren municipality was reported with a total population of 177,781 citizens with the following ethnic composition:

1. Kosovo Albanians: 145,718
2. Kosovo Bosniaks: 16,896
3. Kosovo Turks: 9,091
4. Kosovo Roma: 2,899
5. Kosovo Ashkali: 1,350
6. Kosovo Gorani: 655
7. Kosovo Serbs: 237
8. Kosovo Egyptians: 168
9. Other: 386
10. Not specified: 381\textsuperscript{1056}

One key element that must be highlighted here is the very low number of Kosovo Serbs that reside in Prizren, in contrast with the situation before the 1999 conflict when around

\textsuperscript{1053} Ibid.
\textsuperscript{1055} OSCE Municipal Profiles (2013) “Prizren”
\textsuperscript{1056} Ibid.
10,000 Serbs were living here.\textsuperscript{1057} A similar situation has been reported within the Roma community, who, like the Serbs, “are since displaced and there is no available exact data on their whereabouts.”\textsuperscript{1058} A special provision for the municipality of Prizren is regarding the Law on the Use of Languages. Generally, minority languages have the status of languages in official use at the local level in when they constitute at least 5% of the total population of the municipality. However, Prizren represents an exception by including Turkish with an equal status of official languages despite the fact that the Turkish community does not pass the 5% threshold.\textsuperscript{1059} As a result, Prizren is the only municipality in Kosovo with 4 languages in official use: Albanian, Serbian, Bosnian and Turkish.

**The Prizren logo case**

One particular situation that has drawn attention to Prizren as an example of multiethnicity in Kosovo has been regarding the debate around the municipality’s official emblem, which ended with one of the most significant cases decided by the Kosovo Constitutional Court. The case *Cemailj Kurtisi v. Municipal Assembly of Prizren* involved a referral by Mr. Kurtisi, the Deputy Chairperson of the Prizren Assembly for Communities, meant to challenge the official emblem for the municipality that was established with the adoption of the Prizren municipality statute in October 2008.\textsuperscript{1060}

The problem reported was that the emblem of Prizren ("The House of the League of Prizren" circled by the following wording "1878 - Prizren") highlighted and reflected the identity of only one community in Prizren, the Albanians. 1878 was the year when the League of Prizren was founded as an assembly of Albanian leaders aiming to establish an autonomous Albanian state.\textsuperscript{1061} This was contested for not reflecting the multiethnicity of Prizren and, thus, violating the constitutional rights for the protection and promotion of minority rights in Kosovo: “the Municipal emblem should symbolise and transmit the message of co-existence of communities and community members and the presence of multi-ethnicity, multiculturalism, multi-religiousness and multilingualism.”\textsuperscript{1062}

\begin{thebibliography}{99}
\bibitem{1057} Ibid.
\bibitem{1058} Ibid.
\bibitem{1059} Article 2(3) of the Law on the Use of Languages.
\bibitem{1060} Judgment Case No. KO 01/09.
\bibitem{1062} Judgment Case No. KO 01/09, p. 4.
\end{thebibliography}
Based on the non-multiethnic character of the year 1878 and by also emphasising the privileged position of the Albanian community given its clear majority in the Prizren Assembly that approved the emblem, the Court unanimously ruled in favour of the applicant and struck down the statute of the municipality for having violated the Constitution. The Court noted the significance of emblems and symbols within a multiethnic society and took into consideration not only the far-reaching Kosovo legislation in terms of minority rights protection, but also invoked international human rights standards and instruments like the Council of Europe Framework Convention for the Protection of National Minorities, which is, nonetheless, incorporated in the Constitution.\footnote{1063}

The Constitutional Court considers that a prerequisite for a pluralist and genuinely democratic multiethnic society, be it a country, region, municipality or other territorial unit, is non-majority Community participation in the political, social, economic and cultural life in order to develop a sense of belonging to and having a stake in that society. Such participation cannot be achieved if the common symbol of that society does not represent the rights of all communities, but, instead, ignores the rights of non-majority Communities.\footnote{1064}

The statement above has the same strong message as the decision of the Court as regards the central role of the Constitution to protect minorities and rule against discriminatory situations. The Prizren logo case represented a key test for the Court given that a voting divided among ethnic lines “would have sent a troubling signal that politics would trump law in the Court’s deliberations.”\footnote{1065} Moreover, the case stand out as a symbol of the excellent opportunities for minorities to exercise their rights\footnote{1066} and the decision “was widely reported and received immediate praise from the international community.”\footnote{1067} The municipality of Prizren did not challenge the decision and took the necessary steps to implement it. Even though the outcome of this case has been celebrated, its occurrence in what it represents a truly multiethnic and multicultural city of Kosovo still highlights the troublesome active promotion of group differentiation.

\footnotesize{\textsuperscript{1063} Ibid, p. 13.\textsuperscript{1064} Ibid, p. 14.\textsuperscript{1065} Mansfield (2013), p. 10.\textsuperscript{1066} Personal Interview with Albanian NGO in Prizren.\textsuperscript{1067} Mansfield (2013), p. 10.}
Political representation

As regards political representation of non-Albanian communities in Prizren, the 2009 municipal elections resulted with a few minority seats in the municipal assembly: 3 seats for the Turkish community represented by the KDTP party (7% of votes) and 3 seat for the Bosniak community. In addition, there was also a Roma representative within the municipal assembly, although as candidate for an Albanian party. Therefore, out of the total 41 seats, the municipal assembly of Prizren formed after 2009 had 7 seats belonging to minority communities.

Interestingly, the distribution of assembly seats among minorities in Prizren reflected the situation from the central level, given that the Turkish community managed to secure the same number of representatives as the Bosniaks, who have a population almost double the size of that of the Turks in Prizren. Nonetheless, the municipal assembly deputy chairperson for communities in Prizren belonged after 2009 to a Bosniak representative, Ćemailj Kurtiši (VAKAT). The political division among the Bosniaks, or, inversely, the political unity characterising the Turkish community, are factors that have been affecting the capacity of these minorities to gain a better representation and benefit of their rights at the local level of governance.

