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主 编 赵秉志  
副 主 编 卢建平 王秀梅  
主编助理 周振杰 赵书鸿 吴沈括



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# Building Peace and Justice in Countries in Transition – why the United Nations fail

*Thomas Feltes*

## **1. Policing Countries in Transition**

Police reform in countries in transition is closely connected to peacekeeping and peacebuilding. This paper discusses successes and failures of peacebuilding, and the role of police therein. It is essential to know whether strategies, structures, and methods of military and police interventions are working, and we need to know whether the reform of administration, police and judiciary in the aftermath of an international intervention is sustainable. As peace and justice go together, the role of police reform in the context of the reform of the judiciary is discussed here too. There is a blatant clash between mainstream international understanding of what a 'just society' is, or what a society functioning under the rule of law is or should be, on the one hand, and, on the other hand, the local understanding thereof by members of a society who have survived different kinds of oppression and war for years or centuries, often by building up their own informal structures and their own rules of cohabitation. Experts who come in on behalf of the UN, the Organization for Security and Cooperation in Europe (OSCE), EU or NGOs very often are missing their targets. One reason for the failure is that all agencies were not properly prepared for their respective missions, resulting in disadvantages for the local population and presenting them with examples that ought not to be emulated. Those who tackled the organization of the administration, as well as the organization of the reform of public institutions and the judiciary, very often lack basic social and ethnographic knowledge of the country and of the society. This resulted, partly, in practising "peacekeeping as war tourism" (Sion, 2008: 202) and spending more money on international experts and administration than on supporting the country. Even years after the UN took responsibility for a country, the legal system is very often still not working properly and the country is in a disastrous social and economic situation. Huge, ineffective reconstruction programs and a body of neo-colonial administrators have become the focus of local resentment. 50 or more separate national police units, under the UN umbrella, practice their own brand of law and order, while simultaneously preaching the gospel of universal standards. Police officers or civilian workers, arriving with the very best intentions, often get frustrated by the burden of the UN or OSCE administration. Others came as 'mission addicts', spending more time networking and organizing their next mission than carrying out their official, well paid function. A lack of cooperation both within and among all these international organizations and NGOs resulted not only in mismanagement, but in structures that doggedly focused on keeping their own organization running, while ignoring the work of others. To reform public institutions demands more than simply flying in these 'interna-

tionals' and imposing new laws or regulations. Reforming security in a country in transition also requires a strong theoretical background. Using Shearing and Wood's idea of "nodal security" (Shearing & Wood, 2003b), this paper discusses the possibilities of conceptualizing and promoting security as a local public good. The function of 'internationals' is to help establish the necessary "nodes" and networks.

## 2. Police and Human Rights

Considering that human rights very often are not respected under the supervision of UN and others (Feltes 2008 and 2009), how can we expect to change situations, which are called "undemocratic" and how can violations of basic human rights be punished, if the peacekeeping troops themselves are violating these rights? Police reform in countries in transition is closely connected to what is called 'peace - keeping' or 'peacebuilding'. William Smith (2007) has shown - relying on Jürgen Habermas's reflections on Kosovo and Iraq - that numerous cosmopolitan theories of humanitarian military intervention have emerged in the past decade. These theories anticipate a more cosmopolitan future, where interventions will be authorized by new cosmopolitan institutions and carried out by reformed cosmopolitan military and police. But until we have such 'cosmopolitan regimes', capable of carrying out militarized 'police actions' (Habermas, 2003), we need to know whether the existing strategies, structures, and methods of military and police activities, in the aftermath of an international intervention, are in fact working. As long as we do not have functioning supranational institutions, capable of enforcing human rights, or multi-layered institutions and networks of global governance, we are somewhere between international and cosmopolitan law, and it could be possible that neither law can be applied and no jurisdiction is responsible. And as long as we have to trust in military interventions and military force to advance humanitarian goals, we need to discuss the role of police forces in this context. To decide whether an intervention is or might be justified for whatever *de iure* or *de facto* reason, it is necessary to assess whether the military intervention was successful in terms of ending what the original reason for the intervention (e. g. , ethnic cleansing, genocide, crimes against or violation of humanities etc. ), and the after-care of the military intervention - the establishment of the rule of law, of a functioning police, judiciary, and administration - was organized in such a way that the potential success of the initial intervention will be secured, stabilized and sustainable in the longer run. To answer these questions, an evaluation of both the intervention and the after-care is necessary. But what are the criteria for such an evaluation? When do we judge an intervention 'successful', and when the after-care?

