

Decentralisation in Kosovo: A Challenge to Deal With?

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Abstract

The decentralisation process in Kosovo emerged as a pathway to integrate the Serbian community. This article investigates the evolution of this process and by so doing underlines the key characteristics of this process since Kosovo was declared an independent and sovereign state on 17 February 2008. The article also argues that whilst the two largest ethnic groups in Kosovo have tried to take advantage of the decentralisation process, there is no other realistic alternative to decentralisation, except the partition of Kosovo's territory that might start a domino effect throughout the Balkan region. There are two key documents that are essential to understanding the limits and scope of the decentralisation process in Kosovo – The Kai Eide Report and the Comprehensive Proposal for the Kosovo Status Settlement delivered by the UN Secretary General's Special Envoy for the Future Status Process for Kosovo, Martti Ahtisaari. In order to prevent the atomization and the fragmentation of the Kosovo society through the decentralisation process, the article concludes that, civil society in Kosovo should be empowered to play the 'middle ground' role between Kosovo state authorities and the Serbian community affected by the decentralisation process.

Keywords: decentralization; Serbian parallel structures, Mitrovica, Ahtisaari Proposal.

Introduction

After 15 months of an unsuccessful United Nations-sponsored negotiations between Serbia and Kosovo to reach a political settlement about the status of Kosovo, the UN Secretary General's Special Envoy for the Future Status Process for Kosovo, Martti Ahtisaari, on 26 March 2007 prepared a Comprehensive Proposal for the Kosovo Status Settlement (hereafter Ahtisaari Proposal) and recommended a supervised independence for Kosovo.¹

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¹ For an account of the negotiations, see James Ker-Lindsay, *Kosovo: The Path to Contested Statehood in the Balkans* (I. B. Tauris & Co Ltd, London-New York, 2009); Marc Weller, "The Rambouillet Conference

The Ahtisaari Proposal was approved by the UN Secretary General, but neither the Security Council nor Serbia accepted it. Subsequently, attempts were renewed to establish an additional six months of negotiations between the Kosovar Albanian and Serbian political leaderships in order to unlock the process. As the renewed negotiations did not yield any result, Kosovo unilaterally declared independence on 17 February 2008.

As Kosovo was declared as an independent state based on Ahtisaari Proposal, the Council of the European Union adopted a Joint Action on 4 February 2008 establishing the European Rule of Law Mission in Kosovo (EULEX). EULEX, the largest mission thus far undertaken within the Common European Foreign Policy, is intended to substitute UNMIK.² Based on the Ahtisaari Proposal, Kosovo's declaration of independence would be supervised by an international mission, undertaken by the EU. The European Rule of Law Mission in Kosovo, which was deployed after Kosovo was declared an independent state, is intended to support Kosovo's post-status institutions in the areas of police, judiciary and rule of law and customs. "EULEX reached full operational strength on 6 April 2009. The Mission is led by French general Yves de Kermabon, KFOR commander between September 2004 and August 2005. As of 31 May 2009, there were 2,569 people in the EULEX deployment, 1,651 of them internationals and 918 locals."³ EULEX is supposed to be 'status neutral', since some EU member states have not recognized Kosovo's independence.

However, Kosovo's statehood remained an unfinished project; the success or failure of this project would be measured in part by an evaluation of the progress in integrating the Serbian community in Kosovo and enabling them to rule their decisions at the newly established Serbian-majority municipalities. The decentralisation of power is projected as a key pillar of a lasting peace in Kosovo. Through the decentralisation of power, the Ahtisaari blueprint foresees the achievement of twofold objectives: first, dismantling the Serbian enclaves established since 1999 and offering them new municipalities with enhanced competences as way of integrating into state structures; and second, attenuating the 'tyranny of the majority' of the Kosovar Albanians in the decision-making processes in post-independent Kosovo by providing a check on majority rule.

Kosovo has been recognized by 75 of the 192 UN member states and by 81 percent of the EU member states. Much of its efforts have been directed towards building diplomatic relations and lobbying for more recognition from African, Latin American and Asian states. While a lot of energy is being directed towards gaining recognition of Kosovo's

On Kosovo" *International Affairs*, Vol.75 No.2, 1999, pp.211-51; Mark Weller, *Contested Statehood: Kosovo's Struggle for Independence* (Oxford University Press, New York 2009). For an account of the conflict in Kosovo, see Tim Judah, *Kosovo: War and Revenge* (New Haven: Yale University Press, 2002); Noel Malcolm, *Kosovo: A Short History* (Basingstoke: Macmillan, 1998)

² Erika de Wet, "The Governance of Kosovo: Security Council Resolution 1244 and the Establishment and Functioning of EULEX", *The American Journal of International Law*, Vol.103 No.1 (Jan., 2009), pp.83-96

³ Vedran Džihic and Helmut Kramer, "Kosovo After Independence Is the EU's EULEX Mission Delivering on its Promises?" *International Policy Analysis*, July 2009, p.17

independence, it should be clearly emphasised that Kosovo still represents a clear case of a deeply divided society: a division which still has not been addressed properly. Therefore, this article presents an argument for the case of decentralisation as a conflict resolution tool in the case of Kosovo.

Theoretical Perspectives

According to Schneckener, the territorial solution is a constructive political strategy in diminishing inter-group conflict. This strategy aims to offer groups in dispute a higher degree of self-government, and incentives to the different groups to independently rule their own economic, political and cultural life within their settlements. "In other words, the potential for group conflicts is diminished by the fact that each group in its own region makes its own decisions, leaving only very few issues to be resolved by co-operation between groups (or between majority and minority)".⁴ Decentralisation may be considered a form of territorial solution and can be described as the transfer of competences from the central administration to the municipalities, where different ethnic, cultural or language groups comprise the local majority. The European Charter of Local Self-Government reflects the principles of self-government and subsidiarity, while asking European countries to implement the principle to which the decisions should be made by the lowest possible level of self-governing institutions.⁵ Gurr has argued, along the same lines as Lijphart, that group autonomy and power-sharing arrangements are solutions to deep-rooted ethnic conflict and deeply divided societies.⁶

