

INTERVENTION, CONSOCIATIONALISM
AND DE FACTO PARTITION:
THE ROLE OF THE EXTERNAL DIMENSION IN
SHAPING POST-WAR KOSOVO 1999-2012

Arben Qirezi

PhD in Political Science

National University of Ireland, Galway

Ollscoil na hÉireann, Gaillimh

2014

ABSTRACT

Consociational systems in post-conflict societies have been increasingly subject to international intervention. Whereas the literature argues that consociationalism has become the blueprint for international post-conflict institutional design, there remains the need of in-depth exploration of the external dimension of consociationalism. This thesis explores the relationship between international intervention and the viability of consociationalism in Kosovo as a crucial case of international intervention. In doing so, one question is asked: How has international intervention shaped Kosovo's complex consociational design? The four constituting elements of consociationalism are examined: the electoral system, executive power-sharing, veto powers and autonomy. Forty-one elite interviews including international civil servants and Kosovo leaders from all ethnic communities were conducted.

The thesis finds that each consociational element examined displays high levels of instability, a persistence of international micro-management and de facto partition pairing with consociational design. Secondly, rather than an international blueprint of international intervention, Kosovo's consociational design was shaped in response to short-term concerns about internal and external stability. Thirdly, rather than a bottom-up reaction of Kosovo Serbs to Kosovo's institutional evolution, a novel finding here is that international interveners played with both consociation and de facto partition strategies due to the failure to timely address Kosovo's final status. Thus, international interveners undermined what they imposed by establishing excessive control over Kosovo's institutional evolution and by allowing, condoning, and at times, facilitating, Belgrade-steered partitionist intervention which exists in tandem with a weak and unviable consociational design resulting in an unviable state.

ACKNOWLEDGEMENTS

First, I thank my supervisor, Brendan Flynn, whose constant intellectual companionship, regular feedback and advice during these years has provided me with the confidence and patience to go over the many tasks associated with the completion of this thesis.

My gratitude goes to Prof. Christopher Curtin, who has had the confidence in my ability to undertake this extensive project. I would also like to thank Niall O'Dochartaigh for his critical comments during the thesis board meetings. I am deeply grateful to all people I interviewed for their time and for sharing their insights. Without their generosity, this research would have never been completed. Among many other friends, my special thanks go to Shaun Byrnes- and his wife Jill - for their friendship, constant interest and support for my progress and my professional development during my studies.

I thank both my parents for teaching me that the easiest way is not always the best. My deep gratitude goes to my late mother, Hylkije, whose integrity, love and sacrifice will always remain a source of inspiration for me. I thank my sister Valbona, whose financial and other support helped me overcome the difficulties of being a PhD student.

Foremost, I dedicate this thesis to my wife Bardha and to my children Lekë, Rron and Alisa. As with many other things in my life, without my wife, I would have never been able, nor would I have the courage to undertake this endeavour. Her love and devotion kept my passion for this project intact throughout many years. Her daily encouragement, persistence and listening were as important to complete it. My children's patience to my long hours of work and their understanding of its importance was the first sacrifice in their lives. I am deeply and humbly grateful to them for being such good persons.

TABLE OF CONTENTS:

ABSTRACT.....2

ACKNOWLEDGEMENTS.....3

LIST OF TABLES AND FIGURES.....6

1 KOSOVO AND THE RESEARCH OF THE EXTERNAL DIMENSION OF CONSOCIATIONALISM.....9

1.1 PURPOSE, RESEARCH QUESTIONS AND PROPOSITIONS 10

1.2 THEORETICAL FRAMEWORK 16

1.3 CONSOCIATIONAL LITERATURE AND KOSOVO..... 17

1.4 BACKGROUND 20

1.5 METHODOLOGY 27

1.6 OUTLINE OF THE STUDY 38

2 LITERATURE REVIEW: THE COERCIVE CONSOCIATIONAL CASE40

2.1 THE TRANSFERABILITY OF CONSOCIATIONALISM..... 43

2.2 THE SHIFT OF THRESHOLDS IN THE COMPLEX POWER-SHARING THEORY: THE INSTITUTIONAL PARADIGM 50

2.3 LITERATURE ON KOSOVO 56

2.4 CONSOCIATIONAL ANALOGIES 71

CONCLUSION 77

3 THE ELECTORAL SYSTEM.....79

3.1 THE PROCESS OF IMPOSITION OF PR WITH RESERVED SEATS 81

3.2 THE RELATION BETWEEN CONSOCIATIONALISM, DEMOGRAPHY AND GROUP ELITES-DOES KOSOVO FIT?..... 94

3.3 THE FAILURE OF THE CONSOCIATIONAL EXPERIMENT DURING 2001-2008 106

3.4 THE POST-INDEPENDENCE PERIOD 114

CONCLUSION 122

4 EXECUTIVE POWER-SHARING125

4.1 UNMIK’S POST-CONFLICT STIFLING OF EXECUTIVE POWER-SHARING 127

4.2 EXECUTIVE POWER SHARING UNDER THE CONSTITUTIONAL FRAMEWORK (2002-2007) 139

4.3 POST-INDEPENDENCE EXECUTIVE POWER SHARING..... 152

CONCLUSION 167

5 VETO POWERS170

5.1 THE ESTABLISHMENT OF VETO ARRANGEMENTS WITHIN A COERCIVE CONSOCIATIONAL FRAMEWORK 171

5.2 GENERAL ANALYSIS OF THE VETO ARRANGEMENTS 177

5.3	THE CONSOCIATIONAL AND COERCIVE FEATURES OF THE VETO ARRANGEMENTS	184
5.4	UNMIK VETO POWERS AND THE INTERNATIONAL CONCERT	190
5.5	VETO POWERS IN THE POST-INDEPENDENCE PERIOD	199
	CONCLUSION	208
6	AUTONOMY ARRANGEMENTS FEATURING ASYMMETRY AND DE FACTO PARTITION.....	211
6.1	DE FACTO AUTONOMY AND PARTITION DURING UNMIK ADMINISTRATION	213
6.2	NEGOTIATIONS ON THE FINAL STATUS	216
6.3	THE 2008-2012 DECENTRALIZATION ARRANGEMENTS	225
6.4	PROVISIONS ON FUNCTIONAL DECENTRALIZATION AND DE FACTO PARTITION	232
6.5	THE ASSESSMENT OF STABILITY.....	239
	CONCLUSION	252
7	DISCUSSION AND CONCLUSION.....	256
7.1	FINDINGS	258
7.2	DISCUSSION OF FINDINGS	263
	CONCLUSION.....	290
	BIBLIOGRAPHY	293
	APENDICES.....	315

LIST OF TABLES AND FIGURES

Table 1 Demographic Distribution of the Population of Kosovo since 1921	22
Table 2. Demographic breakdown of interviewees	34
Table 3. Evolution of favourable factors in Lijphart's work: 1969, 1977 and 1985	46
Table 4. Cases of strong consociationalism 1900 – 2010	50
Table 5. Election Results and Distribution of Seats in the Kosovo Assembly from 2002 to 2010	98
Table 6. Comparison of the participation of Kosovo Serbs in Kosovo elections vs. participation of Kosovo inhabitants in the Serbian election	113
Table 7. Division of powers between PISG and UNMIK according to the Constitutional Framework for PISG	138
Table 8 Division of the main political posts between the Coalition partners in the current executive	159
Table 9. Variations in the population of Novobërdë between 1961-2011	227
Table 10. Social acceptance between Kosovo Albanians and Kosovo Serbs between 2005 and 2012	249
Figure 1. Demographic breakdown of interviewees	34
Figure 2. Comparison of seat allocation for Kosovo Serb parties using the reserved vs. guaranteed seat system	60
Figure 3 Joint Interim Administrative Structure	130
Figure 4 Map of the Kosovo Serb entity as envisaged by the Government of Serbia	315
Figure 5 Map of ethnic distribution according to 1991 Yugoslav Census	316
Figure 6 Kosovo New municipal borders according to Decentralization Plan	317
Figure 7 Map of Graçanica Municipality reflecting modification of municipal boundaries	318
Figure 8 New municipalities in the eastern region of Gjilan.	319

LIST OF ABBREVIATIONS

AAK	Alliance for the Future of Kosovo (Aleanca për Ardhmërinë e Kosovës)
AKR	Alliance New Kosovo (Aleanca Kosova e Re)
CF	Constitutional Framework
CSP	Comprehensive Status Proposal for Kosovo
DS	Democratic Party (Demokratska Stranka)
DSS	Democratic Party of Serbia (Demokratska Stranka Srbije)
GIG	Civic Initiative Gora (Gradjanska Inicijativa Gore)
JIAS	Joint Interim Administrative Structure
IAD	Interim Administrative Department
IRDK	New Democratic Initiative for Kosovo (Egyptian Party)
KDTP	Kosovo Turk Democratic Party (Kosova Turk Demokratik Partisi)
KLA	Kosovo Liberation Army
KTC	Kosovo Transitional Council
KP	Coalition Return (Koalicija Povratak)
LBD	Movement for Democratic Unity (Lëvizja e Bashkuar Demokratike)
LDD	Democratic League of Dardania (Lidhja Demokratike e Dardanisë)
LDK	Democratic League of Kosovo (Lidhja Demokratike e Kosovës)
OMIK	OSCE Mission in Kosovo
PDK	Democratic Party of Kosovo (Partia Demokratike e Kosovës)
PREBK	United Roma Party of Kosovo (Partia Rome e Bashkuar e Kosovës)
SDS	Serbian Democratic Party (Srpska demokratska Stranka)
SLKM	Serbian List for Kosovo and Metohija (Srpska lista za KiM)
SLS	Independent Liberal Party (Samostalna Liberalna Stranka)
SNC	Serb National Council
SRSG	Special Representative of the Secretary General
UN	United Nations
UNMIK	United Nations Interim Administration Mission in Kosovo
UNOSEK	United Nations Secretary General Special Envoy for Kosovo Final Status Talks
UNSC	United Nations Security Council
UNSG	United Nations Secretary General
VV	Self-determination Movement (Lëvizja Vetvendosje!)

I hereby certify that this thesis is all my work and that I have not obtained a degree in this University or elsewhere, on the basis of this work.

1 KOSOVO AND RESEARCH INTO THE EXTERNAL DIMENSION OF CONSOCIATIONALISM

Has consociationalism become the preferred international prescription for post-conflict societies? If judged by Kosovo's post-war institutional evolution, the twenty-first century suggests a continuous prominence of consociationalism as a conflict regulating strategy. It was imposed by the United Nations Interim Administration Mission in Kosovo (UNMIK) in 2001 and it was confirmed by the United Nations Office of the Special Envoy for Kosovo (UNOSEK) in 2007. Recent cases include also Bosnia and Herzegovina (1995), Northern Ireland (1998), Macedonia (2001), Iraq (2003) and Afghanistan (2004). Indeed, the majority of post-conflict settlements in the last two decades are based on some kind of power-sharing. This has influenced a dramatic evolution of consociationalism as a theory and the academic debate regarding its merits as a conflict regulating model when imposed as a solution by the International Community.

Consociational and complex power-sharing theories have acknowledged and have called for international interventions to establish consociationalism in various post-conflict environments. However, research to date has not provided nuanced explanations over the effectiveness of international intervention to impose consociational systems to post-conflict societies. Both theories have been focused on institutional set up, neglecting thus the role of the internal and external environment in the efficacy of consociationalism, the relations between internal and external elites, and especially the motivations of the latter to impose such solutions. This neglect results from the underlying assumption that consociationalism has prevailed over other conflict regulating strategies, thus becoming an international conflict regulating toolbox.

This thesis will attempt to provide some answers to the questions raised and assumptions implied in consociational and complex power-sharing literature by exploring the effectiveness of international intervention on the viability of consociationalism in Kosovo. Whereas Kosovo is one of many cases of external interventions in the last decades, the difference between Kosovo and other recent cases lies in both its internal and external context; albeit similar to BiH, Afghanistan and Iraq, Kosovo continues to be under heavy international supervision, while its consociational governance has not yielded the results desired. On the other side, Kosovo's demography is dominated by an overwhelming ethnic majority of 90% Albanians. Second, consociationalism in Kosovo was imposed and enforced by UNMIK in the context of an unaddressed self-determination dispute between Kosovo's majority Albanian population and Belgrade as a former sovereign, whose influence in the region continues to be decisive for the stability of Kosovo. Third, as of the end of 2012, Kosovo continues to be under international control with deeply divided politics and the partitionist presence of its former sovereign.

The case of Kosovo is suitable to explore the effectiveness of international intervention on the viability of consociationalism because all international organizations and great powers have acted in Kosovo in concert representing the organized international community. The significance of this research lies in the fact that, as Weller and Hehir argue, Kosovo represents a crucial case of international intervention setting new thresholds in intervention and state-building practices (Hehir, 2010; Weller, 2009). Thus, studying Kosovo can increase our understanding about the relationship between international intervention and consociationalism in self-determination disputes.

1.1 Purpose, Research Questions and Propositions

The effectiveness of international intervention on the viability of consociationalism has emerged as a research problem in the writings of John McGarry and Brendan O'Leary (2004) in the context of mixed outcomes of

consociationalism in different places, including for example, Northern Ireland (1998) and Bosnia and Herzegovina (1995). As a relatively new phenomenon, the external dimension of consociationalism has not been fully studied.

Therefore, this thesis proposes the exploration of the influence of external intervention on the viability of consociationalism in self-determination disputes through the case of Kosovo. In doing so, it engages with consociational and complex power-sharing theory which advocates consociational model for post-conflict societies, and with those who have argued that consociationalism can and should be imposed and that no major problems arise with external imposition of consociationalism. More specifically, this thesis engages with the arguments developed by McGarry and O'Leary (2006, 2007, 2008) regarding the nature and viability of imposed consociationalism, as well as part of the consociational and power-sharing literature on the Western Balkans (Bieber, Taylor, Schneckener, Weller, Wolff) that has either neglected, or indeed, downplayed the external dimension of consociationalism in Kosovo and tries to provide a more nuanced explanation of the causes and effects of external imposition of consociationalism in Kosovo.

The term viability is not explained by the consociational theory. Hence, this study uses the thresholds set by Lijphart (1977), whose theorizing antagonized two possible outcomes for deeply divided societies: whereas consociationalism holds the promise of stability, the lack of it may result in partition. Accordingly, the viability of consociationalism is measured here by its main thresholds: 1) creation of stability, and 2) prevention of partition.

In exploring the viability of imposed consociationalism in Kosovo, this study asks one central question: How did international intervention shape complex consociationalism in Kosovo? The questions underpinning the research problem are: Why and how was consociationalism imposed? Did it create stability? Did it further the partition of Kosovo? How did the change in context - declaration of independence - affect these thresholds? The exploration will be

limited in the period of 2001 – 2012 and in the areas where international administration and consociationalism have been in operation. Thus, it will not deal with the north of Kosovo where international community was unable to fully assert its jurisdiction due to its control by the Government of Serbia since 2001.

The central argument of the thesis is that the external actor dominated the shaping of Kosovo's institutional design, which has resulted in a fundamentally compromised pattern of power-sharing in both categories examined: stability and partition. Rather than a coherent blueprint for institutional design, in Kosovo the external interveners have improvised using a bricolage of bits and pieces including external sovereignty, consociation and de facto partition. This colourful design was a masquerade for managing international disunity over Kosovo's self-determination dispute and regional stability, especially the stability of post-Milošević coalition of democratic parties in Belgrade. In fact, this intervention was sponsored by the United Nations Security Council (UNSC), where diverse positions over Kosovo's final status influenced the decisions about its institutional design. Hence, the unaddressed self-determination dispute had consequences for the nature and functioning of consociationalism both prior to and after the declaration of independence in 2008 - it neither created stability, nor did it present an alternative to the partition of Kosovo.

UNMIK had only a vague preference for a consociational-type solution, but short term concerns drove institutional choices. The initial 1999-2001 impulse was to show to the world that ethnic cleansing of Kosovo Serbs would not continue under the NATO/UN protectorate, and that the KLA and LDK factions would be balanced to avoid either dominating politically, or the emergence of a civil war. Then the concern was to bring the Serbs into the process after the fall of Milošević and to maintain the stability of the post-Milošević regime in Belgrade, and this led to facilitation of Belgrade-steered

parallelism. Thus, the UNMIK gave effective veto power to Belgrade on institution building in Kosovo by which Kosovo Serbs were offered the preferred alternative of Belgrade's administration instead of participating in consociational institutions. Various compromises were a result of Belgrade's conditioning of its consent to Kosovo Serb participation in Kosovo-UN political system and in post-independence institutions. This has created a botched type of consociationalism with semi-legalized parallel structures. Ethnic Serb enclaves have thus embarked upon a 'de facto' partition strategy and do not fully co-operate or recognize the institutions of the Kosovo state.

While other authors have noted the trend towards de facto partition (Jarstad, 2007), what is different here is the focus on how international actors themselves were important shapers in facilitating this processes. Moreover, rather than being seen as a rival approach to consociationalism adopted by Serbs, this thesis argues parallel structures were in fact permitted to evolve by international actors in tandem with consociationalisation of Kosovo's independence.

The declaration of independence has resulted in the stabilization of many components of consociationalism in southern Kosovo, because Belgrade's influence was weakened substantially. However, while Belgrade continues to hold its grip over many other components of governance and to influence Kosovo Serbs while refusing to accept the CSP provisions, the CSP itself has furthered de facto partition by formalizing Belgrade's role in the financing and administration of Kosovo Serb affairs in majority-Serb municipalities. Overall, rather than a successful model of consociationalism Kosovo has experienced a botched type of consociationalism paralleled by de facto partition and weak institutional development. The usage of these opposing conflict regulating mechanisms has had corrosive effects on Kosovo's institutional design and its viability as a state.

While many sources have explained how de facto partition or ethnic segregation is a reality in Kosovo (Jarstad 2007, Hehir 2010), this thesis explains the role of internationals in fomenting partitionist elements. Rather than understanding the de facto partition as implicitly a bottom-up societal reaction, this thesis suggests that de facto partition is as much a top-down external elite strategy of external interveners. A key insight of this thesis is how external actors can play a negative role in the functioning of consociational systems. Whereas some of the consociational literature has admitted this can happen, the dominating tendency is to describe externals as positive guarantors of the consociational deal (McGarry, 2008). In contrast, this thesis suggests that the role of external interveners needs much more careful analysis in consociational accounts. In this sense, the original and rich empirical data, including elite interviews, add to our understanding of Kosovo and the nature of external intervention. In particular the meddling and micro-management of Kosovo throughout the period examined in all four cases explored, suggests that external intervention is not necessarily guided by a consociational toolbox. Rather, this thesis argues that short-term concerns as well as the prestige of the externals is a major source of the decisions on Kosovo's institutional design, making the intervention a malign usage of power at many points, rather than a benign export of certain peace-building strategies.

The concept of stability in this study is informed by Lijphart's definition of stability which consists of 'system maintenance, civil order, legitimacy and effectiveness' (Lijphart, 1977, p. 4), also used in other studies on consociationalism which preclude external intervention cases (Brooks-Kelly, 2007). Since it is assumed here that system maintenance is ensured by external intervention, this study will apply Hurwitzes category of 'governmental longevity' instead, to describe regular and peaceful rotation of the elected government, while the term 'absence of violence' is used instead of 'civil order' (Hurwitz, 1973, p. 463). The reason for the latter replacement is that civil disorder can occur for reasons other than inter-ethnic tensions, while the

presence of violence entails collective usage of violence targeted against a particular group. Thus, for the purpose of this study, stability is defined as regular and peaceful rotation of government, absence of inter-group violence, legitimacy of the system as well as effectiveness and validity of institutions and decision-making.

The term partition is based on a modified definition provided by O'Leary in 2001 and 2007:

‘A partition should be understood as an externally proposed and imposed fresh border cut through at least one community’s national homeland, creating at least two separate units under different sovereigns or authorities’...’Partitions of national and multinational polities may be distinguished, as may external and internal partitions.’

(O'Leary, 2001, p. 54; 2007, p. 888)

Kosovo would be a case of internal partition, in which, according to O'Leary,

‘an internal partition may be organized to promote the autonomy of a particular group that has no previously recognized jurisdiction... Such internal partitions need lead to no change in the existing external sovereign border of the state...in question.’¹

(O'Leary, 2007, p. 896)

The term used here, *de facto* partition, is consistent with O'Leary's explanation of internal partition, which in the case of Ireland led subsequently to external partition. The difference is that according to O'Leary, internal partition entails a legal act, such as the one used to partition Ulster from Ireland through the UK

¹ Explanation of what is meant by the term 'State,' provided by O'Leary is omitted.

1920 Ireland Act. In Kosovo, UNMIK facilitated a partition without a legal act. Thus, I use here the term *de facto* partition, instead of internal partition.

1.2 Theoretical Framework

Consociational theory is identified with Arend Lijphart, whose analysis of political systems of The Netherlands, Belgium and Austria, concluded that plural societies can enjoy the benefits of stable democracies if their elites adopt a system of group accommodation through executive power-sharing, proportional representation, veto powers and group autonomy (Lijphart, 1969). Lijphart's emphasis of the role of prudent elites in designing such systems dismissed the possibility that consociationalism can be exported through external intervention (Lijphart, 1977). In his analysis of Northern Ireland, he argued that external imposition of consociationalism without internal agreement is not a viable option and that permanent instability created by continuing majoritarian style of government or repartition remained the only options as long as such internal agreement is absent (Lijphart, 1975). Therefore, classical consociational theory was dismissive of the possibility of external intervention in designing a successful consociational system.

Therefore, this study uses the revision of classical consociational theory developed by John McGarry and Brendan O'Leary (2006) which suggests that in self-determination disputes and in ethnic conflict such as Northern Ireland, external intervention is essential to establish and to stabilize a consociational system. In fact, external intervention can substitute for the lack of an internal agreement between the elites. Hence, according to McGarry and O'Leary, the intervention of UK, Ireland and U.S.A. in 1998 to establish a consociational system in Northern Ireland, shows that consociationalism can be re-packaged as a conflict management tool, can be transferred to any place by external fiat and can be taken and developed further by internal elites. Moreover, the number of cases where international intervention has resulted in the adoption of consociationalism in ethnic conflict suggests that international organizations

and great powers have adopted consociational prescription as the main conflict-regulation strategy (O'Leary, 2005). In questioning these propositions, this thesis argues that revisionist consociationalism has lost sight of the role of internal elites and of regional dynamics. Moreover, it has neglected the motives and interests of external interveners in influencing choices for institutional design as well as their role in the implementation of consociational deals. Its propositions are somewhat paradoxical: while the role of external intervention is emphasized, classical canons of consociational theory persist in the analysis of its viability.

1.3 Consociational Literature and Kosovo

The Consociational literature has taken only limited notice of Kosovo as one of the Western Balkans consociations along with Bosnia-Herzegovina (BiH) and Macedonia (Lijphart, 2008; McGarry, 2008; O'Leary, 2005). For example, Lijphart mentions Kosovo as a 'recent case' of consociationalism in the preface of his latest book,² while McGarry (2008) and O'Leary (2005) whose work highlighted the external role in designing consociational institutions in divided societies have also barely taken any notice on Kosovo. Thus, Kosovo's consociational design and the role of externals remain under-researched – indeed there exists a gap which is filled by the research in this thesis that can bring new insights into the role of external intervention in post-conflict consociational institutions through the case of Kosovo, thus demonstrating that the assumptions in the existing literature about post-conflict institutional evolution in Kosovo are limited and most frequently not correct. In this last sense, the power-sharing literature on the Western Balkans has shown mostly superficial interest in Kosovo or has otherwise been dismissive and sceptical about the nature of Kosovo's consociational evolution. The most fundamental

² Lijphart, A. (2008) *Thinking About Democracy: Power sharing and majority rule in theory and practice*, New York: Routledge.

critique can be observed in the view that Kosovo's power-sharing framework characterized by weak executive power-sharing and absence of veto powers has diluted the evolution of proper power-sharing practices both during the UNMIK administration and in the post-independence period (Bieber, 2005; Bieber & Kiel, 2009; Ilievski & Wolff, 2009; Stroschein, 2008; A. J. Taylor, 2005; Weller, 2008a). Analysis of the reasons why external intervention did not manage to bring about participation of all sides remain scarce, while exploration of external dynamics is almost absent.

Yet another line of critique which deals with the functioning of Kosovo's internal arrangements has argued that Kosovo is a case of ethnic segregation and de facto partition masquerading under a false multi-ethnicity or a weak consociational framework and international control (Garrigues, 2007; Gjoni, 2011; Hehir, 2010; Jarstad, 2007; Jenne, 2009; Simonsen, 2005). The analysis in the literature is limited because it neglects the influence of the external dimension and of the status quo in forging the nature of Kosovo's institutions. The classifications of Kosovo's institutional design coincide to characterize it as dysfunctional because of the abstention of Kosovo Serbs from the political process, but do not explain what led to this abstention. The argument noted in the literature is that de facto partition has been noted in the north as a reaction of Kosovo Serbs to Kosovo's institutional evolution, when this thesis argues that the de facto partition was in fact condoned and at times, even facilitated by the International Community in Kosovo Serb enclaves in the south too as much as in the north.

The literature in general has neglected the role of external actors and the dynamics which influenced the shaping and the implementation of Kosovo's institutional design. More specifically, decisions at the UNSC over Kosovo's final status and international administration have been neglected; the interplay between external and internal elites remains under-researched; while Belgrade's role in shaping the design and functioning of consociational institutions is

relatively unexplored (Bieber & Kiel, 2009; Schneckener, 2008). Therefore, it is argued here that we should in fact understand Kosovo as a consociation, albeit a flawed one. In other words, Kosovo's problem is not the absence of consociationalism but rather a consociationalism paralleled by de facto partition condoned by external interveners and lacking sufficient integrative elements.

Secondly, it can be shown that one omission in much of the previously cited literature has been a failure to accurately describe, give weight to, or theorize the role of external actors in shaping and making Kosovo's consociational settlement. The motives of external interveners were changing according to short-term concerns. The main motivations of international interveners were the establishment of regional stability of the post-Milošević regime in Belgrade and appeasement of Russia in order to maintain unity at the UNSC. To achieve this, the International Community has strengthened the status quo and has invited Belgrade to participate in the Kosovo institutions, furthering the de facto partition logic. Rather than see consociationalism and partition as opposite institutional solutions, the International Community has legitimized and played with both. Accordingly, this has had a corrosive effect on the institutional set up since Kosovo Serbs were offered Belgrade's continuous administration as an alternative to participation in Kosovo's consociational regime.

In this second sense, the international community has arguably got Kosovo 'wrong' by failing to allow the local parties to organically explore and determine their own constitutional and institutional futures within certain constraints. Rather than a light touch, one can recount numerous examples where international actors have micro-managed Kosovo's consociationalism, an input that does not augur well for the long-term stability of arrangements. Rather than be given ownership of Kosovo's consociational future, local elites have been somewhat disempowered, at times using fairly brute forms of political pressure or by allowing de facto partition through Belgrade's involvement with Kosovo

Serbs. What emerges is a rather botched variant of consociationalism, but which perhaps we should recognize as an increasingly common type of 'coercive consociationalism' associated with international intervention such as Iraq (post 2003).

Moreover, the academic community should be alert to the possibility that international actors in situations like Kosovo are much less interested in a principled application of consociationalism as a cure-all and rather more interested in pasting together whatever pragmatic and expedient measures can buy time and some peace. Thus, Kosovo's final status was never much of a priority while the legitimating of Belgrade which led to de facto partition was, at times, even encouraged to buy peace. The result is a horribly compromised internal semi-sovereign state which is saddled with a complex consociational order in tandem with continued international supervision and de facto partition steered by governments in Belgrade, with international acceptance and support.

1.4 Background

This section will briefly explain Kosovo's evolution from the end of the Ottoman rule in 1912. It cannot provide a historical account of Kosovo. Rather, it will show that Kosovo has been viewed as a special case, and not just as another part of Serbia or Yugoslavia. Kosovo became part of the Kingdom of Serbia in 1912 after the dissolution of the Ottoman Empire of which Kosovo was part since the end of the 14th Century, when a Balkan military Alliance led by the Serbian Prince Lazar was defeated in 1389 by the Ottomans in the vicinity of Prishtina, Kosovo. A previous two-century medieval rule of the Serbian Tsars in Kosovo left a significant legacy of the Orthodox Church, which has created the main argument for Belgrade's claim of the territory of Kosovo and was recognized as such by the London Ambassador's Conference in 1913, which otherwise, used demographic criteria to demarcate the borders of the Balkan states following the Balkan War and the dissolution of the Ottoman Empire. As a result, the annexation of Kosovo was opposed by its

majority Albanian population whose preference was to be part of the Albanian national homeland, created in 1912.³ Thus, Kosovo has been a self-determination dispute between the Kosovo Albanian majority and Belgrade ever since. The latter has attempted to resolve this dispute throughout the period between 1912 and 1999 through partition, transfer of population and colonization, power-sharing and finally, expulsion.

However, as Table 1 shows, Albanians have always been the majority with the demographic proportion changing depending on Belgrade's actions.

The Belgrade rule of Kosovo was based on the domination of its Serbian population over the Albanian majority through Belgrade's repressive apparatus. This situation persisted until 1974, when Kosovo became an autonomous province of Serbia and Yugoslavia. Its status was thus dual and unique. This definition was aimed at reconciling opposing claims for secession and control by Kosovo Albanians and Belgrade, respectively. It meant that while still part of Serbia, Kosovo had the powers of a fully-fledged republic and was a constitutive part of the Yugoslav Federation. This balance endured only until the death of the Yugoslav Communist leader, Josip Broz Tito in 1980 when the self-determination dispute heightened. Kosovo Albanians wanted the status of a fully fledged republic of Yugoslavia; Belgrade insisted on the return to pre-1974 status.

³ By 1912, the Ottoman Vilayet of Kosovo consisted of the present territory of Kosovo, Sandzak in the present southwestern Serbia, Preshevo, Medvedja and Bujanovac in South-east Serbia. In the present Macedonia, it included Skopje as its capitol, Kumanovo, Tetovo and Gostivar.

Table 1 Demographic Distribution of the Population of Kosovo since 1921

Year	Total	Albanians	Slavs ^a	Serbs	Bosniaks	Turks	Monte - negrins	Roma	Ashkanli	Egyptian	Croats	Gorani	Others ^b
1921^c	428,283	278,351	113,848	...	...	27,910	...	...	...	...	...	...	8,082
	100.0	64.9	26.5	...	...	6.5	...	...	...	...	...	...
1931	552,064	331,549	181,542	...	...	...	...	...	...	...	...	...	39,574
	100.0	60.0	32.8	...	...	...	...	...	...	...	...	...
1948	727,820	498,242	...	171,911	9,679	...	28,050	11,230	...	...	5,290	...	10,596
	100.0	68.5	...	23.6	1.3	...	3.9	1.5	...	...	0.4	...	
1953	808,141	524,559	...	189,969	6,241	34,583	31,343	11,804	...	...	6,201	...	21,586
	100.0	64.9	...	23.5	0.8	4.5	3.9	1.5	...	...	0.6	...	
1961	963,959	646,604	...	227,016	8,026	...	37,588	3,202	...	...	7,251	...	7,065
	100.0	67.1	...	23.5	0.8	...	3.9	0.3	...	...	0.8	...	
1971	1,243,693	916,168	...	228,264	26,357	...	31,555	14,593	...	...	8,264	...	2,529
	100.0	73.7	...	18.4	2.1	...	2.5	1.2	...	...	0.6	...	
1981	1,584,441	1,226,736	...	199,498	58,562	...	...	34,126	...	...	8,718	...	4,222
	100.0	77.4	...	13.2	3.7	...	27,028	2.2	...	...	0.6	...	
1991^d	1,956,196	1,596,072	...	194,190	66,189	10,445	20,365	45,745	...	...	8,062	...	15,028
	100.0	81.5	...	9.9	3.3	0.5	1.0	2.3	...	...	0.3	...	
2011^e	1,739,825	1,616,869	...	25,532	27,533	18,738	...	8,824	15,436	11,524	...	10,265	5,104
	100.0	92.9	...	1.5	1.6	1.1	...	0.5	0.9	0.7	...	0.6	

Notes:

a. Both in the 1921 and 1931 censuses, ethnic belonging was counted by linguistic affiliation. Thus the category of Slavs in this table includes Serbs, Montenegrins, Bosniaks, Croats, Macedonians and Serb-speaking Roma. The linguistic affiliation may have also affected the number of Turkish-speaking Albanian and Roma town dwellers.

b. 'Others' and 'Unknown' is used in the censuses. This table includes also 'Yugoslavs' and groups that at least once were below 1,000.

c. The calculation of the 1921 census in this table is based on the districts of Zvecane, Kosovo, Metohija and Prizren. Data may be inconsistent.

d. The number of Albanians is based on estimate due to their boycott of 1991 census.

e. The number of Kosovo Serbs south of Ibar River who participated in the census. Census was not held in the north.

This conflict deepened throughout the 1980's, leading to a series of states of emergency targeting Kosovo Albanians; in 1989, Serbia abolished Kosovo's autonomy through a controversial endorsement of the Kosovo Assembly which took the decision while under siege by the Yugoslav Army artillery. One year later, on July 2, 1990, the same assembly declared Kosovo an independent state. These events marked the beginning of the dissolution of the former Yugoslavia, since the first deep disagreements between the breakaway republics, Slovenia and Croatia on one side, and Serbia on the other, were manifested over these developments in Kosovo. During the wars in the former Yugoslavia, the Milošević government placed Kosovo under effective police rule and established a system of apartheid in which Kosovo Albanians were dismissed from public sector jobs and were effectively banned from using public premises. The economic and political oppression was commonly manifested through the loss of jobs, imprisonment, and arbitrary murder leading to mass exodus of Kosovo Albanians in Western Europe and the U.S.A. throughout the 1990s.

While under effective police rule Kosovo Albanians, led by the Democratic League of Kosovo (LDK), organized a parallel state structure, thus expressing peaceful defiance to Belgrade's rule and hoping that Kosovo would secede from Serbia through a Western led process. However, as this peaceful resistance fell short of engaging the serious attention of the West during the Dayton talks in 1995 the dissent over peaceful resistance increased. This led to the creation of the Kosovo Liberation Army (KLA), which organized guerrilla warfare in the rural areas of central and western Kosovo.

