



LUND
UNIVERSITY

Department of Political Science

STV003
Tutor: Anders Sannerstedt

Democracy under international administration

Assessing democracy in Kosova

Drilon Iberdemaj

Abstract

In this thesis I have examined the work of the United Nations Interim Administrative Mission in Kosova by assessing the quality of democracy created under such an administration. The main goal has been to find the democratic consequences arising from UNMIKs work. The main question posed in this thesis is therefore directed towards answering if this mission has been a success or failure. In order to do this the thesis also looks into the initial obstacles that UNMIK was faced with when establishing its seven year long administration. This thesis seeks to answer the posed questions by a qualitative case study on Kosova.

My conclusion is that there has been significant success considering the obstacles that UNMIK was posed with in Kosova but also that the status quo can no longer be justified and that it has had a negative effect on the assessed dimensions. If Kosova is to enhance the quality of democracy my conclusion is that the political status of Kosova must be addressed and that it must be a solution that respects the will of the population.

Key words: Kosova, Democratization, Assessment, International Interim Administration, Political status.

Table of contents

Acronyms and abbreviations	1
1 Introduction.....	2
1.1 Statement of Purpose.....	2
1.2 Theoretical framework	3
1.2.1 The rule of law	4
1.2.2 Participation	4
1.2.3 Competition.....	5
1.2.4 Accountability	5
1.3 Methodology	6
1.4 Material	7
1.5 Limitations and name forms.....	7
1.6 Disposition	8
2 Background: What difficulties was UNMIK initially faced with in Kosova?.....	9
2.1 Civil resistance	10
2.2 Armed resistance	11
2.2.1 The aftermath of the Kosovar Albanian resistance	12
3 Democracy-building in Kosova: A success or a failure?	14
3.1 The rule of law	15
3.2 Participation	17
3.3 Competition.....	20
3.4 Accountability	23
4 Conclusions.....	25
5 References.....	28
6 Appendix.....	31

Acronyms and abbreviations

AACL	American-Albanian Civic League
AAK	Alliance for the Future of Kosova
FRY	Federal Republic of Yugoslavia
IICK	Independent International Commission on Kosovo
KLA	Kosova Liberation Army
LDK	Democratic League of Kosova
NATO	North Atlantic Treaty Organisation
NGO	Non-governmental organization
OMIK	Organization for Security and Co-operation in Europe Mission in Kosova
PDK	Democratic Party of Kosova
PISG	Provisional Institutions of Self-Government
SACRU	Serbian-American Civil Rights Unlimited
SRSG	Special Representative of the Secretary General
UNMIK	United Nations Administrative Mission in Kosova

1 Introduction

In 1999 NATO forces headed a mission to stop the violence in Kosova, conducting a 78-day long bombing campaign against Serb military and para-military forces. The bombings led to the withdrawal of all Serb forces from Kosova and the breakdown of state institutions in Kosova. Faced with this problem the international community established United Nations Interim Administrations Mission in Kosovo (UNMIK) to fill the void created after the NATO bombings. One of the many goals of UNMIK was to create functioning democratic institutions in Kosova (Narten, 2006:143). The UN resolution 1244¹ stated that Kosova would be a UN protectorate within the former Federal Republic of Yugoslavia at the same time as Yugoslavia was stripped of all its authority of Kosova, leaving the future political status of Kosova unresolved. At the time of writing Kosova has entered a new phase in its troubled history. The political status of the province is set to be determined early 2007; this means that resolution 1244 and subsequently UNMIKs authority over Kosova will cease to exist; we are left with the “golden opportunity” to trace back to the work of UNMIK in creating democracy, assess the created democracy and find the democratic consequences, if any, of the international administration.

1.1 Statement of Purpose

I will seek to evaluate and find the democratic consequences arising from an international administration such as UNMIK in the building of democracy in Kosova. This study will also examine some initial obstacles that UNMIK was faced with. Determining the successes and failures of UNMIK:s work to develop and assist democracy through an assessment of the quality of democracy created in Kosova will be the main purpose of this study. I believe that this is of great importance since the international community will in the future be called on again to restore the peace of other shattered countries; therefore the lessons of Kosova will be critically important to those appointed with future missions of peace and democracy building. Why Kosova? Kosova is a unique case since it has had an extensive international presence for a considerable amount of time and is not internationally recognized as a state.

The questions that this study seeks to answer are subsequently:

¹ For those interested in reading UN resolution 1244 in its full version are advised to visit: [http://daccess-ods.un.org/access.nsf/Get?Open&DS=S/RES/1244%20\(1999\)&Lang=E&Area=UNDOC](http://daccess-ods.un.org/access.nsf/Get?Open&DS=S/RES/1244%20(1999)&Lang=E&Area=UNDOC)

- What difficulties was UNMIK initially faced with in Kosova?
- Has Kosova been a success or a failure – assessing democracy created under UNMIK:s administration of Kosova?

1.2 Theoretical framework

In a study of this kind one is faced with the obvious dilemma of how to assess democracy, who is to decide what “good” democracy is and what aspects of it constitutes such a democracy? There is no single objective framework for the assessment of the quality of democracy but assessing the quality of democracy has been of focus for some scholars in recent years and has resulted in relatively clear guidelines for such an undertaking. The analytical framework used in this study will therefore have its base on Larry Diamond and Leonardo Morlino’s “Assessing the quality of democracy” (2005). I choose this framework because it considers a broad amount of aspects in democracy and gives detailed definitions on what it considers a “good” democracy.

In order to assess democracy we need to give a definition of democracy. A minimalist definition of democracy requires that all adults have the right to participate in recurring free, fair and competitive elections. More than one political party must be allowed to participate and there must be alternative information sources (Diamond & Morlino, 2005: Introduction xi). “Good democracy” or “quality democracy” is when it provides a high degree of freedom and popular control over policy makers through stable institutions. More specifically “quality democracy” is seen in terms of content, result and procedure. This means that “quality democracy” in terms of content is a democracy that gives its citizens a high amount of freedom and equality and in terms of result it is a “quality democracy” when it is a legitimated government that meets citizens’ expectations of governance. In terms of procedure it is a “quality democracy” when institutions are accountable before the law, it also considers the responsiveness of those elected toward its citizens (Diamond & Morlino, 2005: Introduction xii).

Diamond & Morlino argue that where the democratic institutions are not sovereign the quality of democracy will be low; they call this a *defective democracy*. Such a democracy offers only limited guarantees for political freedom and is therefore exclusive or is dominating in the sense that powerful groups may limit the autonomy of the elected leaders and is inadequate since it fails to protect civil rights and the rule of law (ibid). I suspect this to be the case with the democracy of Kosova created under the mandate of UNMIK.

Diamond and Morlino presents a multidimensional framework for democracy assessment. There are eight dimensions that are divided into three categories, the first one is the procedural category that assess five dimensions, the rule of law, participation, competition, horizontal and vertical accountability. I will only be

applying the procedural category since the substantive category that looks into equality and freedom are touched upon in the procedural dimensions and so is the third category, the results dimension that looks into responsiveness. For example the rule of law must be functioning to guarantee citizens right and equal status. The responsiveness dimension is directly related to accountability and therefore participation and competition (Diamond & Morlino, 2005: Introduction xxix).

1.2.1 The rule of law

The rule of law is defined in its minimalist form as “[...] whatever law exists is written down and publicly promulgated by an appropriate authority before the events meant to be regulated by it, and is fairly applied by relevant state institutions including the judiciary”. The rule of law is one of the most important factors in a functioning democracy, all other dimensions rest upon the rule of law. It is therefore highly connected to the other dimensions. It is important that the legal system itself is democratic so that political and civil rights and freedoms of the whole population are upheld. No one should be above the law and therefore outside its reach. This means that officials and institutions are held responsible for their acts and answer to the law (O’Donnell in Diamond & Morlino (ed), 2005:7f). The judiciary must also be free from interference or intimidation, it should be neutral and free from political influence (Diamond & Morlino, 2005: Introduction xiv).

Based on the above described characteristics of a rule of law and assessing the success of UNMIK in this aspect, it is interesting to examine if the PISG and society is subject to the law. But also if civil and political rights are equally guaranteed for all and if public officials, elected or appointed, are free from corruption?

