

DECENTRALIZATION AND HUMAN SECURITY IN KOSOVO

PROSPECTS OF LOCAL GOVERNMENT REFORM
FOR PROMOTING DEMOCRACY, DEVELOPMENT,
AND CONFLICT MITIGATION

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List of Acronyms

AAK – Alliance for the Future of Kosovo

CoE – Council of Europe

DPA – Democratic Albanian Party (Presevo Valley)

DPSH – Democratic Party of Albanians (Macedonia)

EU – European Union

HDI – Human Development Index

IDP – Internally Displaced Person

ICG – International Crisis Group

ICTY – International Criminal Tribunal for the former Yugoslavia

KLA – Kosovo Liberation Army

KPS – Kosovo Police Service

KTA – Kosovo Trust Agency

LDK – Democratic League of Kosovo

NATO – North Atlantic Treaty Organization

NLA – National Liberation Army (Macedonia)

OHR – Office of the High Representative

OSCE – Organization for Security and Cooperation in Europe

PDK – Democratic Party of Kosovo

PISG – Provisional Institutions of Self-Government

RAE – Roma, Ashkali and Egyptian

SMU – Sub-Municipal Unit

SMU/SDP – Sub-Municipal Unit with Special Delegated Powers

SRSG – Special Representative of the Secretary General

UNDP – United Nations Development Programme

UNESCO – United Nations Educational, Scientific and Cultural Organization

UNMIK – United Nations Interim Administration Mission in Kosovo

USAID – United States Agency for International Development

I. Introduction

Five years after war ravaged the former Yugoslav territory of Kosova/Kosovo,¹ decentralization has emerged as a promising strategy for addressing key challenges to democracy, development, and sustainable peace in the troubled province. The principle of decentralization enjoys widespread support from both of Kosovo's major ethnic groups – the Albanians and the Serbs² – as well as the international community that has been administering the province since the North Atlantic Treaty Organization (NATO) intervened to halt Serb ethnic cleansing of the Albanian population in 1999. However, each of these groups has distinct ideas concerning the purpose of decentralization and how the process should be carried out. This paper will examine the current decentralization debate in Kosovo and analyze the extent to which the proposals put forth by the Council of Europe (CoE), the Provisional Institutions of Self-Government (PISG) and the United Nations Interim Administration in Kosovo (UNMIK), and the Serbian government would promote human security in the province.

Before outlining the structure of the paper, it is necessary to define the key concepts of decentralization and human security. Decentralization is a complex, multifaceted concept that involves the transfer of authority and responsibility for public functions from the central government to intermediate and local governments, quasi-independent government organizations, or the private sector.³ Although there are many kinds of decentralization, this

¹ The province is called Kosova in Albanian and Kosovo in Serbian. The province itself and most places within it have both Albanian and Serbian names, and language is a highly politicized issue. Each side argues that using the name of the province in the other language prejudices its final status, with Serbs claiming that Kosova implies the province is already independent and Albanians countering that Kosovo suggests the province is still part of Serbia. Throughout this paper, the first references to places whose Albanian and Serbian names differ will include both the Albanian and Serbian name, with the Albanian name listed first. Subsequent references will use the most common name for a given place, which in the case of the province itself is Kosovo. However, use of the Serbian name for the province and many places within it is not meant to imply what its final status will be or should be.

² For purposes of this paper, the terms Albanian and Serb refer to members of the ethnic Albanian and Serb communities in Kosovo unless otherwise specified.

³ World Bank, "Decentralization and Sub-national Regional Economics," available from <http://www.worldbank.org>.

paper deals mainly with two types – political decentralization and administrative decentralization. Political decentralization involves the devolution of decision-making power from central to municipal authorities or municipal to sub-municipal authorities, while administrative decentralization allows higher-level government institutions to retain decision-making authority but delegates responsibility for implementing certain decisions to lower level institutions.

There is much debate about how to define human security, but it can be best understood as a holistic concept that incorporates development, conflict management, and human rights. For the purposes of this paper, human security is the “totality of knowledge, technology, and institutions which protect, defend, and preserve the biological existence of human life, and the process which protects and perfects collective peace and prosperity to enhance human freedom.”⁴ This definition is appealing because it incorporates both the individual and community aspects of human security. Moreover, its focus on human freedom suggests the importance of democratic representation and accountability, while its emphasis on peace and prosperity highlight the critical role of development and conflict mitigation in promoting human security.

This paper begins with an overview of Kosovo’s present demographic composition. Chapter 2 outlines the major demographic trends affecting the province during the war and the post-conflict period and discusses how these trends have influenced the current decentralization debate. It also provides background on the evolution of local government in Kosovo over the past five years through outlining key UNMIK Regulations and their implications for local

⁴ Robert Bedeski, “Human Security in Sun Tzu’s Thought: An Alternative Approach to Peace-Building,” 4th Annual Symposium on Sun Tzu’s Art of War, 19 October 1998, 2.

governing institutions. Lastly, it examines the origins of the major decentralization proposals currently under consideration.

Local government reform has the potential to bolster human security through improving democratic representation in Kosovo. A well-designed decentralization strategy could achieve this goal through bringing institutions of local government closer to the people and increasing their authority and accountability. Chapter 3 begins with a discussion of the current status of democracy in Kosovo. It traces the progress that has been made over the past five years towards the important goal of laying a foundation for sustainable democracy in the province. It then describes the decentralization strategies proposed in the CoE recommendations, the Prishtina/Pristina Plan endorsed by UNMIK and the PISG, and the Belgrade Plan devised by the Serbian government. It considers the critical issues of how many local government units would be created according to each of these decentralization strategies, how the boundaries of these units would be determined, and how these units would be governed. It also analyzes the implications of each decentralization plan for enhancing democratic representation throughout Kosovo.

In addition to promoting representative democracy, decentralization can bolster human security in Kosovo through improving its level of development and the quality of its public services. Chapter 4 provides an overview of the standard of living in contemporary Kosovo, using information gleaned from the United Nations Development Programme (UNDP) *Kosovo Human Development Report 2004*. Kosovans have the lowest level of development in the Balkans, as measured by the UNDP Human Development Index (HDI). Poverty and unemployment are pervasive, particularly in rural areas. Moreover, many Kosovans lack access to such basic services as education, health care, and water and sanitation. This situation is

exacerbated by confused lines of accountability that make it difficult for Kosovans to determine who is responsible for providing which services. Nevertheless, the population remains confident that local government reform would improve public services and foster development in the province. The chapter then evaluates the CoE, UNMIK/PISG, and Serbian government decentralization plans in terms of their prospects for advancing development in Kosovo. It describes which responsibilities would be devolved to local governing units under each plan, and how these proposed arrangements would affect the quality of services and level of development in the province.

In addition to affecting democratic representation, service provision, and development levels, decentralization has the potential to strengthen human security through supporting peace and stability in Kosovo. Local government reform is closely linked to the sensitive ethnic issues at the core of the Kosovo conflict. The plans proposed by the CoE, UNMIK/PISG, and Serbian government would have radically different implications for Kosovo's ethnic composition. Depending on which plan is selected and how the chosen plan is implemented, decentralization could mitigate ethnic tensions and foster stability in Kosovo by giving minority communities greater autonomy and more channels to promote their interests without resorting to violence. However, decentralization also risks hardening existing ethnic divisions and undermining stability, both within Kosovo and throughout the Balkan region.

Chapter 5 evaluates the decentralization strategies proposed by the CoE, UNMIK/PISG, and the Serbian government in terms of their potential to alleviate the ethnic tensions in Kosovo. It recognizes that local government reform will only succeed in the province if it obtains support from minority communities in general, and the influential Serb community in particular. To this end, it analyzes the extent to which each of the aforementioned proposals would safeguard

minority rights and provide minority groups with channels to advance their interests, as well as how acceptable each proposal would be to minority communities – especially the Serbs. It also considers the possible impact of decentralization in Kosovo on the delicate ethnic balance in Serbia, Macedonia, and Bosnia and Herzegovina.

The paper concludes by discussing recent developments in the decentralization debate, including approval of a pilot municipality proposal. It evaluates the implications of this proposal and suggests strategies to ensure that the final decentralization plan for Kosovo meets European Charter standards and can be sold to both the Albanian opposition and the Serb community.

II. Overview

Before examining the specifics of the various decentralization proposals and their implications for human security in Kosovo, it is important to understand the present demographic composition of the province. To this end, this chapter begins by outlining the major demographic trends affecting Kosovo during the war and the post-conflict period and discussing how these trends have influenced the ongoing discussions of local government reform.

Understanding the present decentralization debate also requires background on the evolution of local government in Kosovo over the past five years. This chapter traces the development of local governing institutions through outlining key UNMIK Regulations and their implications for local government. It also examines the origins of the major decentralization proposals currently under consideration.

Demographics:

The present debate on local government reform in Kosovo must be placed in the context of the demographic composition of the province. All Kosovo population figures are at best estimates given that a formal census has not been taken since 1991.⁵ However, it is estimated that the population of Kosovo is 1.9 million, of which 88% are Albanian, 7% Serb, and 5% other – including Roma, Ashkali and Egyptian (RAE), Turk, Gorani, and Bosniak (Muslim Slav).⁶

The ethnic cleansing of Kosovo's Albanian population that was halted by NATO intervention in 1999 had two major consequences for the demographic composition of the province. First, some 800,000 Albanians were forced to leave their homes at the height of the

⁵ The 1991 census does not reflect the massive population displacement resulting from the war, and was boycotted by the Albanians.

⁶ Statistical Office of Kosovo, "Kosovo and its Population," September 2003, available from <http://www/sok-kosovo.org>.

violence. They fled to Albania and Macedonia or hid in mountainous areas of southern and western Kosovo bordering these countries. Most Albanian refugees and internally displaced people (IDPs) returned quickly after the NATO intervention had removed the Serb military presence from Kosovo. However, many rural Albanians found their property destroyed and therefore migrated to Pristina and other regional centers following the war. This swelled the Albanian population of Kosovo's cities, and Pristina now has an almost exclusively Albanian population of approximately 450,000.

Second, Serbs fled Kosovo in large numbers during the NATO intervention. Serbs comprised approximately 15% of Kosovo's prewar population, thanks to incentives provided by Slobodan Milosevic's regime that encouraged Serbs to "recolonize" the province. However, Kosovo's Serb population was divided into two distinct groups. The first group consisted of educated urban Serbs who had their pick of the best positions in government and socially owned enterprises and "enjoyed the status and privileges that came from close association with the state – particularly after 1989, when Albanians were purged from public sector employment." Almost all of the urban Serbs in Kosovo fled to Serbia proper as a result of the 1999 NATO intervention. The second group was rural Serbs, mostly poor farmers whose families had worked the same land for generations and who lived in Serb villages scattered throughout Kosovo. Although the Kosovo Liberation Army (KLA) did drive some Serb farmers from western Kosovo, most rural Serbs remained on their land throughout the 1999 turmoil and the subsequent postwar period.⁷

In contrast to popular perceptions of a mass Serb exodus from Kosovo in 1999, it appears that only urban Serbs fled, while most rural Serbs never left their land. Thus, there are now no more than a handful of Serbs in any urban area of Kosovo except North Mitrovice/Mitrovica.

⁷ European Stability Initiative, "The Lausanne Principle: Multiethnicity, Territory and the Future of Kosovo's Serbs," 7 June 2004, 17.

However, approximately 130,000 Serbs remain in Kosovo. About 60,000 of these Serbs live in the Serb-dominated provinces north of the Ibar River, including North Mitrovica and the municipalities of Leposaviq/Leposavic, Zubin Potok and Zvecan. However, the remaining 70,000 Serbs are scattered throughout Albanian-dominated central and southern Kosovo, with concentrations in Gracanica south of Pristina and the municipalities of Shterpce/Strpce and Novoberde/Novo Brdo. Any decentralization plan for Kosovo must incorporate these demographic realities and address the needs of the swelling urban population as well as the impoverished rural population, both Albanian and Serb.

Local Government in Kosovo:

Understanding the current decentralization debate also requires background on the evolution of local government in Kosovo over the past five years and the origins of the major decentralization proposals currently under consideration. When UNMIK took over administration of Kosovo in the summer of 1999, as mandated by United Nations Security Council Resolution 1244, Special Representative of the Secretary General (SRSG) Bernard Kouchner recognized the need to establish some form of self-government as quickly as possible. However, he did not want strong central government institutions competing with UNMIK and interfering with international efforts to stabilize the security situation in the immediate postwar period. UNMIK therefore decided to build democracy from the ground up in Kosovo, creating local government institutions before central institutions. To this end, Kouchner promulgated two important regulations in July 2000. Regulation 2000/43 clarifies the number, names, and boundaries of the new local government units. It divides Kosovo into 30 municipalities, with the boundaries of each municipality “delineated by its component cadastral zones” rather than on the

basis of the prewar local government units, or bashkesia lokale/mesna zajednica, which Albanians associate with the oppressive Serbian regime.⁸

In preparation for the October 2000 municipal elections, the SRSG also promulgated Regulation 2000/39, which has important implications for democratic representation in Kosovo. It stipulates that elections must be conducted according to the proportional representation system, rather than the “winner take all” system characteristic of the United States, thereby allowing smaller parties to share power with larger parties and promoting democratic representation. Regulation 2000/39 also outlines an open list electoral system that allows voters to select the entire candidate list of a political party, a single candidate from a party list, or an independent candidate. It introduces a two-part process for allocation of seats. First, seats should be awarded to candidates who receive individual votes within a party list on the basis of the number of individual votes obtained. Second, if there are still seats to be allocated to a party or coalition list – for example, if a party wins 30 seats but only 25 of its candidates receive individual votes – then the remaining seats should be distributed among candidates on that list who do not garner any individual votes, according to where they are ranked on the list.⁹ This system fosters democratic representation by allowing voters to choose individual candidates, which creates a direct link between voters and their elected officials.

The decision to hold municipal elections 18 months after the end of the war reflected the need to establish legitimate, democratically elected institutions of self-government as quickly as possible while avoiding premature national elections that would only empower extremists and harden existing ethnic divisions, as happened Bosnia and Herzegovina in 1996. Although most

⁸ United Nations Interim Administration Mission in Kosovo, Regulation 2000/43, “On the Number, Names, and Boundaries of Municipalities,” Sections 1-2, 27 July 2000, available from <http://www.unmikonline.org>.

⁹ UNMIK Regulation 2000/39, “On the Municipal Elections in Kosovo,” Sections 4-5, 8 July 2000, available from <http://www.unmikonline.org>.

Serbs did not vote, the 2000 municipal elections were nevertheless deemed successful because voter turnout reached 79% and moderate Albanian parties prevailed. The Democratic League of Kosovo (LDK), led by Albanian non-violent resistance leader Ibrahim Rugova, won 58% of the vote, compared to 27% for the Democratic Party of Kosovo (PDK), whose leader Hashim Thaci commanded the KLA during the war.¹⁰

The powers and responsibilities of the new municipalities are outlined in Regulation 2000/45 of August 2000. This Regulation is critical because it is the basis of the current local government arrangements in Kosovo to which the decentralization schemes considered in this paper would be applied. It stipulates that each municipality constitutes its own legal entity, and possesses “the right to own and manage property, the capacity to sue and be sued in the courts, the right to enter into contracts and the right to engage staff.” Because there were no central government institutions when it was promulgated, Regulation 2000/45 gives the municipalities a wide range of powers, including promoting economic growth, providing primary health care and primary and secondary education, controlling land use, managing municipal property, establishing fire and emergency services, supplying public utilities such as water and sewage, licensing service providers and facilities, and naming and maintaining roads, parks, and other public spaces. The Regulation encourages municipalities to cooperate with other municipalities in carrying out these tasks.¹¹

Regulation 2000/45 establishes a Municipal Assembly in each municipality, and sets the number of representatives in each Municipal Assembly. It mandates that Pristina Municipality should have the largest Municipal Assembly, with 51 members, while the Serb-dominated

¹⁰ Organization for Security and Cooperation in Europe, “2000 Kosovo Municipal Elections Results,” available from <http://www.osce.org/kosovo/elections>.

