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Abstract

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In the spring of 1999, NATO conducted an eleven-week bombing campaign to end the repression in Kosovo. Since then, 1,300,000 refugees have returned to their homes and villages. The United Nations has established the United Nations Interim Administration Mission in Kosovo (UNMIK) and NATO has deployed ground forces to establish a secure environment for the Kosovars to live. Given the legacy of violence in the region, it is not surprising that the situation in Kosovo is still far from settled and will most likely require long-term engagement from the international community.

The Kosovo crisis has not yet "gone away", though it no longer warrants front-page attention from the major television and newspaper networks in the United States. Kosovo endures under United Nations administration with an indefinite future as a United Nations protectorate. The Kosovo Albanians have resettled throughout the region and have driven thousands of Serbians who had resided in Kosovo out of the region. Today, the ethnic hatred still runs deep.

This monograph answers the question whether the United Nations Interim Administration Mission in Kosovo (UNMIK) and NATO's Kosovo Force (KFOR) are capable of achieving a lasting stable internal security environment in Kosovo. This monograph will examine the three core systems that make up an internal security environment: the security force, the judicial system, and the penal system. The monograph will explore the security environment in Kosovo during its period of relative autonomy, and after the Yugoslav president, Slobodan Milošević, imposed Serbian rule throughout Kosovo. The monograph will then examine the security environment in Kosovo that the United Nations and NATO imposed in June 1999 following NATO's successful Operation ALLIED FORCE to stop the ethnic cleansing in Kosovo and return the Kosovo Albanians to their homes. The monograph then assesses the effectiveness of each of the three major systems of the internal security environment. The monograph provides recommendations for the UNMIK and KFOR to implement to ensure that Kosovo continues to head in the proper direction toward achieving a lasting stable internal security environment.

The monograph concludes that UNMIK and KFOR alone are not capable of achieving a lasting stable internal security environment without more involvement and participation by all the residents of Kosovo, regardless of ethnic origin. All must become engaged with UNMIK and work within the established systems to achieve stability in Kosovo. The monograph provides recommendations for UNMIK and KFOR in the security force systems, judicial systems, and penal systems.

Kosovo: The Quest for Lasting Internal Security

A Monograph

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The Kosovo Conundrum

In the spring of 1999, NATO orchestrated an eleven-week bombing campaign to end the repression in Kosovo. Since then, 1,300,000 refugees have returned to their homes and villages. The United Nations has established the United Nations Interim Administration Mission in Kosovo (UNMIK) and NATO has deployed ground forces to establish a secure environment for the Kosovars to live. Given the legacy of violence in the region, it is not surprising that the situation in Kosovo is still far from settled and will most likely require long-term engagement from the international community.

The Kosovo crisis has not "gone away." Two years after NATO's Operation Allied Force in spring of 1999, the situation no longer warrants front-page attention from the major television and newspaper networks in the United States. Kosovo endures under United Nations administration with an indefinite future as a United Nations protectorate. The Kosovo Albanians have resettled throughout the region and have driven thousands of Serbians who had resided in Kosovo out of the region. Ethnic hatred continues to run deep. Serbs living in Kosovo have virtually no freedom of movement, most fearing to leave the safety of their neighborhoods without a KFOR escort. Local Serbs refused to vote in the October 28, 2000 municipal elections largely because they feared for their safety. The elections went forward without Serb participation, though the security message was clear. Before elections for a national level parliament can occur, the security environment must make drastic improvements. Though statistics show the number of serious crimes has declined, the region is still far from peaceful. KFOR and UNMIK Police have been unable to establish a secure environment and ensure public safety and order for all residents of Kosovo. In July 2000, Kosovo Albanian and Kosovo Serb leaders met in Airlie, Virginia to discuss the future of Kosovo. Both sides and the international communities agreed that the levels of security and freedom of movement in Kosovo are not acceptable and that a new model of security and law enforcement is needed.[1]

Kosovo is a unique environment where the UNMIK Police have executing authority and serve as the local police force for the short term until the Kosovars can establish a legitimate police force. KFOR and UNMIK work together toward achieving a secure environment. With the region's judicial and penal systems in their infancy, the outlook for the region is daunting as the international community strives to establish a functioning law and order system before organized crime or a Kosovo Albanian parallel administration grows deep roots in the region. U.S. Army leaders and planners, as part of KFOR, may likely continue to wrestle with the challenge of creating lasting stability in Kosovo for several years.

This monograph answers the question whether the United Nations Interim Administration Mission in Kosovo (UNMIK) and NATO's Kosovo Force (KFOR) are capable of achieving a lasting stable internal security environment in Kosovo. This monograph will examine the three core systems that make up an internal security environment: the security force, the judicial system and the penal system. The monograph will explore the security environment in Kosovo during its period of relative autonomy, and after the Yugoslav president, Slobodan Milošević, imposed Serbian rule throughout Kosovo. The monograph will then examine the security environment in Kosovo that the United Nations and NATO imposed in June 1999 following NATO's successful Operation ALLIED FORCE to stop the ethnic cleansing in Kosovo and return the Kosovo Albanians to their homes. The effectiveness of each of the three major systems of the internal security environment is assessed. The monograph provides recommendations for the UNMIK and KFOR to implement to ensure that Kosovo continues to head in the proper direction toward achieving a lasting stable internal security environment.

The Escalation of Violence

The modern history of Kosovo is a history of war, having very few interludes of peace. Kosovo has been an occupied region through much of its written history. Both Serbian and Albanian historians claim to have lived in Kosovo first and have the right of 'first possession'.

On 28 June 1389, the Serbs fought the Ottomans at the famous Battle of Kosovo, fought at Kosovo Polje. Though the Ottomans won the battle, the battle holds a sacred place in Serb mythology, symbolizing great Serbian pride. The nation of Albania was formed in 1912, as a result of the First Balkan War. This new Albanian nation did not include Kosovo, where the majority of inhabitants were also ethnic Albanians. During this First Balkan War, Serb and Montenegrin armies drove the Turks out of Kosovo. For the Albanians of Kosovo, the Serb actions were a catastrophe. It meant they could not unite with the now-emerging Albanian state. The Second Balkan War in 1913 saw the erstwhile allies fall out and fight over their spoils. Serb burning of Albanian villages was widespread throughout Kosovo as the hatred between the Serbs and Kosovo Albanians smoldered.[2]

The First World War brought renewed hope for the repressed Albanians. The German and Austro-Hungarian Armies had defeated the Serbs and occupied Serbia and Kosovo. Much of the Serb military and government walked out of Serbia and across Kosovo and fought alongside the allies during the war. Albanians took advantage of the opportunity for revenge on Serbs remaining in Kosovo and on withdrawing Serbs as they retreated across Kosovo toward the sea to be rescued from the Germans by British and French ships. The pendulum swung back and by 1918, Serbian and Allied troops reoccupied Kosovo. On 1 December 1918, the new Yugoslav state called, until 1929, the Kingdom of Serbs, Croats, and Slovenes, came into being.[3] The Kosovo Albanians resisted the reimposition of Serbian rule because they did not want Kosovo to be part of this new Kingdom. Serb and Kosovo Albanian divisions continued to grow and Serbs ruled with a club and a torch throughout Kosovo. Between 1939 and 1944, Serbia attempted to repopulate Kosovo and brought in 70,000 colonists while trying to make conditions intolerable for the Albanians that would not leave.[4]

The Second World War brought another opportunity for Kosovo Albanian rebellion. In March 1941, the Serbian military overthrew the pro-German government of Yugoslavia, which

resulted in Germany then invading Yugoslavia two weeks later. The country quickly capitulated and the Axis powers divided it among themselves. Italy received Kosovo, to go along with already ruling Albania. The Kosovo Albanians once again saw an opportunity to avenge their Serb oppressors. Armed gangs roamed the countryside, burning Serb villages and killing and expelling Serbs. Even the Italian occupying 'Civil Commissioner' believed "the Albanians were out to exterminate the Serbs."[5] As the Second World War drew to a close, the freedom from Serb rule was short lived as communist Partisans reimposed Yugoslav rule in 1944-45 and the Serbs sought retribution as Tito assumed power.

In July 1945, Kosovo was formally annexed to Serbia, and then declared an autonomous region of Serbia. Aleksandar Rankovic became the minister of the interior and head of the UDBa, the secret police in Kosovo, and served in the position until 1963. He was a Serb and old-fashioned communist. He believed in traditional old-style methods of repression and was hated throughout Kosovo for his cruel and inhuman treatment of the Kosovo Albanians as less than equal compared to his fellow Serbians.[6] Kosovo's new governing body, the 'Regional People's Council,' who were an unelected mass of mostly Communist Party members, voted to become a province of Serbia in April 1945. In actuality, it was a 'become a province or else' resolution that Tito offered.[7] The new Yugoslav constitution of January 1946 created two autonomous units in Serbia. Those units were Kosovo (a *region*) and Vojvodina (a *province* that was largely populated by Hungarians). To the Yugoslav government, a region had even fewer rights than a province.[8]

In 1948, Stalin broke ties with Tito. Stalin disagreed with Tito's plan for a 'Balkan Federation' that joined Yugoslavia and Albania (and consequently would most likely have solved the Kosovo problem). The Albania leader, Enver Hoxha, had previously been on good terms with Tito and wanted to create the Balkan Federation, and as a result, he did not push the issue of the rights for Albanians in Kosovo and for having Kosovo become part of Albania. He did not want

to hinder his relations with Tito. However, once Tito and Stalin broke ties, Hoxha chose to ally himself with Stalin and became a vocal critic of Tito. Any chance for a Balkan Federation ceased to exist.[9]

The Serb solution to the dilemma of being an ethnic minority in Kosovo was to impose large-scale emigration starting in 1953. According to some reports, it is estimated that between 1945 and 1966 some 100,000 people emigrated from Kosovo to Turkey.[10] The new Yugoslav constitution of 1963 further reduced the autonomous status of Kosovo, declaring it merely a province of Serbia, with no status at the federal Yugoslav level.[11] Tito eventually forced Rankovic into retirement in 1966 for threatening individuals who had argued for decentralization of power and more economic control, restricting access to Tito as well as bugging his personal phones.[12] In the years that followed, Yugoslavia moved toward more decentralization and liberalism.