## 3. Enlightenment vs. Nationalism?

Before trying to explain why most of the peacekeeping missions have failed, it is necessary to outline what might be making it so difficult. To do so, the example of the Balkans, and especially Kosovo is taken. Some say that the difference between Serbia and western states, which caused so many problems during and after the war on the Balkans, lies in the former's denial of the Enlightenment. Serbian politicians - as the argument goes - aim at the collective rights of their nation, whilst the western understanding focuses on the individual rights of people. This is the supposed reason why human rights, as individual rights, are not accepted, and why the central consideration for Serbs remains the nation or the peoples. Consequently, Serbs reject the western understanding of the concept of the rule of law, as they reject the idea of the individualisation of guilt, for instance in the context of war crimes. In the eyes of the Serbs, war criminals are not guilty because they are part of the nation (Volkkörper) and acted in the people's interest. For this reason they are protected and admired as heroes, rather than condemned as war criminals (Ivanji, 2008). Other nations, defined as enemies, may be punished to protect one's own nation. Jürgen Habermas commented on the war in Kosovo as follows: The war "touches upon a fundamental question which is hotly disputed in political science

as well as in philosophy. Constitutional democracies have achieved the great civilizational task of the legal restriction of political force, based on the recognition of the sovereignty of subjects in international law, while a 'world civil society' would definitely question this independence of nation states. Does the universalism of the enlightenment here collide with the stubbornness of political force, which is for ever entangled with the drive for collective self-affirmation of a particular community? This is the realist sting in the flesh of human rights policies" (Habermas, 1999/2000). If we look closer at discussions in Kosovo and the sentiment of the people there, we find astonishing parallels: For Kosovars, the nation and the country are also very important aspects and considerations. They express the desire for and the sentiment that, after centuries of oppression, they ought to have a country of their own; a unique one for their nation. After the declaration of independence, posters put up in Prishtina showed a man wearing the traditional white hat (the plis) with the caption "Bac, u kry", roughly translated as "Uncle, it's done". Children and babies got T-Shirts bearing the slogan "I have my own state now".

#### 4. International Conflicts and Interventions by Internationals

Although the number of civil wars has declined since the early 1990s, the number of UN operations has grown. We do have a less violent world, but the necessity to deal with these conflicts<sup>1</sup> is still obvious, and the role of the police in this context is growing. The overall number of uniformed personnel in UN peace-keeping operations is about 104,000 in 2015<sup>[1]</sup>, but that of the police is about 12,400 only. Upon its creation in October 2000, the UN Police Division supported the police components of peace operations primarily by establishing systems and procedures for generating the authorized numbers of police officers for service in these missions.

As of 2015, the ten leading countries for contributions (troops and police) are as follows:

1. Bangladesh	9400
2. India	8139
3. Pakistan	7936
4. Ethiopia	7807
5. Rwanda	5698
6. Nepal	5089
7. Ghana	2987
8. Nigeria	2930
9. Senegal	2835
10. Egypt	2613

#### 5. What is 'Peacebuilding'? Who is involved in it?

This paper uses the term 'peacebuilding' instead of 'peacekeeping' to make clear that there is usually no peace to be kept. But peacebuilding itself remains (like peacekeeping) conceptually weak, and very often there seems to be a hidden or unofficial, parallel curriculum for peacekeeping missions. The idea of ensuring one's own country's security lurks behind not only the USA's interventions in Iraq and Afghanistan, but also plays a role in the Balkans and in countries like Georgia. Even the definition - what peace is or should be - is unclear. Is it the absence of 'war'? But, then, what is 'war'? Is it the absence of violence? If so, what kind of violence? Everybody agrees that a civil society is a condition for a peaceful society. But do we

[1] <http://www.un.org/en/peacekeeping/resources/statistics/factsheet.shtml>.