As the conflict between the KLA and Belgrade's armed forces escalated leading to mass atrocities of Kosovo Albanian civilians in 1998 and 1999, the Contact Group organized in February 1999 talks between Kosovo Albanian leaders and the Serbian Government in Rambouillet, France. While a proposed deal based on consociationalism was accepted grudgingly by Kosovo Albanians, Belgrade

opposed the deal and escalated its attacks against the KLA and Kosovo Albanian civilians. According to the Belgrade-based Humanitarian Law Centre estimate, between March and December 1999, Kosovo's toll was 13,321 killed and missing people, from which, about 2000 were combatants from both sides and the rest civilians ("New Kosovo War Victims Report Released," Radio Free Europe/Radio Liberty. October 7, 2009). About 10,000 were Kosovo Albanian civilians and 1,000 – 1,500 were Serbian and other civilians including Roma, Turks, Bosniaks and other.⁴

To avoid a BiH type scenario, NATO used its air power against Belgrade's troops to stop atrocities and ethnic cleansing of Kosovo Albanians. Russia, a permanent UNSC member and a traditional ally of Serbia, was strongly opposed to the NATO intervention. Nonetheless, following the surrender of the Serbian Army, in June 1999, it agreed to the UNSC Resolution 1244 which suspended Belgrade's sovereignty, ordering its troops and administration out of Kosovo and established a civilian mission - the United Nations Administration Mission in Kosovo (UNMIK). However, the UNSC left Kosovo's final status unresolved because there was no consensus about whether it should remain part of Serbia or become an independent country according to the wishes of its majority population. Thus, Resolution 1244 on the one hand affirmed Belgrade's sovereignty in Kosovo during the interim period, and on the other hand, it left the possibility of independence as a final solution for Kosovo open (UN Security Council, 1999; Weller, 2008d, p. 662). UNMIK was given sovereign powers to administer Kosovo ad interim and to create its self-governing institutions pending final status solution.

⁴ In its report, the Humanitarian Law Centre does not divide its victims between combatants and civilians. Most non-Albanian civilian victims belong to the period between June and December 1999.

Thus, UNMIK established consociational arrangements in 2001 in the absence of statehood for Kosovo and with a strong regional dimension through Belgrade's involvement in the administration of areas with majority Serb population. Although it remained a unitary governing entity, Kosovo's institutional arrangements consisted of: (1) executive power-sharing; (2) proportional elections (PR) for a 120-member assembly with 20 reserved seats for pre-determined minority groups; and (3) a vital interest procedure and cultural autonomy with UNMIK retaining all sovereign powers as well as minority rights. The deal was imposed on Kosovo Albanian leadership with the condition that its acceptance would help a process leading to independence. With Kosovo Serb personalities engaged in discussions with UNMIK being unable to mobilize the support of their group for participation in elections, UNMIK convinced Belgrade to allow Kosovo Serb participation in the system, in return for the latter's representation in the institutions under Belgrade's umbrella and for allowing Belgrade's administration to operate in majority-Serb areas. These arrangements created a situation where de facto partition of Kosovo became a reality.

Belgrade's inclusion created a dual system of governance in which competing governmentalities operated both at the central and at the local level. This placed the main cleavage, the self-determination dispute, at the centre of the conflict in the Kosovo Assembly, exacerbating the inter-ethnic tensions. To maintain Belgrade's support for Kosovo-Serb participation, the international community (IC) reinforced the status quo. As a result, these arrangements collapsed in 2004, when two-days of riots of Kosovo Albanians targeting UNMIK and Kosovo Serbs occurred, protesting the lack of movement towards the statehood of Kosovo. On the other side, Belgrade ordered Kosovo Serb representatives in the Kosovo Assembly and executive who had began a boycott of the institutions' work a few months before the riots, to finally withdraw from the institutions. Thus, between 2004 and 2008, Kosovo Serb participation in

Kosovo's institutions was done through UNMIK-handpicked personalities, while Belgrade's control of majority Serb areas continued without any obstacle.

In 2007, the UN Secretary General's Envoy for Kosovo's final status solution proposed the creation of the internationally supervised independent state for Kosovo, but reasserted consociationalism in the Comprehensive Proposal for the Final Status of Kosovo (CSP).⁵ Kosovo Assembly declared independence in 2008 simultaneously endorsing the CSP as a condition for the support for independence by the key Western powers. However, Belgrade's administration structures continued to operate unimpeded, undermining the provisions which offered substantial asymmetric governing powers to majority Serb municipalities. The CSP provisions on autonomy have arguably influenced an increased participation of Kosovo Serbs in the political system, through the Independent Liberal Party (SLS) and other parties representing Kosovo Serbs. The key novelty in post-independence Kosovo is the introduction of asymmetry and a strong Belgrade dimension in the self-governance of Kosovo Serbs. Hence, after UNMIK's facilitation of Belgrade's establishment of its control over majority Kosovo Serb areas, the CSP has rewarded the de facto partition logic pursued by Belgrade, recognizing the reality on the ground created during UN administration.

⁵ The UN Secretary General Envoy for Kosovo's Final Status was former Finnish President, Martti Ahtissari. Accordingly, his proposal is known popularly as 'Ahtissari Plan.' Throughout this thesis, I will use the acronym CSP instead, for 'Comprehensive Status Proposal.'

1.5 Methodology

1.5.1 Case Study

This thesis is a qualitative small-N case-study in which I use within-case analysis of power-sharing arrangements in Kosovo including Executive power-sharing, Proportional representation, Veto powers and Autonomy. Yin defines the case study approach as a research strategy used in qualitative research best suited to respond to questions ‘ ”how’ or why”, ‘ and when the political or social phenomena are investigated within a ‘real-life context’ (Yin, 2003, p. 1).

Although the case study approach has found common usage in political science, there have been disagreements in the scholarly debate about its merits as a research strategy. On one side, the case study has been defined as an empirical enquiry and an intensive study which aims to make empirical and theoretical generalizations (Gerring, 2004; Yin, 2003). On the other side, some of the most prominent scholarly representatives of the study of democracy and power-sharing in multiethnic and conflict-prone societies have questioned the scientific merits of the case study in making generalizations or propositions arguing for a comparative method, or a variable-oriented, rather than a case-oriented research (Horowitz, 1991; Lijphart, 1971). Hence, this section will discuss the validity of the methodology used, arguing that the qualitative method and the case study approach offer valid empirical data to make inferences about the processes explored.

During the last decade, research in political science has shown that small-N national case studies are suited to develop theories, test theories and propositions, to derive hypothesis and to explore causal mechanisms, and, to make generalizations across the larger universe of cases (Gerring, 2004, 2008; Norris, 2008; Ragin, 2004; Seawright & Gerring, 2008; Yin, 2003). Indeed, Yin argues that a single case study applies to ‘explain the presumed causal links in real-life interventions that are too complex for the survey or experimental strategies’ (2003, p. 15). Thus, I have chosen a case study of Kosovo to understand how consociationalism is affected by a particular national and

international setting and dynamics. The choice of a case study method to explore the effects of external intervention in the viability of consociationalism will make a contribution to consociational theory as it helps in understanding the causal links between variations in the external dimension and consociationalism in similar situations. As Daalder's question about the advantages of a single-case study clarifies:

‘Is the present state of comparative politics not such that a book by a specialist on one country, with a thorough theoretical grounding, is likely to make better reading than the work of the generalist who inevitably must construe his propositions mainly on the basis of secondary sources?’

(Daalder, 1974, p. 621)

This proposition reinforces the theoretical relevance of Kosovo in the category of countries that have adopted consociational power-sharing in their constitutions as ‘with each new case we can learn more about whether a universal relationship holds or whether we have to add further conditional factors of its applicability’ (Ebbinghaus, 2005, p. 145).

1.5.2 Case Definition and Analysis

Lijphart's principles (Lijphart, 1971) for case types and selection have been more or less emulated during the last decade (Evera, 1997; Munck, 2004).⁶ However, recent developments in methodology have resulted in a more comprehensive definition of the types of case-study which do not preclude usage of a single-case study as a selection method (Gerring, 2008). Thus, this

⁶ Lijphart's (1971) influential differentiation of six types of cases respond to THE strategy of research and of case selection criteria: (1) Atheoretical case studies; (2) Interpretative case studies; (3) Hypothesis-generating case studies; (4) Theory-confirming case studies; (5) Theory-infirming case studies; and (6) Deviant case studies.

study uses Gerring's (2008) criteria to define Kosovo as a crucial case of international intervention in imposing consociationalism.⁷

This thesis uses process tracing as 'a basic tool of qualitative method' through within-case analysis of the four constituting elements of consociationalism in order to explore causal relationship between the external dimension and consociationalism in Kosovo (Seawright & Collier, 2004). Seawright and Collier (2004, p. 300) define process tracing as 'analysis of processes of change that seeks to uncover causal mechanisms and causal sequences'. As Tansey suggests, 'the goal of process tracing is to obtain information about well-defined and specific events and processes' (2007, p. 765). More concretely, I assess the causal homogeneity of the external dimension and the status quo in the stability or de facto partition as possible outcomes of coercive consociationalism in Kosovo by doing a within case analysis of, 1) Executive power-sharing; 2) Proportional representation; 3) Veto powers; 4) Group autonomy during UNMIK administration and during supervised independence.

Within case analysis of sequence and changes in the context, namely from the international administration (2001-2008) to supervised independence (2008-2012), will help determine whether these changes in one or both condition variables have produced the same outcome. As Yin explains, 'chronological sequence' has 'an important analytic purpose – to investigate presumed causal events' (2003, p. 125).

⁷ Gerring distinguishes 9 types of cases attributable to the selection techniques and may use one or more cases of inquiry: (1) Typical-1 or more cases, (2) Diverse-2 or more cases, (3) Extreme-1 or more cases, (4) Deviant-1 or more cases, (5) Influential-1 or more cases, (6) Crucial-1 or more cases, (7) Pathway-1 or more cases, (8) Most-similar-2 or more cases, (9) Most-different-2 or more cases. As can be seen from Gerring's definition of cases, six out of nine cases are prone to the usage of single-case study, while only three preclude the usage of single case study.

Kosovo's power sharing arrangements have been in place since 2001 with significant changes in the context. Thus, the 'length of time consociational democracy has been in operation,' (Lijphart, 1969, p. 216) as an important precondition for measuring the success and efficiency of the institutional setting and elite cooperation is arguably fulfilled. I will take into consideration Lijphart's favourable factors as additional condition variables affecting the causal homogeneity in order to achieve more internal validity. If these factors prove important, they will become 'part of the substantive explanation', if proven unimportant, they will be 'discarded' (Munck, 2004, p. 110).

1.5.3 Methodological limitations and the Scope of generalization

The Large-N case study may provide a better ground to explore a more diverse set of factors (independent variables) as opposed to the small-N method. However, the choice of a small-N case study is aimed at deeper exploration and thicker analysis of causes and effects of the consociational power-sharing in Kosovo. In addition, the large-N study would make the measurement difficult because consociationalism is based on a voluntaristic aspect of elite behaviour and the context in which these elites act and is thus not prone to statistical analysis (Bogaards, 1998; Lijphart, 2002).⁸

Therefore, to achieve a valid process of research and analysis, I have chosen a single case small-N study method limiting this study to the case of Kosovo due to the homogenous causal pattern that this case represents (Collier & Mahoney, 2007). Indeed, Kosovo may inform consociational theory about the application of external intervention in a given context of international administration,

⁸ For an excellent Large-N study of consociational cases in the world, see: Kelly, B. B. 2007. *An Exploration of the Relationship between Consociationalism and Stability in Plural Societies throughout the World*. PhD Thesis, Trinity College Dublin. The University of Dublin.

which has been under-researched by the comparative method. Focusing this research on the particular geographic area and political domain to which I come from, and therefore have substantial knowledge of, has a merit on its own because ‘case-intensive knowledge helps analysts achieve measurement stability across units’ (Mahoney, 1996, p. 130).

In this context, I explain a new model of consociationalism which may be generalizable theoretically and may represent a population of cases that exist in similar context (Ebbinghaus, 2005; Gerring, 2008; Yin, 2003). Hence, I will limit the probability of representativeness of Kosovo’s consociational experience and the generalization of the findings within the domain of cases that ‘share similar historical, cultural, economic and political context’ (Skocpol, as cited in Mahoney, 2007). The existence of several conditions, which are not exhaustive, determine the probability of generalization of the findings that this thesis will achieve in similar contexts, regardless of their geographic distribution. My findings here would be applicable to: 1) Situations of deep ethnic division in the war-torn society during the process of state-dissolution and state-building; 2) Institutional arrangements brokered by international community; 3) where there is the existence of an international supervisory body with superior decision-making powers; 4) where there is the existence of consociational institutional arrangements such as proportionality in both the election system and public administration, territorial or structural autonomy for at least one ethnic community, mutual veto powers, and grand coalition; 5) where there is the influence of external/regional powers in domestic politics.

The findings of my thesis could be useful in casting light on similar attempts to impose consociationalism by the international community on post-conflict societies including Iraq and Afghanistan. Both of these countries were placed under international custodianship after Kosovo. With much of international experience in Kosovo having been used to transform and build new nations in

Iraq and Afghanistan, the functioning of Kosovo's power-sharing arrangements may provide useful lessons to these and to other, future cases of peace-building.

1.5.4 Data Collection, Ethical Issues and Data Analysis

This study uses multiple sources of evidence including a combination of documentary evidence and elite interviews, which are the key tool for process-tracing and within-case analysis. Intensive knowledge of Albanian (my mother tongue), Serbian, Croatian and English languages enables the reading and interpreting of both primary and secondary data. Eventual visits to Belgrade were impossible because Serbian authorities do not recognize Kosovo's passport and other personal documents. For this reason, sources from Serbia are limited to those that could be found via the net although representatives of the Serb community within Kosovo were interviewed.⁹

Forty-one elite interviews were conducted during this research in the period of 2009 – 2012. I have also used notes from interviews I conducted in my official capacity in 2001 and in 2002. Elite interviews have been widely used in qualitative research. However, the purpose of most of the studies carried out through elite interviews was to generalize on the population through random sampling of decision-makers (Goldstein, 2002; Rivera, Kozyreva, & Sarovski, 2002). As the purpose of process tracing is to study specific events and processes, focused interviews with key participants in these events are a more appropriate method of data collection. Therefore, this study uses specifically identified elites who have participated in the design and in the implementation of consociational arrangements in order to obtain first-hand information and insight about the establishment and implementation of consociationalism in Kosovo. As Tansey argues,

⁹ 1) Bojan Stojanović, Mayor of Gračanica and Vice-President of the Independent Liberal Party (SLS); 2) Matko Svilanović, Deputy Mayor of Klllokot (SLS); 3) Milan Stojanović, Deputy Mayor of Gjilan for Communities.

‘...interviewing, and especially elite interviewing, is highly relevant for process tracing approaches to case study research. Particularly in political science, process tracing frequently involves the analysis of political developments at the highest level of government, and elite actors will often be critical sources of information about the political processes of interest.’

(Tansey, 2007, p. 766)

During the interview planning I used my prior knowledge about the participants in the processes, including the initial design of institutions during UNMIK administration and during the final status talks. However, as the methodological literature confirms, one of the drawbacks which I encountered is difficulty accessing elites (Aderbach & Rockman, 2002). Thus, while I managed to arrange interviews with some of the highest Kosovar and international officials, some remained inaccessible. Also, a number of them could not be interviewed due to the physical impossibility of travelling to northern Kosovo or to Belgrade, because of the lack of security in the north and the lack of recognition of Kosovo travel documents by Belgrade. In any case, the lack of direct contact was compensated through research of media quotes, interviews and other documents. In addition, I attempted to use the quota criterion of selection, in order to include in my interviewing sample all Kosovo communities according to their demographic representation and to avoid selection bias. Five out of fifty inquiries, both on Albanian (3) and Kosovo Serbian (2) side remained unanswered.

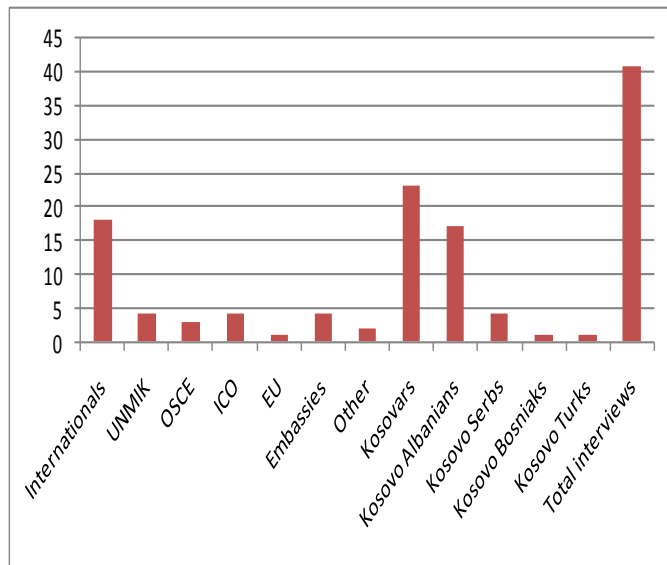
As Table 2 and Figure 1 show, out of 41 interviews, 18 were conducted with internationals and 23 with Kosovars. The latter were broken down into two main categories: Kosovo Albanians and minorities. The minorities were then broken down into Kosovo Serbs, Kosovo Bosniaks and Kosovo Turks, in order to include the most relevant groups. Thus, out of 23 interviews with local elites,

17 were conducted with Kosovo Albanians, 4 with Kosovo Serbs and one with Kosovo Bosniaks and Kosovo Turks each. Thus, while minorities represented 20% of total Kosovo interviewees, Kosovo Serbs represent 17% of Kosovars interviewed, thus reflecting a quota of their political representation in the Kosovo Assembly.

Table 2. Demographic breakdown of interviewees

Interviews	
Internationals	18
UNMIK	4
OSCE	3
ICO	4
EU	1
Embassies	4
Other	2
Kosovars	23
Kosovo Albanians	17
Kosovo Serbs	4
Kosovo Bosniaks	1
Kosovo Turks	1
Total interviews	41

Figure 1. Demographic breakdown of interviewees



The main criterion to select interviewees was their knowledge of the processes investigated: ‘In a case study, respondents are selected on the basis of what they might know to help the investigator fill in pieces of a puzzle or confirm the proper alignment of pieces already in place’ (Aderbach & Rockman, 2002, p. 673). Purposive, snowballing and quota selection techniques were used simultaneously to choose the interviewees (Farquharson, 2005; Tansey, 2007). To plan interviewing more effectively I divided the interviewees in the following categories of officials: 1) Kosovo Albanians, 2) Kosovo Serbs, 3) Non-Serb minorities, 4) Internationals who have worked in Kosovo. I used purposive and snowballing techniques to identify the key interviewees. Purposive interviews were divided into the primary interviewees who

represented top officials directly engaged in Kosovo's institutional design and in its implementation as well as on the second-tier individuals who were engaged in the implementation of the design at a lower rank. The Snowballing technique was used primarily with regard to identification of officials whose work consists of daily monitoring, reporting and advising, without decision-making power.

However, the selection criteria consisted of direct involvement of participants in the events and processes:

‘when researchers use process tracing, the key issues to consider when drawing the sample are to ensure that the most important and influential actors are included, and that testimony concerning the key process is collected from the central players involved.’

(Tansey, 2007, p. 769)

Notwithstanding the importance of top decision-makers, I have drawn from my own experience of interviewing as a practitioner, and would argue that second and third-layer officials are often in a position to offer insightful information on how processes work and how decisions are taken because they do not have a personal interest in distorting the reality or intentionally giving messages for public consumption. Thus, apart from the top officials, I also interviewed people at lower ranks who are not directly involved in decision-making, but who are witnesses to how these decisions are taken and how processes work. In this way I have ensured the validity and reliability of both documentary evidence and the interviews.

The literature contends that semi-structured interviews achieve the best effect in a case study (Aderbach & Rockman, 2002; Leech, 2002; Peabody et al., 1990; Tansey, 2007). However, the type of interview used depends on the context and the scope of roles of the personalities involved. I considered that un-structured

interviews with open-ended questions are the best approach due to the different roles of various actors interviewed, either in time and institutions they were involved earlier, or during the time of the interview. Nevertheless, a small number of core questions were used with participants wherever their position rendered such questions justifiable. The aim of these questions was to get new information, assessment of various actors, as well as to triangulate evidence from other interviews or from documents (Tansey, 2007).

In several cases, international interviewees requested complete anonymity due to the internal regulations of organizations where they worked when interviewed. In a few cases, both international and Kosovar interviewees requested anonymity for parts of their accounts. In this regard, ethical issues come at the front of the research. In interviews, especially in elite interviews, where participants share information or insights which are valuable, but can also be of a sensitive nature for their careers or organizations where they work, treating participants with confidentiality involved not only concealing their personal identity, but also concealing any other information that can lead to their identification. This represented a difficulty for effective presentation of data as scholarly canons require presentation of evidence in a straightforward manner. On the other hand, as Woliver argues,

‘In dealing with people you are studying you must be honest and ethical. They do not exist as activists so that you can add more lines to your vita or finish your dissertation. You must leave them in the same position in which you found them. You must do no harm to them.’

(Woliver, 2002, p. 677)

Thus, there has to be a trade-off between total presentation of evidence including the sources, and ethics which places the researcher in a difficult position. This dissertation revealed the names of interviewees to the supervisor

and thesis board, but in the submission for publication, the names of the sources have been redacted wherever sources demanded so.

All interviews taped were transcribed and translated by the author when held in Albanian and Serbian. Once interview transcripts were completed, they were consistently coded using N-Vivo software for qualitative research analysis. I used the theoretical and pattern method in order to group data according to the cases previously identified and to the emerging themes, respectively, which were then divided according to the topics and categories (Saldaña, 2009). Pattern coding is especially important for process tracing as it provides for ‘explanatory or inferential codes that identify an emerging theme, configuration, or explanation’ which can be grouped in a number of ‘sets, themes, or constructs’ (Miles & Huberman, 1994, p. 69, quoted in Saldaña, 2009, p. 152). This consistency implies constant recoding and re-grouping of interview data in cycles as analysis was progressing (Saldaña, 2009).

In addition to interviews, vast documentary research was used including: 1) Reports from election results, 2) Census data, 3) Personal notes from meetings while I was official of the government (2006-2008) and official of Kosovo’s negotiating team during final status talks in 2006, 4) Internet sources, 5) Newspaper reports, 6) Documentary evidence from governments and international organizations, 7) Study Papers, 8) Transcripts of Kosovo Assembly sessions, 9) Internal reports and private and internal correspondence on issues relating to the units of analysis, and last, but not least, 10) Wikileaks has provided valuable insight and information about decision-making in the context of international intervention in Kosovo.

To achieve the best results in a focused overview and analysis of the situation of the state functioning within consociational power-sharing institutions in Kosovo both data collection and analysis was done simultaneously. The data were double-checked, coded and re-coded throughout the process. Major ideas

that surfaced during the data collection and analysis were noted in the research diary. Results from data collection were triangulated. To achieve validity of my analysis I used my personal knowledge as well as triangulation of data through additional interviews and documentary analysis. The results of the research are presented in a descriptive, narrative form.

1.6 Outline of the study

The study is divided into following chapters:

1. Introduction
2. The Coercive Consociational Case (literature review)
3. Electoral System
4. Executive Power-sharing
5. Veto Powers
6. Autonomy
7. Discussion and Conclusions

In the literature review (2nd chapter) I examine the transferability of consociationalism. In this chapter I also warn about the profound problem of international veto players-such as Belgrade, and the corrosive uncertainty of the final status in Kosovo. The literature on Kosovo and on analogical cases is discussed in the context of the debate that is ongoing among consociational advocates about the merits and demerits of coercive consociationalism and the need for integrationist elements to make consociational states viable.

Each substantive chapter will explore the reason why and how these particular arrangements, electoral system, executive power-sharing, veto arrangements and autonomy, were imposed. Then, I will explore the functioning of each consociational threshold during the UNMIK administration as well as after the declaration of independence of Kosovo. I will examine the effect of the inclusion of Belgrade in the functioning of these arrangements exploring

whether their operation was consistent with consociationalism and whether it created stability or further de facto partition? The chapter on autonomy is more specific because it represented a novelty in the post-independence period. This chapter will examine the autonomy arrangements during the UNMIK administration and in the post-independence period examining whether de facto partition facilitated by enclavisation withered away with the decentralization provisions of the post-independence period.

In the seventh chapter I will discuss the findings from the four case studies, making a connection between the evidence and the consociational theory. The evidence from this thesis makes an original contribution to consociational theory and the literature on Kosovo by exploring the effects of international intervention on the viability of consociationalism in Kosovo. The thesis will conclude by presenting the key findings on whether international intervention has created a viable consociationalism, or did it in fact contribute to furthering de facto partition in Kosovo. I will also briefly suggest the ways in which consociational settlement in Kosovo could be reformed to bring about stability and viable institutions.

2 LITERATURE REVIEW: THE COERCIVE CONSOCIATIONAL CASE

Consociational theory emerged in the late sixties to explain how some Western European societies, like The Netherlands, Belgium, Switzerland and Austria can be stable democracies, in spite of their internal religious and linguistic divisions. Arend Lijphart, whose work marked the birth of consociational theory, explained that these plural societies are both democratic and stable because their elites renounced majority rule in favour of power-sharing (Lijphart, 1969). In doing so, he challenged Almond's widely accepted proposition that a stable democracy, associated with majoritarian rule, is a privilege of homogenous societies as opposed to plural societies where stability is disrupted by inherent centrifugal tendencies (Almond, 1956). The 'secret' of Lijphart's cases lay in voluntary cooperation of political elites, willing to accommodate rival groups through power-sharing practices rather than employing competitive behaviour.

The institutional framework informed by these four European democracies consisted of executive power-sharing between the main segments; a closed-list PR election system to ensure proportional representation in the legislature as well as proportionality in public employment and relocation of public funds; mutual veto rights, and segmental autonomy which can be functional if the segments are dispersed, or territorial if segments are homogenous (Lijphart, 1977). This institutional norm ensures stability because none of the segments is excluded from power, thus mitigating inter-group cleavages (Lijphart, 1969). Lijphart labelled this kind of political system as 'Consociational Democracy'.

Lijphart argued that with the majority rule posing a risk to destabilization of deeply divided societies, the choice of their elites is limited between "consociational democracy or no democracy at all," or indeed, stability or

partition/secession (1977, pp. 238, 129). Thus, according to Lijphart, establishment of consociationalism is possible if elites agree to share power for the benefit of stability. This proposition was used to prescribe consociationalism as the best way of ensuring stability in countries with deep divisions. This way, from an empirical study of political systems in societies with 'segmented pluralism'¹⁰ (Lorwin, 1971, p. 142), consociational theory has arguably evolved into a dogmatic prescription of institutional design for places with deep social, political and ethnic divisions (Lijphart, 1977, 1985, 2002).

However, classical consociational theory has neglected the role of external powers in imposing consociationalism (Lijphart, 1975, 1977). The reason for this neglect is that classical consociationalism draws so much from elite practices in traditional Western European consociations with mild linguistic, religious and ideological divisions and with long traditions of mutual accommodation (Daalder, 1971; Lehmbruch, 1993). Developments in the last decades have highlighted the distinctive nature of ethnic conflict and self-determination disputes from those described by Lijphart (McGarry & O'Leary, 2006). Along with these developments, imposition of consociationalism through international intervention has become more common.

Indeed, forty years later, there is a scholarly consensus that consociationalism has become the main conflict regulating prescription in self-determination disputes and in ethnic conflict (Jarstad, 2007; O'Flynn, 2010; O'Leary, 2005). Ironically however, evidence suggests that the imposition of consociationalism

¹⁰ Lorwin defines segmented pluralism as 'The organization of social movements, educational and communications systems, voluntary associations, and political parties along the lines of religious and ideological cleavages.' See Lorwin, W. (1971) *Segmented Pluralism: Ideological Cleavages and Political Cohesion in Smaller European Democracies*. *Comparative Politics* 3(2), 141-175.

by external elites has undermined the role of local elites in favour of the influence of international policy-makers in internal institutional development (Aitken, 2007; Bieber, 2008; Chandler, 2005b; Manning, 2006).

In fact, while shying away from this reality of international intervention, consociationalists argue that the role of external elites is simply facilitatory and that the cases of external domination are merely issues of whether external elites have taken a 'right-headed' or 'wrong-headed' approach, or indeed, these cases represent some kind of an extreme (McGarry, 2008; Schneckener, 2008). It is argued here that the literature has under-theorized the role of external elites. It has been rather fascinated about the mix of recipes of consociation and complex power-sharing and with the institutional design, overlooking the why and how of the establishment and the shaping of these arrangements.

As some of the recent cases such as Kosovo and BiH suggest, such flaws of international diplomacy and organizations are a consequence of the fact that they are seeking a role for themselves in the age of increasing incidents of intra-state and regional conflicts (Hehir, 2006). This development has been shown to be problematic in many ways. This includes the creation of dependency of internal elites upon external actors, a deepening of ethnic divisions instead of providing for integration and, as the Kosovo case suggests, institutional flaws facilitating and rewarding de facto partition as a consequence of the external dimension of consociationalism.

In this chapter I will discuss the issue of transferability of consociationalism in the classical and revisionist literature, comparing the theory and practice of external imposition; second, I will review the shift of paradigm from elites to institutions in the complex power-sharing literature; third, I will review the power-sharing and integrationist literature on Kosovo and in the end, I will discuss some analogies, including Cyprus, Northern Ireland and BiH.

I will argue that consociationalism is not transferable as classical and revisionist theory suggest and that both have neglected the external dimension which in the cases reviewed here has had a decisive influence on the stability of imposed consociationalism, concluding that this external dimension in Kosovo has resulted in the application of both consociational and de facto partition thus undermining the validity and stability of Kosovo's institutions.

2.1 The Transferability of Consociationalism

2.1.1 Debate in the Classical Consociational Theory

Both the empirical and prescriptive construct of classical consociational theory is based on an elite paradigm. The broad definition of consociationalism is that the hazards of segmental cleavages may urge elites to voluntarily abandon competitive politics and to cooperate in order to confront internal and external threats to the country. As Lijphart 'presented elite behaviour as the missing link between a plural society and political stability' consociational theory has been rightly labelled as a theory of political behaviour (Andeweg, 2000; Bogaards, 1998, p. 475). Accordingly, the argument for the transferability of consociationalism relies on adept elites who establish consociationalism by engaging in 'self-denying prediction' (Lijphart, 1984, p. 13), or as revisionist theory suggests, by engineering elite behaviour in a laboratory of international policy-making (McGarry & O'Leary, 2006; O'Leary, 1989).

In this way, the prescriptive value of consociationalism is built on the likelihood of its transferability to any country that has willing political elites complemented perhaps by external actors who are determined enough to intervene in imposing consociationalism regardless of the historical and cultural context of the societies concerned. In one sense the argument here is 'where there is a will there is a way'. However, this prescriptive value of consociationalism is flawed, because, as I will argue here and has been noted by others, the various thresholds of this prescription neglect political culture and disregard country-specific contexts (Bogaards, 1998; Daalder, 1974).

Thus, the debate in the classical consociational theory was focused on elites and on political culture. The relationship between voluntary elite cooperation and the prescriptive value of consociationalism stems from the Netherlands' experience of establishing consociationalism in 1910-1917 in order to stabilize the country against the threat of social fragmentation between the Dutch religious traditions. Accordingly, if consociationalism is, as Lijphart implies, an act of intelligent choice by elites in the Netherlands, rather than its cultural feature, then its transferability to Third World countries is quite possible and viable, and vice-versa: 'If the possibility of a self-denying prediction were ruled out, consociationalism would obviously lose much of its prescriptive value' (1984, p. 13). However, by more or less neglecting the complexities of political culture, the way this elite behaviour is shaped remains unexplained. Hence, the self-denying prediction is presented as a *Deus ex Machina* which enabled the creation of a prescriptive account of consociational theory. They assert how consociationalism could be transferred but do not really explain if such a transplant will really work or not in different contexts.

Other authors counter-argue that the political culture and environmental conditions played a pivotal role in the workings of consociationalism, which suggests that its ability to be extended to other situations might be rather limited. For example, the transferability of consociationalism was questioned by Daalder who argued that consociationalism is cultural and that it has to be deep-rooted in the political tradition of local elites. Hence, consociationalism is not transferable, or not easily so, in countries that have no tradition of mutual accommodation:

'if consociationalism presupposes the earlier existence of a special elite culture (such as in The Netherlands, Austria, and Switzerland) rather than intelligent choice by particular elites at a critical juncture of a nation's history, its transfer to other societies is likely to meet with greater difficulty.'

(1974, p. 618)

The basis of this argument is that consociationalism in the Netherlands and Switzerland was never an ad-hoc accident of elite decisions to counter the divisiveness of segmentation. He argues that an accommodation-type style of Dutch elites developed gradually from the 16th, 17th and 18th century and not in a sudden historical juncture (1974). Indeed, the analysis of political culture in Western Europe reveals that consociational practices in The Netherlands and Switzerland are based on ancient political traditions of accommodation at the regional level, creating a political culture which does not tolerate a centralized polity, but instead, nurtures cooperation between dispersed power-centres (Daalder, 1971, 1974; Lehbruch, 1993).

This proposition has serious implications for present consociational nation-building, especially in countries like Kosovo, Northern Ireland or Iraq, where domination and control, rather than mutual accommodation, is part of political culture.

2.1.2 Favourable Factors

As a result of this criticism, Lijphart connected elite behaviour with a set of socially and politically favourable factors that facilitate elite cooperation (1977, 1985). One could term these supposedly conditional variables that can impact on the dependent variable of elite power-sharing or its opposites, although the favourable factors of consociationalism are rarely tested in such a way.

