

**KOSOVO:
TIME TO NEGOTIATE FINAL STATUS**

A Field Report

Public International Law & Policy Group

January 2003

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A Report Prepared by Louis Sell for the
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SUMMARY

Final Status: Kosovo's final status has risen to the top of the agenda for many Kosovo Albanian leaders, judging by their remarks during a November 10-17 visit. Kosovo President Ibrahim Rugova called on the international community (IC) to immediately recognize Kosovo's independence but most other leaders urged the IC to begin now to create a roadmap toward resolution of Kosovo's final status within two to three years. Although the chief of the UN Mission in Kosovo (UNMIK), Michael Steiner, is urging Kosovo to focus on achieving benchmarks of democratic governance before dealing with status, Albanians and even some internationals pointed to the problems that lack of clarity about the future is causing—impeding reconciliation between Serbs and Albanians, complicating minority returns, increasing tensions between Albanians and internationals, and undermining prospects for investment.

In previous visits many Kosovo Albanian leaders said discussion of Kosovo's final status could be deferred while the IC and the people of Kosovo worked together to build democratic institutions. Now, just as the IC is urging that Kosovo focus on benchmarks before dealing with final status, Kosovo Albanians are insisting on more—a predictable consequence of earlier delay. There are tentative signs of movement on status below the surface—more among Europeans than Americans, who seem fixated on reducing the US presence in the Balkans without understanding that resolving Kosovo's status is the only way that can be accomplished in a lasting fashion. Steiner has called for early talks on practical issues between Belgrade and Kosovo and recently gave a thoughtful speech in which he acknowledged the need for the UN to end its mission in Kosovo after achieving democratic self-governance and resolving final status, upon which the EU would assume the reduced but still important international role in Kosovo.

Democratic Self-Government: Kosovo has the framework of a democratic system but the international community has so far been unwilling to cede significant institutional authority to it. Kosovo's elected institutions have only limited constitutional powers and are subject at all levels to interference by international personnel and the threat of veto. Kosovo institutions have only limited resources—members of parliament, for example, have no offices. Kosovo institutions and leaders, for their part, have failed to use effectively the authority they do have. Few Kosovo Albanians would quarrel with the assessment of Albin Kurti, the popular young leader of non-violent student protests in the late 1990s, that "The current Kosovo government is more ruled by internationals than ruling over Kosovo." Senior Albanian political figures are demanding more authority.

President Rugova and Prime Minister Bajram Rexhepi said they will seek the early transfer to Kosovo institutions of the powers reserved to the UN under Kosovo's current Constitutional Framework (CF).

The Kosovo Economy: The economic picture in Kosovo is mixed—economic growth has been strong, the small business sector is flourishing and—thanks in large part to UNMIK chief Steiner—privatization is about to begin. On the other hand, Kosovo remains desperately poor and future economic prospects are cloudy. Unless private investment picks up sufficiently to counter the expected decline in international contributions, the Kosovo economy could nose-dive over the next couple of years—just when Kosovo could be facing some of its most difficult political decisions.

Privatization in Kosovo is long overdue but its implications do not seem to have been well explained to Kosovo leaders. The privatization model chosen by the UN, moreover, has some significant drawbacks, largely stemming from insistence by the UN legal department to hold back a share of the proceeds of privatization and to preclude the sale of land in order to guard against claims by previous owners. Kosovo Albanians are likely to resent this move since the potential claims the UN is protecting itself against stem largely from spurious and illegal transactions of the Milosevic era and the UN's cautionary measures will reduce the attractiveness of Kosovo enterprises to potential bidders and deprive Kosovo of some of the resources obtained from privatization.

Mitrovica: UNMIK chief Steiner is implementing a plan to establish international control over the divided town of Mitrovica, in cooperation with Belgrade and local Serb leaders. Some movement on Mitrovica is definitely better than the stasis which has prevailed so far but persistent effort will be needed to ensure that international authority in the north is real. Reports in the Kosovo Albanian press charge that illegal "parallel" Serb authorities continue to function in Mitrovica and that Serb "bridge watcher" hoodlums continue to attack Albanians in the northern part of the town.

Serb Returns: The international community has unveiled a new plan for encouraging the return of Serbs who fled Kosovo after the 1999 war. The latest of several since 1999, the new plan has organization, money, and political backing. It is hoped that returns can build on improvements in the security climate for minorities, especially in the ethnically mixed Gjilan region. The recent murder of a Serb in the long-troubled village of Cernica show how difficult that will be, especially in the absence of clarity on final status which the Council of Europe's Commissioner for Human Rights recently said impedes genuine reconciliation.

Organized Crime: The IC has made several arrests or indictments against Kosovo figures said to be linked to organized crime, most of whom are also former KLA fighters. Many Albanians quietly support moves against organized crime figures but the fact that most have been indicted for actions taken during the KLA's guerilla uprising has led to concern—and some anger—that the IC is seeking to de-legitimize the Albanian people's armed resistance to the Milosevic regime. Local police forces have not been included in the IC's efforts against organized crime, which must change if the process is to become

self-sustaining. Two bomb explosions in Kosovo in December point to the continuing potential for violence.

RECOMMENDATIONS

- 1) Progress toward resolution of final status should be accelerated, made more transparent, and linked in a more specific fashion to the prompt transfer of genuine self-government to the people of Kosovo. This could be accomplished in a variety of ways but the important thing is that the process needs to have a publicly understood end-point, say two years, at which point the final decision would be made on the basis of an internationally run conference that includes all parties within Kosovo and the region.
- 2) Specific steps to transfer real authority to elected Kosovo institutions should be undertaken on a publicly announced timetable which is agreed with the Kosovo political leadership. As a first step, the constitutional framework should be amended to allow Kosovo institutions full authority over all aspects of internal political and economic life. A greater proportion of the international money still being allocated by the UN and other donors to Kosovo should be put directly into the hands of Kosovo governmental institutions with a consequent reduction in international staff and facilities. All remaining international staff should focus on turning over full authority to Kosovo colleagues.
- 3) Privatization should be accelerated with the aim of being completed through the entire Kosovo economy over the next 18 months, while the IC still retains a substantial presence in Kosovo. At the same time, the IC needs to develop a strategy for heading off a possible economic downturn as international assistance diminishes and for dealing with the political and economic consequences should it occur. The IC should accelerate efforts currently underway to allow international financial institutions (IFIs) to operate fully in Kosovo even before resolution of final status and urgently explore commercial investments in rebuilding Kosovo's power and telecommunications.
- 4) As the IC takes control of Mitrovica it should use all of the intelligence, political and police resources at its disposal to ensure that underground structures reporting to Belgrade are dismantled. No individuals should be included in IC structures unless they demonstrate a willingness to work within a united Kosovo. Plans reportedly underway to include some "bridge watchers" in the Kosovo Police Service (KPS) forces for the north should be reversed; no individuals identified as having been part of the "bridge watchers" should be hired for any IC position.
- 5) The latest plan to encourage Serb return should receive strong political and financial support. IC efforts to persuade Albanian leaders to endorse returns and reconciliation should continue; President Rugova should personally visit a Serb settlement to demonstrate his concern. As part of the increased attention to status recommended above, the IC could establish specific links to returns, for example no full transfer of reserved powers until 75 percent of Kosovo Serb refugees who want to return have been given the opportunity to do so.

6) KPS should be included in the struggle against organized crime. Encouragement of local police and intelligence capability to deal with organized crime may help obtain indictments based on organized crime, not wartime KLA actions. The IC needs to do a better job of explaining its legal actions against former KLA figures, including a statement that the Albanian population of Kosovo had the right to take up arms to defend itself against Serb crimes but that Albanian resistance is being held to the same legal standards as any other such effort.

KOSOVO'S FINAL STATUS

A New Urgency

During a November 2002 visit to Kosovo the issue of Kosovo's final status was on the minds of Kosovo Albanian leaders with an urgency that has not been visible since the 1999 war. Mahmut Bakalli, the first ethnic Albanian leader of Tito's League of Communists of Kosovo and today a deputy in the Kosovo Assembly and something of the grand old man of Kosovo politics, described Kosovo Albanians as "fed up" with hearing nothing from the IC but UNSC 1244 when they raise the issue of Kosovo's future. Bakalli said Albanians do not seek independence now but they need some kind of "signal" from the IC that independence is possible in the future. Without such a sign, Bakalli predicted that relations between Kosovo Albanians and the IC could worsen although he stressed that Albanians still seek partnership with the IC.