¹¹ UNMIK Regulation 2000/45, “On Self-Government of Municipalities in Kosovo,” Sections 2-3, 1 August 2000, available from <http://www.unmikonline.org>.

municipalities of Zvecan, Novo Brdo, Leposavic, Zubin Potok, and Strpce should have the smallest Municipal Assemblies, with just 17 members. It requires each Municipal Assembly to hold at least two public meetings every year, and includes several other provisions to ensure the transparency and accountability of municipal government actions.¹²

Regulation 2000/45 also defines the parameters of the relationships between municipalities and UNMIK and between municipalities and their constituent villages and neighborhoods. It holds municipalities responsible for carrying out certain tasks on behalf of UNMIK, such as maintaining civil registries and voter and business registration records, and requires UNMIK to provide municipalities with sufficient resources for this purpose. In addition, it allows UNMIK to delegate additional duties to the municipalities, provided that it makes commensurate resources available to them. Furthermore, Regulation 2000/45 stipulates that changes in the boundaries of the municipalities can be made solely by UNMIK and only after prior consultation with the municipalities concerned.¹³

In terms of relations with villages and neighborhoods, Regulation 2000/45 requires each municipality to “make arrangements with villages, settlements and urban quarters within its territory to ensure that the needs of all inhabitants in the municipality are met.” It permits villages and neighborhoods to individually or collectively carry out responsibilities that are devolved to the municipalities if they obtain approval from the municipal government, and allows them to appeal to UNMIK if such approval is denied.¹⁴

Lastly, the Regulation includes certain provisions to protect the rights of ethnic minorities. It prohibits discrimination, including ethnic discrimination, and requires the conduct of municipal meetings and publication of municipal documents in both Albanian and Serbian, as

¹² Ibid, Section 10.

¹³ Ibid, Section 3.

¹⁴ Ibid, Section 5.

well as other minority languages where relevant. It also stipulates that each Municipal Assembly must have a standing Communities Committee and Mediation Committee. The Communities Committee must include at least one member from each community residing in the municipality, with less than half of the members from the majority community in the municipality and the remaining seats distributed proportionally among the other communities. Its task is to ensure that “no person undertaking public duties or holding public office shall discriminate against any person on any ground such as language, religion, ethnic origin or association with a community,” that “all persons enjoy, on an equal basis, civil, political, economic, social and cultural rights, and fair and equal employment opportunities in municipality service at all levels,” and that “the municipal civil service reflects a fair proportion of qualified representatives of communities at all levels.”¹⁵

If the Communities Committee believes a municipal action has violated or may violate the rights of a community, it can refer the matter to the Mediation Committee, which is composed of Municipal Assembly members who are not on the Communities Committee and representatives of minority communities in the municipality. The Mediation Committee investigates the allegations and submits a report to the Municipal Assembly with recommendations for how the matter should be dealt with. The Municipal Assembly then decides what action to take in accordance with the law. If the Municipal Assembly fails to make a decision or if the Communities Committee is dissatisfied with the decision, it may refer the matter to UNMIK for review.¹⁶

Having laid the foundation for a functional system of local government, UNMIK spent much of 2001 focusing on creating institutions of self-government at the central level. In May

¹⁵ Ibid, Section 23.

¹⁶ Ibid, Section 23.

2001, the new SRSG, Hans Haekkerup, promulgated Regulation 2001/9, which outlines a constitutional framework for Kosovo. This Regulation establishes the PISG, including the Assembly of Kosovo and the executive offices of President and Prime Minister. According to this Regulation, the President must be nominated by the party obtaining the largest number of seats in the Assembly of Kosovo, and elected by a two-thirds majority in the Assembly. The President proposes a candidate for Prime Minister and a slate of Ministers that must be endorsed by a majority vote in the Assembly.¹⁷

Regulation 2001/9 specifies certain powers that belong to the PISG and others that are reserved to the SRSG, though the balance has shifted significantly over the past four years as competencies have been transferred from UNMIK to the PISG. It also ensures minority representation in the PISG. While 100 Assembly seats are distributed proportionally among parties, coalitions, and individual candidates on the basis of votes received, the remaining 20 seats are reserved for minority representatives, including 10 seats for the Serbs, four for the RAE, three for the Bosniaks, two for the Turks, and one for the Gorani. Moreover, at least one Minister must be a Serb, and another a non-Serb minority.¹⁸ With this framework in place, the first Assembly of Kosovo was elected in November 2001. This election employed the same open list, proportional representation electoral system used in the 2000 municipal elections. Turnout was once again high at 64%, and this time the Serbs participated in large enough numbers to give their Povratak (Return) Coalition 11% of the vote. The 2001 election resulted in a coalition government, with LDK leader Ibrahim Rugova as President and PDK moderate Bajram Rexhepi as Prime Minister.¹⁹

¹⁷ UNMIK Regulation 2001/9, "On a Constitutional Framework for Provisional Self-Government in Kosovo," Sections 9.2, 9.3.8-9, 15 May 2001, available from <http://www.unmikonline.org>.

¹⁸ Ibid, Section 9.1.3.

¹⁹ OSCE, "2001 Kosovo Assembly Election Results," available from <http://www.osce.org/kosovo/elections>.

The next municipal elections were held in October 2002. Regulation 2002/11, promulgated by the new SRSG Michael Steiner in June 2002, significantly alters the electoral system in Kosovo. The most important change this Regulation introduces is the shift from an open list electoral system to a closed list system, which requires voters to select a party or coalition and does not allow voters to choose individual candidates from party or coalition lists.²⁰ The 2002 elections were less successful than previous elections, and the results reflected growing disillusionment with the political process. Participation dropped to 54%, and Serbs boycotted the elections except in the five municipalities where they constitute a majority of the population. At first glance, the 2002 elections could be interpreted as a victory for the PDK. However, closer analysis reveals that voters were not choosing the PDK but rather rejecting the ruling party, which in most municipalities was the LDK. The party that had won the most seats in the 2000 elections lost seats in nearly all Municipal Assemblies in 2002.²¹

Around the same time as the 2002 elections, decentralization was first mentioned as a potential strategy for mitigating Kosovo's ethnic tensions in SRSG Steiner's Seven Point Plan for Mitrovica. This plan was part of Steiner's strategy to stabilize the security situation in the divided town, which Richard Holbrooke has deemed the "most dangerous place in Europe," by bringing Serb-controlled North Mitrovica and Albanian-controlled South Mitrovica together under UNMIK administration. The fourth point concerning decentralization recognizes that "common interests need to be decided jointly at the municipality level," but notes that "specific interests can be decided on a local level, in a municipal sub-unit." Steiner's plan stipulates that such sub-units should have a local council and administrative organs that enable them to decide on issues of local importance and manage services such as education and health care. It

²⁰ UNMIK Regulation 2002/11, "On the Municipal Elections in Kosovo," Section 5, 10 June 2002, available from <http://www.unmikonline.org>.

²¹ OSCE, "2002 Kosovo Municipal Elections Results," available from <http://www.osce.org/kosovo/elections>.

emphasizes that “the idea is to bring government closer to the people,” and argues that decentralization is necessary not only in Mitrovica but throughout Kosovo.²²

Steiner’s plan notes that decentralization will only work if it is preceded by participation in elections in order to create legitimate, representative institutions of self-government. To this end, the seventh point of the plan concerns elections. It underscores that “without participation in the municipality, there can be no decentralization,” and warns that, “without legitimate institutions, there will be no investment” because “money will not come to a gray zone.”²³

The concept of decentralization espoused in Steiner’s Seven Point Plan received strong support from parties both within and outside of Kosovo. The international community endorsed the idea, including the United States and the European Union (EU). Moreover, the principle of decentralization was embraced by both Albanian and Serb political leaders, who issued a joint statement “reaffirming that Kosovo must be a truly multiethnic society and that all Kosovo’s communities would work within its institutions.” This statement also committed Albanian leaders to “safeguard the rights of the smaller communities, including the right to security and freedom of movement.”²⁴

Building on this broad support for decentralization, SRSG Steiner asked the Council of Europe to send a mission to Kosovo with the task of developing a proposal for local government reform in the province on the basis of UN Security Council Resolution 1244 and the European Charter of Local Self-Government. Led by Ambassador Carlo Civiletti, the CoE assessment team began its work in February 2003 and spent the next nine months consulting a wide range of actors to get their ideas on decentralization in Kosovo, including members of the Assembly of

²² Michael Steiner, UNMIK SRSG, “A Choice for Mitrovica: The Seven Point Plan,” 1 October 2002, available from <http://www.unmikonline.org>.

²³ Ibid.

²⁴ United Nations, “Security Council focuses on Kosovo municipal elections, security of minorities,” 6 November 2002, available from <http://www.un.org>.

Kosovo and the Government of Kosovo, municipal and village officials, leaders of minority communities, and representatives of NGOs and the international community. In November 2003, Civiletti presented a report to Steiner's successor, SRSG Harry Holkeri, containing the recommendations of the assessment mission.²⁵ These recommendations have provided a basis for the current decentralization debate, and subsequent chapters will examine their implications for democratization, development, and conflict mitigation.

Shortly after the CoE assessment mission completed its work, UNMIK presented the PISG with the Standards for Kosovo in December 2003. The Standards for Kosovo set goals for the PISG in a variety of areas that must be met before negotiations can begin on the critical issue of Kosovo's final status. Albanian politicians recognized that implementing local government reform could facilitate progress towards achieving Standard 1, which requires the PISG to set up and consolidate functioning democratic institutions.²⁶ The Standards have therefore provided an additional impetus for Albanian politicians to support decentralization as vehicle for expediting resolution of the all-important final status question.

The fragile peace that had held for nearly four years was abruptly shattered by two days of riots that rocked Kosovo in March 2004. 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.

The March riots had two important consequences for local government reform in Kosovo. First, the renewed violence led the international community to reconsider its strategy for Kosovo at the highest levels. In April 2004, the UN Security Council issued a Presidential

²⁵ Council of Europe Press Release, "The Council of Europe Action in Kosovo," 18 November 2003, available from <http://www.coe.int>.

²⁶ UNMIK, "Standards for Kosovo," Standard 1, 10 December 2003, available from <http://www.unmikonline.org>.

Statement calling for “more effective local government through devolution of central non-reserved responsibilities to local authorities and communities in Kosovo” and inviting interested parties in Kosovo to submit proposals for local government reform. In response to this statement, UNMIK convened a joint UNMIK-PISG Working Group on Local Government. This Working Group was chaired by PDK minister Jakup Krasniqi and included representatives of the Association of Kosovo Municipalities and local communities as well as international experts from the CoE, Organization for Security and Cooperation in Europe (OSCE), and United States Agency for International Development (USAID). In July 2004 the Working Group completed its Framework Document for the Reform of Local Self-Government in Kosovo, known as the Pristina Plan.²⁷ Subsequent chapters will analyze the implications of the Pristina Plan for human security in Kosovo, and will also discuss the resulting proposal to test local government reform in five pilot municipalities.

The March riots also provoked the Serbian government to devise its own decentralization plan, which it released in April 2004. Known as the Belgrade Plan, the Serbian government proposal is based on a very different concept of decentralization than the CoE report and the Pristina Plan. It demands the establishment of an autonomous Serb region in Kosovo in order to improve the quality of life for Kosovo’s Serb population through increasing their security and freedom of movement, protecting their minority rights, giving them more control over provision of services in their communities, and creating new channels for promotion of their interests. Subsequent chapters will evaluate how the Belgrade Plan would influence democratization, development, and ethnic tensions in Kosovo, both within and outside of the proposed autonomous region.

²⁷ UNMIK Press Release, “Framework Finalized on Local Government Reform,” 23 July 2004, available from <http://www.unmikonline.org>.

In July 2004, Albanian and Serb representatives signed a Joint Statement at the U.S. Office in Pristina in which they pledged to work towards “the implementation of the Standards, return of refugees, rebuilding of premises and reform of local government.”²⁸ This joint statement reflects a shared commitment to the concept of decentralization that could provide a foundation for a plan that would be acceptable to all Kosovans. However, the various parties have widely divergent ideas concerning the details of decentralization that will be considered in the following chapters. As a result, the decentralization proposals put forth by the PISG continue to meet with resistance from both the Serbs and the Albanian opposition, and the parties have been unable to agree on a strategy for local government reform.

²⁸ Patrick Moore, “Analysis: Kosovo’s Decentralization Debate,” Radio Free Europe/Radio Liberty, 6 August 2004.

III. Democracy: Decentralization, Representation, and Accountability

Democratization is a critical component of human security. As UNDP Administrator Mark Malloch Brown has stated, “to meet the challenge of human security in the 21st century, we need a distributive and inclusive model of politics that offers voice and prosperity to all rather than a divisive one, which seems intent on creating a world of winners and losers.”²⁹ A central goal of local government reform in Kosovo is to improve democratic representation. A well-designed decentralization strategy could achieve this goal through the two-pronged approach of bringing governing institutions closer to the people and increasing the authority and accountability of these institutions.

This chapter begins with some observations on the current status of democracy in Kosovo. It discusses the progress that has been made since the war towards establishing sustainable democracy in the province. It then describes the decentralization strategies proposed by the three major actors in the Kosovo drama – the CoE recommendations, the Pristina Plan endorsed by UNMIK and the PISG, and the Belgrade Plan devised by the Serbian government. It considers the key issues of how many local government units would be created according to each of these decentralization strategies, how the boundaries of these units would be determined, and how these units would be governed. In addition, it analyzes the potential of each decentralization strategy to enhance democratic representation throughout Kosovo.

Current Situation:

Before analyzing the implications of decentralization for democratization, it is important to understand the present status of Kosovo’s nascent democracy. There are democratically

²⁹ Mark Malloch Brown, United Nations Development Programme Administrator, “Human Security and Human Development in the 21st Century,” speech at London School of Economics, 25 October 2001, available from <http://www/undp.org>.

elected Municipal Assemblies in each of Kosovo's municipalities. However, the degree to which these Assemblies actually address the interests and needs of their constituents is debatable. Some municipalities are simply too large for municipal officials to effectively respond to the needs of their constituents. For example, Pristina Municipality has a population of 500,000 and several other municipalities have more than 100,000 residents. Such large municipalities are not conducive to proper public scrutiny, and there is a great deal of suspicion that corruption is taking place and power being misused. In addition, each municipality is treated as a single electoral district in local elections. As a result, each Municipal Assembly member theoretically represents the entire municipality, which is particularly problematic in a highly localized society like Kosovo that is based on agricultural subsistence and family ties.³⁰ Finally, because party lists are closed in Kosovo, voters are limited to choosing among political parties rather than weighing the merits of individual candidates. As the UNDP *Kosovo Human Development Report 2004* explains, the closed list electoral system "dilutes the accountability link between elected representatives and citizens and gives politicians a greater incentive to raise their profiles within parties and obtain higher rankings on party lists than to address the needs of their constituents."³¹

These characteristics of the current political system have created the perception of distance between political leaders and their electors, discouraging political participation and hindering democratization efforts in Kosovo. The UNDP *Kosovo Human Development Report 2004* argues that, "representation and participation are closely linked in bringing about good democratic governance," adding that, "unless citizens are well represented, they are unlikely to constructively participate in democratic processes."³² There is abundant evidence that Kosovans do not feel their elected officials are representing them well. For example, only 13% of

³⁰ UNDP Kosovo, *Kosovo Human Development Report 2004*, 59, available from <http://www.kosovo.undp.org>.

³¹ *Ibid.*, 59.

³² *Ibid.*, 48.

Kosovans believe they can influence decision-making at the municipal level. Trust in elected officials is also declining, with confidence in the Assembly of Kosovo falling by 12% between 2002 and 2004 and the ruling party losing votes in all but one municipality in the 2002 elections.³³ As a result, Kosovans have disengaged from the political process. Voter turnout has decreased from 79% for the 2000 municipal elections to 64% for the 2001 election, 54% for the 2002 municipal elections, and just 51% for the most recent election in October 2004. When Kosovans do express their political views, they are more likely to do so through “negative” rather than “positive” forms of participation. While only 6% of Kosovans took part in a public discussion or citizen initiative or signed a petition in 2003, 22% participated in a protest.³⁴

Despite these troubling trends, the situation is not all gloomy, and there is also evidence that decentralization has real potential to improve democratic representation in Kosovo. UNMIK Regulation 2000/45 allows municipalities to establish sub-municipal bodies with executive offices and appointed staff, as mentioned in Chapter 2, and several municipalities have already created such sub-municipal institutions. The current situation is unsatisfactory because these institutions have no legal status, no real powers, no financial resources, and no clear description of their tasks and responsibilities. However, existing sub-municipal institutions provide an important foundation that can be strengthened by local government reform. There are also many villages where people have begun to organize themselves, electing local councils and leaders and carrying out activities such as managing local infrastructure projects.