1.2.2 Participation

The participation dimension is interested in examining whether a democracy gives all its citizens formal rights of political participation and the right to vote. For a democracy to be of a higher quality or “good” it must make sure that all its citizens are allowed to vote, organize and lobby for their cause. In other terms to have the right to influence the policy-making. It is also believed that the quality of democracy is high when the citizens of a democracy participate in civil society organizations and engage themselves in public activities in local democracy level. Even though there might be formal rules established that guarantee all the right to participate it might be different in practice. Therefore it is interesting to examine if all groups, even lower status groups, use their right to participate (Diamond & Morlino, 2005: Introduction xvi). Furthermore, if the democratic institutions are ineffective then citizens will show an unwillingness to participate. This ineffectiveness may be as a result of corruption, the abuse of power and lack of competitiveness. The rule of law is also important in the participation dimension; it might be so that citizens are afraid of participating, by assembling, organizing

or turning out to vote, this as a result of lawlessness and violence in society. The most common way of measuring the level of participation is by looking at voter turn-out rates but this does not capture the whole scope of the dimension, one must also consider participation in political parties and NGOs (Diamond & Morlino, 2005: Introduction xvii).

1.2.3 Competition

The competition dimension considers if the political system has regular, free and fair competition between political parties. The competitiveness of democracies varies in how open the system is to new political parties. It is considered that those electoral systems based on proportional representation are more competitive since it is easier for multiple parties to enter parliament. It should also be noted that even though such systems are more open for multiple parties, the alternation of government may possibly not be common since such a system may lead to a succession of coalition governments (Diamond & Morlino, 2005: Introduction xvii). The electoral competitiveness is also linked to the fairness in accessing mass media and if political rights are upheld by an independent judiciary. This dimension will also look in to the specifics of the political culture, if it is competitive and free. Competitiveness in the system can be undermined by non-state forces suppressing the freedom of political parties and groups or by parties themselves trying to maintain in office by committing fraud. If this is extensive in the assessed case one might consider if it really is a democracy at all since the will of the people is not represented (Diamond & Morlino, 2005: Introduction xviii).

1.2.4 Accountability

Accountability of the elected leaders towards citizens is important but also complex to assess. Accountability can be either vertical or horizontal, both these will be examined. Vertical accountability is what electors and civil society actors can demand from the elected political leaders through elections, campaigns or in moments of political controversy (Diamond & Morlino, 2005: Introduction xviii). The outcome of accountability through elections, in where the citizens evaluate the performance of the sitting representatives, can either be a reward by which they are reelected or punishment in where they are defeated and thrown out of office. In order for this to be possible there must be transparency. Information about the institutions work must be possible to attain so citizens are knowledgeable about the issues and how those in power perform. The dimension of accountability is linked to the competition dimension since it requires a competitive party system in where parties offer alternatives to the voters and are able to punish current office holders and their poor performance. NGOs, mass media, associations, interest groups and other civil society actors must therefore have freedom for them to be able to contribute to a quality democracy. It is also

linked to the rule of law since these actors need protection from intimidation and reprisals (Diamond & Morlino, 2005: Introduction xx).

The above described vertical accountability is undermined when the political opposition is suppressed by officeholders or when media and civil society fear to question their performance in office. Also one problem to consider is that the line between incumbent leader and party leader is not always clear and it means that parties are hindered in carrying out their watchdog role. In the case of Kosova, where there is a higher level of decision-making not subject to elections, it may create difficulties in holding internationally appointed leaders accountable. Political leaders may blame the UN for unpopular decisions or if they fail to meet citizens' expectations (Diamond & Morlino, 2005: Introduction xxi).

In order to be a quality democracy the institutions themselves must also be held accountable by organs that have the power and authority to scrutinize their actions and behavior. This horizontal accountability is upheld by independent government agencies that monitor and investigate democratic institutions and office holders. Such agencies may be audit agencies, constitutional court or the office of the ombudsman. For example the ombudsman office is a crucial actor since it receives complaints of abuse of power by office holders and investigates those complaints. The functions of the ombudsman can vary from country to country, some have more power than others and some generally function to protect citizens' rights (Diamond & Morlino, 2005: Introduction xxii). For horizontal accountability to be effective it must be comprehensive. Agencies do best when they are held accountable by each other. If one institution fails to expose and ultimately punish corrupt behavior another one should commence the accountability process. Their authority should be interlocking in the sense that they complement and reinforce each other in the accountability process (Diamond & Morlino, 2005: Introduction xxiii). These agencies must have strong authority but also be autonomous; they must not be used as weapons against political opponents. If those in power manage to appoint individuals that are politically flexible they may be ineffective since they have been neutralized from the beginning. Another important factor in the functioning of horizontal accountability is the freedom of information. The more information that is available and the governments work is transparent, the more effective will the agencies be in exposing and containing corruption or other abuses from office holders (Diamond & Morlino, 2005: Introduction xxiv).

1.3 Methodology

The used method of this study is a qualitative single country case study. The reasons for this is that the case of Kosova is as mentioned in my statement of purpose a unique case and the intentions of this study is not to find the general democratic consequences of international administrations. The method is appropriate since it is aimed at finding and interpreting specifics of one single case. It allows me to explain a problem, the background to it and most importantly

asses and discuss why something might have failed or succeeded. Case studies are therefore concrete rather than abstract (Merriam, 1994:27f). Since case studies go on the depth rather than width of a problem; it is difficult to make generalizations because the method is interested on the peculiar, unique and sometimes deviant cases (Lundquist, 1993:104). A critique against the use of such qualitative method has been that it is subjective and that it will result in personal thinking (Bjereld, 1999:108). It may not result in generalizations but the findings could very well result in hypotheses that one might use and test on further cases.

1.4 Material

Empirically this thesis consists mostly of documents; a document is a written source which can be defined as a form of written communication, suitable for case studies (Merriam, 1994:117). I will in turn interpret these documents. This basically means that my interpretations most definitely can be put into question and criticized. The secondary nature of my material may also affect the results of this study. The authors of the used documents and rapports have themselves made interpretations and I believe that it is therefore necessary for me to put up a guideline that may help me in determining the most objective and in a sense appropriate rapports and documents. Material is thought to be appropriate if none of the rapports or documents are brought about by any organizations that may have ethnically based interests, this point would as an example eliminate rapports supported by AACL and SACRU². I am very well aware of the fact that I myself am of Albanian origin and that the reader might therefore question the objectivity of my interpretations. I am of the strong conviction that my upbringing in Sweden and through the Swedish educational system has instilled in me the importance of critically evaluating information.

1.5 Limitations and name forms

I will under this section give an account of the necessary limitations undertaken in order to follow this thesis purpose. Furthermore this section will explain why certain name forms have been preferred. Since the purpose of this thesis is to look closer to democracy in Kosova, documents that have been used in order to asses this process are no older then at the time when Kosova passed its first democracy test, holding free and fair elections. This means that the assessment period will be from 2000, when the first local elections were held, to late 2006, at the final stage of the status talks that will determine Kosovas future. In view of the fact that I am

² See list of abbreviations in page one of this study

assessing a process, it is important that I do not isolate the timeframe too much considering that some initial problems that may have undermined democracy in Kosova may have been overcome in later years. It should be noted that my ambition is to use mostly documents that are from 2006 in order to have the mainly updated material. This will of course depend on their availability.

The first dilemma one is posed with in the studying of such a delicate case as mine is whether to use the term Kosova or Kosovo. The discourse is very sensitive to both parts, Albanians simply do not use the name form Kosovo which is Serbian and Serbs do not use the name form Kosova which is in Albanian. Both forms of names are used in the academic world. Noel Malcolm recognizes this problem in his work “Kosovo – a short history” and explains his usage of the name form Kosovo with it being the common form in most English publications (Malcolm 1998: A note on name forms and pronunciations). But despite this fact he uses Albanian name forms of some cities. Some Swedish writers use the name form Kosova. Sören Sommelius, writer for the internet based website *Kommentar* and Örjan Stursjö, with a Bachelor in East European studies prefer the name form Kosova. Sommelius argues that one of the reasons why name form Kosova should be preferred is because close to 90% of its population uses this term³. I will therefore not use the name form that 10% of the population in Kosovo use but the more common one used by the locals.

1.6 Disposition

This study starts with a short historical overview and moves on to looking more specifically at Kosova’s transitional phase. I believe this to be a necessary starting point if I am to find the initial difficulties that an international administration such as UNMIK was faced with. This section will be divided into two parts, one considering the civil resistance phase and the other the armed resistance.

I then move on to the primary goal of this thesis, determining the successes and failures of UNMIK through the assessment of democracy in Kosova. This section titled “Second try on democracy – democratization through international administration” starts with an overview on UNMIK’s mission statement. I then move on to applying the theoretical framework in order to evaluate the quality of democracy. The reader should note that for “beauty” reasons internet sources will be referred through notes at the end of every page and not directly in the text due to their length.