Most Kosovo leaders echoed the thrust of Bakalli's remarks. Prime Minister Bajram Rexhepi said, "we need to decide status if Kosovo is to progress further along its current path." Rexhepi thought that two years would be "optimal" and three years "the maximum" for resolution of status. Hashim Thaci, the wartime leader of the KLA guerrilla movement and now the head of the Party of a Democratic Kosovo (PDK), the largest opposition party, said status "cannot any longer be a taboo subject."

There was a harder edge from Ramush Haradinaj, the leader of Kosovo's third largest political party, the Alliance for Kosovo's Future (AAK) and a former KLA commander. In previous meetings Haradinaj has taken the position that status could be deferred for several years but now he said, "failure to deal with status could cause the loss of all that has been achieved so far in Kosovo's democratization." On December 22 the AAK called for immediate independence for Kosovo and in a strongly worded statement which seemed implicitly to question the international presence in Kosovo said that sovereignty rests only with the people of Kosovo.

Although all Kosovo Albanian leaders seek faster progress on status and all share the ultimate objective of independence, there were differences on how to get there. Rugova, for example, said he wanted early international "recognition" of Kosovo's independence, an appeal he repeated in public in a televised end-of-year address. (Rugova means recognition of the act by which the Kosovo Assembly in declared itself independent in 1991 as Yugoslavia was collapsing, an act which was not recognized by any state except

Albania.) Asked if he was prepared to discuss terms of independence with Serbia, Rugova said there was nothing to discuss. By failing to agree to the international deal offered at the 1999 Rambouillet conference, he asserted that Belgrade had effectively removed itself from any future role in Kosovo. When pressed about the unreality and even undesirability of excluding Belgrade from discussions about Kosovo's future, Rugova grudgingly acknowledged that Kosovo Albanians might be willing to talk to Belgrade but only with an international presence.

Rexhepi and Thaci, by contrast, were willing to begin early talks with Belgrade and with other neighbors of Kosovo. Thaci said it was a problem that Kosovo had no formal relations with any of its neighbors except Albania and said that Kosovo was ready to enter into talks with all its neighbors, beginning first with Macedonia.

Why Now?

Several factors have combined to bring the issue of final status to the top of the Kosovo Albanian political agenda. Virtually all Kosovo Albanian leaders mentioned the existence in the preamble of the agreement on a new union between Serbia and Montenegro of a reference to Kosovo as a part of Serbia. The appearance of this formulation in a document being negotiated under the auspices of EU foreign policy chief Javier Solana deepened long-standing Kosovo Albanian suspicions of the European role in Kosovo.

The changed international environment after the September 11 terror attacks also heightened the sense of urgency that Kosovo Albanians feel about future status. Kosovo Albanians fully understand that US priorities have shifted away from the Balkans. They distrust the European approach toward Kosovo and want to get final status onto the international agenda quickly, while the US remains a significant presence in the region.

The simple passage of time, together with the complete unwillingness of either the UN mission in Kosovo or the International Community more broadly to discuss final status, has also taken its toll on the Kosovo Albanian political mood. Three years after the end of the war the IC continues to meet questions about Kosovo's future status with ritualistic incantations about the inviolability of UNSC 1244. Many Kosovo Albanians would echo Bakalli's sentiments—"I want the UN to stop treating me as an 'inhabitant' of Kosovo and treat me instead as a 'citizen' in my own country."

Finally, the damage that procrastination on final status is doing to Kosovo is becoming increasingly evident. In an October 2002 report, the Council of Europe's Commissioner for Human Rights, Alvaro Gil-Robles, pointed out that "uncertainty over the final status hampers the readiness of the Serbian and Albanian communities to reconcile and to respect each other's human rights." Gil-Robles noted that this uncertainty keeps hopes and frustrations alive on both sides. Kosovo Albanians "still fear a return of the Serbs in one way or another, while extremist Serbs keep on fueling the hope for return to a position close to the *status quo ante*."

Lack of clarity about the future also damages Kosovo's already difficult economic prospects. In the sober words of a July 2002 World Bank study, “lack of progress towards a political settlement would have negative implications on Kosovo's future development in many ways.” Neither international nor private lenders can conduct normal business in Kosovo until legal issues concerning final status are resolved. Similarly, major private investment in Kosovo is unlikely while potential investors do not even know to whom the territory will belong in the coming years and as long as Kosovo’s unsettled future leaves open the prospect of further turmoil. A senior figure in the EU pillar of the international mission in Kosovo acknowledged that, “I see little prospect of major investment in Kosovo until there is certainty about status, especially in major branches such as mining or infrastructure.”

Benchmarks

The UN has devised the so-called “benchmarks” or standards of governance to measure progress toward final status. As UNMIK chief Steiner said in a recent speech, “my mantra is standards before status.” The benchmarks include eight areas related to democratization and development of a civil society, such as democratic institutions, rule of law, freedom of movement, and minority returns. Accompanied by a complicated set of criteria, goals, and desired actions by local authorities, the benchmarks basically amount to a laundry list of all the elements of good governance and human rights that everyone would like to see prevail in Kosovo. International officials responsible for preparing the benchmarks view them as a sincere and necessary effort to focus Kosovo on progress in key areas of civil society. It is unclear how the benchmarks are intended function in an operational sense since they are unaccompanied by any indication of actions that the IC would take toward determining final status if the Kosovars actually meet the standards.

The benchmarks have received mixed responses. Few Kosovo Albanians doubt the desirability of progress in the areas laid out by the benchmarks but many question whether the UN has given Kosovo institutions sufficient authority to implement the benchmarks. Some suspect the UN of using benchmarks as a tactical device to divert attention away from final status.

Bakalli’s reaction to the benchmarks was typical. He described the benchmarks as good in themselves and insisted that Kosovo Albanians want to achieve them but he also urged that they be linked to a process of resolving Kosovo's final status. PDK leader Thaci likewise agreed with the concepts in the benchmarks but he questioned whether the UN was seeking to create an “endless process” without a definite endpoint. Thaci said the benchmarks should be pursued in parallel with a process of resolving Kosovo’s final status and not as an alternative to that process. Thaci—along with many others—also viewed the benchmarks as creating a double standard for Kosovo in comparison to many of its neighbors. He observed that many of the states bordering Kosovo could not come close to meeting UNMIK’s benchmarks yet no one in the IC was questioning their right to independence.

Many Kosovo Albanian leaders also pointed out that the UN through the benchmarks process was setting out high standards of Kosovo action without, as yet, creating institutions with the authority to carry them out. President Rugova said the Kosovo Albanians “would be faithful” to the benchmarks but he added that unless Kosovo institutions were granted more authority, including turning over the “reserve powers” now held by the UNMIK chief, it would be unfair to hold the Kosovars accountable for implementation of the benchmarks. “Without the reserve powers, we can't be expected to fulfill them,” he said. Prime Minister Rexhepi similarly said that the Kosovo government “needs more to authority to make the standards succeed.” He also pointed out that Kosovo needs more clarity on the desired level of implementation. “If Kosovo is expected to achieve equivalence with Western European standards” in the benchmarks, “then it will take 20 years.” If that were the case, Rexhepi thought, then the benchmarks would look more like a delaying tactic than a way to achieve real change. Steiner, for his part, has sought to deal with such fears by saying that he did not expect “Switzerland” in Kosovo.

The benchmarks were apparently developed by UNMIK without consulting the Kosovars. Many Kosovo Albanians expressed resentment at this top-down approach and also at the—probably unintentionally—patronizing way in which the benchmarks were presented to the public. The Albanian head of the Pristina office of an international NGO described a meeting in which UNMIK officials asked a number of prominent Albanian public figures to assist in a publicity campaign on the benchmarks. The meeting broke up when the Albanians, who had not previously seen the benchmarks, began to raise various questions about them and the UN officials made it clear that, in their view, the point of the meeting was not to revise the benchmarks but to enlist the help of the invited Albanians in selling them to the public.

Signs of Movement?