In addition to tapping into this network of informal local government institutions, decentralization in Kosovo can also take advantage of strong public support. The people of Kosovo are much more likely to approve of municipal institutions than central institutions. For

³³ Ibid, 50.

³⁴ Ibid, 45.

example, the UNDP *Kosovo Mosaic* found that 63% of Kosovans were satisfied with their Municipal Assembly and 52% believed their municipality was heading in the right direction. It concludes that there is a “deep reservoir of good will towards local government” in Kosovo.³⁵ This conclusion was reinforced by the UNDP *Combating Corruption in Kosovo* survey, which found that the population perceives municipal institutions as more responsive and less corrupt than central institutions. While 68% of respondents claimed corruption is a problem in their municipal government, only 48% considered their municipal government “corrupt” and only 12% deemed it “very corrupt.”³⁶ The various key actors in the Kosovo drama have differing ideas concerning how to harness public confidence in local government to successfully implement a decentralization scheme that will improve democratic representation. These ideas are reflected in the CoE report, Pristina Plan, and Belgrade Plan.

Council of Europe Report:

The international community views decentralization as a means of improving the quality of governance in Kosovo by bringing governing institutions closer to the people and increasing the authority and accountability of local institutions. These objectives reflect the principle of subsidiarity at the heart of the European Charter of Local Self-Government, according to which decisions should be made by the lowest possible tier of government. This requires that citizens be directly represented in local government institutions “composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and that these institutions be given

³⁵ UNDP Kosovo, *Kosovo Mosaic*, 2003, 19, available from <http://www.kosovo.undp.org>.

³⁶ UNDP Kosovo, *Combating Corruption in Kosovo: A Citizens' Perceptions Survey in Support of the Kosovo Anti-Corruption Strategy*, 2004, 18, available from <http://www.kosovo.undp.org>.

substantial authority.”³⁷ Moreover, it requires that local government institutions have the “right and the ability, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.”³⁸ The Council of Europe assessment team considered five possible decentralization strategies, and its report evaluates the extent to which each option respects the principle of subsidiarity by giving more authority to local government institutions and providing more opportunities for citizens to take part in the conduct of public affairs.

According to the CoE report, two of the five potential local government strategies considered by the assessment team would not respect the principle of subsidiarity. One such option would maintain the existing number of municipalities but strengthen them by granting them additional powers and responsibilities. While this option would be the easiest from an organizational and financial perspective, the CoE report notes that the principles of the European Charter require smaller units of local self-government than Kosovo’s current municipalities. Moreover, Kosovo’s elections use a closed list system in which voters choose a party rather than an individual, and the parties then select representatives from their closed candidate lists to fill the number of seats they win in the election. As a result, the CoE points out that each local official theoretically represents an entire municipality, in spite of the fact that there are often ethnic, urban/rural, and other discrepancies within municipalities. The assessment team found this lack of connection between local officials and specific areas within a municipality problematic, and noted that simply strengthening existing municipalities would not resolve this issue.³⁹

³⁷ Council of Europe, “European Charter of Local Self-Government,” Article 3, Section 2, 15 October 1985, available from <http://conventions.coe.int>.

³⁸ *Ibid*, Article 3, Section 1.

³⁹ Council of Europe Decentralization Mission in Kosovo, “Reform of Local Self-Government and Public Administration in Kosovo” (CoE Report), 18 November 2003, 5.

Another option that would also fail to comply with the principle of subsidiarity would entail establishing a regional level of self-government along with a limited number of new municipalities. Many Albanian leaders favor this approach, which has been used in other Balkan countries such as Bosnia, where the Muslim-Croat Federation is divided into 10 cantons. However, the CoE report rejects this option on the grounds that it would not create a level of government below the municipalities and would therefore fail to bring decision-making power closer to the people of Kosovo. Moreover, the report claims a regional level of government is not necessary for a territory as small as Kosovo.⁴⁰

The third decentralization strategy considered by the CoE assessment team would involve creating new municipalities within the current large ones. The CoE report concludes that this option could be in keeping with subsidiarity, depending on the number of new municipalities created. However, it notes that there would be a direct tradeoff between compliance with subsidiarity and feasibility. Creating a large number of new municipalities would be acceptable from the point of view of democratic principles, but would not be organizationally or financially feasible. On the other hand, establishing only a small number of new municipalities could be feasible in financial and organizational terms, but would not respect the European Charter principles.⁴¹

The CoE assessment team concluded that two decentralization options would bring Kosovo into compliance with the principle of subsidiarity. One such option would create both regional and sub-municipal levels of government in Kosovo. The CoE report acknowledges that this would be the most comprehensive solution, but notes that it would not be organizationally or financially possible in the Kosovo context. In organizational terms, this decentralization strategy

⁴⁰ Ibid, 5.

⁴¹ Ibid, 5.

would result in three statutory tiers of self-government, as well as the unofficial village tier. The CoE report considers this proposed arrangement needlessly complex for a territory the size of Kosovo. Creating both a regional and sub-municipal level of government would also be extremely expensive in financial terms, and would be difficult if not impossible to justify given Kosovo's desperate economic situation.⁴²

The final option considered by the CoE would involve sharing responsibilities between municipalities and Sub-Municipal Units (SMUs). According to the CoE report, this strategy respects the basic principles of the European Charter. The establishment of SMUs would create a new level of government closer to the people, through which many local decisions could be made, and would provide some degree of territorial connection between voters and their elected representatives. Although this would not be the best option from the point of view of financial and organizational sustainability, the CoE report claims it would be acceptable because of the limited size of the new SMUs. The report recognizes that "it will be up to the institutions responsible for implementing the reform to decide on the details and how to proceed," but it nevertheless outlines specific suggestions for the creation of SMUs and the relationship between SMUs and other levels of government.⁴³

In considering the fundamental question of how many SMUs to create in Kosovo, the CoE report acknowledges that each village would ideally constitute its own SMU. However, considering that there are more than 3,000 villages in Kosovo, this would hardly be realistic from an organizational or financial perspective. The report therefore recommends basing the new SMUs on the units of local government that existed before the war, called *bashkesia lokale/mesna zajednica*. However, there were 400 such units in Kosovo before the war, which

⁴² Ibid, 5.

⁴³ Ibid, 5.

the CoE report deems excessive for such a small territory with limited resources for local government reform. In the interest of organizational and financial sustainability, the CoE report suggests merging some of these prewar units of local government, with the objective of creating around 300 SMUs.⁴⁴ It recommends establishing 235 rural SMUs, with an average population of 5,000, and notes that the population of rural SMUs could vary from approximately 1,500 in mountainous, remote, and poor areas that have been most neglected by the current local government arrangements to as many as 15,000 in flat, agricultural areas that are easier to administer. In Kosovo's seven major towns, the CoE suggests creating an additional 40 SMUs, which could range in size from 15,000 to more than 40,000.⁴⁵

The CoE report anticipates that a “great deal of sensitivity and expertise will be needed in deciding on the boundaries between SMUs,” and admits that the assessment team was “unable to address this specifics of this problem for want of resources.” However, the report does make some general suggestions concerning borders. It calls for as much local involvement as possible in determining SMU borders, while maintaining that a “degree of international supervision is necessary in view of the sensitive ethnic connotations in many cases.” The boundaries of the prewar local government units could be used, but in many cases these units would have to be merged, as previously mentioned, in order to keep the number of SMUs manageable from a financial and organizational standpoint. As long as UNMIK Municipal Representatives are still operating throughout Kosovo, the CoE reports recommends that the boundaries of the SMUs should be decided on by them or under their supervision.⁴⁶

In its report, the CoE assessment team differentiates between the decision-making and executive functions of the proposed SMUs. The report envisions the election of SMU Councils

⁴⁴ Ibid, 9.

⁴⁵ Ibid, 10.

⁴⁶ Ibid, 9.

to carry out decision-making functions in accordance with the principle of subsidiarity. It stipulates that these local decision-making bodies should be comprised of 7 to 15 members, depending on the size of the SMU, with a goal of 2 representatives per 1,000 residents. This arrangement would bring government closer to the people of Kosovo in two respects. It would reduce the number of people each local government official represents, thus making it possible for such officials to better understand and respond to the needs of their constituents. Moreover, SMU Council members would represent smaller geographic areas than Municipal Assembly members, creating a stronger link with the population of a given geographic area and allowing the SMU Council to focus on area-specific priorities that may not be shared by the rest of the municipality. The CoE report does not suggest a specific electoral system to be used in SMU elections, but does stipulate that the chosen system “should encourage the successful participation of independent candidates and civic associations.” This implies that an open list proportional representation system would be desirable. Following the elections, the CoE report stipulates that each SMU Council would elect an SMU President, and could also create Policy and Finance Committees if it so desires. A Communities Committee and Mediation Committee would also be required in each ethnically mixed SMU in order to protect minority rights, an issue that will be addressed in Chapter 5.⁴⁷

Although the democratic election of SMU Councils in Kosovo is necessary to bring Kosovo into compliance with the principle of subsidiarity, it is not sufficient. As previously mentioned, some variant of SMUs already exist in many municipalities, but lack real power as a result of undefined legal status and responsibilities. The CoE report therefore argues that SMUs must be given the status of “public law legal entities, with all the appropriate attributes,” including the ability to enter into contracts, manage finances, associate with other SMUs, and

⁴⁷ Ibid, 10.

bring cases before the courts.⁴⁸ This would give SMUs a comparable legal status to that conferred on municipalities by UNMIK Regulation 2000/45. The report also underscores the necessity of clearly defining the duties and powers of SMUs, an issue that will be addressed at length in Chapter 4.

In addition to giving the SMUs decision-making power, decentralization must also empower SMUs to implement policies made by the SMU Council, as well as certain municipal and central government decisions. Because of economic constraints and difficult local conditions, the CoE assessment team determined that it would not be feasible to set up an executive office in each SMU. The CoE report therefore recommends opening executive offices in urban SMUs and approximately 60 rural SMUs, including at least one rural SMU in each municipality, depending on local conditions and the availability of appropriate office space. Such SMUs would be called SMUs with Special Delegated Powers (SMU/SDPs). They would be responsible for implementing municipal and central government policies in a cluster of SMUs, and would also have authority to carry out decisions made by neighboring SMU Councils. Each SMU would have at least one part-time professional Local Executive Secretary approved by the SMU Council, while SMU/SDPs would have an SMU/SDP Executive Secretary and administrative staff that would serve several SMUs.⁴⁹

The CoE report also considers the relationship between the proposed SMUs and the villages and neighborhoods that would comprise them. It encourages informal public gatherings to elect Village and Neighborhood Councils where such arrangements do not already exist. It further recommends that such Councils should have between 3 and 9 members, depending on the size of the population, and should select a Village or Neighborhood Leader. Although the CoE

⁴⁸ Ibid, 9.

⁴⁹ Ibid, 10.

assessment team did not recommend that Village/Neighborhood Councils be given legal status like SMUs, it did envision them playing an important advisory role. In its report, the assessment team notes that SMU Councils should consult Village/Neighborhood Councils, especially on issues of territorial development, while Village/Neighborhood Councils should present their views on local issues at SMU Council meetings, represent the village or neighborhood in SMU dealings with donors and other partners, and participate in the management of local development projects. This would give the people of Kosovo a greater voice in local government, in keeping with the principle of subsidiarity. In addition, Village/Neighborhood Councils could apply for the status of associations in order to more effectively represent their interests to SMUs.⁵⁰

Finally, the CoE report considers the important question of the most appropriate timing for local government reform in Kosovo. It recognizes the need for a gradual process in order to allow SMUs to develop administrative capacity, and concludes that the best time to hold the first official SMU Council elections would be in conjunction with the municipal elections scheduled for 2006. In the meantime, the report suggests several concrete steps that the PISG and UNMIK should take to prepare for decentralization. Municipalities should determine the boundaries of the future SMUs in conjunction with the Ministry of Public Services and UNMIK. Village and Neighborhood Councils should be elected where they do not already exist, and could act as provisional SMU Councils. The location of the future SMU/SDP must be determined, and premises gradually prepared for their executive offices. Meanwhile the municipalities could begin delegating certain responsibilities to the SMUs in accordance with UNMIK Regulation 45/2000, and could begin to provide certain administrative services in the future SMU/SDPs.⁵¹

⁵⁰ Ibid, 8.

⁵¹ Ibid, 11.

Pristina Plan:

The Working Group on Local Government faced political constraints, including widespread Albanian opposition to a large-scale decentralization scheme that could lead to partition before the completion of final status negotiations, as well as economic constraints due to limited resource availability for local government reform. Thus, the Pristina Plan is the result of compromise, both among the various factions of the Albanian community represented by the PISG and between the PISG and UNMIK. Because the Working Group could not reach consensus on a single local government arrangement to implement throughout Kosovo, it agreed to recommend, “gaining practical experience with the restructuring of municipalities through pilot projects.” To this end, the plan it produced suggests that some pilot projects should correspond to new municipalities with the full range of municipal powers, while others should correspond to smaller SMUs with more limited powers as proposed by the CoE.⁵² The Pristina Plan does not share the CoE assumption that a new sub-municipal layer of local government will be created throughout Kosovo. Although it does not rule this possibility out, it implies that the future structure of local government in Kosovo will be largely determined by the success of pilot projects corresponding to various arrangements, including SMUs.

The Working Group on Local Government agreed that Kosovo’s decentralization strategy should adhere to European Charter criteria, including the Article 5 stipulation that boundary changes cannot be made without prior consultation of the local communities concerned.⁵³ However, the Working Group was unable to reach consensus on how many new units of local government to create in Kosovo and how the borders of these units should be determined. This lack of consensus is reflected in the Pristina Plan, which avoids difficult issues related to

⁵² Working Group on Local Government, “Framework for the Reform of Local Self-Government in Kosovo” (Pristina Plan), 19 July 2004, 5.

⁵³ European Charter of Local Self-Government, Article 5.

defining the borders of local government units in Kosovo. The Pristina Plan suggests that the basis for drawing territorial boundaries in rural areas should be “clusters of villages with some geographical features, where citizens are connected by common needs and interests, cultural traditions, and language.” It further stipulates that in larger towns, boundaries could be based on historic divisions, main roads, rivers, and railways.⁵⁴ These criteria do not appear to be very useful. For example, they would not help determine borders in the Albanian-dominated rural areas that comprise much of Kosovo, where the population shares similar interests and a common language and cultural heritage. Moreover, the criteria would not provide guidance for drawing boundaries because they fail to prioritize among the aforementioned factors. For example, it is unclear whether neighboring Albanian and Serb villages would be included in the same local government unit because they have shared interests, such as rural development, or whether these villages would be placed in separate units due to differences in cultural and linguistic heritage. Furthermore, the Pristina Plan does not stipulate whether UNMIK, the PISG, or some other authority would be responsible for determining boundaries.

The Pristina Plan also addresses the issues of how local government institutions should be elected and how their authority should be enhanced in order to improve democratic representation and ensure respect for the principles of the European Charter. In addition to the aforementioned pilot projects, it outlines several reforms that it deems necessary regardless of which local government arrangement is ultimately implemented in Kosovo. With respect to local elections, the Pristina Plan suggests three reforms. First, it argues that the voting system for future Municipal Assembly elections should be changed from the system of closed lists set forth in UNMIK Regulation 2002/11 to a system of open lists that would allow citizens to vote for individuals rather than parties. According to the Working Group on Local Government, an open

⁵⁴ Pristina Plan, 5.

list electoral system “would give more influence to the inhabitants in deciding who actually represents them in the Municipal Assembly.”⁵⁵ As the UNDP *Kosovo Human Development Report 2004* points out, creating a direct link between citizens and local government officials would improve democratic representation by providing an incentive for officials to spend less time seeking the favor of party leaders who devise the closed lists and more time understanding the needs of their constituents and developing policy platforms that address these needs.⁵⁶

Second, the Pristina Plan advocates introducing a geographic element into Municipal Assembly elections in order to “create a linkage between the municipal elected representatives and the areas of the territory they represent.” This approach is endorsed by the UNDP *Kosovo Human Development Report 2004*, which claims that ensuring geographic representation disperses power from the regional center to all areas of a territory proportionally, creates a sense of inclusivity no matter how physically isolated communities may be, and increases the likelihood that a specific local interests will be channeled to and addressed by the Municipal Assembly.⁵⁷

Third, the Pristina Plan emphasizes that the new law on local self-government should require public meetings at the village or neighborhood level and election of Village/Neighborhood Councils as outlined in the CoE report. Such an arrangement would “create a real interlocutor for the municipal level and others who could negotiate arrangements with these councils.”⁵⁸

The UNMIK/PISG proposal also includes measures to clarify and strengthen the authority of local government institutions in keeping with the principles of the European Charter,

⁵⁵ Ibid, 5.