³ For further argumentation on why Kosova should be the preferred name form can be found at the net-based newspaper *Kommentar*’s website www.kommentar.org, click on archive and year 1992.

2 Background: What difficulties was UNMIK initially faced with in Kosova?

Kosova has a population of approximately 2 million; it is situated in south-eastern Europe bordering Serbia, Macedonia, Albania and the recently declared independent Montenegro⁴. Around 88% of those living in Kosova are ethnic Albanians, 7 % are ethnic Serbs and 5% are of other ethnic background.

To scrutinize the present political situation in Kosova it is of the outmost importance that we look in to the past. Not much is know about Kosova before the 14th century, where a massive battle was held in what is called the Kosova fields. The battle of 1389 consisted of both Albanians and Serbs Christians trying to fight off the Ottoman Empire. The battle was lost and Kosova fell under Ottoman rule (Malcolm, 1998:61). The battle is seen as a sacred one and often pronounced as the reason why Serbia should be in control of Kosova. The Ottoman rule lasted for more than 500 years when in the end of the 19th century it was weakened and in 1912 the rebellion to Ottoman rule began in Kosova. This ended with the meeting of the superpowers of that time (Austria-Hungary, Britain, France, Germany, Italy and Russia) in where an Albanian state was created and present-day Kosova put under Serbian control (Malcolm, 1998:257).

After WWII the communist federation of Yugoslavia was created consisting of six republics in which Kosova was one of two autonomous regions of Serbia, the other one was Vojvodina in northern Serbia (Malcolm, 1998:316). During these years there were severe injustices in Kosova. Demonstrations as a reaction to the injustices started by the majority Albanians who by the end 1960s demanded that more rights be given to the Albanians of Kosova. A milestone in this historical introduction to Kosova was in 1974 when Kosova in the new constitution of Yugoslavia was given a status that resembled that of the six republics. The big difference was that the republics had the right to leave the federation of Yugoslavia (Nilsson, 2004:5). The transition to the present day situation in Kosova starts in 1989 when Milosevic came to power, abolishing Kosova's status as a province.

One could start by making the claim that Kosovos transition to democracy was made through war and the subsequently intervention of NATO forces in 1999. But this claim would simply label Kosova a deviant case where we would loose important aspects of the transition that might determine the current situation of democracy in Kosova. It is of the outmost importance that we look closely into Kosovos past since the background of a society will also have an affect on the

⁴ See Appendix A for a geographical overview of Kosova.

success of the actor, in my case UNMIK trying to promote democracy. It is argued that a society with a history of pluralism, established civil society, developed institutions and a sense of a nation is more likely to benefit from democracy assistance and promotion (Newman in Newman & Rich (ed), 2004:201).

2.1 Civil resistance

The transition starts in a phase where Yugoslavia is breaking up and civil resistance amongst the majority Albanians in Kosova takes its shape. A popular mobilization against the discriminating policies applied by the Serbian rule is started through the organizing of parallel institutions in Kosova.

The Serbian policies meant that Kosova's judicial system was integrated to that of the Serbian, mass dismissals were enforced and laws passed that would make it more difficult for Albanians to purchase Serbian property while at the same time there were programmes of building homes for Serbs. This was a bid to change the ethnic structure of the province by bringing in Serbs and giving Albanians a reason to leave (Clark, 2000:72). As a result of this the Albanian political elite was gathered in the city of Kacanik where they declared the independent and sovereign republic of Kosova (Clark, 2000:73).

The Serbian regime, headed by hardliners reacted with force, dismissing all Albanian policemen from their jobs, replacing them with Serbs, closing TV Prishtina and sacking municipal politicians (Clark, 2000:75). This was then followed by mass demonstrations from Albanians and after the declaration of independence Kosova held under great difficulties for the first time elections in which 24 parties competed (Clark, 2000:83). By creating parallel structures there was also a political community created in which the majority of the people could belong to.

During this time a new political elite stepped in to the arena, headed by Kosovar⁵ elected but not internationally recognized President Rugova. His own political party organized what would be called the solidarity fund. This aided the deepening of the system of parallel structures. Parallel schools were created and sacked Albanian doctors created a parallel structure of medical care, offering free treatment to some categories of people, such as sacked teachers and miners (Clark, 2000:106). These were supported financially by the Albanian Diaspora. LDK was the main political party of that time and numbered close to 700 000 members throughout Kosova. LDK drew from communist-era political structures and consisted of village organizations and clan structures. Civil society during the civil resistance was close to non-existing. The Mother Theresa Society was one of few organisations active at this time; they were responsible for the LDK Social

⁵ The term Kosovar is used when referring to the population of Kosova as a whole, including all minorities.

Welfare and Solidarity Centre. Julia Nietsch concludes in her paper “Civil Society in Kosovo” that the NGO:s of this time were strongly politicised, ethnically segregated, oriented towards providing service and therefore taking over government responsibilities (Nietsch, 2006:10). They were also closely linked to the civil resistance that they were rather resistance movements than NGO:s. In the late 90s these activities would cease to exist since the passive, civil resistance co-ordinated by LDK would fail.

2.2 Armed resistance

The armed resistance began after frustrations and doubts about the success of the silent civil resistance headed by the LDK. It had lasted for 10 years but student demonstrations in August 1997 made it clear to the Kosovar leadership that they were no longer in control. In November 1997 the KLA made its first public appearance by showing up in the funeral of their fallen soldiers (IICK, 2000:67). Serb forces would in a bid to crack down on the armed resistance, initiate a two-year long military campaign resulting in a humanitarian catastrophe (Hysa in Newman & Rich, 2004:283). Serb forces did not answer international calls for dialogue with the Albanians of Kosova but instead accelerated actions against the KLA and civilian population of Kosova. In a bid to intimidate the Kosovar Albanian population of Kosova Serb forces conducted trainings in the Peja region.

A report from Human Rights Watch looked into the situation in several villages of Kosova and concluded that many civilians including women and children had been killed during this time. It was reported that a range of human rights violations had been committed by Serb forces. Abuses from the KLA were also reported; they were concentrated on Serbs but also Albanians that were believed to be working with Serb forces (IICK, 2000:69). The Serbian offensive against the Jashari clan in the Drenica region where 58 were left dead created the KLA’s first martyr, Adem Jashari. Many were beginning to affiliate themselves with the KLA and the support for LDKs non violent resistance was fading. In the aftermath of the Serb offensive in Drenica both sides of the conflict started increasing their activity. Hundreds of Kosovar Albanians joined the KLA. Attacks against Serbian police stations increased at the same time as Serb forces, faced with the rapid KLA expansion, sent massive reinforcements and a large operation was put in place (IICK, 2000:71). The conflict escalated and many human rights abuses were reported. The FRY security forces were reported to be using excessive force and conducting executions. At the beginning of August 1998 reports estimated that as much as 300 000 Kosovar Albanians were displaced as a result of FRY attacks (IICK, 2000:74).

Many attempts to arrange a cease fire were made. Under threats of NATO bombing and mediation by US envoy Richard Holbrooke, an agreement was reached in October 1998. It stipulated that the Serbian military force was to be reduced and international observers allowed to enter Kosova. The KLA would take advantage of this and move its positions forward; they were trying to

strengthen their political influence (IICK, 2000:78). It was soon realised that the agreement would not hold and there was a renewed violence from both sides. Many calls were made for dialogue between the Kosovar Albanians and Serbians, a meeting was set up in Rambouillet, France. It is important to note that the Albanian delegation had representatives from both LDK and KLA (IICK, 2000:82). The delegation was headed by Hashim Thaqi, the political leader of KLA, who would later come to form PDK, LDKs main political opposition. The Albanian delegation signed the agreement that stated that KLA would be disarmed and all Serbian military and paramilitary forces would leave Kosova. Furthermore the agreement stipulated that Kosova would have a representative assembly and elections. It also left the political status of Kosova open to discussion after a three year period. The Serbian delegation rejected this and only one day after, on March 24, NATO launched its 78-day long bombing campaign against targets in Kosova and Serbia. It is believed that during the war as much as 90% of the population in Kosova was displaced (IICK, 2000:90). As the civil population fled into neighbouring Albania and Macedonia, Serb forces also confiscated their personal ownership and property documents to make it more difficult for the return of the displaced (Rogel, 2004:80). The continuing NATO bombing had a great impact on the Yugoslav government who yielded to demands for an immediate end to violence and the withdrawal of all military forces. As a result of this the NATO bombings ended on the 10th of June 1999, marking also the end to the war. United Nations Security Council adopted UN resolution 1244 that would ensure the post-war settlement.