Despite public insistence that Albanians “keep their eyes on the road” by focussing on benchmarks and deferring dreams of independence for later, behind the scenes there appears to be some tentative signs of fresh thinking in some parts of the International Community on the issue of Kosovo’s final status, although so far there are no signs of actually doing something about it. Ironically, most of the movement on status seems to be coming from Europe rather than the US, which has traditionally been viewed as the most forward leaning of the Contact Group members on Kosovo’s future.

In the late summer of 2002 British diplomats circulated what appears to be a kind of “food for thought” paper, which raised the question of whether it was possible to continue to postpone discussing the issue of Kosovo’s final status. The paper laid out four possible solutions to Kosovo’s future:

- 1) Return to the pre 1999 situation, which the paper said even the Serbs recognize is impossible;
- 2) A tripartite union of Serbia, Montenegro, and Kosovo, which the paper said had been overtaken by time;

- 3) Independence for Kosovo in its current borders, which the paper called currently the most discussed option; and
- 4) Independence for Kosovo with border changes (partition), which the paper said was certain to be opposed by the Albanians but the Serbs might embrace.

During my recent trip to Kosovo some Western diplomats and international officials privately recognized that final status would need to be decided in the coming two or three years and some also acknowledged that, considering the drawbacks of all other options, independence for Kosovo would eventually turn out to be the most likely outcome.

UNMIK chief Steiner made a major speech on November 12 at Humbolt University in Berlin. Little noticed in the US, Steiner's speech deserves attention for the scope and thoughtfulness of its vision for the future of Kosovo and the Balkans generally. Without setting forth any specific time-frame, Steiner said the UN should wrap up its mandate by completing the transition to "substantial self-government" called for in UNSC 1244 and by resolving the issue of Kosovo's final status. After this Steiner called for the international role in Kosovo to be taken over by the EU, which would manage a process of association with European institutions encompassing the entire Balkans. Steiner said that the future of Kosovo remains open but added that there would be no return to the situation before 1999, no partition, and no cantonization. Steiner also called for direct talks between Belgrade and Pristina to begin soon, initially on economic issues but later on the status question as well.

Judging from discussions with US officials in Pristina and Washington, there appears to be little thinking within the USG about Kosovo's final status. Naturally preoccupied with terrorism and Iraq, the US seems to be paying little policy attention to Kosovo or to the Balkans generally, other than to insist that the US commitment of troops, money, and personnel needs to be reduced. NSC Advisor Condi Rice is reported to have told Steiner earlier in 2002 that the UN should plan on being out of Kosovo within three years. On the other hand, there seems to be little comprehension of the fact that only a stable solution for Kosovo's final status will allow the US to reduce its commitment in Kosovo in a responsible fashion. Mid-level officials at the State Department and the NSC privately acknowledge the desirability of at least beginning to think about a plan for deciding final status but they lament the difficulty of gaining the attention of more senior officials for any ideas which go beyond the current slogan of "standards before status." Once again, US officials are acting as if the absence of violence gives them the luxury of postponing difficult policy choices. This was a disastrous mistake in the past and it could well prove to be so again in the future.

DEMOCRATIC SELF-GOVERNANCE

Colonialism in the Balkans

After three years of international rule in Kosovo the international community has created a framework of democratically elected structures at the national and the local level but has not done enough to endow these institutions with real authority. The Constitutional

Framework (CF) promulgated by former UNMIK chief Hans Haekkerup in 2001 gives only limited authority to Kosovo's elected national government. The UNMIK chief retains exclusive authority in many key areas of governance and has the right of veto even in those areas where Kosovo institutions exercise nominal authority. At every level from the Prime Minister through the parliament down to municipal administrations Kosovo Albanian leaders complain that international watchdogs are looking over their shoulders. This international presence is definitely well-intentioned and its advice is often good but the overall effect is suffocating. As Kosovo Prime Minister Bajram Rexhepi said, "Sometimes UNMIK acts as if they are the bosses and we are just cosmetic."

On the Kosovo side, the result of having institutions with the form but not the reality of power has been predictable—irresponsibility, preoccupation with form over substance, and paralysis. Kosovo Albanian politicians spend too much time arguing over perquisites of office or pursuing internal political struggles and not enough time using what authority they do have for the benefit of the people of Kosovo. There has also been a tendency to wait for internationals to take the lead since real power remains in their hands.

What has developed in Kosovo is a classic colonial mentality on both sides. Many members of the international missions—although far from all—have an attitude of skepticism and in some cases even disdain for the local population. Far too often one hears how "these people" just don't seem to understand what is best for them. Prime Minister Rexhepi said he had complained during a recent visit to UN HQ in New York about the tone and the substance of UNMIK reports. As Rexhepi described it, the reports often took the approach that "if there is a problem we Albanians are guilty but if there is a success it is due to the work of UNMIK." A well-respected young Kosovo journalist, whose work frequently brings him into contact with senior international figures, described the problem in more personal terms. Claiming that the antagonism between local Albanians and internationals is deep and growing, the journalist said he personally avoids the restaurants and cafes frequented by internationals because he is uncomfortable with the way they treat locals.

Mixed Local Performance

The performance of Kosovo Albanian political figures has also been mixed. Ibrahim Rugova, who for over a decade led Kosovo's non-violent resistance to Serb occupation, continues to inspire equal measures of affection and exasperation among the Kosovo Albanian population. Most Kosovo Albanians believe that Rugova has earned the right to be Kosovo's first democratically elected president but many members of the Pristina political class complain that he is too remote. Rugova continues to concentrate—as he has since 1990—on independence for Kosovo. Prime Minister Rexhepi wished that Rugova, whose League of Democrats of Kosovo (LDK) is the largest party in the parliament, would do more to advance the legislative agenda. Rexhepi also lamented that Rugova rarely visits his office in the parliamentary building in downtown Pristina, which makes it difficult for Rexhepi to consult with him on important issues.

Rexhepi emerged as Kosovo Prime Minister in a compromise which gave the post of president to Rugova and the position of Prime Minister to the PDK but not the party's leader Hashim Thaci. The mayor of the divided town of Mitrovica immediately after the 1999 war and a doctor with the KLA during the conflict, Rexhepi has earned the respect of internationals and Kosovars alike through his fairness, quiet competency and problem-solving approach. When Serb churches were attacked in mid-November it was Rexhepi who joined Steiner in visiting the scene and expressing his concern to local Serbs.

Rexhepi presides over a government with only limited constitutional authority, divided by internal bickering among what amounts to a coalition of the three leading Albanian parties, and hemmed in by a cloying if well-meaning international presence. The Kosovo government and parliament occupy one wing of a building taken over by the UN immediately after the 1999 war. Office space for local officials and agencies is limited, even as international agencies continue to occupy most public buildings in Pristina, including the city's premier museum which has served as the headquarters of the EU's reconstruction agency since the war. Only after almost a year of international foot dragging did Rexhepi win UNMIK approval to subordinate the Central Fiscal Authority to the Kosovo government and it remains to be seen how real the transfer will actually be. Rexhepi said he has a good working relationship with UNMIK chief Steiner but also complained that Steiner's staff sometimes took actions which had the effect of pushing the two into positions of potential conflict—although Rexhepi added that he was usually able to resolve the problem through a personal phone call to Steiner.

The Kosovo Assembly suffers from the same limited authority and lack of material support as the government. Neither individual members of parliament, committees, nor factions have offices, staff, or a budget. Administrative support is handled by an international-led staff that Kosovo Albanians complain moves slowly in providing essential services and often seems to keep them in the dark about schedules, agendas, and the like. One deputy commented sarcastically that he had the right to use the UN bathrooms and a post office box to get his mail. English, Albanian and Serbian are the official languages of the Kosovo parliament and delays in translation are reportedly a particular problem. One deputy, noting that he only received an Albanian language copy of an Assembly document two months after it was first prepared, said angrily that he believed the international administration was deliberately trying to slow the Assembly's work in order to prevent Albanians from taking authority into their own hands—a comment that probably has more to do with the degree of mistrust that can sometimes develop between internationals and their Kosovo colleagues than objective reality.

Problems in parliament cannot, however, be attributed only to the internationals. Some deputies complained that the President of the Assembly, Nexhat Daci, has a paternalistic approach toward parliamentary leadership. Under Daci, parliament meets only once a week, in plenary session, and committees seem to meet irregularly, at best. Members of the parliament's foreign affairs committee said it had never been convened. Prime Minister Rexhepi, while acknowledging the validity of the Assembly's complaints about lack of support, noted with some irritation that the Assembly could, nevertheless, move faster.