Kosovo Autonomy

In 1966, the political situation in Yugoslavia began to change. Tito abandoned the idea of creating homogeneous 'Yugoslavism' and began to encourage more elements of national self-direction instead. This new principle to decentralization was extended to the autonomous provinces as well. In December 1968, two key amendments to the Yugoslav Constitution were passed. Amendment VII stipulated that the autonomous provinces belonged to both Serbia and the federal structure. Amendment XVIII defined the autonomous provinces as 'socio-political communities' (the same term that was used to define the republics) and stipulated that they would carry out all the tasks of a republic apart from those tasks which were of concern to Serbia as a whole. Kosovo was now firmly established as a legal entity at the federal level.[13]

By 1974, Kosovo's autonomy was at its zenith. The new Yugoslav constitution of 1974 – which would remain in force until the break up of Yugoslavia – gave the autonomous provinces of Kosovo and Vojvodina a status equivalent in most ways to a republic, with their own direct

representation in the main federal Yugoslav bodies. They had equal status as the six republics in most forms of economic decision-making, and even in some areas of foreign policy. The new constitution also stipulated that the autonomous provinces could issue their own constitutions. Up until then, the Serbian assembly gave their constitution or 'statutes' to them. The 1974 Yugoslav constitution continued to assert that Kosovo and Vojvodina were parts of Serbia, though by most criteria of federal law they were at the same time fully fledged federal bodies.[14]

During this period of relative autonomy in Kosovo, Albanians increasingly controlled the security environment. Power was very much in the hands of local Albanian Communists. Kosovo had its own assembly, police force, national bank, and all other accoutrements of a republic. By 1981, three quarters of the police and other security forces were Albanian within Kosovo.[15] Though Albanians held the majority of the positions within the police force, the Serbian leadership in Belgrade routinely selected the head of the police force, also called the Minister of the Interior. The police force generally maintained rule in the province, though they would not have been considered fair and impartial toward all citizens by Western standards.

The judicial system during this period followed the lead of the police force and the Communist Party desires. Trials would occur, though the most influential and powerful leader as opposed to an impartial judge often determined justice. The penal system met the needs of the police and judiciary systems and would often incarcerate political prisoners. Throughout the 1970s, there were waves of arrest and subversion trials that dealt with repressing clandestine groups. Many of these groups objected to the de facto compromise between Kosovo's Albanian leadership and authorities in Belgrade. Several small vocal groups of Albanians were not satisfied because they sought either full independence for Kosovo or unification with Albania.

The political landscape throughout Yugoslavia began to change once Tito died in 1980. The events of 1981 were a turning point in history for Kosovo. In March and April 1981, students at the University of Priština began protesting their poor living conditions and food

service. The protests gained momentum and turned political. They spread into mass demonstrations throughout much of Kosovo. The theme of the protests became 'Kosovo-Republic' voicing demands to be free from Serb domination. There was a feeling, despite the autonomy, that key positions were still held by Serbs and pro-Serb Albanians. The movement was not anti-Communist; it was anti-colonialist and nationalist. The Kosovo government authorities made arrests as new protests surfaced and the situation began to spin out of control. Authorities both in Kosovo and Serbia began to panic, and called in units of Serbia special police and tanks, as they declared a state of emergency. Arrests and trials soon followed as the demonstrations subsided. Purges of Kosovo's Communist Party began and several key leaders, including the Party's president, Mahmut Bakalli, were expelled.[16] Authorities continued to claim they were unmasking 'counter-revolutionary' groups. Police repression of the Albanian population became unselective and chauvinistic. One report claims that in the eight years after the protests, 584,373 Kosovars or half the adult population were arrested, interrogated, interned, or reprimanded. Seven thousand of those were jailed, hundreds more were dismissed from school, university, and work.[17] According to Tim Judah in his book *Kosovo: War and Revenge,* it is critical to remember that during this period, and until 1989, it is not the Serbs who were in charge of Kosovo, but the Albanians. This fact made it difficult later during the Rambouillet negotiations in February 1999 to find an Albanian negotiating team that represented a fair spectrum of opinion.

The period from 1981 to 1989 brought growing discontent amongst both the Serbs in Kosovo and Serbia for the 'unbearable conditions' for Serbs living in Kosovo. Slobodan Milošević became popular amongst Serbs in Kosovo and Serbia for his hard-line stance of putting Serbian national interests above all else, including ideology. Milošević took over as president of the Serbian League of Communists in late 1987.[18] First, he consolidated his power in Serbia, then in Vojvodina and Montenegro. In November 1988, Milosĕvić removed the leading two

Albanians in Kosovo's provincial Party machine in order to replace them with more compliant figures who would cooperate in the dismantling of Kosovo's autonomy. Milosĕvić installed the widely unpopular Kosovo police chief Rrahman Morina as the new Party president in Kosovo.[19]

The Dismantling of Kosovo

In 1989, Slobodan Milosĕvić became president of Serbia and achieved majority control of the shared Yugoslav presidency. That same year, the Serbian assembly drafted amendments to the 1974 constitution, which severely restricted Kosovo's power. The Serbs took control of Kosovo's police, courts and civil defense, as well as social, economic, and education policy. Serbia would have the power to issue 'administrative instructions' and the choice of official language. Under exerted pressure from the Serbs, the Kosovo provincial assembly met on March 23, 1989 and passed the amendments and two days later the Serbian assembly in Belgrade confirmed the amendments. Kosovo had lost its autonomy.[20]

In 1990 and 1992, as part of the package of new laws, the Serb parliament passed regulations that led to the dismissal or resignation of most Albanians in the public sector. Serbian authorities quickly purged the police force and it became an almost all Serb police force. The police took over Kosovo's television and radio facilities and suppressed all Albanian media freedom.[21]

As could be expected, the situation in Kosovo continued to worsen over the next decade. During this period, Ibrahim Rugova, leader of the Democratic League of Kosovo (LDK) emerged as a leader amongst the Kosovo Albanians and was elected President of the shadow government that the Albanians established in the 1990s for their own survival. This shadow government ran social programs out of private homes for education and health.[22] Yugoslavia became engulfed in civil war beginning with Slovenia, and then Croatia, Bosnia-Herzegovina, and Macedonia declared their independence from Yugoslavia. As part of the destruction of Kosovo's autonomy, he had all the arms of Kosovo's reserve Territorial Defense forces confiscated. This action led

Rugova to believe that the military option of declaring war on Serbia and fighting them for Kosovo independence was seen as an option that would most likely result in giving the Serbs the justification they sought to slaughter the Albanians and finally rid Kosovo of them. He was able to convince most Albanians of this point of view during the Bosnian Civil War from 1992 through 1995. During this period, the Kosovo Albanians tried passive resistance to Serb rule, pressed their case for independence by attempting to gain international attention of their plight to convince the international community to act on their behalf. They petitioned the European Community (EC) for recognition as an independent state at the same time Bosnia-Herzegovina and Macedonia did in January 1992. The EC refused to consider Kosovo's petition because they looked at Kosovo as part of the sovereign territory of Serbia instead of as a republic trying to emerge from a dissolving Yugoslavia and therefore, saw no legal basis for granting international recognition to the citizens of Kosovo.[23]

Most ethnic Albanians were excluded from serving in the judicial system, except as private attorneys. Kosovo Albanians were barred from serving as judges, prosecutors, or as members of the University of Priština's law faculty, and Albanians were not permitted to attend the University's law school. The Albanian legal community responded by creating a parallel structure for education in the law profession. Albanian law faculty members continued to teach and award diplomas in law. However, the Serbian authorities did not recognize these and thus the graduates of this parallel university were not allowed to take the bar exam or practice law in Kosovo.[24]

On 23 December 1989, Kosovo Albanians formed the Democratic League of Kosovo. The party dominated Albanian political life in the province until 1998. In 1990, after the resignation or ousting of 114 of the 123 Albanian members of the provincial parliament, these deposed Kosovar parliament members secretly met and voted to declare Kosovo a republic, meaning independent from Serbia, though still a part of Yugoslavia. A year later after the

Croatians and Slovenians declared their independence, and with war raging in Croatia, the Albanians held a secret popular election in which they voted on a resolution for independence and sovereignty. The resolution passed with 99.87 percent of the Albanians voting for independence. The 'parliament' confirmed the results and declared Kosovo to be the independent 'Republic of Kosova'.[25]

Kosovo's independence was, in essence, a virtual reality since it remained under Serb control throughout this process. The Yugoslav army and Serbian police remained very much in control. The LDK party began to simulate independence in the hope that by force of demographic and other pressures, Kosovo would, one day, simply drop into Albanian hands.[26]

In May 1992, Kosovo Albanians elected a new Kosovar parliament and president. The Serbian authorities knew of the election for the shadow government but decided not to prevent the election and arrest the organizers for fear that it would lead to violence and force them into a situation where their forces would be fighting on two fronts, one ongoing in Bosnia and another in Kosovo. They did, however, prevent the Kosovo parliament from ever meeting. The LDK party won the majority of the positions and they elected Ibrahim Rugova as their new president. Government leadership, a six-member board minus the president, set up its government-in-exile headquarters in Germany in 1992. Its primary role was to collect money from the Kosovar community abroad.

The new LDK government worked at two levels. The first level was the creation of new political bodies and the second level was the establishment of shadow institutions to make up for the loss of health care and educational facilities. The LDK government was greatly successful in filling the void to meet the needs of the Albanian population, though they still had to rely on state run facilities for more advanced medical needs.[27]

Between 1992 and 1997, Kosovo was a bizarre place. Police repression remained constant, though people continued to go about their daily business. Neither the Albanians nor the

Serbs were interested in starting a war. The basic policy of the LDK and Rugova since 1990 was a three-fold policy. First and foremost was to prevent violent revolt, stay alive and not give the Serbs a chance to ethnically cleanse the province. Second was to 'internationalize' the problem, which meant seeking various forms of international political attention and involvement. The third element was to build legitimacy for the Republic of Kosovo and systematically deny the legitimacy of Serbian rule by boycotting elections and censuses, and, as a minimum, creating a skeleton of the government for their new republic.[28] Rugova, the LDK, and, thus, the Albanian majority assumed that since they had adopted a stance of passive resistance, and, since it was clear that the overwhelming majority of Kosovars wanted independence, then any future international conference on the former Yugoslavia would recognize the justice of this and reward the Albanians for their 'good behavior'.[29] This risky policy unfortunately failed for the Albanians as the Dayton peace accords failed to provide the Kosovo Albanians the recognition they sought. The lesson gained from the results at Dayton was that violence was a valid method of gaining and retaining territory, as the new drawn boundaries of the Dayton agreement reflected. In the latter half of the 1990s, it became increasingly clear that Miloševic had no intention of stopping his repression of the Albanians and that the international community would do little to effect a change in Serb policy for fear of violating Serb sovereign rights. The US would continue to make appeals to Belgrade to improve humanitarian conditions in Kosovo. Some Kosovo Albanians now looked to other more violent means of achieving their goal of independence since Rugova's policy of nonviolence was not yielding any tangible reward from the international community. One conclusion from the past eight years appeared inescapably clear: only violence gets international attention.[30] During this time of two governments in Kosovo, one for the Albanians and one for the Serbs, it was as if two countries existed, each occupying the same land.