first ask for 'democracy', and then for 'freedom'? The problem created by "standards before status" in Kosovo illustrate the milieu relevant to this question. The international community demanded given democratic standards first - like the right of displaced persons and refugees to return, and freedom of movement for all inhabitants - and promised "status" (independence) afterwards. The consequence was that Kosovo parties and politicians 'played' democracy, cleverly cheating the international organizations, in much the same way as they had done up to 1999 as a general and justified strategy to overcome the Serbian occupation. There are obvious problems with coordination and cooperation between those who are involved in peacebuilding, but national and individual interests, ethical and especially political interests, also present problems. What kind of police do we need for such peacebuilding activities? If we agree on the necessity of an international police force for the implementation of the rule of law, of a just society, and of a functioning law system, how then should this police force look like? We have different options, each with advantages and disadvantages. Police forces like the gendarmerie in Italy, France or Spain (a more militaristic police) might be one option; police forces practising 'community policing' are another. Do we want national, transnational or international forces, or a Joint European Early Intervention Team? In 2006, King and Mason published their book "Peace at any Price. How the World Failed in Kosovo". They provided a sound analysis of how and why the international community failed in establishing a sustainable state. King and Mason's book and other reports and articles have had little effect on the activities of the international community and their organizations. Violence clashes between Albanians and Serbs remained even until 2015, when riot police have clashed with thousands of anti-government protesters in Kosovo's capital Pristina. The protesters demanded a dismissal of a Serb minister and a government takeover of a mine claimed by Serbia. At the same time, demonstrators have clashed with police at a bridge between the local Albanian and Serb communities in the northern city of Mitrovica. Police used tear gas against hundreds of ethnic Albanian protesters, who threw rocks and set police cars alight.

## 6. The "Protectorate of Kosovo" - an Example

Kosovo has been governed by the UN since 1999. The country was run by international administrators (some of whom have proved to be corrupt), financed by aid, the remissions of exiles, and crime. To quote an experienced and disillusioned aid worker: "When I came to Kosovo in 2000, many international officials were trying as best they could to push economic development projects. Now everybody seems to think Kosovo is incapable of producing anything and can only live on international aid, injections of money from Albanian exiles in Europe and the proceeds of organised crime" (Déréns 2003). The situation in Kosovo was described as "elephants in front of a water hole" by the German journal, Der Spiegel, in April 2008; international organizations and NGOs and their representatives queuing to get their share of the international donor money. Whilst the medium and long term costs of the war and the aftermath are unclear, it is estimated that between 1999 and 2009 the international community has spent about 33 billion Euro on their activities in Kosovo. This amounts to 1.750 Euro per inhabitant per year. This notwithstanding, the per capita GDP is lower than that of North Korea or Papua - New Guinea, and the 'black' or 'shadow' economy contributes 30 to 40% (Mayr, 2008). Wages in Kosovo averaged 278.48 EUR from 2005 until 2014, reaching an all-time high of 443 EUR in April of 2014 and a record low of 168 EUR in November of 2006 [2]. Kosovo's citizens are the poorest in Europe with a per capita GDP (PPP) of \$7,600 in 2013. An unemployment rate of 45% encourages emigration and fuels a significant informal, unreported economy. Remittances from the

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[ 2 ] <http://www.tradingeconomics.com/kosovo/wages>.

diaspora – located mainly in Germany, Switzerland, and the Nordic countries – are estimated to account for about 15% of GDP, and donor – financed activities and aid for approximately 10%. All this resulted in a huge drain of Kosovars coming via Serbia and Hungary to Austria and Germany in the beginning of 2015. Within the first weeks in 2015, 18.000 people came to Germany to claim asylum – although in 99% of all cases, asylum for Kosovars is not granted. A study by the independent Institute for European Politics in Berlin for the German Armed Forces (Jopp and Sandawi, 2007) summarizes: “The international community as well as their representatives in Kosovo carry decisive joint responsibility for the alarming spread of mafia structures in Kosovo. They have damaged the credibility of international institutions by the open support of political – criminal roleplayers in a variety of ways”. The UN mission is either called “paper tiger”, “bureaucratic monster” or “colonial management”, while the international staff has the reputation to pursue either adventurism or individual, unjustified enrichment. Ninety percent of the internationals come to Kosovo for the money, says a UN police officer from the Organized Crime Unit in Kosovo, quoted by Mayr (2008). Corruption scandals, some of them at the highest level, have damaged the reputation of the international administration. The rise in organised crime in Kosova signals a serious failure of the UN administration. Now more than ever Kosovo is at the heart of the European trafficking in drugs and human beings. The Balkans distribute most of Europe’s heroin, facilitate illegal migration and are responsible for nearly 30 per cent of women victims of the sex trade worldwide. (International Crisis Group, 2007).