⁵⁶ *Kosovo Human Development Report 2004*, 59.

⁵⁷ Ibid, 59.

⁵⁸ Pristina Plan, 6.

as the CoE report recommends. It emphasizes that, “democratic local self-government is the basis for the functioning of any democratic system,” and underscores the important role of strong local self-government in contributing to the establishment of sustainable democracy in Kosovo. To strengthen the legal authority of local governing institutions, the Pristina Plan recommends defining municipalities as “the basic unit of local self government in Kosovo, made up of a community of the inhabitants of a specific territory determined by law.” Such a definition would clearly show that “municipalities have their own legitimacy derived from their inhabitants and are not merely administrative units exercising powers designed by the central government.” The Working Group determined that this definition would be in keeping with the principle of subsidiarity because it “implies that the bulk of municipal competencies must be exercised by municipalities under their own responsibility in accordance with policies determined by the municipalities themselves in full respect of the law.”⁵⁹

Belgrade Plan:

The Belgrade Plan reflects the Serbian government’s concept of how decentralization should proceed in Kosovo, which contrasts with the strategies proposed in the CoE report and Pristina Plan and would have significant implications for democratic representation. The Belgrade Plan envisions the creation of an autonomous Serb region within Kosovo consisting of five districts that encompass “municipalities, parts of municipalities, and settlements in which Serbs comprised a majority before the 1999 exodus.”⁶⁰ This would theoretically include the current municipalities of Leposavic, Zubin Potok and Zvecan, as well as North Mitrovica, where Serbs formed a majority according to the 1991 census and continue to do so today. Although the

⁵⁹ Ibid, 2.

⁶⁰ Government of Serbia, “A Plan for the Political Solution to the Situation in Kosovo and Metohija” (Belgrade Plan), 29 April 2004, 3.

Serbian government justifies its demands for an autonomous Serb region primarily in terms of improving the security situation for Kosovo's Serb population, it also claims that such an arrangement would enhance democracy in Kosovo by providing for better representation of Serb interests in local government institutions.⁶¹ However, is doubtful that the Belgrade Plan would actually enhance democracy in Kosovo for two reasons.

First, the district structure outlined in the Belgrade Plan was devised by the government of Serbia in apparent violation of the European Charter stipulation that boundary changes cannot be made without prior consultation of the local communities concerned.⁶² Serbs currently living in the Serb-dominated areas that would comprise the proposed autonomous region would likely support the boundary changes advocated in the Belgrade Plan if they were consulted. However, Albanians and non-Serb minorities living within the future autonomous Serb region would certainly object to the proposed boundary changes if a consultation mechanism were included in the Belgrade Plan as required by the European Charter.

Second, the Serbian government plan does not stipulate the size of the five districts that would comprise the autonomous region. If the size of these districts were equal to or larger than the existing municipalities, they would not comply with the European Charter requirement of smaller units of local government. Even if the districts of the autonomous region were smaller than existing municipalities, it does not necessarily follow that they would be more democratic. The Belgrade Plan would likely improve democratic representation for the approximately 60,000 Serbs currently living in areas that would be included in the future autonomous region. This is because the district and regional leadership would be overwhelmingly Serb, and therefore more attuned to the interests and needs of the Serb population than the current Albanian-dominated

⁶¹ Ibid, 2.

⁶² European Charter of Self-Government, Article 5.

leadership. However, the Belgrade Plan could hinder representation of Albanians and non-Serb minorities in the autonomous region, who would likely be marginalized by the Serb leadership. Moreover, the Serbian government proposal does not mention local government reform in the rest of Kosovo, and would therefore not improve democratic representation for citizens outside the autonomous Serb region, including the 70,000 Serbs living in central and southern Kosovo.

The Belgrade Plan stipulates that the autonomous Serb region would be governed by a unicameral legislature called the Assembly of the Region. This Assembly would be elected by a secret vote of all citizens in the five districts of the autonomous region, and seats would be allocated on the basis of proportional representation. Legislative decisions of the Assembly of the Region and the Assembly of Kosovo would be implemented within the autonomous region by an Executive Council, to be selected on the basis of rules determined by the Assembly of the Region.⁶³ The Belgrade Plan is problematic from the perspective of improving democratic representation because it outlines a new regional layer of government but makes no mention of creating a layer of local government below the municipalities or districts equivalent to the SMUs recommended in the CoE report. Moreover, it makes no reference to reforming the electoral system by introducing open lists or a territorial component to bring local government closer to the people, as suggested in the Pristina Plan. The Belgrade Plan appears to correspond to the option of establishing a regional level of government and a limited number of new municipalities, which the CoE assessment team found lacking from the perspective of compliance with the principles of the European Charter.

The Belgrade Plan would give the autonomous Serb region a great deal of power. The Assembly of the Region would be allowed to initiate legislation in the Assembly of Kosovo and veto international agreements made by the PISG relating to regional competencies. Moreover,

⁶³ Belgrade Plan, 6.

laws and amendments concerning real estate located within the autonomous Serb region could not go into force in the region without the consent of the Assembly of the Region. Finally, the Belgrade Plan envisions a separate judicial system for the autonomous region. It notes that “exercise of judicial powers in Kosovo has been quite problematic” because “ethnic bias makes it very difficult to apply laws and establish facts of relevance to their implementation in any community divided along ethnic lines”⁶⁴ As a result, it proposes district courts and a regional court, with judges and prosecutors appointed by the SRSG from a list of nominees compiled by the Assembly of the Region.⁶⁵

The extensive powers that the autonomous Serb region would enjoy under the Belgrade Plan are problematic. Decentralization is designed to strengthen local government institutions while maintaining the authority of the central government. However, the Belgrade Plan would create robust regional institutions, thus undermining central government institutions without strengthening government at the district level. The International Crisis Group (ICG) argues that the Belgrade Plan would “create a near complete 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.⁶⁶

Conclusion:

Kosovo has made substantial progress towards overcoming the dual legacies of ethnic violence and communist rule and laying the foundation for sustainable democracy. The past five years have witnessed four free and fair elections and the gradual transfer of competencies from UNMIK to the PISG. Yet institutions alone cannot make Kosovo a true democracy, however

⁶⁴ Ibid, 6.

⁶⁵ Ibid, 7.

⁶⁶ International Crisis Group, “Kosovo: Toward Final Status,” 24 January 2005, 17, available from <http://www/crisisweb.org>.

well designed they may be. The essence of democracy must come from the citizens of Kosovo themselves. Kosovans do not trust public officials, and are very apathetic about the political process. However, decentralization has the potential to improve this situation by increasing democratic representation and making public officials more accountable to their constituents.

In order to promote democratization in compliance with the principle of subsidiarity at the core of the European Charter, any decentralization strategy for Kosovo must deal with two critical issues. The first is how to bring local government closer to the people. Only the CoE report explicitly recommends the creation of a sub-municipal layer of local government, but both the Pristina and Belgrade Plans leave open the possibility of smaller local government units. Moreover, smaller units are not the only way to bring local government closer to the people of Kosovo. Reforming the closed list election system and creating a territorial link between representatives and their constituents could also improve democratic representation.

The second key issue is how to determine the boundaries of local government units established as part of the decentralization process. The Serbian government has clear preferences concerning boundaries, which are outlined in the Belgrade Plan. Given that Kosovo appears to be on the path to some form of independence and the possibility of return to Serbian rule has already been effectively ruled out, the adoption of borders essentially imposed by a foreign power would be neither legally justifiable nor politically feasible. The borders of new local governing units will most likely be suggested by UNMIK and subject to some form of local approval, but the particular shape this process takes is critical because it will determine how legitimate these borders are in the eyes of the population, and will influence how Kosovans view the entire decentralization process.

IV. Development: Decentralization and Local Services

In addition to promoting representative democracy, decentralization can also bolster human security through improving the quality of public services and level of development in Kosovo. According to the recent UNDP Practice Note *Decentralized Governance for Development*, “Decentralizing democratic governance to sub-national levels can accelerate and deepen improvements in access to basic services by the poor and in their capacities to make choices and contribute to decision-making processes directly affecting their lives.”⁶⁷

This chapter begins with an overview of the standard of living in contemporary Kosovo, using information gleaned from the UNDP *Kosovo Human Development Report 2004*. Kosovans have the lowest level of development in the Balkans, as measured by the UNDP HDI. Poverty and unemployment are pervasive, particularly in rural areas. Moreover, many Kosovans lack access to basic services such as education, health care, and water and sanitation. This situation is exacerbated by confused lines of accountability that make it difficult for Kosovans to determine who is responsible for providing which services. Nevertheless, the population is confident that local government reform would significantly improve service provision and development levels.

The chapter then evaluates the CoE, UNMIK/PISG, and Serbian government decentralization plans in terms of their prospects for fostering development in Kosovo. It describes which responsibilities would be devolved to local government units under each plan, and how these proposed arrangements would affect service quality and development levels throughout the province.

⁶⁷ UNDP, *Decentralized Governance for Development: A Combined Practice Note on Decentralization, Local Governance, and Urban/Rural Development*, April 2004, 3, available from <http://www.undp.org>.

Current Situation:

In order to understand the potential role of decentralization in promoting local development and improving the quality of public services, it is important to understand the current standard of living in Kosovo. According to the UNDP *Kosovo Human Development Report 2004*, Kosovo scored .734 on the UNDP HDI, which ranks countries from 0 to 1 on the basis of GDP per capita as well as social indicators such as life expectancy, educational attainment, and literacy. This ranking places Kosovo in the medium range of human development, similar to Albania and slightly lower than Macedonia and Bosnia, but significantly below Croatia and Slovenia.⁶⁸ Poverty and unemployment are endemic in Kosovo. Official unemployment is estimated at 44%, and actual unemployment may be as high as 70%. Poverty rates are also high, with 13% of Kosovans living on less than \$1 per day and 48% living on less than \$2 per day. These rates reach 25% and 70% in the remote Dragash/Dragas Municipality.⁶⁹

Disaggregating the HDI data gives a picture of the quality of basic services such as health care, education, and water and sanitation. The shortcomings of Kosovo's health care system can be inferred from the fact that Kosovans have the lowest life expectancy in the Balkans, and can expect to live three years less than Bosnians and Macedonians and four years less than Croatians. Access to health care facilities continues to be problematic, with 8% of Kosovans living more than five kilometers from the nearest clinic. This problem is particularly acute in rural areas such as Skenderaj/Srbica Municipality, where 27% of residents lack access to health care facilities. Although the primary school enrollment rate is 95%, the secondary school enrollment rate is only 75%, and is significantly lower for women and rural residents. In terms of water and sanitation, 27% of Kosovans do not have piped water, and 32% lack access to sewerage for

⁶⁸ *Kosovo Human Development Report 2004*, 14.

⁶⁹ *Ibid*, Annex II, 126.

disposal of wastewater. The situation is considerably worse in rural areas such as Malisheve/Malisevo Municipality, where only 7% have piped water and just 24% have access to sewage.⁷⁰

The efficient provision of services in Kosovo is hindered by confused lines of accountability, both between the central and municipal institutions of the PISG and between the PISG and UNMIK. As a result, citizens are unclear about who is responsible for delivering which services. The UNDP *Kosovo Mosaic* reveals that many Kosovans hold municipal institutions accountable for certain services that are actually the responsibility of central government institutions. For example, the majority of Kosovans attribute responsibility for water and sanitation to municipal authorities. While UNMIK Regulation 2000/45 states that municipalities are responsible for supplying these utilities, Regulation 2000/49 establishes a central Department of Public Utilities and Public Enterprises for this purpose. Moreover, the *Kosovo Mosaic* notes that Kosovans still have a tendency to believe UNMIK is responsible for all services. The percentage of respondents holding UNMIK accountable ranges from 5% to 30% for the various services mentioned in the *Kosovo Mosaic* survey. Moreover, 10% of Kosovans continue to believe UNMIK is responsible for providing services in areas such as health care and education, even though UNMIK has clearly transferred these competencies to the PISG. The *Kosovo Mosaic* argues that this confusion is not simply due to lack of public information, because in many cases the relationships and division of competencies between municipal and central government institutions are not clearly defined in UNMIK regulations. As a result, “local governments cannot address peoples’ needs because they are stymied by contradictory regulations.”⁷¹

⁷⁰ Ibid, Annex II, 110.

⁷¹ *Kosovo Mosaic*, 2003, 26.

These confused lines of accountability have led to a vicious cycle of perpetual scapegoating. Municipal officials claim they do not have the mandate or resources to supply the services they have been given responsibility for. They argue that providing these services is actually the duty of the central government, and emphasize that the central government must give the municipalities adequate funding if it expects them to dispense services on its behalf. The central government blames this mandate ambiguity and lack of resources on UNMIK, and points out that it cannot transfer competencies and resources to the municipalities that it has not been given by the SRSG. For its part, UNMIK highlights the competencies that the SRSG has already transferred to the PISG, and accuses the municipal and central authorities of trying to make excuses for poor service quality.

In spite of these problems with the provision of public services, Kosovans believe in the principle of subsidiarity and are optimistic that decentralization would improve service quality and foster development. The *Kosovo Mosaic* found that nearly 70% of Kosovans have a high degree of confidence in local government. Moreover, the six services Kosovans identify as overall top priorities in virtually all municipalities are precisely the same six services they believe would function most effectively if decision-making authority and resources were transferred to local authorities – electricity, primary health care, road maintenance, water supply, garbage collection, and sanitation.⁷² This suggests that Kosovans believe their most urgent priorities can be best addressed at the local level. Most importantly, the *Kosovo Mosaic* revealed that most Kosovans would be willing to pay additional municipal taxes to improve the quality of public services, even though this would be a significant burden given the high poverty and unemployment levels in the province.⁷³

⁷² Ibid, 20.

⁷³ Ibid, 23.

Council of Europe Report:

The international community views decentralization as a means of improving the quality of services and the level of development in Kosovo, noting that the province would benefit from tailored local strategies concerning service provision and economic development that reflect the unique characteristics and priorities of its diverse municipal and sub-municipal units. In evaluating the five options for decentralization, the CoE assessment team considered the extent to which each option would lead to better services and higher living standards. It found that two of the options would not have much of an impact in this regard. Although maintaining the same number of municipalities would be the easiest decentralization option to implement both financially and organizationally, the CoE report concludes that this strategy would not improve the quality of services or the level of development in Kosovo. The report also rejects the option of creating a regional tier of government, which is supported by many Albanian politicians, on the basis that it would be financially and organizationally complicated and would not include a sub-municipal layer of government that could devise more effective strategies for service provision and economic development on the basis of local circumstances and priorities.⁷⁴

The CoE assessment team concluded that two other options could improve service quality and development levels in Kosovo, but would pose organizational and financial problems. One of these options would involve creating both regional and sub-municipal layers of government. According to the CoE report, this option would be the most comprehensive, and would likely lead to the greatest improvements in service provision and development levels. However, it would also be too expensive and complicated to implement. The assessment team also considered the possibility of creating a limited number of new municipalities. The CoE report claims this strategy could improve public services and foster local development, depending on

⁷⁴ CoE Report, 5.

how many new municipalities were established. However, it notes the inverse relationship between the number of municipalities created and improvement in service quality and development levels. Establishing many new municipalities would likely have a substantial impact on service quality and development levels, but would not be financially or organizationally feasible. On the other hand, it would be more realistic to establish a few new municipalities from an organizational and financial perspective, but this strategy would not have a significant impact on the quality of services or level of development in Kosovo.⁷⁵

The final option considered by the CoE would involve sharing responsibilities between municipalities and SMUs. According to the CoE report, this option would improve service quality and foster development by creating smaller local government units that could devise strategies for the provision of services and generation of economic growth that would be tailored to the particular needs and priorities of their populations.⁷⁶ Although this would not be the best option from the point of view of financial and organizational sustainability, the CoE report claims it would be acceptable because of the limited size of the new SMUs. The report recognizes that “it will be up to the institutions responsible for implementing the reform to decide on the details and how to proceed,”⁷⁷ but it nevertheless outlines specific suggestions concerning the responsibilities of the central, municipal, and sub-municipal layers of government.