2.2.1 The aftermath of the Kosovar Albanian resistance

United Nations would be faced with a situation not like any they had experienced before, it had overseen transitions before but been limited in time and they had operated in states. In Kosova state institutions had collapsed, those Serbs that ruled had fled and two Albanian parties were trying to fill the void. The LDK was no longer the only dominant political factor amongst the majority in Kosova, the war created for the first time a true political opposition to LDK in Kosova. LDK had sprung out of the civil resistance and the PDK out of the KLA.

The resistance, civil and armed, and the subsequently breakout of the war left Kosova not only in an institutional void but also resulted in a ruined economy, property rights issues, displaced refugees, missing persons and immense hatred amongst ethnic groups. The fact that Kosovas political status was left unresolved and to be discussed in the future would create one of UNMIKs greatest obstacles in creating democracy in Kosova (Pula in Bieber & Daskalovski (ed), 2003:207). The influential Kosovar Albanian political parties were left primarily concerned with reaching their long awaited independence then on democratization. The civil society that emerged after the war was also largely affected by it. Groups and movements that were created were initially interested in exposing Serbian atrocities committed during the above described crucial years of pressing for independence. UNMIK would also be faced with the obstacle of economic reform

and reconstruction considering Kosova's communist past. All these factors could most definitely affect the degree of success of democracy-building in Kosova.

3 Democracy-building in Kosova: A success or a failure?

Having determined the initial obstacles that UNMIK was faced with as a result of the civil and armed resistance in Kosova I will now move on to evaluating whether UNMIK has been able to overcome these and been successful in its mission of democracy building.

UNMIK had a slow start to fulfil its mandate but it initially succeeded in replacing the immediate chaos after the war. UNMIK accomplished in imposing a somewhat order by dismantling the KLA and the parallel structures. UNMIK has authorities to appoint provisional officials, decide which laws should apply and override any laws if UNMIK feels the need to do so (IICK, 2000:114). The international administration is organized in four areas of responsibility, so called pillars. The first pillar is responsible for humanitarian affairs, the second is the civil administration itself, the third is responsible for democratization and institution-building and pillar four is responsible for economic development (IICK, 2000: 101). Despite the fact that these pillars have different areas of responsibility they are also interconnected.

For Kosova to even be considered a democracy it had to have free, fair and competitive elections in where more then one party participated. In connection to this it was also important that media was supported, all in accordance with UNMIK:s mission statement. To meet these fundamental democratic necessities, elections were organized. Kosova has held both local and central elections; these have been dubbed successful in the sense that they have been both free and fair. But organizing elections was only a small step, nonetheless important, on the quest to democratizing Kosova. UNMIK has set ambitious if not somewhat diffuse goals for it to achieve.

UNMIK has besides organizing democratic elections been committed under UN resolution 1244 to among other things assist and develop democratic institutions⁶, civil society and the rule of law. Under paragraph 11 in UN resolution 1244 the international civil administration is obliged to:

“Organizing and overseeing the development of provisional institutions for democratic and autonomous self-government pending a political settlement including the holding of elections [...and] transferring as these institutions are established, its administrative responsibilities while overseeing and supporting the consolidation of Kosovo’s local provisional institutions”⁷

⁶ For an overview of the structure of the Provisional institutions of Self-Government the reader is referred to Appendix B of this thesis.

⁷ United Nations Resolution 1244, adopted by the Security Council on the 10th of June 1999.

Under the framework of UNMIK⁸, who has the legislative and executive power, the OSCE mission in Kosovo, referred to from now on as OMIK has the mandate to:

“[Head...][h]uman resources capacity-building, including the training of a new Kosovo police service within a Kosovo Police School which it will establish and operate, the training of judicial personnel and the training of civil administrators at various levels, in co-operation, *inter alia*, with the Council of Europe; [...and] Democratization and governance, including the development of a civil society, non-governmental organizations, political parties and local media; [...but also] Organization and supervision of elections.”⁹

3.1 The rule of law

The judicial system in Kosovo under UNMIK administration is complex. The SRSG, which has the legislative and executive authority in Kosovo, also administrates the judicial system. In this sense the judicial system in Kosovo is not free from interference. Even though in theory the oversight of the judiciary in Kosovo has been transferred to the PISG, the international administration of Kosovo retain considerable power over it by having control of the judiciary's finances and policy decisions (Human Rights Watch, 2006: 14). This means that officials that take decisive decisions affecting the population of Kosovo are not held responsible for their acts and not subject to the law. UNMIK has effectively put themselves outside of the reach of the judiciary of Kosovo by issuing themselves privileges such as immunity. In one of UNMIK:s regulation it is recognized that high-ranking officials, without specifying what the SRSG considers high-ranking officials, are immune from local jurisdiction for any criminal act committed in the territory of Kosovo (Brand, 2001:478). OMIK, responsible for the development of institutions and the support of these institutions believe that one of the most important tasks of its mission is to ensure the rule of law; it has therefore created institutions for the development of this aspect. One of these important created institutions is that of the Kosovo Judicial Institute¹⁰ whose mission is to educate local judges and prosecutors.

A Kosovo police service is also in place, this police force has been trained by veteran policemen from abroad and numbers 6 000. It has had a positive effect since the crime rate has fallen steadily. Despite this though there are still elements in Albanian political and social life that make it difficult for the rule of law to apply to all. There are many high profile figures, such as former KLA and organized crime members that have created an air of untouchability (King &

⁸ See Appendix B for an overview of the constitutional framework of Kosovo.

⁹ For further information on the contents of OSCE decision no. 305 please visit:

http://www.osce.org/documents/pc/1999/07/2577_en.pdf

¹⁰ For further information on the created institutions by OMIK please attain the factsheet by visiting

http://www.osce.org/publications/mik/2005/06/14881_379_en.pdf

Manson, 2006:142). In connection to this there is a “code of silence” in Kosova bearing from the traditional *Kanuni i Lek Dukagjinit*, a code book that is of considerable importance for the Kosovar Albanians. It consists of codes of conduct and states that Albanians are prohibited from ever cooperating with police (King & Manson, 2006:102).

Kosovar Albanian leaders believed that without a clear political status for Kosova, the situation of the rule of law and other areas of importance to democracy would only deteriorate and in voicing the widespread opinion of the population. The Prime minister at that time Bajram Rexhepi argued that without a clear path for Kosova, without the determination of its international status, the population of Kosova was losing their hope. In 2003 the SRSG formulated the standards in which the PISG and Kosovar society had to meet in order to enter final status talks. These “standards before status” objectives consisted of eight areas. Those areas were: functioning democratic institutions, rule of law, freedom of movement, returns and reintegration, economy, property rights, dialogue with Belgrade, and the Kosova Protection Corp. Steiner argued that these benchmarks were established in order for Kosova to be a fair and just society and that it was necessary for its potential integration into European structures (Knoll, 2005:639). Kai Eide, a Norwegian diplomat was given the task to determine whether the time was ripe for Kosova to enter final status talks and if it had subsequently been successful in democratizing. He initially noted the remarkable achievement of setting up new institutions in a total institutional void and recognized the establishment of executive, judicial and legislative institutions in Kosova. Furthermore he recognized that the level of democracy had improved in a short amount of time (Eide Report, 2005:9)

Kai Eide noted in his 2005 report that the silence code was not the only factor that contributed to the failures of the rule of law in Kosova. He concluded that some Kosova institutions such as the customs services had made significant progress by establishing systems of accountability to combat corruption. In addition to this an anti-corruption agency has been created. Despite these efforts though it is assessed that the government has not been fully committed to combating corruption, the process has been slow and relevant institutions have failed to address the problem deeper. Furthermore it is believed that clan solidarity, inexperienced local law enforcement institutions and language problems have all been contributing factors to this problem (Eide Report, 2005:13). To overcome these serious flaws that undermine the quality of democracy it is advised that the Kosova institutions together with the international community acts with such an impact that it demonstrates the will to address corruption (Ibid). When looking closer to the legal system one finds that UNMIK holds a unique position in Kosova. UNMIK with the legal and executive authority in Kosova is part of the constitutional order at the same time as they are superior to it. Even though UNMIK managed to create functioning institutions in Kosova, with the police service being one the proud success stories comprised of 15% minorities, the legal framework has failed significantly in limiting the powers of the international administration. This is notably problematic considering the fact that until now UNMIK has retained considerable administrative authority over

justice and law enforcement, these are areas that are closely linked to the protection of human rights. (Knoll, 2006:287).