Territorial autonomy means the self-government of a specific territory, in most cases a "historical region" where one ethnic group comprises the local majority. Well-researched examples are South Tyrol (autonomy statutes of 1984 and 1972), the Finnish Aland Island (Self-Government Act of 1991), the Danish Faroe Islands (autonomy of 1948), Greenland (autonomy statute of 1978) and Corsica (autonomy laws of 1982 and 1991)⁷

However, some authors argue that the group autonomy or the decentralisation of power is not an automatic solution. Pippa Norris highlights that decentralisation has its particular advantages in deeply divided societies, but she goes beyond the argument of

⁴ Ulrich Schneckener "Models of Ethnic Conflict Regulation: Politics of Recognition", in Ulrich Schneckener & Stefan Wolfe eds. *Managing and Settling Ethnic Conflict: Perspectives on Success and Failures in Europe, Africa and Asia* (C. Hurst & Co: London, 2004) p.30

⁵ Council of Europe, "European Charter of Local Self-Government," Article 3, Section 2, (15 October 1985), available at <http://conventions.coe.int>, (Accessed November 17, 2009)

⁶ Ted Robert Gurr, *Minorities at Risk: A Global View of Ethnopolitical Conflict* (Washington DC: US Institute of Peace Press, 1993)

⁷ Ulrich Schneckener "Models of Ethnic Conflict Regulation: Politics of Recognition", in Ulrich Schneckener & Stefan Wolfe eds. *Managing and Settling Ethnic Conflict: Perspectives on Success and Failures in Europe, Africa and Asia* (London: C. Hurst & Co, 2004) p. 31; For a comparative perspective, see, in particular, Ulrich Schneckener "Making Power-Sharing Work: Lessons from Successes and Failures in Ethnic Conflict Regulation", *Journal of Peace Research*, Vol.39 No.2 (March, 2002), pp.203-228

Lijphart to assert that ethnic communities can defend their interest even within a unitary state, which is not a characteristic of the Lijphart model of consociational democracy. According to Norris, the decentralized models have their weaknesses as well:

By generating another layer of government bureaucracy, some studies suggest, decentralization may generate increased costs, poorer service efficiency, worse coordination, greater inequality among administrative areas, and macroeconomic instability. By contrast, centralized government is thought to enhance integration, decisiveness, uniformity, economies of scale, and cost efficiency. The claims concerning participation and representation have also been challenged; in particular decentralization may encourage the fragmentation of party systems through the growth of regional parties. Multilevel governance may also reduce clear channels of electoral accountability, as a result of overlapping functions and roles across national, regional, and local governments. By contrast centralized governments have a clearer definition of responsibilities for "where the buck stops" in decision-making processes.⁸

Timothy Sisk offers a comprehensive analysis of the conflict regulation practices with regards to territorial division of power. In his critical review, the four practices of territorial division of power are examined from the consociational (Lijphart) perspective and the integrative (Horowitz) perspective. Both of these perspectives will be taken into account, as both of them are useful in reflecting upon the Kosovo case. While the consociational approach offers autonomy or federalism as the ultimate solution to deep-rooted ethnic conflicts; the integrative approach seeks integration across inter-group lines at both the elite and the popular levels.

While the aforementioned territorial solutions emerged from the two very distinctive approaches, they should not be seen as mutually exclusive. Indeed, elements of both approaches are potentially valuable. Tom Hadden in his article "Integration and Autonomy: Minority Rights and Political Accommodation" interchangeably integrates both perspectives: the integration and autonomy approach. His article identifies areas of integration and autonomy. The objective of integration policies is to create an "inclusive society in which members of different ethnic, religious and linguistic communities" share the same polity without having to change their distinctiveness. As Horowitz points out, physical separation may lead to the growth of diverse stereotypes, which result from lack of physical contact and knowledge.⁹ In order to diminish the physical separation, Hadden differentiates some areas of integration, such as (1) the sphere of integration at the national government, national parliaments, (2) membership of appointed public bodies and the agencies of law enforcement at the national level, and (3) public sector employment. On the other hand, Hadden underlines that autonomy (on the territorial or functional bases) is given to offset the feeling of permanent exclusion from political power. For Hadden, autonomy means mainly self-government institutions within a specific area where a particular community is concentrated. He offers the case of Belgium as a prominent example, where the functional

⁸ Pippa Norris, *Driving Democracy: Do Power Sharing Institutions Work?* (Cambridge: Cambridge University Press, 2008), p.162

⁹ Donald Horowitz, *Ethnic Groups in Conflict*. (Berkeley and London: University of California Press, 1985)

autonomy of language and education affairs is given to the respective Belgian communities.¹⁰

However, Kosovo is a unique case. Its sociopolitical legacy, demographic distribution, institutions and political culture cannot be compared either with Belgium, or with Northern Ireland, Cyprus, Italy or Spain. Bearing these characteristic differences in mind, none of the abovementioned cases were taken blindly as model while determining the final status of Kosovo. Instead, when the UN Special Envoy for the Kosovo Status, Martti Ahtisaari, was tasked with mediating and proposing a solution for Kosovo's final status, whilst proposing a supervised independence for Kosovo, he identified and differentiated the areas of integration and areas of autonomy in order to diminish the separation of the communities in Kosovo.

In other words, he addressed the areas of the integration at the national level by guaranteeing 20 of the 120 seats of the Kosovo Assembly for the representation of non-majority communities.¹¹ A permanent *Committee on the Rights and Interests of Communities* was proposed within the Kosovo Assembly to guarantee the vital interests of communities in the process of law making.¹² Integration at the governmental level was provided as well by ensuring the representation of communities at Kosovo's government ministerial level. It was regulated that the Serb community will be represented by one Minister, and another one from the non-majority community, while the third Minister from a non-majority community might be appointed in the case the Kosovo government has more than 12 ministries. And, last but not least, integration into the judicial system of Kosovo was guaranteed by a standard that at least 15 percent of the judges at the Supreme Court of Kosovo must be from the minority communities. On the other hand, the areas of autonomy for the minority communities in Kosovo, especially the Serbs, were created by the decentralisation process, through enhancing the competences of newly established Serbian-majority municipalities on secondary health care, police, cultural affairs, including Serbian cultural heritage, and in Mitrovica, in addition, higher education.¹³