The Kosovo 2013 municipal elections indicated, however, a change within the political representation of minorities in Prizren. As mentioned before, the emergence of new important Turkish party, KTAP, meant that the political representation of this minority became more fragmented. In Prizren, KTAP obtained one seat while KDTP won two seats, one less than during the previous mandate. While the Turkish community maintained their 3 seats in the Prizren assembly, more interestingly was the fact that the Bosniak community obtained 5 seats this time (2 more than after the 2009 elections), meaning “that minority communities obtained nearly 20% of the seats in this municipality.”

As regards the representation of minorities in key public institutions in Prizren, the situation has not been extremely positive. For instance, within the judiciary, out of 36 judges working for Prizren basic court, there were reported 5 non-Albanian judges representing 2 minority communities (Bosniaks with 4 judges and Roma with 1 judge). Moreover, Prizren basic prosecutor’s office has had only 1 minority representative (Turkish community)

---

1068 OSCE (2013), “Prizren”.
1069 ECMI Kosovo (December 2013).
1070 Ibid.
1071 OSCE (2013), “Prizren”
out of 17 prosecutors in total.\textsuperscript{1072} A more positive example is the police station in Prizren that has had 191 police officers, of which 35 were Bosniaks; 23 Turks; 3 Gorani; 2 Roma and 1 Ashkali.\textsuperscript{1073}

On the one hand, Prizren represents a heterogeneous municipality where the minority communities participate in the political decision-making processes and cooperate with the Albanian majority. Moreover, they have also been able to advance some of their fundamental interests in debates about policies of local identity (municipal symbols, official languages) or about the distribution of funds for general projects such as modernization of the infrastructure.\textsuperscript{1074} On the other hand, it continues “to be an ethnicised bargain between the communities over available funds and positions of influence”,\textsuperscript{1075} highlighting that ethnic affiliation has remained of vital importance for participation in decision-making with a lack of multiethnic parties or cross-ethnic coalitions on the local level in Prizren, similarly to all other municipalities in Kosovo.

\textbf{Conclusion}

While decentralization has generally been employed as part of more complex processes of democratization, administrative reform and good governance without specifically addressing the situation of minorities, decentralization in Kosovo has also been designed to manage diversity at the local level. As this chapter has shown, one fundamental objective of decentralization in Kosovo has been to create the necessary territorial and administrative conditions for empowering minorities at all levels of governance and, more precisely, to offer local autonomy for the Serb communities.

In this context, this chapter has looked at the legislation concerning decentralization and its implementation across Kosovo after the declaration of independence with the aim of analysing the possibility to combine democratic ideals with guarantees for minorities and measures designed to accommodate problems arising from ethnic diversity. While on paper there have been offered many solutions to link together the two objectives and make decentralization an effective element of statebuilding, the challenges surrounding implementation suggest a high risk of unintended consequences. Using standard tools of

\textsuperscript{1072} Ibid.
\textsuperscript{1073} Ibid.
\textsuperscript{1074} Loew, op. cit., p. 18 AND Personal Interviews with minority representatives in Prizren, April-June 2013.
\textsuperscript{1075} Ibid, p. 19.
decentralization for the integration of minorities in a very particular and delicate statebuilding context as the one in Kosovo can determine a rather paradoxical effect of entrenching segregation and division (both social and territorial) among different ethnic groups. To better understand this, this chapter looked at some of the key theoretical arguments for and against the use of decentralization as a tool for post-conflict reconciliation and integration of minorities and differentiated between ethnic and territorial models. While ethnic decentralization creates homogenous municipalities by using an ethnic as criteria for territorial demarcation, territorial decentralization builds ethnically heterogeneous municipalities with a significant minority population and follows a more integrative approach of statebuilding.

Taking these different approaches into consideration, this chapter discussed the legal provisions for decentralization in Kosovo, initially as part of the Comprehensive proposal for the Kosovo Status Settlement (CSP) and afterwards within the post-independence legislation. Generally, the legislation has encouraged a high degree of transfer of competencies to the municipal level of governance and, in particular, it has indicated the priority to deal with the needs of Kosovo Serbs. Special measures have been taken to empower Serbs at the local level, secure their right to self-determination and persuade them to eventually accept the authority of Kosovo. In this sense, the most important and obvious post-independence administrative reform in Kosovo has been increasing the number of Serb-majority municipalities to ten through territorial demarcations and the creation of new municipalities.

In order to illustrate the significance of decentralization for my research, I examined the Serb-majority municipalities south of the Ibar River together with the Turkish municipality of Mamusa and the Albanian-majority but most ethnically diverse municipality of Prizren. The demographics, economic, administrative and political situations of each municipality helped to understand how the double-purpose of decentralization has simultaneously produced both benefits and challenges for these municipalities. The level of integration and the particular challenges vary from one municipality to the other depending on the capacity of local actors, the support of Kosovo central institutions, the local economic opportunities, the willingness of the local population to integrate and the influence of the Serbian parallel structures.

The capacity of municipalities has thus been influenced by issues like inadequate funding, lack of qualified staff, lack of cooperation between different levels of governance and the relationship with neighbouring/mother-municipalities in some cases. While the economic situation in very small municipalities like Klokot or Partes faces many obstacles and relies almost exclusively on external support, Strpce is a more positive example given its
potential to develop local tourism and become self-sustainable. Moreover, common economic interests in less homogenous municipalities like Strpce has also stimulated inter-ethnic cooperation. However, all these factors have an impact on the effectiveness of decentralization towards the management of diversity and reveal the risks ethnic decentralization, which may protect the self-determination of ethnic groups “but can hardly contribute to interethnic contact and cooperation as well as further reaching integration in deeply divided societies.”