The CoE report emphasizes the need for new local government legislation that clearly distinguishes between central, municipal, and SMU responsibilities. It suggests that the central government should continue to be responsible for making decisions concerning basic social welfare services, such as pensions. The central government should also maintain control over the

⁷⁵ Ibid, 5.

⁷⁶ Ibid, 5.

⁷⁷ Ibid, 2.

implementation of such decisions, though it may choose to devolve this responsibility to its municipal branches. However, the CoE report argues that SMUs should be allowed to establish and operate additional local social welfare services such as orphanages, shelters, and subsidized housing.⁷⁸

According to the CoE report, certain services would be most effectively managed at the municipal rather than SMU level. In the area of utilities, the report notes that utility networks such as water and sewer systems often serve entire municipalities, and would therefore be most effectively controlled by municipal authorities. However, the report points out that there are small utility systems in some rural areas that could be better managed at the SMU level. It claims that the need for clarification of rights and duties is especially urgent in this area. UNMIK Regulation 2000/45 expressly transfers responsibility for public utilities to municipalities, and municipalities are therefore claiming the right to manage utilities that were previously under state ownership. However, the companies in question have been placed under the authority of the Kosovo trust Agency (KTA) – a central institution established by UNMIK to manage state property and oversee privatization. As a result, the municipalities often do not understand that they already have the right to choose a supplier, specify quality and cost conditions in the contract, and appoint representatives to supervisory boards of utility companies. The CoE report asserts that local authorities should be allowed to decide whether to provide utilities through their own companies or whether to resort to private contractors. Moreover, it emphasizes the need for decisions concerning who owns Kosovo's utility networks and argues that municipalities should be allowed to apply for ownership of networks of municipal significance, while SMUs should be allowed to take possession of local systems.⁷⁹

⁷⁸ Ibid, 14.

⁷⁹ Ibid, 15.

The CoE report also concludes that municipalities should retain responsibility for primary health care. Although it claims “health care should obviously be provided as close the citizen as possible,” it argues that SMUs might not be capable of delivering quality health care services because health care is a “very costly public service” that “requires highly qualified professional service providers.” However, the report emphasizes that SMUs should play a role in the upkeep of local health care facilities and implementation of preventive health care measures. It also notes that secondary health care facilities in Kosovo’s major towns are often directly controlled by the Ministry of Health, and underscores the need for municipal and SMU representatives to have more influence in making and implementing decisions concerning secondary health care.⁸⁰

While conceding that some services should remain under municipal control, the CoE report argues that most services could be more effectively delivered through SMUs. With respect to education, the report points out that “parents and families generally are very keen to obtain a good education for their children, and powers and responsibilities should therefore be transferred as close to them as possible in accordance with the principle of subsidiarity.” It suggests that most education decisions should be made at the SMU level, although municipalities should retain overall responsibility, address regulatory issues, and absorb most administrative costs.⁸¹ The CoE report also envisions an important role for SMUs in organizing firefighting and ambulance services, cultural and recreational events,⁸² trash collection and maintenance of public areas, and local transportation, road upkeep, and traffic management.⁸³ Although the report recognizes that it may take time for SMUs to develop the capacity to carry out many of these functions, it notes that SMUs should be encouraged to perform symbolic functions in the

⁸⁰ Ibid, 16.

⁸¹ Ibid, 16.

⁸² Ibid, 18.

⁸³ Ibid, 16.

interim, such as renaming streets and public spaces.⁸⁴ In addition, it suggests that SMUs provide services that they cannot provide on their own through forming associations with other SMUs or making agreements with an SMU/SDP, of which there will be 60 in rural areas throughout Kosovo and at least one in each municipality.

The CoE report also addresses the difficult issue of property rights in Kosovo, which is closely linked to local development. It notes that municipalities have only been allowed to manage a small portion of public land in Kosovo since the war, and have therefore had virtually no opportunity to attract private investors or implement urban development plans. To rectify this situation, the report emphasizes the importance of passing a public property law that distinguishes between state, municipal, and other forms of public property and enables municipalities to buy, sell, rent, or lease property. Such legislation would allow property to be transferred from the KTA to the central institutions of the PISG, which could then turn it over to the municipalities and SMUs. The CoE report recommends that municipalities be given rights to land that is not directly used for economic activities but could be used for urban development in the future. It suggests that municipalities give SMUs the authority to manage certain land that is of local significance for urban development purposes and offer land as an incentive to potential investors. It also stipulates that SMUs should be allowed to negotiate with local entrepreneurs and make decisions concerning private sector development.⁸⁵

In addition, the CoE report considers the role of local government in the areas of law enforcement and historic and cultural preservation, which are extremely sensitive in Kosovo. The report recognizes that law enforcement on the municipal level has been an “enormous problem” since the war, and acknowledges that the Kosovo Police Service (KPS) is not accountable to the

⁸⁴ Ibid, 19.

⁸⁵ Ibid, 18.

municipalities. It suggests either creating special units within the KPS or separate municipal police forces to deal exclusively with the enforcement of local law – including protection of public property, prevention and prosecution of illegal building, eviction, support for inspectors, and maintenance of public order.⁸⁶ These special units or municipal police forces would complement rather than undermine the overall authority of KPS throughout the province.

The CoE report barely mentions protection of historical, cultural, and religious monuments, which is a critical issue for Kosovo's Serb population given the destruction of 27 Serbian Orthodox churches and monasteries that took place during the March 2004 riots. The CoE would entrust each municipality with protection of historical, cultural, and religious sites on its territory while encouraging SMUs to “provide information to the municipality concerned and request that appropriate measures be taken.”⁸⁷ This arrangement would not be acceptable to the Serb community. Although it would give Serbs control over historical and cultural sites in Serb-dominated municipalities, it would leave responsibility for protection of many Serbian Orthodox churches and monasteries in the hands of Albanian-dominated municipal institutions.

Lastly, the CoE report discusses how decentralization should be financed. It points out that both the decision-making and executive functions of local government are currently financed through grants from the central Ministry of Finance and Economy. These grants fall into several categories – such as municipal administration, education, health, and firefighting – and are not transferable from one category to another. As a result, the municipalities have little flexibility in deciding how these funds could best be used to meet the needs of the local population. Furthermore, municipalities collect many taxes and fees but only property tax income remains at their disposal. Local income constituted an average of just 9.5% of municipal budgets in 2003.

⁸⁶ Ibid, 31.

⁸⁷ Ibid, 14.

The CoE report makes several recommendations concerning the financial aspects of decentralization on the basis of three key principles. First, it emphasizes that all responsibilities transferred from the central level to the municipal level and from the municipal level to the sub-municipal level should be financially justified on the basis of comparative advantage. Second, it stipulates that responsibilities should not be transferred to municipalities or SMUs without commensurate financial, material, and human resources to carry them out successfully. Third, decentralization should increase the total cost of local government in Kosovo as little as possible.

The CoE assessment team recognized that it is unrealistic to expect SMUs to be fiscally self-sustaining, especially SMUs in rural areas with populations of impoverished subsistence farmers. Its report therefore recommends that the SMUs receive funds from the central government to carry out their responsibilities in areas where they have both decision-making and executive authority, and stipulates that these funds should be distributed directly to SMUs on the basis of population size. The report suggests that SMUs should also receive funds from the governments of the municipalities in which they are located, and municipal employees should be transferred to SMU/SDPs to manage such funds.⁸⁸ The CoE report predicts that relations between the municipalities and SMUs will be “extremely sensitive,” particularly if an SMU is dominated by a different ethnic group than the municipality in which it is situated, and notes that only experience will show what proportion of local income should go to SMUs and what proportion to municipalities. It suggests that municipalities should initially be responsible for levying most local fees and charges, but should gradually transfer this duty to SMUs. In any case, it emphasizes that both municipalities and SMUs should be able to retain a significant portion of the income they collect. The report also highlights the importance of devising a system

⁸⁸ Ibid, 21.

for distributing funds to promote development in impoverished rural areas, both within municipalities and throughout Kosovo.⁸⁹

Pristina Plan:

As mentioned in Chapter 3, the Pristina Plan is the result of compromise, both among the various factions of the Albanian community represented by the PISG and between the PISG and UNMIK. Because the Working Group on Local Government could not reach consensus on a single decentralization strategy to implement throughout Kosovo, it recommended piloting several potential arrangements, including new municipalities with the full range of municipal powers and smaller SMUs with more limited powers.⁹⁰ Although the Pristina Plan does not rule out the possibility of establishing SMUs throughout Kosovo, as proposed by the CoE. Rather, it implies that the future structure of local government will be largely determined by the success of pilot projects corresponding to various arrangements, including SMUs. As a result, it does not make specific recommendations concerning the difficult question of which functions should be performed at the sub-municipal rather than municipal level in order to improve public services and promote local development. However, it does address the division of responsibilities between the central and municipal levels of government, as well as the issues of property and financing.

The Pristina Plan outlines several suggested competencies for the municipalities. In terms of regulatory competencies, it asserts that municipalities should have the authority to draw up spatial plans within the framework of the Spatial Plan of Kosovo and other applicable laws – including use of space for housing, businesses, public facilities, and municipal roads. In addition,

⁸⁹ Ibid, 19.

⁹⁰ Pristina Plan, 5.

it claims that municipalities should have the authority to “establish rates and conditions of access for the use of municipal services and facilities,” though it does not specify which services and facilities should fall into this category. The Pristina Plan would also grant municipalities the authority to regulate municipal road construction and upkeep as well as traffic and parking.⁹¹

In addition to these regulatory competencies, the Pristina Plan lists a range of other responsibilities that should be granted to municipalities in the new legislation on local government. Some of these are competencies that both the CoE report and Pristina Plan agree should be given to municipalities, such as collecting certain taxes and fees and managing public utilities like water and sewer systems. However, most are competencies that the CoE report recommends giving to the SMUs – such as determining local economic and development priorities, operating local transportation systems, managing primary education facilities and selecting school directors, providing firefighting and ambulance services, establishing supplementary welfare programs, and renaming municipal roads and other public spaces.⁹²

The Pristina Plan further suggests certain areas in which the central institutions of the PISG should retain decision-making power while delegating implementation to the municipalities. These areas include conducting civil registration and documentation, regulating and licensing businesses, providing social assistance payments to inhabitants of municipalities, allocating money to schools and monitoring how it is spent, controlling construction standards, protecting water, soil, air and other resources against pollution, and granting licenses for the use of natural resources.⁹³ These recommendations are generally in line with the conclusions of the CoE report.

⁹¹ Ibid, 3.

⁹² Ibid, 4.

⁹³ Ibid, 4.

The Pristina Plan also addresses the contentious property issue. It highlights the standard set forth in the European Charter of Local Self-Government, which stipulates that, “municipalities should have the possibility to own and control facilities providing municipal services.” It recognizes that UNMIK Regulation 2000/45 technically already allows municipalities to possess and administer property in accordance with applicable laws. However, it notes that municipal property ownership raises specific legal issues in the Kosovo context, due to the fact that the administration of state property is a reserved power of the SRSB that is vested in the KTA. It therefore suggests that the KTA should be required to make “specific arrangements” with the government of each municipality concerning the administration of state property within that municipality. Moreover, it claims that municipalities should “play an active role” in the privatization of property located on their territory.⁹⁴

In addition, it is important to examine how the Pristina Plan handles the controversial issues of law enforcement and protection of historical, religious, and cultural monuments that are of particular importance to the Serb population. The Pristina Plan would allow municipalities to adopt regulations for “maintaining public order at the local level” and “use of public spaces.”⁹⁵ However, it does not incorporate the CoE suggestion of creating special KPS units or municipal police forces to provide local law enforcement services, nor does it include other specific provisions for the enforcement of local regulations. Concerning historical, cultural, and religious sites, the Pristina Plan echoes the CoE recommendations, holding the municipalities responsible for the protection of monuments located on their territory. It does specify that municipalities should cooperate with the owners of the monuments where appropriate, leaving open the possibility of a role for local Serb leaders or Belgrade officials in protecting Serb sites in

⁹⁴ Ibid, 6.

⁹⁵ Ibid, 3.

Albanian-dominated areas of Kosovo. However, the Pristina Plan would still not be acceptable to the Serbs because it still grants primary responsibility for protection of many Serb sites to Albanian-dominated municipal governments and suggests but does not require cooperation with local Serb leaders or Belgrade officials.

Lastly, the Working Group on Local Government considered the critical issue of financing decentralization. The Pristina Plan is vague on this issue compared to the CoE report, and places most of its emphasis on the need for a new public finance law. The law envisioned by the Pristina Plan would enhance the fiscal autonomy of municipalities by guaranteeing their authority to manage their own budgets, set rates and exemptions for local taxes, fees, tariffs and fines within centrally determined ranges, and borrow in internal and external capital markets. The Pristina Plan also emphasizes that the central government should include measures to “mitigate disparities” among municipalities when calculating municipal grants.⁹⁶ In addition, it echoes the CoE focus on central-local and inter-municipal partnerships as an effective means of promoting the efficient provision of quality services, noting that municipalities could either agree to jointly deliver a given service or entrust one municipality to supply the service on their behalf.⁹⁷

Belgrade Plan:

As described in Chapter 3, the Belgrade Plan is most concerned with creating a strong regional government to oversee the proposed autonomous Serb region of Kosovo. Its overarching principle is that all powers not specifically reserved to UNMIK or the PISG would belong to the autonomous Serb region, with the implication that the region could then transfer

⁹⁶ Ibid, 8.

⁹⁷ Ibid, 11.

these responsibilities to its five constituent districts. However, the Belgrade Plan focuses on the distribution of responsibilities between the central and regional levels of government, and does not even address the issue of which responsibilities should be devolved from the regional to district level.

The Serbian government claims its plan complies with the principle of subsidiarity and defines the powers that it believes could be exercised more efficiently within the autonomous Serb region. These include many responsibilities that should be devolved to the municipal or SMU level according to the CoE report and Pristina Plan – such as education, health care, social policy, spatial planning, culture, sports and recreation, infrastructure, and utilities. The Belgrade Plan also addresses the issue of property, noting that the Assembly of the Region must be allowed to own and manage public property and must be able to oversee the privatization process in the autonomous region.⁹⁸ In addition, it asserts that the autonomous Serb region should have the power to collect taxes, fees, and charges and to borrow for investment purposes. To this end, it proposes that the region would channel income from customs duties, excise taxes, and other similar dues to the central government in Pristina, while retaining revenue from income taxes, profit taxes, property taxes, and utility taxes.⁹⁹

There are two problems with the Belgrade Plan from the perspective of improving the quality of services and level of development in Kosovo. First, it is unclear how large the five constituent districts of the autonomous Serb region would be, and which services they would be responsible for providing. If the districts were not substantially smaller than the current municipalities, or if they were not entrusted with many of the responsibilities that the Serbian government plan claims for the autonomous region, the Belgrade Plan would probably not

⁹⁸ Belgrade Plan, 5.

⁹⁹ Ibid, 7.

improve public services or development levels even within the region. Moreover, even if the Belgrade Plan did result in better services and higher development levels in the autonomous Serb region, it does not include a strategy for decentralization in the rest of Kosovo, and would therefore not have a positive impact outside of the autonomous region.

The Belgrade Plan places special emphasis on law enforcement and preservation of Serb historical, cultural, and religious monuments. It claims the March 2004 riots demonstrated that the KPS is not capable of providing security for Kosovo's Serb population. It therefore insists the autonomous Serb region should be responsible for providing its own law enforcement service. Although it does not specify what relationship the proposed regional police force would have to the KPS, this arrangement would undermine the authority of central PISG institutions and hamper efforts to create a unified, multiethnic Kosovo.

Concerning monuments, the Belgrade Plan claims the March 2004 riots demonstrated UNMIK's failure to protect Serb historical, cultural, and religious sites in Kosovo. It notes that UNMIK neglected to establish a body to preserve the cultural heritage of the province as required by the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, and transferred responsibility for protection of historical, cultural, and religious sites to the PISG, "even though aware they have not reached the level of proficiency required for the task."¹⁰⁰ It asserts Serbia's right to control the cultural heritage of Kosovo by invoking the 1976 Vancouver Declaration on Human Settlements, which stipulates that, "every country should have the right to be a sovereign inheritor of its own cultural values created throughout history."¹⁰¹ According to the Belgrade Plan, the autonomous Serb region would be responsible

¹⁰⁰ Ibid, 10.