One of the most problematic issues of public access to justice remains physical access to courts in Kosova. In some areas of Kosova the ethnic composition has also posed an obstacle to the functioning of the judiciary. It is of the utmost importance that citizens are able to access courts in order to defend their constitutionally guaranteed rights. The fact that the city of Mitrovica is still ethnically divided, where the river Ibar separates Albanians from Serbs must be seen as failure. This has shown to physically affect the functioning of the justice system in Kosova because the Mitrovica municipality remains one of the most difficult and problematic ones in terms of access to courts. The Kosova institutions inability to unite the city of Mitrovica means that there is sometimes no transportation at all to the courts because of security reasons. This is further complicated by the fact that the courts are located in the Serbian part of the city and Albanians seeking access to the courts must be provided police transport for their own security (OMIK Minority Assessment Report, 2003:31).

3.2 Participation

In Kosova participation of all groups is guaranteed through the constitutional framework established by UNMIK. This framework offers minorities in Kosova positive discrimination in order to make it more attractive to participate in the democratic process. The assembly has 120 seats, in where 100 of these seats are based on the votes that the party wins. This would roughly mean that one seat is awarded for one percent of the vote. The rest of the 20 seats were reserved for the minorities in a bid to secure their participation in the democratic process. Ten of these seats were set aside for the Serbian minority and ten for other minorities, such as Roma, Turks and Bosniaks (King & Manson, 2006:117). Under many years the Kosovar Albanians and Serbs did not co-operate with each other, the Albanians looked towards their parallel institutions and the Serbs saw Belgrade as the legitimate ruler. Even though minorities are officially offered formal rights of political participation and the right to vote, UNMIK and the PISG has failed in creating a secure environment for non-Albanians to participate. The ethnic minorities in Kosova lack the needed freedom of movement for them to participate in the democratic process which according to Freedom House is an indicator that the actual level of democratization is low¹¹.

Participation among the population has in general dropped significantly, from the 78% voter turnout rates from the municipality elections in 2000 to 64% in the first elections to the Kosova assembly. The recent elections marked another drop in voter turnout to just about 50% (King & Manson, 2006:124). A continued drop

¹¹ <http://www.freedomhouse.org/template.cfm?page=22&year=2006&country=7112>

in voter turnout will most definitely affect the legitimacy of the democratic institutions of Kosova. Full participation may not be possible but the boycott of elections by the minority Serbs in Kosova because they feel that they do not have the needed security and freedom of movement in order to turn out to vote must be seen as failure for both the international community and PISG (Hysa in Newman & Rich (ed), 2004:291). As argued by Diamond & Morlino (2005) this might be as a result of shortcomings found in the rule of law dimension since the minorities do not have the needed guarantees and shown effectiveness of the rule of law to participate, organize and turn out to vote. In the case of Kosova it is more complicated than that, for Serbs to participate it would also mean that they legitimize the PISG and in turn reaffirm an authority that they believe should rightfully lie in Belgrade.

The Serbs in Kosova believe that a reformed local government would give them the needed guarantees for security and against dominance of the Albanians. This process largely connected to the recently initiated status talks is in turn perceived by the majority Albanians as a threat to the territorial integrity of Kosova.

It is also believed that the decentralization process is an important one in order to insure the sustainable and feasible return of all displaced minority communities in Kosova. Decentralization will besides encouraging minorities to actively take part in the institutions of Kosova also be a means of protecting their identity and interest of their communities. Even though there has been progress made on this area, where the starting of five pilot projects are the most concrete examples there has been a lack of real efforts and political will to offer a sustainable solution (Eide Report, 2005: 17). Kai Eide believes that for Kosova to make significant progress in this important area there is a need for devolution of power and enhancing competences at local level. The reforms should be concentrated on municipalities where the majority are Serbs. Furthermore it is advised that these municipalities are granted enhanced competences in justice, education and the appointment of key officials (ibid).

The decentralization issue is considered of such importance that it has been left to be discussed through shuttle diplomacy headed by the Finish diplomat and former President Ahtisaari. A solution is believed to be addressed in Ahtisaari's final proposal for the solution of Kosovos' political status. Democratic participation is believed to be supported by decentralization and there have already been wide-ranging efforts to reform the local government in Kosova. This is believed to bring democratic representation closer to the people. Considering the characteristics of Kosova the aim has been to create municipalities based on multi-ethnicity. A framework for this has been prepared by a broad working group consisting of both international and local actors such as the democratically elected institutions (Baskin, 2004:23).

Furthermore democracy is high when citizens influence policy making by participating in civil society organizations and engaging themselves in public activities in local democracy level. This watchdog function is also believed to be one of civil society's main roles. In the first years of the international administration of Kosova this watch dog function was provided by the

International Crises Group who still issues reports. Local NGOs have started taking on this role but their activities, importantly crucial to holding public officials accountable, has been concentrated on the central government (Baskin, 2004:22). The international community has considered NGOs and subsequently a strong civil society as crucially important in bringing some order to war-torn Kosova. Civil society organisations would be able to represent citizen groups including marginalised and underprivileged groups. They would most importantly act as a check on the government of Kosova (Nietsch, 2006:7).

A strong civil society would also be able to bridge between the different ethnic groups and help create a multi-ethnic society from below. Before the war erupted the few NGO:s that operated in Kosova were upheld financially by the Albanian Diaspora as part of their contribution to the civil resistance. After the war ended the international community saw it necessary to build a strong civil society to support the democratization process. Their support lead to an inflation of NGO:s, but most of these NGO:s were unable to function properly since they were not ready to mange big sums of donor funds and were having difficulties implementing projects (Nietsch, 2006:13).

During the pre-war period NGO:s were connected to political parties and this is still the case with some NGO:s. Examples of this vary but some organisations such as the Mother Theresa society is connected to the LDK and many of LDK politicians are also members of the Mother Theresa Society. On the other hand PDK is largely affiliated with the Veterans' associations who play an influential role in Kosovar society. This close connection among political parties and NGO:s doesn't necessary have to mean that they are politically biased but it surly does affect their lobbying activities (Nietsch, 2006:18). The PISG are also believed to be receptive to civil society because they have been more then willing to receive advice from civil society in order to improve the performance of public sector. Despite this close connection of civil society with important and powerful actors in Kosova it can not really reach the highest level of state authority in the UN protectorate. UNMIK is perceived by civil society in Kosova to be actively unresponsive towards their work. The Management Systems International report on Civil Society in Kosova noted that UNMIK sometimes resembled a colonial power due to its unresponsiveness (MSI, 2004: 7). One must nonetheless note that media has a friendly attitude towards the civil society and there are regular debates organized by media outlets which should give NGO:s a good platform to have at least some influence. Because of some NGO:s humanitarian work during the civil resistance, the population in Kosova generally has a high regard for civil society (MSI, 2004:5).

3.3 Competition

The constitutional framework for provisional self-government in Kosova states that elections in Kosova are to be held every three years¹². There have been four elections in Kosova up to date. In 2000, one year after the war ended, Kosova held its first municipal elections, the following year Kosova held its first election to the Kosova-wide assembly. In 2003 Kosova held its second municipality elections and the latest elections have been held 2004, these were elections to the Kosova assembly. All of the four elections have been considered to have been conducted successfully. The Council of Europe election observation mission in Kosova regarding the assembly elections of 2004 in Kosova concluded in a report that the elections were conducted in accordance with the constitutional framework and were free and fair. Despite this though one must note that Kosova has had a negative trend in political and economic freedom according to Freedom House¹³ that has changes its status from partly free to not free.

Also an important aspect affecting the competition dimension is the exposure of the political parties in the media. Media in Kosova is highly politicized and they have repeatable targeted individuals with fierce campaigns without regard to their privacy and safety (King & Manson, 2006:131). These shortcomings were believed to be as a result of the absence of a self-regulative code of ethics among the press in Kosova. In March 2005 representatives of local media met up to adopt a press code. Local media has besides targeting rival political parties also been considered to foster hatred towards the Serb minority (King & Manson, 2006:129). During the March 2004 riots the OSCE noted that media in Kosova deserved criticisms because they were biased and careless by reporting in a sensationalist matter¹⁴. It should be noted that despite this the Council of Europe election report concluded, when observing media coverage of the elections, that the shown interest of the media for the elections was high and the coverage was balanced even though some of the media companies did not provide objective reporting¹⁵.