Therefore, evaluating the impact of decentralization on the integration and accommodation of minorities in Kosovo showed the need to consider a variety of factors. Firstly, there has been a mix of immediate (management of conflict) and long-term (transformation of conflict) objectives. In the first category, positive signs have already been shown by the reduced potential of conflict and absence of ethnic violence, the gradual acceptance of the new political situation in Kosovo (increasing turnout rates among Serbs, participation and representation within Kosovo institutions), elite level integration or the actual capacity of minorities to protect their interest (municipal logo case of Prizren). These represent elements that are more relevant for the protection of minority rights and the opportunities for self-determination. However, as regards the long-term aims, decentralization on its own does not seem capable to transform conflict because it does not necessarily contribute to the integration of minorities per se. Interethnic cooperation, for instance, seems to depend on three variables:

- the heterogeneous composition of the municipality and thus the limited dominance of a single ethnic group; the extent to which the ethnic community is organized around their interests in municipal affairs which is often also connected to the size of the community and the extent to which the mayor of the municipality tries to assume a mediating and ethnically impartial role.

Furthermore, the formal empowerment of Serb-majority municipalities has not been followed so far by increasing interethnic contact and cooperation. There is, however, the risk of an adverse effect of territorial and social segregation of minorities. The existence of the homogeneous Serb-majority municipalities may be seen as institutionalised and legally recognised ethnic enclaves that have little incentives for cooperating with other minorities or the majority. This highlights the danger of understanding and applying minority rights only in

---

1076 Loew, op. cit., p. 23.
1077 Ibid, p. 23.
the sense of protecting your group’s identity and local power in the detriment of multiethnicity and integration.

Thirdly, it is fundamental to understand the implications of how decentralization has clearly prioritised the empowerment of Kosovo Serbs at the local level. This has created different standards for Serbs in comparison with other minority communities in Kosovo and has highlighted the creation of minority municipalities as the only way minorities can benefit from decentralization. Consequently, there has been more reason for inter-ethnic competition and division, while the non-ethnic (practical) elements of decentralization and the benefits of the *territorial* model of decentralization in heterogeneous municipalities have been undermined.

Overall, the actual exercise of the formal provision for minorities at the local level is contingent on a variety of socio-economic, political, demographic and territorial factors. As a result, unintended consequences for the situation of minorities at the local level have been identified in both heterogeneous and homogeneous municipalities examined in this chapter.
Conclusion

This thesis has examined the consequences of building a multiethnic liberal-democratic state in Kosovo and its twofold challenge to secure unity at the same time with managing diversity. In the post-independence context, this has involved the adoption of an extensive framework for integrating, accommodating and protecting minorities. My research findings indicate that there is a significant gap between *de jure* minority provisions and *de facto* levels of integration of Serbs and other minorities in Kosovo, depending mainly on the will and capacity of each community to assume their rights and on their socio-economic, demographic and political particularities. Furthermore, the mixture of intended and unintended consequences revealed by this research highlights the volatility of the levels of integration and the lack of social cohesion in Kosovo despite the existence of a far-reaching system of minority rights. Consequently, the legitimacy and domestic sovereignty of Kosovo, conditioned by the accommodation of all its constituent communities, remain fragile and undermined by the enhanced risk of segregation and marginalization. In its quest to build sustainable plural democratic governance, Kosovo needs more than defining itself as a multiethnic republic, it also needs to function like one.

More specifically, my thesis shows that while political integration and representation have developed quickly at the elite level, Kosovo Serbs continue to be highly segregated at the community level. This has been a consequence of the lack of willingness within the community to accept the authority of Pristina and of the rights and privileges at central and local levels of governance that do not encourage cross-ethnic relations. In contrast with the aim to secure the obedience of the Serb minority after empowering them, my study suggests that they have actually assumed their political rights and have developed local self-governance mainly in line with the policy of anti-establishment and non-recognition of the central authority of Kosovo. At the same time, the smaller non-Serb minorities have also been affected by the post-conflict specific solutions for managing minorities, despite the fact that they have been designed to mainly address the particular situation of Kosovo Serbs. As a result of their (ethno-) political mobilisation and aspirations to fully benefit of their unanticipated rights, Bosniaks, Turks, Gorani, R.A.E. and even the smallest communities have become more differentiated and segregated from the rest of the society. Therefore, these findings confirmed my hypothesis that extensive formal provisions for minorities do not
necessarily translate into effective integration and, instead may become tools for resistance or unintended marginalisation.

The case-studies analysed in Part II of this thesis as regards the post-2008 political and socio-economic situation of Kosovo minorities demonstrate that the implementation of rights and provision for minorities in Kosovo has been followed by a variation of the actual levels of integration and accommodation of the different minority communities. Therefore, the unintended consequences may destabilize the situation of minorities and their relationship with the majority and between them and may underline the perception of minority rights as the right to differentiation. Moreover, as this thesis explains, ethnic politics can weaken the political environment at both central and local levels of governance, while the new Kosovan civic (national) identity is too fragile to act as an overarching cross-ethnic bond between the state and its citizens. As a result, the state-society relationship and the legitimacy of the plural democratic Kosovo continue to be heavily undermined by social fragmentation and the politicisation of ethnic identity.

The main observation of my research is therefore that the application of the multiethnic framework in Kosovo has a double problem. Not only is the functionality of minority provisions dependent on the actual capacities of each community, but their lack of appropriateness in relation to the particular circumstances of minorities can make them counterproductive. Instead of stimulating inter-ethnic cooperation and addressing the needs of each community, the multiethnic institutional and legal setting in post-2008 Kosovo has induced differentiation and insecurity by putting emphasis on group differences.