Arbitrary arrests and police violence became routine throughout the 1990s. Serbian law allowed the arrest and imprisonment for up to two months of anyone who had committed a

'verbal' crime such as insulting the patriotic feelings of a Serb citizen. The Serbian law also permitted a method of interrogation called 'informative talks' under which a person can be brought to a police station and questioned for up to three days. Whole villages were often surrounded and subjected to violent searches for weapons. In 1994 alone, the Council for the Defense of Human Rights and Freedoms in Kosovo recorded 2,157 physical assaults by the police, 3,553 raids on private dwellings, and 2,963 arbitrary arrests.[31] Though some proper laws and judicial practices existed, the reality was that Serb authorities usually ignored proper judicial practices and beat suspects.

The 3,500 Albanian policemen that lost their jobs in 1991 tried to form an organized trade union. They offered their services as an Albanian police force to Rugova, but he wanted nothing to do with them. In 1994, approximately 200 of them were arrested and tried for attempting to form an illegal police force.[32]

The first significant armed clash between Serb and Albanian forces took place in November 1997. The Serbs had attempted to serve a court order to an Albanian in the village of Vojnik. After being welcomed with rifle shots, they decided to depart. Returning the next day with armored vehicles, they again met with armed Albanian resistance. As the Serbs withdrew, they fired indiscriminately at buildings and killed an Albanian schoolteacher in his classroom. Approximately 20,000 Albanians gathered for his funeral and a few men in military garb saying they represented the Kosovo Liberation Army (KLA) were in the crowd. It was the KLA's first public appearance.[33] As the KLA grew in numbers, it would acquire local leadership from various radical and moderate backgrounds. The KLA had no link to the LDK. Rugova did not even believe it was anything more than a Serbian farce until well into 1998. In the two-year period leading up to mid 1998, the KLA claimed to have killed 21 Serb policemen, officials, or Albanian collaborators. It was the disproportionate Serbian response to the KLA's actions that brought the crisis to bear. Starting in February 1998, Serbian authorities began attacking entire

Albanian villages to kill suspected KLA members and their families, and created a flood of refugees. These actions also caused the size of the KLA to grow enormously, as more and more Albanians opted for violence.[34]

Western governments started to become more concerned with the situation in Kosovo as violence became more common and severe. The United States government initially condemned the KLA as a terrorist group in February 1998. On 9 March 1998, the Balkans 'Contact Group' (USA, Russia, Britain France, Germany, and Italy) threatened a limited package of sanctions, which appeared to cause Milošević to widen the attacks on Albanian villages as the deadline of the imposition of sanctions passed without implementation. The international community continued to warn and threaten Milošević to stop the violence, but the Serbian and Albanian cycle of violence continued to escalate throughout 1998. During the period of April to September 1998, more than 300 Albanian villages were devastated in this way, causing 250,000 to 300,000 internally displaced refugees.[35] The Serbian actions were clearly not just directed at the KLA, but the Albanian civilians as well in the beginning of what appeared to be a systematic uprooting of the population.

While the KLA acted in a military manner, it had no political program and lacked and political leadership, resulting in no coherent single negotiating position for the Albanians at Rambouillet. Though what was clear was that they all wanted full independence from Yugoslavia and Serbia, this allowance was the one thing the international community ruled out. The Western policy was merely aimed at restoring autonomy.

Diplomacy appeared to work in October 1998 as US envoy Richard Holbrooke persuaded Miloševic to sign an agreement to scale back his forces in Kosovo to pre-February 1998 levels, and to allow refugees to return to their homes and accept a presence of international monitors in Kosovo in the form of an unarmed 'Verification Mission'. Yet by December, it appeared the Serbs were preparing for a new spring offensive against the KLA.

By mid-January, evidence of a Serb massacre of 45 Albanian civilians at the village of Raçak repulsed the international community. Two weeks later, the Contact Group scheduled a conference for Albanian and Serbian leadership at Rambouillet, France at which they would be required to agree to a negotiated settlement on the political future of Kosovo. During February and March of 1999, both sides tried to reach a settlement to which both could agree. After yielding to intense pressure from the United States delegation, including emphasizing the position that NATO would not attack without an Albanian agreement to the settlement, the Albanians eventually agreed to sign. The Serbian delegation refused to sign, mainly because they would not agree to allow a peacekeeping force in Kosovo.[36] While the negotiations were occurring, Serb forces were preparing to launch a massive spring offensive called Operation Horseshoe. Though details of the plan are still debated, it was designed to finally solve the Kosovo problem for Serbia and result in an ethnically cleansed Kosovo.[37] Richard Holbrooke's last minute diplomacy on 24 March 1999 failed and NATO's bombing soon commenced.

Security Environment in Kosovo After Operation Allied Force

After 78 days of NATO's bombing Serb targets both in Kosovo and Serbia, Milošević succumbed to NATO's demands and accepted the terms of the Military Technical Agreement (MTA) and promptly removed all his forces, to include the Yugoslav National Army (JNA), all paramilitary forces, and police forces from Kosovo. On 10 June 1999, the United Nations Security Council passed Resolution 1244 authorizing the United Nations Interim Administration Mission in Kosovo (UNMIK) to begin the long process of building peace, democracy, stability, and self-government in the shattered province.[38] This resolution provides for the establishment of UNMIK as an interim civil administration authority under which the people of Kosovo can enjoy "substantial autonomy and meaningful self-administration" within the Federal Republic of Yugoslavia.[39] The international community intends to transition UNMIK's responsibilities to eventual Kosovar self-government. Although no clear road map exists demonstrating how to

prepare Kosovo for self government, UNMIK is well on its way after 18 months in country to preparing the systems to allow such a transition to occur. The United Nations Security Council Resolution (UNSCR) 1244 also stipulated that an international security force (KFOR) would deploy to Kosovo to ensure, among other tasks, Serbian compliance with the requirements of the Military Technical Agreement (MTA) and UNSCR 1244.

Working closely with Kosovo's leaders and citizens, UNMIK performs the whole spectrum of essential administrative functions and services covering such areas as health and education, banking and finance, post and telecommunications, and law and order. Kosovo held municipal elections on October 28, 2001. Though the elections lacked Kosovo Serb participation, they were successfully held and marked a significant step forward on the road toward self-government. Though no date has yet been set, the UNMIK SRSG, Hans Haekkerup, intends to go forward with Kosovo-wide elections this year.

UNMIK is a unique United Nations operation that has brought together four 'pillars' under United Nations leadership. With the emergency stage over, Pillar I (humanitarian assistance), led by the Office of the High Commissioner for Refugees (UNHCR), was phased out at the end of June 2000. The other pillars are:

Pillar II: Civil Administration, under the United Nations

Pillar III: Democratization and Institution Building, led by the Organization for Security and Co-operation in Europe (OSCE)

Pillar IV: Reconstruction and Economic Development, managed by the European Union (EU)[40]

Within Pillar II, UNMIK's Department of Justice (DOJ) runs Kosovo's Criminal Justice System. Within UNMIK's Pillar III, the OSCE supports the development of a stable internal security environment by, among other tasks, establishing and training a new Kosovo Police

Service, operating a Kosovo Police Service School, training judicial personnel, monitoring the DOJ's judicial system, and monitoring human rights.[41]

UNMIK Police

Much of the internal law enforcement responsibilities now reside on the shoulders of UNMIK's International Civilian Police Force. The UNMIK Police operation differs significantly from any other previous United Nations Police missions. All previous and ongoing police missions had monitoring as its major task, but in Kosovo, due to the lack of an existing police force, when KFOR and UNMIK entered the region in June 1999, the UNMIK Police had to serve as the law enforcement unit in Kosovo. They are empowered to execute the duties of a police officer as is common in other Western nations. The UNMIK Police organization consists of special police units, border police and civilian police units, with a total authorized strength of 4700 police officers. The UNMIK police force has two goals: 1) to provide temporary law enforcement throughout Kosovo, and 2) to establish and develop a professional, impartial and independent local police, called the Kosovo Police Service. The United Nations shall consider the mission for the UNMIK Police complete when the local police force is able to enforce law and order according to international standards.[42] In his July 12, 1999 letter to the Secretary General of the United Nations, UNMIK's SRSG, Bernard Kouchner, envisioned the policing of Kosovo to occur in three phases. In the first phase, KFOR was responsible for ensuring public safety and order until the international civilian police force could take responsibility for the task. UNMIK Police would serve as advisors to KFOR during this phase. The second phase, which they are in now, has the UNMIK Police taking over law and order responsibilities from KFOR, and at this time, the UNMIK Police force was armed. KFOR would assist UNMIK Police as required in law enforcement duties. During the third phase, a properly trained and selected Kosovar police force assumes responsibilities for law and order functions and border policing functions. UNMIK Police would transition to an advising, training, and monitoring role.[43]

Currently, the UNMIK Police activities include patrolling and maintaining public order, investigating crimes, enforcing preventive measures, collecting criminal intelligence, controlling traffic, controlling border and immigration, and field training for the Kosovo Police Service.[44]

Kosovo Police Service

The Kosovo Police Service (KPS) is the future police force for Kosovo. The KPS is a special sub-section under the direction of UNMIK Police. Both the UNMIK Police and the OSCE Mission in Kosovo share responsibility for developing this force. The OSCE runs the Kosovo Police Service School and the UNMIK Police then provide the rest of the training and development for the candidates. The success of the Kosovo Police Service is vital to any attempt to allow the Kosovars to govern themselves within the context of a stable internal security environment. UNMIK strives to achieve a 15 percent minority representation among the future KPS. Thus far, they have succeeded in recruiting and training minorities with an approximate 25 percent ethnic minority representation in each class.