Kosovo Albanian leaders are determined to seek additional authority for their institutions of self-government. President Rugova said he would insist that the “reserve powers” which the CF retains for the UN be gradually transferred to Kosovo institutions. Rexhepi, who said he had fought for more responsibility to be given to Kosovo institutions at meetings he had just attended at UN HQ in New York and with the G-8, agreed with Rugova that the “reserve powers” must quickly be handed over to the leaders of Kosovo. “We cannot continue at this stage,” Rexhepi concluded.

Municipal Transfer: "Not Happening"

At the level of Kosovo’s local or municipal government the picture seems essentially the same. The municipal assemblies elected in 2000, Kosovo’s first elections after the 1999 war, had a full two-year cycle in which to operate but in many municipalities the transfer of authority seems to have proceeded even more slowly than at the national level. UNMIK rules grant Kosovo’s elected municipal assemblies only limited authority over many aspects of local government and allow local UN administrators a veto over any actions by the assemblies. Although this veto was apparently used infrequently, the broad power this gave to local UN administrators reportedly had a chilling effect on local initiative.

The “clash of cultures” between internationals and locals sometimes operated particularly strongly at the municipal level. One international NGO official with broad experience throughout the Kosovo political scene described UN municipal administrators as being “parachuted into their district, with little or no knowledge about the region, yet determined to exercise full control.” On the other hand, both international and local observers also agree that many local Kosovo political figures leaders did not effectively exercise the authority that they were allowed under UN rules. In some areas, local political leaders were described as being preoccupied with internal political bickering and as failing to come up with realistic plans to address practical problems in their municipalities.

Ylber Hysa, the Director of the Kosovo Action for Civic Initiative (KACI), said that at the municipal level, “the transfer of competencies is not happening.” He attributed the decline in voter turnout at the 2002 municipal elections—approximately 54 percent participation in 2002 as opposed to over 70 percent in 2000—to the fact that in most areas voters did not see their leaders successfully addressing significant local issues. On the other hand, Hysa thought that in at least some areas, for example Gjilan, the local elections had turned up newer and more energetic leaders, some of whom were affiliated with local civic action groups and not with traditional political parties.

Who Is Michael Steiner?

Michael Steiner, an able German diplomat with considerable experience in the Balkans, has been UNMIK chief for almost one year. He has earned the respect of Kosovo leaders and ordinary citizens for his energy, dynamism, and problem-solving approach to issues.

Steiner arrived in Kosovo with a strategy for moving ahead and he seems to be implementing it in a steady fashion, as seen by his initiatives on privatization, organized crime, decentralization, and Mitrovica. His recent speech at Humboldt University also showed that he is aware of the need to tackle Kosovo's underlying political issues on an accelerated basis.

Almost all Kosovo leaders said they had good working ties with Steiner but none seemed to describe a relationship of particular warmth. Prime Minister Rexhepi was typical, noting that he respected the UNMIK chief's direct and to-the-point working style as well as his determination to achieve results. On the other hand, many Albanian leaders also complained about what they said was Steiner's arrogance, tendency to lecture, and a perception that he is driven as much by the desire to further his own career with German and European political structures as to advance the interests of Kosovo. (Rexhepi, by contrast, thought that Steiner's ambition to use his UN assignment to further his own career would actually help Kosovo.)

Ylber Hysa commented that "Steiner's biggest enemy is his own character." Bakalli described Steiner as like an old Communist apparatchik, who looks mainly to the Politburo—or in Steiner's case UN HQ and the EU—for approval. Bakalli said Steiner should be more of an advocate for Kosovo and spend less time telling Kosovars what they should do. Perhaps not surprisingly, AAK leader Haradinaj, who has been indicted under Steiner's tenure, was most critical, describing Steiner as badly organized, too direct, and failing to listen to the people of Kosovo.

Within the international mission, Steiner elicited similar reactions. Almost all praise his intelligence and energy but his self-centeredness and temper tantrums have become legendary and off-putting to many in the international mission. One experienced UN official said, "Steiner rules his staff by fear." One consequence reportedly is that some international officials keep as far away from Steiner as they can, with consequent reductions in organizational efficiency. Steiner is said to rely heavily on a small number of trusted and thick-skinned advisers, which in the view of some international and local observers has hindered the consistency and follow-through of his own initiatives. Some Kosovo Albanians thought that under Steiner UNMIK functioned less efficiently than it had under his predecessors. Others pointed to what they said was a tendency to rush from issue to issue without ensuring necessary follow-through.

On the whole, however, Steiner's positives with the local population outweighed the negatives. A number of observers pointed out that it is better to have as UNMIK chief an individual who is too active and takes too many initiatives than one, such as Steiner's predecessor, Hans Haekkerup, who was widely viewed as too passive and withdrawn. In any case, Kosovars are sophisticated enough to judge Steiner primarily by results.

Decentralization

On October 21, shortly before the Kosovo municipal elections, Steiner announced a seven-point decentralization concept. Its primary purpose, although not expressly stated,

was to devolve limited autonomous powers on areas of Kosovo inhabited by Serbs. The concept called for the creation of new “municipal units,” apparently as sub-units of existing Kosovo municipalities although the possibility of creating new Kosovo municipalities is not excluded. These “municipal units” would have their own budget and administrative structure, with the right to manage their own affairs in such areas as education, health care, municipal services, and culture.

The timing of Steiner’s announcement was intended as an incentive to encourage Serb participation in the municipal elections. In the event, however, only a small number of Kosovo Serbs voted, despite the pleas of Kosovo Serb and Belgrade leaders that they do so. Shortly after the election, Steiner backed down on his own linkage, announcing that the Council of Europe would be invited to discuss the decentralization plan with local Kosovo representatives.

Although Steiner apparently obtained the assent of Kosovo leaders to the decentralization concept, Kosovo Albanians seemed reserved. Many expressed views similar to AAK leader Haradinaj, who said he was opposed to the notion of creating new, ethnically based decentralized administrative units. Rugova took a more nuanced position, saying that he did not necessarily oppose the concept of decentralization but that it should be based on local units that existed under the old Socialist system, called “local communities” (*mestna zajednica*). Almost all Albanians feared that the new decentralized administrative units would end up functioning, in effect, as the “cantons” which Nebojsa Covic, Belgrade's point man on Kosovo, proposed in a 2000 plan that clearly pointed toward the division of Kosovo.

Albanian concerns are certainly not groundless. Nevertheless, Kosovo is already divided between Albanian and Serb-inhabited areas and this division is not likely to be erased easily or quickly. If Serbs are to remain in a future Kosovo where—regardless of whether or not it is juridically independent—the majority Albanian population will certainly control the government in Pristina, Serbs will have to be granted broad authority over their own community affairs. Rada Trajkovic, one of the leaders of the Povratak coalition of Serb deputies in the Kosovo parliament, said that decentralization would give the Kosovo Serbs “hope for the future” and that “without decentralization we (Serbs) will either be assimilated or be driven out.” In a welcome clarification, moreover, Trajkovic stated flatly that the decentralized “municipal units” would be part of the Kosovo governmental structure and would report to Pristina not Belgrade.

Despite the failed linkage, Steiner was correct to put the concept of decentralization on the table. The problem with the Steiner concept—and the reason that Albanians are so suspicious of it—gets back to the absence of clarity on final status. Decentralization as it currently stands is not linked to any current or future constitutional structure. This ambiguity could help the Serbs turn the new administrative units into extensions of Belgrade’s rule in Kosovo. But decentralization embodied in a Kosovo constitution that is part of a final status arrangement is not only possible but absolutely necessary for such a settlement to have any chance of preserving some multi-ethnicity in Kosovo.

THE ECONOMY AND PRIVATIZATION

Growth Masks Looming Problems

Kosovo has experienced strong economic growth over the three years since the end of the 1999 war, fueled by a vibrant Albanian small business sector, foreign assistance, and the spending of thousands of international personnel. The Kosovo economy grew by 16 percent in 2001. The UN estimates that the Kosovo GDP will reach almost two billion dollars in 2002, with growth a slower but still respectable seven percent.