¹⁰ Tomm Hadden, "Integration and Autonomy: Minority Rights and Political Accommodation", in Ian O'Flynn and David Russell eds., *Power Sharing: New Challenges for Divided Societies* (London: Pluto Press, 2005), p.35-39. About integration see, Johan Galtung, "A Structural Theory of Integration", *Journal of Peace Research*, Vol.5 No.4 (1968), pp.375-395

¹¹ Kosovo Constitution, Article 64, Kosovo Constitution incorporates into its text the Comprehensive Proposal for the Kosovo Status Settlement, known as the Ahtisaari Proposal)

¹² Kosovo Constitution, Article 81, Article 78. This committee is composed of one third (1/3) of members who represent the group of deputies of the Assembly holding seats reserved or guaranteed for the Serbian Community, one third (1/3) of members who represent the group of deputies of the Assembly holding seats reserved or guaranteed for other communities that are not in the majority and one third (1/3) of members from the majority community represented in the Assembly

¹³ Martti Ahtisaari, "Comprehensive Proposal for the Kosovo Status Settlement", *UN doc S/2007/168* (26 March 2007) Article 4 Enhanced Municipal Competencies: 4.1 Certain municipalities in Kosovo shall have their own competences enhanced as follows: 4.1.1 The municipality of Mitrovicë/Mitrovica North shall have competence for higher education, including registration and licensing of educational

The main argument of this article is that radical elements of the two predominant ethno-nationalistic groups in Kosovo – Kosovar Albanians and Kosovar Serbs – see the decentralisation project as a tool for in-group mobilisation and legitimisation of their purely ethno-national claims. Thus through decentralization, each perceives the other group as a threat to their national substance. Therein, by impeding the implementation of decentralisation on the ground, both groups leave space for maintaining ethnic fragmentation. This article proposes that the best path to integration for the Serbian community in Kosovo is by implementing the decentralisation project all over Kosovo. Though the Kosovo authorities and the international community claim the Serb-majority municipalities established in the southern part of Kosovo to be a success story, the move to bypass the decentralisation process in the Mitrovica North poses a real threat to open, civic and democratic society in Kosovo. Moreover, the lack of implementation of the Ahtisaari Proposal all over Kosovo's territory, including in the north, might jeopardise even the commitment of the international community to regional stability in the Balkans.

Kosovo: Between Separation and Integration

As a consequence of the 1999 war in Kosovo, most of the Serbs living in urban areas of the south and west of Kosovo have left, while others have remained, living scattered predominantly in the rural areas. After the NATO-led troops and United Nations Interim Administration Mission in Kosovo (UNMIK) was deployed, "200.000 ethnic Serbs fled the province [...] due to fear, intimidations, and direct physical violence".¹⁴ The figures provided by Belgrade sources are not entirely reliable based on calculations done by the European Stability Initiative (ESI).¹⁵ In 2004, ESI calculated that the number of Serb refugees who had left Kosovo was about 65000, and that two-third of the overall Serb population in Kosovo did not leave, and now continue to live in mostly rural areas of the southern part of Kosovo. Due to several factors, Serbs in their areas established parallel structures (such as courts, schools, and

institutions, recruitment, payment of salaries and training of education instructors and administrators; 4.1.2 The municipalities of Mitrovicë/Mitrovica North, Graçanicë/Gračanica, Shtërpcë/Strpce shall have competence for provision of secondary health care, including registration and licensing of health care institutions, recruitment, payment of salaries and training of health care personnel and administrators; 4.1.3 All municipalities in which the Kosovo Serb Community is in the majority shall have: a. Authority to exercise responsibility for cultural affairs, including the protection and promotion of Serbian and other religious' and cultural heritage within the municipal territory, as well as support for local religious communities, in accordance with the provisions of Annex V of this Settlement; b. Enhanced participatory rights in the appointment of Police Station Commanders, as set forth in Article 2.6 of Annex VIII of this Settlement.

¹⁴ International Crisis Group, "Kosovo Ethnic Dilemma: The Need for a Civic Contract", *ICG Balkans Report N°143*, 28 May 2003, p.8

¹⁵ European Stability Initiative, "The Lausanne Principle: Multiethnicity, Territory and the Future of Kosovo's Serbs" Berline, Prishtina, 7 June 2004, p. 7, available at http://www.esiweb.org/pdf/esi_document_id_53.pdf (Accessed 2 March 2011)

hospitals) funded by and directly answerable to Belgrade and thus, operating in parallel to the UNMIK administration. According to the OSCE's findings, as a result of three pivotal factors the parallel structures continue to exist:

1. *[T]he demand for parallel structures is linked to the continued lack of access by some members of the Kosovo Serb community to UNMIK and PISG services [...].*
2. *[T]he continued lack of trust of Kosovo Serbs in UNMIK and the PISG, based on their security perceptions and a feeling that they are being discriminated by the PISG [...].*
3. *[F]inally, the political situation and the unresolved status question have been a great obstacle to the integration of parallel structures [...].*

There were/are two kinds of Serbian parallel structures in Kosovo: Serbs living in the northern part of Kosovo, Mitrovica, Zveçan/Zvečan and Leposaviq/Leposoviç municipalities – where they are a predominant group and are more closely controlled by the Serbia government, and rural Serbs mainly living in south and east of Kosovo, surrounded by their Kosovar Albanian neighbors. As Denisa Kostovicova has argued "[Kosovar] Albanians see the enclaves as a blueprint for an unacceptable partition", while "Belgrade has kept referring to enclaves in the emotionally charged languages as ghettos or even concentration camps, in order to disqualify Albanians' claim of having made progress on minority issues".¹⁶ Meanwhile critiquing the international community's focus on institutional rather than societal level, Kostovicova blames the international community in Kosovo for not being responsible and leaving the Serbian enclaves with significant amount of space to jeopardise the stability of Kosovo.