One problem is that Lijphart has never been that consistent on what these favourable factors are or their relative weight. He was indeed criticized for their frequent adaptation to match to the emerging opportunities for the establishment of consociationalism in the third world (Steiner, 1987). Arguably, Lijphart made an opportunistic usage of the favourable factors according to whether he wishes to stress the prescriptive or empirical value of consociational theory. Such usage has contributed to its empirical ambiguity because the factors were produced on an ad-hoc basis (Steiner, 1981) and because the

factors produced a conflict between ‘voluntaristic’ and ‘deterministic’ aspect of consociational theory (Bogaards, 1998, p. 476). The focus here, however, is the neglect for the external dimension in the contextual analysis of consociationalism in both classical and revisionist consociationalism. As Table 3 shows, Lijphart and classical consociationalism neglected the possibility of an external role in its establishment, focusing on the internal dimension of favourable factors. Thus, out of nine factors created in 1985, only one was externally-oriented, the factor which he labelled simply: External Threat. This neglect is puzzling since cases of foreign imposition of consociationalism existed well before the collapse of the Cold-War system, including in Northern Ireland in 1974 and 1985, Cyprus in 1961 and Malaysia in 1960.

Table 3. Evolution of favourable factors in Lijphart’s work: 1969, 1977 and 1985

FAVOURABLE FACTORS		
1969 Consociational Democracy	1977 Democracy in Plural Societies	1985 Power-sharing in South Africa
Multiple balance of power	Ibid.	No majority segments
External threats	Ibid: within Small country size	Segments of equal size
Low load on decision making	Ibid: within Small country size	External threats
Distinct line of cleavage	Cross-cutting cleavage	Small population size
Internal political cohesion	Segmental autonomy and federalism	Geographical concentration of segments
Wide-spread approval by	Traditions of elite accommodation	Ibid.
Elite cartel	Multi-party system	N/A
	Overarching loyalties	Ibid.
	Representative party systems	N/A
		Socio-economic equality
		Limited number o segments

In fact, confronted with the failure of all these externally imposed consociational fixes, with Cyprus descending into civil war by the end of the 1970s, the Turkish invasion and partition by 1974, Malaysia quickly facing the secession of Singapore and significant domination of ethnic minoritie, while the various initiatives in Northern Ireland prior to the Belfast agreement were judged failures by most commentators, Lijphart considered that external imposition is not a favourable factor (1975, 1977). In fact, he strongly argued against external imposition of consociationalism, contending that the likelihood

of partition as the only alternative to voluntary consociation therefore precludes external coercion as a method of its establishment, a fact which led him to rule out successful application of consociationalism in Northern Ireland and in Cyprus unless their elites so decide.¹¹

2.1.3 Debate in the Revisionist Consociational Theory

The revisionist wave of consociational theory, represented by John McGarry and Brendan O’Leary, is also based on the question of how consociationalism can be transferred when there is a lack of accommodating culture and other favourable factors (O’Leary, 1989). Drawing from the experience of Northern Ireland, McGarry and O’Leary (2006) identified the external role as the missing link between the lack of political culture and other factors and the transferability of consociationalism. They refuted Lijphart’s proposition of a self-denying prediction by arguing that religious and linguistic cleavages in traditional Western European consociations are rather mild in comparison to the Northern Irish self-determination dispute and ethnic cleavages which are inherent and tend to be more violent and difficult to manage by internal elites alone. Thus, it is not realistic to expect voluntary elite cooperation in these cases. Rather, it takes external intervention to initiate consociation and to keep elites on track through laboratory politics, hoping that by fiat of external actors a dynamic process can be created in which parties take the idea further (McGarry & O’Leary, 2006).

¹¹ It is equally important to note that the early critics of consociational theory have been similarly skeptical about the establishment of consociationalism by external fiat. For example, Barry cautioned against externally devised ‘compulsory power-sharing’ in Northern Ireland (1975a, pp. 409-411).

McGarry and O'Leary argue that the even-handed treatment of all types of conflict by classical consociationalism resulted in a series of institutional flaws of classical consociationalism. For example, Lijphart and other early consociationalists focused on power-sharing at the elite level, but neglected the question of the particular national identity of groups, substantial political and territorial autonomy, symbols, relations with kin states and other issues pertaining to ethnic and national identification and self-rule (McGarry & O'Leary, 2006). Hence, revisionist consociationalism prescribes a complex approach including demilitarization of warring groups under international leadership, return of exiles, educational administration and other issues pertaining to collective group rights as well as relations with kin states (McGarry & O'Leary, 2006). In this way, the revisionist – McGarry-O'Leary – wave of consociationalism contends that it is transferable to any kind of society no matter if basic thresholds, such as elite behaviour and favourable factors are met.

This radical view on the transferability of consociation holds that it can be re-packaged in various forms of institutional design and that it can, and should be, imposed by external actors in places as diverse as Northern Ireland, Cyprus, Lebanon, BiH, Kosovo, Afghanistan and Iraq.¹² However, in doing so, the role of local elites and the crucial role of the local context have been lost to sight.

If, as Lijphart argues, the transferability of consociationalism depends entirely on a deliberate and conscious elite decision to engage in 'self-denying prediction,' the McGarry-O'Leary concept of transferability of

¹² Mc Garry and O'Leary as well as most consociational literature contend that consociationism is not a panacea. However, it still remains the best option for post-conflict and divided societies.

consociationalism by coercion is flawed because it cannot stand as they believe it. In fact, I argue that external imposition as a practice undermines the normative validity, as well as practicality of consociationalism. By enforcing consociationalism to post-conflict societies, the international community undermines what it is forcing these societies to accept, even if the solution seems good as a conflict-regulating strategy.

Evidence suggests that the main problem with imposed consociationalism is that it does not guarantee that the local elites will abandon their own beliefs and adopt the values of, and belief in, consociational practice (Aybet, 2010). Elites must have a normative belief in the value of consociational ideal, either through their own political culture, or in a move towards self-denying prediction. Recent cases suggest that institutions can indeed be engineered and coerced by outsiders, but elite beliefs cannot and this undermines the normative value and the functionality of coercive consociationalism. As long as consociation depends on international coercion, the elites will grudgingly or falsely accept it, but once the internationals are not present, the elites will likely go back to their old values and beliefs.

This problem was addressed by academic proposals which prescribe consociationalism as a transitory stage towards a more integrative polity through a liberal type of consociationalism (Norris, 2008). Thus, rather than fixed institutional outcomes based on pre-determined groups, liberal consociationalism is based on flexible institutional outcomes based on electoral results which would adapt to demographic and other contextual changes (McGarry & O'Leary, 2007). However, while this theoretical evolution seems to resolve the question of the stability of the system in the long run, evidence from the most recent cases of external imposition of consociationalism, as shown in Table 4, suggest predominance of a more rigid, corporate type of consociationalism, based on pre-determination of ethnic groups as institutional solutions imposed by external interveners. This would suggest that international

intervention would not be able to create viable and self-sustainable consociations.

Table 4. Cases of strong consociationalism 1900 – 2010

Internally designed	Soft external dimension (mediation or facilitation)	External imposition
Netherlands (1917-67)	Lebanon (1943-75)	Cyprus (1960-1963)
Belgium (1918-)	Netherlands Antilles (1959-85)	Northern Ireland (1973-74)
Switzerland (1943-)	Suriname (1958-1980)	Bosnia and Herzegovina (1995-)
Austria (1945-1966)	Malasya (1955-1969)	Macedonia (2001-)
Luxembourg	Lebanon (1989-)	Kosovo (2001-2008)
Liechtenstein	Burundi (1998-)	Kosovo (2008-)
India (1947-64)	Northern Ireland (1998-)	Afghanistan (2004-)
Nigeria (1957-1966)	Kenya (2008-2010)	Iraq (2004-)
South Africa (1993-96)		
Malasya (1971-)		
South Tyrol (1972-)		
Yugoslavia (1974-1989)		

Source: Hoddie & Hartzell (2005); Roeder & Rothchild (2005); R. Taylor (2009)

2.2 The Shift of Thresholds in the Complex Power-Sharing Theory: the Institutional Paradigm

It has been suggested in the literature that international organizations involved in peacekeeping and conflict management are increasingly promoting corporate consociationalism with complex arrangements for minority rights (Choudhry, 2008; McGarry, O'Leary, & Simeon, 2008). While this form of consociationalism has become increasingly unpopular, it is seen as a necessary alternative to perpetual conflict and partition (Weller, 2008c). However, once more, the power-sharing literature has neglected the international role in creating de facto partition due to geopolitical concerns for wider stability and its increasing role amid a dysfunctional consociation. Indeed, recent cases like Bosnia and Herzegovina, Kosovo, and Iraq, show that international organizations and great powers are taking the leading role in devising consociational institutions in conflict-prone countries. From being a mere

‘facilitator’ of elite cooperation the international community has become a dominating party in the implementation of consociational arrangements.

These complex arrangements in self-determination disputes are coined as ‘Complex Power-sharing’ (Weller & Metzger, 2008). Complex power-sharing theory relies on the external intervention in internal designs which combine consociational, centripetal and power-dividing mechanisms, suggesting external intervention, territorial autonomy and cross-border links as conflict resolution tools for self-determination disputes (McGarry, 2008; Wolff, 2009b).

Consociationalism however, remains the most essential threshold of the complex power-sharing theory (O’Leary, 2008). Thus, complex power-sharing is confusing in its prescriptions, moving the boundaries all the time, whereas the empirical descriptions remain short of fully theorizing the external role in shaping the institutional design (Schneckener, 2008).

Complex power-sharing is hence fascinated with institutional arrangements undermining the role of the context and of elites, both internal and external (McGarry, 2008). This fascination mirrors the McGarry – O’Leary stream of revisionist consociationalism, which is an essential part of the complex power-sharing construct. Indeed, confronted with cases of failure of consociational arrangements, consociationalists shifted their discussion from elite behaviour and favourable factors to the varieties of institutional design in imposed consociations because they increasingly viewed the rigidity of institutions as a liability for the success of consociationalism (Lijphart, 2008; McGarry & O’Leary, 2007). Today consociational and complex power-sharing theorists have become obsessed with, and peddlers of, quite specific institutional ‘fixes’ from a repertoire which has become in effect a ‘consociational’ or complex power-sharing practice. However, as evidence suggests, the imposed institutional design in post-conflict societies remains rigid in spite of the apparently liberal prescription of consociational theory and that of complex power-sharing (A. Taylor, 2008).

McGarry outlines several lessons that recent cases of complex power-sharing bring to the consociational theory. Firstly, the role of international organizations and of regional powers in the establishment and operation of consociationalism has increased. In two cases, that of BiH's Dayton Accord and 'Kosovo's interim settlement in 2001', such interventions entailed the usage of military power to stop the fighting and 'bring rival parties to negotiations' (McGarry, 2008, p. 694).¹³ Further, McGarry suggests that the external dimension is limited in mediation and facilitation as a way of establishing consociationalism, while the role of outsiders in the implementation of the deals is confined to monitoring, training and capacity-building and funding. External expertise and arbitration are noted as ways the outsiders help breaking stalemates and security. As McGarry concludes, both latter models of external intervention have been used in BiH and in Kosovo. Recent cases suggest also that a viable peace process entails typical post-conflict issues that are a prerequisite of a viable consociationalism, including security sector and police reform, decommissioning, de-mobilization, amnesty, transitional justice, human rights protection and other, which have also been used in Kosovo.

The revisionist stream of consociationalism as well as complex power-sharing theory have not squarely addressed the external intervention, thus neglecting the increasing trend of robust and at times brute-type of international imposition stemming from geopolitical concerns. For example, Schneckener argues that

¹³ McGarry here has incorrectly equated the Dayton Accords and the 2001 Kosovo Constitutional Framework. In fact, it was the 1999 Rambouillet Accord that was directly related to the use of military power, in which case, Kosovo and BiH could be equated. Although indeed the CF was imposed 'against the backdrop of western military intervention' of 1999, no military force or threat was used to negotiate the CF in 2001. The role of KFOR was merely to maintain a 'safe and secure environment' for the people of Kosovo. Thus, McGarry's contention is rather confusing as to which deal is made reference to: The 2001 CF or the 1999 Rambouillet Agreement. As the former US Secretary of State, Madeleine Albright told publicly the KLA leaders, if Kosovars sign the deal and Belgrade does not, there will be bombing. If Kosovars do not sign, there will be no bombing. In this case, such backdrop of military intervention desired by Kosovars, was the key incentive for KLA to endorse the Rambouillet Accords.

‘the cases of BiH and Kosovo are exceptional and are extreme examples of third party involvement’ (Schneckener, 2008, p. 492). It is argued here that both these cases have set some new thresholds for international intervention which has been repeated in other cases, including East Timor, Afghanistan and Iraq and are thus crucial cases of international intervention in setting up consociational arrangements. As Hehir and Weller argue, ‘Kosovo is of profound importance to contemporary international relations’ (Hehir, 2010b, p. 1) since it has set ‘a new paradigm of international relations, a blue print for a new world order’ (Weller, 2009 cited in Hehir, 2010b). Hence, the external agenda has in fact dictated how Kosovo institutions are shaped.

In contrast to the benign and still quite limited role of external actors in this complex power-sharing perspective, this study presents a view of the Kosovo case which highlights the extent to which international actors can become de jure (UNMIK and ICO) and de facto (US, EU, UNSC, Contact Group, Some neighbouring countries) a party to consociational arrangements in all four constituting elements of consociationalism and manipulate the evolution of these arrangements with a frequently malign, rather than benign, approach.¹⁴ The external actors become in fact the dominant players in my account here, in a way which is much more intensive and troubling and a great deal less benign than McGarry's reworked Complex Power Sharing perspective. In fact, evidence suggests that international intervention in internal arrangements is rarely, if ever, benign (Mesquita & Downs, 2006).

¹⁴ McGarry (2008) outlines the role of outsiders in consociations as a novelty in their evolution in these terms: mediating, facilitating, monitoring, training, and, in the case of BiH and Kosovo, experts and arbitrating.

Recall that UNMIK has enjoyed sovereign governing powers in Kosovo and, as such, it has negotiated the overall consociational settlement with internal and external actors involved, including UNSC members and Belgrade. In the case study chapters here, evidence suggests formal and informal participation of UNMIK, ICO as well as other powers, in executive power-sharing including coalition formation and day-to-day policy-making and decision-making in the pre and post-independence period. Moreover, UNMIK has effectively dominated Kosovo's executive through the reserved power provisions and as a surrogate representative of Kosovo Serbs. The OSCE has designed Kosovo's elections system and has negotiated it with Kosovo Albanian parties, with Belgrade and other international stakeholders. It has helped the creation of minority parties where there were none, and has set the rules and implemented them by operating Kosovo's elections. UNMIK was the supreme legislative authority with the power to veto any executive or legislative decision and has made ample usage of such powers in addition to the VIP. While this "hands-on" role for internationals might be both expected and understandable in the early post conflict situations, what is distinctive in this thesis is how it has been shown that in the post-independence period, the ICO has continued to enjoy similar powers as UNMIK, although it has used them more subtly, imposing decisions behind closed doors, sometimes with the help of other powers, such as the EU and the US. Last, but not least, the IC has facilitated the creation of Kosovo Serb enclaves, de facto delegating its administrative authority on minority issues to Belgrade, and thus facilitating de facto partition.¹⁵ The CSP legalized what had been a Kosovo Serb self-administration by creating majority Serb municipalities with extensive self-governing powers and a role for

¹⁵ It is a worthwhile repetition here that minority issues were a reserved UNMIK authority until declaration of Kosovo's independence in 2008.

Belgrade in fiscal matters, education, health and other issues, rewarding the de facto partition policy pursued by Belgrade throughout the UNMIK administration. Bizarrely the international actors have both designed and demanded a type of consociationalism in Kosovo, and also partly sabotaged this by facilitating Belgrade's preference for parallel de facto partition structures.

Recent cases of consociationalism suggest that in self-determination disputes, the external dimension has been ingrained within the institutional framework and has 'diluted the sovereignty or the unitary nature of the state in ways that were not anticipated by traditional consociational theory' (McGarry, 2008, p. 697). The main model of this external dimension is the asymmetrical position of certain minorities with the right to have special connections with neighbouring kin states in the form of cross-border links. In addition, explicit recognition of the distinct 'people-hood' of ethnic communities is consistent with what international practitioners call 'multi-ethnicity'. The essence of these mechanisms is to address 'squarely' the self-determination issue. While McGarry makes a point which matches Kosovo's consociational evolution, this case suggests that external state actors have not only blurred Kosovo's sovereignty; they have created an asymmetry which has effectively served the purpose of the de facto partition pursued by Belgrade. This is an order of magnitude of difference beyond what consociational literature (McGarry, 2008; O'Leary, 2008) conceive of as an external dimension, such as the North South Bodies within the Good Friday Agreement for Northern Ireland. Imagine a Belfast Agreement which features much of the now familiar consociational power sharing features allied with a de facto partition reality which Kosovo now struggle with: for example a Derry city whose local government and elites took direction from Dublin and whose salaries were paid by Dublin at the same time in which the DUP and Sinn Fein were expected to share power if not amicably then at least practically. Considering that the north south bodies were in fact quite limited and marginal within the Northern Ireland Agreement, one must question to what extent McGarry's model of complex power sharing is

really adequate to both describe and understand the challenges faced in situations like Kosovo. How can consociationalism work if an ethnic minority has a persistent and substantive alternative in the guise of de facto partition and if this is condoned by the international community and external states?

McGarry's analysis also remains limited in terms of the normative value of consociationalism, which is indeed, used to be the main appeal of consociationalism in comparison to other conflict-regulating methods. I argue here that two important questions which inform the normative value of consociationalism have emerged in the case of Kosovo (as well as that of BiH): that of equality between the states in the region as well as internal equality between the groups.¹⁶ Both for BiH and in Kosovo, provisions on special relations between sub-state units and neighbouring countries are part of internal arrangements and both countries are placed in an unequal position vis-a-vis other countries in the region, notably Serbia. Thus while, special kin connections in Kosovo have rewarded Belgrade's direct involvement in majority Serb areas, this involvement has undermined consociational institutions by creating de facto partition and instability in the system. It is much more than mere cross border linkages as for example one finds in the Northern Ireland consociational settlement.

2.3 Literature on Kosovo

2.3.1 Power-sharing Literature

The power-sharing literature on Kosovo and the Western Balkans is dominated by the discussion of Kosovo's key consociational thresholds established by international intervention (Bieber & Kiel, 2009; A. J. Taylor, 2005a; Weller, 2008a; Wolff, 2009a). Albeit this discussion has acknowledged the external

¹⁶ Group equality forms an important aspect of consociational theory in general and in the writings on Northern Ireland of Mc Garry and O'Leary, both in tandem and individually.

imposition of Kosovo's institutional arrangements, it has used the canons of classical consociational theory, focusing on the internal dimension, thus neglecting what I argue here is the most important aspect of Kosovo's consociationalism – the international and regional dimension of Kosovo's formal and informal institutional arrangements. In the following section I will discuss the main thresholds of consociationalism which dominate the power-sharing literature analysis of Kosovo.

Electoral System

The main weakness of Kosovo's power-sharing design and of the analysis of its electoral system is the neglect of demographic and the political reality in favour of an ethnic and institutional paradigm (A. J. Taylor, 2005a, 2005b). For example, even though Taylor makes a limited acknowledgement of intra-Albanian political, ideological and historical rivalries, their shared loyalty to independence makes them a single ethno-political block vis-à-vis Kosovo Serbs and other minorities (A. J. Taylor, 2005a). He argues that 'The absolute dominance of Kosovo Albanians created an opportunity to over-represent the minorities without seriously infringing majority rights' (2005a, p. 446). In a later analysis, Taylor evades the existence of different political traditions within Kosovo Albanian political scene when he says that the reserved seats have fragmented the Kosovo Albanian vote, but that the introduction of the reserved seats was the only way of assuaging Kosovo Serb interests (A. Taylor, 2008). In fact, Kosovo Albanian vote had been already fragmented between the LDK and the PDK.

The PR electoral system with reserved seats infringed seriously on the right of LDK, as a party enjoying the majority support in Kosovo in the 2001 elections, to govern effectively. Evidence in this study suggests that the first reason for imposing PR with reserved seats was precisely to sabotage LDK's electoral domination and hence prevent a working majority from emerging and involve

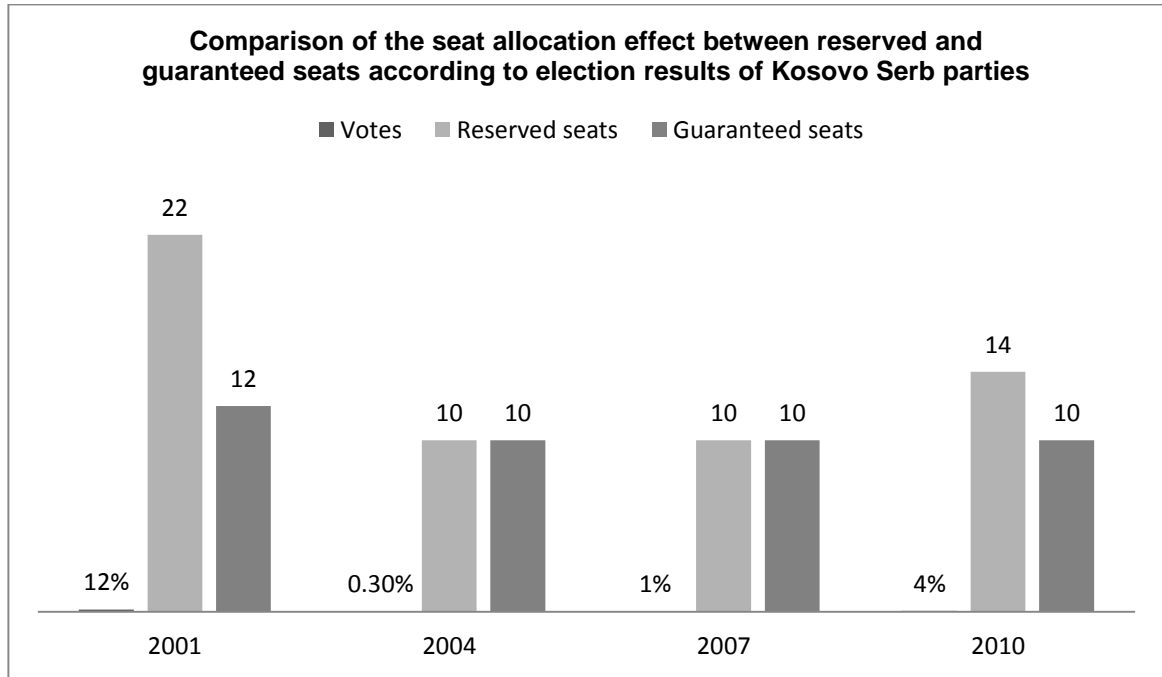
former KLA parties in the executive. Internationals feared otherwise a KLA-LDK civil war in that period.

In fact, the only way the reserved seats would work is if the concept of the Grand Coalition among all parties would be accepted by the majority. However, the reality does not seem to go along the design imposed by the IC. While Kosovo Albanian parties have accepted power-sharing with minorities, they reject power-sharing between each-other in favour of a more majoritarian style of governance. Considering Kosovo's demographic reality in Kosovo, reserved seats have had a destabilizing effect on institutions, exactly for the same reason which, according to Taylor, has made over-representation acceptable – the electoral domination of Kosovo Albanians. None of the post-war coalitions have been stable and some of them ended up being dysfunctional executives or indeed broken badly. This paradoxical situation in which the preferred governance style (majoritarianism) is not consistent with the distribution of seats in the assembly has made Kosovo lurch from crisis to crisis with unstable institutions maintained through intensive external intervention. Hence, international intervention self-perpetuates itself through inadequate design which creates instability and domestic dependence on international interveners. The second flaw in Taylor's analysis has to do with Belgrade's de facto veto on Kosovo's institutional arrangements condoned by international presence in Kosovo and its inclusion in Kosovo's institutions through the KP. Again, the literature neglects the regional dimension and the impact of unaddressed self-determination dispute on the international shaping of Kosovo's consociationalism which gave Belgrade a de facto veto on Kosovo's institutional arrangements and control over Kosovo Serb representatives. The condition of the KP to accept LDK's coalition offer after the 2001 elections with the latter's renunciation of independence shows that this international approach placed the self-determination dispute at the centre of political conflict. This was the main outcome of the external shaping of Kosovo's electoral system.

While Taylor's analysis neglects the plurality of Kosovo Albanian polity, and thus the consequences on the stability of the system deriving from the PR with reserved seats, in an unstated manner, it seems to indirectly suggest that Kosovo's unresolved status underpinned international thinking about its institutional design, which is the main argument of this thesis. Thus, Taylor's analysis inadvertently suggests a paradox of Kosovo's consociation. While it was based on the sidelining of Kosovo's final status, it was mirrored exactly on the self-determination dispute between Kosovo Albanians on the one side and Belgrade with Kosovo Serbs on the other, thus placing the main cleavage at the centre of the conflict, which led to the collapse of consociationalism in 2004, revealed in a wave of riots and ethnic tension. This logic of international peace-building led to other implications, including the failure to create stability and the facilitation of de facto partition in Kosovo.

In the CSP, the reserved seats were replaced with the guaranteed seats – a provision that should become effective after the third parliamentary mandate after independence. Ilievski and Wolf (2009) argue that the novelty of, as they see it, a phased removal of consociational arrangements in Kosovo's election system, is commensurate with the alternative model of a power-dividing mechanism by building a sunset clause on consociational arrangements. The power-dividing mechanisms are embedded within the CSP and the constitution of Kosovo, but not where Ilievski and Wolff see them. In fact, phasing out the reserved seats represents a change of extent, not of principle. The guaranteed seats system provides for proportional representation of all minorities based on their demography, including Kosovo Serbs, and safeguards their overrepresentation in case of low turnout in elections, thus maintaining a corporate style of representation. It can be quickly seen that these provisions are well in excess of what consociational theory prescribes as a best practice electoral rule (Lijphart, 2004).

Figure 2. Comparison of seat allocation for Kosovo Serb parties using the reserved vs. guaranteed seat system



Executive Power-sharing

Weller (2008a) contends that the 2001 Constitutional Framework provided for a weak institutional design dominated by UNMIK, which fell short of consociational features of the 1999 Rambouillet Accords. According to Weller, this weakness was mainly expressed in the executive power-sharing where Kosovo Serbs had an isolated and irrelevant ministerial position, as well as weak veto arrangements in the Assembly. Accordingly, Weller argues that this resulted ‘in a withdrawal of ethnic Serb populations to virtual autonomy exercised through the municipalities,’ in which the Kosovo Government had no control (2008a, p. 263).

Weller’s analysis would suggest that what is called here a de facto partition is a bottom up Kosovo Serb reaction to Kosovo’s institutional evolution. However, it is argued here that the Kosovo Serb withdrawal into a de facto partitionist position is as much owed to UNMIK’s facilitation of Belgrade’s parallelism

which represented an alternative to Kosovo's imposed consociation. Weller also neglects the influence of Belgrade and that of Russia in Kosovo's institutional design which was aimed at curbing Kosovo's executive powers in favour of UNMIK's control, which in turn, was aimed at preventing any movement towards independence. This policy was supported by the Kosovo Serb Coalition Povratak (KP). Hence, the executive power-sharing was weak because there was no power to share, rather than because of the irrelevancy of particular ethnic elements in the executive. In fact, the whole executive was in some ways irrelevant since it was subdued to UNMIK's sovereign powers and to Belgrade's control of the Kosovo Serb representatives in the PISG, who in fact were against devolution of powers to the PISG.

Doli and Korenica (2013) argue that the post-independence executive power-sharing model of Kosovo is consociational in composition, but integrationist in nature because 'no ethnicity can block' the process of coalition building. This argument is based on the procedures for the appointment of the executive through the majority vote, and the powers of prime minister to control the work of ministers and to replace ministers without the vote of the parliament. If it were correctly described, this institutional design would match the complex power-sharing framework based on a mix of consociational and integrationist features thus suggesting considerable stability of the institutions.

The Doli-Korenica analysis is flawed both from the legal and political viewpoint. It is argued here that Kosovo's post-independence design suffers from the absence of integrationist elements in favour of highly ethnicised politics. The Kosovo constitution reserves at least three ministries for predetermined minorities, thus entrenching an ethnic element in the same way as during UNMIK administration. Appointment of the pre-determined minority ministers and deputy ministers require the consent of the majority of the respective ethnic minority group in the Assembly. Therefore, the majority in the Kosovo Assembly would not be able to form the executive without the consent

of ethnic minorities, who can block the appointment of the entire executive if they refuse to enter in the coalition. This suggests that minorities have great power in setting the coalition-building dynamics since in reality, inter-ethnic bargaining is a constitutional pre-requisite of coalition-building, which enables minorities to gain even more than what constitutional provisions allow for on paper. This means that, contrary to the Doli-Korenica contention, minorities have a veto on the formation of the executive which in turn undermines any integrationist feature of executive power-sharing.

Veto Arrangements

Bieber (2005b) and Weller (2008a) portray Kosovo's institutional framework under UNMIK as a perplexing model of peripheral power-sharing in the assembly and the executive, but lacking key consociational features of ethno-territorial autonomy and formal veto or blocking powers for minorities. In other words the key question they raise is whether Kosovo should be considered a case of consociationalism at all. The argument presented here is that Kosovo is a type of externally imposed coercive consociation, albeit lacking in integrationist or liberal features and badly hampered by Serb partitionist practices, which the international community had condoned.

Consociational tradition acknowledges the existence of a variety of veto powers ranging from a comprehensive veto on any issue that constituents consider to be of vital interest with a subsequent judicial review to define vital interest, to concurrent and supermajorities as well as weighted majorities on constitutional decisions and predefined vital interests (O'Leary, 2008). The vital interest procedures which were employed in Kosovo during the UN administration are dismissed by some academics as not being consociational because they provided for delay, rather than blockage of decisions by minorities (Bieber, 2005a, 2005b; A. J. Taylor, 2005b). Here, consociational theory has neglected the coercive component of blocking powers vested in international administrators entailing the power to repeal and veto decisions of local authorities on any matter considered to violate minority interests to avoid

Bosnian-style blockages, which defines the type of coercive consociationalism.¹⁷ In Kosovo, the vetoing has been as often done by international administrators as it has been by ethnic minorities.

I argue here that the vital interest procedure (as it existed in Kosovo) corresponds to the consociational logic of delay and bargaining. In fact, consociational theory does not suggest that Veto power should be a blocking mechanism per se. This warns against the existence of such absolute veto powers (Lijphart, 1977). Hence, it is important to note here that the veto itself is not meant to be a definitive end in itself, but rather a means to an end: decision delay and inter-ethnic bargaining, which was the purpose of the vital interest procedure in Kosovo (Sartori, 1977; Schneckener, 2002). This study argues that the problem in the functioning of consociationalism in Kosovo is not so much the 'weakness' of the VIP as it is the partitionist logic by which this consociational mechanism functioned.

Literature on post-independence institutional arrangements describe post-independent Kosovo as only marginally consociational due to the inadequacy and weakness of veto powers, or indeed, a mixed consociational and integrationist element (Bieber & Kiel, 2009; Korenica & Doli, 2010; Stroschein, 2008). For example, Bieber and Kiel argue that 'some minority veto provisions did not apply to core legislation, thus running counter to the logic of protecting minority interests in fundamental institutional and constitutional decisions' (Bieber & Kiel, 2009, p. 344). Similarly, Stroschein argues that

¹⁷ Bieber (2005, p. 91) has noted that "A key aspect of governance in both Bosnia-Herzegovina and Kosovo is the substantial role of international actors, being able to override decisions of institutions and intervene in the decision-making processes themselves." However, this contention disregards the fact that the international actors were part of consociational structures in Kosovo.

Kosovo should not even be considered consociational: ‘the constitution does not give minorities a veto on decisions, thus stopping short of a consociational model’ (Stroschein, 2008, p.659). Both arguments are based on the article 149 of the 2008 Constitution of Kosovo about the initial adoption of the vital interest legislation as part of the CSP package laws in the transitional phase with a majority vote in the Assembly arguing that this article “explicitly removes the possibility for a minority veto” (Stroschein, 2008 ref. 85). Similar misinterpretation of this article is found elsewhere in the literature. In their argument that the Kosovo constitution features a harmony of consociational and integrative models, Korenica and Doli (2010) argue that Article 149 features an integrative element in Kosovo’s institutional design because of the majority vote requirement for the initial adoption of the core CSP legislation (Constitution of the Republic of Kosovo, 2008).

This thesis argues that the Kosovo constitution did not emerge from inter-communal bargaining. These analyses are based mistakenly on a flaw of the Kosovo constitution writers who unnecessarily copied the CSP Annex 12 into Article 149 of the Constitution of Kosovo. In fact, Annex 12 of the CSP requests the Kosovo Assembly to pass vital interest laws and other specified legislation according to the voting procedures outlined in the 2001 Constitutional Framework within a 120-day transitional period between the declaration of independence (17 February) and adoption of the new Constitution of Kosovo. Thus, according to this requirement, all the vital interest legislation and other laws enumerated in the Annex 12 were approved with a majority vote between February 20 and June 14, 2008 (Kosovo Assembly, 2011) before the Constitution was approved on June 15 when veto powers became effective and hence, Annex 12 ceased to apply.¹⁸ Thus, Article

¹⁸ In addition to Kosovo Albanian MP’s, non-Serb minorities also voted the vital interest laws during the transitional period. Thus, even if there would have been a veto power, Serb MP’s alone could not have vetoed these laws because their parliamentary strength did not exceed

149 of the Constitution of Kosovo emulates unnecessarily the provisions of the CSP Annex 12 but it has no constitutional effect – it is legally redundant.¹⁹ Thus, the literature evades the coercive nature of the CSP, approved by the Kosovo Assembly, as a condition for the recognition of independence. However, double majorities are needed for the approval of a number of specifically defined laws named as ‘special interest legislation.’ In addition, two-thirds of the minority votes are needed to make any constitutional changes. The 2012 minority condition to accept constitutional changes on the election of the President of Kosovo, with the extension of reserved seats, has shown that minority veto in Kosovo is a real and powerful tool consistent with consociational theory, albeit it has had an immobilizing effect on decision-making and on the evolution of Kosovo’s political system.

