KOSOVO'S ETHNIC DILEMMA:

THE NEED FOR A CIVIC CONTRACT

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international crisis group

ICG Balkans Report N°143 **28 May 2003**

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EXECUTIVE SUMMARY AND RECOMMENDATIONS

A simple but effective formula exists for peace in diverse societies. It consists of a civic contract: the government recognises and supports special rights for minorities, and minorities acknowledge the authority of the government. No elements of such a contract currently exist in Kosovo. The Albanians remain reluctant to support enhanced rights for the Serb minority, and the Serb community does not recognise the authority of Kosovo's institutions. Moreover, Kosovo is not a state and the future status of the province remains unresolved. After four years of United Nations authority in Kosovo, the foundation of this civic contract and of sustainable peace has not been laid.

Instead the status dilemma has become a zero-sum game. The Albanians will accept nothing less than independence, and the Serbs firmly want to remain part of Serbia. Serbs argue that their rights will not be protected in an independent Kosovo. Albanians believe that their security will only be guaranteed with independence, and threaten renewed conflict if their independence aspirations are not met.

This report outlines a way out of the dilemma that avoids the dangerous option of partition yet recognises the need of the Serb minority to be protected. The United Nations Interim Administration Mission in Kosovo (UNMIK), with the support of the international community, must begin to build the foundation of a civic contract. UNMIK's vague and unrealistic policy of multiethnicity and integration, as well as the unclear "standards before status" process, cannot build this foundation. Serbs and other minorities must be given credible guarantees that they will have institutional space in Kosovo – the ability to protect and promote their rights through Kosovo's institutions. In the interests of protecting the Serb minority and creating a more stable environment in Kosovo it is important that action commence immediately to create this institutional space. Such action would facilitate necessary final status negotiations but should not be seen by either Albanians or Serbs as prejudicing or predetermining their outcome.

ICG proposes the creation of a real incentive structure to treat minorities as full and equal citizens, with clear penalties for bad behaviour and rewards for good behaviour. A committee on public services for minorities should also be established, outlining what needs to be done to improve service provision and formulating a gradual plan to dissolve parallel structures. The electoral system should be reworked so that politicians (of all ethnicities) at the central level are more accountable. A Charter of Rights outlining individual and group rights should be established, accompanied by a strong judicial instrument that ensures the enforcement of these rights. And while the decentralisation initiative should pay special attention to the needs of minority communities, UNMIK and the Council of Europe should exercise extreme caution before drawing any boundaries on an ethnic basis, even for sub-municipal units. The focus should be on improving local governance and ensuring that municipal bodies have the capacity and resources to do their job.

Establishing this institutional space for minorities ultimately depends on the willingness of Serbs and Albanians to cooperate, and both need assistance and encouragement from UNMIK and the broader international community. Albanian politicians must go beyond their current rhetoric and recognise that rights for minority communities are not concessions undermining the potential future independence of Kosovo but an essential precondition. During status negotiations Albanian

leaders and the Provisional Institutions of Self-Government (PISG) will be judged on how they treat Serbs and other minorities. Albanian leaders – from all political parties – must proactively work to respect minority rights in concrete terms and foster a more tolerant environment.

The majority of the Serb population hesitates even to engage with UNMIK. Previous agreements have produced few benefits of cooperation for pragmatic Serb leaders to show their community. A renewed and tangible commitment from UNMIK and the international community to create institutional space for minorities could reenergise relations with the Serb community. Instead of constantly turning to Belgrade, Serb leaders should utilise this opportunity to fight for their rights within Kosovo's institutions.

A cooperative Belgrade will also be essential. Through continued support to parallel structures of government and inflammatory statements about partition, Belgrade acts as a spoiler to the establishment of a civic contract between Kosovo's Serbs and Albanians. After the assassination of Serbian Prime Minister Zoran Djindjic, the international community appears reluctant to place pressure on it to play a constructive role in Kosovo. While democratic reform in Serbia needs strong support, it is in Belgrade's long-term interest to cooperate with UNMIK to create a stable political environment in Kosovo. Serb nationalists in both Belgrade and Kosovo will no doubt be inclined to resist anything they see as prejudicing retention of Serbian sovereignty in the final status negotiations, but it can be put to them that their constructive engagement with Kosovo governing institutions in this respect would not in itself require any modification of their position on sovereignty, would enhance their international standing in the run up to those negotiations, and at the same time deliver immediate and tangible benefits to the Serb minority.

The report advocates a phased approach to create a civic contract governing ethnic relations in Kosovo. The foundation for the contract – the measures outlined above to establish an institutional space for minorities – should be implemented immediately. During status discussions, the civic contract itself would then be finalised. This requires the international community to send a clear message to Albanian leaders that their goal of independence within existing boundaries can only be realistic if the majority community ensures that minority communities are able to live in Kosovo as free and equal citizens.

RECOMMENDATIONS

To UNMIK:

1. Clarify and refocus existing efforts to establish an institutional space with credible guarantees for Kosovo's minorities. Work with both Albanian and Serb leaders in Kosovo to establish elements of that space, including by:
   (a) establishing a system of rewards and penalties – financial bonuses, recognition for municipalities and institutions that perform well, penalties and fines for individuals and institutions, loss of employment and prosecution for those who engage in discriminatory practices – to ensure institutions at both the central and local level have an incentive to behave appropriately towards minority communities;
   (b) creating a committee on services to minority communities that would assess the current level of services, examine how to improve it, and plan for gradual disbandment of parallel structures;
   (c) producing a Charter of Rights that would outline the rights of the individual as well as minorities, include all existing provision of the Constitutional Framework, and expand minority rights if deemed necessary;
   (d) putting in place a strong judicial mechanism to implement the Charter, initially utilizing existing international judges and prosecutors; and
   (e) reworking the electoral system to ensure greater accountability of central level representatives.
2. Exercise caution in downsizing international staff, ensuring that appropriate mechanisms to protect minority rights are in place before withdrawing internationals.
3. Engage actively with Serb leaders and communities to rebuild the trust needed to establish the foundation for the contract.

To the United States and the European Union:

4. Encourage UNMIK to clarify and refocus its current efforts – such as the "standards before status" process – to build a real institutional

space with credible guarantees for Kosovo's minorities, particularly the Serb minority.

5. Support UNMIK in creating this institutional space for minorities through demarches to the PISG, as well as to leaders of the Albanian and Serb communities, strongly encouraging them to cooperate.
6. Commit the resources necessary – particularly in the crucial justice sector – to undertake activities associated with establishing institutional guarantees for minorities.
7. Encourage Belgrade, with financial incentives and disincentives if necessary, to cooperate with UNMIK in its efforts to disband the parallel structures gradually.
8. Begin preparations for final status discussions, including exploration of appropriate institutional ties between Serbia and Kosovo's Serb community.

To the Wider Donor Community:

9. Support the advocacy efforts of the United States and the European Union through demarches to UNMIK, the PISG, Albanian and Serbian political leaders, as well as Belgrade.
10. Provide additional human and financial resources as needed to support UNMIK's effort to establish an institutional space for minorities.

To the Council of Europe Decentralisation Mission:

11. Exercise extreme caution on any ethnically based decentralisation strategy and focus efforts to improve local governance on capacity, establishment of clear lines of authority between centre and municipality, and resources.

To Authorities in Belgrade:

12. Stop inflammatory statements on Kosovo partition.
13. Support the establishment of an institutional space for Serbs and work with UNMIK to disband parallel structures in Kosovo.
14. Cease attempts to link Kosovo's final status with the status of Republika Srpska in Bosnia.

To Kosovo Albanian Leaders:

15. Support the creation of the institutional space for Serb communities and other minorities, including the elements outlined above, and exercise leadership on minority right issues by undertaking concrete measures including by:
    (a) implementing the right for minorities to use their language freely and have education, including higher education, in their own language;
    (b) carrying out Prime Minister Rexhepi's strategy of providing equal employment opportunities in the public sector to minorities; and
    (c) allocating a fair share of public resources to minority communities.
16. Discipline members of political parties and public officials who do not respect the rights of minorities.

To Kosovo Serb Leaders:

17. Take every opportunity to use judicial and institutional instruments to advance their rights.
18. Stop boycotts and walk-outs from the Assembly and actively participate in Assembly committees and the Transition Council.

Pristina/Brussels, 28 May 2003

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KOSOVO'S ETHNIC DILEMMA: THE NEED FOR A CIVIC CONTRACT

I. INTRODUCTION

> *The quintessential bargain that builds peace in heterogeneous societies is one in which governments acknowledge and support the rights of subordinate national and minority peoples in exchange for civil peace and their acceptance of the state's superordinate political authority… Some societies are wracked by generations of protracted communal conflict because no mutually satisfying bargains are sought or attainable.*[1]

Four years after the international community intervened in Kosovo, the elements of such a civic contract do not exist. Although direct violence against minorities has declined from the appalling levels in the immediate post-conflict period, Serbs and other minorities continue to face intimidation and daily discrimination. The provisional government rarely goes beyond rhetoric to counteract violence and discrimination and fully recognise the rights of its minorities. Minorities – particularly the Serbs – do not recognise the authority of the provisional government. And the sovereignty of Kosovo remains undecided. On the recent anniversary of the start of the NATO bombardment, the respected analyst and newspaper editor Veton Surroi reminded his readers, "The war with bombs has ended but not the political war".[2] This "political war" is over the future status of the province.

In the absence of international will to grapple with the thorny status dilemma, UNMIK – the UN Mission in Kosovo that has executive power over the province under UN Security Council Resolution 1244 – has developed a "standards before status" strategy. It establishes standards for Kosovo's institutions to meet before status negotiations can begin.[3] UNMIK's objective is to build consensus on internationally recognised norms of governance and institutional performance and focus political leaders on building democratic institutions before opening the divisive issue of status, in the hope that the passage of time and experience of "real issues" of administration will cool passions and generate a more realistic approach.

This strategy suffers from several flaws. The outcome, and the process which might lead to that outcome, if the Kosovo institutions are deemed to have matched the required standards, remain unclear. No assessment has been made of how far Kosovo is from meeting these standards, and no implementation or resource plan has been developed for the strategy. Moreover, in the year since it was announced, "Standards before Status" has not achieved its objective of forcing political leaders to concentrate on governance and building institutions.

Despite the best efforts of the international community to avoid the issue, the fight to determine the final status of Kosovo is ongoing. For Albanians, the current battleground is the Assembly, where they seek to pass resolutions on the territorial integrity and independence of Kosovo. With the continuation of parallel structures funded by and linked to the Serbian government and the recently established Unions of Serb Municipalities in the north and southwest of

[1] Ted Robert Gurr, *People Versus States: Minorities at Risk in the New Century* (Washington, U.S. Institute for Peace, 2000), p. 151.

[2] Veton Surroi, "Kosovo: An Unfinished Political War," *Koha Ditore* 24 March 2003.

[3] ICG recommended in March 2002 that achievement of standards and preparations for resolving the final status of Kosovo should be resolved in parallel rather than in sequence. See ICG Balkans Report No. 124, *A Kosovo Roadmap I: Addressing Final Status,* 28 February 2002.

Kosovo, Belgrade and Kosovo Serb politicians work to create realities on the ground that would prejudge status.

While it is regrettable that politicians are not grappling with many of the serious issues that affect the daily lives of the electorate – such as the economy, health care, education, and other public services – their focus on status is not surprising. Given the charged nature of the issue, Kosovo's political leaders on both sides of the ethnic divide naturally use this interim period to stake out their position – unfortunately in zero-sum terms.

II. THE STATUS QUESTION: A ZERO-SUM GAME

ICG has repeatedly argued that the resolution of Kosovo's status – while not without its risks – is critical for the stability of the region. Our reports have shown how the lack of clarity on status casts a shadow over the refugee return process, economic development, and the ability of UNMIK to stabilise the troubled city of Mitrovica.[4]

UNMIK argues that the sovereignty issue is more symbolic than substantive, as it does not affect the day-to-day issues of governance in Kosovo.[5] As European integration makes individual national sovereignty less meaningful, officials hope that the aspirations for an independent Kosovo will subside. This is unrealistic. The status issue is very meaningful for both Albanians and Serbs. Albanians, who suffered from the revocation of autonomy and systematic discrimination and violence at the hands of the Yugoslav authorities, believe that only independence will guarantee a secure future. And Serbs, who faced crimes of revenge and systematic violence after UNMIK entered Kosovo and still experience pervasive discrimination, argue that only a return of Serbian authority will protect their rights and security.

