Law and Order in an Emerging Democracy: Lessons from the Reconstruction of Kosovo’s Police and Justice Systems

Jeremy M. Wilson

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“Nation-building” is an increasingly frequent activity of Western governments and the United Nations, with Kosovo an important recent example. This study examines the reconstruction by the United Nations of Kosovo’s internal security infrastructure from 1999 to 2004. It analyzes United Nations and other activities to build democratic police and justice systems. Through a model of security reconstruction, it examines in detail the primary security challenges facing Kosovo, the specific efforts the United Nations made to address these challenges, the ultimate effectiveness of the reconstruction in establishing stability and rule of law, and the linkages between reconstruction efforts and democracy. It concludes with several lessons for improving the effectiveness of such efforts in the future.

Keywords: Kosovo; nation-building; internal security; police; justice; democracy; United Nations

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Jeremy M. Wilson is an associate behavioral scientist at the RAND Corporation, the Willett Chair in Public Safety in the Center for Public Safety at Northwestern University, and an adjunct professor in the Heinz School of Public Policy and Management at Carnegie Mellon University. His research focuses on police administration, internal security, and violence. His recent and forthcoming books include Establishing Law and Order after Conflict, State and Local Intelligence in the War on Terrorism, and Community Policing in America. His other recent research includes examinations of local homicide patterns, gun violence interventions, community policing measurement, police-community problem solving, and creating a global counterterrorism network. He received his Ph.D. in public administration from The Ohio State University.

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of international military forces and include comprehensive efforts to rebuild a society’s security, political, and economic sectors. In some cases, such operations occur in a benign security environment with little or no resistance. In others, such as Somalia, Afghanistan, and Iraq, significant violence and insurgent activity accompany nation-building efforts.

In an analysis of nation-building activities in nine nations (Panama, El Salvador, Somalia, Haiti, Bosnia, East Timor, Kosovo, Afghanistan, and Iraq), Jones et al. (2005) offered some evidence that long-term prospects for democratic governance and stability depend especially upon viable police, security forces, and justice structures to deal with the most salient internal threats from insurgents, organized criminal organizations, and local militia. In this work, I examine UN and other efforts to establish security in Kosovo following combat between the North Atlantic Treaty Organization (NATO) and Yugoslav forces there in 1999.

I assume that studying the development of Kosovo’s internal security infrastructure can highlight ways to improve future efforts to support the establishment of democratic institutions in failed states.

In particular, this research focuses on how well nation-building efforts in Kosovo have established stability and rule of law. By establishing “stability,” I mean the development of a stable environment in which violence-prone groups such as insurgents or criminals are subordinated to legitimate governmental authority, reintegrated into society, or defeated. A stable environment is one in which the population is free from major threats to their safety and where national and international actors are able to rebuild political, economic, and other key governance institutions. Under “rule of law,” I include courts, legislatures, legal statutes and codes, executive agencies, and independent nongovernmental organizations (NGOs) such as bar and civic associations. The rule of law serves to protect people against anarchy as well as from arbitrary exercise of power by public officials and allows people to plan their daily affairs with confidence.

The remainder of this article provides a brief history of the Kosovo operation and how the UN set up Kosovo’s internal security infrastructure, including three fundamental challenges the UN had to confront in establishing stability and rule of law. I then offer a model of rebuilding internal security, which I use to explore Kosovo’s reconstruction process and how the UN addressed critical security threats. I conclude with some implications of this case study for similar situations in the future.

Background and Security Challenges

On June 9, 1999, following seventy-seven days of NATO air strikes, NATO and the Federal Republic of Yugoslavia signed a military technical agreement that led to the immediate withdrawal of Yugoslav army and police forces from Kosovo (NATO 1999). The United Nations Security Council subsequently authorized a fifty-thousand-strong NATO-led Kosovo Force (KFOR) composed of military from thirty contributing countries organized into five multinational brigades, one each led by the United States, the United Kingdom, France, Germany, and Italy. Additionally, the UN Security Council established the United Nations Interim
Administration Mission in Kosovo (UNMIK) to oversee the civilian administration of the territory.

UNMIK divided the provision of public security in Kosovo into three elements: KFOR, UNMIK international civilian police (CIVPOL), and an indigenous Kosovo Police Service (KPS) (UNMIK 2001). From the beginning, civil (as opposed to military) authority was principally responsible for law and order. CIVPOL maintained daily security and was tasked with developing and deploying the KPS. Full policing responsibilities were to be transferred to the KPS by the end of 2005 (UNMIK 2003). The role of NATO’s KFOR was (and continues to be) to provide law and order where CIVPOL lacked the capacity to ensure security.

Among the security challenges to overcome in Kosovo, my review suggests that three are particularly important: organized crime, corruption, and ethnic conflict. I contend that the perceived legitimacy of and confidence in the democratic police and justice institutions that UNMIK seeks to establish will likely be a function of its ability to address these challenges.

Kosovo’s multifaceted organized crime problem is manifest in several trafficking problems. Kosovo is both a destination and point of transfer for women and children being trafficked for prostitution (UNMIK 2003). As in other countries experiencing democratic transition, Kosovo also has a drug-trafficking problem (Jones et al. 2005). UNMIK (2003) claimed that roughly 80 percent of heroin consumed in Western Europe travels through the former Yugoslav Republic of Macedonia and Kosovo. Kosovo must also grapple with weapons trafficking, including that by the Kosovo Liberation Army (KLA), a remnant of the Kosovo independence movement (UNMIK 2003).

Kosovo’s corruption problem has included many high-ranking public administrators taking bribes and engaging in other unethical behavior since reconstruction efforts began in 1999. Organized criminals developed strong ties to former KLA members and existing political parties, through which they bribed and intimidated judges and prosecutors (U.S. Agency for International Development and the Organization for Security and Cooperation in Europe 2001), weakening public confidence in Kosovo’s security infrastructure. Preventing corruption is made difficult by the fact that for some, its long tradition in Kosovo has strengthened its usefulness as a simple means to an end (Spector, Winbourne, and Beck 2003).