Decentralization and Group Autonomy

In describing Kosovo as a case of complex power-sharing, Ilievski and Wolff (Ilievski & Wolff, 2009) describe Kosovo’s decentralization as best fitting a centripetal method which advocates administrative divisions of homogenous ethnic groups in order to create mixed administrative units (McCulloch, 2009). In other words, Kosovo decentralization is supposedly integrative. They argue that the lack of a single administrative unit for Kosovo Serbs weakens Kosovo’s consociationalism and that the current model of territorial distribution of power through the creation of new, majority Kosovo Serb municipalities encapsulates such a centripetal prescription.²⁰ However, their analytical

50% of minority votes. For detailed account, see parliamentary transcripts: <http://www.kuvendikosoves.org/?cid=1,177>

¹⁹ Hence, the reason why the constitution drafters included this provision in the constitution remains ambiguous. I believe that there must have been a lack of deliberation about this issue due to the intention to copy as accurately as possible the CSP provisions. In any case, this constitutional flaw is rather obvious

²⁰ A different analysis that some features of autonomy create the possibility for the creation of a Kosovo Serb majority region is given elsewhere by Wolff (2009b).

framework of complex power-sharing containing a mix of consociational, power-dividing and centripetal mechanisms provides an inadequate categorization of Kosovo's institutional design because it disregards the country-specific context in the analysis of key institutional features of Kosovo's internal arrangements (2009, p. 45).²¹ It also neglects the wider regional dimension and the partitionist logic of Kosovo's decentralization.

The high level of dispersion of Kosovo Serbs is not applicable to the prescription of the complex power-sharing theory for the single regional autonomy of ethnic communities. Creating a single self-governing unit in the form of regional autonomy for Kosovo Serbs south of Ibar River would have required other conflict regulating strategies including territorial and demographic engineering with the transfer of populations, the creation of territorial corridors as requested by Belgrade throughout the last decade, all perhaps representing a prelude to an open conflict leading to drastic conflict-regulating strategies such as bloody partition, transfer of populations or expulsion (McGarry & O'Leary, 1994). Such drastic measures lie well outside the consociational tradition.²²

In fact, the evidence here suggest that this conflict-regulating strategy had to do with managing external, rather than internal cleavages-it was done to assuage Serbian and Russian opposition to Kosovo's independence. Hence, there is nothing integrationist in Kosovo's decentralization as centripetal theory would suggest. To counterbalance the geographic dispersion of Kosovo Serbs, and to maximise their functional autonomy, the CSP foresaw the creation of functional

²¹ Constitution of Kosovo contains some power-dividing mechanisms, but not where they see them.

²² Partition and the 'civilized transfer of population' has been continuously advocated by the leadership in Belgrade. It began openly in 2001 by the late former Serbian Prime Minister, Zoran Djindjic, assassinated in Belgrade in 2002 (Qirezi 2002b).

governance connections between majority-Serb municipalities as well as functional and financial connections to the kin-state (Lantschner, 2008; Stroschein, 2008). As Stroschein (2008) and Lantschner (2008) suggest, ethnic autonomy for Serbs in Kosovo goes as far as to promote shared sovereignty on certain issues between Kosovo and Serbia with the provisions contained in the Constitution of Kosovo coming ‘close to what is understood as territorial autonomy’ (Stroschein, 2008, p. 662-3). This thesis argues that the international community have rewarded de facto partitionist practices by granting Serbia continuing control over some of the most significant policy issues, such as education and health, as well as fiscal policy. The reason why Serb territorial autonomy is expressed and organized this way has little to do with the niceties of consociational or complex power-sharing theory and rather more got to do with the external role of Belgrade and how international administrators have been keen to ensure that Serbia's role in Kosovo is respected. This is where the unique merging of consociational and partitionist logics combine.

2.3.2 Integrationist Literature and Kosovo

The integrationist literature rejects the idea that international intervention can create a viable system of governance. In fact, it portrays Kosovo as a case of ethnic segregation masquerading under the veil of fake multi-ethnicity or consociationalism and international domination (Hehir, 2010a; Jarstad, 2007; McKinna, 2012; Simonsen, 2005). Although it rejects consociationalism as a viable solution for Kosovo, favouring centripetal methods, this view would suggest that consociationalism in Kosovo was imposed as part of an international toolbox for conflict regulation. However, this literature does not explore in depth the relationship between international administration and Kosovo's institutional design, nor does it move beyond treating relations between Kosovo Albanians and Kosovo Serbs as more or less autonomous groups, downplaying important intra-ethnic divisions. Moreover, the integrationist literature does not give full consideration to the wider regional

dimension and geopolitical concerns that led to the creation of institutional structures that facilitate such segregation.

In contrast, this study suggests that short-term concerns played a decisive role in how international interveners shaped Kosovo's institutional design, rather than pre-determined ideas about ethnicity in Kosovo. Due to these short-term international concerns, Kosovo became not simply a case of ethnic segregation as integrationist literature suggests; rather, it is both consociationalism and a de facto partition, imposed and facilitated by the international community. This account stands in contrast to Jarstad's description of de facto partition as a strategy evolving on the ground and from the bottom-up level of a deeply fractured society. The account offered here balances this by stressing how top-down elite and external actor motivations have also facilitated de facto partition through short-term decisions on institutional structure which have bizarrely created both consociational and partitionist (parallel) logics.

Simonsen's (2005) analysis is based on so called 'favourable factors' which are not conducive to consociational politics. Thus, he argues that ethnicization of Kosovo's political system plays against the interests of minorities because of demographic domination of Kosovo Albanians, or the lack of balance between ethnic segments. In fact, Simonsen warns that ethnic politics may result in permanent exclusion of minorities due to the domination of Kosovo Albanians. He suggests that a way to pacify inter-ethnic conflict is through reducing the salience of the ethnic by fostering inter-ethnic contacts and developing alternative identities and common interests, as well as through an institutional design that motivates moderate behaviour by elites appealing for cross-community support. Hence, Simonsen suggests institutional flexibility to enable their matching with the reduction of inter-ethnic cleavages and de-ethnicization of politics. He points out that a gradual direction towards multiculturalism which precludes institutionalization of ethnicity could be a way forward. In fact

this thesis makes clear external and local elites remain firmly bound by the centrality of ethnic-based politics.

Hehir (2006, 2010a, 2010b) argues that three problems undermined the stability of Kosovo under international administration: the international administration itself, which did not create a space for organic inter-ethnic initiatives by dictating the ethnicization of politics and the international failure to recognize Kosovo's independence in 1999. The emphasis of international administrators was their own prestige, rather than a process that is based on the interests of local actors. Hehir's argument is that the lack of final status determination has increased the sense of insecurity both among Kosovo Albanians and Kosovo Serbs, it has thus heightened ethnic tensions, placing the self-determination dispute at the centre of political conflict in Kosovo. This thesis mostly concurs with this analysis but provides a deeper and more nuanced account. Hehir's argument that UNMIK and NATO expressed their willingness to divide Kosovo along ethnic lines relates only to the divided city of Mitrovica. Such a view is presented also by other authors (Jenne, 2009). However, as I argue here, a *sotto voce* fall-back strategy of ethnic partition was also employed by external elites in other places throughout Kosovo.

In a similar tone to power-sharing literature, the international relations literature has focused on internal dynamics, neglecting thus global geopolitical concerns and Belgrade's veto power on Kosovo's institutional evolution. For example, Hehir (2006, p. 205) argues that 'UNMIK's lack of a clear exit strategy and the central paradox of refusing to endorse Kosovar independence while negating Serbia's influence has meant that since its establishment UNMIK has become isolated from both communities'. This assumes UNMIK negated Belgrade's Rome. In fact, it is argued here that as a consequence of international failure to recognize Kosovo's independence, UNMIK focused on discussing Kosovo's arrangements with Serbia and granted it a veto on Kosovo's institutional design and thus facilitated *de facto* partition. Hence, multi-ethnicity was a façade

which in fact veiled wider international meddling over Kosovo's final status while the Kosovo Albanians served as a scapegoat for the failure of multi-ethnicity.

Jarstad's analysis of Kosovo's institutional design concludes that Kosovo's consociation has not been allowed to evolve due to UNMIK's control of legislative and executive authority as well as the Kosovo Serb boycott and Serbia's involvement in the north of Kosovo which has de facto partitioned the country (2007). It is argued here, however, that the de facto partition of Kosovo was not merely a bottom-up reaction of Kosovo Serbs to institutional and political evolution of Kosovo under international administration; rather, it is a process reflecting the final status ambiguity which has resulted in the internationally facilitated de facto partition of Kosovo Serb enclaves both in the north and south of Kosovo through Belgrade steered parallelism.

2.3.3 Is Kosovo a Case of De Facto Partition?

Jenne (2009) argues that partition in the north of Kosovo was allowed by UNMIK and KFOR in response to Kosovo Albanian KLA leadership violence. In fact, she describes partition as a reaction of Kosovo Serbs in the north to the political situation in Kosovo. Her analysis implies that while the north has suffered a de facto partitioned allowed by UNMIK and KFOR, the Kosovo Serb enclaves are more inclined to cooperation. It is argued here that such analysis neglects the international role in facilitating Belgrade's imposition of its authority in Kosovo Serb enclaves, both in the north and in the south of Kosovo and thus creating the de facto partitioned reality throughout Kosovo, not just north of Ibar River.

As Dahlman and Williams (2010) argue, ethno-territorial delineation in Kosovo was served by ongoing sovereignty conflict between Kosovo Albanians and Belgrade, which was facilitated by international hesitation to resolve Kosovo's final status in 1999. They argue that enclaves are intended to hamper the

establishment of the rule of the majority in Kosovo and that such partition ‘prolongs the conflict’ (2010, p. 408). The internationally supported status quo has created a botched type of consociationalism in which, since 2001, there exists a conflict of ‘competing governmentalities’ between Prishtina and Belgrade in the form of Kosovo Serb enclaves which fell under Belgrade’s control and were aimed at preventing the establishment of the rule of majority Albanian dominated institutions in the majority-Serb areas:

‘Institutions of the Serbian government operate in the enclaves independently of and in parallel to Kosovar institutions, including vital registration and identity papers, courts, cadastres, planning, health care, and education. During 2008, almost every wall in the enclaves was plastered with political posters for the Serbian presidential and, later, parliamentary elections.’

(Dahlman & Williams, 2010, p. 411)

Thus while the international community has vigorously pursued the establishment of consociational institutions, it has also furthered the status quo in Kosovo providing Belgrade with a de facto veto on the functioning of Kosovo’s internal arrangements by allowing and facilitating the operation of its institutions in the Kosovo Serb majority areas. Kosovo Serbs were thus offered an alternative of default Belgrade rule, similar to that, as McGarry (2008) explains, offered to Unionists in Northern Ireland in 1974, which led to the failure of consociational arrangements. This diminished the incentives to cooperate by Kosovo Serbs because "Enclavisation, therefore, is either the retrenchment of de facto Serbian sovereignty or a gambit for a territorial fix to the conflict via partition" (Dahlman & Williams, 2010, p. 424).

2.4 Consociational Analogies

2.4.1 Cyprus and Northern Ireland

In the process of de-colonization, the UK has imposed consociationalism upon several multiethnic places in the process of its retreat, including Cyprus,

Malaysia, and most recently, Northern Ireland. These power-sharing arrangements were devised to replace partition as a method for the regulation of ethnic tensions in the former colonies which the UK had applied amply in the process of decolonization, including in Ireland, Palestine and India (Kaufmann, 1998; Kliot & Mansfield, 1997; O'Leary, 2006).

Thus, the first constitution of the Republic of Cyprus of 1960 was imposed by the UK, and the Republics of Turkey and Greece as external Ethno-guarantors (Kliot & Mansfield, 1997; Lijphart, 1977). The consociation in Cyprus failed in 1963, leading to the partition of the island in 1974. Both cases included an international treaty between external ethno-guarantors, external oversight and consultation, an external role in security, a dual-shared prime-ministership in the form of the Prime Minister and Deputy Prime Minister and proportional representation of corporate form. It is important to point out that one reason it failed was not because of internal ethnic squabbling, but because the external elites and their preferences fundamentally changed. Greece by 1967 was a military dictatorship and this played a significant role in Turkish decision to intervene and in intra-Greek Cypriot mobilisation of radical nationalists unwilling to compromise. Also the USA was not a party to the initial deal, and may have favoured a quick Cold War status quo solution, i.e. partition, rather than a protracted internal conflict involving both of its NATO allies, Turkey and Greece.

Cyprus failed because none of the local segments wanted consociation. Indeed, the partition of Cyprus shows that internal Greek and Turkish elites did not want independence of the country (Joseph, 2009). Greeks wanted unification with Greece (enosis), whereas Turks demanded partition (taksim) and unification of part of the island with Turkey (Kliot & Mansfield, 1997). The unwillingness of elites to compromise in a situation of general violence and insecurity and competitive intra-escalation within Greek Cypriot elites which led to their outbidding each other on taking a tough line contributed to the

creation of the demarcation line by the British forces which later became the line of partition (Kliot & Mansfield, 1997).

Finally, the international partners did not stay in consensus on the deal. Britain lost interest; Greece after 1967 was a military dictatorship and Turkey unilaterally invaded in 1974, reflecting growing internal chaos following a military coup in 1971 and a greater polarisation between Kemalist, far-right, liberal and leftist factions. Indeed, Ahmad (1993, p. 140-141) argues convincingly that Turkish elite preferences were always either for continued British occupation of the Island, outright reintegration with Turkey or simple partition to be achieved if necessary by Turkish force of arms. This was not undertaken in the mid 1960s only because of great power intervention, specifically by President Johnson in 1964.

The case of Cyprus suggests that had the international community and the neighbouring states been united in demanding power-sharing in the 1960s and 1970s, Cyprus may have remained a unified country. However, considering the Turkey-Greece tensions throughout the eighties and the nineties, there would hardly be a *détente*. Indeed it is possible to imagine that Cyprus would have become a powder keg threatening the strategic position of NATO in the Eastern Mediterranean something which was unthinkable for the Alliance, especially after the Suez Canal conflict and the Six Day War in the Middle East. Hence the status quo created by the partition of the island as a conflict containment strategy may have been the best alternative at that time. Nonetheless, as Bose suggests, the return to consociationalism through the Annan Plan in Cyprus, was rejected by Greek Cypriots.

From 1973 to 1998, the UK has consistently tried to impose consociational power sharing on Unionist and Nationalist communities of Northern Ireland through the 1973-74 Sunningdale Agreement (O'Leary & McGarry, 1993), the 1985 British-Irish Agreement, and the 1998 Belfast Agreement, better known

as the Good Friday Agreement. The 1985 Anglo-Irish Agreement (AIA) was based on UK-Irish cooperation to devolve powers - a policy that the UK had been trying to pursue unsuccessfully since 1973 - to introduce an 'Irish dimension' to the Northern Ireland institutional design to the satisfaction of nationalist moderate forces (SDLP) as well as to thwart the nationalist support for Sin Fein (O'Leary & McGarry, 1993). The main reasons for the failure of the AIA were the exclusion of radical Nationalist forces (Sin Fein) and its rejection by the Unionist parties (O'Leary, 1989) combined with inconsistencies of British Conservative policies in Northern Ireland as well as with regard to its cooperation with the Republic of Ireland (O'Leary, 1997).

The 1998 Belfast Agreement explicitly recognizes the right of the majority of the people of Northern Ireland for self-determination through referendum which gives Northern Ireland's consociational character a transitional stage towards the unification of the island through the principle of consent. However, both supporters and critics of the Belfast agreement are sceptical about its functioning due to the high level of corporatization of ethnicity (McGarry & O'Leary, 2004; R. Taylor, 2009). In fact, while peace has been maintained, the workings of the Northern Ireland peace deal remain tortuous with a long duration before effective local power sharing between hostile parties did emerge. As the case of Northern Ireland suggests, the external environment has proven to be decisive in the workings of consociationalism. Contrary to the situation in Cyprus, or indeed in Kosovo, the external parties to the GFA, the UK and Ireland, are liberal-democratic states, truly interested for the functioning of the deal. Their preferences have been mostly supportive of consociationalism and thus one can summarise this has had a major bearing on the eventual 'success' of a consociational deal on Northern Ireland. It is sometimes forgotten that when British PM Thatcher made her infamous 'out, out, out' comments in 1984, what she ruled out were the more drastic or unorthodox solutions of reunification, condominium and repartition, which logically very much left only space for some sort of the inter-community

power-sharing with involvements by external parties, such as the Republic of Ireland, consociational theory as peddled by O’Leary that fitted the policy space.

2.4.2 BiH as a Case of International Imposition of Consociationalism

BiH’s corporate consociation is perhaps among the weakest designed, in contrast to NI. It has not only failed to create sustainability; it has deepened the ethnic divide making this country entirely dependent on international interventionism. The Dayton Peace Accords (DPA) ended the secessionist war of Serbs and Croats from Bosnia and Herzegovina with the help of their kin states (Bieber, 2008). In spite of hopes that consociational arrangements may lead to a more civic culture and integration between ethnic constituents in later stages (Bose, 2005; Caspersen, 2004), from 1995 to date this country remains hardly functional due to the flaws in the institutional design of the DPA. The DPA strengthened ethno-territorial autonomy at the expense of the weak central institutions and created a highly interventionist international presence reluctant to implement integrationist elements of the DPA from the outset (Belloni, 2009; Bieber, 2005a, 2005b, 2008; Chandler, 2005a, 2005b; Manning, 2006). The lack of political process has immobilized cooperative tendencies in local politics. Hence, the risk of international disengagement is a high-risk possibility threatening the disintegration and collapse of the country. This has trapped both internationals and domestic players in the orbit of a closed circuit of political stalemate while BiH’s future continues to remain uncertain. Hence, BiH is a country in limbo which owes its existence to international determination to keep the country together (Bose, 2005; Caspersen, 2004).

Unlike Kosovo, BiH’s ethnic composition is based on the plurality of its main ethnic groups: 45.9% are Bosniak Muslims, 33.6% Serbs, 19.8% Croats and 1% others (Maleskic, 2010). Its institutional design is based on ethno-federalism of the three constituent peoples, the Serb-dominated Republika Srpska (RS), and the Federation of Bosnia and Herzegovina (Federation) dominated by Bosniaks

and Croats as well as the Brcko District. These ethno-territorial autonomies form the basis and supersede power-sharing arrangements at the central level resulting in weak state institutions (Bieber, 2008). These include a rotational collective presidency, a rump council of ministers (formerly headed by rotation) and a two-chamber parliamentary assembly. Representation in these institutions is based on the ratio 2:1 in favour of the Federation, or on the formula one Bosniak, one Serb and one Croat who have unconditional veto right to all decisions at the central level.

This institutional design has strengthened divisive tendencies by empowering nationalistic elites whose political platforms are based on adversarial nationalism rather than on offers for entity and state-wide effective government (Belloni, 2009). Permanent obstruction of decision-making at the central institutions has made the functioning of BiH dependent on international interventionism. Thus, corporate power-sharing based on ethno-territorial autonomy, mutual vetoes, adverse ethnic politics as well as extensive powers of international community together with weak central institutions are primarily responsible for the dysfunctionality of BiH. Hence, with a view to the effect of corporate consociationalism and ethno-federalism almost two decades later, the current 'stability' in BiH can be attributed to the 'absence of violence' as the basic concept of political stability (Hurwitz, 1973, p. 449), rather than to normal functioning of state institutions. Similarly to Kosovo, BiH has seen a de facto partition while the existence of the state is owed to the IC, whose main motivation to negotiate a consociational deal was to stop the bloodshed. Thus, segregation, not integration was viewed as the only solution. However, while such an approach resulted in successfully halting the armed conflict, the institutional flaws continue to hamper the functioning of the state.

In fact, the International High Representative uses direct coercion and arbitration to compel obstructive Serb and Croat leaders to accept grudgingly, integrationist elements of the Dayton Accords (Bose, 2005; Chandler, 2005b;

Manning, 2006). Hence, the flaws in corporate consociation were replaced by enhancing coercive powers of international administrators instead by strengthening central institutions of BiH (Chandler, 2005b). Thus, the reform process has been pursued through secret drafting of important policies by international technical experts, circumventing legitimate process of local participation (Belloni, 2009; Bieber, 2008), which has resulted in an inherent setback to reforming the state to the present day (Aybet, 2010). The frequent usage of extraordinary powers has not only failed to create a cooperative culture among BiH elites (Aybet, 2010), it has impeded transition to local ownership by way of fostering external regulation which made international actors the dominating element of BiH's political system (Chandler, 2005a). The consequences of these interventionist policies are far-reaching: they have not allowed for the development of internal political processes, they have truncated democratization, thwarted attempts to create bargaining processes and, not least, damaged the sustainability of the BiH by creating dependency on international interventionism (Belloni, 2009; Bieber, 2008; Chandler, 2005a, 2005b; Manning, 2006).

Conclusion

The evolution of consociational theory was mainly motivated by its prescriptive value which shifted its thresholds from elites, political culture and environment, to external intervention and institutional paradigms. The practice of international imposition of consociationalism does not match theoretical prescriptions which suffer from a lack of empirical evidence due to the neglect of an external dimension of consociationalism which has shaped the viability of consociationalism, in positive or negative ways, in places like Cyprus, BiH, Kosovo, and Northern Ireland. The stability of imposed consociationalism depends on both internal and external consensus and commitment to withhold the deal, which is a rarity in the cases of self-determination disputes: recently, it has happened only once in the case of Northern Ireland's 1998 deal. As the literature on other cases suggest, imposed consociationalism has failed to create

long-term stability and democratic sustainability. Especially in the case of Kosovo, the literature has neglected the relationship between the external dimension and the viability of consociationalism, including the geopolitical concerns which shaped its institutional design resulting in the dichotomy of consociational and de facto partitionist practices coexisting under the regime of international control as well as the lack of integrationist elements. In this context, this chapter has argued that de facto partition has not occurred only in the north, or as only a bottom-up reaction of Kosovo Serb; rather, it is spread out all over Kosovo, facilitated and condoned by the international interveners. In this reality of the external imposition of consociationalism, a proposition suggested here is that its value should be measured against the reasons it is established, the way it was shaped, as well as contextual factors in order to draw lessons for the applicability of consociationalism on various cases including Kosovo as a case study of this thesis.

Based on this proposition, the following chapters will attempt to explore and explain the external dimension of Kosovo's consociationalism examining whether it has created stability or whether it has furthered de facto partition. This exploration will begin with the case study of Kosovo's electoral system in which I examine the viability of Kosovo's current electoral system by exploring the reasons and the method of its imposition and implementation. Other case studies include executive power-sharing, veto arrangements and autonomy.

3 THE ELECTORAL SYSTEM

This chapter will begin by examining whether the PR and the reserved seats were a pre-conceived international formula for Kosovo's voting system and will explain why and how such a voting system was imposed. Second, it will explore the way this system was implemented in the given context of Kosovo including the engineering of political parties and the level of external involvement. Third, it will examine whether Kosovo's electoral system has ensured proper functioning of consociationalism or whether it has deepened the de facto partition reality during UNMIK administration and fourth, it will examine the influence of the declaration of independence on the functioning of ethnic party system in Kosovo.

UNMIK imposed in 2001 an electoral system modelled after corporate consociationalism with a 120-strong Kosovo Assembly. It combined a Proportional Representation (PR) for 100 seats and 20 reserved seats for pre-determined minorities in addition to those won in direct proportional elections.²³ The 100 seats were contested in a single Kosovo - wide electoral district with no electoral threshold. The generous Saint-Laguë seat distribution formula was adopted to maximize the elected minority representation in the Assembly, thus mimicking some of the features of the Dutch electoral system. Thus an artificial solution was found to undermine the demographic domination of Kosovo Albanians. The main implication of this was the inability of any of the political parties to come close to a majority of seats in the parliament. In fact the system was designed to ensure that the moderate LDK party, which polls showed were then close to representing a majority of Kosovar Albanians, did not achieve such a majority. The UN's fear was that this might provoke the

²³ Ten seats are reserved/guaranteed for Kosovo Serbs and 10 for non-Serb minorities: Bosnians (4), Roma Ashkanli and Egyptians (4), Turks (2).

more radical and KLA linked parties towards some type of paramilitary action. In addition, the reserved seats were imposed to incentivize Belgrade's endorsement for Kosovo Serb participation in elections.

This electoral design was believed to produce internal as well as regional stability. However, Kosovo Serbs who lost the status of the privileged minority under Belgrade-controlled Kosovo boycotted UNMIK's initiatives for local institution-building. The Kosovo Serbs did not have their own autonomous elites and were thus under heavy influence by Belgrade. Indeed, after the fall of Milošević regime in the fall of 2000, UNMIK invited Belgrade to create a Kosovo Serb political force and to support the participation of Kosovo Serbs in elections. In this way the internationals in practice adopted mixed models of conflict resolution which confused complex consociational engineering with a willingness to tolerate Belgrade-directed parallel and partitionist structures.

The implementation of this design was intended in the context of UNMIK's de facto sovereignty in Kosovo in which the internationals hoped that Kosovo Serbs and Kosovo Albanians would exercise co-existence in the short term, and postpone the issue of sovereignty. To this end, UNMIK sought to play out both Belgrade and Kosovo Albanians by applying a policy of final status ambiguity which in fact, gave hope to both aspirations of majority Albanian nationalists for independence and to Belgrade's assertion of its sovereign right to the territory. The lack of a clear roadmap for Kosovo's final status exacerbated Belgrade's malign intervention which finally led to the crisis of 2004 with communal rioting.

The CSP has emulated UNMIK's CF electoral system for the first two mandates after independence to replace them with 20 guaranteed seats in the third Assembly election. The guaranteed seat system compensates identified minorities with additional seats if they fail to win a certain number of seats in direct elections, but does not prevent them from winning more seats if their

percentage of votes warrants. In the post-independence period this situation has somewhat improved with the emergence of the Independent Liberal Party (SLS) as an autonomous Kosovo Serb political force and increased participation of Kosovo Serbs in elections. However, the SLS political and organizational structure is undermined by continuing Belgrade's malign intervention and the inherent lack of organized Kosovo Serb elites. Thus, the final status clarity has helped reduce to some extent Belgrade's control over Kosovo Serb politics. However, the proportionality rules which are intended to strengthen minority representation are undermined in Kosovo by the lack of organic Kosovo Serb elites and Belgrade's interference.

3.1 The Process of Imposition of PR with Reserved Seats

3.1.1 Internal reasons for the imposition of PR with Reserved Seats

In spite of documentary evidence displaying an international orientation for proportionality and the ethnic principle of representation, evidence suggests that consociationalism did not inform decisions about Kosovo's electoral system. Rather, the choice of voting system was shaped by short term concerns related to internal stability and geopolitical considerations. Firstly, the post-war violence against Kosovo Serbs, gave a credible rationale to the Belgrade-driven 2000 municipal elections boycott. Secondly, there were severe intra-Albanian tensions between the so-called peace wing represented by the Democratic League of Kosovo (LDK) and the war-wing represented by the Democratic Party of Kosovo (PDK) and the Alliance for the Future of Kosovo (AAK). This led to a desire by UNMIK to engineer a weakening of the LDK's electoral strength and therefore easier control of the Kosovo Assembly. Fourthly, the inclusion of Belgrade created a situation whereby they decided effectively whether Kosovo Serbs would participate in elections. Finally, there were many individual preferences and organizational interests involved in pushing towards the particular voting system used and its consequences. These rationales are explored in more detail below.

Post-war inter-ethnic and political violence were the main internal reasons that prompted international thinking about PR as the best model for managing inter-group conflict. Due to post-conflict violence against the Kosovo Serbs, they were increasingly viewed as victims of Kosovo Albanian extremism. This violence was a predicament to the NATO military intervention and was viewed with unease by the NATO capitals. Indeed, the fear of a reversal of the situation in which former victims become oppressors of the formerly privileged group influenced thinking about the institutional design in which Kosovo Serbs would be able to protect their interests. In fact, evidence suggests that such ideas were reactive rather than proactive measures of international administration:

‘The ideas about what political system will Kosovo have were informed by the context—mainly violence against Serbs. Ethnic representation of parties and minorities was viewed as a way minorities can defend their interests. Internationals were annoyed by violence against minorities. If these incidents did not happen, all developments might have been different. Mechanisms were developed according to the context and according to what was considered better for the given situation.’

(Interview with Franklin de Vrieze, Jul 2011)

An additional problem was the intra-Albanian violence during 1999-2002 in which the LDK activists were the main victims (Qirezi, 2004). Tensions between the so-called peace-wing (LDK) and the war-wing (KLA) of the independence movement were a legacy of the armed conflict in which the LDK and the KLA were at loggerheads about the leadership of the resistance against Belgrade’s rule. This struggle for control was the main characteristic of the Kosovo Albanian political scene when UNMIK deployed in Kosovo. As former Deputy SRS during 1999-2000, Jock Covey reveals:

‘The situation among Albanians was not good either. If there was not for the work of international community, there would have been a civil

war among Kosovo Albanians. And that is not an overstatement. This showed Albanians were deeply divided. Initially, the main concern of Kouchner was to unite Albanians. This was to be done by sitting together Ibrahim Rugova (LDK) and Hashim Thaçi (PDK) during the month of August 1999.’

(Interview with Jock Covey, Jul 2011)

Thus, power-sharing was also viewed as an instrument to mitigate intra-Albanian conflict. The conflict between the LDK and the PDK was successfully mitigated through the voting system and Grand Coalition. However, a note should be made here as to the existence of overarching loyalty to the idea of Kosovo independence. The overarching loyalty is one of the favourable factors for the establishment of consociationalism (Lijphart, 1977). Thus, international conditionality for a political process leading to statehood with the acceptance of international policies determined Kosovo Albanian acceptance of the voting system.

While the LDK enjoyed popular support and moral power, the PDK dominated key Kosovan institutions and was prepared to assert its authority without an electoral process, as proven by the Provisional Government of Kosovo assertion in 1999. However, amid LDK’s popularity and as former KLA groups were considered necessary for successful peace-building; their inclusion was considered as important by UNMIK in order to alleviate local opposition to the international peace-building agenda. In fact, the International Community had already expressed its intention to include those former KLA groups which had shown inclination towards moderation (UN Secretary General, 2001, p. 6). Thus, for the IC, intra-Albanian cooperation was an important element in the success of its mission. As former Deputy SRSG and the Head of the OSCE Mission in Kosovo, Daan Everts, explains:

‘They (Rugova and Thaçi) realized they had to work together whether they liked it or not. Otherwise they would lose favours that they needed with the international community. So there was pressure from the international community to accept PR and the reserved seats.’

(Interview with Daan Everts, Aug 2011)

Whereas intra-Albanian conflict was successfully alleviated as a result of PR, international administrators had a limited understanding about the reality of consociational systems with regard to inter-ethnic relations:

‘There is a risk (of turning ethnicity the main representation criterion)... But we hoped that some parties would mitigate their stands and would become more inclusive because they would have to draw from other groups than their immediate background so then they would have an open eye to reach out to others. In a multiethnic society you want to gain votes and you have to appeal to all ethnic constituencies. This leads to a more pragmatic, more moderate stance. At least that is what we hoped for. You can also reason that you go out for your own group and only for your own group but we hoped that all parties would somehow recognize the value of multiethnicity. But it was a bit stupid, it was stupid.’

(Interview with Everts)

This quote shows that UNMIK’s expectations matched more with the centripetal method of moderation through electoral mechanisms. However, centripetal method is based on the ‘vote-pooling,’ in which the majority candidates are encouraged to pursue moderate policies in order to gain minority votes (Horowitz, 1991). This way, centripetal method assumes elimination of ethnic politics. In contrast, consociationalism reiterates ethnic element in the voting system (Lijphart, 1977). The International Community failed to understand that in a PR system, ethnic parties typically seek to maximize votes

within their own ethnic constituency and do not see reaching out to other groups as a way to enhance their political support. The reality of consociational systems shows a different pattern of behaviour.

3.1.2 External Reasons

Control of the Status Quo

The initial UNMIK strategy was the creation of fully fledged governing structures in Kosovo (UN Secretary General, 1999). However, the lack of final status determination made these institutions a risk for the status quo policy if they began to act too autonomously. Thus, it was important to keep control of local institutions against possible declaration of independence by a majority Albanian party. Thus, the wording switched into ‘partial transfer of authority’ (UN Secretary General, 2001). Confrontation with a clear majority in the assembly would undermine this control. Thus, disaggregation of political power in a style of divide and rule had a more geopolitical rationale, aiming to maintain the status quo.

On November 8, 2000 the first free poll for the election of municipal authorities was organized by OMIK. With 79% voter participation, the LDK won 58% of the overall vote, demonstrating it enjoyed overwhelming support among Kosovo electorate. Elections were based on a list PR and no minority quota was assigned. This victory enabled the LDK to form municipal governments without seeking partnership from other parties, which was fiercely criticized by Everts at the time (Everts, 2001). A minority quota was then introduced as a way to prevent domination by the majority Albanians, and especially by the LDK:

‘We were very keen to avoid one-party dominance and tried to have coalition from the start. That was the starting point-create a system, which is based on cooperation, rather than strife and competition, something like a Dutch system, where never one party dictates all...and

we felt that FPTP would lead to a very one-sided parliament, the whole parliament would be filled with one party. So we felt that proportionality would be a better idea. And of course with FPTP there could be hardly any minority so we had to have minority representation somehow organized.’

(Interview with Everts)

Such a balance made control of institutions easier. The IC wanted to control the process in a way that there would be no winner in elections that could dictate its will to the international community. As demonstrated strongly by LDK’s 2000 electoral victory, PR itself could not create such balance. Hence, the enhanced number of minority participation was viewed as a safeguard, not only for minorities, but also for the maintenance of the UNMIK administration. As the former Chief UNMIK Jurist (2001-2008), Alexander Borg-Olivier reveals:

‘Well clearly there were promises by SRSG Kushner to move from successful municipal elections to central Kosovo wide elections. In New York abroad there was a fear that there was not clear strategy that is to how to accomplish this Kosovo wide elections without first defining the new responsibilities to be entrusted to new Kosovo elected bodies within new laws and so I think that it was very clearly imposed upon us from New York that this kind of Kosovo election had to produce a certain balance that guarantees and safeguards with representation that could be guaranteed for various communities. So that’s where it came from and I must say that there was also a major concern that we didn’t have sufficient guarantees. It would be seen as unilateral exercise done by the majority without any real involvement of the minorities, especially the Serbs.’