Consequently, the Serbian parallel structures are a concern for the international community and Kosovo authorities for, at least, two important reasons. The first reason is related to sovereignty, territorial integrity and the constitutional system in Kosovo that have been impeded by the very existence of Serbian parallel courts in Kosovo, currently working based on the laws applicable in Serbia. And secondly, the Serbian parallel structure poses a general security problem in Kosovo. After the 1999 war in Kosovo, a group of young Serbs, known as Bridge Watchers, gathered along the Mitrovica Bridge, (which divides everything geographically south of Mitrovica inhabited predominantly by Kosovar Albanians and north of Mitrovica inhabited predominantly by Serbs) to prevent Albanians crossings from south to north. During this time they expelled 1500 Albanians from the north. The Bridge Watchers became a security structure with three main functions: "to prevent Kosovar Albanians from entering northern Mitrovica; to gather information on the Kosovo Force (KFOR) and CIVPOL; and to gather information on any Kosovar Albanian living in the north".¹⁷ The Bridge

¹⁶ Denisa Kostovicova, "European Zones of Human Security: A Proposal for the European Union", Paper prepared for The Study Group on Human Security, *Centre for the Study of Global Governance*, February 2007, p.5

¹⁷ OSCE, Department of Human Rights and Rule of Law, "Parallel Structures in Kosovo 2006-2007", p.24

Watchers, through maintaining quasi-police power over the local Serb population, very quickly devolved into a criminal group fighting each other openly for more control, smuggling and human trafficking. Gradually, this group of people became a threat for Kosovo Serbs in Mitrovica, who were held hostage by their activities.¹⁸

Northern Kosovo, centred on the divided town of Kosovska Mitrovica (with Serbs north and Albanians south of the river Ibar) is the largest Kosovo Serb enclave. It is adjacent to Serbia, and its Serb population has grown in recent years, which is what makes it unique. This enclave best illustrates the fears and the expectations of the two communities. Kosovo Serbs link the "survival of Serbdom" in Kosovo to the "survival of northern Mitrovica." By contrast, Albanians fear that the resistance of Serbs to integrate into the new institutions of Kosovo, coupled with their territorial segregation, paves way for the secession of this part of Kosovo, while the enclaves themselves are perceived as an extension of the Belgrade's rule in Kosovo.¹⁹

To date, the UNMIK administration has not fulfilled its mandate in establishing a safe and secure environment. Thus, the task is left to the EU Rule of Law Mission in Kosovo established in 2008. The Bridge Watchers have to be dismantled by cross-border cooperation between the international community in Kosovo, the Kosovo government and the Serbia government. Serbia's accession path to the European Union should be conditioned by a good neighborhood policy, which will imply explicitly not interfering in the affairs of the state of Kosovo, rather than discouraging Kosovo Serbs from being engaged in Kosovo institutions. However, it should be noted that the issues in Mitrovica cannot be solved through military means alone; indeed, there is no military solution for Mitrovica. The article recommends that the implementation of the decentralization process in the northern part of Kosovo (the establishment of the Mitrovica North Municipality) needs to be done in accordance with the area-based development approach (ABD), which is thought to be an appropriate instrument applied in conflict regions, such as Mitrovica. "Currently, the problems to be addressed through the ABD approach fall into four main categories: conflicted related including mainly pre and post conflict situations affecting a specific area, post-war reconstruction including the reintegration of former combatants, refugees and IDPs and peace building and reconciliation."²⁰

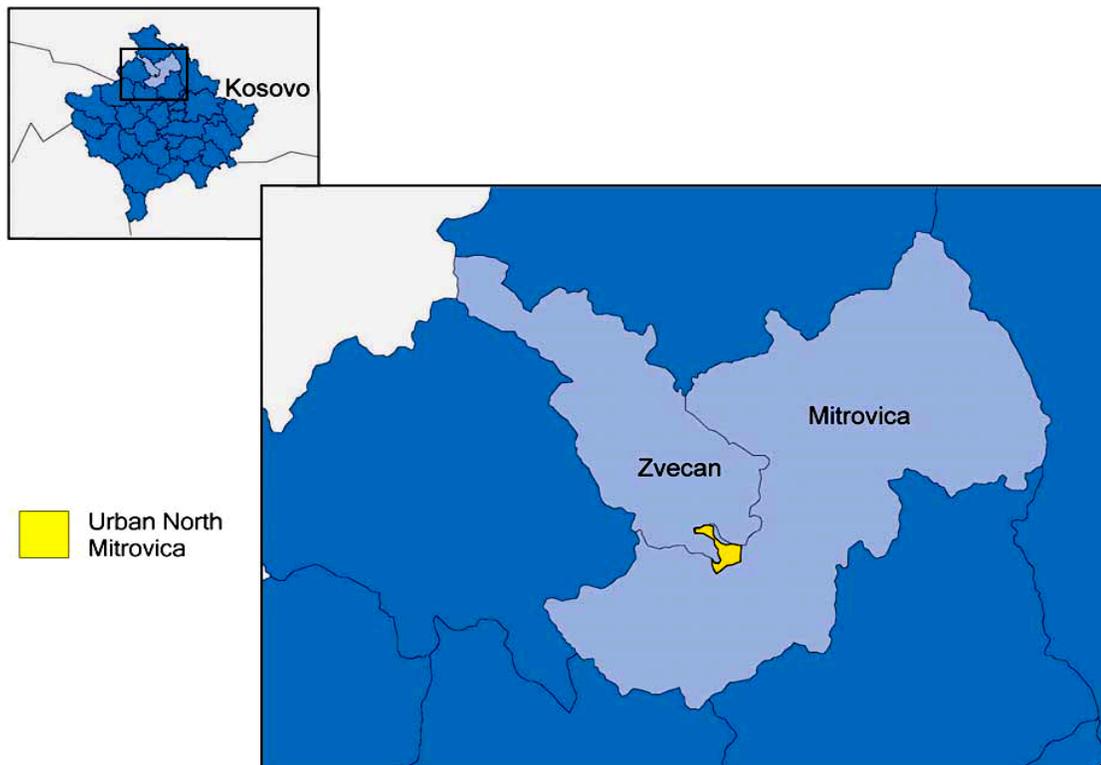
In the northern part of Kosovo, none of the four categories of the conflict are addressed properly. Mitrovica continues to be a frozen zone of conflict between Kosovar Albanians and Serbs, and is a test of the international project on multi-ethnicity in Kosovo and

¹⁸ ICG, "UNMIK's Kosovo Albatross: Tackling Division in Mitrovica", *ICG Balkan Report No 131*, 3 June 2002, p.i

¹⁹ Denisa Kostovicova, "European Zones of Human Security: A Proposal for the European Union", *Paper prepared for The Study Group on Human Security*, Centre for the Study of Global Governance (2007), p.4

²⁰ Rastislav Vrbensky, "Can development prevent conflict? Integrated area-based development in the Western Balkans –theory, practice and policy recommendations", *Working Paper WP02 / 2008*, Centre for the Study of Global Governance (LSE), p.5

the UN peace mission in the entire country.²¹ Subsequently, the best way out is implementing the decentralization process fully and unconditionally as foreseen by the Ahtisaari Proposal all over Kosovo, including the new municipality of Mitrovica North.²² Any attempt to bypass the implementation of the decentralisation project in the northern part of Kosovo and divide Mitrovica North, would jeopardise the idea of a multi-ethnic Kosovo and the civic identity of the Kosovo statehood; threaten the international subjectivity and territorial integrity of Kosovo, and thus potentially would cause a *domino effect* in other Balkan states.