These figures, however, mask two anomalies. First, Kosovo remains desperately poor. According to IMF estimates, per capita GDP is between \$850 and \$950. Over half the population lives below a World Bank-determined poverty level of \$1.65 per day. Economic development, moreover, continues to be complicated by the very high Kosovo population growth, estimated at 2.5 percent annually by international officials.

Second, Kosovo's current economic structure is wildly out of line with any normal system. Domestic production is virtually non-existent while consumption was estimated by the World Bank to have reached over 120 percent and imports close to 90 percent of GDP in 2001. Virtually all of Kosovo's growth has been supported by capital inflows from foreign donors and the Albanian diaspora. This is not a sustainable basis for future economic development.

In 2002 the actual inflows of donor assistance will remain about the same as previous years—about \$500 million or 30 percent of GDP. Beginning in 2003, however, already registered declines in donor pledges will begin showing up as real decreases in capital inflows. Incoming assistance will fall by perhaps one-half. The decline in international personnel will further reduce the amount of foreign exchange entering the Kosovo economy. Some observers believe that the inflow of diaspora money could also be declining. As one local observer said, "Wealthy Albanians abroad have already sent in money to rebuild the houses of their relatives or to set up a small café or shop but they are not going to send in any more dollars until they see what lies ahead in Kosovo's future."

Already, anecdotal information seems to indicate that jobs are becoming scarcer. As one person put it, "In the first year anyone who could speak two words of English could get a well-paying job with the internationals but now the only way to get a job is to have a relative already on the payroll." Others report that day-labor construction jobs, which used to be relatively easy to obtain, are also becoming scarce, a possible sign that the construction boom in Kosovo is coming to an end.

De-industrialization

Almost all of the growth in the Kosovo economy since 1999 has occurred in the private, small business sector. Performance in the socially and state-owned sectors, which before the 1999 war constituted the backbone of the Kosovo economy, has been catastrophic.

Output data for the Kosovo economy is difficult to obtain—perhaps because it is so low that it escapes the normal econometric detectors—but also because much economic activity has moved outside the system.

A report prepared by the Lessons Learned Unit of the EU component of the international mission in Kosovo (“The Ottoman Dilemma: Power and Property Relations Under the United Nations in Kosovo,” August 8, 2002) describes the Kosovo economy today—“a stark picture of almost total de-industrialization.” In the Pec region, where two decades ago 10,200 people were employed in socially owned enterprises, no more than 1,500 are regularly employed by those enterprises and only a handful of the enterprises are producing anything at all. Across Kosovo the picture is the same. Many socially owned enterprises obtain their only income by renting out facilities to traders or small businesses but since property rights and business laws remain highly uncertain much of this activity goes on outside the system.

Control over the socially owned enterprises is also questionable. Whichever party or group exercises predominant influence in a particular area has tended to seize control of the most important enterprises in that area. The UN, whose effective control over Kosovo is thin, can do little to affect these and other questionable transactions. As a result, the legal and institutional framework surrounding social property has disintegrated. The EU report concludes, “Property relations in Kosovo are a function of power rather than law.”

Successes and Failures

Kosovo’s current economic problems cannot, of course, all be blamed on the international mission. Kosovo’s Socialist-era economy was inefficient and heavily subsidized. Under ten years of Milosevic’s occupation, much of the Kosovo economy ground to a halt. Many Albanians were fired from their jobs and the infrastructure was starved of basic resources.

Since the International Community assumed responsibility for the Kosovo economy there have been some successes. A functioning customs and budgetary system has been created. UNMIK conducted a successful registration of businesses and has begun to create a modern taxation system. The necessary legal framework of economic and commercial law is being put into place.

The international mission helped rebuild tens of thousands of war-damaged homes. Other than repairing some of Kosovo’s antiquated roads back up to their pre-war 1950s era standards, little seems to have been done to rebuild Kosovo’s infrastructure, on which future economic development will depend. Three years after the end of the war, Pristina’s two tallest buildings—damaged by NATO air strikes in 1999—loom over the city ruined and abandoned. The IC stepped in to help restart Kosovo’s electric power system—before the war a net exporter of energy—but after the expenditure of almost half a billion dollars, Pristina still suffers under daily power blackouts lasting several hours. Even senior UN officials confess themselves uncertain about what went wrong—a

muddle of antiquated equipment, poorly trained local staff, mistaken investment decisions by international supervisors, accident, and fraud by both international and local staff. Probably nothing else has done so much to undermine the prestige of the international mission among the people of Kosovo as the long-running fiasco over power.

It also has significant economic consequences. Large-scale investors are unlikely to look at Kosovo until they can be assured of reliable power. Small investors are also affected. No business in Kosovo today can operate without a generator, which amounts to a significant addition to the start-up and operating costs of small businesses.

Phases

The international mission entered Kosovo in 1999 believing that it needed to conduct a classic post-conflict reconstruction operation. It was slow to realize that even more important than physical rebuilding was managing Kosovo's transition from a Socialist to a modern market economic system. More than three years after the beginning of international rule in Kosovo, this process is still getting underway.

In its first phase, the international mission naturally focused on rebuilding war damage, which in Kosovo was relatively light. In the next phase, the UN attempted to restart the economy through a process known as "commercialization," under which investors would be granted ten-year leases to operate Kosovo enterprises. By August 2002, only twelve commercialization contracts had been included across Kosovo and, according to the EU study only five—all in the agricultural field—are successful. In November 2002 a senior EU official said bluntly, "commercialization did not work."

Commercialization was undertaken by the UN largely as a device to side-step privatization, which most economic observers have long believed is necessary to clear the decks for Kosovo's economic development. The UN legal department in New York, however, argued that privatization would have to be deferred until after Kosovo's final status had been determined, reportedly out of concern that early privatization could expose the UN to lawsuits by previous owners.

It has always been unclear how seriously to take these supposed legal concerns, which hover in reality somewhere between groundless and phony. Any Milosevic-era claimants to Kosovo enterprises would have to base their claim on the fake "privatizations" of the 1990s, which really amounted to pay-offs of the regime's corrupt cronies, who took over Kosovo enterprises from which the legitimate, pre-1989 holders had been evicted after Milosevic's forceful 1989 seizure of Kosovo. This action was contrary to the will of the majority Albanian population of Kosovo and to existing Yugoslav constitution and law. Any claims based on it should be dismissed with the contempt they deserve. In fact, of course, foot-dragging on privatization suited the purposes of several major powers on the Security Council, who for reasons of their own want to delay facing the issue of Kosovo's final status.

Privatization

From the beginning of his tenure, UNMIK chief Steiner described economic progress as one of his highest priorities. Senior UN officials said that Steiner's personal intervention with UNSYG Kofi Annan early in 2002 helped break the log-jam on privatization and allowed the EU component of UNMIK to develop a plan for privatization which is apparently on the verge of introduction. In June 2002, UNMIK established the Kosovo Trust Agency (KTA) as the institutional custodian for enterprises undergoing privatization. The first Kosovo enterprises will be privatized early in 2003, according to senior EU officials.

As described by a senior EU official in Kosovo, the privatization plan applies only to socially owned enterprises. State-owned enterprises, which UNMIK says includes most public utilities in Kosovo, will not be subject to privatization. Assets of enterprises to be privatized will be spun off from the existing enterprises and turned into a new legal entity, which will be put up for privatization through public tender. Any debts, including claims from possible previous owners, would remain with the old enterprise and would not transfer to the new, privatized entity. A certain percentage of the proceeds of privatization will be put into an escrow account and held for possible claims against the old enterprises.

There are approximately 550 socially owned enterprises in Kosovo. Of these, perhaps 55 to 60 can be successfully privatized, according to a senior EU officials. The remainder will have to be liquidated. International officials have selected about 20 enterprises for the first wave of privatization, focusing on those which have genuine value and—tellingly—on those which are least likely to be subject to worker unrest.

UNMIK's plan for privatization is probably about as much as the international traffic would bear. Steiner and the EU component of UNMIK, which developed the plan, deserve credit for pushing the initiative against entrenched international legal, bureaucratic and political opposition. Unfortunately, there are serious grounds for concern about the privatization plan, concerns which are shared by some in the UN structure itself.