(Interview with Alexander Borg Olivier, Sept 2011)

Inclusion of Belgrade in the process

The lack of autonomous Kosovo Serb elites is an important factor which led to the Belgrade-steered boycott of the 2000 municipal elections. With the status quo now in place and Milošević out of power, the alliance with Belgrade was viewed as necessary in order to get Kosovo Serbs to participate in the 2001 assembly elections. The regime change in Serbia when Milošević was ousted from power and the Democratic Opposition (DOS) took charge in the end of 2000, created a new quality in the relations between Belgrade and the West enabling direct dialogue on Kosovo. As the former Kosovo Albanian member of the Joint Working Group on Constitutional Framework for Provisional Institutions of Self-government (PISG), Arsim Bajrami, describes:

‘After the closure of the process and after we signed the text, the text was opened because Serbs did not participate in the process. UNMIK negotiated the text with Belgrade-this was the main weakness of the process and it made additional compromises on our behalf and without asking us-compromises of which we were not aware.’

(Interview with Arsim Bajrami, Mar 2011)

The IC hoped that by including Belgrade, Kosovo Serbs would be part of institution-building in Kosovo. Hence, the reserved seats quota was a result of a compromise with Belgrade in order to win its support for K-Serb participation in elections.

3.1.3 Debates regarding the Electoral System

UNMIK’s initial strategy for institution-building referred to the build-up of ‘pluralistic political party structures’ on one side, and ‘multi-ethnic elections’ on the other. This wording suggests support for an inclusive electoral process with catch-all parties (UN Secretary General, 1999). Thus, the SRSG Bernard Kouchner and his first deputy, Jock Covey, had a liberal approach to political representation. They considered elections as the best way to test the strength of

political forces and foster democratic representation in Kosovo. UNMIK, in fact, knew that the moderate LDK enjoyed the support of the majority of the Albanian population in spite of assertions of former guerrillas and hence was interested to have elections as soon as possible to capitalize on this support. However, Covey has revealed that the Head of OMIK, the Dutch diplomat, Daan Everts, supported by the EU, rejected this approach insisting on gradual election preparations:

‘UNMIK did not have preconceived ideas about the electoral system. The UN was for early elections and frequent elections that would serve as a filter tool for the people and for political forces. It was an exercise of democracy. In this sense, UNMIK knew through polls that the LDK enjoyed popular support among Kosovars. However, the OSCE and EU had a different concept. OSCE and EU wanted a long-term, perfect, and organized process which included civil registry first, preparations, training of political forces etc’.

(Interview with Covey)

There was a general consensus that Kosovo should have a simple electoral system due to the lack of democratic experience. Thus, the main struggle among internationals was whether Kosovo should have proportional representation or First Past the Post (FPTP):

‘There were problems; we had to fight between agencies on the election system, the proportionality, the reserved seats, women quota. There were very strong suggestions on a majoritarian system: we struggled, we brainstormed here and there. The only big issue was FPTP versus proportionality. That was it. The Brits were very strong on FPTP. There were few voices like Germans saying why you don’t do it like in Germany, a combination of both. But we pushed hard as OSCE. I was a very strong voice saying let us have a simple system that everyone

understands, proportional and simple, not mixed system where you have partly this and partly that.’

(Interview with Everts)

The opposition among the internationals about PR with overrepresentation was quite strong. There were internal accusations that the OMIK is ‘making the place ungovernable’ (Interview with Everts). Indeed, Kouchner had been in favour of organizing assembly elections immediately after the 2000 local elections when the reserved seats issue was not yet on the table. However, the OSCE prevailed since it was indeed mandated by the UNSC to design Kosovo’s electoral system and managed to get support from the main Western Capitals. As a senior US Diplomat, who had served in Kosovo in 2001, explains:

‘We preferred the views of the OSCE which had the lead on the electoral system design. Although US generally do not use PR, OSCE’s view was that it was the best system for Kosovo.’

(Interview with Christopher Dell, Feb 2012)

This prevalence is also owed to the practical organizational preferences. For example, OMIK considered that PR, single national district, no threshold and closed lists were easier to organize and to budget than a more complex electoral system which would require more international staff, more operational activity and more operational cost:

‘In the American side there was much pressure to be open, but in the European side within the OSCE resisted that, I think that partly this was easy way out and much easier to implement with a more representative system. How you register the voters, how you control it, how you change the party structures? OSCE and organizations like that, they always think first what does it mean for me? How much work is this

going to be? If it too complicated, then let's not do I now; let's do it next time.'

(Interview with Borg-Olivier)

These organizational preferences were also influenced by national background and personal preferences of the leading actors involved in the design of electoral system. For example, the Head of OMIK, Dutch diplomat, Daan Everts' national background influenced the electoral system outcome and the internal debates in UNMIK that the PR was the best electoral system. In fact, as Taylor describes, 'Everts and OMIK were committed to proportional representation and were hostile to majoritarian systems' (A.J. Taylor, 2005a, p. 443). Once the dispute was settled, the international community united and imposed PR with reserved seats to Kosovo Albanian leaders, who had a preference for majoritarian representation (A.J. Taylor, 2005a).

3.1.4 Kosovo Albanian Views Favouring Majoritarianism

Participants in the work of the JWG reveal that discussions about the electoral system took place but were soon taken out from the work of the JWG because there were fierce disagreements between Kosovo Albanian representatives and UNMIK regarding minority representation. As the former President of Kosovo (2006-2010) and member of the JWG, Fatmir Sejdiu, reveals:

'Kosovo Albanian representatives were in favour of majoritarian system. The way this system was passed was without any noise and without any debate and this may have also been an internal deal within major political parties to eliminate electoral competition within the parties on the one side and to introduce reserved seats, on the other side... representation of minorities was discussed in tensed debates. I personally presented the option of participatory democracy for all citizens, and I was against the introduction of quotas for minorities without the votes of the citizens and I called these quotas as a "Parasite

Democracy” which is being offered to these citizens, who, regardless of their participation in the election, they will be represented in the parliament. Of course, in the commission, we, the representatives of Kosovo political parties did not agree to the 20 reserved seats for minorities in the parliament.’

(Interview with Fatmir Sejdiu, Sept 2011)

Confronted with the opposition of Kosovars for proportionality with reserved seats, UNMIK sidelined the issue of an electoral system from the discussions in the JWG and transferred it to the highest levels in order to place concentrated pressure on the party leaders. Hence, their views remained within the JWG without being echoed to the public:

‘The Kosovo side had its own proposals, but it was not really able to press those proposals too much. The OSCE played the leading role, leading the election discussion and the election groups...We at the constitutional framework group would say, leave elections to the OSCE, and we would wait them to work and put forward the plans, and then they would get support from Americans and others say that this is what you must do, and this is something that we was not really much to discuss.’

(Interview with Borg-Olivier)

Thus, discussions on the electoral system were held between the OSCE Head Daan Everts and the three main K-Albanian leaders as well as UNMIK and Belgrade. The IC continued to dominate the process in which Kosovo Albanian leaders were subject to conditionality and pressures involving Kosovo’s final status as well as their personal standing with the IC.

3.1.5 The Kosovo Serb Demand for Bi-Cameral Assembly

Kosovo Serb voices on the electoral system echoed Belgrade's platform which favoured instalment of a blocking mechanism in the form of a bi-cameral assembly. For example, the Kosovo Serb representatives in UNMIK consultative bodies, the Serbian Orthodox Church Bishop Artemije and Head of Serbian Resistance Movement, Momčilo Trajković, submitted as early as August 1999 a proposal for cantonization of Kosovo drafted by the former Ambassador of Serbia in Athens, Dušan Bataković, which, except for the reserved seats, proposed a bicameral assembly – a chamber of citizens and a chamber of communities, in which Kosovo Serbs would have veto power on all decisions of Kosovo Assembly (Bataković, 1999). This proposal is emulated in the 2002 Plan of the Government of Serbia for Kosovo as well as in the 2012 Strategy of the Government of Serbia for EU-mediated talks with the Kosovo Government (B 92, 2012; Coordination Centre of the FRY and Republic of Serbia for Kosovo and Metohija, 2002). Without having any authoritative Kosovo Serb representative, UNMIK engaged in dialogue with Belgrade in order to gain support for participation of Kosovo Serbs in the 2001 elections, which will be examined in the following sections.

3.1.6 Imposition of the Settlement upon Kosovo Albanians

The discussions on the electoral system between the OSCE and Kosovo's main political leaders (Rugova LDK, Taçi PDK and Haradinaj AAK) were based on the conditionality of final status with their acceptance of the authority of UNMIK as well as personal prestige and power. Kosovo's status process depended on how much Kosovars would accede to international wishes. Even their personal position depended on international sympathy. Everts explains that pressure from the international community was strong and determined. Kosovar leaders were confronted with the choice of being sidelined or accept the system imposed by the international community. He reveals that there was also the promise of international support for the parties that were compliant and

the threat of withdrawal of such support for those who would not accept the electoral system:

‘There was some arm twisting and they (the leaders) responded to it. So the system was internationally imposed...that was it! The internationals absolutely forced their hand, forced it. I had to argue forcefully in Central Elections Commission about the overrepresentation of minorities: if you want to have power you have to recognize the minorities, for the international perception, it is essential that there are minority safeguards.’

(Interview with Everts)

In order to comprehend the power of international organizations one needs to view the context in which these discussion happened. UNMIK functioned with the mandate of the UNSC and under the security umbrella of NATO. When it deployed to Kosovo, UNMIK settled in the main government premises of the FRY including the Army HQ, Executive and Parliament of Kosovo building, the former building of the Communist League of Yugoslavia and similar. In addition, it enjoyed wide acceptance by the Kosovo Albanian population who viewed the IC as liberators. The power behind UNMIK was immense and it certainly had an effect on Kosovo Albanian leaders whose power struggle was based also on who enjoys more international support. As Hensell and Gerdes argue,

‘Foreign actors may selectively choose national counterparts and promote some actors over others by providing or denying resources. Additionally, as connoted in the term “extraversion,” domestic actors may deliberate and build strategic relations with powerful foreign actors to gain an advantage in internal political competition.’

(Hensell & Gerdes, 2012, p. 156)

Although the deal was accepted by major Kosovo Albanian parties, its implementation confronted a serious problem - lack of political organization by minorities as well as the lack of final status determination which enabled Belgrade's malign intervention through the KP to lead to the creation of de facto partition veiled under a 'power-sharing tokenism' (John Cockell, personal e-mail, September 2009).

3.2 The Relation between Consociationalism, Demography and Group Elites-Does Kosovo Fit?

The demography of Kosovo would suggest that its consociationalism is artificial and unsustainable because the threshold of the 'No Majority Segment' is absent (Lijphart, 1985). Kosovo has a 90% majority Albanian population, divided into at least two political traditions. This context differs substantially from other, both traditional consociations and recent cases. Indeed, international civil servants who have worked in Kosovo as supervisors of the implementation of its consociational arrangements have noted that demographic and political domination of Kosovo Albanians makes the problem of ethnic strife in Kosovo irrelevant: '...the multiethnicity aspect, which in Kosovo has only a symbolic value-because very few states in Europe are more homogenous ethnically than Kosovo' (Capussela, 11 November 2012). The demography as such then affects the organization of minorities as ethno-political communities led by respective ethnic elites. International interveners had to fix this context in order to make consociation in Kosovo functional.

The first precondition for the establishment of consociationalism is the existence of group elites who must broker the consociational deal. These elites are representative of their respective groups divided along the sharp lines of ethnicity, linguistics or religion. For example, O'Leary argues that segmented societies run a high risk of inter-communal conflict due to irreconcilable identity cleavages and permanent efforts to outbid one another (O'Leary, 1989). O'Leary's and other definitions of segmented societies account for highly

organized political communities whose elites are representative of their respective cleavages (Lorwin, 1971). Such political organization necessitates established elites representative of their own segments. It is the elites that respond to these cleavages by establishing accommodative institutions.

Indeed, consociational theory advocates power-sharing as a sensible alternative to the zero sum politics of mutual outbidding between rival communities. Existence of segmental elites is not sufficient, but it is a necessary condition for the establishment and maintenance of consociationalism as its functioning depends on their behaviour, readiness and skill to accommodate segmental divisions (Lijphart, 1969).²⁴ Hence, political parties, as the most common form of political organization entailing its leadership as society elites are the key variable in the analysis of the validity of PR as a consociational mechanism. If judged by this elite threshold found throughout consociational theory, Kosovo does not fit a case for imposing an electoral system consistent with consociational theory.

During the 1990's, Kosovo matched partly O'Leary's characterization of segmented societies because the majority Albanian population had its own political organization in parallel to the Belgrade's official apartheid system established in 1990 after the abolition of Kosovo's autonomy in 1989. Kosovo was organized into the Albanian-dominated system with its own political organization and services and the official Serb-dominated system (Abrahams, 1996; Kouchner, 1999). Thus, after 1999, 'the problem in Kosovo, and the most important issue facing the Provisional Institutions of Self-Government (PISG), is not competition between ethnic identities because the expression of group identities is guaranteed, but by competing claims about sovereignty (A.J.

²⁴ Lijphart gave such a big importance to the existence and role of segmental elites that he characterized consociationalism as 'cartel of elites' (Lijphart, 1969).

Taylor, 2005a, p. 112). This sovereignty in fact had been a struggle between Kosovo Albanians and Belgrade, rather than between Kosovo Albanians and Kosovo Serbs. Thus, consociationalism was built around the cleavage of the final status between Kosovo Albanians and Belgrade. This weakened the design due to the latter's control of Kosovo Serbs. Hence, the generous representation criteria did not ensure participation of Kosovo Serbs due to malign and partitionist intervention by Belgrade, a fact which has been evaded in the larger part of the literature.

The argument that competing claims were external, rather than internal is substantiated by the fact that none of the Kosovo minorities, including Kosovo Serbs, had any political organization of their own during the 1990's. Their members either supported LDK, or took part within the Belgrade-based political party system, or indeed, both. Therefore, the establishment of the UN administration and the withdrawal of Belgrade structures in 1999 found Kosovo with Albanian majority political parties but no political organization of minority groups. Thus, the imposition of PR in Kosovo is not validated by consociational thresholds.

On November 8, 2000 the first free poll for the election of municipal authorities was organized by OMIK. They were based on a list PR and no minority quota was assigned. Although a remarkable 79% of the total number of registered voters participated in the polls (OSCE, 2000), the UN considered these elections only partially successful due to the boycott by the Serbs, and the allegedly negligible turnout by Turks and Roma, Ashkanli and Egyptians (RAE) (UN Secretary General, 2000b).

The international estimate about minority participation in the 2000 municipal elections was based on the assumption that the voters from one group actually vote only for their own ethnic organization dismissing a realistic possibility that non-Serb majority voters could have voted for the LDK, whose civic

orientation and humanitarian system was at least to some extent inclusive also of Roma, Turks and Bosnians (UN Security Council, 2000b). Thus, OMIK did its utmost to help create ethnic parties per each group in the run up to the 2001 parliamentary elections since there were no parties representing some of the ethnic groups that were assigned reserved seats in the Kosovo Assembly. This way, it created ethnic politics where it never existed, or, more exactly, stifled the reality and promise of a more civic and non-ethnic based party system. OMIK increased its political activity by identifying personalities among these minorities, 'encouraging them to be part of the electoral process' (John Cockell, personal e-mail) and undertaking voter education on the electoral system. Thus in 2001 Kosovo saw a plethora of minorities emerging to demand political representation for their group-however miniscule. As Table 4 shows, the representation of minorities in the Kosovo Assembly is way above the demographic reality and exceeds the consociational prescription of proportionality.

Table 5. Election Results and Distribution of Seats in the Kosovo Assembly from 2002 to 2010

	2001		2004		2007		2010	
	Votes %	Seats	Votes %	Seats	Votes %	Seats	Votes %	Seats
Albanian parties	84	85	96	98	95	96	94	95
LDK - Democratic League of Kosovo	45.6	47	45.4	47	22.6	25	24.7%	27
PDK - Democratic Party of Kosovo	25.7	26	28.9	30	34.3	37	32.1%	34
AAK-Alliance for the Future of Kosovo	7.8	8	8.4	9	9.8	10	11.0%	12
AKR - Alliance New Kosovo	...	...	...	...	12.3	13	7.3%	8
LDD - Democratic League of Dardania	...	...	...	...	10	11	2.1%	0
ORA	...	...	6.2	7	4.1	0	...	...
VV - Movement Self-Determination	...	...	...	...	...	...	12.7%	14
LKÇK - National Movement for the Liberation of Kosovo	1.1	1	0.4	0	0.4	0	...	...
PSHDK-Albanian Christian Democratic Party of Kosovo	1	1	1.8	2	...	...	...	...
PD - Justice Party	0.6	1	1	1	1.7	0	with AKR	...
LPK - People's Movement of Kosovo	0.6	1	0.7	1	...	...	...	...
PLK - Liberal Party of Kosovo	...	...	0.5	1	...	...	...	...

Part 2

Serbian parties	11.3	22	0.3	10	0.5	10	4.3	14
KP - Coalition Return	11.3	22	...	...	...	...	...	...
Serbian List for Kosovo (SDS in 2007)	...	...	0.2	8	0.2	3	0.1	1
GIS - Serbian Civic Initiative	...	...	0.1	2	...	...	...	...
Serbian Independent Liberal Party - SLS	...	...	...	...	0.1	3	2.1	8
SKMS- Serbian Kosovo-Metohija Party	...	...	...	...	0	1	...	...
SNS - Serbian People's Party	...	...	...	...	0	1	...	...
ND - New Democracy Independent Social	...	...	...	...	0	1	...	...
Democrats-SNSDKiM	...	...	...	...	0.1	1	...	...
JSL - Unified Serbian List	...	...	...	...	...	...	0.9	4
NDS -People's Democratic Party	...	...	...	...	...	...	0.4	1
Other Minorities	3.8	13	3	12	3.6	14	3.4	11
VTN VATAN (Bosniak Coalition)	1.2	4	...	...	...	...	...	...
VAKAT (Bosniak Coalition)	...	...	0.7	3	0.9	3	0.8	2
SDA - Party of Democratic Action	...	...	0.4	1	0.6	2	...	...
Bosniak Party of Democratic Action	0.4	1	...	...	...	...	0.2	1
PAI	...	...	...	...	...	...	0.2	1
GIG - Civic Initiative Gora (Gorani)	...	...	0.4	1	0.1	1	0.1	1
KDTP - Turkish Democratic Party	1	3	1.2	3	0.7	3	1	3
New Democratic Initiative (Egyptians)	0.5	2	0.4	2	0.4	1	0.2	1
PDASHK - Democratic Ashkanli Party	0.4	2	0.4	1	0.6	3	0.4	1
PREBK - United Roma Party of Kosovo	0.3	1	0.2	1	0.1	1	0.1	1
Total seats	120		120		120		120	

3.2.1 Minority Elite Engineering

The artificiality of Kosovo's consociationalism is best shown through elite engineering. The elite engineering, especially among RAE communities was done without any knowledge about their culture, traditions, nor any identifiable leadership. As Everts reveals:

'It was very hard to penetrate those (RAE) communities. The degree of their organization was very low and it was very difficult to approach, to organize, except at the very local level where you had some individuals who seemed to be in the lead locally. It was not always clear whether it was a private ambition or a collective wish for party organization. There were also some material gains to have when you were seen as a politician or a leader so the private and the public interest was also not always very clear. It was not easy because...who we could consider legitimate party, nucleus of a party, and who was an opportunist who wanted to have seeking some international funding. So, this was also not an easy job, but I think we tried hard through training, seminars, exposure to national meetings.'

(Interview with Everts)

OMIK's wish to organize a united RAE political front failed because individual leaders from these communities often saw a better chance for self-promotion in a divided representation which was ensured to them with the reserved seat provision:

'OMIK Democratization Department in its regional offices worked a lot with minority communities. For example OSCE wanted to unite Roma, Egyptians and Ashkanlis into one political force, but it did not succeed.'

(Interview with De Vrieze)

The reality of these minorities was rather complex as regards their cultural identity, which was quite fluid with many members of these communities seeking an identity that suited better in the new situation. Therefore, one can observe a movement of votes between the parties representing one of these communities between 2001 and 2010 elections. The case of RAE communities highlights the artificiality of Kosovo's consociationalism.

3.2.2 The Situation of Kosovo Serb Elites

Kosovo Serbs have never had an organic political elite. Kosovo Serb politicians emerged traditionally within the ranks of Belgrade ruling parties. Attempts to create genuine Kosovo Serb political movements autonomous from Belgrade, such as the 1995 Serbian Resistance Movement of Momčilo Trajković, formerly one of Milošević's Kosovo Serb strongmen, have always failed. For example, Nenadović highlights the lack of Kosovo Serb political elites when revealing that the UN registered local branches of Belgrade-based political parties in the run-up to 2001 parliamentary elections of Kosovo (Nenadović, 2010).

Evidence suggests that since the introduction of Serbia's multiparty system in 1990, Kosovo Serbs never competed with their own political force, in contrast to Serbs in the Serbian northern province of Vojvodina, whose own political organization can be traced back as early as 1990 (B92, 2007; Doc. Dr. Slaviša Orlović, 2008; Republican Electoral Commission of the Republic of Serbia, 2008a). Instead, throughout the nineties, Belgrade-based political parties organized their branches and appointed local party and institutional leaders from among their Kosovo Serb members. The situation was the same with other minorities that participated in the Serbian political system during the 1990's.²⁵

²⁵ Kosovo Albanians, led by the LDK persisted in their boycott of the Serbian institutions throughout the nineties. Instead their political life was organized around unrecognized elections held in 1992 and in 1998 in which the LDK, which quick growth in the 1990 is owed to the dissolution of the Yugoslav Communist League structures in Kosovo, received 90% of the vote.

The data of the political party registers of the Serbian Ministry of Local Self-Government and State Administration (2010) and that of Justice and State Administration (2011) from 1990 to 2010 shows two minor political organizations of Kosovo Serbs but there is no record of their election participation. Even during UNMIK administration, Kosovo Serbs who support Belgrade's parallel structures do it through Belgrade-based parties, rather than through their own political organization. Data from the Election Commission of the Republic of Serbia reveals that in the parallel local elections for municipal boards organized by Belgrade in Kosovo in 2008, all seats in municipal boards were taken by, and all members of polling station commissions were representatives of, Belgrade-based parties (Republican Electoral Commission of the Republic of Serbia, 2008b).

In this situation, the OSCE and UN hand-picked minority local personalities such as the former member of the Serbian Radical Party, Rada Trajković, and the Orthodox Bishop Artemije to represent Kosovo Serbs in the joint administrative structures created by UNMIK in 1999 and 2000 (Brand, 2003; Everts, 2011). These representatives were merely individuals unable to create political organizations representing Kosovo Serbs. Belgrade continued to keep its political influence over Kosovo Serbs through fiscal transfers and intimidation – both of which were tolerated by UNMIK. Thus, UNMIK sought the easiest way to motivate the participation of Kosovo Serbs in elections – through Belgrade's ruling coalition, thus facilitating the de facto partition of Kosovo.

3.2.3 Engineering of Kosovo Serb Elite or Facilitation De Facto Partition?

While the OSCE Democratization and Political Party Department was 'quite active and offered support and office for minority parties, helped their formation and trained them (minority parties)' (Interview with Everts), the organization of Kosovo Serb elites received a special treatment since it was

‘dealt exclusively by the Political Office of the Head of OSCE Mission, Daan Everts’ (Interview with De Vrieze). The reason for this was that the organization of a Kosovo Serb party was left to the government in Belgrade. Indeed, the inherent lack of autonomous Kosovo Serb elites meant that the decision on who should represent Kosovo Serbs would be negotiated among the coalition partners in Belgrade:

‘Kosovo Serbs have suffered because of the lack of their genuine leadership. Legitimacy of their representatives used to be injected by Belgrade. This was a paradoxical situation, because we were discussing issues of accommodation of Kosovo Serbs with their representatives, while Belgrade was directly hindering the realization of the rights for Kosovo Serbs.’

(Interview with Hajredin Kuqi, Jun 2010)

Due to this lack of Kosovo Serb leadership, ‘Daan Everts was fully engaged in discussions with the then Serbia’s Deputy PM, Nebojša Čović to convince Serbia to allow forming of a Kosovo Serb coalition’ (Interview with de Vrieze). In fact, it had become fashionable to be engaged in talks with Belgrade, with many people in the OMIK rushing to be part of these talks as it was viewed not only as the mission’s success, but also as a personal success:

‘In Belgrade, everybody at that time was lined up behind Čović. In OSCE, many people worked with this issue: Daan Everts, Caroline McCool, [REDACTED]. Participation of Kosovo Serbs in the elections was discussed with Belgrade. It was part of the Common FRY-UNMIK Common Document, in which both UNMIK and Serbian Government would supervise the PISG. This was the context in which Belgrade political parties accepted to participate in elections and to unite in a coalition. Daan Everts insisted that he has to be part of this agreement and he was. He in fact did not allow Caroline McCool, the Head of OSCE Democratization Department, to sign the

agreement with Čović-she was also very interested to do that. When she left for Belgrade, he phoned her when she arrived at the border with Serbia and told her to return because he was the one who is going to sign the agreement. She must have been very disappointed.’

(Interview with de Vrieze)

The OSCE and UNMIK negotiated with the government of Serbia to organize the Belgrade party branches in Kosovo into a single coalition. This approach not only undermined the validity of consociationalism; it created a de facto partition situation manifested through Belgrade’s control of the Kosovo Serb representatives in the Kosovo Assembly. It in fact created a consociation between Kosovo Albanians and Belgrade, although it had been presented as a consociation between Kosovo’s ethnic communities.

The talks were not easy as Belgrade political views on the participation and behaviour of Kosovo Serbs in the PISG diverged substantially (Taylor, 2005b). This also entailed that Belgrade’s governing coalition had to agree on how to divide its influence among Kosovo Serbs (Nenad Lj. Stefanovic, 2001, 22 November). Indeed, as Daan Everts said, "the discussions leading up to the formation of the Koalicija Povratak were very difficult and protracted" (OSCE Mission in Kosovo, 2001b). The solution was the creation of a Kosovo Serb so-called civic initiative, which in fact was a coalition of Belgrade governing coalition parties, rather than a Kosovo Serb own political party.

As the KP’s electoral list composition shows, its 60 representatives mirrored policies and divergences of respective parties in Belgrade rather than the interests of Kosovo Serb population (ICG, 2003).²⁶ Belgrade was not in favour

²⁶ The KP consisted of Democratic Party of Serbia (17) led by the then President of the Federal Republic of Yugoslavia, Vojislav Koštunica; Democratic Alternative (11) chaired by Deputy Prime Minister and the Head of Serbia’s Government ‘Coordination Centre for Kosovo i

of the creation of a Kosovo Serb political party which would promote a local Kosovo Serb leadership and a more autonomous structure. Rather, it re-named a coalition of local branches of Belgrade's coalition into a civic initiative. As senior OSCE official reveals:

'Belgrade based parties did not want to register as a party so KP was registered as civic initiative, which was accepted by the OSCE, although rules did not foresee existence of civic initiatives. Thus OSCE had to do many waivers in order to bring the KP on board, including extension of registration and certification deadline. Also, none of KP candidates were verified, like it happened with candidates from other political parties.'

(Interview with De Vrieze)

In spite of KP's certification by the OSCE in September 2001, the decision to participate in the elections was taken by the Government in Belgrade only two weeks before the elections with the KP merely supporting this decision (Glas Javnosti, 2001, November 6). In return for Belgrade's endorsement for KP's participation in elections, UNMIK signed with Belgrade the 'Common Document,' which gave Belgrade the power to directly interfere in the promotion of Kosovo Serb representation in the Kosovo judiciary, security and police.

Metohija,' Nebojša Čović; Democratic Party (6), headed by the Serbian Prime Minister, Zoran Djindjić; Socialdemocracy (5), a Belgrade-based party headed by an MP in the Serbian Parliament, Dušan Janjic; New Democracy (5), headed by the Serbian Deputy PM and Minister of Interior, Dušan Mihajlović; Serbian Christiandemocratic Party (5) chaired by the Serbian Minister of Justice and Local Government, Vladan Batić; Serbian Renewal Movement (3) of the former Serbian opposition leader, Vuk Drašković; and 8 independent candidates, most of whom joined DOS parties (Glas Javnosti, 2001, 10 November). The KP list was headed by the then Rector of the Belgrade-controlled University of Prishtina in North Mitrovica, Gojko Savić, an intellectual close to the party of the Serbian PM, Zoran Djindjić.

3.3 The Failure of the Consociational Experiment during 2001-2008

3.3.1 Representation in the Assembly during 2001 - 2007

In the 2001 Assembly elections, the KP won 11% of the vote and 12 out of 100 seats through open elections totalling their representation through the reserved seats in 22 seats. Bosnians, Turks, Gorani, Roma, Egyptians and Ashkalis had altogether 13 seats in the Assembly through the system of reserved seats, although only one Bosnian party, one Turk party and an Egyptian party won a seat each in an open election for 100 seats.²⁷ As a result, the overall number of minority MA's in the first post-war Kosovo Assembly was 35 out of 120 members, or 30% of seats, while their total proportional share of votes was 14% (Central Election Commission, 2001). One should note here that proportional over representation is significantly greater, probably twice as large, as the 12% upper limit of the total non-Albanian population according to the 1991 census result conducted by the Milošević regime.

The problem with the KP was that it was not an organic Kosovo Serb political organization. Rather, it was established and controlled by the Belgrade ruling coalition and it represented the interests of Belgrade, rather than those of Kosovo Serbs. Thus, in a symbolic display of their loyalty to Belgrade, before taking up their parliamentary mandates, the KP MA's, headed by the Serbian Deputy PM, Nebojša Čović, met with President Koštunica, PM Djindjić, and

²⁷ One seat was won by a Bosnian-Gorani coalition VATAN. Vatan's share of reserved seats for Bosnians was 2 and of Gorani's 1 seat, totalling its representation to four MA's. Bosnjacka Stranka Demokratske Akcije Kosova (BSDAK) was represented with one reserved seat. The Turkish Democratic Party of Kosovo (KDTP) won one seat in addition to two reserved seats, totalling its representation to 3 MA's. The Egyptian party Inicijativa e Re Demokratike e Kosoves (IRDK) won 1 seat in direct election and it was given an additional reserved seat totalling its representation to two MA's. Two reserved seats were taken by the Ashkanli party – PDASHK and one seat was given to the Roma United Party of Kosovo. The total representation of these communities went to five seats.

the Serbian Orthodox Church Patriarch, Pavle. Tellingly of Belgrade's control of the KP, President Koštunica told the group that:

‘The Overall strategy of the activity of Kosovo Serbs should consist of return of displaced persons, elimination of the consequences of ethnic cleansing, establishment of peace and stability in the province and its return in Serbia and Yugoslavia.’

(B92, 2001, 8 December)

In return, the KP MA's 'stressed the importance of permanent communication with state organs of Serbia' and took an oath of allegiance to the Serbian Orthodox Church for defending the Serbian cause (B92, 2001, 8 December). Thus, from the outset the reliance of the KP on Belgrade's political guidance came at the forefront of its political activity. By engaging it in the creation of the KP, the international community gave Belgrade a de facto veto on the functioning of consociationalism through their control of Kosovo Serb representatives, steering thus the de facto partition which had been sought publicly by the leadership in Belgrade (Qirezi, 2002). This, in turn, built up further the mistrust between Kosovo Albanians and Kosovo Serbs on the one side, and Kosovo Albanians and UNMIK, on the other, making any co-existence within the assembly a farce (A.J. Taylor, 2005b).

The paradox was that the IC wanted to sideline the final status of Kosovo so the Kosovo Albanians and Kosovo Serbs could improve their relations dealing with other matters under the guidance of UNMIK (Hehir, 2010). However, the system itself was built around the final status cleavage. It mirrored the self-determination dispute between Kosovo Albanians and Belgrade. Hence, the final status issue was indeed at the core of the political confrontation between the KP on the one side, and the LDK, PDK and AAK, on the other. This confrontation led to the failure of consociationalism shortly after it was established.

While the latter permanently sought to enhance the competencies of the PISG limited by the CF, the KP frequently allied with UNMIK in support of the latter's veto on any decision of the Kosovo Assembly to 'encroach' on the powers reserved for the international administration and opposed the international administration on issues such as the dismissal of Belgrade-controlled parallel institutions, or indeed, the transfer of competencies to Kosovar institutions. These opposing positions contributed to the permanent build-up of mistrust between Kosovo Albanian and Kosovo Serb representatives.

While UNMIK's increasing cooperation with Belgrade triggered reactions by Kosovo Albanian MA's, this in turn triggered the reaction of KP MA's boycotting the work of the Kosovo Assembly. Such was the case in November 6, 2002, when the Assembly accepted AAK's motion on the resolution to counter the constitution of the State Union between Serbia and Montenegro which defined Kosovo as part of Serbia. The KP presented a counter-motion which requested Kosovo Assembly to declare itself on every point of the Resolution 1244, which was rejected by the Assembly President, Nexhat Daci.

This triggered the first in a series of boycotts by the KP which were, as evidence shows, directed by the government in Belgrade. In reaction to this event, the Serbian Deputy PM Nebojša Čović, said publicly that 'KP MA's will not return to the Assembly until normal conditions for their work are ensured...I would not like that the KP MA's go to the third stage, which is complete withdrawal from the executive' (B 92, 2002), which in fact happened within a year. Under this pressure from Belgrade, SRSG Michael Steiner increasingly used his veto powers to please Belgrade so it did not order an overall boycott of the Assembly by the KP.