Most U.S. and European officials believe that initiating status discussions is premature and that the wider region must be more stable before the question can be broached. Diplomats emphasise that opening negotiations on final status would destabilise the fragile peace in Macedonia, impact on the democratic reforms in Serbia, and affect the longevity of the Union of Serbia and Montenegro. Moreover, they contend that Kosovo's institutions need to be stronger before status discussions can begin – in line with UNMIK's "standards before status" strategy. Withholding a decision on status is an effective lever to ensure that Albanians achieve certain standards of governance. With time, Kosovo will develop autonomous institutions of self-government, the peace in Macedonia will be consolidated, and Serbia will be set firmly on the

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[4] See ICG Report, *A Kosovo Roadmap I*, op. cit; ICG Balkans Report No. 131, *UNMIK's Kosovo Albatross: Tackling Division in Mitrovica,* 3 June 2002; and ICG Balkans Report No. 134, *Finding the Balance: The Scales of Justice in Kosovo,* 12 September 2002.

[5] ICG correspondence with senior UNMIK official. 22 April 2003.

democratic path to reform. Only when these key preconditions are in place, the argument goes, will negotiation of the final status of Kosovo be less threatening to regional stability.

This assessment is flawed. Many in both communities are losing patience, and it is disruptive to continue to ignore the status issue.[6] While opening discussions on Kosovo's status is not without risks,[7] the failure to resolve the issue threatens the delicate peace in Kosovo and therefore in the region. In the past year, rhetoric from all sides has escalated, and the status quo appears hard to sustain.

Although some Serb politicians complain that constantly raising the status issue radicalises all sides, it is difficult to see how it can be avoided.[8] UNMIK has failed to persuade Albanian politicians to focus on standards. In the absence of any formal process to tackle the issue, Assembly members will continue to waste time on status at the expense of institution building and the achievement of concrete results in areas within their responsibility.[9] Moreover, as outlined below, lack of clarity on the status issue also impacts on their willingness to provide guarantees for Serbs.

Politicians from Serbia use rhetoric on Kosovo to build domestic support but there are also serious reasons why Belgrade wants the status issue addressed. Serbia will find it difficult to enter the EU integration process with the future of Kosovo unresolved. Djindjic put the status of Kosovo firmly on the table in early 2003.[10] As his opening position, he advocated a federal solution for Kosovo, in which the Serb communities of the province would be recognised as a "constituent people" and have a closer relationship with Serbia, while the Albanian communities would be granted more autonomy. If the federal option were not accepted, he argued that the province should be partitioned, followed by a "peaceful transfer of peoples". He claimed that Albanians have shown they are incapable of protecting the rights of Serbs and therefore could not be trusted with governing Serb areas of Kosovo.

On the surface, the division of Kosovo appears like a reasonable solution. The Kosovo Serb minority does not want to live in an independent state where Albanians are the majority. Albanians are not keen on having Serbs as their neighbours. The three northern municipalities are predominantly Serb, and contiguous with Serbia. Some also see the potential for a territory swap: the Albanian dominated Presevo Valley in southern Serbia, for the Serb-dominated part of Kosovo north of the Ibar River. Peaceful and agreed border changes are perfectly permissible in principle, and expressly endorsed by the Helsinki Final Act.[11]

Yet, partition has rarely been a solution that leads to peace, particularly in post-conflict states where the underlying issues that caused violence remain unresolved.[12] The partition of Kosovo has the potential to provoke instability in the province as well as in Albanian dominated areas in Serbia. Moreover, it would not solve the ethnic problem – the majority of Serbs in Kosovo live below the Ibar River in communities in the south. Thus partition would leave many Serbs even more vulnerable; living as a smaller minority within an Albanian dominated state that would have fewer incentives to protect their rights. Kosovo Serb politicians acknowledge that partition would lead to heightened exodus of Serbs from the south.[13] While Djindjic saw this as a peaceful transfer, such an exodus would uproot livelihoods and undermine the goals of the international community in Kosovo.

Partition-provoked unrest would jeopardize the efforts of the United Nations to establish institutions and put at risk the over U.S.$2 billion in international assistance committed to this goal. Such instability would set back reform in Serbia and delay its process of EU integration. In addition, while domino arguments of one kind or another are

[6] ICG Interview with President of Strpce Municipality, 24 March 2003.
[7] Officials working with Serb communities believe that the initiation of status talks could cause a further exodus from the Serb community.
[8] ICG interview with Dragisa Krstovic, 27 March 2003.
[9] UNMIK Regulation No. 2001/9, "The Constitutional Framework for Self-Government in Kosovo", 15 May 2001.
[10] ICG Balkans Report No. 141, *Serbia After Djindjic,* 18 March 2003.
[11] "The Helsinki Final Act of the Conference on Security and Cooperation in Europe", Questions relating to Security in Europe (Declaration of Principles): "…frontiers can be changed, in accordance with international law, by peaceful means and by agreement."
[12] Nicholas Sambanis, "Partition as a Solution to Ethnic War: An Empirical Critique of the Theoretical Literature", *World Politics* 52, (July 2000) 437-483.
[13] ICG interview with Oliver Ivanovic. 27 March 2003.

often overstated in the Balkans,[14] once the possibility of changing borders in any way is raised, there is a serious risk of opening a Pandora's box; there are already too many irresponsible politicians ready to question the territorial integrity of Bosnia, Macedonia and Kosovo's other neighbours. As it is, the whole region faces a difficult post-conflict transition, based on strengthening effective government structures within existing states. Even a peaceful shift of borders now would confuse and delay the entire process.

Representatives from UNMIK and many international officials stress that they would not countenance the partition of Kosovo. Yet realities on the ground make it hard to sustain that position. While UNMIK argues that it now exercises authority over north Mitrovica, Belgrade maintains many of its parallel services, the Serb community has established a Union of Municipalities in the north, and many officials in Belgrade openly float partition as their preferred status outcome.

If it is serious about preventing a de facto partition, imposed by violence and the threat of violence, the international community needs to grapple with the zero-sum dilemma that faces Kosovo. The Albanian majority remains insecure about its final status, is generally opposed to providing enhanced rights for Serbs, and will accept nothing less than independence. The Serb minority holds on to the belief that Kosovo will be returned to a Serbia, does not accept its minority status in Kosovo, and threatens that if Kosovo becomes independent it will leave. And some elements in Belgrade wrongly believe partition may be in their interest. These three actors – Albanians, Serbs, and Belgrade – are the necessary participants in a civic contract, and they must be convinced that their future lies in cooperation, not confrontation.

[14] For example, with respect to the relationship of Serbia and Montenegro.

III. THE PARTICIPANTS

A. BELGRADE

Since the fall of Milosevic in October 2000, Belgrade has often played a pernicious role in the province, failing to cooperate with UNMIK and supporting the destabilisation of certain areas, in particular Mitrovica. While it is natural for the Belgrade government to support the rights of the Serb community, it should do so in a way that maintains stability. This will require its political leaders to understand the risks of partition and the dangers of instability both to Serbia and the Serb minority in Kosovo.

1. From Isolation to Coordination

From the arrival of UNMIK and KFOR to the fall of Milosevic, Belgrade did everything possible to encourage Serbs to stay in the province and to maintain Serbian government institutions – such as health services, education, and the judiciary, as well as a police presence. The Milosevic government had few contacts with UN officials and gave specific instructions to Kosovo Serb leaders not to cooperate with UNMIK. If civil servants from Yugoslavia or Serbia signed contracts with UNMIK, they risked losing their pensions and professional status within Serbia. (They could, however, receive a salary from UNMIK as long as they had no formal contract.)

With the change of government in October 2000, the U.S. and EU perception of Belgrade changed dramatically. The international community saw the new authorities as the opposition to Milosevic, not those who oppressed and committed atrocities against the Kosovo Albanians. Thus diplomats courted both the Federal Yugoslav and Republic of Serbia governments, seeing a democratic and prosperous Serbia as key to stability in the Balkans.[15]

The level of cooperation between Belgrade and UNMIK also changed. The governments of Serbia and Yugoslavia jointly established a Coordination Centre for Kosovo in August 2001, responsible for liaising with UNMIK, overseeing the work of both

[15] See ICG Balkans Report No. 126, *Belgrade's Lagging Reform: Cause for International Concern*, 7 March 2002; and ICG Report, *Serbia After Djindjic*, op. cit.

governments in the province and lobbying to ensure that the rights of Serbs are considered. The official in charge – Dr. Nebojsa Covic, leader of Democratic Alternative, one of the small parties in the ruling DOS coalition – had won praise for his role in resolving the crisis in the Presevo Valley in southern Serbia in late 2000 and early 2001, and the international community hoped that he would establish a constructive relationship with UNMIK. These hopes were not completely realised.

Dr. Covic and the then Special Representative of the Secretary-General, Hans Haekkerup, negotiated the Common Document that led to participation of Kosovo's Serb population in the November 2001 Assembly elections. In return, UNMIK agreed to undertake a series of tasks to increase the confidence of Serbs in Kosovo, including working to enhance freedom of movement through the free issuance of Kosovo license plates to the Serb population; a guarantee that the civil service will be multiethnic and multilingual; the establishment of an Office of Returns; expediting the identification of remains and heightened work on missing persons; instituting a faster process of resolving property claims; working to increase the number of Serb personnel in the justice system; and ensuring Serb access to education in their own language.[16]

The agreement established a High Ranking Working Group between the Special Representative of the Secretary General (SRSG) and Dr. Covic to resolve these issues. It has produced some critical breakthroughs – such as the transfer of remaining Albanian prisoners to Kosovo, the appointment of Serb judges, the closure of the parallel courts in the north, UNMIK administrative control over north Mitrovica, and daily police cooperation in border areas.

Yet, the relationship was not always good, and cooperation was only achieved after bitter and truculent negotiations. In many cases, the Coordination Centre engaged in outright harassment to discourage cooperation with UNMIK.[17] Political disputes in Belgrade resulted in battles fought in and over Kosovo. While legitimately advocating the interests of the Serb minority, the Coordination Centre has also obstructed some UNMIK goals. Key issues remain unresolved. Kosovo license plates are still not recognised in Serbia, hindering freedom of movement for Kosovo's Serb population. Kosovo's cadastral records have not been returned to all municipalities. And institutions from Belgrade still operate in Kosovo.

These parallel structures – including education, health, and police[18] – are funded with approximately €75 million from Serbia's budget.[19] Although the UN announced the official closure of the "parallel" municipality in the north of Mitrovica in November 2002, many parallel offices remain open throughout Kosovo. While they provide some services to Serb communities, they hinder efforts to extend the institutions of government to all communities.

Parallel institutions are a critical source of revenue and employment for Serb communities. In a context where minority unemployment is between 90 and 95 per cent, many politicians do not want this to disappear.[20] The head of a parallel municipality is paid €800, while a Serb municipal vice-president earns a salary of €300 from the Kosovo Consolidated Budget. Doctors on Belgrade's payroll also earn a significantly higher wage than from the Kosovo Ministry of Health. And in addition, many doctors and other health staff in Serb communities receive a double salary as they are still paid by both Belgrade and UNMIK.[21] There is thus an inbuilt financial incentive to maintain and support the institutional arm of Belgrade in Kosovo.

Moreover, Serb communities have little alternative to these services. UNMIK and the PISG do not have the capacity to fill the void that would be left by its absence. They are hard pressed to provide services – such as quality health care, education, and public utilities – to the majority community, let alone minorities. While access to Kosovo institutions and services is a problem, Serb communities do not seek this access. As long as they have parallel services from Belgrade, there is little need to rely on Kosovo institutions.

Statements on Kosovo from Belgrade's politicians have also led to tensions with UNMIK and the Albanian community. Until recently, Belgrade largely avoided the final status question, focusing instead on platitudes about Serbia's sovereignty. In a surprising move, however, it recently took an initiative.

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[16] "Agreement on Cooperation Between Yugoslavia and UNMIK", 5 November 2001.
[17] ICG interview with Jay Carter, Head of Office of Community Affairs, 8 May 2003.
[18] ICG Report, *Serbia After Djindjic*, op. cit.
[19] Ibid.
[20] ICG interview with Vice President of Lipjan/Lipljan Municipality, 25 February 2003.
[21] Ibid.

2. Djindjic: Putting Status on the Table

The year 2003 began with a request from Serbian Prime Minster Zoran Djindjic to review UNMIK's record in Kosovo and open dialogue with Kosovo politicians to resolve the final status issue.

In January, Djindjic requested that the international community address the status of Kosovo, and his aggressive campaign to put the issue on the international agenda continued until his assassination. He suggested direct Belgrade-Pristina dialogue begin immediately and focus on three issues: daily problems between Pristina and Belgrade such as energy, transportation, and trade; the return of displaced people to Kosovo and freedom of movement; and the status of Kosovo. He argued that status "cannot be avoided. We will insist on discussing what the relations between Serbia and Kosovo will be in five, ten years and forever. The time has come for this to be on the agenda, at least preliminarily".[22]

Djindjic was provocative on the status outcome. He put forward an asymmetrical federal solution, or the creation of two entities within the province. The Serb entity would have stronger ties to Serbia, and the Albanian entity would have only weak ties. Within this federal structure, Serbs would be a "constituent people" in Kosovo, not a minority.