In assessing democracy by looking closer to the competition dimension one must also consider the electoral system, since this does affect the openness of the system to new parties. Kosova's proportional electoral system in which voters select from closed lists has shown to be ineffective in the sense that the system has created problems in the formation of government and led to the boycott of

¹² To fully read the contents of the constitutional framework for provisional self government in Kosova the reader is advised to visit: http://www.unmikonline.org/pub/misc/FrameworkPocket_ENG_Dec2002.pdf

¹³ <http://www.freedomhouse.org/template.cfm?page=22&year=2006&country=7112>

¹⁴ Ibid

¹⁵ The full report of the Council of Europe on the 2004 general elections can be found at: <http://www.coe.int/T/E/Com/Files/Events/2004-10-kosovo/20041023-conclusions.asp>

institutions by parties out of power. Furthermore this has effectively eliminated accountability of the elected (Baskin, 2004:5). The closed list system and Kosova being treated as a single electoral constituency had further consequences. It would mean that the party leaders were given great powers, they are able to hand-pick those that are on top of the list and would be guaranteed to be elected into the assembly. With this system they could effectively eliminate opponents within the party by placing them on the bottom of the list. The competitiveness of the political culture in Kosova would further be affected by rules in the constitutional framework. A controversial requirement was the regulation of how many candidates from each party list had to be female. It regulated that every third candidate in the top two-thirds had to be female. In addition to this, voters wouldn't be able to eliminate any candidate on the basis of them being female since the voting lists were closed (King & Manson, 2006:118).

One comes to understand the full scope of UNMIK's influential role in the Kosovar political society when looking at the decision making process of the assembly. If a draft law processed and voted through in the assembly is not believed to be adequate enough or it intervenes on areas restricted to the international administration it is not sent back to the assembly (Knoll, 2006:285). They add changes to the law as an attachment. This can be interpreted as effectively closing out the peoples representatives of a crucial stage in the decision making process.

Political Parties

As I have stated earlier Kosova is a multiparty system but to further understand the political culture of Kosova one must understand the characteristics of the political parties competing for votes. The political culture is, just as much of Kosovar society, divided amongst ethnic lines. Kosova has up to now no multi-ethnic political parties. The first and most important Serbian political entity is the coalition Povratak (Return). Povratak sees politics in Kosova as a part of Serbian politics and some of the participating parties in the coalition are parties that are based in Serbia. Povratak believes that it is not in their interest to participate in the governing institutions established by UNMIK. Their main goal has been to prevent Kosovar independence and not issues common in Kosova, such as deepening democratization of governing structures (Cocozzelli, 2004:2f).

The biggest and most influential political party in Kosova is the LDK. LDK's priority is as much of the other Albanian political parties, the liberation of Albanians, the independence of Kosova. It is not interested in democratization and this is also reflected in its internal party system. According to the OSCE, LDK's party statute still does not conform to the Kosova party law. It has for a long time had a dominant political leader, Ibrahim Rugova, the symbol of the civil resistance was party leader for all of LDK's 16 year long existence. LDK has despite its long struggle for Kosovar independence through passive resistance not managed to achieve its goal for independence. This puts into question its position among the majority Albanians as the most effective party to achieving the long awaited independence. LDK has over the years developed to a more inflexible party to deal with; this is believed to be the result of the decline in electoral

support during the latest democratic elections. It feels that it has to continue follow a strategy that will lead to the success they did not gain during the resistance (Cocozzelli, 2004:3). The moderate Ibrahim Rugova passed away in January 2006; this would be the starting point for a fierce power struggle among senior LDK officials. An internal party election was held where the new party leader, current president Fatmir Sejdiu was elected.

The second largest Albanian party in Kosova is PDK, most of the politicians in PDK are former high-ranking KLA-members during the armed resistance. The most powerful politician in PDK is Hashim Thaqi, who also challenged Ibrahim Rugova and LDK during the conflict by claiming to be the legitimate representative of the Albanian cause. PDKs influence is almost unchallenged in areas most hit by the war. Even if these areas are not enough to give PDK the majority support it gives it an important role in the political society of Kosova, since it claims to represent those who had sacrificed their life for the liberation of Kosova. This contributes to the nationalist credentials, which reinforce, that they are the party that really speaks for the Albanian cause and not the LDK (Cocozzelli, 2004:4f).

The third biggest but nonetheless influential Albanian party is the Alliance for the future of Kosova (AAK). It is based in the western Dukagjini region of Kosova and just like the PDK it is lead by former Albanian militants. It is lead by Ramush Haradinaj, a former KLA commander who is considered to be one of the most talented political leaders in Kosova. He was charged with committing war crimes during the conflict and in a move deemed as a show of political maturity he resigned from the post of prime minister and turned himself to the Hague war crimes tribunal. The AAK has developed a respected political structure, both local and international observers has praised AAKs internal structures. The party has developed an air of being oriented towards the future by having a significant youth and female memberships that is integrated to the decision-making process. It has tried, despite its leaders being former members of the KLA, to establish a reputation of a moderate political entity and been quite successful at it by taking a more soft rhetoric in connection to the status of Kosova (Cocozzelli, 2004:5).

One must recognize that the dominant political debate in Kosova is the same as it was by the end of 1999; it is dominated by the issue of the political status of Kosova. Albanian political parties are concentrated in the formal recognition of the state of Kosova despite the fact that the population is more concerned of practical issues such as security, employment and economic development. The international community is continuing its work on trying to convince the Albanian leadership into focusing on the above mentioned issues but the Albanian parties have all engaged into the political competition with one goal in hand; to be the party in power at the time of the achievement of independence.

3.4 Accountability

The dimension of accountability in Kosova brings many interesting factors to surface; it is definitely a relevant dimension to look closer to considering the complex administration of Kosova and diffuse mission statements that surrounds it.

The reports that I have been in contact with has shown that demanding accountability from the democratically elected instructions of Kosova has proven to be very difficult because of Kosovas' unresolved status and because it is under international trusteeship. The Kosovar Albanian political leadership would blame any failure and any attempt by media, groups or individuals to hold them responsible for any eventual failures on the lack of authority given to them by the international administration. The Kosovars would for example refuse to be held accountable for any failures in fighting crime and for the shortcomings in the judiciary because this was a formal authority that was reserved for the international administration (King & Manson, 2006:177). In order for UNMIK to create true democratic institutions it had to give those institutions real powers while at the same time being on track with the mandate given to it by UN resolution 1244. Michael Steiner, the SRSG during 2002-2003 noted in an email to UNMIK staff that the local institutions had to be given the chance to make their own mistakes. That developing local capacity meant being able to let go and let the institutions take credit or blame for their actions as more competences were transferred to them (King & Manson, 2006:167). Good governance and democracy is affected by the political uncertainty in Kosova as a result of an undefined status. In addition to this the veto power and oversight held by the international community over locally elected institutions has shown to have a negative effect on democracy in Kosova. It affects the responsiveness of the locally elected towards the voters (Baskin, 2004:7).

The institutions incompetence and ineffectively has also shown to be difficult to expose by the mere fact that the media are concentrated on reporting on UNMIK and on the Belgrade and only scarcely on the Kosova government. Initially the electorate was also without another important check on the government since it was a broad coalition in where the three major Albanian political parties cooperated and no real opposition existed (King & Manson, 2006:164). After the 2004 elections LDK won the majority votes and a coalition deal was reached with the third largest party AAK, this would create the first real democratic opposition in Kosova in where the second largest party PDK was left to voice its critiques and checks against the government of Kosova. These elections were seen as a great success because the strength of the assembly would now for the first time be tested by an opposition confronting the government. Kai Eide noted in his rapport that a parliamentary culture had not yet taken root, both the government side and opposition side had to adjust to their new roles and this was proven to be difficult. But nonetheless it is believed that the work of the

assembly has steadily improved (Eide Report, 2005:9). Despite this success the standards before status assessment concluded that the new institutions work was diluted by the strong tendency among politicians to see themselves as accountable to their political parties and leaders rather to the public they were elected to represent. Appointments to influential positions are therefore made on the grounds of political or clan connection rather than on competence. This has had a direct affect on the development of stable and robust administration since many civil servants are unable to distinguish between political authorities and the civil service. Accountability mechanisms are in place to address corruption and other irregularities and ensure that the rule of law is established. These do, however, not offer enough protection and there is for example more than enough evidence that there is insufficient respect for the Serbian language as the second official language of the PISG (ibid).

The Security Council had by approving resolution 1244 on Kosova effectively removed individuals their right to hold Kosova as a state accountable for violations of their rights in proceedings. The FRY could not be held accountable; it was stripped of all its authority (Knoll, 2006:290). To ensure that the rights of individuals would be upheld the international community created the office of the ombudsperson in Kosova. The ombudsperson was given the mandate to promote and protect the rights of individuals and ensure that individuals in Kosova are able to exercise their rights. It has the authority to receive complaints of misuse of authority by any citizen and investigate these (Brand, 2001:483f). These wide jurisdictions also cover complaints from any person in Kosova about human rights abuses by UNMIK. It is nonetheless important to note that even though the office of the ombudsperson is given wide authority it is limited to making recommendations and making relevant institutions aware of any human rights abuses (Chesterman in Newman & Rich (ed), 2004:103).