Evidence suggests that Belgrade's control over the KP damaged consociational representation. For example, Taylor (2005b) reveals that all legislation

sponsored by the KP-held Ministry of Agriculture, Rural Development and Forestry was regularly supported by Kosovo Albanian MA's. Thus, rather than because of the marginalization by Kosovo Albanian political parties of the KP, the key designers of Kosovo institutions argue that it was the KP's intransigence that led to the lack of any cooperation:

'Unfortunately, the magnanimity of Albanian leaders was not helped and fed by Serbian cooperation. I mean, the Serbs mishandled their case, because if they had bought into multiethnic Kosovo they would have had a much better life than they have now. If they would have responded to our pressures on Kosovars, and also being helpful on a functional government, if they would not have been intransigent and resisting, staying apart, I think that would be much better.'²⁸

(Interview with Everts)

In spite of the gradual improvement and institutionalization of the Kosovo Assembly during the later stages, the confrontation between KP MA's and Kosovo Albanian MA's on issues which were perceived to influence the direction of Kosovo's final status never stopped. To this end, the KP continuously obstructed institutional development in Kosovo. For example, the KP MA's reacted fiercely about the discussions on the gradual transfer of competencies from UNMIK to the PISG, complaining that this transfer violates Resolution 1244 which recognizes Serbia's sovereignty over Kosovo (Nikolić, 2003).

These sovereignty-related tensions led to the final withdrawal of the KP from the Assembly in January 2004. However, tensions within the Belgrade ruling coalition left Kosovo Serb without clear political guidance. These dynamics

²⁸ Kosovar Albanians are frequently referred to as 'Kosovars,' even in Albania.

were reflected within the KP with a number of its MA's opposing the boycott. Finally, the KP dissolved in mid-2004. Some of its key figures went to work in the Government of Serbia or were elected members of the Parliament of Serbia and FRY (Večernje Novosti, 2004).²⁹

This left Kosovo Serbs with no credible political options of their own and hence to their abstention from the 2004 and 2007 elections. In 2004, the Serbian List for Kosovo and Metohija (SLKM)– later renamed into Serbian Democratic Party (SDS) and the Civic Initiative Serbia, did not manage to break the boycott ordered upon Kosovo Serb voters by Belgrade following KP's dissolution which resulted from the dissolution of Belgrade's ruling coalition. They had a total of 1,000 votes and were represented just nominally in the Assembly of Kosovo with 8 and 2 reserved seats, respectively. However, this participation had nothing to do with the functioning of consociationalism. Rather, it was a token of power-sharing.

3.3.2 The International Dimension and De Facto Partition

UNMIK's view of the functioning of the power-sharing was based on the sidelining of the issue of the final status of Kosovo. To this end, UNMIK sought a simultaneous alliance both with Kosovo Albanians and Belgrade. However, the general IC policy of final status ambiguity damaged any prospect for successful power-sharing because it placed the sovereignty conflict at the top of the agenda both for Belgrade and Kosovo Serbs on the one side, and Kosovo Albanians on the other. Thus the main flaw in international policy of

²⁹ For example, Milorad Todorović, was a KP MA and member of the presidency of the then ruling party in Serbia, the Democratic Party of Serbia chaired by the then Serbian Prime Minister of Serbia, Vojislav Koštunica. He was subsequently elected a member of the Parliament of Serbia. Another KP leader, the Minister of Agriculture in the first Government of Kosovo, Goran Bogdanović, became also member of the Parliament of Serbia serving the ranks of the Serbian President's Boris Tadić, the Democratic Party, as well as a Minister for "Kosovo and Metohija"²⁹ in the Serbian Government. Yet, the third KP leader, Oliver Ivanović became the Secretary of State in the Ministry for Kosovo and Metohija in the Serbian Government.

imposing consociationalism in Kosovo was the inclusion of the former sovereign as an external party in the implementation of the deal thus facilitating the de facto partition. For example, in the report of the UN Secretary General in which he describes UN's efforts to convince Belgrade to give the green light to the participation of Kosovo Serbs in the elections, there is specific reference to the sovereignty of the Federal Republic of Yugoslavia on the one side, and a statement that Constitutional Framework 1244 does not prejudge Kosovo's final status settlement:

‘A major part of the Mission's (UNMIK) focus over the reporting period has been directed towards completing the work on the Constitutional Framework for Provisional Self-Government. Throughout this process, my Special Representative's foremost priorities have been to protect the rights and interests of all communities and the sovereignty and territorial integrity of the Federal Republic of Yugoslavia. In accordance with the Security Council resolution 1244 (1999), the Constitutional Framework does not in any way prejudge a final political settlement for Kosovo.’³⁰

(UN Secretary General, 2001, p. 6)

This creative ambiguity approach of appeasing both Belgrade and Prishtina served short-term international goals of buying Belgrade and Kosovo Serbs into the process, as well as keeping Kosovo Albanians on board. By failing to set a clear final status agenda for Kosovo and by promoting Belgrade's involvement as a way of getting Kosovo Serbs on board, the IC created the conditions for the failure of its own design, thus promoting simultaneously consociationalism and

³⁰ The reporting period is between March-June 2001 when the Constitutional Framework was being drafted.

de facto partition. Evidence suggests that the designers of this persisting system in Kosovo have regretted the approach taken in 2001:

‘By giving moral support and financial support so the Serbs remain out of the mainstream and stick to themselves, they (Belgrade) created a divided situation. If they had been more helpful, if the leadership among Serbs would have been more cooperative, this could have been a better place. But that is almost the same like asking Northern Irish to join Ireland in a beautiful multi-religious, multiethnic...if you can’t achieve that in Belgium, if you can’t achieve that in Ireland, how can we assume that this can be achieved in Kosovo?’

(Interview with Everts)

In fact, to make a comparison, imagine the functioning of the GFA under continuous Irish involvement through fiscal transfers with pressures on Catholics to boycott the Northern Ireland institutions and through organization of Presidential and parliamentary elections in Northern Ireland. Not only would such a presence by Dublin totally undermine the GFA, it would result in the partition of Northern Ireland between Catholics and Protestants. For such obvious reasons the external parties in Northern Ireland have neither sought nor been permitted to behave this way. The lesson from Sunningdale was the need to get the local parties in the conflict to negotiate and share power, and that there were limits to how much could be imposed by externals. Yet in Kosovo these pragmatic lessons have been cast aside.

In Kosovo, instead of promoting the emergence of autonomous Kosovo Serb elites, the IC condoned parallelism even in the election system. Thus, Belgrade regularly held its own municipal and parliamentary elections in Kosovo, offering Kosovo Serbs an alternative to participation in Kosovo’s consociational institutions. These elections were held regularly and were tolerated by UNMIK. Thus, UNMIK facilitated the creation of two separate

realities for the people of Kosovo: one, in which Kosovo's autonomous institutions operated under strong UNMIK's control, and the other, in which Kosovo Serbs lived under effective administration of Serbia and took part in the Serbian political process, thus not being bound in any way to be part of UNMIK- led state-building in Kosovo. This situation features a de facto partition condoned by the IC, which undermined Kosovo's consociational arrangements. As Table 5 shows, Serbian elections in Kosovo were organized more frequently than Kosovo elections showing a strong demonstration of the presence of the Serbian state in Kosovo, which in turn, opposed international institution-building in Kosovo. How could Kosovo Serbs decide to participate in Kosovo governing structures if they lived in a reality where the presence of Serbia meant opposition to those structures?

Table 6. The comparison the participation of Kosovo Serbs in Kosovo elections vs. participation of Kosovo inhabitants in the Serbian election.

YEAR	MUNICIPAL ELECTIONS		CENTRAL ELECTIONS		REGISTERED VOTERS
	Kosovo	Serbia	Kosovo	Serbia	
2000	...	...	...	...	...
2001	...	...	89,388	28,841	147,883
2002	28,447	...	...	42,628	107,524
2003	...	...	...	47,891	97,766
2004	...	...	...	40,535	97,829
2007	1040	...	3163	54,954	101,956
2009	7959	...	...	...	...
2008	...	...	...	92,956 55,714	202,912 112,752
2010	...	...	27,989	...	...
2012	...	...	...	35,277	113,641

Sources: Kosovo Central Election Commission and the Office of Statistics of the Republic of Serbia.

3.4 The Post-Independence Period

In the 2007 elections, the ten reserved seats for Kosovo Serbs were divided among six parties.³¹ Their joint share of votes was 3,163 out of 571,767 valid ballots (Central Election Commission, 2007). In the 2007 Election Law, a threshold of 5% for Albanian parties was agreed between Kosovo Albanian parties. This deal did not include minorities. A coalition between the PDK, LDK, SLS and non-Serb minorities was established. The Democratic League of Dardania (LDD),³² the Alliance New Kosovo (AKR), AAK, the Egyptian IRDK and the Serb SDS remained in opposition.

On 17 February 2008, the Kosovo Assembly declared independence with 109 out of 120 votes. The Assembly approved the Constitution of the Republic of Kosovo on 9 April 2008 with 103 MA's present and voting pro constitution. The Kosovo Serb MA's were absent both during the voting for independence and approval of the constitution (Assembly of Kosovo, 2008a, 2008b). Throughout the 2008-2010 mandate of the Kosovo Assembly, the input from Kosovo Serb parties was insignificant. This absence of course is abnormal as regard to a genuine type of consociationalism.

In the subsequent 2010 elections, the SLS became the strongest Kosovo Serb political force gaining the majority of the Kosovo Serb electorate that participated in the elections with 14,000 votes out of more than 27,000 votes cast for Kosovo Serb parties in a sudden increase of participation of Kosovo Serb voters. Thus, the SLS ended up with 8 seats out of 14 seats held by the

³¹ SLKM (3), Independent Liberal Party (SLS) (3), Serbian Kosovo Metohija Party (SKMS) (1), Serbian People's Party (SNS) (1), New Democracy-Belgrade (ND) (1), and Serbian Independent Social-Democrats of Kosovo and Metohija (SNDSKM) (1).

³² The LDD was an LDK splinter group led by the former Kosovo Assembly Chairman, Nexhat Daci.

Serbs.³³ This sudden increase of participation of Kosovo Serbs is interpreted in different ways. There are those who say that it was part of a general vote manipulation in which ‘the ballot boxes were filled with votes’ in order to allow the SLS to win the election on the Kosovo Serb side (Interview with ICO Expert, Sept 2011). Others, however, disagree, suggesting that the generosity of the CSP provisions in decentralization were the key factor that influenced participation of Kosovo Serbs in elections: ‘The CSP provisions are working internally south of Ibar River. People see the opportunity and they are using it’ (Interview with Christopher Dell, March 2012).

To address the alleged vote manipulation and electoral reform of the President of Kosovo, the Kosovo Assembly has created an Assembly Election Reform Commission. However, Kosovo political parties have not reached any result as to what kind of system Kosovo should have, while the EU prefers to have a multi-district PR system, and there has been no reform as to the equal treatment of majority and minority parties. An EU expert revealed that the EU insists on two systems: ‘multi-districting for majority and single-district for minority parties’ (Interview with EU Expert 1, September 2011). In fact, the international officials have not been very keen to switch to the guaranteed seats as a result of the pressures by minority parties who have threatened the usage of veto on the reform of presidential elections with an extension of reserved seats provision. By the end of 2012, the electoral reform has not been completed. However, this question will be examined in-depth in the chapter on veto powers. The next sections will examine the role of the SLS in the functioning of

³³ Other minorities continued with their trend of representation with Bosnians, Turks and RAE parties winning a seat each in direct election in addition to the reserved seats. The RAE’s, namely the United Roma Party (PREBK) sticking to one reserved seat, and Democratic Party of Ashkanli’s (PDASHK) as well as the Egyptian New Democratic Initiative (IRDK) switching primacy between each other with one seat won in direct elections. The RAE voters continuously switched their support between these three parties showing no fixed ethno-political preference.

consociationalism as well as the question of whether Belgrade's malign intervention has withered away.

3.4.1 Is the SLS an Organic Kosovo Serb Elite?

What does the emergence of the SLS mean for Kosovo's consociationalism? Evidence suggests that they are relatively autonomous from Belgrade. For example, Wochnik (2011) contends that the SLS were campaigning 'vigorously for Serb participation' in the 2010 Assembly elections despite the fact that 'Politicians from Serbia proper discourage Kosovo Serbs from voting'. In addition, eleven Kosovo Serb local parties took part in the elections. This seems to suggest that Belgrade's influence has been reduced to a certain extent resulting in better performance of consociational institutions. This is similarly suggested by the former advisor to the Kosovo PM, Besnik Tahiri:

'In spite of the existence of parallel institutions there is a trend of increasing participation of Serbs in Kosovo's political system. In 2009, 23% of Serbs participated in elections. In 2010, this number increased in 45% in Gracanica. In Novo Brdo from 25% to 55%, in Ranillug 34% etc.'

(Interview with Besnik Tahiri, Nov 2011)

This is owed to the external influence which has played a significant role in engineering more moderate Kosovo Serb elites: 'Slobodan Petrović is an American product and being in power is an important incentive to participate in the system' (Interview with Dejan Čosić, October 2011). This would suggest a type of benign external intervention to facilitate consociationalism as described by McGarry and O'Leary. Indeed, apart from the independence which brought many Kosovo Serbs face to face with a *fait accompli*, the US funded local development projects in majority Serb areas have been increasing dramatic in the run up to the municipal and parliamentary elections in 2009 and 2010. This may have convinced a number of Kosovo Serbs to participate in elections.

However, it remains unknown whether this external support has influenced the tolerance for the manipulation of votes both in the Albanian and in the Serbian camp. Accordingly, the elite stability among the SLS remains highly questionable in the face of continuing de facto partition steered by Belgrade, thus undermining the stability of the system itself. Evidence suggests that the extent of influence of SLS among Kosovo Serbs is lower than the votes cast for it would suggest. In fact, one could argue that the SLS does not really represent the ethnic political elite in the sense of an organized political force that represents their interests. As the former President of Kosovo suggests:

‘I think it has not yet been formed as elite in terms of complete representation of Kosovo Serb interests. It can be more grouping of people that have taken over a certain mandate... I do not think there is a particular qualification of a new elite which in one way or another would be able to take decisions on behalf of Kosovo Serbs.’

(Interview with Sejdiu)

In fact, all interviewees for this study, including Kosovo Serbs, Kosovo Albanians and Internationals, have made a similar suggestion that the SLS is a fragmented grouping where different self-interested clans struggle for resources and whose influence does not have a reach beyond its own backyard:

‘By participating in elections, the SLS has created its own fiefdom. SLS is divided between Bojan Stojanović (Gračanica Mayor) and Slobodan Petrović (Deputy PM and Minister of Local Governance). The Mayor of Shtpce Bratislav Nikolić belongs to the Petrović wing of the party. Basically, SLS is a clan, rather than a political party.’

(Interview with ICO Expert)

‘SLS is fragmented as a party between different clans.’

(Interview with Ćosić)

‘I think it is not consolidated elite. When I talk to local Serbs they show a great skepticism about the SLS.’

(Interview with Tahiri)

‘When SLS came so strong with the current government, I always thought that this would be a golden opportunity for them, to use this for their own interest for their own community and thereby using this time to expand their power-base... so that the small municipalities of Ranillug and Partesh get strength and that they feel there is somebody high up in the Government that takes care of their interests. I am not seeing this happening to be honest. So I am afraid that, really this is my personal reading of the situation, that they are losing a big opportunity that might not come back so quickly or might not last that long. I would say that they have evolved a bit into an interest group, a clan, almost clan, tribal thing where you are trying more by allocating positions, you are there trying to keep people under control and in your sort of, in a certain framework.’

(Interview with EU Expert 1)

3.4.2 Continuing Belgrade’s Malign Intervention

In fact, being a clan-type organization is not uncommon for Kosovo political parties. Whether the description of the failure of SLS to perform is a consequence of the latter’s clan-type organization, of the emergence through an alleged vote manipulation, or whether it is indeed the continuing presence of Belgrade which prevents them from expanding their power-base remains questionable. Whichever it is, the stability of the system is undermined due to the highly volatile internal structure of the SLS as well as the continuing

partitionist presence of Belgrade.³⁴ As two of the ICO officials suggest: ‘There is still influence from Serbia’ (Interview with Pieter Feith, Mar 2012); ‘Integration is not up to Albanians, but up to Serbs. In this sense, Serbia’s malign intervention plays a negative role. It exacerbates ethnic tensions’ (Interview with ICO Expert).

Has the role of the IC in facilitating this malign intervention changed from the time of UNMIK? - This question is relevant in the sense that it does show the extent to which the international intervention in imposing consociationalism in Kosovo has created stability and prevented de facto partition in Kosovo. Evidence across the board suggests that Belgrade’s malign intervention has not withered away and that it is being condoned by the IC, thus undermining the emergence of organic Kosovo Serb elites:

‘As long as they (Kosovo Serbs) continue to work with Serbian curricula...it is not even an institutional integration. Thus, I am saying it is rather an elite and personal integration than of the Serb community itself. We have an institutional integration and absence of social integration. It is not even an institutional in the sense of integration of the institution. Petar Miletić, Biserka Kostić were integrated. That’s how it is. This is a very fragile integration. Without prejudging personalities, but for example, we had Oliver Ivanović who was integrated for 8 years. He is now Secretary in the Ministry for Kosovo in the Government of Serbia. So this personal elite integration is very

³⁴ In the first half of 2013, the SLS was split between its Presidnet, Slobodan Petrović, the Mayor of Gračanica, Bojan Stojanović, and Minister of Labour and Social Welfare, Nenad Rašić. While the SLS itself is now a minority Kosovo Serbian group in the Assembly, all three continue to be part of the executive.

fragile. So, cutting out current ties with Belgrade, which entails cutting out the parallel structures, finances, some legal acts. People do not integrate because they want to. People integrate because the necessity for integration arises. On the other side, Serbia is doing everything to make the integration of Kosovo Serbs in the Republic of Kosovo unnecessary. Serbia is investing a lot. It pays a salary to its exponents here 50% higher than the salary of his/her colleague in Serbia. If this Kosovo Serb is open-minded, there are parallel structures that hold a carrot in one hand and a stick in the other hand...It is difficult to expect that Kosovo Serbs will be able to emancipate in the social aspect as long as Serbia's intervention is not halted.'

(Interview with Albin Kurti, Mar 2012)

Such influence is acknowledged by the IC, but not to the extent that Kosovo Albanians see:

'I would be very surprised if Belgrade did not have influence on Serb politicians in Kosovo. I am not saying Kosovo Serb politicians are puppets, but at the general cultural level, Belgrade has significant cultural, social, political and financial relationship and influence on Kosovo as a whole and particularly on Serb community. Because of that, Belgrade will also have a role in the background of Serb politicians and if you are a Kosovo Serb politicians. If you are a Kosovo politician and you are likely to be voted or influenced or by Serbian voters, you have to respond to that.'

(Interview with Robert Wilton, Jul 2011)

Indeed, Kosovo Albanians view the role of Belgrade in a different way in comparison to how some internationals see it. It affects the sustainability and the viability of Kosovo as a state – this view is half-heartedly echoed by some international overseers. Such a perception may indeed trigger reactions

affecting the stability in Kosovo. Such a perception triggered the 2004 protests. Two senior Kosovo Albanian experts expressed this in this way, blaming the IC for this situation:

‘The address for this question is in Belgrade. They use their structures to pressure legitimate institutions that have resulted from the electoral process. There is no problem with Kosovo Serbs here. The moment Belgrade stops calling for boycott, Kosovo Serbs would integrate. The international community has a great role here. And I criticize them for being too liberal with Belgrade. On the one side, Serbia has had a very adversarial politics, very dishonest, dirty politics, by sabotaging Kosovo both internationally and through its influence among Kosovo Serbs, on the other side, the international community and UNMIK were very unserious and unconstructive.’

(Interview with Tahiri)

‘Parallel structures of Serbia are being tolerated by KFOR and EU, while Kosovo Government has no mandate to deal with them.’

(Interview with Skender Hasanxhekaj, Nov 2011)

‘The focus of the CSP was to provide safeguards for minorities as well as Serbia’s acceptance of the deal. Serbia has had a rejectionist approach and the external objectives were not achieved.’

(Interview with Dell)

As the evidence above suggests, Kosovo is implementing both consociationalism and de facto partition. This paradox is created by international intervention and the short-term regional stability concerns of the key Western powers. This paradox is further consolidated by the recent talks between Kosovo and Serbia mediated by the EU, which condoned a return to UNMIK’s 2001 policy of involving Belgrade in Kosovo’s electoral system

through its own political organizations. This will definitely undermine the prospects of the SLS and other Kosovo Serb moderate political forces to represent Kosovo Serb interests within Kosovo's consociational framework.

Conclusion

Contrary to what the revisionist consociationalism suggests, Kosovo's electoral system was not a pre-conceived idea of the international community (O'Leary, 2005; McGarry, 2008). It can be seen from the outset that the International Community's approach to the electoral system was dictated by events on the ground as well as international geopolitical preferences and priorities. PR was not a blueprint for conflict regulation. Other issues, such as organizational and personal preferences, were also at play during discussions on Kosovo's electoral system. In this view, the electoral system was dictated to Kosovo Albanian parties through conditionality, incentives and sometimes threats of political marginalization, while Belgrade's acceptance of the deal was induced through the promise of maintaining its sovereignty in Kosovo. With favourable factors of inter-group balance and the existence of group elites being far from conducive for PR with reserved seats, the OMIK created an artificial system by engineering parties and elites, thus fostering artificial ethnicization of politics. This would suggest that favourable factors remain relevant for the analysis of the stability of consociational systems (Lijphart, 1977). UNMIK's strategy of seeking Belgrade's participation in the implementation of the deal amid an international policy of maintaining status quo was the antithesis of consociationalism because instead of using it as a conflict management tool, this strategy placed the main cleavage – the sovereignty conflict – at the top of the agenda, which led to de facto partition within Kosovo.

This chapter also suggests that the role of regional powers in post-conflict consociational engineering is highly relevant. Where support for genuine development of such systems is absent among regional powers, the difficulties can be devastating for the functioning of consociationalism. In this sense,

instead of seeking to promote organic Kosovo Serb elites, UNMIK invited participation of Belgrade ruling coalition parties to form an alliance in Kosovo, which represented the interests of Belgrade, rather than those of Kosovo Serbs. The International Community has attempted to create a consociational system of cooperation between Kosovo Albanians and Belgrade, rather than between Kosovo's ethnic communities. In addition, consociationalism in Kosovo was further debilitated by the presence of Serbia with its parallel elections, which represented a realistic alternative to Kosovo Serbs vis-à-vis participation in the Kosovo's governing system. Thus, generous representation criteria have failed to deliver the participation of Kosovo Serbs. Moreover, the IC has implemented both consociationalism and de facto partition –the two contradictory conflict-regulating strategies simultaneously. This has undermined the mere value as well as the stability of consociationalism.

The declaration of independence has shown to have a calming effect on inter-ethnic relations and an increase in Kosovo Serb participation amid the emergence of organic Kosovo Serb elites, such as the SLS. However, the ability of the SLS to expand its power base remains limited due to its weak organizational structure and persisting malign intervention by Belgrade which continues to be condoned by the IC.

In this view, the stability of consociationalism depends also from the viability of the current arrangements on executive power-sharing, which is determined by the electoral system and the constitutional provisions on inter-ethnic coalitions. While such inter-ethnic coalition does not seem to be a problem in itself, the demography discussed in the current chapter makes the creation and functioning of these coalitions problematic, inducing constant external intervention to keep the stability of the system. Such intervention undermines the viability of Kosovo as a state, turning Kosovo's executive dependant on external powers. The next chapter will explore the level to which the

consociational element of executive power-sharing managed to create stability in the context of both current arrangements and the external intervention.

4 EXECUTIVE POWER-SHARING

This chapter examines the establishment and functioning of executive power-sharing in Kosovo in the period of 2001-2012. The term ‘executive power-sharing’ here applies to both Lijphart’s (1977) definition of ‘grand coalition’ in which all groups participate, and the subsequent revision of this consociational element into ‘executive power-sharing’ (O’Leary, 2005). O’Leary defined executive power-sharing as participation in the executive of a majority, a plurality, or indeed a minority from ethnic groups as strong, plurality, or weak consociation, respectively. Kosovo has experienced all versions of executive power-sharing with the difference that international administration has also been participating, either formally, or informally.

Both the CF and the CSP created generous representation criteria for the minorities in the executive.³⁵ Regardless of these criteria, during the UN administration there was no meaningful executive power-sharing because little authority was given to the Kosovo executive. In fact, the imperative of strengthening UNMIK’s governing authority prevailed over the creation of meaningful power-sharing. This imperative emerged as a consequence of the

³⁵ The CF has created an executive cabinet in which at least one ministerial post would be held by Kosovo Serbs and one by non-Serb minorities if the number of ministers is less than twelve. In excess, there would be an additional ministry of Kosovo Serbs. The CSP and the Constitution of Kosovo have emulated UNMIK’s Constitutional Framework provision for the quota system to ensure representation of minorities in the executive. Thus, if the number of ministries is twelve, at least two ministers will belong to minorities: one to Kosovo Serb parties and one to non-Serb minority parties whereas if the number of ministries is more than twelve, the executive shall have the third Kosovo Serb minister. Moreover, the CSP and the related Constitution of Kosovo have strengthened the consociational character of the executive power-sharing by allocating two deputy-ministers to Kosovo Serbs and two to other minorities if the number of ministers is twelve and adding the third deputy minister per each delineated group if the executive consists of more than twelve ministers (UNOSEK, 2007, Article 5.2).

absence of final status determination and the inclusion of Belgrade in that process, who opposed the creation of meaningful self-government in Kosovo. Secondly and linked to this, the international concerns about the stability of post-Milošević governments in Belgrade in the case of the transfer of authority to Kosovo institutions, encouraged the latter's participation in Kosovo affairs, which effectively stymied the possibilities of a more genuine and organic executive power sharing to emerge between local Serb political representatives and the other parties. Such intra-Kosovo power-sharing was mostly non-existent and, in fact, resulted in de facto partition in education, health, and minority issues, an outcome which successive Belgrade governments have preferred to consociationalism or independent statehood.

The post-independence period has shown mixed results with regard to inter-ethnic cooperation in the executive. However, this cooperation as well as the stability of the executive depends on intensive international involvement in coalition building. A number of Kosovo Serb parties emerged and participation of Kosovo Serbs in the elections increased, thus strengthening the element of executive power-sharing in Kosovo. Compulsory participation in the executive has influenced the behaviour of Kosovo Albanian parties who seek minority support for coalition-building, including through deals which are common for consociationalism. However, while the final status has arguably influenced the improvement, with Kosovo Serb ministers playing a substantial role in both sectors pertaining to Kosovo Serb welfare as well as those concerning the overall population of Kosovo, the de facto partition problem persists in that Belgrade continues to hold a tight grip through administrative and fiscal control on the sectors of education, health and other policies thus keeping the majority of Kosovo Serbs linked to its partitionist intervention.

On the other side, it is argued that executive power-sharing has shown a persistent instability due to the preference of majority Kosovo Albanian parties for a majoritarian system. Due to their demographic domination the

consociational style of government requires constant manipulation of the process either through constitutional violations or international involvement, thus creating a highly unstable executive.

This chapter will first examine the rationale and the process by which the executive power-sharing was established and functioned during UNMIK administration. In the second part, it will examine the persistence of an external dimension in the executive power-sharing after independence and it will seek to discern whether de facto partition has persisted or whether it has withered away.

4.1 UNMIK's Post-Conflict Stifling of Executive Power-sharing

4.1.1 The Establishment of UNMIK's Authority

When UNMIK began to deploy in Kosovo in June 1999, the institutional vacuum was quickly filled by the KLA-controlled Provisional Government of Kosovo (PGK). The LDK's Government in Exile also returned to Kosovo but to no avail in front of the PGK. With Belgrade's administration having withdrawn, Kosovo Serbs had lost their position of a privileged group. They were held responsible by the majority of Albanians for Belgrade's repression during the 1990s and the 1998-99 Kosovo Albanian war victims. Those who remained in Kosovo were subjected to systematic retaliatory violence and sought refuge in KFOR-protected enclaves, or fled to Serbia.

Whereas the existence of domestic organized institutions was viewed as an obstacle for the implementation of UNMIK's mandate to govern Kosovo, the intra-Albanian power struggle was considered the key security risk which threatens peace and security in Kosovo. In short, the situation in the first few months was chaotic. Thus, UNMIK set three objectives: 1) Establish its authority in Kosovo; 2) Unite Kosovo Albanians and 3) Begin an inter-ethnic confidence building process. As the then Principal Deputy Special Representative of the UN Secretary General explains:

‘Albanians and Serbs were deeply fractured. Albanians were also deeply fractured. The main objectives of UNMIK were: one, to unite Albanians; two, begin talks about the creation of JIAS with all factions three, take the endorsement of Albanian factions; four, decrease political tensions as well as inclusion of Serbs in the new structures.’

(Interview with Covey)

The initial attempts to sit together Kosovo Albanians and Kosovo Serbs failed. In fact, Kosovo Albanian parties were not responsive to international expectations of making serious efforts to stop violence against Kosovo Serbs. On the other side, Kosovo Serb representatives were intransigent regarding the war crimes and ethnic cleansing against Kosovo Albanians. The structures controlled by Milošević were active in pressuring Kosovo Serbs away from endorsing UNMIK-led initiatives (Covey, 2011b). In this situation, UNMIK changed its strategy of inter-ethnic reconciliation. Instead, it sought an inclusive process of institution-building, hoping that such a process would be endorsed by all Kosovo factions.

Six months after its deployment, UNMIK’s governing authority was unequivocally recognized by all Kosovar Albanians when the LDK, the PDK and the Movement for Democratic Unity (LBD) agreed to dissolve their institutions and join the Kosovo-UNMIK Joint Administrative Structure (JIAS) (UN Secretary General, 2000c).³⁶ However, the two existing Kosovo Serb National Councils (SNC) never formally adhered to this agreement. While the northern SNC led by Oliver Ivanović refused to participate in JIAS, the Graçanica SNC accepted participation, but only after UNMK had promised the creation of UNMIK Local Community Offices in the Serb-majority areas (Brand, 2003; UN Secretary General, 2000a). The creation of these

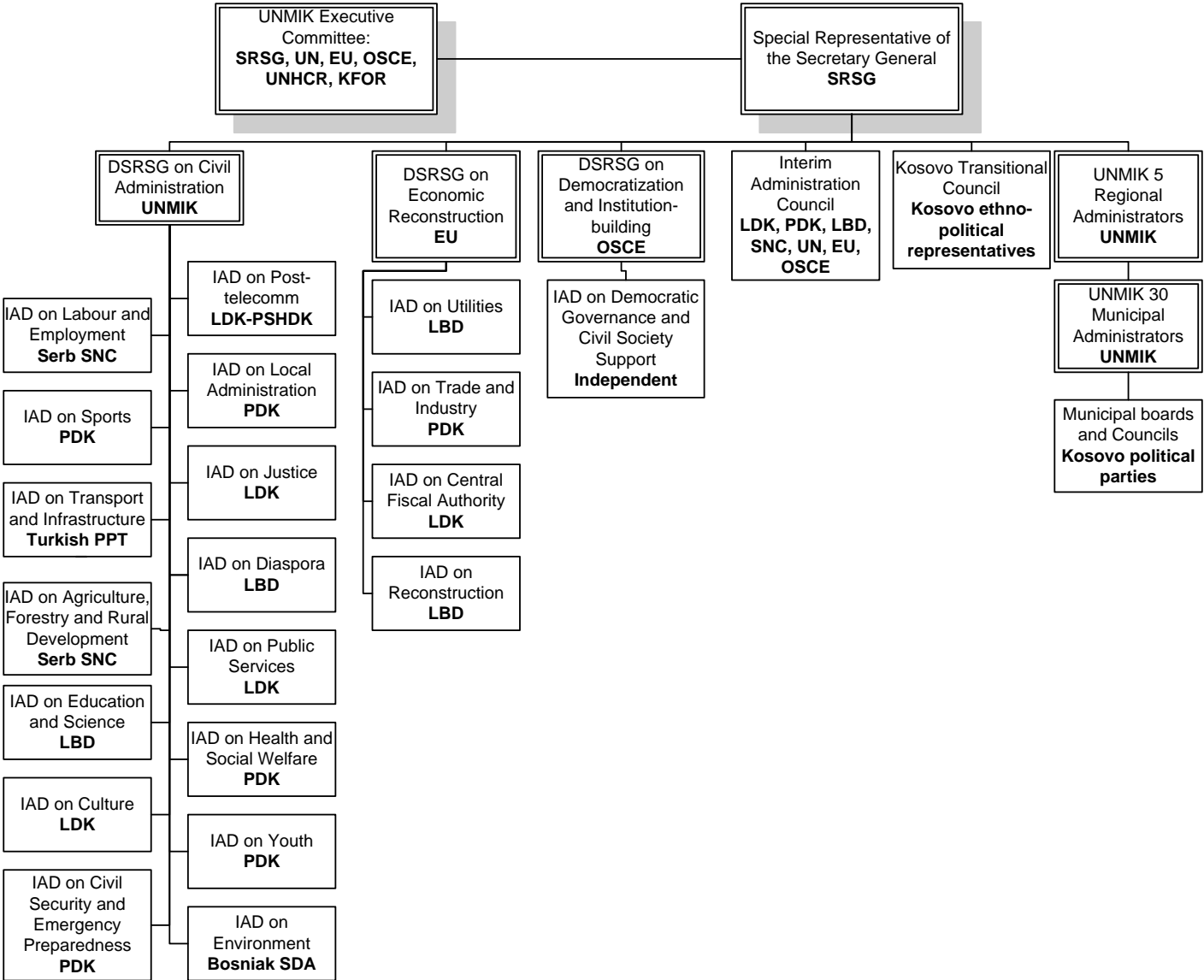
³⁶ The LBD was an LDK splinter-group from 1998 supported by the KLA.

communities left Serb-majority areas out of the jurisdiction of municipal governments under the JIAS and can be considered the first in a series of steps leading to the establishment of Belgrade's parallel structures and de facto partition of Kosovo Serb majority enclaves.