²¹ ICG, Kosovo's Linchpin: Overcoming Division in Mitrovica, *ICG Balkan Report No 96*, Prishtina/Brussels, 31 May 2000, p.7

²² With regards to Mitrovica, three very important recommendations were made by a Kosovar think-tank KIPRED. KIPRED proposed a so-called "Ahtisaari plus" package, which consists of three stages.

The first stage is about rule of law, and includes deployment of EULEX in the north successfully, re-opening the Customs services at border crossings 1 and 31 in Mitrovica, and disbanding the parallel structures.

The second stage is about the implementation of decentralization, and includes creating a "trust fund" for 'infrastructural development and reconstruction amounting to €30 - €50 million for Mitrovica South, Mitrovica North and Zvecan municipalities

The third stage is about, among others, creating a "special investment area", in which companies would be exempted from paying municipal taxes and profit taxes at the central level.

Decentralisation: “too little, too late”

The Special Representative of the Secretary-General in Kosovo, Michael Steiner, made efforts to persuade Mitrovica's Serbs to participate in Kosovo elections and Kosovo institutions. In 2002, Steiner promised decentralisation to the Kosovo Serbs in return for their participation in Kosovo institutions. At the beginning, the Steiner plan did not include the Serbs living in southern part of Kosovo who actually outnumber the Serbs living in north. Two years later, in 2004, the UNMIK decentralisation plan for Kosovo was extended to include the south, as a result of March riots of 2004. Until 2005, there was no significant progress with respect to the implementation of the Steiner plan. The Steiner plan was a very comprehensive plan and included so called “standards before status”. The first standard was related to the functioning of democratic institutions. The UNMIK administration was aware that without Serb participation in the Kosovo elections, there would not be any fully democratic institutions established. However, Ana Devic, a sociologist from University of Glasgow, has argued that the policy “standards before status” showed the “inability of international community to determine the Kosovo status”. The vast majority of Kosovar Albanians were frustrated, and consequently the pessimism among Kosovar Albanians increased with respect to the final status of Kosovo. In March 2004, after three Kosovar Albanian children drowned in the River Ibar, the latent conflict reared again, taking hundreds of victims. “During the riots, 51,000 Albanians attacked both Serbs and the international community. The riots resulted in 19 deaths and the displacement of 4,000 Serbs, as well as the burning of 550 Serb homes and 27 Serbian Orthodox churches and monasteries”.²³ The Director of the Balkan Initiative at the Institute for Peace Daniel Server explained the March riots as follow:

On the one hand, the radical election victory in Serbia's December parliamentary elections, the formation of a nationalist government in Belgrade, and loud declarations in Serbia about the need to hold on to Kosovo raised Serb hopes as well as the specter among Kosovo's Albanians of a return to Serbian rule. On the other hand, cooperation of all the main Albanian political parties with the painstaking “Standards before Status” program of the United Nations left many Albanians impatient and created a large political space for those who advocate immediate, unconditional independence and are prepared to use violent means to get it, through ethnic cleansing of Serbs from Kosovo.²⁴

Beyond Devic's and Server's analysis, this article has outlined the key causes of the March riots and their tremendous negative impact with regard to promoting inter-ethnic cooperation and dialog in Kosovo:

²³ Shannon Kyla Burke, *Decentralisation and Human Security in Kosovo: Prospects of Local Government Reform for Promoting Democracy, Development, and Conflict Mitigation* (Master of Arts in Law and Diplomacy Thesis, 2005), available at <http://fletcher.tufts.edu>, p.18 (Accessed on 12 October 2009)

²⁴ Daniel Server, “Status with Standards”, available at <http://www.stabilitypact.org/specials/5years/serwer.pdf> (Accessed on 5 December 2009)

1. Belgrade policy with regards to the north of Mitrovica and the southern enclaves
2. UNMIK monarchic power and lack of democracy all over Kosovo
3. High unemployment rate among Kosovar Albanians
4. Failed privatization in Kosovo
5. Unpredictable political status of Kosovo
6. The UNMIK policy "standards before status"
7. The low rate of Kosovar Albanians in secondary and high education
8. Forcible return of Kosovar Albanians from western countries
9. The extension of Serbian parallel structures to the southern part of Kosovo
10. The proportional electoral system in Kosovo (with closed lists) which left a gap in communication between politicians and electorate

The March riots renewed the decentralisation policy for Kosovo. After the riots, the UN Security Council issued a statement calling for effective local government, and both UNMIK and PISG created a Joint Working Group on Local Government. The Working Group was composed by local and international experts, including the Council of Europe (CoE), and they created a document called the "Framework Document for the Reform of Local Government in Kosovo". In reaction to this Prishtina/Pristine Plan, Belgrade created its own plan.²⁵ While the Prishtina/Pristine Plan was based on functionality, the Belgrade plan for decentralisation was based exclusively on ethnicity. The Belgrade plan was in contradiction with Article 5 of the European Charter of Self-Government that required prior consultation before boundaries are changed, and at the same time, this plan asked for an autonomous region which is going to be a "completely separate system of governance and reduce the right of any central Kosovo government in the autonomous region to a minimum" with potentially disastrous consequences for the territorial integrity of Kosovo.²⁶ Lastly, with an undetermined Kosovo political status and the Belgrade obscurantist politics oriented toward Kosovo, no significant improvements were reached with regard to decentralisation in Kosovo.