Ethnic discrimination and tension are deeply rooted in Kosovo’s history and have often led to violence in the past. Reducing ethnic conflict lies in integrating the Serb and Albanian populations. Progress depends on integrating both groups into an institutional and social fabric that can reduce tension between them (International Crisis Group 2000).

A Model of Reconstructing Internal Security

To evaluate the process of reconstructing internal security in Kosovo, I use a model developed by Jones et al. (2005). As shown in Figure 1, this model depicts success in achieving stability and rule of law as a function of initial conditions, inputs, and outputs.
Initial conditions are those prevalent at the beginning of reconstruction. At least four of these can significantly affect reconstruction of internal security. The first is a functioning central government that, as defined by Weber (1958, 78), has a “monopoly of the legitimate use of physical forces within a given territory.” Literature and practice of the past decade have shown the importance of good governance in promoting economic development as well as pluralist, democratic, and effective political institutions (Einhorn 2001; World Bank 2000). The second is the existence and effectiveness of the security forces. The third, rule of law, requires an effective justice system and security forces at the beginning of reconstruction. Rule of law institutions are difficult to strengthen through external assistance because they are deeply embedded in the social fabric, contribute to legitimizing the state, and are heavily influenced by the cultural norms and values that shape institutions in any society (Fukuyama 2004, 59). The final initial condition is a peace agreement or formal surrender, which can significantly increase the likelihood of stability by convincing the combatants to shed their forces and surrender conquered territory.

Critical internal security inputs in the model include the external means for providing security and stability. First, the number and type of intervening troops affect how well the new security structure can defeat and deter insurgents, patrol borders, secure roads, combat organized crime, and conduct general law enforcement functions such as policing streets. Timing of troop arrival is also critical, particularly immediately after major combat in which external intervention may enjoy some popular support and international legitimacy and when potential insurgents and resisters have had insufficient time to organize. Second, financial assistance for training indigenous police, army, and justice personnel; providing equipment;
running ministries and courts; and building infrastructure (e.g., police stations, court houses, prisons) affect security and stability. Third, the duration of assistance similarly contributes to training, equipping, and mentoring of police and other security forces as well as building and refurbishing infrastructure. Some research suggests that successful nation-building requires at least five years (Dobbins et al. 2003, 2005). Fourth, knowledge regarding the availability of equipment is necessary to ascertain if troops have the tools required to conduct their security functions (e.g., weapons, computers, desks). Finally, prewar planning, including standard best practices and their applicability to local cultures and requirements, can help ensure that appropriate levels of funds, equipment, personnel, and trained and configured military and police forces are available.

Outputs are the first-order results of the assistance program. They may include the number of (1) indigenous trained troops, police, judges, prosecutors, and corrections officers; (2) police stations, courts, prisons, and other infrastructure facilities built or refurbished; and (3) ex-combatants who have completed a demobilization, demilitarization, and reintegration program. Outputs may also include difficult to quantify elements such as institutional development and reform of security ministries. Institutional development includes improving the institutional capacity of the recipient organization, whether a ministry or a security force, to perform its internal security mission. It may also include establishing democratic security institutions that serve individual citizens rather than the government, are accountable to the law rather than the government, protect human rights, and are transparent in their activities (Bayley 2001).

Outcomes of success include internal security functions that ensure stability and the rule of law. They are conditions that directly affect the public. Outcomes are not what governments and international institutions do, but the consequences of their efforts. Without the ability to measure performance, policy makers lack adequate means for judging success and failure in ongoing crises and for making midcourse corrections. Measurable outcomes include crime rates, levels of political violence and insurgency, and public perception of security, rule of law, and corruption.

Below, I review how the United Nations and its partners rebuilt Kosovo’s internal security framework and responded to the fundamental security challenges shown in the above model.

**Initial Security Conditions**

The conflict in Kosovo originated with the suspension of Kosovo autonomy and oppression of ethnic Albanians by former Yugoslav President Slobodan Milosevic (Daalder and O’Hanlon 2001). Kosovo had enjoyed semi-independence as an autonomous province of Serbia, granted by the former communist government in 1968 and reaffirmed in the 1974 constitution.

In 1989, Milosevic implemented direct rule from Belgrade and sought to take power from the ethnic Albanians and place control of Kosovo in Serbian hands (Hagen 1999). This included a prohibition on ethnic Albanians serving as judges,
prosecutors, and legal educators. Ethnic Albanians responded by forming a parallel society with its own public infrastructure and animated by nonviolent nationalist separatism (Hagen 1999). Given their exclusion from the legal system, ethnic Albanians returned to using traditional alternative dispute resolution mechanisms and reconciliation councils, essentially a form of arbitration overseen by village elders. These councils are credited with solving approximately one thousand blood feuds throughout the 1990s (U.S. Agency for International Development and the Organization for Security and Cooperation in Europe 2001).

Support among Yugoslavia’s Albanians for Kosovo’s independence grew as Yugoslavia collapsed and the KLA gained strength. The emergence of the KLA in turn provided justification for Milosevic’s ethnic cleansing of Kosovo, including the displacement of several hundred thousand Kosovar Albanians and the murder of many others (Hagen 1999).

As conditions worsened in Kosovo, the UN Security Council adopted Resolution 1199 on September 23, 1998, which demanded an immediate end to hostilities, a withdrawal of security units used for civilian repression, and an international monitoring team. In October 1998, Milosevic agreed to cease civilian attacks and to extract security forces from Kosovo. The Organization for Security and Cooperation in Europe (OSCE) deployed the Kosovo Verification Mission, comprising two thousand unarmed monitors (including five hundred police officers), to verify implementation of the agreement (Perito 2004). Nevertheless, Milosevic later ordered intensified military assaults (Solana 1999), and in February 1999 NATO brought the Serbs and the KLA together for negotiations at Rambouillet, France. Although an agreement was developed and signed by the Albanian Kosovars on March 18, Milosevic, who had been deploying Serbian forces to the Kosovo area during the talks, refused to sign (Solana 1999). On March 24, 1999, NATO initiated Operation Allied Force and began a bombing campaign over Kosovo and Yugoslavia. Milosevic yielded to NATO’s demands on June 9, 1999, after eleven weeks of intensifying battle. This paved the way for the United Nations Mission in Kosovo.