The OSCE is responsible for the initial training for the KPS recruits. They opened the KPS School in September 1999 and have trained over fourteen classes. The course curriculum occurs over a nine-week period. The OCSE trains the recruits on crime investigation, defense tactics, democratic policing, in which loyalty towards the democratic legal order is the focus, legal affairs, police patrol duties, use of firearms, police skills, including first aid, conflict intervention and handling of refugees, forensics and evidence, and traffic control. As of February 2001, the school has trained 3,139 cadets with another 550 still in training. New classes begin every month with class sizes varying between 200-250.[45]

UNMIK Police then take the cadets from the KPS School and begin their field training with them. The cadets' training process is a four level process and occurs over a three-year period. Initially, UNMIK conducts 19 weeks of field training for the candidates. They then proceed up the candidate levels and at the conclusion of 36 months, based upon the evaluation of

the UNMIK Police evaluators, they will be able to serve and act independently as a KPS Officer.[46]

KFOR

The other vital piece of the security force structure is NATO's Kosovo Force (KFOR). KFOR entered Kosovo on June 12, 1999, two days after the adoption of UNSCR 1244. Since arriving in Kosovo, its accomplishments are impressive. As a result of KFOR's arrival, over 775,000 refugees have returned to their homes and villages. Crime remains a significant problem in Kosovo, but it has also dropped dramatically. When KFOR first entered Kosovo the murder rate was over 50 per week. It has now declined to approximately five per week. KFOR has cleared over 16,000 homes, 1,165 schools, and almost 2,000 kilometers of roads of unexploded ordinance and mines. Special attention is paid to the protection of minorities, who are often the victims of ethnic hatred and tension. At the twelve-month mark of their mission, over 50 percent of the KFOR soldiers were dedicated to protecting the minority, mainly Serb, populations of Kosovo. This population protection involves guarding homes and villages, transporting people to schools and shops, patrolling, monitoring checkpoints, protecting patrimonial sites and assisting the UNMIK Police.[47] The Kosovo Liberation Army has been demilitarized and transformed into the Kosovo Protection Corps. Many former members of the KLA are now contributing to the rebuilding of Kosovo as civilians serving in either the Kosovo Protection Corps or the Kosovo Police Service. KFOR has cleared all major routes in Kosovo and repaired six major bridges.[48] NATO leadership realizes that the physical and psychological wounds run deep in Kosovo and is committed to long term involvement in order to achieve a stable, multi-ethnic society in Kosovo and to support the goals the international community established in UNSCR 1244.

KFOR forms the basis of its responsibilities from three core documents; UNSCR 1244, the Military Technical Agreement, and NATO's operational plan OPLAN 10413 (Operation Joint Guardian). Those responsibilities are:

1) Deter renewed hostility and threats against Kosovo by Yugoslav and Serb forces. KFOR must monitor, verify, and, when necessary, enforce compliance with the conditions of the MTA.

2) Establish a secure environment and ensure public safety and order. KFOR has the mandate to enforce law and order until UNMIK can fully assume this responsibility.

3) Demilitarize the Kosovo Liberation Army, monitor, verify, and, when necessary, enforce compliance with the conditions of the UCK Undertaking. KLA forces have been compliant with the Undertaking of Demilitarization and Transformation. This Undertaking is a voluntary commitment for the immediate cessation of hostilities and for a step by step demilitarization of the KLA, which they completed on September 20, 1999.

4) Support the international humanitarian effort.

5) Coordinate with and support the international civil presence, UNMIK. Although KFOR's main responsibility is to create a secure environment, it provides resources, skills, and manpower to the various organizations and agencies that work under the UNMIK umbrella.[49]

As part of Miloševic's agreement to the MTA was a commitment from NATO to demilitarize the KLA. The KLA voluntarily agreed to the terms of Undertaking of Demilitarization and Transformation. The KLA transformation continues through resettlement programs, the creation of the Kosovo Police Service, and the creation of the Kosovo Protection Corps, which will serve as an unarmed civil relief organization involved in the rebuilding of Kosovo's infrastructure.[50] UNMIK's SRSG exercises direction, funding, and administrative authority over the Kosovo Protection Corps with the Commander of KFOR actively monitoring and supervising the Corps.[51]

The Kosovo Protection Corps has undertaken responsibility to: 1) provide a disaster response cell capability, including for major fires, 2) conduct search and rescue, 3) provide humanitarian assistance in isolated areas, 4) assist in de-mining, and 5) contribute to rebuilding infrastructure and communities. The Kosovo Protection Corps will have no role in defense, law enforcement, riot control, internal security, or any other task involved in the maintenance of law and order.[52]

UNMIK Police and KFOR work together to ensure a secure environment for all residents of Kosovo. Their roles and responsibilities have much in common, though their force structure and organization have significant differences. Joint operations between KFOR and UNMIK Police occur routinely throughout Kosovo. KFOR helps overcome the manning problems UNMIK experiences. The joint operations allow the UNMIK Police to be significantly bolstered by military personnel and resources. These complex operations demand a highly cooperative and flexible approach from both the military and the police. In Mitrovica, KFOR and UNMIK have established a joint operations center, a strategic planning group, and carry out joint security operations for weapon searches.[53]

The degree to which KFOR and UNMIK Police conduct operations that strive toward common goals and objectives is largely a function of the relationship between the local KFOR commander and the senior UNMIK Police officer in the area. Dependent upon the personalities involved, these relationships yield mixed results across the Kosovo regions. While the UNMIK Police goal is to control crime and return the rule of law, the local KFOR commander's goal remains to establish a safe and secure environment. As long as local KFOR and UNMIK Police actors understand that these goals are inter-related, cooperation is possible. The link between the two is clear since criminal enterprises provide the economic engine for the prosecution of terror campaigns against Kosovar Serbs and for insurgent operations against Serbs and NATO, if necessary.[54]

Judicial System

UNMIK is vested with all executive and legislative powers in Kosovo, which are exercised by the SRSG, who is currently Hans Haekkerup, a former Danish defense minister. UNMIK's Administrative Department of Justice carries out the charter for overall management of the judicial system and correctional service. It is responsible for establishing a fair and just judicial system and promulgating applicable laws. The Organization for Security and Co-Operation in Europe (OSCE), as part of UNMIK, is responsible for monitoring the legal system's progress, advising the Department of Justice with its Legal Systems Monitoring Section as part of UNMIK's system of checks and balances, training judicial and legal personnel, human rights monitoring, and longer term development of institutions such as a law school and bar associations.[55]

Decades of communist rule and ten years of repression have adversely impacted the Kosovo Judiciary. At the time when UNMIK and KFOR deployed to Kosovo, no functioning court system existed. Most of the judges and prosecutors that were active before NATO's Operation Allied Force had fled and those that had remained were often denounced for having served under Belgrade's repression.[56] The international community has engaged in several efforts to establish a functioning multi-ethnic judiciary following the adoption of UNSCR 1244. They faced challenges as fundamental as lack of infrastructure, funds, and clarity on what set of laws should now apply to all Kosovars.

On June 28, 1999, the UNMIK's Special Representative to the Secretary General (SRSG) implemented a stop gap measure and established the Joint Advisory Council on Provisional Judicial Appointment (JAC). The JAC's primary mandate was to appoint provisional judges and public prosecutors for an Emergency Judicial System (EJS) in Kosovo. The primary purpose of the EJS was to conduct pre-trial hearings of detained defendants following their arrest by KFOR.

The initial ethnic breakdown of the judges and prosecutors was 42 Kosovo Albanians, 7 Kosovo Serbs, 4 Kosovo Muslims, 1 Kosovo Turk and 1 Kosovo Roma.[57] By October 1999, all Kosovo Serb judges and public prosecutors had resigned. They claimed a lack of security for their personal safety, application of unsanctioned law by Kosovo Albanian judges and public prosecutors, discrimination, and insufficient remuneration motivated their resignation.[58]

Initially, on July 25, 1999, the SRSG approved UNMIK Regulation 1999/1 which mandated that the applicable law in Kosovo should be the law that was in force before the start of NATO intervention on March 24, 1999; as long as the applicable law was consistent with internationally recognized human rights standards, UNSCR 1244, and other UNMIK regulations.[59] Much of the Kosovo Albanian legal community resented and resisted the applicable law enforced by UNMIK, which they considered 'Serbian' laws of the repressive Milosĕvić regime. Judges and prosecutors would willingly conduct criminal proceedings under the *FRY Criminal Code* and when applicable, *the Socialist Federal Republic of Yugoslavia Criminal Code* (SFRY Criminal Code), since both these laws were in effect before Kosovo lost its autonomy in 1989. Additionally many judges and public prosecutors would apply the *Kosovo Penal Code* (KPC), which was annulled and replaced by the *Socialist Yugoslav Republic of Serbia Criminal Code* (SPC) as Kosovo became part of the Republic of Serbia's legal jurisdiction in 1989.[60]

UNMIK eventually saw the err of its ways in passing a regulation that was, in essence, unenforceable. In December 1999, they issued UNMIK Regulations 1999/24 and 1999/25, which repealed Regulation 1999/1 and reinstated laws that were applicable during Kosovo's autonomous period.[61] The judicial process now began to take root and UNMIK's Administrative Department of Justice was able to phase out the Emergency Judicial System in late 1999 and early 2000 and replace it with a new regular judicial system.

To assist in resolving the disputes over the applicable law issue, UNMIK established the Joint Advisory Council in August 1999 to advise on areas requiring legal reform and to focus on enacting new interim legislation. This council of legal experts from Kosovo's Albanian legal community (no Serbs opted to participate past the first meeting) and the international community developed a draft Kosovo Criminal Code and Criminal Procedure Code. The codes have been forwarded to the Council of Europe (CoE) for review and to confirm they comply with international standards of human rights. Once approved by the CoE and the United Nations Headquarters in New York, UNMIK will promulgate the new codes throughout Kosovo.[62] These codes should alleviate much of the confusion that still occurs in trying to determine the applicable law once these laws become authoritative, and known by the citizens of Kosovo and the executors of the legal system in Kosovo.