## 7. Failure and Success – Obvious and not – obvious Reasons

The UN international protectorate has achieved remarkably little. No progress has been made towards building a multi – ethnic society. The legal system is still not working properly. Some say it has broken down completely. The province is in a disastrous social and economic situation. No indication is given why Kosovo is not yet equipped for full self – governance. The international community went from being all – powerful to being ignored, impotent and under attack. Three misconceived explanations have been offered to account for this fall from grace. One is that we shouldn’t have intervened in the first place. The second is that all the shortcomings of the protectorate can be chalked up to the incompetence or cupidity of international officials. The third is that the problems do not exist. None of these views withstand serious scrutiny. The challenge for Kosovo was and still is (as in many other countries in transition) to avoid the creation of a state run by informal governing structures. Too often, state power rests in the hands of party bosses whose palms are greased by a network of businesses. This leads to weak formal governing structures where government positions are seen as an opportunity to earn money and to support family members with jobs rather than as a responsibility for the benefit of the country and the people. King and Mason (2006: 80) quote from an interview with Blanca Antonini, Deputy Director of the UN Department of Political Affairs and 1999 – 2001 Deputy Head of Department Local Administration UNMIK, and Chief of Staff: “The international community – and UNMIK in particular – did not have as a priority the question of culture, and made little to no effort to integrate the experience that both major communities in Kosovo had accumulated prior to the international intervention. By failing to do this, it side – lines as irrelevant an issue of enormous sensitivity in the context of a conflict in which the symbols of cultural identity were often more powerful than weapons”. Frustration and nationalist dreams produce an explosive cocktail, which will have to be dealt with by the international community. Usually, the local economy is too weak to support sustainable development and is still dependant on international aid and the remissions of exiles. Failed states tend to have failed economies, but failed economies can be the product of either national or international bureaucratic incompetence or of bombs and embargoes. It also can be the result of the implementation of recipes compiled elsewhere. Whatever the reason might be, huge, ineffective reconstruction programs, and a body of neo – colonial administrators become the

focus of local resentment.

## 8. Police Training

Usually, international experts are responsible for the training of police. The trainers usually came in for a few days or weeks at a time. There is nothing constant in terms of personnel. The lack of cooperation between the international organizations and between the 'internationals' themselves is another important aspect why the 'internationals' fail. The competition and the resulting lack of co-ordination among international roleplayers and institutions are serious obstacles to the implementation of 'local ownership' and sustainable results. Arrangements for coordination of actions are often not observed, project ideas are 'stolen' from others, and the player with the largest budget or the best connections is awarded the project. This "beauty contest" among the various organizations and donors and the associated hype of "fashionable topics" (community policing being one) usually led to duplication, but hardly to success (Hett, 2006: xx).

## 9. Police Culture

The reasons for this lack of cooperation have been researched on a more general level by Ben - Ari & Elron (2001). Their research shows that soldiers and police officers rely on their own local institutional culture, which they cannot afford to abandon, since they will be returning to their home countries and to their own professional cultures once their mission expires. As a consequence, they avoid overly intensive contacts with the locals, and some - times they even are advised to do so. As a consequence, they have difficulty understanding the local culture, correctly interpreting the actions or non - actions of locals or establishing the reason why a person is behaving in a given way. Very often they misinterpret actions or they just do not 'get' the proper meaning of a communication. This is not only true for contact and communication with locals, but also for communication within the international forces. Ben - Ari & Elron (2001: 291) quote a Canadian soldier, seconded to Bosnia: "If a Greek or Spanish or Chinese person says, "You are my friend," I dont know what he means. I dont know if it is his culture, I dont know if they really like me or that their culture tells them to do so even if they dont like me. It is still nice, but I am not sure. Same with the Chinese or Indians. If an Australian says that I am his friend, then it is done". Ben - Ari & Elron (2001:291) comment as follows: "Notice that the very terms these people use "Greek," "Pole", or "French" assume that the most important distinctions between soldiers of different contingents are national - cultural ones". Sion (2008) examines the peacekeepers' lack of curiosity about the locals, their feelings of helplessness and frustration, and the cultural shock and prejudice amongst internationals. Security always means separation (Rubinstein, 1998; Wohlgethan, 2008).

## 10. Non - Skiing Nations

The military authorities discourage peacekeepers from having contact with locals in order to prevent cultural misunderstandings and problems. Sion (2008) quotes a Dutch officer: "We dont need a drunken soldier beating a local over a woman", showing that the problem might not be cultural misunderstandings alone. The construction of camps as environmental bubbles discourage soldiers from venturing outside, even if they are allowed to do so. Sion (2008: 210), quotes a platoon commander from Bosnia, referring to locals: "I dont trust (them). I dont trust their pizza and I dont trust the interpreters. They say what they think you would like to hear. I completely dont trust the people outside the camp. It is the mentality of the people here. They are nice to you and then when you leave they claim that you said certain things or they want their demands met". Very often the necessary qualification of seconded police officers, especially from

so-called 'non-skiing nations' (UN slang for third-world countries like India, Pakistan, Kyrgyzstan or African states) is doubted. Higher ranking positions are negotiated between participating states, and at times the qualification of an applicant is not the first criterion for selection. If the mission is a "non-ranking mission", the rank of an officer is of less to no importance for filling a position. It is thus possible that a higher ranking officer has to work under a lower ranking colleague, and a lower ranking officer might supervise a higher ranking officer from another country. Due to the huge differences between the wages earned at home and as a member of the UN Police force, there is also an (illegal) market for such positions in some of the home countries, and very often officers pay a lot of money to be selected as a member of the UN Police force.