Kai Eide, a Norwegian diplomat was appointed by UNSC to evaluate the implementation of the standards in Kosovo, and he concluded that the decentralisation process was not seriously addressed with implementation being "too little, too late". Eide's report proposes a meaningful devolution of power and enhanced competencies for newly established Serb municipalities, including police, justice, higher education, culture, and appointment of key officials and this, according to Eide, would facilitate the "absorption of parallel structures into legitimate entities". There are two very important aspects in Eide's report vis-à-vis decentralisation. First, Eide proposed a horizontal link between Kosovo Serb-majority municipalities, who would have "special ties to Belgrade, without giving Belgrade

²⁵ Shannon Kyla Burke, *Decentralisation and Human Security in Kosovo: Prospects of Local Government Reform for Promoting Democracy, Development, and Conflict Mitigation* (Master of Arts in Law and Diplomacy Thesis, 2005), available at, <http://fletcher.tufts.edu> (Accessed on 12 October 2009)

²⁶ International Crisis Group, *Kosovo: Toward Final Status*, 24 January 2005, p.17

any authority in such communities”, and, second, that this would not “weaken Pristina authority”, but increase confidence in the central institutions of Kosovo.²⁷ However, the so-called “special ties” with Belgrade and “horizontal link between Kosovo Serb-majority municipalities” are not clearly explained in the Eide report, and these may have unpredictably consequences on the ground with regards to partition of the northern part of Kosovo. However, Serbs do not propagate only the division of Mitrovica, because two thirds of them continue to live in the southern part of Kosovo. Serbian political leadership in Kosovo expressed their aim in an interview to the ICG: “We are not for a border at the Ibar, because we don’t even think about satisfying ourselves with so little land in the North of ‘eight class’ quality. We are asking for all enclaves to be strengthened, and this should be 50 per cent of Kosovo. Our motto is that however much autonomy Albanians get in relation to Belgrade, Serbs should get in relation to them”.²⁸

Serbs saw the decentralisation move as an exchange for Kosovo’s independence, Kosovar Albanians as a prize for getting their independence, Belgrade as a tool to recentralise administration for Kosovo Serbs under Serbia, UNMIK as an approach of conflict management, and Pristina authorities as a way to assert their control over Kosovo territory. However, there is no alternative to decentralisation but partition. Partition of Kosovo is a ‘lose-lose’ scenario for all stakeholders in Kosovo. Two-thirds of Serbs live in the enclaves in the south, and in case of partition they may be expelled by the Kosovar Albanians. Partition would jeopardise the international community efforts to institutionalise peace in Kosovo. Partition would also destroy the international project on multi-ethnicity in Kosovo and the coherent territorial unity of Kosovo. In the end, partition may have a domino effect in Serbia, the Republic of Macedonia, Bosnia and Herzegovina (especially Republica Srpska) and would threaten the regional stability of the Balkans. Therefore, partition as an alternative in Kosovo should be rejected by the international community.

Ahtisaari Proposal

The Ahtisaari Proposal, the result of 15 months of unsuccessful UN-sponsored negotiations between Serbia and Kosovo, is very much in line with the Kai Eide report. Kai Eide proposed decentralisation as a conflict resolution tool – as a way of state absorption of the Serbian parallel structures and, at the same time, creating new Serb majority municipalities that would have a “horizontal link” between themselves, and “special ties” with Belgrade. While in the Eide report this was not adequately explained, the Ahtisaari Proposal

²⁷ See, Kai Eide Report, “Letter dated 7 October 2005 from the Secretary-General addressed to the President of the Security Council: A Comprehensive Review of the Situation in Kosovo”, United Nations Security Council Document S/2005/635, available at <http://daccessdds.un.org/doc/UNDOC/GEN/N05/540/69/PDF/N0554069.pdf?OpenElement>, p.17

²⁸ International Crisis Group, “UNMIK’s Kosovo Albatross: Tackling Division in Mitrovica”, *ICG Balkan Report No 131*, 3 June 2002, p.9

clarified this issue in detail.²⁹ The Ahtisaari Proposal allows Kosovo to be an internationally-supervised state, but at the same time, the plan included the protection of the Serbian community, decentralisation of the country and a catalogue for the protection of minority rights.

Ahtisaari proposed a sustainable system of local self-government in Kosovo, which attempted to address the concerns of Kosovo Serbs.³⁰ With the Ahtisaari Proposal, the 5+1 newly Serb majority municipalities (Graçanicë/Graçanica, Ranillug/Ranilug, Partesh/Parteš, Mitrovicë/Mitrovica North, Klokot/Vrbovac and Novëbërd/Novo Brdo with its border extended) would have enhanced/asymmetrical competences for provisions of secondary health care, enhanced competences on cultural affairs, including Serbian religious heritage within their municipalities, and competence to appoint the Police Station Commanders, while Mitrovica North in addition would have competences on higher education.³¹ The so-called "special ties" between the Kosovo Serbs and the Serbian government, which Eide proposed three years before Ahtisaari Proposal, are provided in the Ahtisaari Proposal as well, especially with regards to education, agreements between Serb municipalities and Belgrade, cooperation with institutions of Serbia, and funding of Serb municipal activities by the Republic of Serbia.

While in Eide's report, the so-called "special ties" and horizontal link of Serb municipalities with Belgrade was unclear as to whether this would undermine Pristina's authority, in the Ahtisaari Proposal this is explained in detail. Ahtisaari foresees that agreements between Serb municipalities in Kosovo with Serbia should be in accordance with Kosovo law and be notified to Kosovo's Ministry of Local Government Administration, and if these agreements are in contradiction with Kosovo's legislation, they can be amended, reviewed, or rejected.³² A similar provision is provided with respect to the funding of Serb-majority municipalities by the Republic of Serbia. The financial assistance given by Serbia to the Serbian-majority municipalities should be transparent, and be limited "to the exercise of a municipality's responsibilities in the areas of its own competencies" and that Serb majority municipalities may receive this assistance only through accounts certified by the Central Banking Authority in Kosovo. The same is applicable to education. Mitrovica North would have their Serbian language University, which would be an autonomous institution of higher

²⁹ Martti Ahtisaari, "Comprehensive Proposal for the Kosovo Status Settlement", *UN doc S/2007/168* (26 March 2007), Annex III. In the Article 12.4, Annex III, Ahtisaari has foreseen: "Kosovo shall engage in consultations with a non-majority Community where that Community makes up at least 75% of the population of a concentrated settlement with a minimum total population of 5000 inhabitants, with a view to establishing other new municipalities".