UNMIK established its Advisory Judicial Commission (AJC) in September 1999 with the mandate to recommend candidates for judges and prosecutorial appointment on a permanent basis. After a region-wide campaign to seek out professional judges and prosecutors, UNMIK's DOJ swore in the first group of judges and prosecutors. As of August 2000, there were 355 judges, 544 lay judges and 58 prosecutors.[63] A large number of the appointed judges and prosecutors had not worked as lawyers since 1989 and also had no working knowledge of basic human rights law. Since November 1999, UNMIK has been providing training sessions for judges, prosecutors, and defense council. Yet, as of July 2000, only two of the 77 cases monitored by the OSCE's LSMS made reference to an international human rights standard. The legal profession still requires more training in human rights law in order to be able to competently apply such law in the Kosovo judicial system.[64]

Unfortunately, the new judicial system remains largely dominated by Kosovo Albanians. Of the group of 285 judges and prosecutors who first took the oath in December 1999, only 23 were minorities, including two Kosovo Serb judges. Most Serbs refused to apply for these

positions citing two reasons: concern for their safety, and authorities in Belgrade instructing the Serbian judges not to participate.[65] As of September 1, 2000, the two Kosovo Serbian judges have refused to work citing security concerns.

Penal System

UNMIK's Penal Management Unit of Administrative Department of Justice (DOJ) is responsible for managing Kosovo's penal system. Their function is to repair as quickly as possible the confinement facilities in Kosovo, introduce modern management techniques, and train the Kosovars to eventually take over and run the corrections system. This small team suffers from a lack of funds for infrastructure repair, experienced personnel in operations, planning and programs. As a result of Serb destruction and NATO bombing, there are few adequate facilities for holding pre-trial detainees or convicted criminals, as well as few trained detention facility guards.[66]

Today, UNMIK operates three detention facilities: one in Prizren (100 inmates capacity), another in Lipjlan (46 inmates capacity), and on June 1, 2000, the DOJ re-opened Dubrava Penitentiary in Istog with a capacity for 520 inmates. There are two hundred and sixty correctional officers working for the department and an additional 60 are being trained. The department has also established a standardized offender tracking and information system.[67]

In addition to these three prisons, there exist small detention facilities throughout Kosovo, most located in police stations. Most of these facilities require renovation. Currently, not all municipalities have detention facilities, either for pre-trial confinement or for service of shorter sentences.[68]

The fledgling penal system can not handle all of the people that require detaining. As a result, KFOR provides assistance in detaining criminals in detention facilities that they now run. In the United States Army contingent sector, a Military Police Company runs the Bondsteel Detention Facility that detains not only suspected rebels participating in the nearby Albanian

insurgency in Serbia, but also common criminals that the Kosovo penal system does not have the capability of handling.[69]

Assessment of Internal Security Environment

In assessing the progress made in the internal security environment after eighteen months of work, the security force, the judicial system, and the penal system must be assessed individually and together as a system in order to determine what further steps UNMIK, KFOR, and the Kosovars must take in order to achieve a lasting stable internal security environment.

Assessing KFOR

Much remains for KFOR to do and no NATO leader foresees a withdrawal of KFOR in the near to medium term. KFOR's first responsibility is deterring renewed hostility and threats to Kosovo. With a force of almost 40,000 troops in Kosovo, KFOR has succeeded in preventing any renewed hostility and threats to Kosovo from a Yugoslav or Serbian force. However new threats to the internal stability of Kosovo have emerged. KFOR has found itself in the uncomfortable position of now having to protect the Kosovo border not from a Serbia threat, but from an ethnic Albanian threat along its borders with Serbia and the former Yugoslav Republic of Macedonia. Both along the Kosovo border with Serbia and its border with the former Yugoslav Republic of Macedonia (FYROM), ethnic Albanians have been crossing back and forth from Kosovo and using it as a base for guerrilla activities. The cause may appear similar to the Albanians in Kosovo for whom NATO came to the rescue over eighteen months ago, but the circumstances are extremely different. Many of the ethnic Albanians, in both FYROM and Serbia, desire what the Kosovo Albanians want, independence from the sovereign nation to which they currently belong. Both would prefer to join the Kosovo Albanians in forming a 'Greater Kosovo', not a 'Greater Albania'. Extreme members of these groups have now turned to more violent means to achieve their goals.

KFOR has been unable to control the violence of ethnic Albanian attacks against Serb civilians and lightly armed Serb police officers in the Ground Safety Zone within Serbia that runs along its border with Kosovo. As a direct result of this violence and the desire of NATO not to become entangled in potentially violent actions to stop the ethnic Albanian violence within the sovereign territory of Serbia, NATO and the United States have indicated that the Ground Safety Zone may be eliminated from the border between Serbia and Kosovo. The details of how KFOR will reduce and then remove the zone are still to be worked out between Serbia and NATO authorities. KFOR is also concerned that by allowing the Serbs back into the Ground Safety Zone, Albanians in Kosovo will seek revenge on Serbs in Mitrovica, a divided city in Kosovo, or that the Albanian guerrillas in Serbia will resettle in Kosovo and destabilize Kosovo itself.[70]

Along the FYROM border, KFOR troops have started working with the FYROM military in supporting their efforts to clear ethnic Albanian guerrillas from their mountain base in FYROM along the FYROM-Kosovo border. The Macedonian government fears that an open rebellion could inflame its sizable Albanian minority, and NATO and western governments, which fear a larger conflict. The quick aggressive action of the FYROM government, in conjunction with KFOR support from the Kosovo side of the border aims to curtail the ethnic Albanian rebellion before it dissolves into a much larger conflict.[71]

Additionally, the other external destabilizing factor KFOR must deal with is that UNSCR 1244 stipulates that an agreed number of Yugoslav and Serbian personnel will be permitted to return to Kosovo to perform tasks related to marking and clearing minefields, provide a Serb presence at Serb patrimonial sites and key border crossings, and liaise with UNMIK and KFOR.[72] In the Secretary General of NATO's report, "Kosovo One Year On," Lord Robertson acknowledges that this portion of UNSCR 1244 remains unrealized and states NATO will allow for the return of some Serb forces "when the time is right."[73] He provides no further details and this provision of UNSCR 1244 remains unfulfilled.

Within Kosovo, KFOR has made great progress in its attempts to deal with the internal threats to security, yet this remains a daunting task for KFOR. Despite a 40,000-troop presence, ethnic hatred still runs deep after the years of Serb repression of the ethnic Albanian majority. KFOR and UNMIK Police have increased their cooperation and assistance to each other as they both work toward achieving a stable environment. KFOR still does a large portion of the security role that a police force should do. This burden for KFOR remains as UNMIK struggles to deal with a shortage of financial resources and capable police officers to volunteer and join the UNMIK Police. The lack of an effective court system has made it extremely difficult to crack down on criminals, giving them a feeling of impunity.[74] In this atmosphere of a weak economy and an ineffective judicial system, organized crime has been able to take root in Kosovo.[75] KFOR's organizational challenge is that it is not designed as a police force but as a military force. Consequently, KFOR law enforcement is inconsistent throughout Kosovo.[76] Some national troops follow through on crime investigations while other national troops end their role once an arrest is made. Throughout Kosovo, KFOR has been focused largely on the most serious crimes, and given KFOR's limited investigative capacity, most KFOR arrests are of suspects caught in the act of committing the crime.[77]

The lack of a strong unbiased judicial system has made it difficult for the security forces to deal with the most serious public order problem in Kosovo, the security of minority populations. KFOR takes extreme measures to protect the minority populations. Over 100 KFOR soldiers live with and guard individual Serb families. KFOR soldiers escort children to and from school, and they drive the public transportation to take ethnic minorities to work.[78]

A high proportion of the minorities, mainly Serbs, remains displaced, most having left during or immediately after Operation ALLIED FORCE, before KFOR had been deployed to protect the population. One of KFOR's most visible shortcomings has been its inability to halt the reverse ethnic cleansing of Kosovo. Of the roughly 200,000 Serbs who lived in Kosovo

before the NATO bombing, only 75,000 remain.[79] Minorities have been the targets of widespread indiscriminate attacks. The average Albanian still refuses to aid UNMIK Police or KFOR investigations into Serb deaths, suggesting either complicity, support, fear of retaliation, or sense of impunity from the judicial system.[80]

Lack of security remains the overriding concern for minority communities. Collectively, all minorities see a lack of security as the measuring stick as to whether or not their communities will survive. In over eighteen months, UNMIK and KFOR have made progress, but minorities still live their daily lives in fear of potential violence against them. The OSCE's report "Assessment of the Situation of Ethnic Minorities in Kosovo (period covering June through September 2000)" assessed the security environment for ethnic minorities as being so poor that unless security can be improved, many minority communities will be neither economically nor socially viable, dependant on humanitarian assistance for survival and faced with little option but to leave. The lack of security continues to restrict freedom of movement, which for many minority communities remains possible only through KFOR escorts and special controlled bus and rail lines. Minorities continue to face difficulties of access to essential services, such as secondary healthcare and education and face an extremely poor quality of life.[81] Though there are local areas within Kosovo were violence has subsided, it is still not possible to say that any one ethnic group has experienced a lasting improvement in overall security. Despite periods of calm, violence can easily reignite and the threat of violence remains.[82]

An existing climate of intolerance and impunity makes any security force's job extremely difficult. Some Kosovo minorities have a lack of trust for KFOR and UNMIK Police. The greatest contribution for this misconception has been the employment of interpreters that were of a different ethnic background than the population in most minority areas. This contributed to complaints by minorities and a lack of cooperation. Providing protection to minorities in an air of minimal or no cooperation has made policing all the more difficult.[83]

As of October 2000, the UNMIK Police were filled to 88 percent of its initially pledged 4,700 police officers. Despite the presence of UNMIK Police and KFOR, the numbers are just not there to have a robust security presence throughout Kosovo to prevent crime. This lack of sufficient security personnel continues to affect many minority communities around Kosovo, with KFOR and the UNMIK Police simply unable to respond to the demands placed on them by the communities. For example in the city of Stimlje, only 3 UNMIK Police officers and 25 KPS Cadets man an UNMIK Police substation to police a local population of 18,000.[84]

The OSCE assesses the key to minority communities' security to be two fold: improved security itself, and the improved perception of that security. Many minority communities believe that a static and visible international presence improves their security and they frequently demand emplacement of checkpoints. KFOR, however, does not always assess checkpoints as the best way of securing an area and may resist requests to the regret of the local inhabitants. Security improvements may also cause KFOR to remove checkpoints, which have had the negative impact of causing alarm among minorities, especially if there was no prior notice. Some communities perceive the psychological importance of a permanent visible presence of KFOR as a pre-requisite for their security, whether or not that may be true. However, the continued use of checkpoints and other guarding mechanisms can ultimately prove to be unsustainable and detrimental to the general well being of minority communities, since these actions tend to prolong segregation and reinforce a siege mentality. KFOR and UNMIK Police must guard against this desire by the local minority communities and develop other security measures and involve other actors, most importantly the local inhabitants, in an overall security strategy that safeguards the interests of all of Kosovo's residents in an unbiased manner.[85]

In assessing the third responsibility of KFOR, reintegrating KLA members into civilian life, they have had initial success, but long-term success is still to be determined. The Kosovo Protection Corps and the Kosovo Police Service have absorbed much of the former KLA

members, though some have decided to join the ethnic Albanians in Serbia and FYROM in their violent quest for independence. The true test of the Kosovo Protection Corps (KPC) will be its commitment to the goal of a fair and multi-ethnic Kosovo. Whether or not it can support all Kosovars, regardless of their ethnic background, will be its true test once it has been trained to be a competent disaster relief agency. The short term goal for KFOR will be gainfully employing the time of the KPC members with worthwhile training that prevents the KPC from becoming disenfranchised with the role of the KPC. Ethnic tolerance and integration must be integrated into the KPC recruitment and training.