## 11. Accountability

Another fact highlights the special role of UN personnel: Citizens cannot sue UN personnel and hold them accountable to a local court. UN personnel have (like diplomats) a special status of immunity and may be subject to internal disciplinary proceedings, but cannot be prosecuted or sentenced by a local court. Often a UN administrator is simply sent home if anything occurs, which, had it happened at home, might have resulted in a legal case. Claims for compensation for damages have to be brought to court in the respective home country of the UN officer. This can be Bangladesh, Nepal, Kyrgyzstan, or Zimbabwe (see Table 1 above) – countries, where the rule of law is a chimera. According to Zaremba (2007) the attitude of UN – Mission in Kosovo can be crassly summarised as "Take your human rights and shove them up your ass! We do as we like here". The consequences are obvious: "The Kosovans were not particularly law-abiding in 1999, but they did not become any nicer by being treated like Hottentots for seven years" (Zaremba, 2007: part 3). Zaremba (2007) does, however, provide a few positive examples. Swedish KFOR – Troops use blue socks to cover their shoes when entering the private apartments of Muslims in Kosovo. They apologize if damages are caused, e. g. during raids, photograph the damage, and pay compensation immediately thereafter at the Swedish camp.

## 12. Peacekeeping as tourism?

Sion (2008) analysed the tension between military combat socialization and peacekeeping missions through ethnographic fieldwork with Dutch peacekeepers in Bosnia and Kosovo in 1999 – 2000. She showed that their camps function as expatriate communities, playing a similar role to that of tourist establishments. Sion likens peacekeepers to modern tourist groups who are either unwilling or incapable of interacting with the host environment. This 'war tourism' is also called 'dark tourism' because it provides for a tourist-type of experience of death or distress of both the distant and recent past (Lennon & Foley, 2000). While military missions operate in a variety of 'environment bubbles', the police work at least in some countries (not in all) differently. The members of the UN police forces in Kosovo e. g. had to and still have to find their own private apartments, while the military live in their own camps. Using a model of the evolution of local attitudes to tourists (euphoria, apathy, annoyance and antagonism), Sion (2008) shows that the Kosovars were full of euphoria for the internationals: they shook soldiers' hands, invited them to their houses, and wrote "Thank you, NATO" graffiti. But coming from a culture of environmental awareness, many soldiers (and police officers) were shocked by how dirty the host country was: "Kosovo is a beautiful country, but filthy. ... the rubbish just grows bigger around it". Their perception of the locals is of a lazy people who do not bother about their living conditions, and this is sometimes generalized as being a characteristic of Muslims. In a press interview, two peacekeepers who served in Srebrenica (Bosnia) during its fall said: "The Muslims looked like animals and sometimes were also treated as such, dirty and smelly" (Sion, 2008: 210).



### **13. Police Officers Understanding of what they are doing**

While the police officers work and operate differently from soldiers, in part they share their feelings. Whether this is a result of frequent frustrations with the international organization and leadership or attitudes bred at home still requires analysis. Not every police officer is prepared properly for such a mission. In Germany, it took a couple of years and some bad experiences before officers were given professional briefings before deployment and de – briefings afterwards. My experience with international police officers in Bosnia and in Kosovo over the last few years shows that not everybody has the same understanding of such a mission. As with the post – unification of Germany, the motives and reasons of those who “go east” are different; some do it simply for the money; others are eager to experience something new, or want to help establish new democratic structures in their host countries. But even some of those who went to Kosovo with very best intentions, got frustrated by the laziness and bureaucracy of the UN, OSCE and the other international organisations. Some complain about lack of support from their domestic institutions, resulting in problems coming home and when re – integrating into a professional environment that has in the interim changed – changed positions and expectations – usually without having considered the expectations of those who were far from home (Hett, 2006; Kühne, 2008). Others realize that being part of an international mission opens up new professional and personal horizons and possibilities. The latter are usually officers operating on a higher rank than they would be at home, and have greater freedom to decide on and to structure their own work – at least in some positions. Police officials who have ‘networked’ for some time within the international community will find ways and means of arranging things to suit themselves. Some become addicted to the strange and ever challenging environment and situation, which is so different from the fixed and settled environment at home. Once back home, they eagerly look forward to their next mission, and if their superiors or the ministry do not support their intentions, or their application for unpaid leave so that they can work directly for the OSCE or the UN without being seconded, they sometimes quit their domestic job and start a new career as an international police officer or consultant.