Reconstruction of the Internal Security Infrastructure

UNMIK organized its administration around four pillars: humanitarian assistance, civil administration, democratization and institution building, and reconstruction and economic development. Originally, CIVPOL (responsible for providing interim public security and developing the KPS) and the UNMIK Department of Justice (responsible for rebuilding and operating the judiciary and penal systems) were part of the civil administration pillar. But because the police and justice institutions lacked overall coordination, UNMIK, when later phasing out the humanitarian assistance pillar, created a new police and justice pillar that brought together CIVPOL and the UNMIK Department of Justice (UNMIK 2003). The UNMIK police organization was responsible for law enforcement, whereas the UNMIK Department of Justice oversaw all issues pertaining to justice and corrections.
The UN Secretary General charged the UNMIK Department of Justice with creating an unbiased, independent, and multietnic judiciary (UNMIK 2003). Established in July 1999, the UNMIK Department of Justice (originally named the Department of Judicial Affairs) has four sections: the Judicial Development Division, the Penal Management Division, the International Judicial Support Section, and the Office of Missing Persons and Forensics (UNMIK 2003). An independent Kosovo Judicial and Prosecutorial Council comprising both international and Kosovar members is responsible for recommending to UNMIK judicial candidates for appointment.

UNMIK and the KFOR constructed the Kosovo Protection Corps, the final component of Kosovo's internal security system. This organization was designed as a civil defense organization, tasked with reconstruction of nonmilitary facilities, search and rescue missions, disaster response, humanitarian relief, and infrastructure repair (Solana 1999).

Police provision

As in other nation-building efforts (e.g., El Salvador, Haiti, Bosnia, East Timor), international police in Kosovo assisted indigenous police in providing service. As of March 2004, forty-six countries were contributing to UNMIK CIVPOL, with the United States (11 percent), India (10 percent), Germany (9 percent), and Jordan (8 percent) providing the largest shares of CIVPOL officers (United Nations Security Council S/2004/348, April 30, 2004). UNMIK CIVPOL has two official goals: to establish law and order and to develop, implement, and ultimately transfer law and order responsibilities to a professional KPS (UNMIK 2001).

Upon withdrawal of Yugoslav forces, UNMIK deployed CIVPOL personnel almost immediately but in small numbers (Perito 2004). Within the first few weeks after the formal conflict ended, many CIVPOL personnel were transferred to Kosovo from Bosnia. Though unarmed, these officers created an immediate civil police presence. The KFOR provided security where civilian authorities could not. The difficulties of establishing an international police presence were threefold. First, it took time for the international police officers to arrive in Kosovo (Dobbins et al. 2003). Second, it took time to test and train international police officers at UNMIK’s Induction Training Center. Finally, once on site, CIVPOL officers lacked basic equipment such as vehicles and radios and even administrative supplies such as office space, desks, and stationery (International Crisis Group 2000).

UNMIK CIVPOL initially numbered about 1,800 officers in 1999: 95 officers per 100,000 Kosovo residents (Perito 2002). Figure 2 shows that by 2000, CIVPOL officer strength had increased to its current level of about 4,450: 237 officers per 100,000 residents (Jane’s Information Group 2004). UNMIK distributed its CIVPOL officers among three basic functions: traditional law enforcement (66 percent), special police units including paramilitary forces and a canine unit (25 percent), and border enforcement (9 percent) (UNMIK 2003).

Well prior to the beginning of reconstruction, the U.S. Department of Justice’s International Criminal Investigative Training Assistance Program (ICITAP) began detailed planning for indigenous police in Kosovo (U.S. Department of Justice 2004).
Many of the international police monitors with the Kosovo Verification Mission had helped to establish security in Bosnia, Haiti, Eastern Slavonia, and other areas; ICITAP drew upon and benefited from their experience. Together, they developed extensive plans for a first-responder system, incorporating elements of a police function but also much broader in scope. The idea was to create a general response system that could dispatch persons with training in areas such as first aid, human rights, and conflict resolution to riots, natural disasters, and other crisis situations. Other plans also detailed the creation and training of a new police force.

The OSCE was originally to have primary responsibility for civil administration, including establishing rule of law and constructing and operating the new police force, but the UN Security Council gave overall responsibility to UNMIK just after combat operations ended (Perito 2004). With little time to construct plans of its own, UNMIK adopted the plans developed earlier by ICITAP and OSCE. Under this arrangement, UNMIK recruited officers and OSCE trained them.

UNMIK began recruiting KPS officers in June 1999. In September, OSCE established the Kosovo Police Service School in Vushtrri (UNMIK 2003). By the time it became fully operational in March 2000, two hundred international police instructors from twenty-two OSCE member states staffed the school (Perito 2004). The official purpose of the school is to recruit and train professional KPS officers.
officers who act according to democratic police principles as instilled through ICITAP's training program (OSCE 2003; Perito 2004). The total amount of training offered to KPS recruits has increased considerably since the school was established, with the requirement as of 2004 being twenty weeks of basic training and fifteen weeks of field training (OSCE 2004b).

The Kosovo Police Service School graduated its first class with 176 recruits in October 1999 and contributed to a steady increase in the number of deployed KPS officers. In 2000, there were 2,516 KPS officers on the job in Kosovo; by 2004, there were 5,704 (United Nations Security Council S/2000/1196, December 15, 2000; S/2004/71, January 26, 2004; S/2004/348, April 30, 2004). As shown in Figure 2, the number of KPS officers surpassed CIVPOL officers in 2002. The growth of KPS over this time suggests that UNMIK made progress toward its main objective, the transfer of police authority to a professionally trained indigenous police force. Compared to other recent nation-building operations such as those in Afghanistan and Iraq, Kosovo has enjoyed a higher ratio of CIVPOL and national police to the total population and in general, the international teams have been more successful in training police (Jones et al. 2005). Jones et al. (2005) also determined that of the nine case studies they examined, Kosovo had the highest level of economic assistance for the overall mission (not just for internal security). They determined that Kosovo's annual aid per capita over the first two years of reconstruction was US$526, whereas it was US$225 for Iraq and US$30 for Afghanistan over a similar period.