Concerning the fourth and fifth KFOR responsibility, supporting the international humanitarian effort and UNMIK, KFOR is applying many of the hard lessons learned from NATO's Bosnia experience.[86] KFOR and UNMIK enjoy a close working relationship and conduct daily meetings, joint planning, and joint strategy sessions at all levels. Yet some critics have argued that the two lack unity of command and should be united under one chain of command in Kosovo, so that UNMIK's SRSG would have more leverage at times when challenged by local factions.[87] However, such an arrangement would potentially have as many negative effects as positive. UNMIK and KFOR do achieve unity of effort. In the early months after KFOR entered Kosovo, they worked closely with UNMIK to ensure 95 percent of the planned winterization was complete before winter began. KFOR has played an important role in the reopening of schools throughout Kosovo, and started an initiative for both Serb and Albanian children to learn in the same school, though in different classrooms and different languages. The return of over 300,000 children to school marked a major stride in UNMIK and KFOR's attempts to bring a degree of normalcy and stability to Kosovo.[88]

Assessing UNMIK Police

The lack of clarity about applicable law has exacerbated the challenges the undermanned UNMIK Police face. The lack of an effective police system is felt on every single level

throughout Kosovo. No effective traffic control system yet exists and minor crimes do not receive adequate attention. UNMIK Police lack the resources to intervene effectively. More serious crime is growing rampant with extortion and car theft rings growing and arson, assault, rape, and murder widespread in certain areas. Language barriers and lack of procedural standards have resulted in judges and prosecutors having difficulty using police submissions.[89]

The Kosovo Police Service will eventually lessen the burden of the UNMIK Police in the long term, but will be of little help in the short-term. The most pressing question that the future holds will be whether the Kosovo Police Service can fairly serve as a legitimate Police Force in a multi-ethnic society or will they too fail to overcome the hatred between Kosovo Albanians and Serbs. The answer to this question can possibly be sought out by looking outside Kosovo to Eastern Slavonia. After the 1995 Dayton Peace Accords ended the violence throughout Bosnia-Herzegovina and Croatia, an alternative non-violent solution was sought to resolve the issue of the Republic Srpska Krajina (RSK), Easter Slavonia (today this area is commonly referred to as the Danube region). The Erdut Agreement emerged and stipulated that sovereign control of this region would peacefully transfer to Croatia after a period of two years and RSK would cease to exist.[90] A UN transitional administration, the United Nations Transitional Administration in Eastern Slavonia (UNTAES), would run the area during the two year transition period. UNTAES established a Transitional Police Force (TPF) consisting of roughly equal numbers of Serbs and Croats. After an expected rough start, the TPF served as an effective police force in the region establishing a climate where Serbs and Croats could live together. After the transition period, the TPF became integrated into the ordinary Croatian police. Ethnic Croatians and Serbs who once were at war with each other have remained in the area living, working together in close proximity. Though the area is far from the model community, the multi-ethnic society remains with Croats and Serbs learning to work and live together. The local multi-ethnic Police Force has been successful thus far in ensuring fair implementation of law and order for all citizens of

Eastern Slavonia. However, it remains to be seen whether its multi-ethnic composition will survive this shift in the long-term.[91] The success of this multi-ethnic police force thus far demonstrates that a multi-ethnic Kosovo Police Service is feasible. Only the Kosovo citizens can decide whether or not they believe it is suitable. One major difference between the regions of Eastern Slavonia and Kosovo is the economy. Eastern Slavonia is an economic center of gravity for Croatia. It is in the best interests of all area residents to work together so that the area can continue its economic strength for the benefit of all whom reside there. In Kosovo, Serbs and Albanians do not have any economic incentive to work and live together, thus making any security force's job, whether KFOR, UNMIK Police or the Kosovo Police Service, all the more challenging.

KFOR and UNMIK Police Interoperability Challenges

The challenges to KFOR and UNMIK Police working together toward common goals and objectives have several challenges, which include security and intelligence, communications, professionalism and armament.[92]

Sharing intelligence that NATO and national assets collect poses a real problem for KFOR since so few within the UNMIK Police organization have the appropriate security clearances. Consequently, KFOR must put forth the additional time and effort to reduce and sanitize information so that they may share it in a meaningful manner.

KFOR and UNMIK Police use different communication systems. Real time communications between the elements is a constant challenge. KFOR uses encrypted military communication systems and UNMIK Police use commercially available systems with limited encryption capabilities. To overcome this communication barrier full time liaison from KFOR to the Police Operations Centers and development of techniques for communicating during ongoing operations is necessary.

The professionalism of the UNMIK Police officer can vary significantly depending on his nationality and training. In the opinion of Lieutenant Colonel William J. Miller, who commanded an armored battalion in Kosovo as part of the U.S. contingent in 2000, based on his habitual interaction with UNMIK Police, he believes that generally, the Western Europeans and the US police are the most proficient and capable and understand the roles of police in democratic states. The Eastern European/Former Soviet Bloc countries have well trained police but many of them are former state security service officers and often may have their own views of where and how to get thing done. The police from the third world countries were often as much of a hindrance as they were a help because of their lack of training in modern police procedures and their general inability to speak English. The UNMIK leadership would often recognize this problem and attempt to balance the pairings of officers to achieve an acceptable compromise.[93]

The UNMIK Police have limited firearms capabilities. Fortunately, they do not often have to resort to the use of their weapons. Consequently, most of the challenging tasks that may require the use of force, or the threat of its use, fall to KFOR to accomplish. UNMIK police attend but generally only make the arrest after the seizure by the military forces. As the environment stabilizes this will become less of a problem and the UNMIK Police will have to assume many of these duties.[94]

Assessing the Judicial System

A long and continuing climate of ethnic tension has severely affected the objective impartiality of the courts and has raised concerns as to the actual bias on the part of certain judges and prosecutors. In an attempt to ensure a fair trial for all citizens of Kosovo, UNMIK's Department of Justice began appointing international judges and prosecutors to the courts in Kosovo to deal with serious criminal trials involving defendants from an ethnic minority. UNMIK appointed the first international judge to the Mitrovica District Court in February 2000. As of September 2000, six international judges and two international prosecutors serve in

Kosovo. However, these judges' influence is limited since most trials involve a judicial panel, as opposed to just one judge, as is often the case in the United States. These judges do not hear all cases that involve war and ethnically motivated crime and the result is an unequal treatment of defendants from the courts for cases of a similar nature.

Facilitating the development of an independent and impartial justice system is an essential component for establishing the rule of law and tackling impunity. For minority communities, it is important to counter the perception that they are being made the scapegoat of past crimes and that the Albanian majority can act with impunity. The OSCE's monitoring of criminal cases brought before local courts between June and September 2000 indicates an unwillingness on behalf of public officials to pursue criminal acts committed by Kosovo Albanians against Kosovo Serbs. In some cases, the courts have pursued indictments against Kosovo Serbs that are apparently without foundation.[95]

A major problem that remains in the Kosovo criminal justice system remains the lack of clarity in the applicable law. The many sources of law in Kosovo have resulted in continuing confusion among the judges and lawyers as to which law applies in specific cases. This confusion is most noticeable when it comes to applying human rights standards. UNMIK Regulation 1999/24 created four possible sources of applicable law in Kosovo: 1) The law as it existed on 22 March 1989, 2) UNMIK Regulations, 3) The law applied in Kosovo between 22 March 1989 and December 12, 1999 (the date Regulation 1999/24 was issued) if this is more favorable to a criminal defendant or it fills a gap where no law from March 1989 exists, and 4) International human rights standards and laws.[96] With so many potential sources of law, the necessity for clarity on which takes precedence is essential. Although UNMIK regulations take precedence over the 1989 law, the hierarchy between the other laws is not clear.

Supremacy of international human rights laws over domestic laws is clearly stated in UNMIK Regulation 1999/24, yet most judges are unfamiliar with international human rights

laws. A largely considered acceptable standard for international human rights law is found in the case law of the European Court of Human Rights. Yet, even in Europe applying this international standard directly to domestic courts creates problems. These laws are foreign to the judges and lawyers in Kosovo.