### **14. Peace and Justice**

As expressed by Guatemalan Nobel Peace Laureate, Rigoberta Menchú, “Peace without justice is only a symbolic peace”. The relationship between peace and justice seems almost axiomatic, but in reality this relationship is quite difficult to organize. Yet, restoring justice after conflict is as much a political imperative as a social necessity, and the criminological theories on restorative justice, developed over the past few years (Johnstone & van Ness, 2007; Walgrave, 2008), do not consider the special needs of countries in transition. Political leaders will not make concessions, negotiate peace or respect agreements unless their major political grievances have been addressed. The public will not trust the governing authorities and invest in peace unless the injustices they suffered during and prior to the conflict are redressed. The necessary starting point in seeking to restore justice after conflict is first to understand the kinds of injustice suffered by ordinary people during the conflict. It then becomes clear that injustice is not just a consequence of conflict, but is also a symptom and cause of conflict.

### **15. Advantages and Disadvantages of Local Legal Cultures**

In the case of Kosovo, it is important to know that, after 1989, the region’s partial independence within Yugoslavia was slowly but constantly being withdrawn by the Yugoslav government. The dual system that emerged in response, described above, resulted in a strong system of assistance and mutual support between

Albanian Kosovars, using the family and clan structures that had existed for centuries. They solved their conflicts and problems themselves and avoided the Yugoslav police. It is reported that informal mediation courts in Kosovo solved about 1 000 blood feuds between 1989 and 1999 ( Jones et al. , 2005; Wilson, 2006). To fully understand this, one must be aware that an ancient set of rules, the Kanun, or formally the Code of Lekë Dukagjini ( Ahmeti, 2008 ), which had been established by the 15th century Albanian feudal ruler, dictated the way people lived in this region for centuries. Renate Winter, an international judge serving on the Mitrovica District Court, and quoted in Beardsley (2001), said the following: “The Kanun is really the only law that has been consistently respected here from the beginning until now. ... The Kanun was basically created to stop the proliferation of unlawful killing. ... It is extremely clear and detailed when it comes to truces, mediation and the settlement of disputes. These elements should be incorporated into the new laws UNMIK is drafting with regard to civil, commercial and petty crime disputes”. The Kanun is a set of laws that had been in use until the 20th century mostly in northern Albania and Kosovo. These rules resurfaced after the Yugoslav government took away Kosovo’s semi – independence as an autonomous province of Yugoslavia in 1989 and people lost faith in the powerless local government and police. Some communities tried to revive the old traditions, but some aspects of the tradition had already been lost, leading to fears of misinterpretation. It is still not clear whether the use of the Kanun between 1989 and 1999 produced more violent conflicts ( due to blood feuds) or avoided them. I was told by some of the Kosovars that, during this period, there had been a few huge gatherings – of 100 and more participants – in the countryside to mediate conflicts between feuding families and to restore justice by means of communication in order to avoid further blood feuds.

## 16. Legal Imperialism

In 1999, after the intervention of the KFOR, UNMIK took over the public administration, police and judiciary. To establish the latter, UNMIK tried to establish prosecutor’s offices and a court system. But the problems were obvious: there were only a few elderly Albanian Kosova lawyers, trained under the old Yugoslav regime. Another problem that emerged was UNMIK’s decision that the law prior to 1999 had to be applicable. Kosova lawyers, judges and prosecutors refused to uphold the law that had been imposed by the Serbian oppressive majority. Nor did it change matters when UNMIK advised the judiciary that laws violating basic principles of humanitarian law may not be applied. The new judiciary steadfastly refused to use the Yugoslav laws. It took six months to find a compromise, which came when UNMIK and the judiciary agreed on the acceptability of the laws prior to 1989, which had been in force when Kosova was partly autonomous. Another problem was the cooperation between local and international members of the judiciary: Imagine an English or German international judge or prosecutor applying local law without knowing the language and without being able to read decisions of higher courts. They were totally dependent upon local lawyers and language assistants and had no way of controlling files or decisions taken by local representatives of the judiciary. It also did not help when international prosecutors and judges, appointed by UNMIK and under close political supervision, dismissed or delayed cases against known war criminals, or offenders involved in organised crime, to avoid political difficulties. They released suspects after they had been arrested and sentenced by local authorities. One can imagine what this did for the Kosovars’ sense of justice: those who demand that locals establish the rule of law as a necessity for a democratic state, do not obey basic rules themselves.