**Serb community**

Given that Serbs are the largest and most difficult community to integrate in Kosovo, this thesis looked at the institutional set-up and some of the key policies developed for their protection while also examining some of the integration challenges deriving from within the Serbian community. As revealed, some of these are the lack of unity and cooperation, different views on how to help the community (participation or support the parallel system), lack of commitment from self-interested actors and representatives, contested support from Albanian parties and limited capacity to develop a self-sustainable strong position of the entire Serb community in Kosovo. Furthermore, the Serb community has been rather sceptical about their new status in post-conflict and post-independence Kosovo and the idea
of integration has not truly penetrated beyond the elite level institutional forms of representation and participation. In the context of the twofold objective to provide post-conflict reconciliation and post-independence integration, another challenge for Kosovo Serbs has been to find and secure the genuine support of governmental institutions at both central and local levels of governance. Besides adopting the current constitutional framework, the Kosovo government also needs to prove long-term commitment and build capacity to sustain its minorities.

Another challenge is the sustainability of the cooperation between Serbs and Albanians at both elite and community levels, particularly because the political cooperation build so far has been contested not only by the Albanian opposition and civil society but also by the Serb community itself. The rather sudden and abrupt change for Serb representation within Kosovo politics (from pro-cooperation to Belgrade-sponsored politicians) has also exposed the fragile and volatile situation of Kosovo Serbs. In this sense, this thesis analysed the effectiveness of the political representation of Serbs from South Kosovo within central and local institutions and showed how their activity has been affected by factors like the lack of trust and contestation within the community, limited legitimacy given the small turnouts in the elections, capacity problems and Serbia’s policy to encourage the boycott of Pristina institutions.

Another essential factor has been the presence of the Serbian parallel institutions. These have been providing real support for Serbs, but have also been undermining the authority of Pristina and the full integration of the community. Furthermore, pragmatic policies have been effective at the higher level of representation and participation of Serbs, but they have not been properly expanded at the community level in order to motivate and create sustainable opportunities for all members of the Serb minority to integrate. While there have been concrete results with the integration of Kosovo Serbs, the legislative framework and the formal provisions for protecting minority rights cannot fully compensate for practical needs.

**Bosniak community**

As the largest non-Serb minority group in Kosovo, Kosovo Bosniaks have generally managed to live peacefully alongside both the majority of Albanians (religious ties) and Kosovo Serb community (linguistic ties). However, even though the Bosniak community has been among the well-integrated minorities, the post-conflict and post-independence measures
and legislation have been challenging their position and situation within Kosovo. For instance, the incentives for political participation and mobilization have created much division among Bosniak elites and have resulted in a fragmented Bosniak political community. In consequence, the representation and power of Bosniaks at both central and local levels of governance has been fragile and bellow its potential to play a significant role in decision-making.

In this context, the community does not feel advantaged by the new political and social context and highlights that the focus on Serb-integration and particular challenges like the lack of a strong kin-state and the geographical spread undermines the Bosniaks’ opportunities to make use of their constitutional rights. Also important has been the community’s limited capacity to exercise their language and education rights, meaning that Bosniaks continue to partially rely on services provided by the Serbian parallel institutions and thus study in Serbian language without having to learn Albanian. These issues are in the detriment of their integration and limit their socio-economic opportunities. Furthermore, the fact that Bosniaks have not benefited from the decentralization process as much as other communities also illustrates that de jure rights have limited effectiveness without capacity and external support.

**Turkish community**

The examination of the Kosovo Turkish community, on the other hand, confirmed the benefits of support by a strong kin-state (Turkey), historical legacy, territorial concentration of the population, economic capacity, political unity and elite level support are all key positive factors in support of accommodation and of securing a stronger position of a minority in a diverse society. Nevertheless, the changing and unstable political environment in Kosovo has shown that the political unity of Turks is fragile and that their representation and participation might not be sustainable.

Moreover, the better conditions for exercising their language and education rights at the local level also have the downside of facilitating protection of rights without integration. Similarly to Serbs and Bosniaks, Kosovo Turks and particularly the younger generations are becoming linguistically segregated from the majority population. A similar situation is indicated by the impact of ethnic decentralization, which despite allowing Turks to create their own municipality, it might also determine territorial segregation and increasing problems given the lack of self-sustainability.
Roma, Ashkali and Egyptian communities

By contrast, the Roma, Ashkali and Egyptian minorities remain the most vulnerable, disadvantaged and discriminated groups in Kosovo. This is mainly due to the lack of social and political cohesion within the communities, their troublesome official recognition, their limited socio-economic resources, having highest unemployment rates in Kosovo, the lack of education and their continued marginalization by the majority and other communities in Kosovo. It has been very difficult to adjust this situation given the implications of the war and post-conflict context (accused for taking the side of one party or the other), but also given that the key distinction between them has become their capacity to speak one of the two official languages (Albanian or Serbian) but rarely both.

Moreover, the lack of education (high levels of illiteracy) and professional training, their geographical spread, movement of the population and high numbers of refugees and the absence of competent elites have excluded R.A.E. communities from decision-making and from participation in the civic and political life of Kosovo. Another important yet largely ignored factor is related to their condition as a stateless nation in the wider European political context. The situation of these minority groups shows that the constitutional provisions for the integration and protection of minority rights cannot be expected to have the same impact as seen in the example of communities with more capacity and more support from institutions and the majority population. In actual fact, there are clear indicators that the legislation can be counterproductive and segregate vulnerable communities like the R.A.E. as it has stimulated and institutionalized group-differentiation.

The rationale behind protecting minorities should be to directly address the issues that make such communities politically and socially vulnerable in diverse societies. Conversely, the legal provisions for minorities in Kosovo have actually become attributes for those considered a political priority (Serbs) and for those with more capacity to employ their rights. This has consequently been creating a hierarchical order of communities in Kosovo that, in the circumstances presented by this thesis, places the R.A.E. minorities at the lower end of the list.
**Gorani community**

The examination of the situation of the Gorani community in Kosovo revealed further issues with the protection and integration of minority groups who must face not only common challenges for non-majority small communities but must also struggle to preserve and promote a generally accepted notion of their identity. The main problems facing Gorani in terms of social, economic and political conditions are the lack of qualifications, the lack of information regarding job opportunities and professional development, assimilation, language issues, territorial segregation as well as the poor state of the economy as a whole. What is particularly challenging for Goranis is their assimilation not by the majority group in this case, but by other minority communities (manly Bosniaks, but Serbs too) as well as by external national groups (Bulgarians, Macedonians). Consequently, the community is generally divided between those who identify themselves as either Gorani or Bosniaks, a split that is also caused by their different political affiliation rather than having distinct cultural and ethnic features.