A more common violation of international human rights standards pertaining to the internal security environment is the widespread violations throughout Kosovo of the applicable law related to arrest and detention. According to the OSCE's LSMS report "Kosovo: Review of the Criminal Justice System (February – July 2000)," KFOR will hold individuals in detention for extended periods of time before being brought before a judicial authority. These individuals are often not informed of their rights. There have been instances where the Commander of KFOR (COMKFOR) has refused to release individuals despite a judicial order to do so. The COMKFOR claims they receive their authority to detain individuals from UNSCR 1244 that states KFOR has the responsibility for "ensuring public safety, and order until the international civil presence can take responsibility for this task."[97]

UNMIK Police and KFOR apply the "72 hour rule" where they hold individuals for 72 hours before bringing them in front of a judge. The FRY CPC dictates that a person can only be detained 24 hours without being brought before a judicial authority, and 72 hours should be an exception, not the norm.[98] In the American sector, these challenges become more acute as they deal with the challenge of preventing the insurgency in the nearby Presevo, Medvedja and Bujanovac region of Serbia from obtaining support from within Kosovo. As they execute their mandate to disrupt the guerrilla insurgency as much as possible, the U.S. Army contingent has the cognitive tension of trying to preach and respect the rule of law in Kosovo, while simultaneously detaining Albanian prisoners with no legal rights who they believe to be part of the insurgency threat. At the U.S. Army contingent headquarters at Camp Bondsteel, they have detained 60 suspected members of the Albanian insurgency, as of February 25, 2001 for over three months

without a civilian judicial review. COMKFOR must approve all detentions that are longer than 72 hours and KFOR provides a list of the detainees to the Kosovo courts and the OSCE.[99]

Though United States Army officials in Kosovo insist they would like nothing better than turning the detainees over to the Kosovo courts, they do not have the confidence that the local Albanian judges will have the mettle to punish their fellow Albanians. Civilian court records indicate that their concerns are justified. In a case in December 2000, British troops caught 13 rebels crossing into Serbia with a shipment of heavy machine guns. Their case was referred to the local court in Gnjilane where the local judge ordered nine of the suspects to be released. The United States contingent officials rejected the judge's decision and did not release the nine suspects. They plan to turn the suspects over to the United Nations so that an international judge can hear their case. KFOR remains reluctant to release any rebel for fear they will just go back and continue with supporting the insurgency across the border.[100]

Part of the nature of the tension between KFOR and the Kosovo civilian court is that, though the civilian court is still officially run by UNMIK's Department of Justice, no unity of command exists in Kosovo concerning UNMIK and KFOR's relationship. Though they work closely together, and largely achieve unity of effort, COMKFOR does not work for the SRSG, his authority flows through NATO channels, and in the case where the two may disagree, such as detention of possible rebels, COMKFOR can assert, as he does now, that he does not answer to the SRSG, the de facto civilian governor of Kosovo, but to NATO.

The judicial system also must address issues regarding security for minority witnesses, access to counsel, court official language, and the lack of minority judges and prosecutors. Special measures are required in order for minority witnesses to appear in court, for protection to and from the courthouse and follow up measures after the trials to preclude the possibility of reprisals against witnesses. Minority lawyers are scarce and, consequently, it can be difficult for minority defendants to find counsel of their own choosing. Kosovo suffers from a fundamental

dilemma of what language to speak in the court. Most Albanians and Serbs do not speak both Albanian and Serbian dialects, but all defendants have a right for the proceedings to be conducted in a language that they understand. The judiciary remains a mostly mono-ethnic system, which negatively impacts the perception of impartiality. Minority judges and prosecutors must be fully incorporated into the existing system in such a way that allows them to play an active and full role in the implementation of justice in a fair and unbiased manner.[101]

Assessing the Penal System

A criminal justice system based on the rule of law cannot exist without an effective and adequate penal system. Kosovo judges have had to release individuals charged with serious crimes due to a lack of adequate detention facilities for pretrial confinement and the vast majority of these individuals are unavailable for trial when their day in court arrives. The lack of prison space has resulted in trials being delayed or even cancelled.[102]

Repairing the Dubrava Penitentiary represents the most effective means of alleviating the burden on the Penal System. It is a modern, well-designed structure with an ultimate capacity of over 2500 inmates. The Serbs and Albanians built the facility less than ten years ago. During the war, the Serbs used the facility not only as a prison, but for military purposes as well. As a result, NATO air strikes badly damaged the structure. Further repair of the Dubrava facility to bring it to its fully functioning level will greatly alleviate much of the penal system problems in Kosovo. Estimates show that within two years, there will be 1500 inmates who will need to be housed either at Istog or another secure facility.[103] Additionally, the Penal System lacks alternatives to incarceration, such as halfway houses, community confinement facilities, and a probation system.

External Influences on Internal Security Environment

The quest for a lasting, stable internal security environment cannot be attained in isolation. Several external factors directly influence the environment in Kosovo. Kosovo's security is linked to security conditions in and relations with the other Baltic states. Kosovo's

future is linked to the stability of and its relations with Serbia, Montenegro, the former Yugoslav Republic of Macedonia, and Albania. Since Miloševic's removal as president of Yugoslavia, the new Yugoslav president, Vojislav Kostunica, has brought a wave of optimism to the Balkans and Europe. Several Western nations, including the United States, have reengaged politically and economically with Serbia with the aim of being able to bring more stability to the volatile Balkans. Kostunica has stated that he believes, like his predecessor, that Kosovo is a lawful part of Serbia and that he intends to keep it that way.[104] But, unlike Milošević, he has opted to engage NATO and the United Nations to work with them to benefit all of Yugoslavia. He has called for all Serbs living in Kosovo not to move out, but to stay and become engaged in UNMIK's establishment of local and national organizations and infrastructures. He wants to see the Serbs become engaged in the process and not boycott UNMIK's attempt to rebuild Kosovo.[105] Additionally, the question of Montenegro's movement towards independence could have influences in Kosovo. Should the Montenegro people vote to become independent from Yugoslavia, it would mean, in essence, that Yugoslavia no longer exists, since Serbia and Montenegro are the only remaining republics of Yugoslavia. Such a decision for independence would potentially strengthen the argument of those within Kosovo who want to see an independent Kosovo free from Serbian claims of ownership.

Instability with ethnic Albanians in Serbia and the former Yugoslav Republic of Macedonia influences the internal security within Kosovo. Depending upon KFOR's handling of the situation and the perception of neutrality with which they try to control the borders of Kosovo could undermine their legitimacy in the eyes of ethnic Albanians or Serbs within Kosovo.

Internal stability is linked to economic well being as well. Kosovo's stability also relies on the development of a sustainable economy based upon free market trade. The European Union is responsible for the development of Kosovo's economy and their success will determine the stability of the region. If the majority of Kosovo citizens are working, there is less likelihood that

they will become disenfranchised with the direction that UNMIK and the EU are guiding the Kosovo economy. The United States recognizes the importance of investment in the region, not only in commitment of U.S. troops, but in dollars as well. The U.S. economic strategy for Kosovo has focused on helping to create stability and reform, increasing market access and trade, promoting business opportunities, and encouraging private investment.[106] A continued long-term economic commitment to Kosovo will be necessary in the quest for a lasting stable internal security environment.

Conclusions and Recommendations

After reviewing the violent history of Kosovo and making a thorough assessment of the existing security, judicial, and penal systems within the UNMIK and KFOR structures, several conclusions can be reached in answering the question: of whether the United Nations Interim Administration Mission in Kosovo (UNMIK) and NATO's Kosovo Force (KFOR) is capable of achieving a lasting stable internal security environment in Kosovo. UNMIK and KFOR alone are not capable of achieving a lasting stable internal security environment without more involvement and participation by all the residents of Kosovo, regardless of ethnic origin. All must become engaged with UNMIK and work within the established systems to achieve stability in Kosovo.

External influences from outside Kosovo's borders directly impact any chance for lasting internal security. Those external influences include ethnic Albanian tensions along Kosovo's borders with Serbia and Macedonia, Montenegro's decision on whether or not to vote for independence, international support for developing Kosovo's fledgling economy and infrastructure development, and, most importantly, the final decision on the final status of Kosovo. Will Kosovo remain an autonomous province of Serbia as UNSCR 1244 states or will it become an independent nation, which the majority of the citizens would prefer? Clearly, it cannot remain a United Nations protectorate forever, though, currently, it is difficult to envision any other status for Kosovo that offers appeasement to most residents of the Balkans. Kosovo

cannot stay in limbo forever. UNMIK's SRSG, Hans Haekkerup, realizes this fact and has been instrumental in pushing Kosovo toward having national level elections later this year. He believes these elections will allow the residents of Kosovo the best opportunity to eventually govern themselves and let the region elect governing bodies that will be empowered to speak for the citizens of Kosovo concerning the region's final status.[107] No assessment of chances for lasting stability in the Kosovo can be complete without acknowledging the influence these factors can have on the internal security of Kosovo.

UNMIK and KFOR have made great strides toward achieving lasting stability within Kosovo in the almost two years since they arrived. It is too early to conclude whether lasting stability within Kosovo will occur, though actions, thus far, have helped make the concept more feasible. UNMIK and KFOR are merely at the two-mile point of the marathon that only results in lasting stable security if they make all the right turns along the way. The course that UNMIK and KFOR have set for Kosovo on the road toward internal stability without international support requires constant attention and assessment of the effectiveness of policy objectives for the region. The most daunting challenge UNMIK and KFOR face is the challenge of changing the destructive aspects of the attitudes of ordinary residents of Kosovo. Most Albanians hate the Serbs, and most Serbs hate the Albanians, and they believe that fact will not change, nor do the vast majority want it to change. An unreleased U.S. State Department public opinion poll of Kosovo Albanians concluded that 91 percent of the Albanians polled believed that there had been too much damage in Kosovo for ethnic Albanians and Serbs to live together peacefully.[108] Overcoming the walls that have been built separating these people will not occur overnight, but may occur over a generation. No military force or civilian agency has a special formula for overcoming intense hatred over a short period of time. What can be strived for with adults living today in Kosovo is to instill in them tolerance for all residents of Kosovo, regardless of ethnic origin, and to respect the basic human rights and dignity that every human being should have. If

UNMIK and KFOR can accomplish this, then perhaps the next generation will be able to take the next step toward developing a multi-ethnic society that can work and live together. Education of the children of Kosovo should include respect for all human life regardless of ethnic origin, and thus plant the seed, that in a tolerant society, the hatred of their fathers may wane as the next generation matures. UNMIK and KFOR must develop the means to bring the clashing societies together into one multi-ethnic society. They must develop economic incentives to bring individuals together to work, such as providing additional funding for multi-ethnic businesses and schools. If these businesses succeed, they potentially establish a model for others to emulate as capitalism takes root in Kosovo.

David Rohde, in his article "Kosovo Seething" in the May/June 2000 *Foreign Affairs* has concluded that "time, political independence, Western aid, and a long-term NATO presence will stabilize the province." His moderate Albanian journalist contacts assess the chances for lasting stability, meaning an ethnically tolerant Kosovo with a Serb minority, to be feasible if UNMIK and KFOR implement reforms. These reforms involve a far more aggressive police enforcement, a functioning court system, an interim national unity government, war crime trials, an independent media, and a new education system.[109]

Internal to each of the three tiers of the internal security environment, recommendations are captured in the systems of security forces, judicial, and penal.