If this option was not realized, he argued for "some sort of internal demarcation" [23] – in other words, partition. He acknowledged that this would cause substantial population movements of Kosovo Serbs to the areas controlled by Serbia: "... if the Serbs in Kosovo cannot exercise their rights as inhabitants of an entity where Albanians are the majority, they will naturally relocate to where they are the ethnic majority". [24]

Djindjic's statements did not produce the atmosphere needed for Serbs to engage in Kosovo's institutions and for Albanian politicians to trust Serbia's intentions:

> As a person who thinks of the future of my children and grandchildren, I am worried about the demographic situation, the imbalance between Albanian and Serbian population growth. I am seriously concerned about the future of a Serb state in which a million and a half Albanians would be living and who would have the right to buy properties in Terazija [a sector of Belgrade], to buy companies in privatisation initiatives with money earned through drug dealing – which is over tens of billions of dollars. Because of this situation, I am seriously worried about the Serbia that we are leaving to our children and grandchildren.[25]

Such comments cast a shadow over UNMIK's efforts to establish the much needed technical dialogue between the PISG and Belgrade.

The Special Representative of the UN Secretary General in Kosovo, Michael Steiner, hosted a dinner to celebrate the first birthday of the Kosovo government on 28 February 2003. The participants – President Rugova, Prime Minister Bajram Rexhepi, Democratic Party of Kosovo (PDK) leader Hashim Thaqi, and President of the Kosovo Assembly Nexhat Daci – issued a joint declaration reaffirming the commitment to the coalition agreement, as well as support for returns, democratic standards and the rule of law. They also agreed to engage in "direct dialogue with all countries ... to address practical matters of mutual interest".[26] Minority members of the government were not invited to the dinner.

Only three days later, on 3 March, SRSG Steiner used this declaration as the basis of a letter to Prime Minister Djindjic and Dr. Covic calling for immediate direct talks among UNMIK, Belgrade and the PISG on seven issues: cooperation in the energy sector, trade relations, cooperation in the transport sector, recognition of vehicle registration plates and documents, personal identification documents, travel documents and driving licenses, as well as the return of the cadastral records.

That Steiner did not consulted Kosovo political leaders on the timing or contents of the letter produced great distress within the political parties. Many senior politicians were infuriated that their leaders had apparently agreed to dialogue with Belgrade without internal consultation, and senior

[22] Zoran Djindjic, interview for *Novosti* as quoted in *V.I.P.* 7 March 2003.
[23] Ibid.
[24] Ibid.
[25] Ibid.
[26] President Ibrahim Rugova, Prime Minister Bajram Rexhepi, Hashim Thaqi, and Nexhat Daci, "Declaration for the First Anniversary of the Coalition Agreement", 28 February 2003.

officials faced serious opposition to the prospect of such talks. Several high-ranking PDK officials, such as Minister Jakup Krasniqi, made strong public statements against the initiation of discussions. Edita Tahiri, a high ranking official in President Rugova's Democratic League of Kosovo (LDK), observed that "Just like standards the issue of the dialogue leaves the impression that it was improvised [by UNMIK]. The dialogue is completely unprepared, and it shouldn't be held without a U.S. presence".[27]

This initiative also met with suspicion by Albanian commentators. Many argued that given the baseline "independence but only with partition" position of Djindjic, he clearly aimed to use talks on technical issues to initiate the process to divide Kosovo. They feared opening dialogue with Belgrade was not in the interests of Albanians. Given the shared competencies between UNMIK and the PISG in many areas, and UNMIK's overarching authority in foreign affairs, PISG representatives would have a weak position in such discussions:

> The negotiations will begin between two unequal sides, based on the call of the UN mission. The Kosovar side will enter these negotiations with two basic handicaps. First, it will enter with non-party status, with the basic inability to negotiate and without the competency to decide on the issues that will be treated in these talks. The Kosovar side doesn't decide on any of the points offered for negotiations ...in negotiations, one never gives away something for nothing.[28]

The reticence of Kosovo's Albanian political leaders to engage in dialogue was about more than tactics. Political leaders feel deeply insecure, no longer fully trust UNMIK, and fear that in such discussions they could be outmanoeuvred by Belgrade.

3. After Djindjic: The Future of Relations with Serbia

Both Albanian and Serbian politicians reacted with shock and sadness at the assassination of Djindjic. Although his recent remarks had won him few Albanian friends, he was widely seen as a pragmatist who would negotiate on Kosovo's future. The province's Serbs felt adrift, believing they had lost a champion. Yet the concrete impact of his death in Kosovo is uncertain. While his successor, Zoran Zivkovic, has vowed to continue Djindjic's approach, he is clearly pre-occupied with the crack-down against organised crime and otherwise establishing his political authority. Should his coalition fall apart, requiring an election, it is not clear if he would retain control of the government. Thus, three issues about the post-Djindjic Serbia policy towards Kosovo remain unclear.

First, how pragmatic will Serbia now be on technical cooperation? Important issues such as license plates, recognition of identity cards, return of cadastral records, and closing down of parallel structures remain unresolved. Cooperation on these issues is critical to improve the lives of both Serbs and Albanians in Kosovo, and to establish a foundation for eventual status talks. Moreover, a constructive relationship with Belgrade will be critical as UNMIK tries to extend its influence in the north, transfers responsibilities to the provisional institutions of self-government, and tackles the decentralisation issue.

Secondly, will the relationship between the Serbian government and the Kosovo Serb community change? Will Zivkovic support the more pragmatic Serbs who are participating in Kosovo's Assembly and government? This relationship will largely depend on power struggles and political dynamics in Belgrade rather than on considerations of how best to further the interests of the Serb community in Kosovo. Serbs working in Kosovo institutions feel isolated and vulnerable. While Belgrade needs to show its domestic audience that it is protecting Serbs in Kosovo, an unconstructive relationship with UNMIK could jeopardise the engagement of pragmatic Serbs in those institutions.

Thirdly, will the international community place pressure on Belgrade to be an honest broker in Kosovo? Given the circumstances surrounding Djindjic's assassination, and the belief in some quarters that the international community pushed him too hard to deliver suspected war criminals to the Hague and implement reforms, diplomats may feel reluctant to insist that Serbia aid UNMIK. But if Serbia is to have realistic European integration prospects, it must play a positive rather than a spoiling role.

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[27] ICG interview with Edita Tahiri, Member of the Presidency of LDK, 28 March 2003.
[28] Veton Surroi, "Negotiations between unequal sides", *Koha Ditore,* 4 March 2003.

Rhetoric surrounding Kosovo has not declined after Djindjic's assassination. Covic also raised the spectre of partition, stating. "I am not for divisions, but if Kosovo and Metohija is being pushed towards independence, then it cannot be entirely independent".[29] He also argued that if Kosovo unilaterally declares independence, conflict is inevitable. "Let us see if Pristina can do something without Belgrade. Let them declare independence. Whoever does this will take the responsibility for the conflict, because then we will react to defend our territory and people. We have to make it clear to the international community that we will defend it [Kosovo]. We don't want this but don't take everything from us."[30] Zivkovic has also stated that there is no "international legal document that legitimates independence for Kosovo".[31]

B. THE KOSOVO SERBS

After the arrival of KFOR and UNMIK, extremist Albanians carried out crimes of revenge and retribution against the province's minority population. Approximately 200,000 ethnic Serbs fled the province after NATO led forces (KFOR) entered[32] due to fear, intimidation and direct physical violence.[33] These attacks were conducted with relative impunity: the justice system has not been able to find and punish the perpetrators .

There has been a dramatic drop in the level of interethnic violence since the early days of the UN mission. This can, to some degree, be attributed to the creation of guarded enclaves and the substantial exodus of minorities, but the day to day security conditions for all minorities has improved since 2000 – although that is a dismal point of comparison. Particularly in places like Gjilan/Gnjilane and Prizren, freedom of movement is much greater, and it is not uncommon to hear Serbian spoken on the streets. Interaction between rural communities in some areas has improved considerably over the past year. Police and military escorts have been reduced, and in some cases withdrawn, without a deterioration in security conditions.[34]

However, the Serb community feels understandably vulnerable. While individual relations between Serbs and Albanians can be friendly (in forums where they are able to interact), they remain fragile and vulnerable to political pressure. In a survey conducted by UNDP in March 2003, 73 per cent of Serbs (and 41.6 per cent of Albanians) stated that relations between the communities are tense and will continue to remain so. This is an increase of four percent in both communities from November 2002.[35] Over 80 per cent of Serb respondents in late 2002 stated that interethnic tensions are the most threatening factor to stability in Kosovo.[36]

In this context, Kosovo's Serb community clings to the hope Serbia will retain sovereignty and looks to Belgrade for guidance and leadership. Yet, it is increasingly frustrated by the failure of Belgrade, Kosovo Serb representatives, and UNMIK. Civil society leaders interviewed by ICG expressed frustration with their elected representatives, arguing that they focused on pleasing their political patrons in Belgrade rather than meeting the needs of their constituents.[37] An opinion poll conducted in March 2003 highlights the level of dissatisfaction: over 92 per cent of Serbs polled were dissatisfied or very dissatisfied with UNMIK, 95 per cent with the SRSG, and almost 99 per cent with the Assembly and government, while 85 per cent were very dissatisfied or dissatisfied with political trends in Kosovo.[38]

The majority of Serbs in Kosovo remain deeply conservative. In the first and third rounds of the Serbian presidential elections (September and December 2002), over 57 per cent voted for the leader of the Serbian Radical Party, Vojislav Seselj, who has been indicted by the Hague Tribunal for war crimes.[39] (Seselj's name was not on the ballot

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[29] Interview with Nebojsa Covic, "Never will Kosovo be independent", *Vreme* 15 March 2003.
[30] Ibid.
[31] Zivkovic interview with *Der Spiegel* 17 May 2001, p. 128: "Zeigen Sie mir das völkerrechtliche Dokument, das eine Unabhängigkeit des Kosovo rechtfertigt!"
[32] Figures obtained from UNHCR.
[33] Human Rights Watch, "Under Orders: War Crimes in Kosovo", October 2001.
[34] United Nations Security Council, "Report of the Secretary General on the United Nations Interim Administrative Mission in Kosovo", 14 April 2003.
[35] UNDP/Riinvest, "Early Warning Report Kosovo: Report 3", January- April 2003, p. 17.
[36] UNDP/Riinvest, "Early Warning Report Kosovo: Report 2", September-December 2002, p. 20.
[37] ICG Interviews with members of NGOs active in Shterpce/Strpce, 10 March 2003.
[38] UNDP/Riinvest, "Early Warning Report Kosovo: Report 3", January-April 2003.
[39] Information from CESID. Centre for Free Elections and Democracy, available at www.cesid.org.

in the second round of these elections). If their situation does not improve, support for reactionary elements could increase. As outlined below, the political leadership is deeply split between those who reject cooperation outright with UNMIK and pragmatists who are working with UNMIK.

1. The Political Leadership: Pragmatists and Extreme Nationalists

Until the assassination of Djindjic, divisions within the Kosovo Serb political leadership reflected the political drama in Belgrade – particularly the rivalry between former Yugoslav President Kostunica, and the late Seriban Prime Minster.[40] The post-Djindjic government is deeply divided over many issues and is struggling to maintain public unity. At the same time, Nebojsa Covic – who finds himself marginalised in the new government – has been using the Kosovo question to increase his relevance. Disagreements inside the Serbian government will probably continue to affect Kosovo Serb politicians negatively, as Belgrade leaders are tempted to use the Kosovo question to rally public support. While these stresses of politics have strained the unity of the Serb leadership in Kosovo, another tension also operates: between pragmatists and nationalists.

Nationalists tend to reject cooperation with UNMIK, strongly support parallel structures, and advocate the return of Serb security institutions and Serb rule to all of Kosovo. The formation of the "Union of Serb Municipalities" was widely interpreted as another step towards a de facto partition. The nationalist camp includes key politicians from the north, such as Milan Ivanovic and Marko Jaksic, as well as previous moderates such as Rada Trajkovic and Randjel Nojkic. The ability of the Serbian government to control this nationalist camp is weak, as evident from the low turnout during the last municipal elections when Belgrade called on Serbs to participate in north Mitrovica, and just over 50 people voted.

Pragmatists advocate cooperation with UNMIK at both the central and local level. Yet their credibility rests on the capacity of UNMIK to deliver on its promises and the success of their engagement with Kosovo institutions. As outlined below, this credibility has been tested by UNMIK's failure to develop a consistent strategy towards the Serb community and by the legacy of unfulfilled promises made in frequent agreements between Serb political leaders and UNMIK. Moreover, the actions of Albanian PISG representatives have given Serbs little cause to believe that an independent Kosovo would protect their interests. As one representative argued, the pragmatists need the help of the international community to isolate the extreme nationalists, and more space and goodwill if they are to work towards a local solution.[41]

Nationalist Serbs will of course be reluctant to accept any concessions of institutional space from UNMIK or from the Kosovo Albanians which they see as putting at risk the retention of Serbian sovereignty in the final status agreement. However, in and of itself, a constructive engagement by the Serbs with the institutions of government of Kosovo would not involve any modification of their preferred sovereignty position, would enhance their international standing, and in the meantime they would have achieved a better status for their own community.