## 17. Security as a Public Good

The notion of security as a public good was developed at the end of the 1990s by Clifford Shearing and

others (Ayling & Shearing, 2008). According to Loader & Walker (2007: 7), "security is a valuable public good, a constitutive ingredient of the good society, and that the democratic state has a necessary and virtuous role to play in the production of this good". In weak or failed states, very often the government lacks the capacity to act as a security - enhancing political authority. In Kosovo, the overall security in terms of offences registered by the police, and the citizenry's feeling of security is not as bad as one would expect in a country where structures of organized crime are widespread. Whether this can be attributed to a strong and efficient UN Police is doubtful. Rather, Kosovo might be a good example of a society where informal structures and clan relationships are the basis for a kind of "social efficacy" so sought after and aimed for by criminologists as a means to prevent crime (St. Jean & Sampson, 2007). However, this may not last. With increasing poverty and a widening gap between rich and poor, the social networks are fast fading. Those unable to participate in the revival of the economy may look for other ways to get their 'just' share. For example: until recently, Kosovars working in foreign countries provided regular support for their families at home. This support is now gradually diminishing. Now that Kosovo is independent, erstwhile sentiments for an oppressed people is fading. Those who work in a foreign country now tend to keep their money for themselves so as to increase their own wealth. As the old social bindings and networks fade, and the role of the Kanun weakens, more capitalist, ego - centric and egoistic feelings will emerge, resulting in more crime. This increase in crime was one of the unintended, but unavoidable consequences of the opening and democratization of societies in nearly all of the former socialist countries, starting with the former GDR in 1989. These countries will follow the lead of their western counterparts in a world where neo - liberalism, and the "order of egoism" that it champions (Dunn, 2005: 168), enables those with the greatest supply of economic and social capital to access policing and security resources, resulting in its distribution in inverse relation to risk, and hence need (Loader & Walker, 2007). Bearing this in mind, one would have expected UNMIK to do the utmost to nurture practices of collective security shaped by inclusive, democratic politics rather than by fugitive market power or by unfettered actors of (un)civil society.

## 18. Just Society. A Chimera?

But UNMIK not only set a bad example to the locals by dismissing cases against known criminals for political reasons, but also did not invent much to build what might be called a 'just society'. If we agree with Loader and Walker's (2007) statement regarding security as public good, then UNMIK did nothing to establish the necessary structures: laws and regulations on how and where new buildings are to be erected are still outstanding, as are clear regulations in many other spheres. But it is not only the absence of certain laws that is lamentable; the enforcement of existing laws and regulations (such as traffic and parking regulations) is either non - existent or happenstance. As the different risks will increase over time in Kosovo, as has been the case in other countries, it will be important that citizens live together securely notwithstanding the risks and find social and political arrangements to nurture practices of collective security. Security needs civilizing, and the state must itself be civilized - made safe by and for democracy (Loader & Walker, 2007). On the other hand, security itself is civilizing. Individuals who live, objectively or subjectively, in a state of anxiety do not make good democratic citizens, and fear is the breeding ground, as well as the stock - in - trade of authoritarian, uncivil government (Neumann, 1957). Loader and Walker (2007: 9) argue that security is, in a sociological sense, a "thick" public good: "One whose production has irreducibly social dimensions, a good that helps to constitute the very idea of 'publicness'. Security . . . is simultaneously the producer and product of forms of trust and abstract solidarity between intimates and strangers that are prerequisite to democratic political communities". In countries in transition, the public police are not the only nor even the main roleplayers in the establishment of public and individual security, nor can they lay claim to a monopoly over

legitimate force inside their territory. There are alternative power centres contesting state authority, “shadow sovereigns” (Nordstrom, 2002) operating their own codes of behaviour and mechanisms of enforcement (Gambetta, 1993; Varese, 2001). It is obvious that such structures will also develop in due course in Kosovo (if they have not already developed), and that they will rely on the existing clan structures and the structures of organized crime.