¹⁰¹ Ibid, 9.

for historical, cultural, and religious sites located on its territory, while Serb sites located outside the autonomous region would be directly controlled by Belgrade.

There are two problems with this proposed arrangement. First, it would allow the Serbian government to intervene in Kosovo and undermine the authority of the PISG. Second, it does not acknowledge that Serbian monuments comprise only one aspect of the complex historical, cultural, and religious heritage of Kosovo, and it would therefore fail to protect mosques and other Albanian sites located within the proposed autonomous Serb region. Although the final decentralization plan for Kosovo will have to guarantee protection of Serb monuments, the Albanian and international communities will never agree to the Belgrade Plan stipulation that the Serbian government should assume this responsibility. Given that the Serbs do not believe the PISG can effectively protect their heritage in Kosovo, perhaps this job could be most effectively performed by an international body such as the United Nations Educational, Scientific and Cultural Organization (UNESCO).

Conclusion:

Much progress has been made in Kosovo during the five years since the war, but the transition from reconstruction to development has been gradual and is not yet complete. Kosovo was the most backward province in the former Yugoslavia even before it erupted in violent conflict, and it still has the lowest level of human development in the Balkans. It suffers from high rates of poverty and unemployment, and many Kosovans lack access to basic services such as health care, education, and water and sanitation. This situation is exacerbated by confused lines of accountability that make it difficult for Kosovans to know who is responsible for providing which services. Decentralization has the potential to improve service quality and foster development in Kosovo by allowing local government units to devise strategies for service

provision and economic growth that reflect the specific needs and priorities of their constituents. However, this will require progress in four areas.

First, the responsibilities of central, municipal, and potential sub-municipal government institutions must be clearly defined so that each layer of government is aware of which services it is required to provide, and the people of Kosovo understand which institutions to hold accountable for delivery of particular services. Second, the contentious property issue must be addressed. Property previously owned by the state is currently controlled by UNMIK and administered by the KTA. Local government units should be allowed to purchase such property if it is located within their territory, including not only land but also other forms of property such as utility networks. Local governments could use such property to attract investment and foster development, and income from property taxes and fees would enhance the fiscal autonomy of local authorities. Third, the controversial issues of law enforcement and protection of historical, cultural, and religious monuments in Kosovo must be resolved to the satisfaction of the Serb population without undermining the authority of the PISG. Finally, fiscal matters must be addressed in order to ensure that each layer of government has the necessary financial resources to provide services successfully in its areas of responsibility.

V. Equality: Decentralization, Mitigation, and Final Status

In addition to affecting democratic representation, service provision, and development levels, decentralization is closely linked to the ethnic issues at the core of the Kosovo conflict. The plans proposed by the CoE, UNMIK/PISG, and Serbian government would have radically different implications for Kosovo's fragile peace, which has held since the March 2004 riots. Depending on which plan is selected and how the chosen plan is implemented, decentralization could mitigate ethnic tensions and foster stability in Kosovo by giving minority communities greater autonomy and more channels to promote their interests without resorting to violence. However, decentralization also risks hardening existing ethnic divisions and undermining stability, both within Kosovo and throughout the Balkan region.

This chapter examines the decentralization strategies proposed by the CoE, UNMIK/PISG, and the Serbian government in terms of their potential to alleviate the ethnic tensions in Kosovo. It recognizes that local government reform will only succeed in Kosovo if it obtains the support of minority communities in general, and the influential Serb community in particular. To this end, it analyzes the extent to which each of the aforementioned proposals would safeguard minority rights and provide channels for minorities to advance their interests, as well as how acceptable each proposal would be to minority communities – especially the Serbs. It examines the role of the Serbian government in the current decentralization debate and also considers the potential impact of local government reform in Kosovo on the delicate ethnic balance in Serbia, Macedonia, and Bosnia and Herzegovina.

International Perspective:

The international community views decentralization as a means of mitigating the ethnic conflict in Kosovo by retaining the territorial integrity of the province while ensuring that the concerns of minority communities are represented and that their rights are protected. Although the European Charter of Local Self-Government does not explicitly link decentralization to empowering minority communities and protecting their rights, this is clearly a critical issue given the high level of ethnic tension in Kosovo and the perception of Serbs and other minorities that the current governing arrangements do not meet their specific needs. In evaluating the five options for decentralization, the CoE assessment team considered how feasible each option would be from a political perspective, with political feasibility in the Kosovo context requiring that an option be acceptable to both the Albanian and Serb communities.

The CoE report deems three of the proposed options politically unacceptable. It claims that maintaining the existing number of municipalities while strengthening their position by giving them additional powers and responsibilities would not be politically feasible because it would not improve representation of minority communities. It further argues that establishing a regional level of self-government and a limited number of new municipalities would be problematic for the same reason. It also finds the option of establishing new municipalities within the current large ones politically controversial due to the potential for creating ethnically homogenous municipalities. While the CoE report concludes that the option of creating both regional and sub-municipal levels of government would enjoy the broadest political support, it does not consider this a realistic alternative due to the prohibitive cost.¹⁰²

The final option the CoE delegation considered was establishing a system of SMUs and SMU/SDPs in which responsibilities are shared between the municipal and sub-municipal levels

¹⁰² CoE Report, 5.

of government. Although the CoE delegates recognized this scheme was not ideal, they nevertheless endorsed it as a compromise solution that could be politically acceptable to both the Albanians and the Serbs.¹⁰³ Their proposal stipulates that SMUs should be established on the basis of geographical rather than ethnic criteria. Given that the population of Kosovo is overwhelmingly Albanian, this scheme would result in many exclusively Albanian SMUs, or mixed SMUs with an Albanian majority. However, the CoE team recognized that in some instances SMUs may be only Serb, such as the enclaves of Gračanica and North Mitrovica, or mixed with a Serbs or another minority community constituting a majority of the population. In its recommendations, the CoE delegation did not preclude the creation of such SMUs, emphasizing that “such a unit would, in any case, be integrated into higher-tier multi-ethnic institutional structures” at the municipal and central levels.¹⁰⁴

The CoE report points out that the establishment of stronger SMUs would “allow many local ethnic communities to take more decisions on matters concerning them.” This is due to the fact that in SMUs where minority communities constitute the majority of the population, these communities “will be enabled to be in charge of their own budgets and exercise significant responsibilities in many areas of local life.” Moreover, the report notes that the legal status of SMUs would allow them to have official dealings with other institutions.¹⁰⁵ As a result, SMUs could set up ad hoc associations in order to magnify their power and achieve specific goals, including ethnic goals. For example, Serb villages within a mixed SMU could set up an association, as could Serb-dominated SMUs within a municipality or indeed Serb-dominated municipalities within Kosovo.

¹⁰³ Ibid, 5.

¹⁰⁴ Ibid, 29.

¹⁰⁵ Ibid, 26.

The CoE report recognizes that, given the current ethnic composition of Kosovo, its proposed local government arrangement would still leave many minorities in Albanian-dominated SMUs. It therefore recommends strengthening the existing legal framework for local government protection of minority rights. As described in Chapter 2, UNMIK Regulation 2000/45 stipulates that each municipality must have a standing Communities Committee. This committee must include at least one member from each community residing in the municipality, with less than half of the members from the majority community in the municipality and the remaining seats distributed proportionally among the other communities. Its ensure that municipal officials do not discriminate against minority communities, that these communities are able to enjoy a full range of rights, and that minorities have equal access to municipal employment opportunities. If the Communities Committee believes that a municipal action has violated or may violate the rights of a community, it can refer the matter to the Mediation Committee. The Mediation Committee investigates the allegations and submits a report to the Municipal Assembly with recommendations for how the matter should be dealt with. The Municipal Assembly then decides what action to take in accordance with the law. If the Municipal Assembly fails to make a decision, or if the Communities Committee is dissatisfied with the decision, it may refer the matter to UNMIK for review.¹⁰⁶

The CoE report acknowledges that Serbs are not satisfied with the current Community Committee arrangements, which allows them to be regularly outvoted by an alliance of Albanians and representatives of the Bosniak, Gorani, and RAE communities. It notes that these arrangements have caused frequent Serb boycotts of Community Committees and undermined Serb trust in Kosovo's democratic institutions. It therefore recommends amending Regulation

¹⁰⁶ UNMIK Regulation 2000/45, "On Self-Government of Municipalities in Kosovo," Section 23, 1 August 2000, available from <http://www.unmikonline.org>.

2000/45 to stipulate that Communities Committees only include one or two members of the majority community. Moreover, where one minority community greatly outnumbers the others, the CoE suggests that the dominant minority be given a majority of seats on the Communities Committee and be allowed to chair the committee. This would allow the Serbs to control Communities Committees in mixed municipalities and SMUs where they are the dominant minority. The CoE also recommends that the Communities Committees be given special rights in their dealings with SMU Councils and Municipal Assemblies, including the ability to veto municipal or SMU actions that violate the rights of minority communities.¹⁰⁷

Albanian Perspective:

Kosovo's Albanian community remains skeptical of decentralization for several reasons. One reason concerns the timing of UNMIK's push for decentralization. Although the timing of the CoE assessment mission demonstrates that UNMIK was already considering various options for local government reform in 2003, it was only in the aftermath of the March 2004 riots that UNMIK became vocal in its calls for decentralization and formed a Working Group on Local Government. The ICG points out that international advocacy of decentralization as a response to the riots "cast [decentralization] as a punishment for the Albanians." According to the ICG, this framing of decentralization as a punishment has been "difficult to square with the message that it could benefit all."¹⁰⁸

In addition, Kosovo's Albanian population is concerned that decentralization is yet another scheme introduced by the international community to put off dealing with the question of final status. They fear that decentralization will lead to autonomy for Serb-dominated areas of

¹⁰⁷ CoE Report, 26.

¹⁰⁸ ICG, "Kosovo: Toward Final Status," 5.

Kosovo, which could result in its partition and partial re-annexation by Serbia. According to Radio Free Europe commentator Melazim Koci, “resolving the status question is the key to ending the nervousness that could become the basis for future violence.” Koci explains that, “as long as Albanians fear that Belgrade’s rule will return in some form or another – including a possible joint state imposed by the EU – they will remain jittery and prone to exploitation by nationalist extremists.” However, he predicts that “resolving the status question will not only create the legal conditions for better economic development, but will enable the Albanians to define their relations with the Serbs and other minorities in a calm, confident and generous frame of mind.”¹⁰⁹ Many Albanian politicians have concurred with Koci’s assessment of the mood of their constituents and therefore insisted that resolution of the final status issue and independence must be prerequisites for decentralization.

On a more practical level, Kosovo’s Albanian population sees the irony of the international community calling on the PISG to devolve powers to municipalities or SMUs that have not yet been transferred to the PISG by UNMIK. Frustrated Albanian politicians argue that decentralization cannot not take place until centralization has occurred and the full range of sovereign state powers have been vested in the PISG. This would require the transfer of reserved powers from UNMIK to the PISG, including powers of particular relevance to the decentralization debate such as property rights and control over the privatization process discussed in Chapter 4.

In spite of Albanian skepticism, UNMIK has managed to assuage the concerns of Albanian leaders and convince them to participate in the Working Group on Local Government

¹⁰⁹ Patrick Moore, “Analysis: Kosovo’s Decentralization Debate.”

by opposing partition or return to Belgrade, most recently before the UN Security Council,¹¹⁰ while framing decentralization as a vehicle to help the PISG meet the Standards for Kosovo and strengthen the case for independence. Some Albanian politicians like PDK leader Hashim Thaci continue to oppose any type of decentralization without independence. Nevertheless, the Working Group was able to reach an agreement in July 2004 that incorporates several suggestions from the CoE report concerning the implications of decentralization for minority communities.

As previously mentioned, the Working Group faced political and economic constraints. The Pristina Plan it developed therefore recommends gaining “practical experience with the restructuring of municipalities through pilot projects.” To this end, it suggests that some pilot projects should correspond to new municipalities with the full range of municipal powers, while others should correspond to smaller SMUs with more limited powers as proposed by the CoE.¹¹¹ The Pristina Plan emphasizes that Kosovo’s decentralization process must be based on a “firm commitment by all parties to a multi-ethnic Kosovo, where all, regardless of ethnic background, race or religion, are free to live, work and travel without fear, hostility or danger, and where there is tolerance, justice and peace for everyone, as set out in the Standards for Kosovo.”¹¹²

The Pristina Plan does not exclude the possibility of considering the ethnic composition of the local population when creating new municipalities or SMUs in Kosovo. However, Albanian political leaders have argued that establishing sustainable units of local government on the basis of ethnic composition would only be acceptable if such units did not have “a level of autonomy to impact upon ethnic divisions and the partition of the territory of Kosovo based on

¹¹⁰ UNMIK SRSG Soren Jessen-Petersen, remarks to UN Security Council, 24 February 2005, available from <http://www.unmikonline.org>.

¹¹¹ Pristina Plan, 5.

¹¹² *Ibid.*, 1.

ethnicity.”¹¹³ Like the CoE report, the Pristina Plan does not prohibit the formation of consortia among municipalities and SMUs with similar interests, including ethnic interests. This would allow Serb-dominated municipalities and SMUs to form consortia and aggregate their influence in Kosovo. Finally, the Pristina Plan stipulates that municipalities and SMUs “shall be entitled to cooperate, in coordination with the SRSG and PISG, with authorities outside Kosovo.”¹¹⁴ It therefore keeps open the possibility of continued cooperation between Serb-dominated municipalities and SMUs in Kosovo and the Serbian government in Belgrade, though such cooperation would have to be acceptable to the SRSG and PISG.

With respect to protection of minority rights, the Pristina Plan notes that the present system of protecting minority communities through Communities Committees and Mediation Committees has not functioned satisfactorily in many municipalities, and echoes the sentiments expressed in the CoE report concerning the necessity of strengthening Communities Committees. It emphasizes that “the Communities Committee has a watchdog and not a decision-making function, and it should therefore reflect the views of the Communities in the minority and not be representative of the population of the municipality as a whole.” However, the Pristina Plan does not incorporate the CoE recommendation that the Communities Committee should only include one or two representatives from the majority community in a given municipality or SMU. Rather, it suggests reducing the number of representative of the majority community in a given municipality or SMU to one quarter of the membership of the Communities Committee.¹¹⁵ The Pristina Plan does not even mention the CoE recommendation to give the dominant minority in a municipality or SMU a majority of seats on the local Communities Committee and the chairmanship of the committee. Moreover, it does not address the possibility of allowing

¹¹³ UNDP Kosovo, *Early Warning System Report #7*, May-August 2004, 9, available from <https://www.kosovo.undp.org>.

¹¹⁴ Pristina Plan, 12.

¹¹⁵ *Ibid.*, 8.

Communities Committees to veto municipal actions that violate the rights of minority communities. It is therefore questionable whether the Pristina Plan would provide enough autonomy and protection to minority communities and the Serbs in particular to mitigate Kosovo's ethnic tensions.

Serb Perspective:

Kosovo's Serb minority supports decentralization in principle. However, Serb ideas concerning the particulars of decentralization are incompatible with those espoused by their counterparts in the Albanian and international communities. While the CoE report and the Pristina Plan address the potential role of decentralization in mitigating Kosovo's ethnic tensions and resolving the final status issue, they see devolution of power to local government institutions as a means to foster development and democratization regardless of Kosovo's final status. For the Serbs, by contrast, decentralization has always been closely linked to the issues of minority rights and final status. The Serbs refused to even discuss decentralization until after the March 2004 riots because they believed that to do so would be to tacitly endorse Kosovo's movement towards greater autonomy and eventual independence. Faced with the trauma of the March riots and the reality that Kosovo appears to be moving towards some form of independence, the Serbs now embrace decentralization in principle, but continue to view local government reform primarily as a means to ensure greater autonomy for minority communities.