2. Political Engagement at the Central Level

At the central level, Serbs have generally failed to engage fully and utilise the instruments at their disposal to protect their interest, though as noted below a more pragmatic group has recently emerged among the elected assembly members.

The Constitutional Framework drawn up by the UN in 2000, which is the closest thing to a constitution in Kosovo, outlines the rights of all communities to preserve, protect, and express their ethnic, linguistic, and religious identity. Such protection includes the right to use their language, the right to education in their language, equal opportunity to public service employment, equal access to social services, representation in public broadcast media, and the right to maintain and use religious institutions.[42]

It also establishes guarantees for the Serb community to enhance its representation and power at the central level. Ten Assembly seats are reserved for representatives of the Serb minority. In addition, they have a guaranteed ministerial position and representation on all Assembly

[40] See ICG Reports, *UNMIK's Kosovo Albatross* and *Serbia After Djindjic*, both op. cit.

[41] ICG interview with Sladjan Ilic, President of Shterpce/Strpce Municipality, 24 March 2003.

[42] Constitutional Framework, Section 3.2,.

Committees. The Framework also provides for a committee that can propose laws, or make recommendations on laws to ensure that the rights of communities are taken into consideration. Moreover, any member of the Assembly can request that a law be reviewed to ensure that it does not discriminate or affect the rights of communities outlined in the Constitutional Framework. If so, it is the duty of the Presidency of the Assembly to submit a consensus proposal to the Assembly to overcome this violation. The Assembly then determines whether to accept or reject the proposal. The SRSG is the ultimate arbiter, and retains the authority to intervene to protect the rights of communities and their members.[43]

After the decision to participate in the 2001 election for the central Assembly, Coalition Povratak won twelve of the 100 seats elected on a proportional basis. Together with the ten reserved seats, it has 22 members in the Assembly. Two Povratak members sit in the Presidency of the Assembly, one is Minister of Agriculture, and Povratak members sit on all committees. However, their experience at the Assembly has not been trouble-free. Coalition Povratak has walked out on numerous occasions and completely boycotted the Assembly from 7 November 2002 until 30 January 2003. Each exodus was prompted by attempts of Albanian political parties to consider issues that lie outside the Assembly's competence – such as independence and rejection of the 2001 border demarcation agreement between Belgrade and Skopje that transferred 1.5 km^2 to Macedonia.

The initial leader of Coalition Povratak was Dr. Rada Trajkovic, a former member of Vojislav Seselj's Serbian Radical Party. After the arrival of UNMIK in June 1999, she became a key interlocutor with a seat at the Joint Interim Administrative Council. As the caucus head for Povratak in the Assembly, she led its frequent walkouts and boycotts. However, Povratak members became dissatisfied with her growing intransigence towards the international community and frequent outbursts. In early 2003, she was replaced by Dragisa Krstovic, a member of Djindjic's Democratic Party from Leposavic.

Under the leadership of Krstovic, Coalition Povratak has taken a more pragmatic approach to the Assembly. In a recent interview, Krstovic outlined his approach:

> First, we are going to be more actively engaged in the Assembly committees. We will try to secure some agreements if we think that they are good and worthwhile....Second, within Povratak we will try to formulate and propose amendments. As it is not certain that we will get the majority of our suggestions immediately, we will try to follow them up with clear arguments, prepared in advance, so that our proposals are the right and best ones....It is not good that the government working groups drafting laws do not include Serb representatives....whenever we find that the interests of our community are in danger, we will use the tools and mechanisms foreseen by the Constitutional Framework.[44]

Povratak has thus begun to engage on practical issues in the Assembly, proposing amendments to several bills, one of which was recently accepted.[45] However, this pragmatic approach will be strained by the initiatives of Albanian officials to increase their competencies and push the interpretation of the Constitutional Framework to its limits. Krstovic has sent a message to Albanian Assembly members: "Let us leave aside things that are not for the Assembly to debate, and which in accordance with the Constitutional Framework cannot be written in the Agenda. Let us start doing things such as adopting laws and creating the legal framework to work towards a better future. We need to do something on the return of IDPs (internally displaced persons), to work on a safer and more certain life for all inhabitants of Kosovo".[46] He warned that failure to do so would result in more boycotts.

However, Albanian Assembly members feel strongly that, as their voters' elected representatives in the only available public forum, they should take a stand on all issues, including those outside the formal competence of the institution. In their opinion, Serb politicians are overly sensitive to any initiative that they perceive to be a movement towards independence. The effort by SRSG Steiner

[43] Ibid.

[44] Interview with Dragisa Krstovic, "We are going to be more actively engaged in the Assembly", OSCE Assembly Support Initiative Newsletter, March 2003.

[45] ICG interview with Franklin de Vrieze, 21 March 2003.

[46] Interview with Dragisa Krstovic, OSCE, op. cit.

and Prime Minister Rexhepi to clarify the distribution of powers between UNMIK and the PISG and begin the process of transferring competencies to the latter has met with stiff resistance from Serb politicians, who interpret this as another step towards establishing the institutions of an independent Kosovo. As a result of Serb opposition, discussion or consultation with PISG on areas of reserved competency has been halted.

Povratak members have legitimate grievances that go beyond their reluctance to utilise fully the instruments at their disposal. Representatives that ICG spoke with expressed frustration that their suggestions and initiatives in committee meetings are not taken seriously. And they argue that Assembly Committees often fail to apply rules that state all documents should be available in the Serbian language.

Individual relations between Povratak representatives and members of the Albanian political parties are relatively normal and often friendly. Many areas of common concern exist. Although Albanian and Serb members of the Assembly share numerous common goals, their substantive reason for engaging in politics is ultimately different – the Serbs want to remain part of Serbia, and Albanians are working for independence. As Dragisa Krstovic stated "The gap between the two peoples of Kosovo is growing even deeper".[47]

3. Engagement at the Municipal Level

The engagement of the Serb community at the local level varies according to region. When it did not participate in the October 2000 municipal elections, UNMIK was forced to appoint Serbs to positions in municipalities where they had significant numbers. Over 181 deputies from non-majority communities participated in the municipal assemblies that were formed after the 2000 elections.

A question mark hung over Serb participation in the 2002 municipal elections. When Belgrade finally agreed that it would be in the interests of the Serbs to vote, the rate of participation was good only in those five municipalities where Serbs formed the majority: Zubin Potok, Zvecan, Leposavic, Novo Berde/Novo Brdo, and Shterpce/Strpce. In other regions, voting was low, a sign of the mixed messages Serbs received and their increasing reluctance to take political direction from Belgrade.

Those Kosovo Serbs who did vote could choose from a large number of parties. Unlike the central elections of 2001, Coalition Povratak faced competition from other Serb political parties that diffused the vote and weakened Serb representation. Out of a total of 68 political parties and coalitions that OSCE certified for the municipal elections, 31 were of Serb origin. While 21 of these won 94 seats in 18 municipalities, eight municipalities have only one Serb representative. Votes for Coalition Povratak fell, and came overwhelmingly from the displaced voters: "...almost all the seats for Kosovo Serb representatives were won by votes cast in-person in the municipalities, with only a few votes from internally displaced persons (IDPs) in Serbia and Montenegro. ...Povratak won its votes mainly from the out-of-Kosovo electorate in Serbia proper and Montenegro".[48]

Because of low participation and a diffused vote, Serbs have lower representation on municipal councils than is warranted by their share of the population. Kosovo now has thirteen mono-ethnic assemblies (two are Serb municipalities in the north).[49] Unlike after the October 2000 elections, UNMIK did not appoint officials in municipalities without significant minority participation.[50] Minority deputies declined from 181 to 110.

This lack of participation was a missed opportunity. Because of the deep split in the Albanian electorate, only fourteen municipalities had a single party with an absolute majority on the council after the elections. The parties of minority communities were decisive in forming the government in five municipalities (Peja/Pec, Prizren, Dragas, Rahovec/Orahovac and Kamenice/Kamenica). In Peje/Pec and Dragas, the Bosniak coalition "Vatan" helped the Democratic League of Kosovo (LDK) come to power. In Prizren, LDK gained control with the help of the Turkish Democratic Party of Kosovo (KDTP) and "Vatan". Due to their support, minority parties received positions in the local government that provided them with opportunities to work through municipal structures to improve the life of their communities. Some coalition agreements even included the distribution of

[47] Dragisa Krstovic, Statement before the Assembly of Kosovo, 20 March 2003.

[48] OSCE/UNHCR, "Tenth Assessment of Ethnic Minorities in Kosovo", March 2003.

[49] Ibid.

[50] ICG interview with Jay Carter, Head of Office of Local Affairs, UNMIK, 13 January 2003.

theoretically apolitical civil service positions.[51] In two municipalities, Rahovec/Orahovac and Kamenice/Kamenica, LDK gained control of the municipality with the help of representatives from Povratak.

In Fushe Kosove/Kosovo Polje, Coalition Povratak won just one seat in the 21-seat Assembly. OSCE estimates that approximately 3,000 Serbs still live in Kosovo Polje/Fushe Kosove, and between 4,000 and 5,000 are displaced. Yet Serb parties received only 827 votes. If Serb participation had been higher, they would certainly have won more seats and thus had more influence. The LDK has only a two-seat majority in this municipality, and Serb members could have held the balance of power. Gjilan/Gnjilane and Lipjan/Lipljan are similar.[52]

However, once in office, Serbs lack some of the guarantees afforded them at the central level. Municipalities are mandated to have two bodies that address minority concerns, a Communities Committee and a Mediation Committee, but some have yet to implement this requirement. UNMIK established Local Community Offices to provide a presence and point of contact in these communities, as well as to ensure that community rights are protected. However, their effectiveness still largely depends on the receptiveness of local and international authorities to minority issues. An effort is underway to transfer the authority of these local community offices to the municipality, which will be important if UNMIK efforts are to be sustainable.

UNMIK began an initiative to ensure that minorities receive a "fair share" of the financing of the municipality. Only six out of 24 municipalities audited in late 2002 gave a fair proportion of their budget to support of minority populations. The goal that communities should enjoy public service employment roughly equal to their share of the population has also not been met. Beyond employment opportunities at the Municipal Community Office, no municipalities have provided fair share employment.[53] One problem that municipalities face is the difficulty in finding skilled minority personnel. Many educated Serbs have fled, and the pay is quite low.[54]

UNMIK municipal administrators, acting on behalf of the SRSG, have the authority to intervene in municipal decisions and set aside any that "does not take sufficiently into account the rights and interests of the communities which are not the majority in the territory of the municipality".[55] However, some Serb municipal representatives told ICG that UNMIK does not pay enough attention to those circumstances when their rights are violated, particularly over language issues.[56] Moreover, as UNMIK downsizes, its ability to monitor developments, let alone intervene, will be limited.

C. KOSOVO'S ALBANIANS

Albanians remain deeply scarred by the ten years of oppression and the year of war between the Yugoslav military and the Kosovo Liberation Army. The vast majority were displaced by the conflict. Many had their homes destroyed and livelihoods ruined. They have no trust in post-Milosevic authorities in Belgrade and strongly believe that their security can only be guaranteed by independence.

However, the experience of Albanians during the war in no way justifies the well-documented grievous human rights abuses committed against the Serb minority after KFOR and UNMIK took control of Kosovo.[57] While freedom of movement and the security situation have improved, Serbs in

[51] See agreement between LDK and the Albanian Democratic Christian Party of Kosovo (PSHDK) reached after the October 2002 elections in which the latter were promised the positions of deputy CEO and three municipal departments in return for cooperation to form an LDK-led government in the municipality of Kline/Klina.

[52] Information obtained by ICG from the OSCE.

[53] ICG interview with Jay Carter, Head of Office of Local Affairs, UNMIK, 13 January 2003.

[54] ICG interview with Tony Quinlan, UNMIK Local Community Office Lipjan/Lipljan, UNMIK, 5 February 2003.

[55] UNMIK Regulation No. 2000/45, "On Self-Government of Municipalities in Kosovo", 11 August 2000.

[56] ICG interview with Vice-President of Lipljan/Lipjan Municipality, 25 February 2003.

[57] The most recent reports include Amnesty International, "We Are Prisoners in Our Own Homes", April 2003; US Department of State, "Country Reports on Human Rights Practices: Federal Republic of Yugoslavia", 31 March 2003; and OSCE/UNHCR, "Tenth Assessment of the Situation of Ethnic Mnorities in Kosovo". March 2003. See also the report of the Council of Europe Commissioner for Human Rights, "Kosovo: The Human Rights Situation and the Fate of Persons Displaced From Their Homes", 16 October 2002.

Kosovo feel understandably vulnerable. Direct acts of ethnically motivated violence have decreased (largely due to the increased segregation of the population), but discrimination remains a daily fact of life.