Kosovo has a very difficult task to achieve a sustainable integration the Goranis given the worrying levels of fragmentation within the community itself. Furthermore, the example of the Gorani community reveals how the focus on political representation and participation can undermine the development of rights and measures meant to address the preservation and promotion of cultural identity as well as the socio-economic needs of a small minority. Similarly to other cases discussed in this thesis, the political mobilisation stimulated by the extensive rights and provisions offered by the legislation for minorities in Kosovo has intensified political division within the community. This has nonetheless had unintended consequences in the form of the erosion of their ethnic/cultural identity and further segregation. The interdependence between the cultural identity of a minority group per se and their political status has been counter-productive in Kosovo.

**Montenegrins and Croat communities**

The last two minority communities examined in this thesis were the Croats and the Montenegrins. While the minorities in Kosovo represent overall a small percentage of the population, the particularly small size of these two communities is a significant characteristic. More precisely, the continuous marginalisation of these minority groups is clearly indicated by the fact that they were not even recognised until recently by the Kosovo legislation and...
they continue to be denied the political rights offered to all other minorities (reserved seats in the parliaments, most visibly). In this context, Croats and Montenegrins exemplify almost all challenges, limitations and problems derived from the design and implementation of the multiethnic institutional and legal framework in Kosovo. The capacity and willingness variables explain why they were excluded from the list of official non-majority communities, or in other words, not even included in the hierarchical structure of Kosovo communities. The lack of interest in their situation and their limited capability to militate for their rights and to develop a “voice” next to the other communities confirm the ineffectiveness of far-reaching minority rights in the absence of de facto conditions to facilitate their implementation.

Overall, the exclusion by non-recognition and the marginalisation of Croats and Montenegrins reveal the inconsistent and unequal application of minority rights. Moreover, it also reveals the discrepancy between the objectives behind the design of the multiethnic framework of governance and the genuine needs of minority groups. The emphasis on political rights and elite level forms of participation might actually indicate a counter-productive effect in terms of misperception of minority rights and neglect of factual problems. The Montenegrins have been partially assimilated by Serbs and remain dependent on the parallel institutions (affects their integration in Kosovo), while the less than three hundred remaining Croats live isolated in a remote village and are very likely to become extinct.

Such small and vulnerable communities should have probably been a priority of the system for safeguarding minority rights because they have almost no capacity to protect, preserve and promote their identity and their particular requirements. By contrast, they were not recognised initially in the post-independence Kosovo and continue to be a victim of the promotion and use of minority rights merely as political rights instead of genuinely understanding minority rights as an interconnected plethora of cultural, social, economic and civic rights.
Other research findings

At a broader level, this thesis demonstrates the vital role of endogenous factors in challenging the applicability of an externally generated model of plural democracy and management of diversity. My research findings vis-à-vis the case of Kosovo underline the difficulties of trying to build a multiethnic liberal democratic state and present sufficient evidence to show that the exogenous and imposing character of statebuilding has been overemphasised in relation to identifying the main causes of its shortcomings. This observation challenges the extensively studied diagnoses of “state weakness” and “state failure” in Kosovo and similar cases of contemporary liberal interventionism and post-conflict statebuilding. The objection to this line of thought is that it mainly draws on an ideal (Western) liberal-democratic model of state in order to evaluate the results of statebuilding. Instead, this thesis has examined Kosovo based on the idea that gaining legitimacy is at the heart of statebuilding and has adopted the limited state approach to highlight the transformative nature of state-society relations and their inevitable impact on shaping the actual form of the state.

In this respect, my research suggests that the effectiveness and the actual negative or positive impact of contemporary practices of post-conflict statebuilding are dictated by local realities to a larger extent than the existing state-centric literature affirms. Therefore, policymakers and scholars should engage in more balanced and accurate work on whether the failures of contemporary statebuilding derive from the lack of more case-specific solutions and mechanisms or they are intrinsically embedded in the peculiar Western-centric nature of the liberal-democratic state. Furthermore, while it is not always easy to measure the actual impact of diversity on the process of statebuilding, the evaluation of Kosovo in this thesis suggests that, depending on the case, it transforms and challenges the adoption of a legitimate and functional liberal-democratic state model.

The actual circumstances and results of the system developed to manage diversity are a reflection of the mutual influence between exogenous and endogenous factors. Likewise, as the study of Kosovo has illustrated, the actual form and character of newly built states are the result of the permanent multiple tension between liberal-democratic norms of governance and the conditions of plurality, between the need of social cohesion and the management of diversity, between intended and unintended consequences of implementation, between local

---

and international understanding of authority, between national and subnational forms of identity and, more broadly, between the state’s image as a unitary and coherent political entity and the practices of different social actors and agencies.

My empirical findings also suggest that the mechanisms that aim to integrate and accommodate minorities in Kosovo have been developed based on an assumption rather than an indisputable claim that these groups are not integrated and, thus, will be equally helped by the adoption of political, social, economic and cultural minority rights. Given the priority to integrate the Serb community, the overall assumption has been that specific post-ethnic conflict tools for reconciliation through power-sharing arrangements are necessary and appropriate for all communities. Therefore, the multiethnic framework of democratic governance in Kosovo has not only been based on a generalising view of minority integration as a uniform problem but has also been developed mainly in response to the situation of one particular group, the Kosovo Serbs. This indicates another important implication of my research findings concerning the effectiveness of consociational arrangements for post-conflict statebuilding.