UNMIK has also undertaken three other initiatives to address organized crime and related problems such as drug trafficking and weapons smuggling. First, it created several organizational units throughout the Police and Justice Pillar that focus on these issues, including a Central Intelligence Unit, Kosovo Organized Crime Bureau, Sensitive Information and Operations Unit, Trafficking and Prostitution Investigation Unit, Victim Advocacy and Assistance Unit, and an interim secure facility. However, the limited information on these units makes it impossible for me to assess their individual effectiveness.

Second, UNMIK has implemented various forms of legislation aimed at combating organized crime and improving criminal procedure. Of particular importance is the Provisional Criminal Code of April 6, 2004, which upholds international human rights standards and proscribes terrorism, trafficking in persons, and organized crime (UNMIK 2004b). Finally, UNMIK (2003) has established cross-border police information sharing through cooperative agreements with Serbia, Albania, and the former Yugoslav Republic of Macedonia.

Corruption of public officials may also pose a serious threat to Kosovo's security. In 2002 and 2003, police made several high-profile arrests of those involved in corruption. For example, in September 2002, UNMIK CIVPOL arrested the director of the property registration office for the Pristina municipality, who was accused of registering illegal property transfers and demanding bribes to register legitimate property transfers (UNMIK 2002). UNMIK (2002) estimated that twelve thousand (of a total of fifteen thousand) property transfers recorded in this office between 2000 and 2002 were of questionable legality. Other notable arrests for corruption have included the director of the public housing authority in Pristina and the director of the vehicle registration office for Pec (UNMIK 2002).
To improve its effectiveness in combating corruption, UNMIK created the Financial Inspection Unit within the Police and Justice Pillar in January 2003. Ten financial inspectors, from the Italian Guardia di Finanza, comprise this unit. Their primary purpose is to conduct random audits of any entity receiving public funds (UNMIK 2003). The new provisional criminal code also encompasses international conventions regarding corruption (UNMIK 2004b).

Because of the potential for interethnic conflict in Kosovo, UNMIK has sought to create a multiethnic KPS that reflects the ethnic composition of the population. In 2000, the ethnic distribution of Kosovo was 88 percent Albanian, 7 percent Serbian, and 5 percent other (Statistical Office of Kosovo 2003). In 2003, the composition of the KPS was 84 percent Albanian, 9 percent Serbian, and 7 percent other (UNMIK 2003). Such balance will not necessarily prevent ethnic hostility or even bias by the KPS, but such integration may have symbolic importance that can enhance public trust in democratic governance.

Still, while UNMIK’s attempts to address Kosovo’s major security challenges may help instill public confidence in fledgling democratic institutions, the actual effectiveness of these efforts will likely have a greater impact on public support for democracy. As Bayley (1999) contended, the police (and presumably the justice system) cannot create democracy, but they can facilitate or impede it.

**Justice system**

When UNMIK began its mission in Kosovo, the police were unable to ensure public safety, and there was no judicial system to conduct trials or prisons to incarcerate criminals (UNMIK 2003). There is now a tiered court structure for criminal and other cases, including twenty-four municipal courts for adjudicating less serious criminal cases (i.e., typically those carrying no more than a five-year penalty); district courts that adjudicate cases falling outside the jurisdiction of the municipal courts and provide review of cases initiated in the municipal courts; and the Kosovo Supreme Court, the court of last resort for all Kosovo (OSCE 2004a).

Within two weeks of their arrival, UNMIK staff created the Joint Advisory Council on Judicial Appointments (later replaced by the Advisory Judicial Commission), which began appointing judges and prosecutors. By June 30, 1999, UNMIK had appointed nine judges and prosecutors who served as a mobile judicial unit with jurisdiction over all Kosovo (Strohmeyer 2001). As of May 2004, the Special Representative of the UN Secretary General had appointed more than 320 judges (UNMIK 2004a). Establishing a court system helped Kosovo respond to its security challenges as those arrested for organized crime, corruption, and violence could now be brought to justice.

The initial code of law these prosecutors and judges enforced was that of Yugoslavia and Serbia prior to NATO intervention (Hartmann 2003). However, Albanian Kosovars detested this code because it had been applied in a discriminatory fashion against them in the previous decade. UNMIK therefore revoked the earlier code and replaced it with the 1989 law that had been in effect during Kosovo’s autonomy within Serbia.
But ethnic politics complicated the application of the law. The Kosovar judiciary primarily comprised ethnic Albanians because Serbs refused to accept appointments as judges and prosecutors out of fear or general resentment (Hartmann 2003). UNMIK had a somewhat greater challenge developing a multiethnic judiciary than it had in integrating the KPS; as of 2003, Serbians comprised only 4 percent of judges and prosecutors though they were about 7 percent of the population and 9 percent of the KPS (UNMIK 2003). Furthermore, experienced observers claim that the judiciary, 91 percent Albanian, failed to apply the law equally between the ethnic Albanians and Serbs because of community pressure, fear of ostracism or harm against self or family, or other bias (Hartmann 2003). This perceived ethnic disparity in the application of the law, as well as ethnic unrest in Mitrovica in February 2000 that included riots and interethnic violence, led the Special Representative of the UN Secretary-General to assign international judges and prosecutors to work in conjunction with the local judiciary (Hartmann 2003; UNMIK 2003). UNMIK presumed judges and prosecutors from other countries would not exhibit ethnic bias and would be less susceptible to corruption and pressure. By May 2000, non-Kosovars were permitted to serve in all five judicial districts (and not just that encompassing Mitrovica); by July 2003, there were sixteen non-Kosovar judges and ten non-Kosovar prosecutors serving the Kosovo court system (UNMIK 2003).