When assessing if officials at the central and local levels treat minorities fairly, it is very difficult to evaluate which activities are deliberately discriminatory and which result from inefficient government and minimal resources. Access to public services – such as health care and electricity – is intermittent for all.[58] Kosovo Albanian political leaders contest accusations that they discriminate against Serbs or other minorities, arguing that they do not have the capacity to provide better services.

However, it is evident that Serb communities do experience discrimination, particularly in areas such as public sector employment, social services, utilities, health care and education,[59] and some examples are blatant. Official use of the Serbian language is often not respected in parliament. As outlined below, only six of Kosovo's 24 municipalities audited allocated a fair share of its budget to communities in 2002. There is also evidence that power cuts unfairly target Serb villages – one village south of Pristina (Laplje Selo) had only 45 minutes of power during a very cold weekend in the winter, while neighbouring Albanian villages had regular service. The recent Law on Higher Education failed to protect minority rights and respect the special process designed to ensure that legislation reflects the Constitutional Framework. As a result, the SRSG promulgated this legislation only after UNMIK used its executive power to incorporate the necessary protection for minorities.

The Assembly has also violated the Constitutional Framework by passing resolutions on issues outside of its jurisdiction. While such actions reflect its desire to have a voice on substantive issues that affect the future of Kosovo, its commitment to adhere to legally binding agreements such as the Constitutional Framework is thereby called into question.

Thus Albanian political leaders have not yet fully committed to the need to bestow special rights on Kosovo's minority populations. Special guarantees for minorities are concessions made to the international community rather than good-faith initiatives. Political leaders agreed to set aside seats in the central Assembly and to the group rights outlined in the Constitutional Framework only after a mixture of international persuasion and threats. Albanian leaders stress that those seats and other forms of affirmative action are interim measures only, a veiled threat that with independence they might be abandoned. Minorities fear that once the international community leaves, other rights will also disappear.

The reluctance to provide a greater degree of institutional protection for Serbs and other minorities is nothing new. During the 1999 Rambouillet negotiations immediately before the NATO campaign, the Albanian delegation also objected to special regimes for minorities. While they eventually endorsed the concept of special representation for ethnic groups, this was restricted to the "interim" period before status was defined.[60]

When challenged, political leaders argue that according the minimum standard of human rights to minorities is sufficient. They fear that bestowing additional rights on communities makes them separate and harms integration prospects.[61] One political leader stated that what was wanted was a society of equal citizens, not favouritism.[62] However, Kosovo is clearly not a case where the bare minimum of rights by international standards will be enough to preserve cultures and identities. Heightened action is needed to ensure that the rights of those who belong to minorities are protected. Political leaders from the majority must actively create a space for minorities to exercise those rights. Otherwise as one observer of minority rights issues noted:

> The right to free speech does not tell us what an appropriate language policy is; the right to vote does not tell us how political boundaries should be drawn, or how powers should be distributed between levels of government; the right to mobility does not tell us what an

[58] ICG interview with Tony Quinlan.
[59] OSCE and UNHCR, "Tenth Assessment of the Situation of Ethnic Minorities".
[60] Marc Weller, "Substantial Self-Administration for Kosovo: From Rambouillet to the Adoption of a Constitutional Framework Document", in Kinga Gal (ed.), *Minority Governance in Europe* (Budapest: Open Society Institute, 2002), p. 306.
[61] This sentiment was expressed in ICG interviews with Albanian leaders from all political parties in Kosovo.
[62] ICG interview with Bujar Dugolli, 26 March 2003.

> appropriate immigration and naturalisation policy is. The questions have been left to the usual process of majoritarian decision-making within each state. The result ... has been to render cultural minorities vulnerable to significant injustice at the hands of the majority, and to exacerbate ethnocultural conflict.[63]

The Constitutional Framework does provide both the legal framework as well as practical tools to protect minority rights. While the Serb community has been rightly criticised for not taking advantage of this protection, many Albanian political leaders have also not fully embraced the rights bestowed upon minorities nor do they consider them members of their constituencies. Few politicians visit minority communities – the exceptions being Prime Minister Bajram Rexhepi, of the Democratic Party of Kosovo (PDK), the PDK leader, Hashim Thaqi, and President of the Assembly Nexhat Daci, of the Democratic League of Kosovo (LDK).

Such leadership on minority issues has important results, and their initiatives should be recognised and supported. Prime Minister Rexhepi advanced an affirmative action program for the civil service, and his office launched an outreach program for recruitment of minority community members. These have had tangible outcomes. In the central level civil service, 13 per cent of employees are minorities (an increase from less than six per cent at the beginning of 2003), and 19 per cent of those in management positions are minorities. The outreach program has resulted in a ninefold increase in applications for civil service positions from minority communities.[64]

However, minority employment in most publicly owned enterprises is low – less than 1 per cent in the Kosovo Electricity Company (KEK) and Post and Telecommunications Kosovo (PTK) – as it is at the municipal level with the exception of the Gjilane/Gnjilane region.[65] In general Albanian politicians are struggling with the idea that they ought to be a benevolent majority. As argued below, it will be difficult for them to be fully confident in their identity as a majority until final status is resolved, and minority rights are no longer seen through a security lens. Albanians consider Belgrade's position on Kosovo unchanged since the Milosevic era and perceive its leaders as their enemy. As the overall authority in Kosovo, UNMIK must find a way to ensure that Serb rights are protected without heightening the insecurity of the Albanian community.

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[63] Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford, 1995), p. 5.

[64] United Nations Security Council, "Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo", 14 April 2003.

[65] United Nations Security Council, "Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo", 14 April 2003.

IV. UNMIK: LAYING THE FOUNDATION

Building a peaceful future for Kosovo requires laying a foundation for a civic contract between its majority and minority communities. Yet, UNMIK has had mixed success in creating institutional space for minority communities, and its mandate in UNSCR 1244 restricts its ability to address the insecurities of Albanians on the status issue.

UNSCR 1244 mandated UNMIK, with the assistance of KFOR, to establish security, the rule of law, and provisional institutions of self-government, and transfer administrative responsibilities to these institutions before facilitating the political process designed to determine the status of Kosovo. Although the importance of the protection of minority rights was stressed, UNMIK had little guidance on how to bridge the ethnic divide at the heart of the political conflict. As argued below, its initial Agenda for Co-existence was largely a step in the right direction but recent initiatives have been characterised by failure to develop a consistent strategy towards minorities and lack of consultation with either community. This failure to consult diminishes the trust necessary to bridge the gulf between the two communities and embark on the final status process.

A. THE AGENDA FOR COEXISTENCE

The period immediately following the 1999 arrival of UNMIK and KFOR in Kosovo saw a spate of crimes of revenge and retribution against Serbs for which both were heavily criticised.[66] Those crimes and the exodus of tens of thousands of Serbs in the first months cast a cloud over UNMIK. The United Nations was granted stewardship over Kosovo to protect civilians. Its mandate to work with KFOR to establish a secure environment was clear, and yet, due to the shortage of adequately trained personnel and lack of preparedness for the post-conflict environment, it was unable to prevent further ethnic cleansing. The Kosovo Serbs became more suspicious of UNMIK, refused to engage with its institutions, and were highly reluctant to participate in any political structures with Kosovo Albanians.

To bring the Serbian population into UNMIK institutions, SRSG Bernard Kouchner launched the Agenda for Co-existence in December 1999. In announcing it, Kouchner stated: "The intervention by NATO in Kosovo in the first place was to protect the [Albanian] minority and to ensure the human rights of the oppressed and vulnerable [are respected]. Our efforts to do the same for the current minorities, particularly the Serbs, have failed".[67] He emphasised that the mission in Kosovo was to help "as needed and not to impose anything that the population is not really ready for. It is for this reason that we no longer talk about reconciliation but rather about the first step of co-existence".[68] This Agenda addressed security concerns, the population's lack of access to essential public services, and Serb suspicion of the UN mission. UNMIK established a network of Local Community Offices where representatives liaised with local communities.

Attacks against Serb individuals, as well as political manoeuvring, prompted Serb political leaders occasionally to withdraw cooperation with UNMIK's interim structures. To encourage participation, UNMIK established written agreements with Serbian leaders that specified security and administrative measures in return for cooperation, including an effort on returns, security and protection of cultural sites. Yet, such agreements were often not enough – in October 2000 the Serbs boycotted the municipal elections.

Hans Haekkerup, who assumed leadership of UNMIK in January 2001, maintained the thrust of the Agenda for Co-existence. However, he spent much of his tenure preparing the Constitutional Framework that laid the groundwork for province-wide elections in November 2001. Its negotiations were difficult but the Albanian community made numerous concessions to minorities, including the twenty set-aside seats in the Assembly (ten for Serbs, ten for non-Serb minorities). These elections paved the way for establishment of the Provisional Institutions of Self-Government (PISG) and the Assembly.

Nevertheless, the Serb community still cited grievances with UNMIK over the lack of progress in areas such as return of refugees and IDPs and freedom of movement. The international

[66] See ICG Balkans Report No. 134, *Finding the Balance, The Scales of Justice in Kosovo*, 12 September 2002.

[67] SRSG Kouchner, "Press Briefing, UNMIK Marks Six Months in Kosovo", UNMIK Press Briefing 13 December 1999.

[68] UNMIK Press Release, "UN Kosovo head calls for the healing of wounds of war", 4 January 2000.

community faced the prospect of another election without Serb participation. To prevent this, UNMIK negotiated with the federal and Serbian governments in Belgrade and signed the Common Document to secure that participation.

While Serbs did participate, Albanian politicians reacted angrily to the Common Document. They felt that UNMIK should have negotiated with the Kosovo Serbs rather than encourage, as they saw it, Belgrade's interference in Pristina's affairs. They also objected to the High Level Working Group as an instrument to maintain and extend Belgrade's influence in Kosovo. Serb politicians in Kosovo, however, used this agreement as a benchmark with which to measure UNMIK's progress on issues that concerned their community.

The Agenda for Coexistence was an important effort to lay the foundations for the future of Serbs in Kosovo but UNMIK often lacked the capacity and resources to fulfil its promises. Those on returns and the fate of missing persons were unrealistic given its resources and the context of Kosovo. Failure to deliver eroded trust.

B. THE CHIMERA OF MULTIETHNICITY

Under the current SRSG, Michael Steiner, UNMIK seems to have set aside the "Agenda for Co-existence" in order to press the far more ambitious goal of creating a "multiethnic society". Steiner said in his first address to the Security Council in April 2002:

> We need to follow a dual track approach. Multiethnicity and integration are the two mutually reinforcing elements here. On the one hand, the Kosovo Albanians as the majority community have to practice what their leaders preach. Multiethnicity means doing everything they can to encourage the smaller communities to stay in Kosovo and to make returns possible. On the other hand, the smaller communities have to participate in the institutions that we have set up under Resolution 1244. They must integrate and abandon parallel structures. The rule of law must apply everywhere in Kosovo. This is also true for Mitrovica.[69]

Although UNMIK has not enunciated a clear strategy for achieving this goal, "multiethnicity and integration" has become a common refrain in its policy documents and speeches. But what does multiethnicity mean in practice in Kosovo?

Legally, the rights of minorities have been codified. Albanian leaders constantly reaffirm their commitment to the principles. The joint declaration signed at the end of February 2003 by Hashim Thaqi, Nexhat Daci, Prime Minister Rexhepi, and President Rugova states:

> We underline the importance of building a multiethnic society, in accordance with UNSCR 1244 and the Constitutional Framework, in which the rights of all people are fully respected, regardless of their ethnicity, throughout Kosovo. We reject any mono-ethnic concepts. We declare our commitment to ensuring that members of all communities are able to live in safety, with equal access to employment opportunities, health care, education and public services. We shall support energetic measures to secure freedom of movement of all Kosovans everywhere in Kosovo.[70]

But as noted above, this remains verbal. The Albanian majority continues to react negatively to initiatives designed to protect the rights of Serbs. The Serbs, on the other hand, have not accepted their minority status and regard the Albanians as a minority within a majority Serb state. They believe that their government is in Belgrade, and they remain reluctant to integrate into Kosovo's institutions. Each side considers that the other is not making sufficient effort: 45.6 per cent of Serb respondents say that current Albanian efforts towards integration are not sufficient, whereas 35 per cent of Albanians say Serbs lack the willingness to integrate.[71]

Given these circumstances, is UNMIK's current policy of multiethnicity and integration the right approach? UNMIK and the international community have good reasons to want Kosovo to adopt such a model. States whose constitutions explicitly recognise the multiethnic nature of their populations and in fact give greater human rights protection to all their citizens are more peaceful. Competing identity issues are addressed through

[69] SRSG Steiner, Address to the Security Council, 24 April 2002.

[70] "Declaration on the First Anniversary of the Coalition Agreement", 28 February 2003.

[71] UNDP/Riinvest, "Early Warning Report Kosovo: Report 2", September-December 2002.

democratic processes rather than violence. States with such "consociational" constitutions are also generally able to balance respect for individual and minority rights.