Consociational power-sharing measures have been seen as necessary and useful for addressing the delicate situation of Kosovo Serbs given their new post-conflict status detached from the authority of Serbia and their relationship with the Albanians constituting the new majority community. As this study has shown, it has enabled elite level representation, participation and cooperation with the majority and other minority communities and has become a source of legitimacy in Kosovo. However, in the long run, these restrictive mechanism for the protection of minorities may lead to the ethnicisation of politics instead of facilitating cross-ethnic political cooperation and further integration. This is visible among non-Serb minorities when evaluating how the adoption of extensive rights has stimulated political mobilisation of even the smallest communities and has become a source of competition and differentiation within all aspects of life beyond cultural identity, namely politics, education, social relations and economic development. Moreover, the power-sharing arrangements in Kosovo have also illustrated the problematic dependency on the willingness and ability of elites to represent the interests of their communities and reach a consensus with other groups. The ineffectiveness of minority consultative bodies and municipal human rights units in Kosovo indicates the volatility of minority representatives and their preference to secure a more direct access to power. Overall, my thesis subscribes to the integrationist critique of the divisive risks associated with extensive accommodation of
minorities or consociational arrangements that disregard the long-term necessity of integration.

Furthermore, my empirical findings as regards decentralization as a tool for power-sharing in Kosovo revealed three main unintended consequences. Firstly, the effectiveness of the devolution of power to minority-municipalities has been inconsistent and impractical. Secondly, the self-governance facilities have been misused to extend control at the local level and, thirdly, there is an increasing risk of fostering territorial segregation of some communities in the detriment of local multiethnicity. My case-studies showed that establishing micro-municipalities based on ethnic decentralisation is impractical and undermines other generic objectives of statebuilding such as good governance and better provision of public services at the local level. Moreover, the examination of Serb-majority municipalities confirmed that they have limited capacity for sustainable self-governance and are almost exclusively disconnected from Kosovo given the presence of the Serbian parallel institutions. These circumstances, in combination with the growing obedience towards pro-Belgrade parties have important implications for my study as they exemplify how de jure provisions and models of accommodating diversity can paradoxically become de facto tools for segregation. In this context, the simulated participation and representation of Serbs within Kosovo’s political and administrative system is not an act of legitimisation but a latent form of segregation.

Another counterproductive consequence of the far-reaching provisions for minorities discussed in this thesis was in relation to language rights. While my empirical study indicated the full-stretched protection of one of the fundamental rights of minorities as an intended consequence, language rights may also isolate and segregate communities linguistically. As this study has shown by examining the situation of each minority in Kosovo, the language barrier is an additional obstacle for the integration of ethnic groups and aggravates the already critical issues of poverty, unemployment, limited access to public services and lack of education and professional credentials. Overall, these issues draw attention to a clear example of how policies designed to protect minorities can be misinterpreted and misused when they are put into practice. This study claims that the right to preserve and use minority languages should not be considered an exclusive right to differentiation just as learning the language of the majority community should not be perceived as forced assimilation but as necessary and beneficial integration.
This thesis has not aimed to argue that a superior solution could or should have been developed as an alternative to current the multiethnic liberal-democratic model of governance installed in Kosovo. However, the shortcomings regarding the legislation-implementation gap and the series of unintended consequences discussed in this research cannot be neglected. They indicate the serious risks that derive from policies and strategies of statebuilding vis-à-vis the management of diversity that are based on assumptions rather than factual evaluation of the local circumstances. This is even more problematic in the context where similar solutions have been adopted in neighbouring statebuilding cases like Bosnia-Herzegovina and Macedonia, which nonetheless have been struggling to synchronise liberal democratic norms with conditions of diversity.

The externally-led and externally-designed solutions for managing ethnic diversity in Kosovo, and possibly in most other contemporary post-conflict statebuilding cases, have disregarded a fundamental issue deriving from the impact of endogenous factors: variation. As Kosovo’s case-study has demonstrated, the multidimensional differences between groups and the changing nature of inter-ethnic relations may require fully customised solutions and tools for management of diversity, be they in support of integration, accommodation, protection, representation or participation. Whether or not these tensions can be overcome through practices more concerned with the impact of endogenous factors and the inclusion of local agency in the design and practice of statebuilding remains open for investigation.

The multiethnic republican model adopted in Kosovo has required the extensive accommodation of ethnic diversity under the umbrella of an ethnically-neutral civic Kosovan identity. However, in the absence of a strong emotional attachment to the Kosovan identity, political homogenisation through the construction of a civic nation on a predominantly rational basis becomes much more challenging.\textsuperscript{1079} Despite the presence of an overwhelming majority population belonging to the Albanian community, Kosovo has not been designed to become a homogenous nation-state, but a hybrid multiethnic polity with an overarching civic national identity. The mechanisms to accommodate diversity have been established, but the new born state has yet to develop a generally accepted, strong and genuine common Kosovan national civic identity. Discussing whether Kosovo is becoming a state without a nation should be an imminent direction of further research on its statebuilding progress.

Classical statebuilding and nation-building aspired to develop national cohesion through the promotion of an assimilating overarching identity. Conversely, as the case-study of my thesis illustrates, contemporary processes of statebuilding have become extremely concerned with the accommodation of diversity. However, even though assimilation and accommodation have been contrasting responses to diversity, they have both been challenged by the lack of social cohesion. While assimilating statebuilding has not always managed to deny diversity and contain the inevitable fracture of the society, accommodating statebuilding has been struggling to secure unity because of its (over-)emphasis on distinctiveness. Therefore, as the findings of my thesis suggest, in contexts like Kosovo that also lack a civic identity this deficit of accommodating diversity is more problematic for the relationship between state and society and between state and nation.