The premise of the Belgrade Plan, which is endorsed by most Serb politicians in Kosovo, is that decentralization in must be carried out along ethnic lines rather than along civic lines as suggested by the Albanian and international communities. As described in Chapter 3, the Belgrade Plan envisions an autonomous Serb region within Kosovo consisting of five districts that include "municipalities, parts of municipalities and settlements in which Serbs comprised a

majority before the 1999 exodus.” These districts would ideally be connected territorially, because “safeguards for life and property and the freedom of movement are easier to achieve comprehensively in areas linked in this way.” Likewise, in determining which areas of Kosovo to include in the autonomous Serb region, the Belgrade Plan points out that “it would be prudent to consider those close to central Serbia, because they are safer than the areas in the Kosovo interior.”¹¹⁶

Serb leaders in both Belgrade and Kosovo argue that an autonomous region is necessary for two reasons. First, they claim that Kosovo’s Serb minority must be granted autonomy in order to enjoy security and freedom of movement and avoid violence and discrimination at the hands of the Albanian majority. Serb security and freedom of movement have become even more critical in the aftermath of the March riots. According to the Belgrade Plan, an autonomous Serb region is “necessary to root out any possibility of a Serb pogrom and violence happening again, and equally important to enable all internally displaced persons to return to the province.”¹¹⁷

Second, the Serb leaders insist that decentralization must be based on the ethnic rather than civic principle because civic-based decentralization would give greater authority to local government institutions that would be mostly Albanian-dominated, and would therefore imply that Kosovo is moving toward independence.¹¹⁸ According to Aleksander Simic, adviser to Serbian Prime Minister Vojislav Kostunica, implementing the Belgrade Plan could not amount to ethnically based partition because there are too few Serbs in Kosovo, and the Serb population is too spread out to form an autonomous region similar to the Republika Srpska in Bosnia and Herzegovina. Simic points out that Serbs constitute only 7% of Kosovo’s population, as opposed

¹¹⁶ Belgrade Plan, 4.

¹¹⁷ Ibid, 3.

¹¹⁸ Peter Lippman, “Still at Loggerheads, Kosovo’s Serb, Albanian Communities continue to Stagnate,” *Washington Report on Middle East Affairs*, January-February 2003, 39.

to 34% in Bosnia. Moreover, he notes that with the exception of Gracania and North Mitrovica, Kosovo's Serb population is too widely dispersed for their administrative units to threaten Kosovo's territorial integrity.¹¹⁹

Simic's comments highlight the discrepancy between the stated objectives of the Belgrade Plan and the reality of Kosovo's current population distribution. There are about 130,000 Serbs left in Kosovo, of which some 60,000 live in the Serb-dominated municipalities of Liposevic, Zvecen, Zubin Potok, and North Mitrovica bordering Serbia proper. The Belgrade Plan would likely provide greater autonomy, security, and freedom of movement to Serbs living in these areas, which would comprise the autonomous region. However, the Serb population in Kosovo is so dispersed that the creation of five ethnically pure districts would require massive population transfers. The Serbian government plan argues that Kosovo's Serbs are "entitled to territory that links in a natural way Serb-dominated settlements, in which they previously did not make up a majority, but to which the Serbs exiled from their homes during the ethnic cleansing operation tend to return." The plan suggests that such territory should be given to the Serbs as "just compensation" for Serb property in urban areas, to which return, "is not possible in the foreseeable future."¹²⁰ However, the Albanian and international communities would never agree to this scheme, which would involve the seizure of land that is presently under the private ownership of Albanian farmers.¹²¹

Serbian journalist Duska Anastasijevic uses the example of Gnjilane/Gjilan Municipality to illustrate why the Belgrade Plan is unrealistic given the demographic realities of Kosovo. The municipality includes a population of 12,000 Serbs residing in 6 Serb and 10 mixed villages scattered to the north, west, and south of the town as well as in the town itself. To form a

¹¹⁹ Patrick Moore, "Analysis: Kosovo's Decentralization Debate."

¹²⁰ Belgrade Plan, 3.

¹²¹ ESI, "The Lausanne Principle: Multiethnicity, Territory and the Future of Kosovo's Serbs," 7 June 2004, 12.

geographically compact Serb district, about 20 Albanian villages would have to be included in the Serb district, and some villages with a Serb population would still remain outside the proposed district.¹²² Although the Belgrade Plan would likely benefit Serbs living within the autonomous Serb region, it includes no discussion of what would happen to the estimated 70,000 Serbs in the rest of Kosovo. The Serbian government proposal could actually worsen the position of Serbs outside the autonomous region, as they would be left in Albanian-dominated areas with no autonomy, security, or freedom of movement.¹²³ In this vulnerable position, they would likely result to violence if they felt threatened. The Belgrade Plan therefore has the potential to exacerbate rather than mitigate ethnic tensions in Kosovo.

Neither the Pristina Plan nor the CoE report rules out the possibility of designing new municipalities and SMUs with consideration for ethnic composition, as the Belgrade Plan mandates. However, the Serb proposal met with objections from both the Albanian and international communities when it was introduced in April 2004. Albanian leaders were vocal in their opposition to the Belgrade Plan, claiming that the autonomous Serb region it demands would perpetuate ethnic conflict by establishing “permanent frontlines” between Kosovo’s Albanian and Serb populations instead of working towards a solution to its ethnic problems. Moreover, the Albanian leaders argued that allowing an autonomous Serb region would amount to accepting the partition of Kosovo, which both the Albanian and international communities had essentially ruled out as a possible solution to the final status question.¹²⁴

For its part, the international community basically ignored the Belgrade Plan for four months. Once the Pristina Plan had been finalized in July 2004, Kosovo Ombudsperson Marek

¹²² Duska Anastasijevic, “Comment: Belgrade Plan Unworkable,” Institute for War and Peace Reporting, 20 October 2004, available from <http://www.iwpr.net>.

¹²³ Denisa Kostovicova, “Comment: Kosovo Serbs Pay Price for Boycott,” Institute for War and Peace Reporting, 12 November 2004, available from <http://www.iwpr.net>.

¹²⁴ Patrick Moore, “Analysis: Kosovo’s Decentralization Debate.”

Nowicki did assert that, “proposals by all sides, including the Serb plan on decentralization in Kosovo, should be seriously discussed.” He was the first international official to state publicly that the Belgrade Plan should be taken into consideration like any other proposal in subsequent Working Group negotiations.¹²⁵ However, SRSG Soren-Peterson emphasized that that the only decentralization plan on the table was the Pristina Plan, and explained that the Working Group would take the Belgrade Plan into consideration only if it could improve the Pristina Plan.¹²⁶

Belgrade Influence:

In examining the ethnic dimension of the decentralization debate, it is important to consider the critical role played by the Serbian government, which continues to exert tremendous influence over Kosovo’s Serb community. This influence is the result of both “pull” and “push” factors. Kosovo’s Serbs are pulled towards Belgrade because the Serbian government extends a tangible lifeline to the community in the form of parallel institutions. At the same time, they are pushed away from UNMIK and the PISG by the failure of these institutions to provide them with security and freedom of movement. As a result, the ICG explains that “Belgrade’s stance toward the Kosovar Serb community preempts local political leadership, but Kosovo Serbs, who have little independent political tradition, on the whole do not object.”¹²⁷

Belgrade has played a critical role in the decentralization debate. In addition to putting forth its own decentralization plan, Serbian officials have developed a two-pronged strategy designed to undermine the efforts of the UNMIK/PISG Working Group to develop a local government reform package that meets the standards of the European Charter and protects the

¹²⁵ UNMIK Local Media Monitoring, “Nowicki: Serb plan on decentralization should not be left aside,” *Koha Ditore*, 8 August 2004, available from <http://www.unmikonline.org>.

¹²⁶ UNMIK Local Media Monitoring, “Jessen-Petersen: Serb participation in elections cannot be conditional,” *Koha Ditore*, 14 September 2004, available from <http://www.unmikonline.org>.

¹²⁷ ICG, “Kosovo: Toward Final Status,” 14.

rights of minority communities while ensuring the territorial integrity of Kosovo. First, Serbian officials encourage Serbs in Kosovo to boycott activities related to the PISG, which they consider illegitimate. On Belgrade's orders, the majority of Serbs in Kosovo have boycotted all the elections held since the war except the 2001 election. Although the Constitutional Framework guarantees the Serb community at least 10 of the 120 seats in the Assembly of Kosovo regardless of whether any Serbs actually vote, few Serb representatives have made constructive contributions to the Assembly or other PISG institutions.¹²⁸

Most recently, Serbian Prime Minister Kostunica linked Serb participation in the October 2004 Kosovo election to UNMIK and PISG acceptance of the Belgrade Plan. When support for the Belgrade Plan was not forthcoming from the Albanian or international communities, Kostunica called on Kosovo's Serb population to boycott the election, and most obeyed.¹²⁹ Although some international officials have alleged that this boycott was achieved by coercion and intimidation, the ICG argues that most Serbs readily went along. The success of the boycott has weakened Kosovo's few moderate Serb leaders like Slavisa Petkovic, Oliver Ivanovic and Ragisa Krstovic, reducing them to the status of failed dissidents and empowering pro-boycott Serbian National Congress leaders like Milan Ivanovic and Rada Trajkovic.¹³⁰ Moreover, Serb participation in the Working Group on Local Government was very limited, in spite of encouragement from SRSG Soren-Peterson.¹³¹ Pressure from Belgrade thus continues to prevent Kosovo's Serbs from finding their own voice and promoting their interests through the PISG.

Second, Belgrade maintains a system of parallel structures in Serb areas of Kosovo. Serbs have their own educational and health care facilities in Kosovo that are funded by the Serbian

¹²⁸ UNMIK Regulation 2001/9, "On a Constitutional Framework for Provisional Self-Government in Kosovo," 15 May 2001, Section 9.1.3, available from <http://www.unmikonline.org>.

¹²⁹ *Early Warning System Report #7*, 10.

¹³⁰ ICG, "Kosovo: Toward Final Status," 14.

¹³¹ "Talks on Decentralization of Kosovo Without Serbs," Beta, 13 December 2004.

government, including a hospital and university in North Mitrovica. They also obtain basic services like water and power from Belgrade rather than Pristina. Moreover, Serb teachers, doctors, and other professionals are paid by Belgrade and receive salaries double the Serbian standard. These parallel institutions have allowed Kosovo's Serb community to enjoy the best quality of life of any ethnic group in Kosovo as measured by the UNDP HDI.¹³² However, parallel structures have negative implications for local government reform efforts in Kosovo. They block the shift from ethnic to interest-based politics that is a major goal of decentralization. For example, a cluster of rural Albanian and Serb villages that lack running water may share an interest in creating an irrigation system to meet their common water needs. However, if the Serb villages are already receiving water from a project funded by Belgrade, they have no incentive to cooperate with their Albanian neighbors. Furthermore, parallel structures thwart efforts by the PISG institutions to gain legitimacy in the eyes of Kosovo's Serb population and prove that they can provide basic services in an efficient and transparent manner. If municipal and sub-municipal institutions had the chance to provide services to the local Serb population, perhaps they would rise to the challenge and demonstrate their ability to meet the needs of the local Serbs as well as or better than Belgrade. However, parallel institutions deny them the opportunity to do so.

Belgrade's strategy has thus complicated efforts by UNMIK and the PISG to engage the local Serb community in a constructive dialogue concerning local government reform and its impact on ethnic tensions in Kosovo. SRSJ Jessen-Peterson has insisted that UNMIK will not negotiate directly with Belgrade officials over decentralization, and will only allow them to participate as advisors to local Serb leaders. At the same time, the success of Belgrade's call for

¹³² *Kosovo Human Development Report 2004*, 81.

Serbs to boycott the October 2004 Assembly elections has essentially removed all other potential Serb partners from the scene, leaving UNMIK and the PISG in a difficult position.¹³³

Regional Implications:

Kalevi Holsti argues that the main cause of conflict in the post Cold War era is internal tensions when state borders do not correspond to the actual distribution of racial, ethnic, religious, and other communities.¹³⁴ Perhaps nowhere is this more apparent than in the Balkans. The splintering of the former Yugoslavia in the 1990s resulted in the formation of several new states. The only former Yugoslav republic with a homogenous ethnic population was Slovenia, which achieved independence quickly and relatively peacefully and has now joined the EU. Croatia also managed to form a homogenous independent state and is now prospering and well on its way to European integration, but only after a bloody war that forced most of the Serb population to flee the country. Meanwhile, the other former Yugoslav republics continue to struggle with the demands of influential minority communities and attempt to contain pervasive ethnic tensions.

In considering local government reform options for Kosovo, it is therefore necessary to consider how the chosen strategy will impact the ethnic tensions in neighboring countries. If local government reform in Kosovo is carried out in accordance with the recommendations of the Pristina Plan and the territorial integrity of Kosovo is maintained, its impact on surrounding countries will likely be limited. However, the Belgrade Plan would result in the partition of Kosovo and possible return of the autonomous Serb region to Serbian control, thus setting a dangerous precedent with implications that would reverberate throughout the Balkans.

¹³³ ICG, "Kosovo: Toward Final Status," 5.

¹³⁴ Kalevi Holsti, *The State, War, and the State of War* (New York: Cambridge University Press, 1996) 17.

Implementation of the Belgrade Plan in Kosovo would result in increased demands from minority communities within Serbia proper, undermining the efforts of the Serbian government to contain ethnic tensions. A sizeable Albanian community lives in the Presevo Valley region of southern Serbia, which borders Kosovo to the east. There are some 70,000 ethnic Albanians and only 40,000 ethnic Serbs in this area. An unofficial referendum in 1992 found that 95 % of the 47,000 Presevo Valley residents polled backed full autonomy for the region and recognized its right to be unified with Kosovo. Ethnic tensions came to a head in March 2001, when the region was the site of armed conflict between the remnants of the Yugoslav Army and Albanian guerillas.¹³⁵

More recently, the September 2004 local elections resulted in victories for Albanian political parties advocating autonomy and unification with Kosovo. Ragmi Mustafa – leader of the Democratic Albanian Party (DPA) that triumphed in the Presevo local elections – has called for a union of majority Albanian areas of southern Serbia with Kosovo if majority Serb districts of northern Kosovo are given autonomy and the right to reunite with Serbia. Presevo journalist Skender Latifi points out that most Albanian parties in southern Serbia already operate as extensions of or partners to bigger Albanian parties inside Kosovo. For example, Mustafa's DPA is closely linked to the PDK, whose leader Hashim Thaci is Kosovo's most prominent KLA war hero.¹³⁶

The victory of nationalist Albanians in the 2004 Presevo elections made their talk of territory swaps between Kosovo and Serbia seem less far-fetched. This has made the Presevo Serbs feel increasingly insecure, fueling their concerns that they may one day find themselves

¹³⁵ Belgzim Kamberi, "Presevo Albanians Eye Autonomy," Institute for War and Peace Reporting, 13 February 2003, available from <http://www.iwpr.net>.

¹³⁶ Skender Latifi, "Kosovo Union Calls Raise Tensions," Institute for War and Peace Reporting, 9 December 2004, available from <http://www.iwpr.net>.

part of an independent, Albanian-dominated Kosovo and heightening ethnic tensions in the Presevo Valley.¹³⁷ If the Belgrade Plan were implemented and the autonomous Serb region in Kosovo allowed to reunite with Serbia, the Presevo Albanians would doubtless demand similar autonomy and attempt to join Kosovo. This would likely lead to renewed violence in the Presevo Valley that could easily spread to the rest of the Balkans if ethnic Albanians in Kosovo and Macedonia took up arms in support of their Presevo brethren.

The Presevo Albanians are not the only minority community in Serbia that would likely insist on greater autonomy if the Belgrade Plan were implemented in Kosovo. Vojvodina in northern Serbia has a population of approximately 2 million, of which some 350,000 are ethnic Hungarians. The 1974 Constitution of Yugoslavia granted Vojvodina a quasi-federal status within Serbia akin to that of Kosovo, under which it enjoyed almost all the privileges of republic status within Yugoslavia. In contrast to the situation in Kosovo and the Presevo Valley, violence has yet to erupt in Vojvodina. Nevertheless, ethnic tensions remain high. If the Serbs are allowed to create their own autonomous region in Kosovo, the Vojvodina Hungarian community would likely demand similar special treatment, including the right to establish their own autonomous region in northern Serbia and possibly even join Hungary.¹³⁸

In addition to setting a dangerous precedent for southern Serbia and Vojvodina, implementation of the Belgrade Plan in Kosovo could disrupt the fragile peace in Macedonia. Macedonia has a population of just over 2 million, of which 65% is ethnic Macedonian and 25% ethnic Albanian. Tensions erupted in violence in 1995 and 1997, and an Albanian insurgency led by the National Liberation Army (NLA) rocked the country during the first half of 2001. The international community brokered the Ohrid Agreement, which brought an end to the violence in

¹³⁷ Ibid.

¹³⁸ ICG, "Kosovo: Toward Final Status," 19.