Western consociational models, however, developed in local contexts very different from Kosovo. A number of important preconditions led to the classic settlements. Oppressed groups increased in numbers until they could no longer be ignored. As a culture of human rights took root in Europe and the Americas, the premise of inter-group equality became unquestionable. Moreover, minorities were usually able to mobilise through mature democratic structures.[72]

None of these conditions exist in Kosovo. Minorities are a small share of the population – perhaps 5 to 10 per cent.[73] The human rights culture has not been internalised by politicians, and political structures are not mature enough to accommodate the mobilisation of minority groups. And even in the most diverse societies, integration is relatively rare and frequently only partial. While various ethnic, linguistic, and religious groups co-exist quite peacefully, inter-group relations may remain distant; often "two solitudes" exist. It must also be admitted that despite the efforts of the state to accommodate minorities, desires for secession do not always wither away. The French-speaking Canadian province of Quebec and the Basque region of Spain are examples where independence movements persist despite enhanced group rights and other special privileges.[74] However, the crucial granting of institutional space to these communities has ensured that group mobilisation is more likely to be peaceful and that violence is delegitimised as a means of seeking political change.

The biggest hindrance to the protection of minority rights in Kosovo is the fact that politicians view these rights through a security lens:

> ... the trend towards greater accommodation of diversity can be blocked or deflected by considerations of security. Whether in the East or West, states will not accord greater powers or resources to groups that are perceived as disloyal, and therefore a threat to the security of the state. In particular, states will not accommodate groups which are seen as likely to collaborate with foreign enemies...minority groups are often seen as a kind of "fifth column", likely to be working for the enemy. This is particularly a concern where the minority is related to a neighbouring state by ethnicity or religion, so the neighbouring state claims the right to intervene to protect "its" minority. Minority groups are seen – rightly or wrongly – as allies or collaborators with external powers that have historically oppressed the majority group.[75]

In light of these security considerations, the UNMIK policy of multiethnicity and integration is not realistic at this stage. The fear of partition, fuelled by statements from Serb politicians, has further securitised ethnic relations. Therefore, it is not enough to put in place legal guarantees of equality and protections. The fears and expectations surrounding state-minority relations must also be changed for this legal foundation to be sustainable.[76] As some have argued:

> UNMIK should wager on a *civic* future for Kosovo, rather than seek compromises with collectivist ("ethnicist") political structures for tactical and short-term advantage...it is impossible to build a multiethnic Kosovo by directly implementing multiethnic policies. Rather, the goal of building a multiethnic society can only be approached by sticking to civic principles.[77]

Moreover, UNMIK's policy of multiethnicity and integration appeared at odds with the decentralisation initiative designed to persuade Serbs to vote in the October 2002 local elections.

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[72] Will Kymlikca, "Multiculturalism and Minority Rights: West and East", *Journal on Ethnopolitics and Minority Issues in Europe*, Issue 4/2002.

[73] In the absence of a census, it is difficult to determine the percentage of minorities in Kosovo's population.

[74] Will Kymlikca, "Multiculturalism and Minority Rights", op. cit.

[75] Ibid.

[76] Ibid.

[77] Institute for Democracy and Electoral Assistance (IDEA), "Improving Local Governance: Approaches to Decentralisation and Land Reform. A Report following an International IDEA Seminar on the International Administration of Kosovo", Brezovica, Kosovo, 7 December 2002.

C. UNMIK'S OCTOBER 2002 DECENTRALISATION INITIATIVE

In his efforts to persuade Serbs to participate in the institutions of government in Kosovo and to resolve the contentious issue of Mitrovica, SRSG Steiner took a step down the slippery slope of institutionalising the ethnic divide. In October 2002, UNMIK put territorially based self-government for the Serb population – albeit at the local level – on the table for the first time. In a bold, and some would say desperate, move to bring the Serbs to the ballot box in the local elections on 26 October, Steiner announced a plan for what he termed "decentralisation", but was in fact a form of ethnically based self-government. This fundamentally changed the political dynamics of inter-ethnic relations in Kosovo.

As part of his Seven-Point Plan to address the Mitrovica problem, on 1 October SRSG Steiner outlined a deal for the Serb population in the north of that troubled city. If Serbs participated in the 26 October elections, municipal units could be established for "sizeable non-majority communities". They would have a council, an administration, and a budget but it was unclear what linkage these units would have with the larger municipality. Their responsibilities would be extensive: primary and secondary education, primary health care, urban and rural planning, and the development of municipal services and facilities.[78]

This left out the significant Serb population in the enclaves – who actually outnumber the Serbs who live in the north. Therefore, on 21 October, UNMIK expanded the concept for decentralisation beyond Mitrovica. Municipal units could be established for sizeable non-majority communities within a municipality, and could be composed of one or more villages, settlements, and urban quarters. Such sub-units would be established on the basis of a request by elected municipal assembly participants or through a petition from community residents. They would have the same responsibilities as outlined for northern Mitrovica in the Seven-Point Plan, including primary and secondary education; primary health care; rural and urban planning; the development of services and facilities in accordance with municipal policy, and other local issues such as markets, cultural activities and sports. They would have a budget and a local council.[79] Steiner called this a move to "bring government closer to the people" and in line with European standards. If Serbs had participated in greater numbers in the 26 October elections, the decentralisation initiative would have been promulgated, and elections for councils of sub-units would have taken place.[80]

Many international diplomats hailed Steiner's move as a brilliant strategy to bring Serbs into Kosovo's local institutions but it was in essence political bribery. Serbs would receive the benefits in the form of territorial self-government only if they participated in the election. The Serb population received no concrete guarantees – beyond Steiner's word – that decentralisation would move forward. It had received such promises from UNMIK before and been disappointed, and its trust in UNMIK was eroding. As outlined above, the participation rate of Serbs in the local elections was relatively low in the crucial municipalities, despite the late blessing of authorities in Belgrade and encouragement from their political leaders in Kosovo. Steiner thus announced that the planned model of decentralisation would not be implemented.

The October 2002 effort to decentralise local government had several flaws. First, the plan was developed for political expediency with little analysis of the potential pitfalls. Decentralisation could be an important step towards ensuring protection of the rights of minority communities and their fair representation at the local level. However, unless carefully planned, it could also deepen the ethnic divide and worsen already poor local governance. Key issues such as the relationship of these areas to the municipal and central layers of government, their administrative capacity and boundaries, and the costs were not addressed.

Secondly, instead of focusing on improving local governance, Steiner's initial proposal enunciated a plan for ethnic "gerrymandering" at the local level. While this satisfied some demands of Kosovo Serb leaders, Kosovo Albanian leaders feared it would lead to partition in a final status discussion. UNMIK strongly denied this[81] but did not provide a

[78] UNMIK/Press Release 850, "Announcement by the SRSG Michael Steiner", Pristina 21 October 2002.

[79] Ibid.

[80] Ibid.

[81] ICG interview with Nikolaus Lamsdorff, 16 January 2003.

persuasive rationale for how it would promote integration and lead to a multiethnic Kosovo. If province-wide discrimination is the problem, local measures would address only one part of that problem. The mistrust of Albanian politicians grew when the Serb community created a Union of Municipalities in the north as well as in the southwest, as described below.

Thirdly, despite its fundamental impact on local government in Kosovo, UNMIK developed its decentralisation initiative without consultations. An international administration attempting to build transparent institutions and instil norms of democracy should not put forward an initiative that would transform governance at the local level without first talking extensively with local leaders and civil society. UNMIK may have legal authority for such moves under UNSCR 1244 but some degree of popular support is politically necessary.

However, the concept of decentralisation lived on. On 2 November 2002, Steiner requested that the Council of Europe develop a proposal for decentralisation of government institutions in line with UNSCR 1244, the Constitutional Framework, and European practice.[82]

To develop its decentralisation strategy, the Council of Europe has established a permanent office within UNMIK, supported by an expert working group.[83] The team arrived aware that decentralisation risks heightening the separation between communities and is considering various approaches – from sub-municipal units to regional level cooperation.[84] It will focus on all aspects of local governance and is undertaking broad consultations to design the concept.[85]

The task will be more difficult because Steiner's concept of ethnic municipal sub-units has poisoned the well. It left suspicion of the process in the minds of Albanians and raised expectations among the Serbs. When those expectations were disappointed, their trust declined further. While international organisations are making an effort to refocus decentralisation on local governance, the process has become highly politicised. Many organisations working at the local level have urged that the word "decentralisation" be dropped and that the debate concentrate on local government reform.[86] UNMIK's Community Affairs Office has also advocated that any sub-units be mixed ethnically and that the principal purpose of decentralisation be to enhance democracy at the local level.[87] Such an approach is wise. Experts on the subject note that "Decentralisation is neither a panacea for conflict transformation nor a guarantee for the protection of minority rights...decentralisation can provoke new conflicts at local levels, degrading social services and state performance, and opening the gap for the widespread corruption of local 'aristocracy'".[88] Therefore the process must be carefully thought through, with broad based consultation, founded on an understanding of key issues at the local level developed through accurate data.

In fact, data on the key issues of local governance is scarce. To resolve this, UNDP in Kosovo has recently surveyed 6,000 individuals of all ethnicities. The results, titled "The Kosovo Mosaic: Perceptions of Local Government and Public Services in Kosovo", ranked public satisfaction with 22 public services, evaluated public understanding of local versus central level responsibilities, and outlined priorities for the future. The survey shows the potential for multiethnic consensus, as ethnic groups share concerns on some of the most urgent priorities for Kosovo such as unemployment and electricity. As such, the findings demonstrate that an ethnic basis is not the best way to plan local government reform. As the report states, "An unbiased discussion of how decentralisation can contribute to greater efficiency and effectiveness in the delivery of essential services deserves greater prominence in this politically charged environment".[89]

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[82] UNMIK PR 862, "SRSG Michael Steiner and Kosovo political leaders endorse concept to bring government closer to the people", 2 November 2002.
[83] ICG interview with Karin Volkner, Representative of the Council of Europe in Kosovo, 14 January 2003.
[84] ICG interview with Nikolaus Lamsdorff, UNMIK Office of the SRSG, 16 January 2003.
[85] ICG interviews with Council of Europe Decentralisation teams, 21 January 2003 and 2 April 2003.
[86] ICG interviews with OSCE officials, 10 January 2003.
[87] ICG interview with Jay Carter, Head of UNMIK Office of Community Affairs, 8 May 2003.
[88] Gunther Bachler, "Conflict Transformation Through State Formation", Berghof Research Centre for Constructive Conflict Management 2001. p. 14.
[89] UNDP, "The Kosovo Mosaic: Perceptions of Local Government and Public Services in Kosovo", March 2003. ICG interview with Robert Piper, UNDP Representative in Kosovo, 8 April 2003.

While the focus on local governance is wise, the Council of Europe and other organisations working on local governance should not ignore the reason why the decentralisation debate arose in the first place. They must carefully evaluate whether their approach builds a foundation for local government that ensures the rights and needs of ethnic minorities are respected without creating further grounds for division, separation and hostility. In theory, Kosovo already has highly decentralised local government with broad competencies in health and education, although the capacity does not exist to implement those responsibilities fully. The real issues are how to make this government more efficient and raise its capacity to deliver services locally, clarify lines of authority between centre and municipality, and ensure that the institutions meet the needs of their minorities.

D. THE UNION OF SERB MUNICIPALITIES

While delegating the task of designing a decentralisation strategy to the Council of Europe was wise, Serbs were disappointed by the lack of quick progress. In reaction, those in the north created the Union of Serb Municipalities in Kosovo. One of their leaders said:

> Bearing in mind that Mr. Steiner is not launching the process of decentralisation, we have launched it, and we are willing to include the Serb community in Kosovo. I think that this has definitely resulted in something that is the reorganisation of Kosovo Serbs in the sense of federalisation or the forming of two entities.[90]

The Union is primarily composed of representatives from the north; Dr. Milan Ivanovic and Dr. Marko Jaksic were founding members. Approximately 250 participants met to inaugurate the Union, including members of the Serb National Council (SNC), the Democratic Party of Serbia (DSS), and municipal assembly members from northern municipalities. Other participants included the Serb Renewal Movement (SPO), Social Democracy (SD), Yugoslav United Left (JUL) and the Socialist Party of Serbia (SPS).[91] The Union elected Marko Jaksic as their president, and has three vice presidents, as well as a fifteen-member executive board.[92]

The Union adopted a "Declaration of Sovereignty and Territorial Integrity of Serbia and the state of Serbia and Montenegro" that proclaims:

> The State Union of Serbia and Montenegro, especially Serbia as its member, shall enjoy full sovereignty and undivided territorial integrity within internationally recognised borders. In case that someone attempts to establish a new Albanian state within a part of the State Union of Serbia and Montenegro, including Kosovo, the Union of Serb municipalities and municipal units in Kosovo shall call the Government of Serbia and the bodies of the State Union of Serbia and Montenegro to ensure full sovereignty in the areas inhabited by Serb people for centuries. Anyone who attempts to destroy the territorial integrity of Serbia and the state Union of Serbia and Montenegro has to be aware that territorial integrity shall be defended by all available means.[93]

Union members reiterated their support for Serbian parallel structures. Participants demanded that significant decentralisation be implemented by June 2003. Their concept of decentralisation is pre-determined and involves two entities – a Kosovo Serb entity linked to Serb institutions, and an autonomous Albanian entity. Failure to make progress would result in elections of parallel municipal assemblies and the end of cooperation with UNMIK.