### **19. Security as a Multinational Private Business**

Kosovo has also shown that security is a multinational business; security enterprises trading their wares across the globe (Johnston, 2006). Blackwater, Dyncorp and other private security enterprises from the United States have been involved if not in the war itself (as was proven to be the case in Iraq), then at least in the security activities thereafter. In 2008, all US police officers, as – signed to UNMIK and/or the EULEX mission are either employed by Blackwater, DynCorp or come from International Criminal Investigative Training Assistance Program (ICITAP). In Bosnia, DynCorp – deployed police were involved in arms trading and the sexual exploitation of women and children (Perito, 2004). But such activities are not just confined to the private firms. Hearings conducted by the U. S. House of Representatives in the fall of 2002 revealed that in Bosnia, Stabilization Force (SFOR) members were patronizing Bosnian brothels where trafficked women were kept and having sex with underage girls. There were also reports of International Police Task Force officers and SFOR soldiers actually ‘buying’ trafficked women and actively participating in the trafficking of women into prostitution by forging documents, recruiting, and selling women to brothel owners. Derek Chappell, the UN police spokesman in Kosovo reports that interviews with local prostitutes indicated that 70 to 80% of clients were locals. “While this may be true, the bulk of the profits are from peacekeepers, who have significantly larger amounts of money to spend than locals in a war – torn land” (Allred, 2006: 19).

### **20. Nation (re) Building**

As in Bosnia and East Timor, the UN has used an internationally recruited policing force as a catalyst in the “nation (re)building” activities of transitional administrations (Bellamy et al., 2004; Wilson, 2006). But despite superficial appearances and the investment of a huge amount of money, there have been manifold problems in the establishment of a real culture of respect for the rule of law. Such interventions always comprise cultural clashes, because the dozens or even hundreds of different cultures brought in by peacekeepers and influencing their views, estimations and habits, can never adapt easily to the new environment. This “clash of cultures” is exacerbated by cultural ‘misunderstandings’, poor cooperation and communication, bad preparation, and a questionable understanding of the rule of law by the implementers. Multiple sources of authority and accountability leave the locals in a situation of uncertainty, with confused, conflicting and shifting mandates.

### **21. Sustainability and “Local Ownership”**

The conduct of security policy in post – conflict situations is invariably state – centric, overly technical, and uses pre – conceived templates and ideas about the country. This means that the real needs of communities affected by conflict are unlikely to be met. It also compounds ordinary peoples’ mistrust of the relevant institutions. (European Security Review, 2006: 7) According to Johnston & Shearing (2003), the state in most of the western societies has become but one “node” among several now engaged in the governance of security. Whether as sponsor or provider (Bayley & Shearing, 2001), the state collaborates with, competes

against, or supports a range of security actors from the private sector or civil society. As pointed out by Shearing and Wood (2003a; 2003b) and Bayley (2001), "a democratic state has to regulate the provision of security in ways that respond to local needs, reflect local morality and take advantage of local knowledge" (Bayley, 2001; 212). On the one hand, most of the private security business in many countries in transition is already cantoned between the global players in this field. On the other hand, the so-called "community policing" projects have tried to include locals in security networks, but it is debatable whether this approach has been really successful. Loader (2006) offers a critique of prominent forms of what he calls "ambient policing" (community policing being one) and discusses how policing contributes to or under-mines citizen security in democratic societies. Without having evaluated at least some of the projects that have been established in Kosovo, one cannot adjudicate with any finality what the 'internationals' have truly achieved in this regard, but the years to come will reveal whether these activities are sustainable. To enable community members to resolve their disputes in ways consistent with justice and human rights while also aiming to address the sources of local insecurities (Wood, 2006) one should target not only the broader community, but also and mainly the clan members. The family structures, dependences and commitments which still exist and are dominant in Kosovo, must be factored in. In doing so, the Kanun in the case of Kosovo, or other local traditions of conflict solution should have been included and considered as an important informal regulation. It is amazing to see how much talk there is about "restorative justice" without considering the social situation and the historical background of a society. If the system of organizing public security by implementing new policing strategies does not get close enough to citizens, and if the system does not closely cooperate with citizens, this might result in a social fragmentation in so far as it erodes people's sense of being participants in an ongoing collective project whose members are committed to putting and pursuing security in common, which, in turn, undermines the 'architecture of sympathy' (Sennett, 2003; 200). (Loader & Walker, 2007; 210). To ensure the sustainability of international interventions in countries in transition, it is necessary to establish as soon as possible what is called "local ownership". But too often internationals feel, that the "locals" are not mature enough to take over their own responsibility for the future of their country. The question, whether it is too early, or too late, to withdraw and to give the future in the hands of the local people, is one of the most crucial, but also most often wrongly answered questions.

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