July 2001. The Ohrid Agreement is based on several key principles to which the Macedonian and Albanian parties agreed. It includes the principles that “Macedonia's sovereignty and territorial integrity, and the unitary character of the State are inviolable and must be preserved,” “there are no territorial solutions to ethnic issues.” and “the multi-ethnic character of Macedonia’s society must be preserved and reflected in public life.”¹³⁹

A key requirement of the Ohrid Agreement is decentralization in accordance with the European Charter of Local Self-Government. Decentralization is being carried out along civic rather than ethnic lines, but has managed to satisfy many of the Albanian demands that lead to the 2001 insurgency, including greater participation in government and a fairer allocation of public resources.¹⁴⁰ Albanians constitute a majority in several of the newly created municipalities. They also comprise at least 20% of the population in many more municipalities, which gives them the right to use their own language in schools and public institutions in these areas. Yet Arben Xhaferi, leader of the Democratic Party of Albanians (DPSH) – the major Albanian party in Macedonia and a signatory to the Ohrid Agreement – has stated repeatedly that, “the Ohrid Agreement is not the end of Albanian demands.”¹⁴¹ Thus, the creation of an autonomous Serb region in Kosovo would likely lead Macedonia’s Albanian minority to insist on greater autonomy and a similar region of its own.

Finally, the Belgrade Plan would set a dangerous precedent for Bosnia and Herzegovina. The Bosnian Serbs carried out a successful ethnic cleansing campaign that drove the Bosniaks and Bosnian Croats from large portions of the country. Bosnia is presently divided into two entities – the Muslim-Croat Federation and the Republika Srpska. The Republika Srpska

¹³⁹ “Framework Agreement” (Ohrid Agreement), Section 1: Basic Principles, 13 August 2001, available from <http://conventions.coe.int>.

¹⁴⁰ ESI, “The Lausanne Principle: Multiethnicity, Territory and the Future of Kosovo's Serbs,” 25.

¹⁴¹ Branko Gorgevski, “Kosovo Blot on Ohrid Agreement,” *Dnevnik*, 28 October 2002.

occupies 49% of Bosnia's territory and has a population of 1.5 million, of which more than 90% are Bosnian Serbs. The government of the Republika Srpska has frequently tested the limits of its powers and clashed with the Office of the High Representative (OHR). As the most powerful international official in Bosnia, the High Representative is the "final authority in theatre regarding interpretation" of the Dayton Agreement.¹⁴² Successive High Representatives have used this power to curb attempts by the Republika Srpska to overstep the bounds of its authority. For example, current High Representative Paddy Ashdown demanded that the Republika Srpska National Assembly replace all references to "state" with "Republika Srpska" in defense legislation before he allowed it to become law, thus thwarting attempts by the Assembly to imply that the Republika Srpska is a separate state.¹⁴³

If an autonomous Serb region is created in Kosovo and granted the extraordinary powers outlined in the Belgrade Plan, such as the power to veto international treaties signed by the central government in Pristina, the Republika Srpska would likely demand similar powers. This would undermine nearly a decade of international efforts to build up Bosnia's central and municipal institutions in order to check the power of the Republika Srpska, and could disrupt the fragile peace that has held there since 1995. Even more ominously, any attempt by the proposed autonomous Serb region in Kosovo to reunite with Serbia would also result in similar demands by the Republika Srpska, and could lead to renewed violence in Bosnia.

¹⁴² "General Framework Agreement for Peace in Bosnia and Herzegovina" (Dayton Agreement), Annex 10, Article V, 14 December 1995, available from <http://www.ohr.int>.

¹⁴³ "Decision Enacting the law on Amendments to the Law on Army of Republika Srpska," 2 April 2003, available from <http://www.ohr.int>.

Conclusion:

Decentralization has many potential benefits for Kosovo – including bringing government closer to the people, making public institutions more accountable, improving the quality of services, and promoting local development. However, these benefits are contingent on acceptance of the chosen decentralization strategy by Kosovo’s minority communities, and the Serbs in particular. Decentralization will not be successfully implemented throughout Kosovo if the Serbs do not participate in the new institutions of local government it creates, or worse yet attempt to undermine these institutions through protests that could spark renewed violence.

The Belgrade Plan is unacceptable to the Albanian and international communities because it calls for an autonomous Serb region that would threaten the territorial integrity of Kosovo and could exacerbate ethnic tensions throughout the Balkans. Yet in spite of the fact that the Serbian government position is untenable, it reflects underlying Serb vital interests – such as security, freedom of movement, and protection of minority rights – that must be addressed if the ethnic tensions in Kosovo are to be contained. Fortunately, decentralization has the potential to address these concerns through granting Kosovo’s Serb and other minority communities greater autonomy, creating safeguards for minority rights, and opening new channels for minorities to promote their interests.

There are several provisions on which both the Albanian and international communities agree. Both the CoE report and the Pristina Plan would permit municipalities and SMUs that are entirely Serb or Serb dominated, and these municipalities and SMUs would enjoy substantial autonomy. In addition, both proposals would encourage the formation of consortia of municipalities and SMUs with similar interests, including ethnic interests, thus allowing the Serb minority to magnify its influence at the municipal and central level. Lastly, both the CoE report

and the Pristina Plan recognize the need for strong Communities Committees at the municipal and sub-municipal levels to protect minority rights. Highlighting these benefits that the Serbs and other minorities would receive as a result of decentralization could make local government reform more acceptable to Kosovo's Serb population and allow this process to play an important role in alleviating ethnic tensions.

VI: Conclusion

The October 2004 Assembly elections in Kosovo resulted in the formation of a new government under Prime Minister Ramush Haradinaj – the former KLA commander for western Kosovo who broke with the PDK to form the Alliance for the Future of Kosovo (AAK). The international community condemned Haradinaj's election as Prime Minister due to his suspected involvement in war crimes, with a *New York Times* editorial claiming that "If [the Albanians] want to show that they can run an independent country in which the Serb minority will be safe, this is a bad way to do it."¹⁴⁴ However, SRSG Soren Jessen-Peterson refused to intervene, stating that, "If I were to say no to this appointment, I would be saying no to democracy." Haradinaj therefore assumed the office of Prime Minister in December 2004 as part of a deal with the ruling LDK party that allowed its leader Ibrahim Rugova to remain President.

In spite of his controversial past, Haradinaj proved to be a dynamic and effective Prime Minister. He took a particular interest in the issue of decentralization. Although the Working Group on Local Government had devised the Pristina Plan, it had hesitated to suggest specific locations for the pilot municipality projects it proposed. In contrast, Haradinaj "startled many observers by embracing the principle of pilot projects, expressing readiness to grant municipal status to the [Serb] enclave of Gracanica and to move quickly on implementation."¹⁴⁵ On 22 February 2005, the Government of Kosovo approved a plan creating five pilot municipal units within existing municipalities: Gracanica in Pristina Municipality, Partesh in Gjilan Municipality, Hani i Elezit/General Jankovic in Kacanik

¹⁴⁴ "A Poor Choice in Kosovo," *New York Times*, 24 December 2004, A18.

¹⁴⁵ ICG, "Kosovo: Toward Final Status," 5.

Municipality, Junik in Decani/Decane Municipality, and Mamusha/Mamusa in Prizren Municipality. Minority communities would form a majority in three of these new municipalities, with Serbs dominating Gracanica and Partesh and Turks controlling Mamusha.¹⁴⁶ Haradinaj expected these pilot municipal units to become full-fledged municipalities within 18 months if the pilot projects went well, and supposedly envisioned creating a total of 50 new municipalities.¹⁴⁷

Haradinaj managed to get the pilot municipality proposal approved by his Government in spite of criticism from both the Serbs and the Albanian opposition. Local Serb politicians initially boycotted meetings of the Working Group on Local Government to protest the fact that the Serbian government was only allowed to participate in these meetings in an advisory role rather than as a party in its own right. Once they realized that plans for pilot municipalities would be drawn up with or without their participation, they began to attend meetings on a limited basis and influenced the final proposal by advocating the inclusion of Gracanica among the pilot municipalities. However, prominent local Serb politicians like Gracanica-based Rada Trajkovic have nevertheless been vocal in their opposition to the proposal. Trajkovic claimed the pilot project has been imposed on the Serb community without consultation, and complained that only two out of the dozen Serb enclaves in Kosovo are included.¹⁴⁸ This argument neglects the fact that UNMIK and the PISG had attempted to include representatives of Kosovo's Serb community in the decentralization debate from the beginning but they chose not to participate, as well as the fact that 40% of the pilot municipalities would be majority Serb even though Serbs only constitute 7% of the Kosovo population.

¹⁴⁶ "Reforms Of Local Government In Kosovo," B92, 23 February 2005.

¹⁴⁷ "Serbs will not be satisfied with announced decentralization," Beta, 23 February 2005.

¹⁴⁸ "Kosovo approves new municipalities for minorities," Agence France Presse, 23 February 2005.

The pilot municipality proposal also drew criticism from two of Kosovo's major Albanian political parties that stood in opposition to the ruling LDK-AAK coalition following the 2004 elections – the PDK and ORA (Hour), a new coalition established by publishing magnate Veton Surroi. The PDK and ORA accused the Haradinaj Government of using decentralization as an “excuse to draw the Serb community into joining the Kosovo Government.” They claimed the Government was acting too hastily without making the necessary preparations beforehand. They also blamed UNMIK for pressuring Haradinaj's Government and warned that the proposed pilot municipalities would further divide Kosovo along ethnic lines. In addition, they asserted the right of the Assembly of Kosovo to launch and monitor local government reform.¹⁴⁹ Nevertheless, Haradinaj insisted that the pilot municipality proposal would not appear before the Assembly and would not be part of a debate, noting that the proposal is a “continuation of the Pristina Plan” and members of the Assembly are “expected to give their opinions only when dealing with primary decisions, namely when a draft law on reform of local government is presented to them.”¹⁵⁰

Shortly after obtaining approval for the pilot municipality proposal, Haradinaj was indicted by the International Criminal Tribunal for the former Yugoslavia (ICTY) on 37 counts of war crimes and crimes against humanity. He resigned as Prime Minister on 8 March 2005 and voluntarily turned himself in to ICTY the following day. His indictment could not have come at a worse time for Kosovo – just months before the UN Security Council is set to review PISG progress towards meeting the Standards for Kosovo and begin discussing the all important status issue. As British Foreign Minister Robin Cook pointed out, “The irony of his indictment is that

¹⁴⁹ UNMIK Local Media Monitoring, “Decentralization doesn't divide Kosvo along ethnic lines,” *Koha Ditore*, 26 January 2005, available from <http://www.unmikonline.org>.

¹⁵⁰ UNMIK Local Media Monitoring, “UNMIK, Government expected to endorse decentralization plan this week,” *Zeri*, 24 January 2005, available from <http://www.unmikonline.org>.

Kosovo has made more progress under [Haradinaj] on key standards such as minority rights and condition for the return of Serb refugees than in the previous five years.”¹⁵¹ The EU and Albanian opposition parties called for the Haradinaj Government to be replaced by a broad-based coalition. However, Haradinaj had made arrangements for his Ministry of the Environment and fellow AAK member Bajram Kosumi to replace him prior to his departure for The Hague, thus maintaining the dominance of the LDK-AAK alliance.

Kosumi must move quickly to resume the stalled decentralization debate and maintain the momentum Haradinaj built towards implementing local government reform. The pilot municipality project currently enjoys limited approval within the international and Albanian communities. In order to successfully implement local government reform throughout Kosovo, the PISG will have to ensure that its final decentralization plan is in compliance with the standards of the European Charter of Local Self-Government and accepted by both the Albanian opposition and the Serbs.

The international community has reacted positively to the pilot municipality proposal and particularly to the inclusion of Serb-dominated areas as a symbol of PISG commitment to a multiethnic Kosovo. However, the alleged Haradinaj Government scheme to create 50 additional municipalities within existing municipalities may be problematic from the perspective of the European Charter. This plan would result in about 85 municipalities, which would vary in size but would still be large by European standards. Moreover, it would not create a lower unit of government to which powers could be devolved, as suggested by the CoE assessment team. It could also heighten divisions between urban and rural areas and exacerbate rural poverty if it

¹⁵¹ Stacy Sullivan, “Special Report: Is Kosovo up to Standard?” Institute for War and Peace Reporting, 1 April 2005, available from <http://www.iwpr.net>.

creates new rural municipalities that are expected to carry out the same responsibilities as urban municipalities with much more limited resources.

The advantage of the local government structure recommended by the CoE is that it would create sub-municipal institutions to bring decision-making power closer to the people, while recognizing that some decisions taken at the sub-municipal level could be implemented most effectively by the municipal government, or by an SMU/SDP responsible for enforcing a regulation or providing a service in several SMUs. This would be particularly beneficial for impoverished rural Kosovans, because it would empower them to make important decisions at the sub-municipal level while allowing these decisions to be implemented by the municipality or an SMU/SDP with greater resources. If the final decentralization plan for Kosovo does not create new institutions of local government between the municipality and the people, it would not devolve decision-making power and increase local autonomy enough to meet the requirements of the European Charter. However, the plan must also ensure that sub-municipal governments are not expected to implement decisions when they lack the resources to do so successfully.

In addition to international approval, local government reform requires the support of the Albanian community. Albanians believe UNMIK and the PISG have focused on the concerns of ethnic minorities in general and Serbs in particular over the past five years, at the expense of issues like poverty and unemployment that are important to the majority of Kosovans. Many view decentralization as an excuse to increase Serb autonomy. Including two Albanian-dominated areas in the pilot municipality plan is an important step to demonstrate to the Albanian majority that they will also benefit from more representative and accountable government institutions as a result of decentralization.

However, the underlying reason for most Albanian opposition to decentralization is fear that giving the Serbs greater autonomy will move Kosovo towards partition or return to Belgrade. Although SRSG Soren-Peterson has publicly voiced his opposition to both these options, Kosovo's final status will ultimately be decided by the UN Security Council. It is therefore important for key Security Council members to publicly rule out partition or return to Belgrade as acceptable outcomes for the final status negotiations. As the most powerful permanent member of the Security Council and the member believed to be most supportive of independence for Kosovo, the United States could take the lead in this regard. Albanians would be much more likely to support local government reform if they had assurances that decentralization would not adversely affect their position in final status negotiations by moving Kosovo towards partition or return to Belgrade, and could actually improve their position by demonstrating their willingness to grant minority communities greater autonomy and protection.

Selling its final decentralization plan to the Kosovo's Serb community will be a major challenge for the PISG. However, there are two steps the new Government can take to make local government reform more acceptable to the Serb minority. It is clear that giving Serb enclaves like Gračanica greater autonomy will not be sufficient to convince the Serbs to support decentralization, because this would only benefit residents of Serb dominated parts of Kosovo. More must be done to address the concerns of the many Serbs living in Serb villages scattered throughout Albanian-dominated rural areas. If Kosovo gains independence, some Serbs may not be willing to stay in the province regardless of how much autonomy and protection they are guaranteed. Nevertheless, every effort must be made to ensure that the rights of Serbs and other minorities would be protected in an independent Kosovo, particularly in areas where they do not constitute a majority of the population. To this end, the PISG should take measures to improve

protection of minority rights such as strengthening Communities Committees and Mediation Committees.

Whatever form the final decentralization plan takes, the PISG can expect opposition from Belgrade if the proposal does not include an autonomous Serb region as outlined in the Belgrade Plan. The PISG should therefore make every effort to empower moderate local Serb leaders, such as Oliver Ivanovic and Slavisa Petkovic, by rewarding their participation in PISG institutions with more concessions like the inclusion of Gracanica in the pilot municipality proposal. This will allow moderate local Serb politicians to show their constituents the concrete results of cooperation with PISG institutions and build support among Kosovo's Serb population for engaging with the PISG rather than participating in boycotts advocated by Belgrade officials and hard line local Serb leaders

Devising a decentralization proposal that conforms to European Charter requirements and is acceptable to Kosovo's Albanian majority as well as its Serb and other minority communities poses a daunting challenge to the PISG. Yet if Kosovo's nascent institutions of self-government can succeed in this task, the benefits will be tremendous. A successfully implemented local government reform program has the potential to promote human security in the province on three respects. Decentralization could foster democratization by making government more representative and accountable, bolster development and improve provision of public services, and mitigate ethnic tensions in the province by guaranteeing greater autonomy and protection to Serbs and other minorities.

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