For observers of the Balkans, this initiative is hauntingly similar to the move by the Krajina Serbs before war broke out in Croatia. Milan Ivanovic stated that "The Serbs have become very frustrated, their vital interests have been threatened and, although, we would never back such an initiative, this situation could result in the creation of a Serb defence

[90] Rada Trajkovic, as quoted in 27 March 2003 UNMIK Press Monitor, "Government reacts to new Union, UNMIK doesn't worry too much".

[91] OSCE Mission in Kosovo, "Spot Report on the Second Meeting of the Union of Serbian Municipalities in Kosovo", 27 February 2003.

[92] Zoran Culafic, "Kosovo Serbs Demand Ethnic Division", *IWPR Balkan Crisis Report,* 4 March 2003.

[93] "Declaration on Sovereignty and Integrity of the State Union of Serbia and Montenegro", as quoted by the OSCE Mission in Kosovo, *Spot Report,* 27 February 2003.

force".[94] But others were not as pessimistic. The advisor to the Coordination Centre on decentralisation issues, Dr. Dusan Janjic, stated "I don't believe one could describe this as the proclamation of a mini-state. This is a tactical move because the Serbs do not really have the power to create one in Kosovo, nor can Belgrade help them do it".[95]

The initiative did not stop in northern Kosovo. On 23 March, Serb communities in Gjilan/Gnjilan, Kamenica, Viti/Vitina, and Novo Berde/Novo Brdo formed a "Community of Settlements of the Kosovo Pomoravlje". This Community stated it would join the Union and supported the Declaration on Sovereignty.[96] UNMIK has chosen to ignore these initiatives, arguing that the members of these Unions have little capacity to govern and no strategy for taking their initiative forward.[97] Serb representatives in the Kosovo Assembly have condemned the initiative as inflammatory. However, the Unions reflect the deep splits between the pragmatists and nationalists among Kosovo Serbs and UNMIK's failure to develop a coherent strategy to support the pragmatists.

[94] Milan Ivanovic, as quoted in *Kosovo at a Glance*, 7 April 2003.
[95] Zoran Culafic, "Kosovo Serbs Demand Ethnic Division", op. cit.
[96] *VIP Daily News Report*, 24 March 2003.
[97] ICG interviews with UNMIK officials.

V. CONSTRUCTING THE CONTRACT

If the international community does not adequately address the zero-sum dilemma that faces Kosovo it risks the dangers of partition. The Albanian population will accept nothing less than independence, the Serb population has no desire to live in an independent Kosovo, and Serbia refuses to relinquish its claim of sovereignty over the province. Patience on the status issue is wearing thin, with threats of violence from Serb leaders if Kosovo moves towards independence and from Albanian leaders if it does not. As outlined above, the failure of the international community to tackle this dilemma has created a de facto partition that risks becoming a fait accompli in a final status settlement. While not unacceptable in principle if it could be peacefully agreed, it has to be acknowledged that in the particular circumstances here such a partition would cause instability in Kosovo and southern Serbia, open a potential Pandora's box elsewhere in the region, and damage the regional reform process and EU integration.

UNMIK's initial efforts to build a foundation for coexistence were appropriate given the context of Kosovo. But its recent policy of multiethnicity and integration is vague, unsuited for the local realities, and lacks an implementation plan. UNMIK needs to work on laying the groundwork of a civic contract with Kosovo Albanians and Serbs as well as Belgrade.

This contract requires two preconditions: the majority must accept and promote rights for the minority, and the minority must accept the authority of the state. These preconditions do not exist in Kosovo: the boundaries of the "state" and who is the minority are contested concepts. Albanian politicians have not behaved like a benevolent majority. Although inexcusable, their behaviour results from the security dimension of minority rights, wherein special rights to the Serb minority are viewed as concessions to the community that opposes independence and maintains strong links with the state that most regard as their enemy. Concessions to protect minority rights – such as Steiner's decentralisation initiative – are interpreted as concessions on the final status outcome and a move toward partition. Kosovo Serbs are reluctant to engage in Kosovo's institutions and cling to the belief that the province will be returned to Serbia. Belgrade acts as a spoiler to the contract through its failure to cooperate fully with UNMIK and maintenance of parallel structures. And UNMIK has not worked to establish a solid foundation.

The International Crisis Group has argued strongly that the lack of clarity on the final status issue is itself destabilising, and the international community should begin preparations for final status discussions. While a strategy should be developed to initiate these discussions sooner than the international community presently desires, more work can and should take place in the interim in any event to create an institutional space for Kosovo's minority population. The elements of this institutional space and the phased approach necessary to move beyond current UNMIK platitudes and implement it are outlined below.

A. PHASE ONE: AN INSTITUTIONAL SPACE FOR KOSOVO'S MINORITIES

UNMIK's "standards before status" process includes specific benchmarks on minorities. However it suffers from several flaws. First, there is no real implementation plan. Secondly, the benchmarks are not specific enough to ensure that group rights are respected and an institutional space created. Thirdly, to be sustainable, respect for group rights must be offered by the majority, not imposed by the international community.

On paper, there is protection for Kosovo's minorities. The Constitutional Framework outlines group rights, and UNMIK remains in place to guarantee them. However, Albanian political leaders see these rights as concessions to court the favour of the international community rather than something that minorities inherently deserve. Moreover, the judicial system is not strong enough to act as a check on the executive and legislative branches of government; clear remedies or penalties for discriminatory acts have not been established; rights granted to minorities are often buried within regulations addressing many other issues; and institutions have little capacity to meet the needs of the majority, let alone the minority. Given that the political system is a proportional one, political leaders do not have a local constituency, and there are no mechanisms to ensure that they are accountable to members of their communities.

Therefore, much work needs to be done to create a meaningful institutional space for Kosovo minorities – that is, the ability to protect and promote their rights through Kosovo's institutions. Careful thought must be given to how institutions can be shaped so that they can deliver the minimum social, political, legal, and security requirements for all communities. Suggested actions to create an institutional space are discussed in this report but any measures should be the result of broad-based consultation and not unilaterally imposed. Moreover, they need the commitment of Albanian leaders to implement any agreement. The Assembly's recent violations of the Constitutional Framework call into question its commitment to legally binding principles.

1. An Incentive Structure to Behave Well: A System of Rewards and Penalties

UNMIK is being downsized, which will take away a level of protection for minorities. In June 2003, 60 UNMIK staff will be withdrawn at the municipal and central levels of government, while in December 40 more will leave. This will dramatically reduce the capacity of UNMIK to monitor violations.

Currently, little happens to individuals or institutions in breach of obligations to minority communities. While UNMIK has implemented a "fair share financing" program and outlines some punitive measures such as holding back future budget allocations, diversion of funds directly to non-majority communities, and de-certification of the municipality,[98] no penalties have yet been imposed on municipalities. UNMIK plans to issue warning letters, and if remedial action is not taken, apply punitive measures. Yet even the threat of penalties has had an impact. In the first quarter of 2003, fifteen of 28 municipalities are considered to have made a reasonable effort to distribute resources fairly to minorities (an increase from six in 2002).[99]

To ensure compliance, UNMIK should adopt a similar approach in other areas and include positive incentives as well. If a municipality or arm of government does not provide adequate resources for its minorities or if officials actively work against issues such as returns, they should face some form of sanction. Where municipalities or branches of government work to ensure that services are provided equitably and fairly, they

[98] See UNMIK Regulation No. 2002/23, "On the Approval of the Kosovo Consolidated Budget and Authorizing Expenditures for the Period 1 January to 31 December 2003" 31 December 2002.
[99] ICG interview with Jay Carter, Head of UNMIK Office of Community Affairs, 13 May, 2003.

should be supported. The words of one Serbian politician ring true: "If the international community remains idle with respect to Serb rights, Serbs themselves have little power within Kosovo to change things". [100]

To ensure greater protection for these communities, OSCE has proposed an Omnibus Discrimination Bill. Its objective is to provide a uniform province-wide anti-discrimination legal framework, with effective enforcement mechanisms. The draft covers all forms of discrimination, both public and private, and is modelled on EU anti-discrimination standards. With such a law, the burden of proof would shift to the respondent to disprove discrimination. To increase its clout, the draft includes effective remedies. Clarity is provided on how the law should be adjudicated, how to file a claim, and what sanctions should be applied. [101] The bill is currently being reviewed by the Prime Minister's office.

While this draft should be supported, the PISG should go further and ensure that effective rewards and penalties are in place at all levels of government to bring institutions to treat minorities fairly. Together with UNMIK, the PISG and the Assembly Presidency should develop an incentive structure that would include financial rewards and penalties, threats of dismissals, and other forms of sanctions. But enforcement of that structure is most important. The system must in fact respond appropriately toward individuals and institutions who behave well or badly.

2. Committee on Services for Minorities Communities

A committee at the central level should be established to address the critical issue of public services for minority communities. It would be composed of both PISG and UNMIK officials and should examine the level of existing service provision in areas such as public utilities, education and healthcare; determine how service provision compares to majority areas; and identify measures necessary to bring it to an appropriate standard. This committee should also examine parallel structures and in consultation with Belgrade prepare a plan for disbanding them that outlines how the PISG would take over responsibilities and avoid a service vacuum.

[100] ICG interview with Vice-President of Lipljan/Lipjan Municipality, 25 February 2003.
[101] ICG interview with Greg Fabian, OSCE Senior Legal Advisor on Non-Discrimination, 21 January 2003.

3. Reworking The Electoral System

A common refrain across ethnic groups is that politicians at the central level do not care for their communities. In the proportionally based, closed-list election system under which voters choose political parties and not individuals, politicians at the central level do not have a specific constituency to which they are accountable. Serbs complain that their representatives at the Assembly court favour in Belgrade rather than work to better their lives. Most community representatives interviewed by ICG had never received visits from members of Coalition Povratak to discuss local needs.[102] There is a crisis of accountability in all communities in Kosovo, evident in the declining turn-out at each election.

The proportional, closed list system at the central level is less costly than a district system, and easier to administer in the absence of a census. Moreover, when the OSCE had an open list system for the first municipal elections in October 2000, individuals "voted around" women candidates, and the goal of 30 per cent female participation in government suffered. However, the benefits to gender equity are outweighed by the loss of accountability that all communities experience. In the words of one commentator:

> [UNMIK should] test the following proposal: that replacing "party lists" with "constituencies" would a) increase the accountability of elected representatives to their constituents; b) strengthen the sense of "ownership" of the political process; c) help to enfranchise the villages and rural residents; and d) address minority concerns to some extent, by ensuring that compact Serb (and other) communities would be able to return their own representatives to the Municipal and Kosovo Assemblies. [103]

The electoral system should be changed. To keep the costs manageable, the proportional system for the Kosovo Assembly could be retained, but within electoral districts, based on municipalities or groups of municipalities. These electoral districts would be given a number of representatives based on their rough population (which would initially include displaced persons and could be adjusted after a census). Central assembly members would be elected

[102] ICG Interviews in Gjilan, Lipjan, Strpce regions.
[103] IDEA, "Improving Local Governance", op. cit.

from their municipalities through a proportional system that would encourage them to be more accountable to their constituents. The reserved seats would be maintained and allocated to various municipalities. If deemed necessary, a proportion of seats could also be set aside for female representatives to maintain gender equity.[104]

4. Charter of Rights for Communities

Many Albanian politicians argue that providing equal rights for all citizens is enough, that no special status should be bestowed upon minority populations – particularly the Serbs – because it would hurt integration efforts, harm the unity of Kosovo, and set a dangerous precedent for the region.[105] While this approach is shaped by the decade of discrimination against Albanians, it is simply wrong. To ameliorate the conditions of disadvantaged individuals or groups, "equality" requires special interpretation:

> Formal declarations of equality are not enough to remove discrimination and exclusion. Indeed, they may perpetuate them....True equality requires an honest appraisal of actual similarities and differences – an understanding of the context in which human devaluation occurs....We need to look beyond the words to the reality, or context of the individual and group.[106]

The cultural rights of Kosovo's minorities are already enunciated in the Constitutional Framework. However, these rights are embedded in a separate chapter of the Framework and were initiated by the international community – not the communities that make up Kosovo. While the European Convention on Human Rights is applicable law, the process of consensus building required to write legislation is important to secure the respect of the public and the authorities and to ensure that law is implemented.