³⁰ Martti Ahtisaari, "Comprehensive Proposal for the Kosovo Status Settlement", *UN doc S/2007/168* (26 March 2007), Annex III

³¹ Martti Ahtisaari, "Comprehensive Proposal for the Kosovo Status Settlement", *UN doc S/2007/168* (26 March 2007), Annex III, Article 4

³² Martti Ahtisaari, "Comprehensive Proposal for the Kosovo Status Settlement", *UN doc S/2007/168* (26 March 2007), Annex III, Article 10.4

education, and other Serb majority municipalities would have competences on borrowing the text books and curricula developed by the Republic of Serbia, but the Ministry of Science, Education and Technology of the Republic of Kosovo needs to be notified of these curricula.³³

As seen above, the Kosovo Serbs realize a significant autonomy within their newly established municipalities through the Ahtisaari Proposal, which has been described by Lijphart in the aforementioned model of territorial power sharing. However, one of the biggest obstacles in implementing decentralisation in Kosovo is the level of acceptance of the plan by the Serbian community in Kosovo.³⁴ Serbs are not familiar with and lack knowledge of the Ahtisaari Proposal.³⁵ Kosovo Serbs are suspicious, assuming that by accepting the Ahtisaari Proposal they would be accepting Kosovo's independence, lose Belgrade's support and thereby not included in the decentralization plan. On the other hand, decentralisation is been received with suspicion by some Kosovar Albanians as well. "Levizja Vetevendosja" (Self-Determination Movement), a Kosovar Albanian protest movement, raised suspicion and warned that without dismantling parallel structures in Kosovo, decentralisation would deepen the internal division of Kosovo along ethnic lines. "Levizja Vetevendosje" argues that the principle of subsidiarity was not employed in the process of decentralisation. For instance, they organised a petition against decentralisation in Pasiak, a village that, according to the Ahtisaari Proposal, is going to be detached from Gjilan municipality and attached to the newly enlarged Serbian-majority municipality of Noveberde. In this case, the spirit of the European Charter of Local Self-Government was arguably violated; the principles of subsidiarity and consultation with citizens before the territorial boundaries are changed. The Pasiak village is two kilometers away from Gjilan municipality and 30 kilometers away from the newly enlarged Serb-majority municipality of Noveberde. With the Ahtisaari Proposal, Pasiak village would be integrated into Noveberde, in which the principle of "decision-making closer to the citizens" is apparently violated. In the Pasiak case power has not been devolved but

³³ Martti Ahtisaari, "Comprehensive Proposal for the Kosovo Status Settlement", *UN doc S/2007/168* (26 March 2007), Annex III, Article 7.1.1

³⁴ For a detailed comprehensive view on decentralization in Kosovo, see Robert D. Ebel and Gábor Péteri ed., *The Kosovo Decentralisation: Briefing Book*, (Kosovo Foundation for Open Society & Local Government and Public Service Reform Initiative, Open Society Institute–Budapest) Prishtina/Budapest, 2007; Tanja Tammine, "Human Security in Post-status Kosovo: A Shared European Responsibility", *CMC Finland Civilian Crisis Management Studies*, Vol.1, 2008; KIPRED, "Kosovo at Cross-road", *Policy Brief Series, POLICY BRIEF #14*, July 2009; KLGI, "Implementing Decentralisation in Kosovo: One Year On", Prishtina, 13 June 2009, p.6; International Crisis Group, "Serbs Integration in Kosovo", *ICG Report No. 200*, May 2009, p. 23; See the daily newspapers in Kosovo, *Koha Ditore* and *Gazeta Express*, 24 April 2009

³⁵ The European Center for Minority Issues in Kosovo on 10 September 2009 organized a conference on 'Decentralization and Civil Society Involvement' and identified the key challenges of this process: 'A lack of information on the decentralisation process in the Serb community; a lack of trust between communities; a lack of capacity of the communities in the new municipalities; the negative position of Belgrade towards the decentralisation process'. See at, <http://www.ecmikosovo.org/fileadmin/ecmikosovo.tpl/pdf/09InformationBulletinDecentralisationCivilSocietyInvolvement.pdf>

the municipality services would be 30 kilometers away. On the other hand, Article 5 of the European Charter of Local Self-Government that provides for prior consultation before the boundaries are changed is violated as well, as long as the citizens of Pasiak are not consulted before their village boundaries were changed.

| Kosovo Serbs | Political claim | Geographic Regions | Tendency |
|---------------------------|--|---------------------------|------------------|
| Serbs in North (1) | Boycotting Kosovo institutions and supporting Belgrade policy with regards to Kosovo | Mitrovica | Separation |
| Serbs in South (2) | Accepting and participating in Kosovo Institutions, but denying Kosovo independence | Prishtina/Pristina | Integration |
| Serbs in East (3) | Boycotting Kosovo institutions and opposing Belgrade policy with regard to Kosovo | Gjilan/Gnjilane | Semi-integration |

Last, but not least, as we see in the table above, there is no unique unified tendency or political position among the Serbs in Kosovo, and therefore the area-based development approach which is employed in the implementation of the decentralisation process should be taken into consideration seriously. In this regard, civil society can play a tremendous role in empowering, identifying, and articulating the problems of the people affected by this process.