While the post-conflict standards before status approach in Kosovo made statebuilding without statehood possible by developing a *de facto* state with domestic sovereignty in the absence of international recognition, the post-independence context seems to have turned this situation upside down. Despite the still limited recognition of its statehood, Kosovo has established its *status* as a new independent democratic, secular and multiethnic republic, but in practical terms, Kosovo does not meet the presumed standards: the society is largely ethnically homogenous with little diversity per se but cannot pursue an Albanian-based national project of statehood, the small but existing different groups remain divided in the absence of social cohesion and a common civic link and Kosovo has yet to create the nation. Consequently, the relationship between state and society in Kosovo remains largely undefined.
Bibliography

1. Primary Sources

INTERVIEWS

Gazmen Salijevic, Roma Community, Project Assistant, ECMI, Pristina, 29.02.12.
Valdete Idrizi, Director, CIVIKOS, Pristina, 01.03.12.
Vera Pula, Program Coordinator, KFOS, Pristina, 01.03.12.
Nenad Maksimovic, Serb Community, Director of the Center for Peace and Tolerance, Gracanica, 06.03.12.
Muhamet Arifi, Ashkali Community, CCC Member and Director of Balkan Sunflowers, Pristina, 06.03.12.
Merita Stavileci, Program Coordinator, Swiss Agency for Cooperation and Development (SDC), Pristina, 12.03.12.
Ilir Deda, Director, KIPRED, Pristina, 16.03.12.
Nora Ahmetaj, Director, Centre for Research, Documentation and Publication (CRDP), Pristina 19.03.12.
Venera Hajrullahu, Director, Kosovo Civil Society Foundation (KCSF), Pristina, 19.03.12.
Venhar Nushi, Director, Foreign Policy Club (FPC), Pristina, 28.03.12.
Ferid Murseli, Program Coordinator, Youth Initiative for Human Rights (YIHR), Pristina, 05.04.12.
Natyra Avdiu, Program Coordinator, Youth Initiative for Human Rights (YIHR), Pristina, 05.04.12.
Abdullah Ferizi, Program Coordinator, Forum ZFD, Pristina 06.04.12.
Betim Zilanoga, Program Coordinator for MR Protection, Humanitarian Law Centre (HLC), Pristina, 06.04.12.
Kushtrim Koliqi, Director, Integra, Pristina, 06.04.12.
Engjellushe Morina, Director, Kosovar Council on Foreign Relations (KCFR), Pristina, 12.04.12.
Valon Murati, Director, The Human Rights Centre (HUMSEC), Pristina, 04.05.12.
Shqipe Hajredini, former Senior Policy Adviser, Office for Community Affairs, Pristina, 09.05.12.
Arben Qirezi, Former Principal Advisor to the PM and Researcher, Pristina, 11.04.12.
Lutfi Haziri, MP for PDK and former Minister of Culture and Local Self-Governance, Head of the Negotiation Team for Kosovo, Pristina, 08.05.12.

Suzana Novoberdali, MP for New Kosovo Alliance, Chairperson of the Assembly Committee on Human Rights, Gender Equality, Missing Persons and Petitions, former candidate for presidency, Pristina, 15.05.12.

Rrahim Demaj, Coordinator of the Assembly Committee on Human Rights, Gender Equality, Missing Persons and Petitions, Pristina, 15.05.12

Nuredin Ibishi, MP for LDK, Former KLA commander, Pristina, 15.05.12.

Albert Kinolli, Roma Community, MP, Pristina, 14.05.12.

Dragana Milutinovic, Serb Community, Program Coordinator, Forum ZFD, Pristina, 05.04.12.

Norbert Ruetsche, Policy Advisor, Swiss FDFA, Pristina, 03.05.12.

Andrea Najvritova, Program Coordinator, ECMI, Pristina, 10.05.12.

Patrick Schmelzer, Policy Officer, EU Office, Pristina, 10.05.12.

Nenad Rasic, Serb Community, Minister of Labour and Social Welfare, MP for SLS, Pristina, 18.05.12.

Suzana Andelkovic, Serb Community, Advisor of the Minister of Communities and Return, Fushe Kosova, 29.05.12.

Sami Kurteshi, Kosovo Ombudsman, Pristina, 18.05.12.

Chris Decker, Program Coordinator, UNDP, Pristina, 18.05.12.

Refik Saciri, Bosniak Community, Deputy Minister for the Ministry of European Integration, Pristina, 28.05.12.

Gjuljeta Mushkolaj, Judge at the Constitutional Court and former Member of the Constitutional Commission in Kosovo, Pristina, 25.05.12.

Arben Kelmendi, Program Manager, National Democratic Institute (NDI), Pristina, 11.05.12.

Hydajet Hysen, MP for PDK, Pristina, 11.05.12.

Fatmir Curri, Project Coordinator, KCSF, Pristina, 30.05.12.

Srdjan Sentic, Serb Minority, Director, Office for Community Affairs (OCA), Pristina, 13.05.12.

Goran Marinković, Serb Minority, MP for SLS, Chairperson for the Assembly Committee on the Rights and Interests of Communities (CRIC), Pristina, 12.04.13.

Leon Malazogu, Director, D4D, Pristina, 13.05.13.
Čerim Bajrami, Bosniak Community, Deputy Minister in the Ministry of Diaspora and former Vice-President of CCC, Pristina, 28.03.13.

Snežana Karadžić, Montenegrin Community, Political Adviser, Ministry of Local Government Administration (MLGA), and former Member of CCC, Pristina, 03.04.13.

Kutjim Pacaku, Roma Community, Member of CCC, Pristina, 03.04.13.

Mersiha Hallaci, Community Support Officer, Kosovo Assembly, Pristina, 03.04.13.

Murselj Halili, Gorani Community, MP for GIG Pristina, 04.04.13.

Jasmina Živković, Serb Community, MP for SLS, Pristina, 04.04.13.

Duda Balje, Bosniak Community, MP for VAKAT, Pristina, 05.04.13.

Tahir Luma, Turkish Community, Member of CCC, Prizren, 06.04.13.