Thus a Charter or Bill of Rights should be written, compatible with European standards but recognising the specific context of Kosovo. This Charter should outline the rights bestowed at the individual as well as group level. It should also outline the rights that exist for particular groups in sensitive areas such as language and education. It should provide protection against all acts of discrimination – from the gravest violence to violations of these group rights. While the Charter should be written with broad consultation and the agreement of political leaders, given the charged nature of the subject, the final text should be prepared by a senior international figure, independent of the existing international structures in Kosovo.

Once the Charter is developed, a broad campaign should be undertaken to sensitise the public on its contents and on how to address violations. The existing institution of the Ombudsperson could assist in this campaign. However, the success of the Charter will depend on the capacity of the justice system to enforce it.

5. Ensuring the Justice System Can Enforce the Charter of Rights

Legal protection is not enough to ensure that rights are respected. A society needs to have the capacity to maintain and implement this legal framework. A strong, independent judiciary that enjoys public confidence is critical to guard against violations by the legislative and executive branches of government, as well as to ensure that vested interests in society are not granted special exemptions. This currently does not exist. Almost 90 per cent of Serbs surveyed recently by UNDP stated that they were unsatisfied or highly unsatisfied with the court system, while 97 per cent were unsatisfied with the Office of the Prosecutor.[107]

Kosovo already has international judges and prosecutors in place to support the development of the justice system.[108] Suspected transgressions of the Charter could be addressed at the Supreme Court by a panel of judges. Alternatively, a special court could be established and staffed by international personnel. A transition plan to ensure that local judges are trained to take over the Court should be developed to ensure that as UNMIK downsizes, the judiciary's ability to oversee application of the Charter process does not decrease.

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[104] For a thorough review of the electoral system, see Leon Malazogu and Ilir Dugolli, "Reforming the Electoral System of Kosovo", from the Kosovar Institute for Policy Research and Development (KIPRED) and The Forum, May 2003.

[105] ICG interviews with politicians from all parties.

[106] The Chief Justice of the Supreme Court of Canada, Beverley McLachlin, "The Civilization of Difference", The Fourth Annual LaFontaine Baldwin Lecture, 7 March 2003.

[107] UNDP/Riinvest, "Early Warning Report Kosovo: Report 2", op. cit.

[108] See ICG Report, *The Scales of Justice in Kosovo*, op. cit..

6. Decentralisation

Decentralisation is important for all communities in Kosovo to improve service delivery and accountability at the local level. While there is much variation among municipalities, the responsiveness of local government and the quality of service delivery is generally poor. Therefore, a carefully planned decentralisation strategy based on a consultation process as well as accurate data would be an important step towards democratic government.

The decentralisation plan enunciated by SRSG Steiner in October 2002 unfortunately set the parameters of the debate for the Serb community, which would like some form of territorially based self-government in which Serbs control the institutions at either the sub-municipal level or through the creation of new municipalities. Such territorially based solutions could be dangerous for several reasons. First, the problem is Kosovo-wide discrimination; decentralisation would only address one dimension. Efforts must also be focused on anti-discrimination measures at the central level to ensure that decentralisation does not lead to further disenfranchisement. Secondly, no territorial solution will ever be able to accommodate all members of an ethnic group. Thirdly, unless decentralisation is carefully planned, it will hinder the process of incorporating the communities into the institutions at the local level and affect returns of refugees and IDPs.[109]

Therefore, decentralisation needs to be worked out carefully and focus on key issues of local governance. While there should not be a moratorium on new municipalities or sub-units, territorial gerrymandering on an ethnic basis should proceed with extreme caution. Some form of special status for existing Serb-dominated municipalities could also be considered, complemented by entrenched rights at the central level. These sensitive issues must be decided with the full participation of all sectors of Kosovo society.

7. A Cooperative Belgrade

Any initiative for the Serb community in Kosovo requires cooperation from Belgrade to succeed. The recent rhetoric on partition, the linkage of Kosovo's status to that of Bosnia's Republika Srpska, and implied threats of renewed violence from leaders in Belgrade is not helpful. Belgrade is also consistently reluctant to cooperate with UNMIK on issues such as the recognition of Kosovo license plates, a move that would greatly enhance freedom of movement for the Serb population in Kosovo. While Belgrade understandably must advocate and work for the rights of the Serb community, its intransigence and interference is unhelpful and in the long-run could undermine the position of that community.

Particularly since the Djindjic assassination, key countries such as the United States fear that putting pressure on officials in Belgrade to cooperate on Kosovo, for example by supporting UNMIK initiatives such as the transfer of power and responsibilities to the PISG, will undermine democratic leaders in Serbia. However, that government has successfully imprisoned thousands of individuals without backlash. Djindjic was not assassinated for his position on Kosovo but because of his crackdown on organised crime. While the international community – particularly the U.S. and the European Union – should do everything possible to support the democratic process in Serbia, this should not be at the expense of ensuring that Belgrade in turn supports stability and the work of the international community in Kosovo.

B. PHASE TWO: FINAL STATUS DISCUSSIONS

During final status discussions, both sides will be judged on their record of respecting each others' rights. As argued above, the lack of clarity on final status affects the willingness of Albanians to protect minority rights in Kosovo. Yet the less satisfactorily Serb communities have their rights protected, the more possible the generally destabilising option of partition will likely be. Concrete measures, such as the ones outlined above, to ensure that a meaningful institutional space for minorities is created before status discussions begin would affect that particular dynamic but without prejudicing the ultimate outcome for either side. The major elements of the civic contract – those discussed above – should be developed now, and if they are the benefits, including greater stability throughout Kosovo and confidence among all communities, should begin to flow quickly. The last important elements, however, would have to be finalised at the time of final status discussions.

[109] ICG interview with President of Lipjan Municipality and with Cecilia Piazza, UNMIK Municipal Administrator, 5 February 2003.

It is not necessary for present purposes to prescribe what the outcome of those final status negotiations ideally should be. That said, ICG has argued that in all of Kosovo's circumstances, and given the weak capacity of the institutions and the precarious security environment, a "conditional independence" solution – wherein an international military presence and international monitoring of key areas such as justice, police, and finance would be maintained for some period or periods of time – is the outcome most likely to lead to permanent stability[110] and ensure that institutional space for the Serb community and other minorities is entrenched.

Any such outcome would involve the negotiation of further guarantees to the Serb community that address the concern for protection of their cultural heritage and desire to maintain ties to Serbian institutions. For example, while Serb citizens would be obliged to pay taxes and respect the laws of Kosovo, schools in Kosovo could partner with schools in Serbia to facilitate exchanges and sharing of material. Access to secondary and tertiary health care and other institutions in Serbia could be safeguarded through agreement between Pristina and Belgrade, and in all cases the direct relationship between Kosovo Serb communities and the Serbian government should be transparent. Whatever the final status settlement, members of the Serb community should be allowed to retain their Serbia and Montenegro citizenship. This would provide them with extra confidence that they could attempt a life in Kosovo while retaining an alternative should the security situation there ever deteriorate.

Again in this scenario, sites in Kosovo that reflect the cultural and religious heritage of the Serb people, such as the monasteries in Decani and Gracanica, should have special protection. The Kosovo government should ensure that these sites receive that protection and the resources necessary to preserve them, while an international organisation – such as UNESCO which is already active in Kosovo – could provide additional guarantees. Such protection should also include the other archaeological treasures of Kosovo and sites that reflect the cultural heritage of the Albanian community, including neglected historical monuments from the Byzantine and Ottoman periods.

[110] See ICG Report, *A Kosovo Roadmap I*, op. cit., and ICG Balkans Report No. 108, *After Milosevic: A Practical Agenda for Lasting Balkans Peace*, 26 April 2001.

C. THE INCENTIVE CALCULUS

All sides must be willing to engage in the civic contract if the appropriate institutional space is to be created. What incentives does each have to do so?

Through building the foundation for the contract and encouraging the cooperation of Albanians, Serbs, and Belgrade, the international community would protect the more than U.S.$2 billion investment it has already made in Kosovo and be able gradually to withdraw with honour and confidence. Instability would risk this investment and lengthen the tenure of both the security and administrative aspects of the mission in Kosovo. It is, therefore, clearly in UNMIK's interest to ensure that a real institutional space with credible guarantees is brought into existence quickly for Kosovo's minorities.

Among the participants in the contract, Kosovo's Albanian leaders have the clearest motivation for establishing an institutional space for Serbs. If this happens, the prospects for avoiding a formal partition will be greatly improved, as will those for being able to normalise relations with their larger and more powerful neighbour to the north. However, these leaders must develop the long-term vision to see that such a contract is in their best interests.

Belgrade also has an incentive to promote the contract. The stated aim of some nationalists – i.e. the return of Kosovo to Serb rule – would virtually certainly lead to renewed violence. Partition would likely lead at least to serious unrest and undermine the future of Serbs outside partitioned areas and could destablise southern Serbia, with its not negligible Albanian population. Both, therefore, would pose risks for the still fragile reform enterprise in Serbia itself and its efforts to establish the groundwork for EU integration that prudent leaders might well prefer to avoid.

By working with UNMIK and the PISG, in contrast, Serbia would free itself of its heavy financial burden in the province – currently approximately €75 million annually – and pragmatic politicians could claim credit for producing concrete protections and benefits for Kosovo Serbs, including guarantees of continued meaningful links with Serbia. While extreme nationalists who have a single issue agenda would not agree, such a calculation of interests could help draw a distinction between them and more pragmatic

leaders and encourage a general growth of moderation in Belgrade that would be a benefit for Serbia's political culture.

All that said, Serb nationalists could embrace the steps described above as 'Phase One' of the civic contract implementation process. As earlier noted, there is nothing in this which inherently contradicts the ultimate retention of Serbian sovereignty over Kosovo; cooperation would undoubtedly improve the image of those involved in a way which should be helpful in the final status negotiations; and in the meantime local Kosovo Serbs would unquestionably be helped.

The Serbs living in Kosovo are in a difficult position. They do not believe that the Kosovo government will protect their interests and do not want to give up their ties to Belgrade. While the guarantees outlined above would ensure that they have a protected institutional space and continued links to Serbian institutions, whatever the outcome on final status, it likely would not advance their desire to remain under Serbian sovereignty. If the independence of Kosovo were accepted, they would have to face their future as a protected minority within an independent state. While such a contract would be rejected, therefore, by the hard-line nationalists among them, UNMIK and PISG should work to help the more pragmatic of their leaders persuade the bulk of the population of its immediate and practical advantages.

While Albanian political leaders and UNMIK must do most of the work to create a true institutional space for the Serbs, it is ultimately the decision of the Serbs whether to participate in that space. If they decide that their future is not rest in Kosovo, that is their choice. But UNMIK and the PISG need to create suitable conditions for members of the Serb community so that any decision to leave is based more on pull than push factors. If the international community's engagement in Kosovo is to be judged a success, the foundation of the civic contract must be built so that the option of living as free and equal citizens is available to the Serb community and other minorities.

Pristina/Brussels, 28 May 2003

APPENDIX A

MAP OF KOSOVO APPENDIX A

APPENDIX B

GLOSSARY OF ABBREVIATIONS

DSS	Democratic Party of Serbia
JUL	Yugoslav United Left
KDTP	Turkish Democratic Party of Kosovo
KFOR	Kosovo Force
LDK	Democratic League of Kosovo
NATO	North Atlantic Treaty Organisation
PDK	Democratic Party of Kosovo
PISG	Provisional Institutions of Self-Government
PSHDK	Albanian Democratic Christian Party of Kosovo
SD	Social Democracy
SNC	Serbian National Council
SPO	Serb Renewal Movement
SPS	Socialist Party of Serbia
SRSG	Special Representative of the Secretary General of the United Nations
UNMIK	United Nations Interim Administrative Mission in Kosovo

APPENDIX C

ABOUT THE INTERNATIONAL CRISIS GROUP

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ICG's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, ICG produces regular analytical reports containing practical recommendations targeted at key international decision-takers.

ICG's reports and briefing papers are distributed widely by email and printed copy to officials in foreign ministries and international organisations and made generally available at the same time via the organisation's Internet site, *www.crisisweb.org*. ICG works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

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ICG's international headquarters are in Brussels, with advocacy offices in Washington DC, New York, Moscow and Paris and a media liaison office in London. The organisation currently operates twelve field offices (in Amman, Belgrade, Bogota, Islamabad, Jakarta, Nairobi, Osh, Pristina, Sarajevo, Sierra Leone, Skopje and Tbilisi) with analysts working in over 30 crisis-affected countries and territories across four continents.

In *Africa*, those countries include Burundi, Rwanda, the Democratic Republic of Congo, Sierra Leone-Liberia-Guinea, Somalia, Sudan and Zimbabwe; in *Asia*, Indonesia, Myanmar, Kyrgyzstan, Tajikistan, Uzbekistan, Pakistan, Afghanistan and Kashmir; in *Europe*, Albania, Bosnia, Georgia, Kosovo, Macedonia, Montenegro and Serbia; in the *Middle East,* the whole region from North Africa to Iran; and in *Latin America*, Colombia.

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May 2003

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