Like most UN initiatives, the privatization plan was developed without much consultation with the Kosovo political leadership, which seems to have little conception of privatization's initial impact—the liquidation of many of Kosovo's socialist era dinosaurs and major lay-offs in those enterprises which are successfully privatized. Most Kosovo leaders seemed to believe that once privatization was accomplished much of Kosovo's old Socialist-era economy would somehow spring miraculously back into life. According to a senior EU official responsible for drawing up the privatization plan, Kosovo Prime Minister Rexhepi is on board but the EU official acknowledged ruefully that, "I don't think the Kosovo leadership has even begun to grasp the implications."

The conditions of privatization imposed by UN HQ in New York will affect both the attractiveness of the enterprises for potential bidders and the legitimacy of the exercise in the eyes of the Kosovo Albanians. Concerns over final status led the UN legal

department to forbid the sale of land belonging to privatized enterprises. The KTA will be able to offer leases to the land, initially for 10 years and later, it is hoped, for 99 years. How bidders react remains to be seen but at a minimum it is likely to reduce the price that privatized enterprises command. New York also required that a certain percentage of the proceeds from privatization sales be put aside to cover potential claimants to the old enterprises. This may appear to be a prudent measure but it reduces the money available for investment in the Kosovo economy and, since all potential claimants stem from the phony Milosevic-era Serb occupation, its legal necessity is dubious.

There are also grounds for concern about the initial economic and political impact of privatization. Since the UN's strategy—not unreasonably—is to offer the most attractive enterprises for privatization first, it will probably succeed in privatizing a few small or medium sized firms. Privatizing larger enterprises, which will require significant lay-offs, and still more the liquidation of the large number of enterprises not suitable for privatization will raise more questions. Given the thinness of the legal and practical control that the UN exercises throughout most areas of Kosovo, its ability to enforce lay-offs or liquidations is open to question. It seems quite likely that firms slated for liquidation will simply hang on under their current, often only quasi-legal status, hoping that they can survive until Kosovars win full local control over their system. Political leaderships, which tend to view enterprises in zones which they control as part of their patronage domain, are likely to encourage enterprise management and workers in this strategy.

The political confusion and social unrest which could accompany the privatization process are, in the short-term, unlikely to be a source of encouragement for potential investors in the Kosovo economy. Because of IC-imposed delays the process is likely to unfold at the same time that expanded self-government authority is being transferred to Kosovo institutions and probably also around the time that the difficult question of Kosovo's future status finally begins to be seriously addressed.

None of this is to suggest that the process of privatization should not go forward as quickly as possible. These pitfalls illustrate, however, the continuing political and economic costs which will have to be paid because of the IC's delayed and partial approach toward privatization. They also constitute a warning of the need to consider all aspects of Kosovo's political and economic situation promptly and in a coordinated fashion.

MITROVICA

On October 1, UNMIK chief Steiner announced a new plan to overcome the division in the northern Kosovo town of Mitrovica, which since the end of the 1999 war has been a flashpoint of Serb-Albanian tensions and the scene of repeated clashes between KFOR and the UN police and both the Albanian and Serb populations. The Ibar River, which runs through the center of Mitrovica, has become a dividing line between the Serb-dominated northern part of Kosovo, and the primarily Albanian-inhabited south. In the north, the international writ has hardly penetrated. Belgrade—under both the Milosevic

regime and its successor—used a variety of informal and semi-covert mechanisms to control most aspects of daily life. For three years KFOR troops and UN police proved unwilling and unable to enforce international rule in the north, leading many to fear that the Ibar was being quietly turned into the dividing line of a future partitioned Kosovo.

Steiner's plan begins with a pledge of “no incursion” by the Albanian inhabitants in southern Mitrovica into the north—from which many Albanians were evicted by Serbs who often, in turn, were fleeing post-1999 Albanian violence in southern Kosovo. The plan is also supposed to include policing of Mitrovica by Serbs under the UN-created Kosovo Police Service (KPS), a coalition government in Mitrovica between Albanian and Serbs under Steiner's auspices, decentralization to allow decisions affecting the Serb north to be made locally, and an economic boost through stepped up international aid and by locating the KTA offices in the northern part of Mitrovica. Ultimately, the aim of the plan seems to be to establish the northern, Serb-dominated part of Mitrovica as an administrative sub-unit of a united Mitrovica municipality—a goal which has both political and practical logic behind it but which so far both Serbs and Albanian say they oppose.

As with his decentralization concept, Steiner linked the Mitrovica plan to voting by the Serbs. But as with decentralization, the Serbs called Steiner's bluff. Several of the more extreme Mitrovica Serb leaders urged local Serbs not to vote in the municipal elections and they did not do so, whether because of these urgings or because of the underground Serb enforcement mechanisms that have always functioned in Mitrovica is unclear. And as with decentralization, Steiner backed down from his linkage, proceeding with the Mitrovica strategy despite the Serb failure to vote.

Steiner's plan is the latest of several previous international plans aimed at overcoming the division of Mitrovica and extending international control to the north. Steiner's effort appears to differ fundamentally from its predecessors, however, in that it is apparently grounded on cooperation with both Belgrade and local Serb leaders. According to senior UNMIK officials, Steiner obtained the agreement of FRY President Kostunica and Belgrade's Kosovo point man Nebojsa Covic to his plan—presumably including their promise to end the informal control mechanisms that Belgrade has maintained in the north. UN officials asserted, for example, that Belgrade had agreed to dismantle the so-called “bridge-watchers,” a group of militants centered on the northern end of the Ibar bridge who helped mobilize violent Serb crowds to block unwanted actions by Albanians or internationals.

A brief, mid-November visit to Mitrovica—before Steiner's plan had formally gone into effect—definitely turned up some positive signs. Most of the barricades have been removed from the Ibar bridge, which in times past resembled Checkpoint Charlie, with barbed wire barricades, armored vehicles and heavily armed KFOR troops closely scrutinizing the few individuals who sought to pass from one side of the river to the other. The “bridge watchers” were not visible at the northern end of the bridge and their notorious hangout, the Dolce Vita café, was undergoing a spiffy new renovation. A short stroll around the city turned up a couple of spots where small groups of young men—

possible “bridge watchers”—were loitering conspicuously in key locations but on this day northern Mitrovica was definitely in one of its periodic “quiet phases.”

Some economic progress was visible in northern Mitrovica, whose empty shops and listless activity formerly presented a stark contrast with the flourishing Albanian-inhabited southern part of the city. Goods in shops and kiosks seemed more plentiful and more attractive. Shops seemed to be accepting both the Euro—the official currency of Kosovo—and the Serbian dinar, which has always been the recognized currency in the north.

The young manager of the northern Mitrovica branch of the American Bank of Kosovo confirmed that a modest economic upturn was underway in the north. The bank—whose opening in the northern, Serb-inhabited part of Kosovo was reportedly a condition established by USAID for assisting in establishment of the bank across Kosovo as a whole—has not succeeded in attracting many depositors, primarily because the population remains reluctant to entrust banks with their savings after having experienced several rounds of hyperinflation or government confiscation. The manager noted that affiliates of the bank had provided loans to a number of individuals or enterprises in the north, although she acknowledged that so far these loans had mainly gone to finance current production rather than to support new investment.

Despite a Keystone Cops-like episode in the beginning—when heavily armed and helicopter supported UN special police descended on a building they apparently thought was the headquarters of the unauthorized parallel Serb administration for northern Mitrovica and then left in polite confusion when the Serb head of the municipal services enterprise occupying most of the building told the police they had the wrong address—there are some positive initial signs. Milan Ivanovic, one of the more militant Serb leaders in the north, who was initially indicted for attempted murder when a KFOR camera reportedly seemed to show him throwing a grenade during one of the Serbs' periodic demonstrations against the UN police (the indictment was later reduced to a lesser charge, reportedly after Covic produced another video which seemed to raise questions about the real identity of the grenade thrower), confirmed that Mitrovica leaders had been told by Kostunica and Covic to let Steiner's plan go forward. Ivanovic said that he saw a number of positive features in the Steiner plan and that “some elements” of it could be accepted.

Albanian leaders also seemed cautiously positive, at least to the notion that the UN under Steiner was finally doing something in Mitrovica. Rugova said the Steiner plan was a good one, “if it is implemented.” He added that the “bridge watchers” need to be “kicked out” of Mitrovica and that full international control should be established over the north, things he seemed skeptical would really be accomplished. Prime Minister Rexhepi, the post-war mayor of Mitrovica, said, “it was better to have a plan than nothing at all.” Reports in the Kosovo Albanian media that the “parallel” Serb institutions continue to function in Mitrovica, allegedly still handling such matters as passports, driving licenses, and IDs, are likely to strengthen this skepticism.