This initial infusion of non-Kosovar judges and prosecutors failed to stop many miscarriages of justice because Kosovar judges could still outvote the non-Kosovars who sat on panels with them. This led to the December 2000 creation of “64” panels, named for Regulation 2000/64 that permits the Special Representative of the UN Secretary-General to assign specific cases to a panel of three professional judges of whom at least two are non-Kosovar rather than the standard five-judge panel comprising two professional and three lay judges (UNMIK 2000). One notorious case ultimately assigned to a 64 panel involved an eyewitness identifying a suspect who used an automatic weapon to shoot Serbs socializing outside of a grocery store, murdering three (including a four-year-old child) and injuring five. The KFOR had previously arrested this former KLA member three times (twice for threatening Serbs), only to see the suspect released by an Albanian judge after an Albanian prosecutor dropped charges (Hartman 2003).

Another shortcoming in the justice system is a growing backlog of cases. At the end of 2001, there was a backlog of 33,538 civil and criminal cases; this backlog grew to 81,900 cases at the end of 2003 (OSCE 2004a). Contributing to this problem is a lack of judges (thirty-seven posts were vacant in 2003) and the unequal distribution of cases to judges (seven courts received more than 300 complex cases per judge, while seven others received less than 150 per judge). Additional problems identified by the OSCE (2004a) include noncompliance with established time frames and failure of necessary parties to attend proceedings, and numerous rights violations, such as the right to be tried by a tribunal established by law (in some cases, two-judge rather than three-judge panels were used), right to an impartial tribunal (in some cases, judges assumed the role of absent prosecutors, and some retrials were heard by the same, initial panel of judges), right to a
public trial (in some cases, date and place of hearings were not made public), and
the right to cross-examine witnesses (in some cases, witnesses’ prior statements
were read when they did not appear in court). The OSCE (2004a) anticipated
that some (though not all) of these issues would be resolved with the April 2004
implementation of the Provisional Criminal Procedural Code of Kosovo,
designed to improve efficiency and protect those being processed through the
criminal justice system.

In addition to having to reestablish a judicial system, UNMIK also had to rebuild
a correctional system. Many prisons were damaged or destroyed, and guards fled
along with the Yugoslav security forces, transferring prisoners to unknown locations
in Serbia (Strohmeyer 2001). The Penal Management Division of the UNMIK
Department of Justice was tasked with recruiting non-Kosovar experts, operating
Kosovo’s correctional system, devising a strategy to transfer correctional authority
to the Kosovo Correctional Service, and helping to reform the legal framework of
the prison system to ensure that it met international standards (UNMIK 2003). In
November 1999, the Penal Management Division assumed responsibility for the
Prizren Detention Center. Since then, it has assumed responsibility for and
restored four detention facilities in Pristina, Mitrovica, Gnjilane, and Pec/Paja and
two prisons in Dubrava and Lipljan (UNMIK 2003). Dubrava is the largest facility,
housing 67 percent of all Kosovo inmates in 2003 (UNMIK 2003).

The opening of these facilities has considerably increased Kosovo’s capacity
to incarcerate offenders, which could improve security through incapacitation of
chronic offenders. Figure 3 shows that prison capacity in Kosovo nearly tripled
between 2000 and 2003, increasing from 497 to 1,358 (United Nations Security
During this same time, the number of correctional officers quadrupled from 350
to 1,416 (United Nations Security Council S/2000/538, June 6, 2000; S/2000/1196,

Correctional instructors at the Vushtrri Police Academy train recruits for the
Kosovo Correctional Service. Non-Kosovar corrections officers have replaced
CIVPOL (i.e., non-Kosovar police) at the prisons and continue to assist the
administrators of the Kosovo Correctional Service. UNMIK has developed a
multiethnic correctional staff that is now actually more ethnically diverse than
either the total or the incarcerated minority population of Kosovo. Thus, in 2003,
Kosovo Correctional Service staff constituted 85 percent Albanians, 11 percent
Serbs, and 4 percent others; while Albanians constituted 90 percent, Serbs 7 percent,
and others 3 percent of Kosovo’s prison population (UNMIK 2003).

The number of inmates in Kosovo prisons has grown with the space to house and
staff to supervise them. As shown in Figure 3, the number of prisoners incarcerated
increased by 244 percent from 2000 to 2003 (United Nations Security Council
October 15, 2003). By 2003, the correctional system was operating at about
89 percent capacity. About one in three inmates was incarcerated for murder, with
an additional one-third being held for robbery or theft (UNMIK 2003).
Defense sector

UN Security Resolution 1244 (1999) called for an international security force to be deployed to Kosovo, which led to the creation of the KFOR. KFOR’s official purpose was to ensure a safe and secure environment that would facilitate the return of refugees and the implementation of UNMIK’s mandate (Perito 2004). Entering Kosovo on June 12, 1999, KFOR maintained responsibility for conducting patrols, maintaining public order, crowd control, information gathering, antiterrorism activities, and gathering intelligence on organized crime (Perito 2004).

As Yugoslav military and police forces withdrew from Kosovo, the KLA sought to assume power. One of KFOR’s principal tasks upon arrival was to demilitarize the KLA, a task facilitated through a June 21, 1999, agreement. Under this agreement, the KLA accepted a ninety-day demilitarization and reintegration process in which it relinquished ten thousand weapons, 5.5 million rounds of ammunition, and twenty-seven thousand grenades (International Crisis Group 2000). To speed up the demilitarization, UNMIK and KFOR created the Kosovo Protection Corps, a mostly unarmed civilian emergency service that provides rescue missions, disaster relief, and infrastructure repair. Many demilitarized KLA members assumed responsibilities in the Kosovo Protection Corps. The Kosovo Protection Corps currently employs more than three thousand persons and approximately two thousand reserves (United
Nations Security Council S/2004/348, April 30, 2004; Jane’s Information Group 2004). Although the KLA relinquished a large stock of arms and the KFOR commander certified that it had adequately demilitarized (Dobbins et al. 2003), the KFOR later discovered stockpiles of weapons, which led Jane’s Information Group (2004) to conclude that the KLA still maintain an armed capability.