Security Force Recommendations

As KFOR force packages rotate through Kosovo, leaders and planners must conduct assessments to determine what force structure would be optimal for the evolving security situation. Throughout the five multi-national brigades, which comprise most of KFOR's security forces, each force structure must reflect the reality within their region. It must reflect the capability of the UNMIK Police to execute law and order functions within their region, and an assessment of the internal and external threats to the residents and KFOR within the brigade's

sector. It is possible that two brigades could have significantly different force structures, despite having the same mission and task requirements, if in one sector the UNMIK Police did not yet have jurisdiction for law and order functions, and violence along borders with Serbia and Macedonia was possible, while in another sector, UNMIK Police were fully manned and no serious border concerns existed. KFOR force structure must balance military police and infantry type forces based upon assessment of internal and external threats and requirements.

UNMIK Police and KFOR must strive to improve their cooperation and interoperability. The model for UNMIK Police and KFOR cooperation in Mitrovica, where the two forces conduct joint patrols, operate a joint operations center, and have formed a strategic planning group, should be employed on a smaller scale in the more volatile towns and cities throughout Kosovo. UNMIK and KFOR must develop means of improving the freedom of movement of minorities within Kosovo without becoming an irreplaceable crutch to the citizens.

The international civilian police force, UNMIK Police remains undermanned at 88 percent of authorized strength. Countries need to recruit police more aggressively and provide enticive incentives, such as cash and promotions. The UNMIK Police not only suffers from manpower shortages, but from equipment deficiencies as well. A lack of facilities and the necessary equipment to investigate crimes thoroughly hampers the UNMIK Police's ability to investigate crimes. UNMIK Police must often rely on the forensic labs in other countries or capabilities within KFOR. The lack of resources causes a long delay in investigating crimes or results in incomplete investigations. The UNMIK Police need not only more police officers but more equipment or money to acquire the necessary equipment to have a fully functioning police force capable of handling a wide spectrum of criminal violence.

The Kosovo Police Service, which the OSCE initially recruits and trains, helps alleviate the policing burden. In the long run, this force will play a vital role in determining whether or not Kosovo can achieve the goal of being able to fairly police themselves within a multi-ethnic

culture. The problem with the Kosovo Police Service is the inadequate number of police officers that are being trained. The United Nations' track record for obtaining International support for sending civilian police officers indicates that UNMIK Police will continue to be plagued with manpower shortages.[110] If the OSCE could increase the output from their Kosovo Police Service School from approximately 3000 a year to 6000 a year without compromising the quality of the product for quantity, then the entire security environment would benefit tremendously from the manpower increases. Such an increase could occur with the opening of a second KPS School with an equally competent core of cadre. Such an alternative would most likely be more financially feasible and acceptable to the international community than sending more of their own civilian police officers.

At the tactical level, several recommendations may improve the security environment within Kosovo. These recommendations include: 1) UNMIK Police and KFOR should disseminate the best practices as demonstrated in the field and continue to develop a wider and more imaginative range of security measures, such as the use of emergency hotlines, staffed by members of minority communities. Similar to how the U.S. Army utilizes the Center for Army Lessons Learned (CALL) to capture lessons from current operations for dissemination and benefit of the entire U.S. Army, such an organization could help spread the information on what tactics, techniques and procedures are working effectively, and foster cooperation among the multinational brigades and with the UNMIK Police. 2) Resources for mobile police stations should be provided immediately. These mobile stations should be manned by KPS officers of the same ethnicity as the community served, or by interpreters from that community in order to maximize positive interaction between the police and local community. 3) Proven examples of ways to provide security to minorities that enable them to work should be replicated. These include transportation to and from work, and security while at work. Agencies that recruit minorities to work for them must also coordinate for security for the minority workers. 4)

Security measures should be discussed with the community affected. This includes not only minority communities who may be the main beneficiaries of such measures, but also their majority community neighbors, as security measures are likely to impact them as well.[111]

Judicial System Recommendations

Without dispute, the judicial system has made great progress since UNMIK first entered Kosovo. Yet UNMIK knows there is still a long way to go in establishing a fair and just judicial system that meets international standards for human rights protection. Improvements must focus on implementing acceptable and applicable laws for ensuring law and order, both within and outside Kosovo, and on improving minority involvement and treatment within the judicial system.

Near Term: UNMIK should immediately clarify the applicable law. UNMIK should immediately identify and correct any provisions of the applicable laws that are inconsistent with international human rights norms. The practitioners of the legal practice in Kosovo must receive copies of the applicable law and all relevant regulations. The SRSG of UNMIK must pressure the Council of Europe and the United Nations Headquarters in New York to expedite their review of the proposed Kosovo Criminal Code and Criminal Procedure Code. The sooner these Codes are made authoritative, the sooner much of the confusion over which law to apply will go away.

Additional international judges and prosecutors are required to ensure coverage for war crimes, ethnically motivated crimes, and cases with minority defendants. The wealth of experience gathered by international legal personnel should be put to use in the development of further strategies that aim to foster a fair and functional judiciary. Once the pool of judges and lawyers becomes a more ethnically balanced profession that puts the adherence to the law above ethnic origins and without fear for personal safety, then the number of international judges can begin to diminish. To facilitate the implementation of equal and fair standards by all judges, UNMIK must pass regulations that reflect a policing of the judicial ranks. UNMIK should

establish a Judicial Oversight Board to serve as a 'watchdog' over the judiciary to guard against ethnic bias. UNMIK's DOJ must take disciplinary actions against judges and lawyers who persistently fail to adequately investigate crimes, especially ethnically motivated crimes. UNMIK and the legal community must reach out and recruit minority judges and prosecutors. They must provide credible assurances that provisions for adequate security will enable these judges and prosecutors to work and live in safety.

UNMIK and KFOR must resolve the question of what forces will fill the missing gap in security force requirements for the court system. Minority judges and prosecutors require protection, court buildings require security, and minority witnesses require protection. Ultimately, this responsibility should belong to the UNMIK Police. It may require an additional type of unit under the UNMIK Police to meet all the judicial system's special security requirements. Until the UNMIK Police has the capability to meet that security force requirement in each of the five judicial regions of Kosovo, then the responsibility for ensuring the security requirements are met falls to KFOR to provide. Providing these additional security forces would be difficult to accept without a thorough reassessment of the force structure and a troop to task analysis to determine if KFOR has sufficient forces in the region to meet these additional security requirements. If they do not, then more troops would be necessary to execute these new security tasks. The decision to increase national troop levels in Kosovo is a strategic decision made at the highest levels of all participating nations. Most nations would most likely be hesitant to any troop increase; which leads back to the Kosovo Police Service for a solution. Increasing the KPS strength more rapidly can alleviate this burden as well. The Kosovo Police Service's time-line of three years to becoming a certified police officer is long, but if the number of candidates can increase, then some of the immediate burden could be alleviated as long as the UNMIK Police are capable of providing adequate supervision.

Long Term: The OSCE is charged with training the legal community on applicable laws in Kosovo. This daunting task is critical to the lasting success of the judicial system and must therefore not be under resourced. The education of sitting judges and lawyers must continue, as well as the development of a pool of experts to serve as a base for reinvigorating and certifying the University of Priština's law school and reestablishing a legal bar certification program.

Once UNMIK finalizes the applicable codes for ensuring law and order in Kosovo, they must educate the residents of Kosovo on these laws through an information campaign that uses the region's media and KFOR's resources to inform the residents on the essentials of these new laws so that ignorance of them is no longer a factor. Laws and judicial decisions must be published and widely available to the public. Every related activity within the legal system should include plans for the dissemination of information.

A long-term law reform process should be initiated and fostered. Kosovo's judicial system differs from the United States judicial system in the role of the Investigative Judge. It may be a more efficient use of the judges to place the investigation entirely in the hands of a capable police force and prosecutors. Such a modification would increase the number of judges for trials and hearings.

Penal System Recommendations

Near term: The Penal System is perhaps the least complex to improve with sufficient funding and training. The international community and UNMIK should allocate funds for repair of the Dubrava Penitentiary at Istog. It is estimated that an additional expenditure of $1 to 1.5 million could result in a fully functioning prison.[112] If UNMIK can bring the Dubrava Penitentiary up to its full operational capacity of handling 2500 inmates, the detention of tried criminals will likely no longer be a problem for the criminal justice system for the next three to five years.

UNMIK must address the issue of lack of adequate pre-trial confinement facilities in the Kosovo municipalities. Not every municipality has the capability to detain suspected law breakers prior to trial and many judges have had to release these individuals on their own recognizance. Many of these suspects never show up for their trial. Adequate facilities must exist for women, minors, and the mentally disabled. UNMIK must develop pre-trial confinement facilities to handle these suspects. KFOR may have to provide assistance by establishing more temporary confinement facilities where the UNMIK Police are not yet capable of handling this task. Judges can not continue to release suspects merely because of lack of detainment facilities.

Long Term: Once the Penal System corrects it immediate shortcomings in facilities and trained personnel to run the facilities, the stewards of the system should look to develop alternative systems for punishment to compliment the imprisonment alternative. The penal system should evolve into a corrections system and develop a probation system, halfway houses, community confinement facilities, and community service systems as alternatives to imprisonment for commitment of less severe crimes. Such alternatives will help alleviate much of the pressure that will be placed on the penal system over the coming years.

UNMIK and KFOR have accomplished a great deal for the citizens of Kosovo. Kosovo is clearly better today than it was before their arrival. Yet, there is still much work to be done before a self-governed Kosovo is capable of sustaining a stable internal security environment. The future of Kosovo will be more determined by the citizens of Kosovo than it will be by the men and women of KFOR and UNMIK. Before Kosovo Serbs and Albanians will be able to live together in a multi-ethnic society, they must become more tolerant of each other. The security force, judicial system, and penal system have made great improvements toward establishing a stable internal security environment in Kosovo, though, as concluded, more enhancements are needed to keep the progress heading in the right direction.

UNMIK and KFOR will need years, perhaps a generation or two, to resolve Kosovo's problem and will require a high level of patience and commitment from the international community to stay on course. The threats to establishing a safe and secure environment are extremely complex and include military as well as nonmilitary elements. The integrated solution that UNMIK and KFOR seek must address the whole of the problem and not merely focus on the security aspects.

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