The JIAS was a complex structure in which Kosovo representatives acted under the control of UNMIK. It reflected the Grand Coalition goal even more intensively as UNMIK divided positions to handpicked personalities from all ethnic groups which it considered relevant at that point. However, it was merely a façade of power-sharing aimed at consolidating UNMIK's authority both internally and externally, rather than enabling Kosovo's groups to govern jointly (Covey, 2011b, UNMIK, 2000a, b).³⁷ As Figure 2 shows, an excessive number of Departments was given to the parties deriving from the Kosovo Provisional Government. This reflects UNMIK's policy of co-opting the KLA structures into its peace-building arrangements.

³⁷ JIAS consisted of Kosovo Transitional Council (KTC), with 36 members representing all ethnic communities led by SRSG Bernard Kouchner; 37 the Interim Administrative Council (IAC), the highest political body of JIAS consisting of eight Kosovo and international members appointed by SRSG; and 20 Interim Administrative Departments (IAD), co-headed by one Kosovar and one international representative under the executive responsibility of one of the Deputy Special Representatives (DSRSG). IAC was the highest JIAS body consisting of the Deputy Principal SRSG (UNMIK), three Deputy SRSG's in charge of UNMIK's pillars of civil administration (UNMIK), democratization and institution-building (OSCE), as well as economic reconstruction (EU), and three Kosovo Albanian representatives and one Kosovo Serb representative. Kosovar members of the IAC included Ibrahim Rugova (LDK), Hashim Thaçi (PDK), Rexhep Qosja (LBD) and Orthodox Bishop Artemije (SNC).

Figure 3 Joint Interim Administrative Structure



4.1.2 The Shift towards the Status Quo

At this initial stage, UNMIK and the U.S.A supported a quick organization of elections and a speedy transfer of authority to the legitimate institutions with a view to recognizing Kosovo's independence in a period of three to four years (Interview with Covey). A senior US diplomat revealed that the then US Secretary of State, Madeleine Albright had asked the PDK leader, Hashim Thaçi, to:

‘Participate in the internationally led process which will result in the recognition of Kosovo's independence in a three to four year period, a time needed to prepare the “neighbourhood” for independence.’

(Interview with Senior US Diplomat 1, July 2013)

However, a number of external developments influenced UNMIK and the US to abandon this position. These factors undermined the concept of power-sharing as they postponed the devolution of authority to Kosovars and accordingly, the final status determination. Evidence suggests that geopolitical considerations had a decisive influence on the extent of the authority devolved to Kosovo institutions. In fact, UNMIK's control was established amid wider international antagonisms over Kosovo's final status. These antagonisms between the main international capitals and organizations reflected the sovereignty conflict between Kosovo Albanians and Belgrade and were frequently determined by the selfish interests of these external actors (Covey, 2011a, 2011b).

Covey (2011b) reveals that Russia was against the holding of any electoral process that would lead to the formation of a Kosovo executive. Russia's leverage at the UNSC, as Belgrade's traditional ally, played an important role in how the UN Secretariat and UNMIK shaped its policies in Kosovo. This induced a more direct involvement in the institutional design by New York, whose sensitivity to Russian concerns was a relevant part of the discussion on

UNMIK's agenda. This situation influenced the dynamics within the UNSC and the Secretariat with regard to its own and the missions' authority and welfare. The latter had both political and selfish concerns related to the Russian opposition about Kosovo's self-rule as well as its own welfare as an organization:

'Because the Secretariat could easily have become politicized, particularly given persistent Russian harassment...the Russian representative sought to use the Secretariat to debilitate us and impede the mission...a custodian must see the Secretariat for what it is: dependent on the Security Council and General Assembly for its very life. From these bodies, the Secretariat receives its budget, its mission, and its prestige.'

(Covey, 2011a, p. 90)

As a consequence, state-building was waived. Instead, it was the mission's viability that became the main concern of the Secretariat as well as of the staff working in UNMIK. Kosovo represented a source of funding and authority for the UN Secretariat since it was the biggest and most powerful mission the UN has ever had.

In addition, after the political changes in Belgrade when Milošević was ousted from power in September 2000, the international stance with regard to Serbia changed in comparison to that held during Milošević's reign. The OSCE and the EU were more sensitive to Belgrade and Russia's position. They did not support UNMIK's position for immediate and frequent elections, arguing for a slow transition from international administration to Kosovo self-rule (Interview with Covey). Evidence also suggests that the U.S.A. changed its mind, due to concerns that such a transfer of authority to Kosovars would destabilize the democratic forces in Serbia. As a senior US diplomat says, this change was influenced by the 'plea of its Ambassador to Belgrade, William Montgomery,

to slow down on Kosovo, in order to maintain the stability of the Djindjić government in Belgrade' (Interview with US Senior Diplomat 1). Indeed, Belgrade was against the devolution of powers to Kosovo's institutions, alarmed that such a process would return the pro-Milošević forces to power, something feared by the West. Accordingly, UNMIK stopped its attempts to mediate any substantive communication between Kosovo Albanians and Kosovo Serbs and stepped-up its communication with Belgrade regarding Kosovo Serb participation within the new institutional structure. This undermined attempts of various international NGO's, to induce organically-grown initiatives of confidence-building.³⁸ Thus, the international community imposed complex power-sharing mechanisms which allowed Serbia to exercise a de facto veto on internal political developments. As a result, negotiation between Kosovo's ethnic majority and Serb enclaves was stymied or undermined by this factor. As it is shown in the next sections, this approach effectively undermined the design and functioning of the power-sharing executive in Kosovo. Similar to the voting system, a wider regional dimension was added to Kosovo's internal arrangements which in turn, cemented the status quo at the expense of meaningful power-sharing between Kosovo's ethnic groups. Indeed, the external dynamics determined UNMIK's position during the negotiations for the self-government of Kosovo discussed in the next section.

4.1.3 UNMIK's Domination of Talks about Kosovo's Self-Government

A good example of how executive power sharing failed to work lies in the critical issue of self-government. The interpretation of Resolution 1244, labelled 'substantial self-government for Kosovo', was shaped by the international and regional dynamics described in the previous section. In this

³⁸ A very active organization in this regard was the US NGO, Project on Ethnic Relations which organized periodical meetings between Kosovo Albanian and Kosovo Serb representatives at the informal level.

context, the talks over the transfer of competencies had to do with how much power would be shared, rather than whether there would be power-sharing. In a 5-page document called “Legal Framework for Provisional Institutions of Self-Government” (PISG) UNMIK,

‘proposed the establishment of self-governing institutions without specifying what real powers those structures would have other than to promise that areas of responsibility handed over from the SRSG will be prescribed in subsequent regulations.’

(Diplomatic Report, 2001)

Rather than establishing substantial autonomy, UNMIK viewed ‘the Legal Framework as establishing a process for the eventual realization of ‘substantial autonomy’ (Diplomatic Report, 2001). This neo-colonial approach by UNMIK was endorsed by international consensus although its intentions to dominate were described as so drastic that, ‘even the most die-hard 19-century colonial administrator would blush’ (Diplomatic Report, 2001).

The essence of this unpopular strategy was to guarantee Russia and Belgrade that the status quo would be maintained. Assuaging Belgrade’s interests was viewed as a way to have its consent for Kosovo Serb participation in the subsequent elections. Indeed, although ridiculed as a colonial approach, UNMIK’s policy was justified by Western countries with the need to postpone the final status determination:

‘Empowering an Assembly and Executive Authority with substantial legislative autonomy now would bring with it an enhanced risk of bringing the debate on independence forward prematurely.’

(Diplomatic Report, 2001)

Based on UNMIK's document, the negotiations between Kosovars and the international community began with the establishment of the Joint Working Group (JWG) on the Interim Legal Framework on March 6, 2001. The JWG consisted of seven Kosovar and seven international members and was headed by an international expert on transitional legal regimes, Johann Van Lamoen.³⁹ UNMIK's determination to not devolve authority to Kosovars was reflected in the sacking of Van Lamoen by SRSG Hans Haekkerup in favour of Alexander Borg-Olivier, the main UNMIK legal adviser, because van Lamoen had been in favour of devolution:

‘This process was lead by the Europeans, by SRSG's advisers, at that time Alexander Borg Olivier. One period the leader was a Dutch jurist, Johan Van Lamoen who was later sacked by UNMIK. He was nearly declared undesirable for the process because he had a pragmatic approach towards building Kosovo statehood, towards the statehood orientation of Kosovo.’

(Interview with Bajrami)

³⁹ Kosovo members of the group were representatives of parties participating in IAC: Fatmir Sejdiu (LDK); Arsim Bajrami (PDK) and Muhamet Kelmendi (AAK). In February, SRSG appointed Ramush Haradinaj, the leader of AAK instead of Rexhep Qosja from LBD, who resigned due to the loss in municipal elections in 2000. The Kosovo Serb member was Djordje Aksić, and Abedin Ferović, a Bosnian, represented other minority communities; Blerim Reka was appointed as a representative of the civil society and journalist Blerim Shala was appointed in his personal capacity. International members were: Andrew Joscelyne (Pillar III); Blanca Antonini (Pillar II); Roy Dickinson (Pillar IV); Alexander Borg-Olivier (UNMIK Legal Advisor) and Neithart Hofer-Wissing (UNMIK, Office of Political Affairs); and an international expert from the Venice Commission (Matthew Russell and Thomas Markert rotated). In fact, there were seven Kosovar and seven international members of the JWG although UNMIK's officially said there were seven Kosovar and seven international representatives.

Kosovo Albanian political parties demanded full self-governance reflecting integrative elements including a popularly elected president and a constitutional court. The inclusion of minorities in the executive was not problematic:

‘The drafting of Constitutional Framework was characterized by huge problems. We had to negotiate over the degree of self-governance... but as you know, a compromise was made by which the essential authorities, the so-called reserved authorities of a political character remained with UNMIK, while administrative competencies were transferred to the Assembly, President, Executive and other institutions.’

(Interview with Bajrami)

Interesting evidence has emerged regarding the US position on executive power-sharing which refutes the contention that its conflict regulating policy relies on consociational prescription (O’Leary, 2005). Indeed, Kosovo Albanian demands for integrationist institutions were supported by the US, but were then rejected by the EU. As a senior Western diplomat suggested: ‘We understand that while they (Kosovo Albanians) were supported in this view by the Americans, the Europeans were opposed from the outset’ (Diplomatic Report, 2001). Similar to the election system where the US conceded to the position of the OSCE, the design of the executive was a result of compromise between the major world powers in order to maintain unity in the UNSC as well as the stability of the new government in Belgrade.

On May 15, 2001, SRSG Haekkerup promulgated Regulation 2001/9 on the Constitutional Framework for Provisional Institutions of Self-government (PISG) which changed substantially from UNMIK’s initial document. First, a compromise on the inclusion of the institution of the President of Kosovo, elected by the Assembly, was reached after the insistence of LDK and PDK for a popularly elected President and a Constitutional Court, the latter being rejected. As shown in Table 6 a limited authority was transferred to the PISG

with UNMIK retaining all substantive powers under its own remit and a wider control of the entire executive.

Table 7. Division of powers between PISG and UNMIK according to the Constitutional Framework for PISG

Provisional Institutions of Self-Government (PISG)	Shared competencies between PISG and UNMIK	United Nations Interim Administration Mission in Kosovo (UNMIK)
Education, Science and Technology	Appointment of judges and prosecutors	Rights and interests of communities
Youth and Sport	Court, prosecutorial services administration and financing	Dissolving assembly and calling of elections
Culture	Training of judicial personnel (with OSCE)	Financial and policy parameters
Health	Organizations of professional exams for judicial personnel	Approval of budget
Environment	Hiring, removal and disciplining of judicial support staff	Monetary policy
Labour and Social Welfare	Monitoring of judicial and correctional services	Audit of Kosovo's budget
Public administration services	Emergency preparedness and civil security	Customs
Agriculture, Forestry and Rural Development	Fire-fighting	Appointment, removal and disciplining of judges and prosecutors
Area planning	Foreign Trade and Industry	Foreign relations
Tourism	Transport, Post Telecommunications and IT	Passing legislation and promulgating legislation
		Law enforcement and correctional services
		Kosovo Protection Corps
		Civil Security and Emergency Preparedness
		Concluding international agreements
		International trade-exports and imports
		Public and socially owned enterprises and property
		Privatization
		Railways, Civil aviation and management of frequencies
		Private housing and property adjudication
		Appointment of management in economic and financial institutions
		Civil registry

4.2 The Executive power sharing under the Constitutional Framework (2002-2007)

4.2.1 Executive Power-sharing during 2002-2004

On September 13, 2001, SRSG Haekkerup promulgated Regulation on the Executive Branch, in which he created 9 ministries. However, the SRSG kept the authority to interpret the scope and the parameters of the powers devolved to the executive branch (UNMIK, 2001b, Sections 6 and 7). In addition, he appointed Principal International Officers (PIO) in all ministries and in the Office of the Prime Minister (OPM), thus exercising tight control over the activities of the ministries through the PIO's in the devolved areas of governance.

After the November 2001 Assembly elections, the LDK which got 49% of the vote and 47 out of 120 seats, attempted to create an executive cabinet with minorities based on its electoral primacy. It did not want a coalition with the PDK. However, its effort failed because, as former LDK Vice President, Naim Jerliu reveals, 'there was no support from the minorities' (Interview with Naim Jerliu, Dec 2001). In fact, the 22-strong Kosovo Serb Coalition Povratak (KP) conditioned its consent for a coalition with LDK on the latter's renunciation of its position for Kosovo's independence (Vidanović, 2002). By not supporting the moderate LDK, the KP which was created by the Belgrade ruling coalition, facilitated a Grand Coalition dominated by the parties that derived from the KLA, considered otherwise by Belgrade as extremist parties.⁴⁰ This was consistent with the international strategy to create a Grand coalition, rather than an LDK-dominated executive. In fact, the election system and the provisions on the participation of minorities in the executive were designed exactly for a Grand Coalition executive. As former Head of OSCE reveals:

⁴⁰ Belgrade had indicted for war crimes all KLA leadership, including Hashim Thaci (PDK), Ramush Haradinaj (AAK), as well as other relevant KLA figures.

‘Now, after the elections, that was the LDK victory, for sure, so there of course, we tried to make that dominant party responsive to others and not run the place on its own and by itself. So again, suggesting that they would take in partners in the government, bring even a Serb junior partner in the government, and certainly bring in Thaçi’s party, the PDK.’

(Interview with Everts)

After three months of intense negotiations between the LDK, PDK and the AAK, a Grand coalition was formed. In fact, similar to other occasions in the post-independence period, the coalition was voted in direct contravention of constitutional provisions. In 2001, the coalition was voted in as a package, contrary to the CF provisions which demanded the election in a consecutive order: first election of the Assembly President, then election of President of Kosovo who proposes the PM, and finally, the election of the PM and the executive cabinet (UNMIK 2001a). The LDK got the President of Kosovo, Assembly Speaker and 4 ministries, the PDK got the Prime Minister and 2 ministries, the AAK got 2 ministries, the KP got one ministry and non-Serb minorities got one ministry. The KP did not appoint its minister, instead demanding that UNMIK create the Ministry for Returns ‘as a quid pro quo for its participation in the Government’, which was rejected since this was defined as UNMIK’s reserved power (UN Secretary General, 2002a). However, after an agreement with Belgrade, UNMIK appointed an Inter-ministerial Coordinator for Returns, a position at ministerial level, and a Special Kosovo Serb Adviser for Returns was appointed in the SRSG’s Office.

The problem with this executive power-sharing was that there was no power to share since the executive remained under strong international control. Apart from the reserved and intervening powers of the SRSG there were other means of influencing the executive policies involving informal pressures of various forces including the US, the EU, and the UK, suggesting a higher number of

intervening actors in Kosovo politics. Regardless of the division of powers between the PISG and UNMIK, the latter controlled all governance aspects:

‘The international community was not only holding back independence, it was holding back many other, secondary issues of day-to-day importance, which, according to UNMIK’s interpretation, could prejudice Kosovo’s final status.’

(Interview with De Vrieze)

This approach did not leave much space for power-sharing. It damaged power-sharing since it stymied dialogue between Kosovo Albanians and Kosovo Serbs. During 2002 and 2004, Kosovo was run through UNMIK’s executive orders. Evidence suggests that the PISG was excluded from the decision-making. A deadlock was created in which neither communicated with the other.. As a senior UNMIK official recalls:

‘Their (Kosovo Albanian) exclusion was a big mistake. This was not rectified until Soren Jessen Petersen became SRSG. But by that time, a lot of damage was already inflicted. When I arrived (2004) there was deep alienation and mistrust between UNMIK and the PISG. UNMIK was holding these big Executive Committee meetings discussing developments in Kosovo, but Kosovars were not included at all. Everything was backlogged. In UNMIK there was this opinion that they were some post-imperial power who should tell Kosovars what to do. In UNMIK there was deep hostility towards PISG across the board, except for the then SRSG, Harri Holkeri.’

(Interview with Carne Ross, July 2011)

The second problem was that a party to the executive power-sharing was the Belgrade government through the branches of the ruling coalition parties. One of the internal parties to power-sharing, the Kosovo Serb KP, opposed

devolution of authority to the PISG. In this regard, there was a strong collision between them and Kosovo Albanian parties, which also strained the relations in the executive. The KP was established by and consisted of the members of the parties of the Belgrade ruling coalition. They pursued Belgrade's policies of obstructing the development of Kosovo's self-government and were directly responsible to the then Serbia's Deputy PM in charge for Kosovo, Nebojša Čović. This directly hampered their concrete political input into the creation of government policies. As a report by the Council of Europe reveals of Belgrade's control of the KP:

‘It is to be welcomed that the Serb government eventually encouraged the Serbian minority to take part in local elections in Kosovo. Politically, this led to the formation of the "Povratak Coalition" of Serb parties. Within the coalition, there are differences between those who belong to parties of the same name in Serbia and seek Belgrade's backing, and those who seek, by means of an independent policy, to improve living conditions for the Serb minority in Kosovo. And yet the Serb participation conceded by UNMIK in the provisional government of Kosovo – one ministry, one refugee commissioner and one representative on the general staff of the SRSB – is in effect determined in consultation with Belgrade.’

(Lippelt, 2002)

Indeed, the Kosovo Serb Minister of Agriculture, Forestry and Rural Development, Goran Bogdanović, was a high ranking official of the Democratic Party, led by the late Serbian PM, Zoran Djindjić. In 2004 he was elected MP in the Serbian Parliament, while during 2008-2012, he served as a Minister for Kosovo, in charge of the parallel institutions, in the government of the former Serbian President, Boris Tadić. Another KP leader, Oliver Ivanović, served as Serbia's Secretary of State for Kosovo, also in charge for the running of parallel institutions.

Evidence suggests that the executive power-sharing was not meaningful because international control of the executive left no power to share, while inclusion of Belgrade in the executive facilitated a de facto partition logic, rather than power-sharing logic. The representation criteria in the executive created an artificial power-sharing because the dependence of Kosovo Serb elites on Belgrade hampered their ability to engage in the establishment of Kosovo's political system. In the situation of self-determination disputes between Kosovo Albanians and Belgrade, one cannot expect any relations to evolve positively with Kosovo Serb representatives of Belgrade. Seemingly, the evolution of such relations was not UNMIK's priority, which, as evidence from the beginning of this chapter suggest, had been abandoned as early as 1999. The de facto partition was further strengthened through the UNMIK-FRY Common Document which formalized Belgrade's involvement in Kosovo.

This evidence contravenes Weller's (2008a) contention that executive power-sharing under UNMIK administration was not meaningful because the KP-led ministry was politically irrelevant and isolated. In fact, the matrix of the division of powers between the PISG and UNMIK suggests that the ministry controlled by the KP is one of the top important ministries with the most autonomous powers, along with education and health, controlled by the LDK and Bosnians, respectively.

4.2.2 Facilitation of De Facto Partition

The process of facilitating de facto partition in the executive is connected to the inclusion as a tutor of the Kosovo Serb KP. While Belgrade's inclusion in consultations about the powers of the Kosovo executive ensured participation of Kosovo Serbs in civil and voter registration, Belgrade continued to withhold its consent for the participation of Kosovo Serbs in the elections which were scheduled for November 2001. By doing this, Belgrade was gaining important leverage in influencing UNMIK's policies since the IC viewed its support to Kosovo Serb participation as a key to the success of the creation of multi-ethnic

institutions. Thus, a confidential negotiation process began between SRSG Hans Haekkerup and the UN Secretary General, Kofi Annan on the one side, and President of the FRY, Vojislav Koštunica, and his Kosovo representative, Nebojša Čović, on the other side, on Kosovo Serb participation in the upcoming assembly elections. These talks resulted in an agreement called, ‘UNMIK-FRY Common Document.’ In return, Serbia agreed to call for the participation of Kosovo Serbs in the elections.

This deal made no mention of Kosovo Serbs as a minority in a consociational sense. Rather, it sought to involve Belgrade by creating a tri-partite governing structure consisting of UNMIK, the Kosovo executive and Belgrade, which would coordinate policies on the issues of ‘common interest.’ Kosovo Albanians who were not consulted about the deal, opposed it vociferously. As a senior OSCE official reveals:

‘When the deal was presented to them, the PDK leader Hashim Thaçi threatened to withdraw from the electoral process, so UNMIK can hold elections only with Kosovo Serbs. That is why part of the Common Document where involvement of Belgrade in the Kosovo executive was foreseen, was never implemented.’

(Interview with de Vrieze)

In fact, introduction of a Belgrade dimension into Kosovo’s internal arrangements was done in the hope that this would improve/increase participation of Kosovo Serbs, but it neglected the consequences of the leverage which was given to Belgrade over Kosovo Serbs in Kosovo’s governance system. As a former key UNMIK constitutional expert reveals, the process leading to facilitation of Belgrade’s partitionist intervention was rather secretive and involved the highest UN levels. The Common Document had a long-term corrosive effect on executive power-sharing because it facilitated Belgrade’s administration of majority Serb areas through the ‘parallel structures’ and it

enhanced its de facto veto on Kosovo's institutional evolution. In fact, evidence suggests that in addition to the niceties of consociational arrangements, UNMIK facilitated de facto partition practices by Belgrade, which at the same time undermined what UNMIK had imposed:

‘After the talks on the Constitutional Framework something happened behind the scenes, that is the negotiations with Čović, and it was signed, the Common Document. It was almost a side show. After we finished the negotiations for the constitutional framework, the dialogue was going on with the Serbs to convince them to participate in elections. They signed the ‘Common Document’. [REDACTED] [REDACTED] never to allow something like administration of Serbia under the UN administration. Than the enclaves, there was a Serbian administration operating in the enclaves. They were allowed too much. I think this emerged as a result of the Common Document arrangements that were agreed in order to entice the Serbs into participating in elections, based on the constitutional framework. The result of that was yes they (Belgrade) had strong administrative powers that were being fulfilled without much resistance of the UN, and I think it was unfortunate because it did really create a perception of certain autonomies within the enclaves and it did delay the integration of those communities to the common goal.’

(Interview with [REDACTED])

Indeed, the subsequent paragraph of the document which speaks about education increases the divide between Kosovo Serbs and the rest of Kosovo:

‘Ensures that the Kosovo Serb community will have access to education in their own language from primary school to university. The educational curricula will make the Kosovo Serb educational structures

adequately compatible with the Serbian education system and labour market requirements.’

(UNMIK & Federal Republic of Yugoslavia, 2001)

While the first sentence is again consistent with the consociational concept, the term ‘Kosovo Serb educational structures’ in fact acknowledges a hands off policy both by UNMIK and by the Kosovo Government regarding the education for Kosovo Serbs, leaving it de facto under Belgrade’s remit. In addition, the Common document makes no mention about a few other sectors that were controlled by Belgrade, including integration of the health system as well as social welfare. In this regard, while UNMIK favoured inclusion of as many Kosovo Serbs as possible in the executive, the issue of appointing Kosovo Serb deputy ministers of education and health, which would be consistent with a consociational solution, was never raised, a situation which continues also in the post-independence period. This suggests a silent agreement and de facto partition with Belgrade’s shadow control over these sectors. As the former Serbian Deputy Prime Minister, Nebojsa Covic asserted at that time, the Common Document ‘represented the beginning of the return of Serbia in Kosovo and Metohija’ (Pašić, 2001).

In this way, the Common Document undermined the prospects of home-grown initiatives for inter-ethnic co-operation and strengthening of consociational governance. In fact, it gave de facto veto power to Belgrade on the functioning of the power-sharing executive, creating a reality of partition between Kosovo Albanian and Kosovo Serb political representatives which undermined the grandiose consociational engineering otherwise promoted by UNMIK. This hampered grass-root cooperative initiatives among Kosovo Albanians and Kosovo Serbs. The OSCE reported independent efforts by Kosovo Albanian and Kosovo Serb educators in the mixed local communities to cooperate in order to improve general working conditions in the schools. However, their cooperation was hindered by the instructions from both Kosovo and the Serbian

ministries of education, while UNMIK did not attempt to support such grass-root initiatives:

‘Finally, while there have been efforts by Kosovo Albanian and Kosovo Serb educators on the local level to initiate discussions on how they might combine their efforts in order to consolidate the parallel educational systems, these efforts consistently break down because of the intransigent and uncompromising attitudes of senior educational officials. For example, in Gjilan/Gnjilane, educational officials from both the Kosovo Albanian and Kosovo Serbian community continually stressed that while they have tried to co-operate, they fail to reach agreement because they are bound by instructions from the MEST and the SMES. The officials stressed the importance of co-operation between the MEST and the SMES on issues such as salaries, curriculum, and the division of the responsibility for education generally.’

(OSCE, 2003, p. 32)

These conflicting instructions were a result of de facto partitionist institutions. Belgrade used the green light provided by the deal to strengthen its parallel structures through which it was preventing Kosovo Serbs from participating in the Kosovo-based institutions:

‘The Common Document was disastrous, that shouldn’t have happened, and it was the beginning and the basis of the political structures that we call parallel structures today. It is so unfortunate what has happened.’

(Interview with Borg-Olivier)

When the first Kosovo executive was formed in 2002, parallel structures controlled by Belgrade were spread all over Kosovo including police activities, courts, administrative structures, education and health (OSCE, 2003). At the

initial stages most Kosovo Serb employees of the parallel structures, especially in education, health and social welfare signed contracts with the Kosovo Government bringing the minority employment in these ministries to between 10 to 25 percent but Belgrade-controlled institutions never ceased to exist (UN Secretary General, 2002b). As a result, the parallel structures operated under the same roof with UNMIK and the Kosovo Government local offices. Thus, Kosovo Serb employees in health, education, and the court system received double salaries: one from the Serbian government and one from the Kosovo Government.⁴¹ There were several instances in which Belgrade issued warnings and used direct intimidation to convince those Kosovo Serbs that continued to work in Kosovo's institutions to resign their positions. This influenced Kosovo Serb employees to hesitate in signing employment contracts with the Kosovo Government (OSCE, 2003).

This de facto partition deepened as the executive power-sharing collapsed in 2004. The introduction of the regional dimension into Kosovo's consociational arrangements gave Belgrade a real veto on Kosovo Serb participation in the elections and in the executive.

To reach the percentage set out in the Common Document, in the Standards for Kosovo(a document which was developed by UNMIK to integrate Kosovo Serbs within Kosovo governance system), a 16.6% threshold of minority employment in Kosovo's public sector was set. This percentage could never be reached due to political pressure by Serbia, low income in the Kosovo administration, as well as lack of security, especially for Kosovo Serbs. Evidence suggests that financial incentives provided by Belgrade also influenced the boycott of Kosovo institutions:

⁴¹ The OSCE Mission in Kosovo reports that the Serbian Government was paying a 100% higher salary to its Kosovo employees than to the same level working in Serbia proper.

‘The main spoiler was the Government of Serbia and financial income. One of the sectors where the minority quota was achieved in terms of the inclusion of Serbs was the customs. Here, salaries were much higher than in other sectors and the quota was achieved right in the beginning. This was not the case with administration sectors where salaries were lower than 200 Euros. The Government of Serbia has pressured all the time Kosovo Serbs to boycott institutions, depending on political developments. For example, there was massive resignation of Serbian police officers or other similar situations being repeated. However, the number of interested people to work for Kosovo Government was always low. So, the main spoiler was the Government of Serbia, fiscal transfers from Serbia by which local Serbs were paid, and of course there was sense of insecurity among Serbs, especially after 2004 riots. Sometimes this was a perception, but sometimes there was a real physical risk for Serbs which made them not participate in the institutions.’

(Interview with Avni Arifi, Dec 2011)

4.2.3 Executive Power-sharing during 2005-2007

In the second mandate, when the KP dissolved and the ruling coalition structure in Belgrade changed, executive power-sharing collapsed with symbolic participation of Kosovo Serbs and other minorities and deepening of the Belgrade-steered parallelism. In addition, the executive as a whole fell under the shadow of the final status negotiations. After the second Assembly elections in 2004, the LDK and the AAK entered a coalition agreement in the face of international and internal protest about the lack of a second Grand Coalition similar to the one created in 2002 (Qirezi, 2004). As a senior LDK official reveals, ‘the LDK was under tremendous international pressure behind the scenes involving various kinds of intimidation and threats to enter in a coalition agreement with PDK, ORA and AAK’ (Interview With Sabri Hamiti, Nov 2011).

However, in contrast to 2001, the turn-out of Kosovo Serb voters in 2004 was less than 1,000, producing a different constellation of forces in the Assembly. With no final status in sight which could be a valuable card in international hands, Rugova could reject these pressures. He was elected President in the third round with 65 votes in the Assembly. However, a price to be paid for leaving the PDK out of power was giving up the Prime Ministership to the AAK with only 8 seats in the Assembly.

The coalition between the LDK and the AAK survived until the end of its mandate at the end of 2007.⁴² However, the relations between the coalition partners were characterized by LDK's increasing dissatisfaction over the fact that a junior coalition partner led the executive. Thus, the LDK decided to strip PM Çeku from his Prime Ministerial powers by letting him know through a letter, that LDK's ministers would not be accountable to him, but to his Deputy from LDK ranks (BBC Albanian, 2006). The survival of this executive is owed more to the final status process, in which all political parties participated by creating the Unity Team, a type of a Grand Coalition encompassing all relevant Kosovar Albanian political parties. In fact, from the end of 2006 and throughout 2007, the Kosovo executive was a rubber stamp of the Unity Team, headed by the then President of Kosovo, Fatmir Sejdiu, in which all relevant Kosovo Albanian political party leaders were part.

This time, the participation of Serbs in the government was not significant, with a tiny Serbian Democratic Party (SDS) occupying 8 out of ten reserved seats.

⁴² The first Prime Minister, the leader of the AAK, Ramush Haradinaj, resigned three months after his appointment due to a war crimes indictment by the Hague Tribunal. He was replaced by the AAK Vice-president, Bajram Kosumi, who was then replaced by Agim Çeku, a General and Kosovo Protection Corps Commander. After Rugova's death in January 2006, Fatmir Sejdiu was elected President of Kosovo.

The Serbs were entitled to two ministerial posts within the government, but the Kosovo Serbs occupied only one ministry, while the other reserved Ministry, the Ministry of Agriculture, was headed for three years by a Kosovo Albanian Deputy Minister from LDK. By 2007, the Bosnian led ministry of Health was led by the LDK-led Inter-ministerial Council for Health although the minister continued to remain in his position.

During the second Assembly mandate (2004-2007), UNMIK's policy changed with a significant transfer of competencies to the PISG, which included partial domestication of authorities in minority returns and community affairs, energy and mining as well as judiciary and police. This change was influenced by the then incumbent SRSG, Soren Jessen Petersen, whose approach to working with PISG was 'to transfer as much competencies as possible' (Interview with Kim Friedberg, Sept 2011).

In spite of the increased pace of the transfer of competencies to the PISG, UNMIK continued to hold tight control over the executive and set the policy parameters in weekly meetings with the Prime Minister. The whole UNMIK period left consequences in the post-independence period during which international intervention was decisive in the implementation of executive power-sharing between the local actors:

'The deleterious effect of international intervention has been dependency and irresponsibility of local politicians because they are used to internationals calling the shots for them.'

(Interview with Dell)

However, the situation with the parallel structures got out of control as UNMIK's ability to influence them decreased. Belgrade continued to expand and to strengthen parallel structures thus deepening de facto partition on the

ground. According to a report by UNMIK, its activities included education, health, energy, telecommunications, administration, security:

‘State-sponsored opposition to UNMIK’s authority to implement SCR 1244 is growing day by day...thereby undermining the rule of law, contributing to a de facto partition of Kosovo and severely hampering UNMIK’s ability to implement its mandate...Accelerating partition prejudices ongoing political developments by creating a fait accompli where K-Serbian-inhabited areas of Kosovo are both separated from the rest of Kosovo and made increasingly reliant on Belgrade.’

(Rucker, 2007)

The trend towards partition became so intense that UNMIK appealed the UN to call on the Troika and Contact Group members ‘to take the matter up directly with the authorities in Belgrade’ (Rucker, 2007). However, this complaint by the SRSG Rucker is contrary to the persistent policy of UNMIK to condone and facilitate de facto partition. A year earlier, when PM Çeku requested the permission from UNMIK to remove antennas of illegal providers of telecommunication services in order to prepare the market for a new tender by telecommunication provider, SRSG Rucker, who was at that time a representative of the EU for economic reconstruction, he did not receive permission to remove the antennas installed by Belgrade providers in majority-Serb areas, although they were not licensed. A similar situation continued after the declaration of independence in 2008 when the new executive was formed.