Given the repeatedly demonstrated unwillingness of KFOR and the UN police to use force to take control of the north, Steiner's plan to gradually extend UN influence into the area through cooperation with Belgrade and local Serb leaders is probably the only available option. Working with Belgrade to take control of the north, however, contains an element of risk. Belgrade and local Serb leaders are currently cooperating because they have been persuaded that it is in their interest to do so. That judgment, of course, could change. If the real levers of authority—police, administration, financing—remain in Belgrade's hands under a façade of international labeling, then the supposed international control of the north could prove chimerical. On the other hand, the passage of time and the demonstration of real progress, especially in the economic field, could gradually lend solidity to the concept of international rule within a united Kosovo.

In the end, success in Mitrovica, like so much else, will depend on how final status is handled. If the Serb-dominated north is to remain within Kosovo, it will need to have substantial local self-rule, something the Steiner plan provides for. Then, if Belgrade and the Serbs of the north can be persuaded that they have a stake in a united Kosovo which exceeds their aversion to living as part of an Albanian-led entity, there may be some hope. If not—and so far the jury is still out—the Ibar could turn out to be a permanent line of division.

SERB RETURNS

On November 1, Steiner unveiled a new approach to encouraging the return to Kosovo of Serb and minority refugees. The new plan entails a more coordinated approach to creating a political, security and social environment in which Serbs and minorities would feel comfortable returning to homes outside of the isolated and guarded enclaves where many have lived since the 1999 war. The concept appears to be based on the approach used in the Gjilan region, where US and British troops working with UN and KPS police and with local authorities have adopted a kind of “community security” strategy of roving patrols, pro-active security and political measures, and public information to foster the safe integration of Serbs and other minorities into local life. The new strategy also involves more money devoted to returns, with the US alone allocating several million dollars for the purpose in the coming year.

With strong political support from the IC, an experienced new director in charge of the process, and a political environment where many Albanians seem to understand the damage done by their reprisals against Serbs and minorities after the 1999 war, prospects for increasing the number of returns are probably better than they have been for some time. On the other hand, the current campaign on returns is perhaps the third or fourth such effort—the second under US auspices—that has been launched with great fanfare since 1999. Previous campaigns tended to trickle away after the original political or public relations emphasis was exhausted, after only a small number of refugees had actually returned. On balance, there are grounds to hope that this one will be different.

Obstacles remain high. Violence against Serbs and their holdings, although less than in the first year after the war, continues. In mid-November, on the eve of Secretary-General

Kofi Annan's visit to Kosovo, two Serb churches were dynamited and even in the Gjilan area violence continues, with apparently deliberately laid land mines found near Serb property fields and a Serb killed in the long-troubled ethnically divided village of Cernica.

Attitudes toward return are mixed in both Albanian and Serb communities. Among the Kosovo Albanian leaders, Prime Minister Rexhepi and PDK chief Thaci have been prominent in speaking out in favor of returns and in visiting Serb sites. President Rugova has been more reserved. He noted the difficulty of urging returns upon an Albanian community still deeply traumatized by a decade of Serb violence and suspicious of Serb behavior in Mitrovica.

Ordinary Kosovo Albanians share the conflicted views of their leaders. Many Kosovo Albanians say they have nothing against the return of Kosovo Serbs who did not take part in the repression under Milosevic but the numbers of such people, in the view of many Albanians who lived through the Serb actions, tend to be limited. The views of one Pristina Albanian are probably typical. He spent the war hiding in vacant apartments in Pristina, where he said with a shudder he saw things that "I can never erase from my mind." He said he would have no objection to the return of his Serb neighbors who had "clean hands." When asked how many that was he replied that of the 13 Serb families who lived in his Pristina neighborhood before the war, two had "clean hands" and would be welcome to return—the rest, he said, would be better off making a new life outside of Kosovo.

Attitudes within the Kosovo Serb community are equally problematic. Kosovo Serbs, naturally enough, focus on the violence they experienced at the hands of Albanians after the 1999 conflict. But Kosovo Serbs have yet to come to grips with their own complicity in the events of the Milosevic era. Kosovo Serbs participated in and profited from the mass expulsion of Albanians from jobs and schools and from other oppressive measures against the majority Albanian population. Rada Trajkovic, the leader of the Serb Povratak coalition (at the end of 2002 press reports said she might be leaving that position) who seems genuinely committed to remaining in Kosovo, was reportedly an active participant in the expulsion of Albanian doctors from Pristina medical facilities in 1990. Most military age Kosovo Serb men were mobilized into Serb forces during the 1999 conflict and although there are some documented cases of Kosovo Serbs helping their Albanian neighbors escape the killings, burning, and mass expulsions which those forces inflicted on hundreds of thousands of Kosovo Albanians, such heroic incidents were few.

The Kosovo Serbs appear to be divided on returns. Some Serb leaders in northern Kosovo make no secret of their desire to keep that region separate from the rest of Kosovo. Milan Ivanovic, for example, despite his expressed willingness to give the Steiner plan for Mitrovica a try, also said that northern Mitrovica would have to be a separate municipality which could never coexist with the southern, Albanian-dominated part of the town. On the other hand, a new group of Kosovo Serbs, said to be based on landowners and small businessmen and genuinely committed to remaining within

Kosovo, has recently appeared in the southern Serb enclave of Strpce, although I was unable to meet them.

Many Serbs are “voting with their pens” by selling their property in Kosovo and thereby cutting practical ties with the place. Some Serb refugees in the enclaves or the north may also be settling more or less permanently into new arrangements. Rada Trajkovic, for example, has just completed a large new home in the Serb enclave of Gracanica near Pristina. Asked whether she expected to leave her new quarters to return to her former home in Pristina, Trajkovic replied that she often sees her old home and remembers it fondly but that returning now would be difficult.

Population and refugee data illustrate the difficulties that any successful return strategy will have to overcome. According to the 1991 census, there were 194,190 Serbs in Kosovo, out of a total population of 1,956,196, or 10 percent of the total. In August 2002, according to OSCE municipality profiles, there were approximately 2.3 million Albanians in Kosovo and a maximum of almost 136,000 Serbs, or 5.9 percent of the total. Over 100,000 Kosovo Serbs were living as refugees outside of Kosovo but of these a significant percentage—the number is a matter of hot dispute—consists of Serbs who came to Kosovo in the 1990s, either to take the jobs of fired Albanians or as refugees from other parts of Milosevic’s failed experiment at Greater Serbia, such as Croatia’s Krajina region or Bosnia.

The UN says that in 2002, for the first time since 1999, the number of Serbs who returned exceeded the number who departed. Much still remains to be accomplished. In the three years since the end of the war, according to UNHCR data, only 3,358 Serbs refugees have returned to Kosovo, out of as many as 150,000 who fled their homes in 1999. Even in the Gjilan region, site of modestly successful return efforts led by US and British forces, a total of only 554 Serbs returned to their homes in the years 2000-2002.

The experience of Bosnia seems to show that the passage of time together with persistent international efforts can eventually lead to progress in the return of refugees to areas where they are an ethnic minority. In Kosovo, however, uncertainty over final status continues to cloud the climate for Serb returns, a point noted by many impartial outside observers but which current international strategies seem to ignore.

Fear can be broken but it will take time, persistent effort, and a strategy which, in addition to focusing on important issues of security, economics, and the like, also addresses the political preconditions for genuine reconciliation. The remarks of one young Kosovo Serb woman illustrate the magnitude of the task. The manager of the northern Mitrovica branch of the American bank of Kosovo, she periodically travels to Pristina for meetings with colleagues from branches in the Albanian part of Kosovo. Her willingness to travel to Pristina, which she probably would not have done a year ago, is a sign of progress. But asked whether she feels able to move about Pristina safely, she replied in the negative, pointing out that she only remains there for a few hours and that at lunch time she asks her Albanian colleagues to bring her sandwich because she still

feels unable to walk safely outside the building—which is located almost in the shadow of UN headquarters in the center of Pristina.