Figure 4 shows that KFOR’s size has diminished from 45,000 troops in 1999 to 17,500 in 2004, or from 2,368 per 100,000 residents to 921 (Dobbins et al. 2003). Through an examination of the first five years of nation-building efforts in nine recent cases, Jones et al. (2005) concluded that Kosovo had the most troops per resident for each comparison year. Figure 4 visually demonstrates that the KFOR presence has decreased as police strength has increased. This is consistent with the conclusion that KFOR is succeeding in transferring responsibility for law and order to civilian police.

**Success in Establishing Security**

Security may help strengthen emerging democracies by increasing public confidence in the effectiveness of police and justice institutions and ensuring that
people can freely participate in democratic processes without fear of harm or reprisal. According to Jones et al. (2005), among recent attempts to establish law and order in emerging democracies, Kosovo is one of the most successful. We may gauge the effectiveness of the internal security and justice systems in a number of ways, but reliable indicators of success are limited. I have collected information on four types of law and order success measures: return of refugees, rule of law and civil liberties, crime, and corruption. I discuss below each measure and its relationship to security and democracy.

Return of refugees

Whether instability leads to the displacement of indigenous people may depend on variables such as the likelihood of improved conditions, the targets of violence, existence of better conditions in nearby nations, and the ability to emigrate elsewhere. Prior to NATO’s intervention, conditions were not improving in Kosovo, ordinary citizens faced discrimination and death, and surrounding countries provided a viable opportunity for refuge. Many ethnic Albanians therefore chose to flee Kosovo. Growing trust in the democratic institutions that established the security may enhance the public’s willingness to embrace democracy and its principles (Bayley 1999). Accordingly, I use the extent to which refugees return when a democratic government assumes administration as one indicator of how safe and secure citizens feel in relation to the new state authority.

UNMIK has done well in creating a police and correctional system that reflects Kosovo’s population but has been less effective in creating a judiciary that includes Serbs.

By NATO (1999) estimates, about 90 percent of Kosovo’s population had been expelled from their homes by May 1999. Refugees numbered more than 430,000 in Albania, 230,000 in the former Yugoslav Republic of Macedonia, 64,000 in Montenegro, 21,500 in Bosnia, and 61,000 in other countries. In addition, within Kosovo, about 550,000 persons were homeless and an additional 225,000 were missing.

Following the NATO intervention, refugees quickly returned. Within the first three weeks of June 1999, approximately 480,000 refugees had returned to Kosovo (Ramet 2000), or about 23,000 per day. By August 1999, about 90 percent of
Albanian Kosovars who fled Kosovo during the previous year had returned. However, there was less success with the Serbian population: by the end of July 1999, roughly 40 percent of the 2,000 Serbs living in Kosovo had fled under Albanian pressure (Ramet 2000).

**Rule of law and civil liberties**

I use perceptions of rule of law and civil liberties as measures of safety and security. They indicate the extent to which the public feels it can conduct daily activities free from an arbitrary and capricious legal system. Properly functioning justice institutions may enhance citizen trust in democratic governance (Bayley 1999), thereby increasing public participation in civic life. Conversely, poorly implemented justice institutions may inhibit trust in democracy (Bayley 1999). Structure and personnel are not enough to ensure an efficient, effective, and equitable justice system. The initial establishment of a justice system did not prevent Kosovar judges from acting in a discriminatory fashion or neglecting proper procedures. These abuses indicate the need to ensure that those assigned to specific positions are properly trained and remain objective in their application of the law. Future planners attempting to reconstruct internal security in emerging democracies should consider employing international staff trained in the provisional legal codes until indigenous personnel can effectively resume their responsibilities.

*Kosovo provides an example of a stabilization and reconstruction effort in which the UN and its partners secured a peace treaty between conflicting parties and attempted to develop a functioning criminal justice system early in the process.*

The Freedom in the World database offers some relative indication of the rule of law in varying nations including Kosovo, summarizing information on freedom of expression and belief, judicial independence, civilian control of police, and protection from police terror or torture and unjustified imprisonment (Freedom House 2004). Ratings range from 1, indicating *substantial civil liberties and a functioning rule of law*, to 7, indicating *no civil liberties and little or no functioning rule of law*. In the first year of reconstruction, Freedom House rated Kosovo’s rule of law and civil liberties as being the worst possible (i.e., 7). This rating has improved...
modestly since then, to a 5 by the fifth year, indicating reconstruction efforts have helped to enhance individual freedom, personal security, and procedural justice.

Crime

Crime is perhaps the most direct measure of safety and security. Crime reduction not only reduces the number of citizens who are victimized but may also lessen fear of crime and improve confidence in the public institutions that are charged with handling it (LaFree 1998). As shown in Figure 5, official crime data collected by the UN’s civilian police (UNMIK 2002) indicate rates of many violent crimes, such as murder, have decreased in the first three years of reconstruction. Of course, these data may be subject to weaknesses such as underreporting associated with official crime statistics (Mosher, Miethe, and Phillips 2002; Schneider and Wiersema 1990). Given the general agreement that the rigor and consistency of
murder reporting is greater than that for other crimes (Blumstein 2000; Smith and Zahn 1998), murder trends are especially important for tracking stability. Immediately after the intervention, up to fifty murders were being reported per week in Kosovo (Ramet 2000). By contrast, the number of murders in Kosovo decreased dramatically following the intervention: from 245 in 2000 to 68 in 2002, or from 13 per 100,000 residents to 4.

Figure 5 further shows that over this same period, the rates of attempted murder, kidnapping, attempted kidnapping, robbery, and arson dropped. These figures suggest that shortly after the Kosovo intervention, many forms of violence decreased. Some rates of crime, however, remained the same or increased. The frequency of aggravated assault doubled in this period, while that of rape remained roughly the same. Although it appears that violent crime overall fell during the first few years of reconstruction, it is not clear from these data that this trend can be attributed to the NATO intervention.