Civil Society and Decentralisation of Power

Robert Putnam has argued that a vibrant civil society is essential for establishing an inclusive, harmonious and peaceful society.³⁶ In the *Conditions of Liberty: Civil Society and Its Rivals*, Ernest Gellner gives a very clear definition of civil society:

*Civil Society is that set of diverse non-governmental institutions which is strong enough to counterbalance the state and, while not preventing the state from fulfilling its role of keeper of the peace and arbitrator between major interests, can nevertheless prevent it from dominating and atomizing the rest of society.*³⁷

From 1999 to February 2008, Kosovo was an internationally-administered territory based on UNSC Resolution 1244, under which the United Nations Interim Administration Mission in Kosovo had a mandate to: (a) immediately stop the violence and repression in

³⁶ See more, Robert Putnam, *Making Democracy Work: Civic Traditions in Modern Italy*, (Princeton: Princeton University Press, 1992)

³⁷ Ernest Gellner, *Conditions of Liberty: Civil Society and its Rivals*, (Penguin 1996), p.5

Kosovo; facilitate the withdrawal of Serbian military, police and paramilitary forces from Kosovo; (b) deploy international civil and security presence in Kosovo; (c) establish an interim administration in Kosovo; (d) ensure safe and free return of all refugees; and (e) establish an interim political framework agreement providing substantial self-government for Kosovo. Therefore, UNMIK was the supreme authority, with "monarchic" power over the entire territory of Kosovo³⁸ and the power of civil society remained very limited³⁹. The then established provisional institutions of Kosovo were fragile, heavily dependent and had no real power over political processes in Kosovo. As Roberto Belloni has argued "political power is not simply in the hands of local elites but has become even more alien and inaccessible, removed from those local officials whose accountability is increasingly directed upward (towards the international community) rather than downward (toward civil society)".⁴⁰

As political power was simply not possessed by the local elites and the international administration was not accountable before the local population, civil society in Kosovo could not exercise its typical and appropriate role of contributing to the peace process either by promoting publicised truth and reconciliation like in South Africa⁴¹ or "(1) addressing ethnic divides and public opinion with education and awareness-raising programmes as well as cross-ethnic dialog, (2) addressing *politics* with popular mobilisation, advocacy work, and informal diplomacy, and (3) addressing economic issues through reconstruction and development".⁴²

Though Kosovo's institutions are still under international supervision and are not completely independent, the local elites, who are in charge of implementing the Ahtisaari Proposal and decentralisation of power all over Kosovo, wield an incrementally increased power and now they must be held responsible for establishing an open and democratic society. Civil society in Kosovo should be empowered to play the "middle ground" role between Kosovo state authorities and the Serbian community affected by the decentralisation process.

Civil Society in Kosovo has the opportunity to contribute tremendously to preventing the fragmentation and physical separation of Kosovo society; basically diminishing the bipolarity and ethnic fragility between Albanians and Serbs. Moreover it will countervail and

³⁸ Resolution 1244 (1999), Adopted by the UN Security Council at its 4011th meeting, on 10 June 1999, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N99/172/89/PDF/N9917289.pdf?OpenElement>

³⁹ More about civil society in Kosovo, UNDP, "Human Development Report: Civil Society & Development", Kosovo 2008; KIPRED, "A Changing Society, A Changing Civil Society: Kosovo's NGO Sector After the War", Prishtina, June 2005

⁴⁰ Roberto Belloni, "Civil Society and Peace Building in Bosnia", *Journal of Peace Research*, Vol.38 No.2, 2001, p.172

⁴¹ Direnç Kanol, "Civil Society's Role in Peace-Building: Relevance of the Cypriot Case", *Journal on Ethnopolitics and Minority Issues in Europe*, Vol.9 No.1, 2010, pp.26-45

⁴² Camilla Orjuela, "Building Peace in Sri Lanka - a Role for Civil Society?", *Journal of Peace Research*, Vol.40 No.2, 2003, p.209

observe the Kosovo state institutions whenever they threaten to setback democracy and whenever they violate the rule of law by taking arbitrary decisions. Since Kosovo's declaration of independence was perceived by Kosovo Serbs as an Albanian project, and the decentralisation of Kosovo's power through establishing new Serb municipalities is perceived by Kosovo Albanians as a purely Serb project, between the two there is a tendency of oversimplification that has to be addressed properly by Kosovo civil society. A vibrant civil society as a set of institutions might bridge the cooperation between newly established Serb municipalities and Kosovo central institutions, and be a guarantee of a trust, and cooperation between rival ethnic groups in Kosovo: Kosovar Albanians and Kosovo Serbs. At the same time civil society networks should be strengthened to limit the power of the state on the one hand and prevent fragmenting and isolation of the Serbian community in Kosovo, through the establishment of new Serb-majority municipalities. Lastly, civil society should work to change the perceptions of the communities living in Kosovo; that Kosovo statehood is an instrument of the majority community (Albanians), as well as change the widespread perspective among communities that the state of Kosovo is a threat to their ethnic and cultural identities.

Conclusions

The decentralisation process in Kosovo is the best pathway to integration for the Serbian community in Kosovo. This guarantees the implementation of the Ahtisaari Proposal and the commitment of the international community to maintaining the civic nature of the Kosovo state. Though the establishment of the new Serb-majority municipalities in the southern and eastern part of Kosovo (Graçanica/Graçanica, Ranillug/Ranilug, Partesh/Parteš, Novëbërd/Novo Brdo and Kllokot/Vrbovac) was presented as a positive example, the lack of implementation of decentralisation in Mitrovica North may jeopardize the stability of the region and long-lasting peace in the Balkans. The lack of full implementation of the Ahtisaari Proposal gives an incentive to ethno-radical tendencies among both Kosovar Albanians and Kosovar Serbs. As the Ahtisaari Proposal preserves territorial integrity on the one hand and maintains autonomy for the local Serbs on the other, the lack of implementation of the Ahtisaari Proposal in Mitrovica North threatens both the sovereignty and territorial integrity of Kosovo in the north as well as the autonomy of the newly Serb-majority municipalities in the south and effects the daily life and integration of two-thirds of the Serbs living in the southern part of Kosovo.

However, as the region north of Mitrovica has been controlled for a long time not only by the Serbian parallel structures, but also by smugglers, drug dealers and gang leaders, the tendency of the international community and the Kosovo government to extend their authority in this part by military means might jeopardize not only the local population but the territorial integrity of Kosovo. Therefore, EULEX through a comprehensive plan should demarcate and protect the local population from the gang leaders, and begin to prosecute

the latter while offering social justice and economic opportunities to the former. Rather than focusing only at the institutional level, they should be focused at the societal level as well. The integration of the northern part of Kosovo should not be a mechanical, speedy and provocative process; civil society has a very important role to play in this process. The integration of the northern part of Kosovo into the political structures of Kosovo should be seen within a European integration perspective of Balkans. This means that Serbia incrementally should not hinder the decentralisation process as this might affect its European perspective. If Serbia were to recognize Kosovo's independence, this would act as a strong incentive towards sustainable peace in the region and perhaps the realisation of the European perspective in the Balkans.

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