ORGANIZED CRIME

The international mission has beefed up its capabilities to go after organized crime. An intelligence support unit has been established in conjunction with KFOR, through which participating states can channel national intelligence relating to organized crime. The UN police have established their own organized crime unit to receive intelligence and undertake actions against organized crime figures in Kosovo.

When UNMIK chief Steiner assumed his duties at the beginning of 2002 he said that the struggle against organized crime would be one of his highest priorities. In recent months, international police have taken a number of well-publicized moves against figures said to be associated with international crime, most of whom were also part of the KLA's armed struggle against the Serbs. Early in 2002, the UN arrested several mid-level figures said to be associated with the Albanian crime scene and later in the year it moved against more prominent personalities. AAK leader Ramush Haradinaj, whom some have accused of involvement in unlawful activities, was indicted for a 2000 shoot-out with an opposing family in his native Djukadjin region of Kosovo. Undoubtedly the IC's biggest move against organized crime was the arrest of "Remi" Mustafa, who commanded KLA forces in the Podujevo region during the 1999 conflict and who after the war was said to have established an underground network that controlled a wide range of illicit activity in Pristina. In early November, UN police in Prizren detained Ekrem Lluka, said by some observers to be one of the major organized crime figures in Kosovo, but had to release him after he produced papers apparently showing that all appropriate taxes and duties had been paid on the cigarettes he was charged with smuggling.

Moves against organized crime are important and quietly welcomed by the Kosovo population. One seasoned international observer of the Kosovo scene enthusiastically described the situation as for the first time offering the people of Kosovo the opportunity to take control of the region and build new, "clean" structures from the ground up.

There are, however, two potentially worrisome problems with the way the IC has acted. First, the campaign against organized crime has been conducted almost exclusively by the international community. No locals are apparently involved in the intelligence support unit or the organized crime unit. To some extent, this approach is understandable, given the sensitivity of national intelligence and concerns over possible operational penetration if locals are included. On the other hand, the fight against organized crime can obviously only be self-sustaining when local law enforcement and judicial elements are fully involved. With full policing authority in Kosovo set to be handed over to the KPS at the end of 2004, it is time to start including local police in the fight against organized crime. KPS officers say they feel frustrated at their exclusion and argue that only they can develop the informer networks they believe are necessary to mount a strong and sustained attack on organized crime.

The second problem with the international approach to the issue of organized crime has been the way in which indictments have been handled against former KLA figures said also to be involved in organized crime activities. Judging by comments from a range of international and local observers, anyone wanting to open a small business or build a house in the Kosovo capital was said to have been required to make a “donation” to Remi. Reportedly because of the difficulty in obtaining anyone to come forward with evidence against Mustafa, he was not indicted for this type of illicit activity but for actions allegedly undertaken during the conflict with the Serbs.

Few tears were shed by Kosovo Albanians over Remi’s arrest. A senior figure in the Kosovo government, himself a KLA veteran, said “I don't care about Remi because he was really a bad guy after the war.” Similarly, a well-connected Kosovo journalist said that he had heard many people in Pristina quietly expressing satisfaction after Remi’s arrest. On the other hand, there is deep unease among many Kosovo Albanians—bordering on anger in some circles—about the way the indictments were framed. These Albanians believe that what the IC is doing amounts, in reality, to an effort to undermine the legitimacy of the armed Albanian struggle against Milosevic’s brutal Serb occupation regime. Many Kosovo Albanians, ranging from senior government officials to ordinary “men-in-the street,” said they had no problem with indicting KLA figures who engaged in corrupt or violent activities after the 1999 war. Few Albanians, however, agreed with the notion of indicting KLA figures for any actions undertaken during the struggle with the Serbs and some feared that the consequences of such indictments could be dangerous.

PDK leader Thaci, KLA commander during the war, said that anyone who violated the law after the war should pay for their misdeeds but that law did not function during the war. Thaci stated confidently that the KLA did not commit crimes against civilians although he also acknowledged that, “Not all KLA members were angels.” Thaci concluded that he was “saddened” when efforts were made to try to equate the crimes of the Milosevic regime and its forces with the actions of the KLA “liberation fighters.” Kosovo Prime Minister Rexhepi, a doctor with the KLA during the conflict, said that most Kosovo Albanians regarded KLA fighters as “heroes” for their struggle against the Serbs. If it could be proved that KLA fighters killed innocent civilians, Rexhepi said he could support legal action against them since “no one should be above the law,” but Rexhepi said he did not believe that this had in fact happened. He warned that unless such charges were carefully proven they would be difficult for the Kosovo Albanian public to accept. A note of anger entered the usually mild-mannered Rexhepi’s voice as he warned, in terms similar to those used by Thaci, that the IC “should not equate the criminal action of Milosevic with the KLA's fight for freedom.”

Already it appears there has been some sharpening of the mood in Kosovo as a consequence of the arrests. Albin Kurti, who led the non-violent student demonstrations against the Serbs in the late 1990s and who has assumed almost mythic status in Kosovo as a result of his prolonged post-war imprisonment by Belgrade, reacted with deep anger to when asked about the arrests. He charged that the IC was attempting to “de-legitimate” the KLA’s armed struggle, which he warned was completely unacceptable to all Kosovo Albanians regardless of their political affiliation.

The UN's actions seem to have had the biggest effect on Haradinaj's mood. (In December his brother, Daut, and several others received sentences totaling 31 years for actions allegedly taken during the conflict against the Serbs.) In the past, Haradinaj had always taken a moderate and cooperative public stance toward the IC. Now, Haradinaj was much more assertive in discussing differences with the IC over Kosovo's future. He warned that there would be a "big upheaval" if Kosovo did not become independent within the next few years. (In a conversation with another international at about the same time, Haradinaj was even tougher. "We Albanians know how to fight. We have done it before and can do it again if necessary," Haradinaj said.)

Haradinaj said the UN had "gotten it wrong on crime in Kosovo." It was focusing too much on ex-KLA figures and acting in an irresponsibly incompetent fashion when it went after the really big criminal fish such as Lluca. Haradinaj said that the indictment had cost him several percentage points in the recent municipal elections and claimed that much of the information against him had been provided by a corrupt Russian UN police chief in Haradinaj's home base of Pec, who had been dismissed by the UN after an investigation sparked by evidence Haradinaj had quietly provided to the UN authorities.

Hague tribunal Chief Prosecutor Carla del Ponte has roiled Kosovo political waters by resurfacing a notion she has periodically floated over the past two years, that the tribunal is pursuing war crimes charges against KLA figures. Rexhepi was clearly worried about this prospect. The prime minister said he hoped that any indicted KLA leader would make a statement affirming his innocence and then—as a service to the Albanian people—go to The Hague and conduct his defense from there. Rexhepi said he would do this if he were indicted—which no one expects. But Rexhepi acknowledged that he was not certain that all ex-KLA leaders would, in fact, behave in such a public-spirited fashion if indicted by the tribunal. Unless the IC produced convincing evidence about the guilt of any indicted KLA leaders, Rexhepi warned that the situation in Kosovo could become threatening, and even personally dangerous for UNMIK chief Steiner.

In mid-December a bomb exploded on one of Pristina's major streets, injuring 31 persons. A few days later a bomb in Pec killed one and injured two people. Media reports indicate police believe the explosions are probably linked to criminal activities. Nevertheless, the explosions are a worrisome sign of the way ugly violence lurks just below the surface in Kosovo. Although public attention is understandably focused outside the Balkans, the most effective means for bringing about a reduction in its commitment to the region and fostering stable democratic change is to begin the process for resolving Kosovo's final status.

About Louie Sell

A retired Foreign Service Officer, Louis Sell served 28 years with the U.S. Department of State. He has lived and worked for eight years in the former Yugoslavia with both the Department of State and non-governmental organizations and has been visiting Kosovo since 1987. In 2000 he served as Kosovo Director of the International Crisis Group. From 1995 - 1996 he served as political deputy to Carl Bildt, the first High Representative for Bosnian Peace Implementation. In that capacity he attended the Dayton Peace Conference and participated in the first year of implementation of the Dayton accords. He speaks Serbo-Croatian, Russian, and French. Mr. Sell currently teaches at the University of Maine at Farmington. His political biography, "Slobodan Milosevic and the Destruction of Yugoslavia," was published by Duke University Press in 2002.

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This report is made possible in part by a grant from the Carnegie Corporation of New York.

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