The ombudsperson has for example criticized the UNMIK:s practice of holding individuals in prison under long periods of time before they were brought before a court. There have also been reports from the ombudsperson stating that persons have been held in detention despite the fact that courts have issued a release order for them, this has included release orders issued by international judges (Chesterman in Newman & Rich (ed), 2004:104). Kai Eide considers in his report on the progress of standard implementations that the ombudsperson institution is the main protection against human rights abuse in Kosova and that it is very important to maintain its strength even when further competences are transferred to the locals. Its credibility must be maintained. There are also further actions planned in order to strengthen the human rights apparatus, with this purpose in mind there are plans for a Human Rights Advisory Panel (Eide Report, 2005:14)

4 Conclusions

The purpose of this thesis has been to examine and find the democratic consequences arising from an international administration such as UNMIK in the building of democracy in Kosova. The main question of this thesis has been to find the success and failures of UNMIK's democracy-building mission by assessing key dimensions of democracy. Under guidance from Larry Diamond and Leonardo Morlino's "Assessing the quality of democracy" this thesis focuses on assessing areas such as the rule of law, competition, participation and accountability. The secondary goal of this thesis has been to find the initial obstacles that UNMIK was faced with.

The overall conclusion of this thesis is that the status quo can no longer be justified and that the quality of democracy is low in Kosova with several shortcomings in the assessed dimensions. These shortcomings have in some aspects shown to be connected to the status quo. Nevertheless considering the initial obstacles that UNMIK was faced with this thesis has nonetheless found some significant achievements.

Initial obstacles

The first and most obvious obstacle that UNMIK was faced with was operating in a territory with no political status. It operated under resolution 1244 that stripped FRY of its authority over Kosova but did not specify Kosova's position in the international system more than by placing it under the authority of the United Nations. This was accompanied by the tremendous damages to Kosovar Society by the long civil and armed resistance in Kosova. UNMIK was faced with the reconstruction of the economy, property issues, and displaced refugees and most importantly operated in an institutional void. It had to start from scratch; its mission was more than promoting democracy. It had to create democracy.

Successes

UNMIK must be credited with the successful implementation of basic democratic institutions of self government. It organized elections with great success; it managed to revive the democratic process by supporting political parties and civil society. Furthermore media showed professionalism during elections giving it the needed attention and was largely unbiased in its reporting during the elections. It also quickly calmed the province by successfully creating the Kosova Police Service which is by far the most successful achievement of the international administration. It is one of few institutions that are truly multi-ethnic and inclusive. The customs service has also been successful and made significant progress by establishing systems of accountability to combat corruption, a phenomena that continues to undermine the work of the institutions of Kosova.

The Security Council had by approving resolution 1244 on Kosova effectively removed individuals their right to hold Kosova as a state accountable for violations of their rights in proceedings. The FRY could not be held accountable it was stripped of all its authority. To ensure that the rights of individuals would be upheld the international community created the office of the ombudsperson in Kosova. The office of the ombudsperson must be seen as a big step in the right direction because it gives the people a mechanism for protection. The Ombudsperson was given a broad mandate to promote and protect the rights of individuals and ensure that individuals in Kosova are able to exercise their rights.

Failures

This thesis has found extensive shortcomings in all of the assessed dimensions. Democracy in Kosova is as suspected a *defective* democracy in the sense that the lack of sovereignty has only offered limited guarantees for political freedom, it is exclusive in that there are in reality no incentives for the participation of the minority Serbs in the political process. Participation of all minorities is guaranteed through the constitutional framework of Kosova but in reality they are not represented in the assembly and they refuse to recognize the institutions of Kosova as the legitimate authority in Kosova. Merely participating in elections would legitimate the institutions. Furthermore they lack the basic freedom of movement and security to be able to take part in elections even if the constitutional framework offers them extensive powers granting them reserved seats in parliament.

There also significant problems surrounding the rule of law. This thesis has found that there are several shortcomings in the judicial system that does lead to a low quality democracy in Kosova. There are individuals in Kosova that are above the law and virtually unthreatened in their positions. This most definitely applies to the untouchability of the international officials in Kosova, their immunities and privileges despite their direct and influential position in Kosova implies that the rule of law does not apply to all. It is difficult to instil democratic values if all are not judged equally. The international community opted for the participation of all groups in the created institutions by choosing an electoral system with closed lists. That would guarantee that marginalized groups like women were represented in the municipalities and assembly. The overall goal was to ensure as a broad participation as possible and multi-ethnicity in the governing structures but this failed in many aspects. Civil society has been supported with large sums of money and has been a boom of NGO:s, but UNMIK has lacked in confidence for the civil society and shown to be unresponsive towards their work.

The party leaders, already very influential, were able to effectively eliminate opposition within the party and placed allies on top of the lists. One must conclude that a parliamentary culture has not yet developed. There is a strong tendency among party officials to see themselves accountable to their political leaders rather to the ones gave them the vote in democratic elections. Appointments to influential positions have also been made on grounds of political or clan connection rather than on competence. During this study of the status of democracy in Kosova this thesis managed to understand the scope of UNMIKs almost colonial role in Kosova when the decision making process was looked at

more carefully. It is interesting to note that at the same time as there have been efforts made on the participation dimension there has also been an un-democratic tendency in the work of UNMIK which has undermined the work of the PISG. UNMIK has used the power to intervene in the work of the assembly by adding changes to draft laws as an attachment, these changes have then not been sent back to the assembly and this has effectively closed out the peoples representatives from a crucial stage in the decision making process.

What can be done to enhance the quality of democracy then?

The issue of the political status of Kosova has shown to have a negative effect on many aspects of Kosovar Society. It affects the work of the institutions by taking far too much attention from more practical issues that the population are interested in and it surly affects the overall success on the process of democratization. Albanian political parties are not interested in democratization but merely on being the ones credited with the achievement of independence. On the other hand Serbian political parties actively work to stop any tendencies towards independence. By determining the political status of Kosova the institutions can effectively go on to enhancing democracy because they then will also have the needed authority to do so.

There are many options to solving this issue. One might be the option of hearing the will of the overwhelming majority in Kosova by granting Kosova its independence. This will surly not be an easy task to drive through but it is a necessary step considering that the international administration of Kosova is failing in many aspects of its democracy-building. The legitimacy of the international community will be difficult to uphold for much longer. The population of Kosova and political actors must feel that they have made significant progress to govern themselves and subsequently take the consequences of their own actions. Just as former Prime Minister Bajram Rexhepi stated, without a clear path for Kosova, without the determination of its international status, the population of Kosova will loose their hope. Another option might be that Kosova is granted supervised independence were a similar mission as that of the one in Bosnia is transferred to Kosova. The year 2007 will most probably give definitive answers to what the future holds for Kosova.

5 References

- Bjereld, Ulf, Demker, Marie & Hinnfors, Jonas, 1999. *Varför Vetenskap?* Lund: Studentlitteratur
- Brand, Marcus G, 2001. "Institution-Building and Human Rights Protection in Kosovo in the Light of UNMIK Legislation", p. 461-488, *The Nordic Journal of International Law*, Vol. 40, No. 4, Netherlands: Brill.
- Chesterman, Simon, 2004. "Building democracy through benevolent autocracy: Consultation and accountability in UN transitional administrations" in Newman, Edward & Rich, Roland (eds), *The UN Role in Promoting Democracy: Between Ideals and Reality*. New York: United Nations University Press.
- Clark, Howard, 2000. *Civil Resistance in Kosovo*. London: Pluto Press
- Diamond, Larry & Morlino, Leonardo, 2005. *Assesing the Quality of Democracy*. Baltimore: Johns Hopkins University Press.
- Hysa, Ylber, 2004. Kosovo: "A permanent international protectorate?" in Newman, Edward & Rich, Roland (eds), *The UN Role in Promoting Democracy: Between Ideals and Reality*. New York: United Nations University Press.
- Independent International Commission on Kosovo (IICK), 2000. *Kosovo Report: Conflict, International Response, Lessons Learned*. Oxford: Oxford Universty Press.
- Knoll, Bernard, 2006. "Beyond the Mission Civilisatrice: The properties of a Normative Order within an internationalized territory", p.275-304, *Leiden Journal of International Law*, Vol. 19, No.2, Great Britain: Cambrige University Press
- Knoll, Bernard, 2005. "From Benchmarking to Final Status? Kosovo and the Problem of An International Administration's Open-Ended Mandate", p.637-660, *The European Journal of International Law*, Vol.16, No.4, Oxford: Oxford University Press.
- King, Ian & Mason, Whit, 2006. *Peace at any price: How the world failed Kosovo*. London: Cornell University Press.
- Lundquist, Lennart, 1993. *Det vetenskapliga studiet av politik*. Lund: Studentlitteratur.
- Malcolm, Noel, 1998. *Kosovo: A short history*. Great Britain: Macmillan
- Merriam, Sharan B., 1994. *Fallstudien som forskningsmetod*. Lund: Studentlitteratur
- Narten, Jens, 2006. "Building local institutions and parliamentarianism in post-war Kosovo: A review of joint efforts by the UN and OSCE from 1999-2006", p.114-159, *Helsinki Monitor*, Vol. 17, No.2, Brill.