Data on murder by ethnicity may provide some indication of how the population of crime victims compares to the overall population. In 2000, persons of minority ethnicity (i.e., non-Albanian) comprised 12 percent of the Kosovo population but 34 percent of murder victims (UNMIK 2003). By 2002, minorities were only 9 percent of murder victims. Figure 6 presents these trends over time. So while there is some indication of declining rates of murder involving ethnic
minority victims, the numbers are too small and the time frame too short to allow
definitive conclusions.

As a specific form of violent crime, the extent of terrorism can also be used to
gauge the security environment. I obtained terrorism data from the RAND-MIPT
Terrorism Incident Database, a compilation of open-source material that is used to
monitor worldwide terrorism incidents. This database defines terrorism as violence,
or the threat of violence, calculated to create an atmosphere of fear and alarm,
designed to coerce action, and intended to produce effects beyond the immediate
physical damage of the cause, having long-term psychological repercussions on a
particular target audience (RAND-MIPT 2005). The number of terrorism incidents
fell in 1999 and remained at about the same level in 2004. Figure 7 depicts this and
further illustrates that terrorism-related deaths and injuries in 2004 are also near
their levels in 1999. Yet between 2000 and 2002, the targets and tactics surrounding
the terrorist incidents broadened considerably (RAND-MIPT 2005). Although the
identities of specific perpetrators are unknown and the number of incidents too small
to permit generalization, the circumstances surrounding these incidents suggest a
continued concern regarding Albanian-Serb relations and political and governmen-
tal progress.

NOTE: Data are through September 23, 2004.

![Figure 7: Terrorism in Kosovo, 1998-2004](image)
It appears that considerable progress was made in reducing traditional forms of crime during the first three years of the Kosovo operation. This could be explained by the increase in police levels to detect crime and enforce the law, judges and prosecutors to process criminal cases, and prison capacity and correctional staff to incapacitate and manage those found guilty of crimes, but there is no way to be certain. The limited data prohibit me from ruling out other explanations for these variations, such as changes in reporting, general trends in crime, other events that occurred, or developments in other sectors of the nation-building process (e.g., the economy or health and education institutions). Furthermore, the explosive interethnic violence that occurred from March 17 to 20, 2004, provides additional reasons for concern. Over these three days, 19 persons were murdered and 954 persons were injured; 730 houses belonging to minorities and 42 Serbian Orthodox churches and monasteries were damaged or destroyed; 65 UNMIK CIVPOL, 58 Kosovo Police Service, and 61 Kosovo Force personnel were injured; and 3,800 Serbs were displaced (United Nations Security Council S/2004/348, April 30, 2004).

Corruption

UNMIK did not address corruption suppression in the Police and Justice Pillar as explicitly as it addressed organized crime. Nevertheless, official corruption or even the perception of it may undermine the trust the public has in its government and civil service. Democratic institutions that effectively prevent corruption may, with persistence, facilitate democracy. In a cross-national study of corruption, Montinola and Jackman (2002) concluded that countries that transition to democracy may first experience heightened levels of corruption, which, if not suppressed, can inhibit the democratization process.

Perhaps the most vexing security threat facing Kosovo is the . . . interethnic strife [that permeates its history].

Objective data on the extent of corruption are not available. However, Spector, Winbourne, and Beck (2003) examined the issue by conducting a public opinion survey of 505 respondents and interviewing major stakeholders in anticorruption efforts, such as government staff, international administrators, donors, civil society organizations, business officials, and mass media representatives. They found that corruption, defined as the misuse of public office for private gain (including such acts as bribery, extortion, fraud, embezzlement, influence peddling, favoritism,
and nepotism), is less of an issue in Kosovo than other countries in the region, concluding that

despite public opinion and discussions in the mass media that presume very high levels of public corruption, it does not appear that corruption is a pervasive force in the governance process [or that] it . . . significantly undermine[s] the capacity of the government to perform its duties and deliver services in a fundamental way. (p. 2)

This is not to say that public corruption does not exist. Spector, Winbourne, and Beck (2003) provided two additional reasons why corruption is likely to remain an important issue in Kosovo. First, UNMIK has often not been transparent in its functions, leading many Kosovars to assume improprieties within it. Second, Kosovars perceive that compared to public institutions, private institutions are more corrupt. In particular, Spector, Winbourne, and Beck found that respondents perceived the private institutions of businesses, hospitals, and law firms to be among the most corrupt of all institutions. Yet in terms of public institutions, they also found that more than half the respondents rated corruption “high” or “very high” for customs, and about one-third had the same perception of political party leaders. Nonetheless, even these findings must be interpreted with caution. Spector, Winbourne, and Beck claimed to have surveyed a representative sample of the public, but they offered little discussion of their sampling frame, nonresponse rates, or the specific content of individual survey questions. This makes it difficult to assess the validity of their findings. Overall, then, available information does not demonstrate conclusively whether UNMIK was successful in curbing corruption. Instead, it indicates that improvement is necessary in terms of suppressing perceived and actual corruption as well as the need for better data collection efforts to assess corruption suppression progress.

Conclusions and Lessons

Kosovo provides an example of a stabilization and reconstruction effort in which the UN and its partners secured a peace treaty between conflicting parties and attempted to develop a functioning criminal justice system early in the process. The UN coalition quickly implemented a structure for the police and judicial systems, deployed increasing numbers of police officers and judicial officials, enhanced prison capacity, and attempted to counter important security threats through various organizational and legal vehicles.

This review noted three main challenges to the development of Kosovo’s security and described specific ways in which UNMIK has addressed them. Perhaps the most vexing security threat facing Kosovo is the ongoing interethnic strife. Integrating the Serb and ethnic Albanian populations appears to be a critical component of Kosovo’s future. A key way in which UNMIK has addressed this issue is by creating a multi-ethnic criminal justice system. UNMIK has done well in creating a police and correctional system that reflects Kosovo’s population but has been less effective in creating a judiciary that includes Serbs. Should this failure render the judiciary
ineffective, it may also undo whatever progress law enforcement is able to make in establishing law and order and building trust in Kosovo’s democratic institutions. The difficulty of forming an unbiased judiciary in Kosovo suggests that future reconstruction efforts should pay particular attention to the equity and effectiveness of all institutions charged with law and order responsibilities. Nonetheless, relative to other recent cases of nation-building, Kosovo stands out as one of the more successful attempts to reconstruct a complete justice system (Jones et al. 2005).

