The United Nations and Security Sector Reform in Kosovo

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Among the many peace-keeping missions of the United Nations in the past forty years, two have an undoubted originality, as the UN was given the task of administering a territory directly, on a transitional basis, pending the implementation or the definition of a final status.

The need which arose in both these missions was not so much to reform the security sector, but to create it from scratch, as a matter of urgency. For obvious reasons, the presence in these territories of international military and police forces can be only of short duration and security and justice have to be established, on a sustainable basis, from local resources.

For equally obvious reasons, the references to the immediate past (the Indonesian occupation in East Timor and the Milosevic regime in Kosovo) had to be discarded and new models had to be found that would be both acceptable by the international community in terms of human rights and achievable in the local conditions.

The establishment of law enforcement and judicial structures in Kosovo is a complex task due to three factors:

- The United Nations Mission in Kosovo has four components: the UN itself, OSCE, the European Union, and NATO. Even though this mission is led by the UN, two major actors deal with law enforcement: KFOR, the military force created by NATO and which comprises 37 nationalities (19 of which being part of NATO) and UNMIK police which comprises 48 nationalities. The difficulty is to

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find a common denominator in so many different countries which have very different approaches to security and law enforcement. A role model is not easy to define.

- The transition factor has always to be kept in mind. Building up local capacities and handing over responsibilities to local authorities is an essential objective of the mission. The approaches between local and international authorities are different. Locals have a tendency to underestimate difficulties and wish to have a quick and quasi immediate hand-over of powers. Internationals are more aware of the shortcomings in competencies but are often too reluctant to let go.

- Religious or ethnic hatred, deep-seated mistrust between communities, and too many references to misinterpreted or rewritten history make it difficult to reach a common ground accepted by all communities. Security sector reform has to be built on a consensus. This consensus is hard to achieve in Kosovo.

In this chapter, four points are addressed: the building of the police force, the setting up of the judiciary system, the establishment of the legal system, and the question of armed forces and weapons control.

The Building of the Police Force

The objective was to build a truly multi-ethnic, competent, impartial force, respectful of human rights standards, which would have the monopoly of law enforcement. This objective is well on the way to being achieved and the formation of the Kosovo Police Service can be considered a success story.

A common training for all ethnicities in a single school is essential to create a common basis of knowledge, practices and standards as well as building an esprit de corps.

At the time of writing, 5,200 KPS officers have been trained and have taken over most of the law enforcement activities. They have been trained in the police academy run by OSCE in Vushtri, 35 km from Pristina. The training lasts three months and emphasises human rights. KPS officers outnumber international police officers, of whom there are 4,400 (out of which 1,200 are members of the anti-riot squads). This police force is multi-
ethnic and comprises 85% Kosovar Albanians, 8% Kosovar Serbians, and 7% other minorities. The police are well accepted by the population. This is an essential factor in building security in a country.

The increased presence of local police in the streets, who enjoy the confidence of the population, has positive results. The crime rate has gone dramatically down. The number of murders decreased by 62% in 2002 compared to 2001. In the same period, the general crime rate has decreased by 27%. Kosovo is getting close to the percentage of criminality of Western Europe.

Human rights standards are respected. They are closely monitored by OSCE. It should be said also that civilian supremacy in law enforcement has been established. The reduction in numbers of KFOR from 42,000 in 2001 to 28,000 in January 2003, and the building up of civilian capacities, led the military to define a strategy of support to the civilian authorities. KFOR and UNMIK cooperate in gathering information and disruption of criminal activities, in particular organised crime.

In building up security systems, the necessity of regional cooperation has to be taken into account. Kosovo is not an island. It is of utmost importance to establish and maintain effective relationships with specialist regional bodies in a common fight against organised crime. We are working closely with the Stability Pact of South Eastern Europe which has taken a lead in the fight against trafficking in human beings. UNMIK has reached a number of agreements and memoranda of understandings with neighbouring countries. Last December, UNMIK signed an agreement with Interpol on the exchange of information.

The Setting up of the Judicial System

To create as soon as possible, a local judiciary so that justice will be delivered by local judges and prosecutors, is of paramount importance in a peace-keeping mission. But one should not forget that in these war torn areas, where the judicial system has been disrupted as much as all other institutions, new judges have to be found and trained before being recruited and that to proceed in too speedy a fashion is not the recipe for success.
We made in East Timor the same mistake as in Kosovo. The United Nations appointed very shortly after the beginning of the mission, a number of judges and prosecutors, who had little or no professional experience and who went through too short a training program, to be efficient. In East Timor, six months after their appointment, judges had not taken a single decision. In Kosovo, where judges had a higher professional experience but were still hampered by 10 years of forced inactivity during the Milosevic regime, decisions were ill-informed or biased, particularly on inter-ethnic issues.