- Newman, Edward, 2004. "UN democracy promotion: Comparative advantages and constraints" in Newman, Edward & Rich, Roland (eds), *The UN Role in Promoting Democracy: Between Ideals and Reality*. New York: United Nations University Press.
- Nilsson, Jonas, 2004. *Världspolitikens dagsfrågor Nr.10: Kosovo under FN-styre*. Stockholm: Utrikespolitiska Institutet.
- O'Donnell, Guillermo, 2005. "Why the Rule of Law Matters" in Diamond, Larry & Morlino, Leonardo (eds), *Assessing the Quality of Democracy*. Baltimore: Johns Hopkins University Press.
- Pula, Besnik, 2003. "The UN in Kosova: Administering Democratization?" in Bieber, Florian & Daskalovski, Zidas (eds), *Understanding the war in Kosovo*. London: Frank Cass.
- Rogel, Carole, 2004. *The breakup of Yugoslavia and its aftermath*. Westport: Greenwood Press.

Web pages

- Baskin, Mark, 2004. "Developing Local Democracy in Kosovo". *International Institute for Democracy and Electoral Assistance*. Stockholm, http://www.idea.int/publications/dem_kosovo/upload/DLDK.english.low.pdf (accessed 09.12.06)
- Blair, Harry & Donaghey, Lorel & Velija, Dardan, 2004. Kosovo Civil Society Sector Assessment. Management Systems International (MSI). Produced for USAID/Kosovo and USAID Center for Democracy and Governance, http://www.usaid.gov/missions/kosovo/pdf/Kosovo_Civil_Society_Assesment.pdf (Accessed 22.12.06)
- Cocozzelli, Fred. 2004: Political parties in Kosovo. Program on Global Security and Cooperation, Social Science Research Council, Quarterly 11, <http://www.ssrc.org/programs/gsc/publications/quarterly11/cocozzelli.pdf>
- Constitutional Framework for Provisional Self-Government in Kosovo. 2001, http://www.unmikonline.org/pub/misc/FrameworkPocket_ENG_Dec2002.pdf (Accessed 13.12.06)
- Council of Europe, 2004. Conclusions and Recommendations of the Council of Europe Election Observation Mission (CEEOM IV) regarding the Elections for the Assembly of Kosovo, <http://www.coe.int/T/E/Com/Files/Events/2004-10-kosovo/20041023-conclusions.asp> (Accessed 07.12.06)
- Eide, Kai, 2005. In Annan, Kofi, *Letter dated 7 October 2005 from the Secretary-General addressed to the President of the Security Council, S/2005/635*, <http://www.un.org/Docs/journal/asp/ws.asp?m=S/2005/635> (Accessed 07.12.06)
- Freedom House, 2006. *Freedom in the World 2006: Kosovo*, <http://www.freedomhouse.org/template.cfm?page=22&year=2006&country=7112> (accessed 13.12.06)
- Nietsch, Julia, 2006. *Civil Society in Kosovo: The Interaction between local NGOs and the Provisional Institutions of Self-Government*,

http://www.oefz.at/oefzII/Conferences/Kosovo2006/Documents-Referenten/Vortraege/Text/JuliaNietsch_civil_society_Kosovo0106.pdf
(Accessed 11.12.06)

Organization for Security and Co-operation in Europe, decision no. 305, 1999,
http://www.osce.org/documents/pc/1999/07/2577_en.pdf (Accessed 07.12.06)
Security Council Resolution 1244, adopted in June 1999, [http://daccess-ods.un.org/access.nsf/Get?Open&DS=S/RES/1244%20\(1999\)&Lang=E&Area=UNDOC](http://daccess-ods.un.org/access.nsf/Get?Open&DS=S/RES/1244%20(1999)&Lang=E&Area=UNDOC)

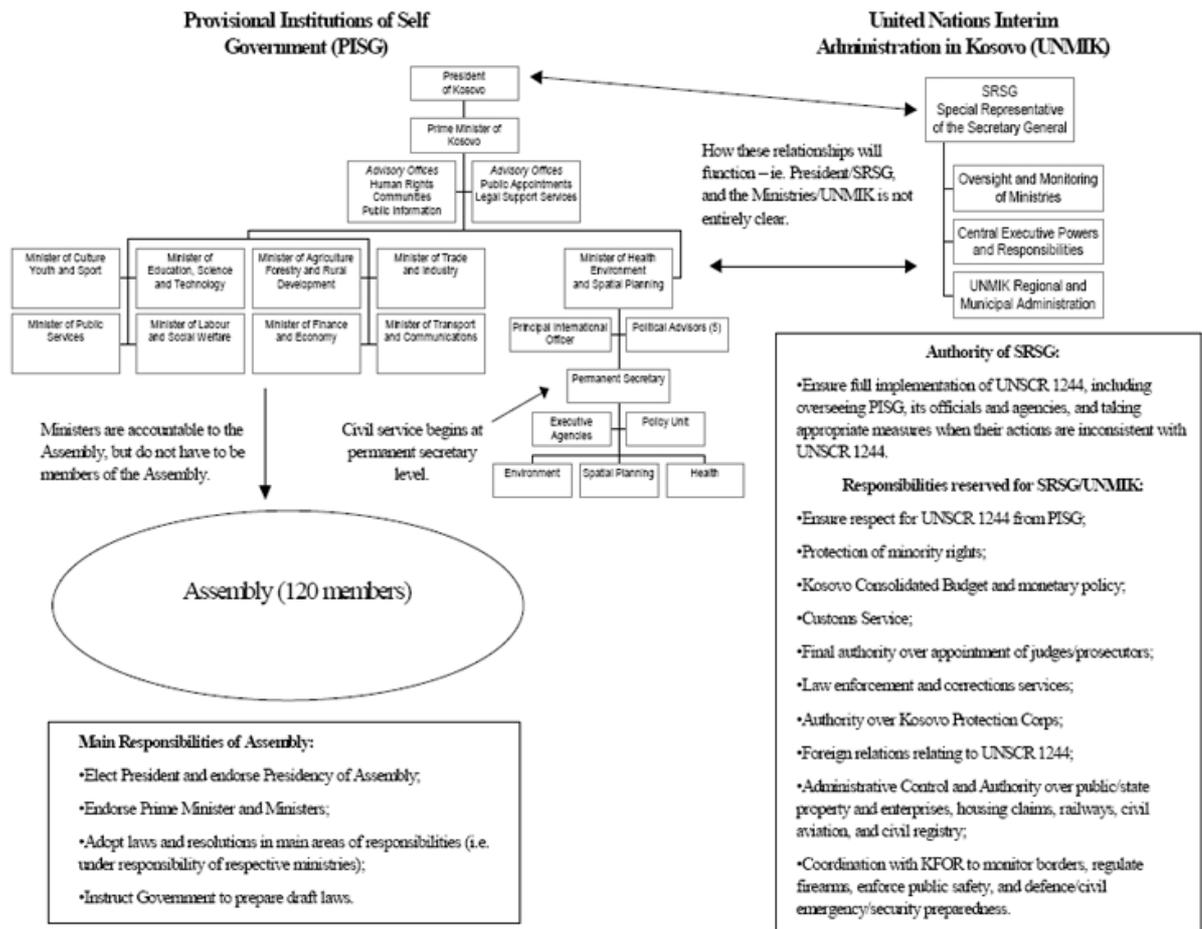
6 Appendix

Appendix A: Geographical overview of Kosova



(Source: IICK, 2000:226)

Appendix B: Overview of the institutional framework of Kosovo



(Source: ICG Balkans Report N° 125, 1 March 2002:23)