A multiethnic police and justice system may help to establish a more equitable application of law and serve as an example for other public institutions, but it will not resolve interethnic differences by itself. Instead, such a system can only help reduce interethnic disparities and violence through effective prevention and enforcement of rule of law. In this endeavor, UNMIK has been, at best, partially successful.

[1] Internal security reconstruction efforts in Kosovo have been more successful at establishing law and order [than in many other places].

Addressing issues such as ethnic discrimination takes time, planning, assistance, and persistence. Developing and implementing a criminal justice system is a necessary but not sufficient component for reconstructing security and justice. It is also important to address the underlying causes of unrest. Establishing a formal peace treaty among the conflicting parties is a first step in resolving a conflict. President Milosevic signed a military technical agreement that required Yugoslav military and police forces to withdraw to end conflict. The signing of peace treaties usually represents a period of relatively low levels of hostility because, at the moment of signing, they represent the parties’ will to end the violent phase of their conflict (Doyle and Sambanis 2000; Walter 2002). They also facilitate international involvement in the form of loans and foreign aid (Dobbins et al. 2003, 2005; Doyle and Sambanis 2000; Walter 2002). Formal surrenders can also increase the likelihood of stability. The destructive defeat of a regime undermines its credibility and demonstrates that it can no longer deliver vital services to the population. These lessons were largely ignored in Iraq and Afghanistan, where the United States and its allies did not secure either a peace treaty or a formal surrender. The broader lesson is to direct sufficient diplomatic and military resources toward negotiating peace treaties among warring parties in cases of civil war.
and formal surrenders from defeated powers in cases of interstate war. A peace agreement or formal surrender can help convince combatants to demobilize and demilitarize, while a lack of one creates little impetus for opposing factions to do so. Not having a peace agreement or surrender has contributed to greater challenges such as those posed by warlords and regional commanders in Afghanistan and by militia and insurgents in Iraq (Jones et al. 2005).

Compared to many other places, internal security reconstruction efforts in Kosovo have been more successful at establishing law and order. The rule of law improved over the course of reconstruction, and the level of violence decreased. Why was Kosovo comparatively effective? According to Jones et al. (2005), the chances of success in these nation-building exercises are strongly affected by conditions at the beginning of reconstruction. Compared to other nation-building exercises, the amount of financial assistance, duration of assistance, size of international military and police, and size of national police (and the proportion of them trained) for Kosovo were consistently high. Kosovo had the highest level of civilian police forces of nine recent nation-building cases (Jones et al. 2005), and the police forces were armed and given arrest authority. This provides some evidence that traditional law enforcement may be better left to civilian authority. While it is important to ensure that military authorities are ready to assume public security responsibilities after major combat, it is also important to recognize the importance of a strong civilian police force. In Kosovo, carabinieri and gendarmerie forces were put under civilian, not military, authority. This contrasts with recent U.S. practices in Iraq and Afghanistan. Military and civil police have different training, purposes, and expertise, and it is important for both to be part of an international security force (Perito 2004).

A final lesson is the critical need for data regarding reconstruction. It is important to develop and use outcome-based metrics to define program success and managerial performance. Data can help determine progress toward achieving goals and identify what may be facilitating or impeding progress. Relative to other recent operations, more data are available regarding the inputs in Kosovo and the resultant outcomes. Such data enhance evaluations of reconstruction. Even in Kosovo, however, data were seriously limited. These limitations included a lack of consistent data over time, the length of time for data to become available, differing estimates of the same variable, and minimal detail regarding criminal offenses. It is no doubt difficult for occupying forces to collect data while consumed with reconstruction activities. Nonetheless, the success of operations can be improved if decision makers couple data collection plans with their operational objectives so that performance can be gauged and midcourse corrections made.

Planning for future operations based on past experience can help reduce the overall trauma associated with these complex and important efforts. It is important to enhance the ability to establish law and order in emerging democracies for many reasons. Most important is the need to protect citizens from all forms of crime. Forming a safe and secure environment also contributes to the conduct of other nation-building activities and to the overall transition to democracy.
Police and justice institutions are some of the most visible and heavily used public entities. They are the institutions of the democratic government with which ordinary citizens interact most frequently. Consequently, public support for democracy is likely to be associated with the extent to which citizens trust their police and justice institutions and believe them to be legitimate and effective.

Notes

1. Financial assistance has some limitations, and more is not always better. In industrializing countries, governments do not always have the capacity to spend large amounts of money. Furthermore, corruption may reduce the viability of financial assistance.

2. Specifically, these included trafficking in persons, possession of weapons, unauthorized border and boundary crossing, terrorism, protection of injured parties and witnesses, witness cooperation, organized crime, covert and technical measures of surveillance and investigation, use of written records in criminal proceedings, criminal code, and criminal procedure code.

3. The Organization for Security and Cooperation in Europe (2004a) did not provide a precise definition of what exactly constituted a complex case but indicated that such cases include investigation, criminal cases, juvenile cases, civil cases, inheritance, and noncontentious cases.

4. The data for 2004 only account for incidents through September 23, 2004. During the January to September time frame, eleven terrorism incidents occurred in 2002, and there were ten incidents in 2004. This suggests that the total number of incidents in 2004 may be somewhat close to the number of incidents in 2002.

References


Dobbins, James, Seth G. Jones, Keith Crane, Andrew Rathmell, Brett Steele, Richard Telschak, and Anga Timilsina. 2005. The UN’s role in nation-building: From the Congo to Iraq. MG-304-RC. Santa Monica, CA: RAND.


———. 2004b. New class of cadets to graduate from OSCE Kosovo Police School. Pristina, Kosovo: OSCE.