Daut Qulangjiu, Roma Community, Member of CCC, Prizren, 06.04.13.


Mustafa Balje, Bosniak Community, Journalist for Radio and Television Kosovo (RTK), Prizren, 11.04.13.

Christof Stock, Head of Operations, European Community Liaison Office, Pristina, 14.05.13.

Mahir Yağcilar, Turkish Community, Minister of Public Administration, Pristina, 05.04.13.

Slaviša Mladenović, Serb Community, Language Commissioner, Pristina, 30.05.13.

Dušan Radaković, Serb Community, Project Officer, NDI, Mitrovica, 05.06.13.

Adrijana Hodžić, Bosniak Community, Chief Executive Officer of Mitrovica North Administration Office (MNAO), Mitrovica, 06.06.13.

Erkan Vardari, Executive Director, European Union Integration Resource Center (EURIC), Prizren, 07.06.13.

Arben Shala, Project Assistant, KFOS, Prizren, 07.06.13.

Kreshnik Basha, CARITAS Switzerland, Head of Office, Prizren, 08.06.13.

Dren Doli, Senior Research Fellow at the Group for Legal and Political Studies, Pristina, 21.05.14.

Bariu Zenelaj, Executive Director, Academy for Trainings and Technical Assistance (ATTA), Prizren, 08.06.13.

Hajrulla Çeku, Executive Director, NGO EC Ma Ndryshe, Pristina, 15.05.13.

Taulant Hoxha, Project Coordinator, KCSF, Pristina, 04.05.13.

Robert Wilton, Advisor to the Prime Minister of Kosovo, Pristina, 26.05.13.
REPORTS AND POLICY PAPERS


Project on Ethnic Relations-Kosovo (PER-K) and Democracy for Development (D4D) – “Boosting Prospects for Young Kosovo Serbs/Urban Life in Kosovo Serb Communities”, Pristina, March 2012.


- 2010 National Elections “Results of all candidates”, 2010.


- “Serbs in Kosovo’s Institutions”, New York, February 2012.


- “Perspectives on Local Economic Development in Kosovo’s Decentralised Municipalities”, Pristina, June 2012.
- “Minority Communities in the 2011 Kosovo Census Results: Analysis and Recommendations”, December 2012.


“Kosovo* Fulfilling its European Perspective”, October 2009.

“Feasibility Study on a Stabilisation and Association Agreement between the EU and Kosovo*”, October 2012.


- “Policy Study No.1: Employment of Members of Non – majority Communities within Kosovo Civil Service and Publicly Owned Enterprises”, Office for Community Affairs (OCA), March 2010.
- “Answers to the questionnaire on the preparation of the Feasibility Study for a Stabilisation and Association Agreement”, June 2012.


- “Grass-root approaches to inter-ethnic reconciliation in the Northern part of Kosovo”, February 2012.
- “Strengthening the statehood of Kosovo through the democratization of political parties”, July 2012.


– “Representation of Communities in the Civil Service in Kosovo”, February 2013.


- “Corruption in the Western Balkans,” Vienna, United Nations Office on Drugs and Crime (UNDOC), 2011.


- “Kosovo Remittance Study”, Pristina, July 2012.


OFFICIAL DOCUMENTS AND LAWS


Law on the Protection and Promotion of Communities and their Members in the Republic of Kosovo [No. 03/L-047]

Law No. 04/L-020 “On Amending and supplementing of the Law NO.03/L-047 on the protection and promotion of the rights of communities and their members in Republic of Kosovo

Anti-discrimination Law [No. 2004/3]

Law on Education in the Municipalities of the Republic of Kosovo [No. 03/L-068]

Law on the Use of Languages [No. 02/L-37]

Law on Local Self Government [Nr. 03/L-040]

Law on Municipal Boundaries

Cultural Heritage Law [No. 02/L-88]

Law on Special Protective Zones [Nr. 03/L-039]

Law No. On Local Government Finances [03/ L- 049]

Law No. On Education in the Municipalities of the Republic of Kosovo [03/L-068]

Law No Law on the Civil Service of the Republic of Kosovo [03/L-149]

Law No. On Radio Television of Kosovo [04/L-046]


UNIMIK Regulation 2006/25, 27 April 2006.


UNMIK Regulation No. 2001/19 on the Executive Branch of the Provisional Institutions of Self-Government in Kosovo.

UNMIK Regulation 2006/06 on the Ombudsman Institution in Kosovo.

UNMIK regulation no. 1999/1 on The Authority of the Interim Administration in Kosovo.
2. Secondary Sources

BOOKS, CHAPTERS IN BOOKS AND ARTICLES


UNPUBLISHED PAPERS


**PERIODICALS**

*B92*

*Balkan Crisis Reports*

*Balkan Insight*

*BBC News*

*CNN*

*Deutsche Welle*

*EurActiv*

*The Economist*

*Financial Times*

*The Guardian*

*Huffington Post*

*InSerbia News*

*Koha Ditore*

*New Eastern Europe*

*TransConflict*

**WEBSITES CONSULTED**

Kosovo Assembly, [http://www.kuvendikosoves.org/?cid=2,1](http://www.kuvendikosoves.org/?cid=2,1) [last accessed: 03.06.14]

Ministry for Community and Return, [http://www.mkk-ks.org/?page=2,57](http://www.mkk-ks.org/?page=2,57) [last accessed: 03.06.14]

Office for Community Affairs, [http://www.kryeministri-ks.net/zck/?page=2,74](http://www.kryeministri-ks.net/zck/?page=2,74) [last accessed: 03.06.14]

Office of Good Governance (OGG), [http://www.kryeministri-ks.net/?page=2,51](http://www.kryeministri-ks.net/?page=2,51) [last accessed: 03.06.14]

Central Electoral Commission (CEC) website, [http://www.kqz-ks.org](http://www.kqz-ks.org) [last accessed: 03.06.14]

315