The involvement of international judges is therefore essential, not only in a monitoring role but also in dealing directly with cases which cannot be adjudicated by the local judiciary. In Kosovo, cases related to inter-ethnicity, organised crime or war crimes have to be allocated to international judges, through panels of three judges, two of them at least being internationals.

UNMIK has now 365 local judges and prosecutors who deal with 100% of civil cases and 95% of criminal cases. There are only 24 international judges and prosecutors who adjudicate cases where social pressure, their own prejudices or threats could not enable local judges to be impartial.

**The Establishment of the Legal System**

In the totally disrupted context that greets those establishing a peace-keeping mission after the war, finding accepted legal references is not an easy task. Even though the previous legal system was rejected by locals, on the grounds that it was created by and being associated with the previous power, the solution chosen in East Timor and initially in Kosovo, was to keep the previous legal system, inasmuch as it complied with internationally recognised standards, particularly in the field of human rights. This reference to the former system was difficult for members of the local community to accept, as they feel that the very system they were condemning, and against which they fought, is still in place.

In Kosovo, UNMIK eventually decided that the legal reference point should be the law of Yugoslavia, as it was in 1989, i.e. before the Milosevic regime. On top of that
substratum, UNMIK promulgates regulations which adapt the legal framework to newly emerging needs. The same principles applied in East Timor.

The shortcoming of this system is that the body of laws becomes complex and not always coherent. The new regulations come from a different legal culture and are “grafted onto” the applicable law without sufficient concern if their concepts will be understandable for the local judges and whether they will be coherent with the local law. For this reason, one idea that was often put forward was that a legal “kit” should be devised for all peace-keeping missions, which would be a sort of common legal denominator and that that could be the basis on which criminal justice could function during the interim administration. Although interesting, this idea never drew enough support to be implemented.

The Question of Armed Forces and Arms Control

The purpose of peace-keeping missions is indeed peace-building by creating new and viable institutions. Originally both in Kosovo and in East Timor, these institutions were not to include an army.

Militia incursions coming from West Timor, the fact that locals were particularly adapted to fight these incursions if given proper training and support, the necessity to find a solution for the ex-guerilla fighters who could not be demobilised, led UNTAET to create a small army which included the most able elements of FALINTIL, the former guerilla force. The purpose of the creation of this light infantry force was to have a better control of the border between East and West Timor and act as a deterrent against incursions.

The situation in Kosovo is totally different. The former members of the Kosovo Liberation Army (KLA) were integrated in a Kosovo Protection Corps (KPC) which is a civilian organisation in charge of providing emergency relief in catastrophes such as earthquakes, floods, etc. KPC provided this relief in an efficient way after an earthquake in Gnjilane, last year. But they still portray themselves as the nucleus of the armed forces of a future independent Kosovo. This view goes against the wishes of the international community and fuels fears in minority communities, particularly the Serb community. There is still an absence of consensus on the future and on the role of KPC.
One of the greatest difficulties in security sector reform in Balkan countries is the prevalence of small arms in most households. They are part of the local culture as well as an expression of the lack of trust in legally established security forces. Weapons are illegal and every day searches in cars or in houses enable police to confiscate dozens of weapons and ammunition.

The establishment and the enforcement of a weapons control program is therefore a priority in Kosovo. Proposals like the Small Arms and Light Weapons Reduction Initiative that UNMIK is undertaking with the assistance of KFOR and UNDP, is important as it endeavours to eradicate the culture of weapons which is so detrimental to security and stability in the Balkans.

**Conclusion**

Kosovo is still a very fragile society, moving away from the conflict of 1999, but with still very strong inter-ethnic hatred. Security sector reform is well on the way. Even though the process of institution building and the handing over of competences to Kosovars proceeds quickly, it takes much longer to change mentalities. It takes also the creation of education programs against anything that perpetuates ethnic hatred and corruption which are the seeds of violence and instability.

Powers related to security are still in the reserved domain of the Special Representative. In a time frame which is not yet determined, these powers will be handed over to local authorities. We have to make sure that this transition process is conducted in an orderly fashion, so that it does not lead to disruption that would necessitate further international involvement.

In order to be successful, the process of transition to peace and a stable society needs to be given sufficient time.