4.3 The Post-Independence Executive Power Sharing

4.3.1 Executive power-sharing in 2008-2010

The artificiality of the voting system affected substantially the validity of executive power-sharing. Each executive had to be formed and maintained through manipulative mechanisms of constitutional violations and external intervention. After the November 2007 elections, a coalition agreement was

reached between the two major Kosovar Albanian forces, the PDK and the LDK, as well as the Kosovo Serb SLS, the Turkish Democratic Party (KDTP) and the Bosnian-Gorani Initiative (GIG), supported by 62 MA's. The PDK got the position of the Prime Minister and majority in the cabinet while the LDK got the position of the President of Kosovo. Kosovo Serbs got 2 ministries and Bosniaks and Turks shared one ministry.⁴³

Due to the internal opposition to the coalition, a number of dissident LDK and PDK voters joined their vote against the election of Sejdiu for President of Kosovo.⁴⁴ He was barely elected after the pressure by the US Head of Office, Tina Kaidanow, who talked individually with all MA's who voted against Sejdiu to request their vote in favour of the president (Interview with Ahmet Isufi, March 2012). This pressure was aimed at avoiding an institutional crisis in the run up to the declaration of independence. His election was followed by the appointment of the PDK leader, Hashim Thaçi as Prime Minister as well as his executive cabinet.

The participation of minorities in the executive was rather tokenistic. The real problems lay with mutual resentment between the PDK and the LDK. Indeed, the coalition between the PDK and the LDK resulted from the imperative of declaring independence and adopting the CSP and the laws attached to it. It had no other substantial governing function. The coalition was labelled by BBC as

⁴³ The opposition parties, Alliance New Kosovo (AKR), Democratic League of Dardania (LDD) and AAK, and the Kosovo Serb SDS, had 41 seats altogether.

⁴⁴ In order to avoid external and internal opposition to the executive, the initial deal between the PDK and the LDK stated that the whole executive structure including the President and the executive would be elected in a package, like in 2001. However, due to criticism that such election would constitute violation of the CF, the Assembly first voted the President and then the executive nominated by him. Because of the likelihood of the contestation of independence by Belgrade, Kosovo political actors had to be careful about constitutional and legal issues pertaining to their own legitimacy. However, this opposition deprived the PDK-LDK coalition of the majority needed for the election of the President.

the “most unnatural coalition in Kosovo,” because of the fierce rivalry between the PDK and the LDK (Nitaj, 2007). As a result, it was plagued by instability and mutual mistrust as soon as the CSP legislation and the Constitution of Kosovo were passed. Hence, it dissolved two years after it was established.

Indeed, the executive did not survive the entire constitutional mandate of four years. Once the coalition completed the constitution and related laws the first cracks began to emerge during the municipal elections held on November 15, 2009, when PDK and LDK returned to their traditional rivalry. As Freedom House report assessed:

‘State-building efforts by Kosovo authorities and international missions in 2010 were hampered by the weak and nontransparent performance of the government, and by a growing divide between the parties of the ruling coalition.’

(Qosaj-Mustafa, 2011)

In 2010, President Sejdiu faced a ruling by the Kosovo Constitutional Court (KCC) because he was formally holding both the position of the President of Kosovo and that of the President of LDK, which he ‘froze’ according to the tradition established by his predecessor, Ibrahim Rugova, in order to comply with the constitutional provisions which place limitation on the president to exercise other public functions, including that of party leadership. However, a group of 31 MA’s did not consider this sufficient and thus filed a request to the Constitutional Court of Kosovo (CCK) to give an opinion whether Sejdiu had violated the Constitution of Kosovo by holding both the post of the President of Kosovo and that of the President of the LDK. When the Constitutional Court of Kosovo ruled that Sejdiu was violating the Constitution of Kosovo (Naim Rrustemi and 31 other Deputies of the Assembly of the Republic of Kosovo-v-His Excellency, Fatmir Sejdiu President of the Republic of Kosovo 2010) the LDK presidency decided to leave the coalition with the PDK in October 2010

and Sejdiu resigned from the position of the President of Kosovo.⁴⁵ With the PDK not being able to find a new coalition partner to fill the executive seats the LDK left vacant, the Assembly Speaker who in the absence of the President exercises his functions for a maximum of six months, scheduled the new Assembly elections for February 2011. However, the AKR, supported by the PDK MA's voted a motion of no-confidence for the government and early elections were re-scheduled for December 22, 2010.

4.3.2 Executive Power-sharing in 2010-2012

After the 2010 elections in which the PDK got a plurality of 34%, the PDK signed coalition agreements with the AKR (7%), the SLS (2%) and with most of the non-Serb minorities (Central Election Commission, 2010). The LDK, the Self-Determination Movement (VV) and the AAK remained in opposition. The role of the SLS enhanced substantially after the 2009 municipal elections in which around 10,000 Serbs cast their ballot (Central Election Commission, 2009).

However, none of the 4 SLS ministers has an executive position either in education or health. This shows a continuation of de facto partition in the post-independence period. Similar to the UNMIK period, the education and health sector continue to be administered by Belgrade. UNOSEK had rejected the proposal of the Kosovo Negotiating Team to earmark deputy ministerial posts vested with veto power for Kosovo Serbs, in education and health. Therefore, these sectors, along with many other policies continue to operate under de facto administration by Belgrade.

⁴⁵ While the Reporter for the Judgment was an International Judge from the US, Robert Caloran, two other International Judges, Almiro Rodrigues (Portugal) and Snezhana Botusharova (Bulgaria) issued their Dissenting opinion. For details, see: http://www.gjks.org/repository/docs/ki_47_10_dissenting_opinion_judge_snezhana_botusharova_and_judge_almiro_rodrigues.pdf.

This coalition was a result then of the manipulation of constitutional provisions on the election of the President of Kosovo and external pressure. A day before the coalition deal was signed, the Assembly Speaker, Jakup Krasniqi, nominated his party boss, Hashim Thaçi for Prime Minister, a move that was criticized as unconstitutional by the VV, since the Prime Minister should have been nominated by the elected and not by an acting President.⁴⁶ According to the Constitution of Kosovo and procedures applied in 2004 and in 2008, the election of the institutions should have been made from the beginning: first election of the Assembly Speaker, then election of the President of Kosovo who would nominate the new Prime Minister.

The purpose of this nomination was to enable a deal between a plurality of Kosovo Albanians - the PDK (34), the KKR (9), and majority of minority groups – the SLS (11) and the Group 6+ (9) representing Bosnians, Turks, and Roma parties (Assembly of the Republic of Kosovo, 2011).⁴⁷

Out of a 120 MA's, this coalition relied on the votes of 61 MA's, just enough to form a parliamentary majority. With this majority in place, the Assembly Speaker, Jakup Krasniqi, called an extraordinary session to elect the President

⁴⁶ Indeed, in a ruling made by the Constitutional Court of Kosovo (CCK) in December 2010 regarding Krasniqi's question whether he can keep the position of an Acting President and of the Secretary General of the PDK in the same time, the CCK stated that "The functions of the President of the Assembly...are solely in relation to the internal workings of the Assembly and do not have the much more substantive functions and competences of the President of the Republic. Dr Jakup Krasniqi was not elected as President of the Republic of Kosovo. He was elected as President of the Assembly only...The Acting President is not an elected President and there may be questions as to the powers of an Acting President raised from time to time (Constitutional Court of Kosovo, 2010).

⁴⁷ This deal was based on the distribution of the posts of the President to the AKR; that of the Prime Minister to the PDK; distribution of four Deputy Prime-ministerial posts to the PDK (1), KKR (2) and SLS (1) as well as distribution of 19 Ministerial seats to the PDK (10), the KKR (5), the SLS (3) and the Group 6+ (1).

and the Executive cabinet on February 22, 2011. Just before the vote, 53 MA's of the LDK (27), the AAK (12) and the VV (14), left the session, depriving the Assembly of the quorum needed to elect the President (Assembly of the Republic of Kosovo, 2011).

In spite of this, Krasniqi proceeded with the election procedure in which Pacolli received 54 and 58 votes in the first and in the second round respectively. A number of PDK MA's were voting against the election of Pacolli. This suggested that he would not be able to win the 61 votes required for his election in the third round. Just before the third round, Thaçi requested a break in order to convince the opposing MA's to vote in his favour. Krasniqi declared a break, complaining publicly that the procedure for the election of the President was full of constitutional violations. It was reported that the US Ambassador played a key role in pressuring the dissident PDK MA's to vote for Pacolli. After the break the third round was held and Pacolli got elected with 62 votes pro out of the 67 present MA's. Immediately after this, PDK's leader Hashim Thaci, who had been nominated by Jakup Krasniqi before Pacolli's election, was voted as Prime Minister along with his cabinet. A month later, in response to a motion presented by the LDK and the AAK, the CCK ruled that Pacolli's election was unconstitutional (Sabri Hamiti and other Deputies-v-Behxhet Pacolli 2011).

After the CCK ruling, two parallel international initiatives began. Peter Faith representing the ISG and the EU proposed a Roundtable of all parliamentary groups to find a consensual president. The other initiative taken behind closed doors by the US Ambassador in Prishtina, looked for the possibility of electing the new president as soon as possible so as to overcome the institutional deadlock. The next candidate was revealed to the public in a sudden press briefing by Thaçi, Mustafa (LDK), Pacolli and the US Ambassador in Kosovo, Christopher Dell on 6 April, 2011. It was Ms. Atifete Jahjaga, a Kosovo Police General.

In fact, in a later public interview, Pacolli revealed that to the astonishment of other participants, the US Ambassador imposed Jahjaga, whose name was drawn from an envelope held by him, after the three political leaders failed to reach an agreement on an acceptable president (Pacolli, 2011, 7 April). Dell placed the envelope on the table and before opening it, he told the three Kosovo leaders that they have to accept what was in the envelope, or they would lose a great friend and the American agenda for Kosovo. Pacolli's story was never denied by other participants. In addition, the deal consisted of a reform on the election of the President and a clear division of powers between him and the executive (Abazi, 2011). The deal was signed and the next day the Assembly of Kosovo elected a president in the first round. If the Americans did not impose their candidate, new elections would have needed to be called.

In the context of increasing political rivalry between Kosovo Albanian political parties which constitute 80% of the Assembly votes, the importance of minority parties for the Albanian plurality in the coalition has increased substantially. Indeed, 23 out of 25 minority MA's in the Kosovo Assembly are part of the governing coalition and their negotiating strength has increased. Thus, the post-independent Kosovo has seen a more meaningful inter-ethnic power-sharing than during the UN administration, albeit realization of which depends on heavy external pressures at key junctures.

This is a direct result of the final status determination in 2008 and of the decreasing role of Belgrade in majority Serb areas south of Ibar River which has allowed for the emergence of an autonomous Kosovo Serb elite. However, international intervention remains a key to the stability of the executive because of the competitive behaviour between Kosovo Albanian parties.

Thus, each vote of the coalition partners in the assembly counts. And this vote is not given so easily. Evidence suggests that the leading coalition partner, PDK, is under constant pressure from the junior coalition partners for more

political posts and public employment and fiscal transfers as well as tenders allocated to businesses close to the parties in coalition. At the end of 2011, the Group 6+ conditioned their support for the Law on the Budget for 2012 with an ‘additional number of projects for their constituencies which were not planned in the initial budgetary project’ valued at 800,000 Euros (Interview with Duda Balje, Feb 2012). Had the money not been reallocated, the executive would not have been able to pass the Law on Budget and the executive could have fallen apart.

Table 8 Division of the main political posts between the Coalition partners in the current executive.

Posts / Parties	PDK	KKR and List Rugova	SLS	Group 6+	Total
Prime Minister	1				
Deputy Prime Ministers	2	3	1		6
Ministers	10	5	3	1	19
Deputy Ministers	20	7	4	7	38

The current executive has a plurality of Kosovo Albanian votes because the majority of Kosovo Albanian seats in the Assembly are in the opposition. Thus, the ruling coalition is in constant lack of a majority in the Assembly. Indeed, the ability of an Albanian plurality to form a coalition with the minorities against the Albanian majority highlights two trends evolving in the executive power-sharing in Kosovo. First, that coercive consociationalism can take hold when there are sufficient incentives for political actors. Second, which may also speak against the establishment of consociationalism, is that the ethnic element in Kosovo politics has withered away in favour of a more competitive politics.

Indeed, the post-independence period has seen an improvement in executive power-sharing, mainly owed to the increase in the Kosovo Serb participation in

elections and more autonomous Kosovo Serb elites. As the US Ambassador in Kosovo contends:

‘The CSP forces the majority to work with the minorities, to reach out to them and make deals. They have to scratch the back to each other, people have to do well with the minorities, look after their interests in order to gain their support. This was the cleverest thing in the CSP because it has created incentives for majority politicians to reach out to minority communities.’

(Interview with Dell)

However, in order for this plurality power-sharing to function, the 2010 executive had to rely on US pressure as well as to grow in size in order to satisfy all coalition partners. Dell’s description of the effects of the CSP on majority-minority relations evades the external role into the functioning of this back-scratching as well as the problems related to persistent violations of the constitutional provisions described earlier which are in fact condoned by external interveners.

In addition, the problem with de facto partition has not withered away. Education, health, social services and other policy issues continue to be controlled by Belgrade through its ministry for Kosovo in all majority Serb areas, whereas Kosovo Serbs benefit from both systems. The de facto partition problem has continued to be condoned by international supervisors while the effects of inter-ethnic executive power-sharing had little effect on the integration of Kosovo Serbs in the Kosovo governance system. This issue will be explored more in depth in the chapter on Autonomy.

4.3.3 International Dimension

Kosovo's executive power-sharing is heavily influenced by external actors whose domination of Kosovo politics remains as ponderous as it was during the

UNMIK administration. This further undermines their ability to communicate in good faith, which is in fact, the key precondition for successful consociationalism. Moreover, although the internationals have directly imposed consociational institutions on Kosovo, the persisting de facto partition problem and international domination undermines the normative value of consociationalism.

Although the CSP gives substantial executive powers to the ICR, there are other players, such as the US and QUINT whose power out-runs those of the ICR. The powers of the ICR are even larger than those of the IHR, described by the ICR himself as ‘dominating and colonial’ (Interview with Feith). However, the interventionist style differs substantially from BiH. These powers are used out of the public sight, in closed meetings and in a direct dialogue with the elites. In fact, this style does not differ much from the style of UNMIK (2005-2007). As a local Kosovo Serb official of the ICO reveals, there is a mistrust between the coalition partners and the functioning of the executive power-sharing is owed to continuous external intervention:

‘Albanians have been obstructing the Ahtissari Plan-they are implementing it too slowly. Feith has to continuously pressure Thaçi and Mustafa to implement CSP provisions. He intervenes all the time through phone or in closed meetings, Kosovo has conditional independence and that is why they listen to him. In fact, the CSP is being maintained artificially. The elites have not accepted it wholeheartedly although they speak of it all the time.’

(Interview with Ćosić)

Indeed, evidence suggests a number of coercive players being engaged in intervening to induce the CSP implementation. This influence is mostly present through US diplomacy which has influenced the increasing turn-out in elections by Kosovo Serbs in 2009 and in 2010 as well as the cooperation between the

PDK and SLNS: ‘Slobodan Petrović is an American product and political power is a good incentive to accept power-sharing’ (Interview with Ćosić). The international players act as guarantors who use both diplomacy and direct coercion:

‘From what I have seen so far, I have an impression that we, Kosovars, are not asked much...as a minority, the international presence here is very convenient to me...whatever happens to us, we send a request, with one copy sent to the US Embassy, and then in NDI (National Democratic Institute), we are all the time in contact with them. I have frequently and without any hesitation asked for their advice. If someone told us NO, we also said NO! Well we said, if that is NO, we will go here, and here and here, so they will put pressure on you. When we remain alone, there will be no such pressure.’

(Interview with Balje)

The consequences of international intervention are to some extent acknowledged by the interveners themselves. According to them, the international intervention has not allowed the governing capacity to develop and has created dependency and irresponsible behaviour among local elites:

‘Kosovars have learned how to do politics, in the sense of making deals, talking; holding speeches, but they have not learned how to govern. So they always come for solutions to us.’

(Interview with Dell)

Thus, although international policy-makers acknowledge the flaws of political elites, they do, however, undermine the normative value of executive power-sharing through continuous pressure, which undermines mutual trust between local actors. As an opposition leader, Albin Kurti explains:

‘I think that mutual trust between the actors is very low; I think this is because of the past, because of international dominance which can very easily change the positions of political actors. Trust has to do with the past but trust has to do with the future too in the sense that it takes a degree of predictability in order to build trust. There is very little predictability in the behaviour of actors. We have had cases when some international diplomat or Peter Feith intervenes and as a result we have witnessed immediate change of statements and positions by political actors.’

(Interview with Kurti)

The international assumption of ethnicity as the main cleavage underpinning Kosovo’s institutional design has created an artificial situation where the majority of voters in Kosovo are not represented in the governance structure. In particular it risks reversing the attitude of Kosovo Albanians as the largest group against the CSP. In fact, the implementation of the deal is becoming more difficult as the majority feels that its interests are being neglected while ‘the CSP is built on privileges of Kosovo Serbs’ (Interview with Feith) which, in turn has been frustrating the majority expectations thus increasing nationalism among the Kosovar Albanian majority in Kosovo:

‘Indeed, the attitude of Albanians towards the CSP is changing. There was a solid national consensus around a roadmap that encompasses the acceptance of the CSP leading to independence and paves the way for EU integration. And people accepted CSP because it was a price to be paid for independence. However, EU has raised the bar for Kosovo’s integration too high. Kosovars have realized that the EU is not enthusiastic about integration and subsequently people have begun to lose faith.’

(Interview with Senior US Diplomat 2)

The EU-mediated talks between Kosovo and Belgrade in which the current corporate consociationalism is likely to be strengthened has deepened the frustrations among the majority. Such a change in attitude stems from the frustration coming from a combination of international pressures on the current system and on Kosovo Albanians to give in more as a result of the stalemate with Belgrade, the lack of unity in the EU policy towards Kosovo as well as differing political intentions of the Great Powers at the UNSC, not to mention the perception that the CSP favours Kosovo Serbs over other groups. As the Kosovo Government Coordinator of Standards and of the Ahtissari legislative agenda during 2007 says:

‘Today, the only ones that defend the Ahtissari Package are Kosovo institutions, and frequently when I listen to statements by internationals, a false impression is created that in fact we designed it and that it was our genuine offer. The Ahtissari Package, especially in the north, with a small number of international recognitions, with the blockade at the UNSC, turned out in a document which endangers positive processes for the future of Kosovo. In fact, the Ahtissari Package was never the only alternative and moreover, not the only realistic alternative but perhaps it was the only one that could have been accepted half-heartedly by all sides. That was the whole idea. We swallowed it. We took an obligation from the international community violating our own interests. Thus, no one should expect Kosovo institutions to continue to be a constructive side as we were during final status negotiations. The CSP was a bitter pill for political parties, assembly and institutions in general. There are very painful elements in the Ahtissari Package and simply for the Albanian population (it) is unjust and maybe, when we see current developments, they should not have been accepted in the first place.’

(Interview with Arifi)

Kosovo Serbs south of Ibar River are also divided with regard to executive power-sharing. Some consider that despite constitutional guarantees, they are dominated by Kosovo Albanians. Thus, the international intervention has been directed both at the Kosovo Albanian and the Kosovo Serb side of the political spectrum in Kosovo. In fact, the current functioning of inter-ethnic executive power-sharing is owed largely to international intervention. There is deep mistrust on both sides showing that consociational practices have not bed down:

‘Without Feith’s guarantees, Serbs would not have participated in the institutions. Solutions offered by internationals are more substantial for them. Without international interventionism, the performance of the executive would have been even weaker.’

(Interview with Besnik Osmani, Oct 2011)

The Vice-chairman of the SLS feels that the current SLS representatives succumb to Kosovo Albanian control while not representing interests of their constituency:

‘Milošević was destroyed by his own “patriots” and by illegitimate Albanian representatives. Now majority Albanian parties are seeking their own loyal Serbs.’

(Interview with Bojan Stojanović, Nov 2011)

In fact, the IC is aware that withholding consociationalism in Kosovo requires continuous intervention and conditionality. Thus, while such interventionism was successful due to conditional independence, the IC has planned to replace this conditionality with ongoing international pressure after the conditionality on independence got raised in September 2010, with an EU accession conditionality linked to power-sharing. This conditionality is in fact, viewed as the main condition for the CSP sustainability:

‘As regards the implementation, we can expect in the future that problems may occur; therefore it is important that after our departure, other friendly organizations can assist Kosovo in the implementation phase...the end of ICO mission is coinciding with transfer or transition towards the EU becoming the main player. Of course, the US will remain engaged through its embassy but the EU will be the most prominent actor given that Kosovo has a European perspective. Kosovo has therefore started with Stabilization and Association dialogue which means that the EU will monitor progress in key areas through the Progress Report. This process is very helpful because it covers the same areas as the ones that I mentioned in the CSP: respect for community rights, human rights, privatization, decentralization, respect for religious and cultural rights of the Serbian Orthodox Church and other religions in Kosovo. So I can see now the transition where we phase out and the EU phases in, and that means that there is good hope for sustainability of the arrangements and the provisions that we have put in place on the basis of the CSP.’

(Interview with █████)

Conditionality is not the only tool of interventionism. Evidence suggests that international pressure involved also malign intervention applied at a personal level on the politicians who may reject international proposals in the form of isolation or punishment. This malign intervention is especially applied with regard to the de facto partition problem which is in the way of deepening with the ongoing EU initiative for the ‘normalization’ of the relations with Belgrade. For example, there is unconfirmed speculation made privately and publicly that the US have influenced the CCK decision on whether Sejdiu has violated the constitution and have directly influenced his decision to resign because of his intransigence over the dialogue with Serbia planned by the EU and the US after the ICJ opinion about the legality of Kosovo’s declaration of independence in July 2010 (Sletzinger, Cato Institute, quoted by Spaić 2010). The former

Minister of Justice of Kosovo (2008-2010), Nekibe Kelmendi (LDK),⁴⁸ who was dismissed from her ministerial post in 2010, suggested publicly that the internationals were behind her dismissal because she refused to bow to international pressure to create two Appeal Chambers within Kosovo's court system – one in the north of Kosovo for the Serbs and one for the rest of Kosovo and to increase the quota of minority participation in the judiciary from 15% to 25% (Bajraliu, 2010).

Or, as the leader of the party which has built its political program on the opposition of the CSP, Albin Kurti, reveals about the international pressure he has been experiencing: 'I think such a politician risks various kinds of attacks, risks etiquette, there are efforts to isolate him' (Interview with Kurti).

Even if these suggestions were not true, the mere perception that the international players have such power highlights the dependency and vulnerability of Kosovo elites vis-à-vis international influences. The international interveners consider that Kosovars need to absorb the complexities of the system created by them. They do not see the inadequacies of the system and continuous pitfalls it has displayed since its inception, and especially after independence. On the other side, Kosovars increasingly view the system and the international intervention as being beneficial to Kosovo Serbs only. Thus, in order for the system to survive continuous international intervention is necessary for an unforeseeable future suggesting a highly unstable institutional design.

Conclusion

This chapter has examined the extent of international involvement in the formation and functioning of executive power-sharing in Kosovo. Throughout

⁴⁸ Kelmendi was the first female Judge in Kosovo, appointed in the late sixties.

the period examined, the stability of the executive depended on international intervention. While such intervention was decisive to establish executive power-sharing it has also facilitated de facto partition by condoning Belgrade-steered parallelism. In fact, rather than a bottom-up reaction, the de facto partition has been facilitated from the top-down. During UNMIK's administration, the executive power-sharing was undermined by a limited devolution of power to Kosovo institutions and by the external exclusion of Kosovo Serbs from the dialogue in favour of discussing Kosovo Serb participation in the institutions with Belgrade. The extent of international intervention in the formation and the functioning of executive power-sharing reflects geopolitical considerations regarding Kosovo's final status which has created substantial limitations on the extent to which Kosovo ethnic groups could share power between each-other. In this regard, the introduction of the regional dimension into Kosovo's governance system as well as the scarce transfer of authority to Kosovo executive curbed genuine power-sharing and furthered de facto partition.

The implementation of the executive power-sharing has also been problematic throughout the period examined because Kosovo Albanian parties have preferred a majoritarian style of governance. In this sense, most consociational literature on Kosovo neglects the connection between the electoral system and executive power-sharing. Thus, Taylor's (2005) argument that PR with reserved seats did not violate the rights of the majority is flawed since it violated the right of the LDK to create an executive in 2001, in spite of its will to invite Kosovo Serbs into a coalition. Due to the numbers in the assembly of Kosovo which does not match the factor of demographic balance, the executive power-sharing turns out to be problematic in many ways, not least because of intra-Kosovo Albanian political rivalries. Thus, the process is characterized by constitutional manipulation and external intervention without which the system would have collapsed. In the post-independence period, the executive power-sharing improved but its functioning is still owed to excessive international

intervention, both at the institutional and at the personal level. In contrast to what consociational literature contends, in Kosovo, external intervention can be malign using brute coercion and punitive measures against politicians who reject external pressures. Although an emergence of autonomous Kosovo Serb elite has made their participation in the executive more meaningful, the problem of de facto partition persists. Thus, Kosovo continues to implement both under external intervention. While the adherence of Kosovo Albanians to the executive power-sharing is decreasing as a result of their unwillingness to form Grand Coalitions, the international community is looking at ways to keep conditionality, by replacing conditional independence after 2012 with conditionality of EU integration being connected to the commitment of local actors to power-sharing, suggesting that the system is not sustainable.

Another consociational element applied by the internationals in Kosovo from 2001 is veto arrangements. Whereas such ethnic veto is explicitly existent in the executive, it has been amply used by internationals both during the UNMIK administration and in the post-independence period. The next chapter will explore in detail the inception and the implementation of veto arrangements in Kosovo during 2001 and 2012.

5 VETO POWERS

The purpose of this chapter is to explore the extent to which the regional and international influences determined the establishment and functioning of the VIP in Kosovo along with extensive veto powers enjoyed by UNMIK. Also examined here is the extent to which an international dimension persists in the establishment and functioning of the veto powers in the post-independence period.

It is argued here that both the VIP and the veto powers in Kosovo are consistent with consociational theory. However, in arguing that Kosovo lacks adequate blocking powers, much of the literature on Kosovo has missed the point that most vetoes have been deployed by the international actors, featuring thus a coercive type of consociationalism. In this regard, UNMIK intentionally minimized internal veto arrangements which would be more in keeping with consociational theory. Instead, it is the IC who have been herding and keeping the real veto powers for themselves. UNMIK's strategy was to maximize control of internal political processes through the authority with powers to veto any decision taken by Kosovo institutions. The establishment of the Vital Interest Procedure was from the outset a result of international compromises, rather than discussions with internal factions. Moreover, it could be argued that the willingness to include a veto at Belgrade's behest reflects as much the contradictory logic of de facto partition as that of consociationalism. This shows the complexities of coercive consociationalism which have been inherently neglected by consociational theory as well as by the literature dealing with internationally designed post-conflict power-sharing arrangements.

Lijphart has never argued for the strength of veto powers to the point where they threaten to bring down the consociational arrangement. In fact, Lijphart warns against such usage of vetoes and prefers the pre-emptive effect of the

veto as well as the veto as a tool for delay and bargaining (Lijphart, 1977). In Kosovo that seems to be exactly the problem because the practice and the reality has brought the usage of vetoes by the IC to an absurd level thus undermining the consociational logic by which it is practiced. The reason why key international actors continue usage of the veto powers is to demonstrate to Russia and Belgrade that not only do constitutional protections exist, but that there are all sorts of elaborate ways of limiting Kosovo's autonomy and independence. That seems to have been purposefully designed to fulfil the logic of international realpolitik which fits the agenda of parallelism and de facto partition.

This chapter will first describe UNMIK's position on internal vetoes and its discussions with Belgrade and Russia about the veto arrangements in Kosovo. The second section will provide an analysis of the Vital Interest Procedure and of the veto powers. The third and the fourth sections will examine the functioning of consociational and coercive features of VIP and UNMIK's veto power through 7 cases, while the last section will examine the extent to which the international dimension of remodelled veto arrangements for minorities continues to persist in the post-independence period.

5.1 The Establishment of Veto Arrangements within a Coercive Consociational Framework

At the initial stages of the talks for Kosovo's institutional design, UNMIK had no intention of creating any sort of internal veto arrangements for minorities. The initial UNMIK draft of the Legal Framework for PISG did not contain any provision on vital interests or veto powers (Diplomatic Report, 2001).⁴⁹ UNMIK considered that such blocking powers should be reserved only for the SRSG, "rather than internal players where it could be used to block just

⁴⁹ Details about this document are described in the previous chapter.

anything and everything” (Interview with Everts). The question of veto powers emerged during discussion with Belgrade after the talks with Kosovo representatives were finished. The VIP was included in the last moment before the document was presented to the UNSC, in order to offer assurances to Belgrade and Russia that the autonomy of Kosovo institutions will remain limited subject to how UNMIK interprets the Resolution 1244. Thus, from the beginning the role of the veto player was taken up by the UN Special Representative (SRSG) in order to block Kosovo Albanian initiatives for independence:

‘I know of course that the UN being responsible overall at that time could not deprive itself from the veto right if the decisions made were absolutely against the international and national interests. For example, we wouldn’t want a premature declaration of independence forced on the minorities. So that was where veto rights could be used. This was built in so as to prevent hasty, premature decisions that would create havoc. That was the reason why.’

(Interview with Everts)

The introduction of the VIP was not discussed within the JWG since it was not part of UNMIK’s institution-building strategy. Being the supreme administrative authority in Kosovo, UNMIK withheld the power to veto any decision of Kosovo authorities based on its interpretation of the Resolution 1244. In addition, UNMIK had the exclusive power on minority issues. In this way UNMIK excluded the possibility that local groups might enjoy blocking powers, and instead adopted a more paternalistic or colonial model where it used its own power to accommodate the interests of the international community for maintaining the status quo as well as to maintain Belgrade’s support for the participation of Kosovo Serbs in the PISG. Accordingly, the main contentious issue between the Kosovo Albanian representatives in the

JWG and UNMIK was UNMIK's veto power vs. the authorities of Kosovo institutions:

‘We wanted to avoid giving any particular community the absolute veto... The Serbs boycotted but they were consulted. The UN and me, I was very deeply engaged and always advocating in what we were doing: ‘please tell us what your concerns are and let's try to integrate these concerns even though you are not present.’ But towards the end, this issue of vital interests did emerge from side lines, as something that needed to be brought in to ensure that the parliament with majority control would not hijack an issue with disregard to the minorities and in this way achieve balances in all levels.’

(Interview with Borg-Olivier)

These sidelines from which the internal blocking mechanisms emerged, suggest high-level discussions at the UN where an agreement for the creation of the VIP was struck between UNMIK on the one side, and Belgrade and Russia on the other, which is explored in the following section.

5.1.1 The Influence of Belgrade and Russia

UNMIK decided to create the VIP in return for Belgrade's consent for the participation of Kosovo Serbs in the 2001 parliamentary elections. Russia's support for Belgrade's position was viewed as a threat to consensual support at the UNSC about the Regulation on the PISG. The pressures came especially from the Serbian Prime Minister Koštunica and from Russia to create effective blocking powers in the form of a bi-cameral parliament consisting of the chamber of representatives elected in proportional representation with reserved seats for minorities in addition to the seats won in direct election and the Chamber of Communities that would have the right to veto decisions of the

lower chamber.⁵⁰ This demand was unacceptable to UNMIK because it considered those powers unnecessary in the light of its own veto powers. It considered that such internal veto arrangements would undermine its peace-building policy. The then Deputy SRSG reveals that Bosnia served as a lesson of the effect that veto powers can have: ‘Bosnia was always in the mind as a negative example because there, of course, it has been stalemated continuously due to internal blockages’ (Interview with Everts).

UNMIK had indeed reserved the minority issues as early as 1999 becoming the sole protector of minority interests and a surrogate representative for Kosovo Serbs, consistent with the coercive consociational framework where it could take decisions without consulting internal elites. To this end, UNMIK considered that it had sufficient authority to protect minority rights without the need to grant them veto power. It took the role of a ‘surrogate representative’ of Kosovo Serbs.⁵¹

‘We did a better job bringing their (Kosovo Serb) concerns than their representative would have done if they were present, it would have been sort of dysfunctional arguing each concern with the majority (Kosovo Albanians).’

(Interview with Borg-Olivier)

Amid the difficulties of convincing Belgrade to call on Kosovo Serbs to remove Belgrade-incited roadblocks established by Kosovo Serb groups in the north of Kosovo, and to participate in the civil registration, SRSG Haekkerup and his aides travelled to New York to present the CF to the UNSC. In fact, evidence suggests that Belgrade used its control of Kosovo Serbs as a destabilizing

⁵⁰ The details of this proposal are presented in the chapter on electoral system.

⁵¹ A term borrowed from Florian Bieber told to the author during a conversation.

mechanism and bargaining tool. A meeting between SRSG Haekkerup, his chief legal adviser, Alexander Borg Olivier, and Vojislav Koštunica was held on May 8, 2001, in the office of the UN Secretary General, Koffi Annan, to present the CF provisions and to convince Koštunica to agree to Kosovo Serb participation in elections.

The lack of a deal with Belgrade on Kosovo Serb participation in those elections was considered a serious failure which undermined international consensus on UNMIK's peace-building mission. A senior UNMIK official reveals that SRSG Haekkerup was mostly concerned about Russian criticism. Thus, the main objective of the vital interest procedure, and an absolute veto power for the SRSG, was to above all get the support of Russia in the UNSC. As UNMIK Chief Legal Advisor reveals the process, the discussions on the veto powers were intense and the deal with Russia was struck at the last moment:

‘The provisions on vital interest procedures were included to get more legitimacy for the constitutional framework and to get more acceptance from the Security Council on this regard... [REDACTED] was afraid that it will find criticisms... [REDACTED] arrived in New York, and I think that the delegation of Yugoslavia arrived the same day. We had to go and see the UN Secretary General...and [REDACTED] went for discussion. Koštunica was asking specific questions, he was saying we were not consulted and asked explanations...Koštunica didn't want the vital interest procedure. He wanted the veto... There would be a special community chamber within the assembly that would have minor veto arrangements. We were afraid that that will bring everything to a standstill and we did not want that... [REDACTED] went downstairs to meet Sergey Lavrov, and [REDACTED] we have a meeting about the constitutional framework so [REDACTED] [REDACTED] he had forgotten [REDACTED]: ‘tell me, tell me

more!’ [REDACTED] ... You know there is a record that will emerge from these processes. And if the record shows that the majority abuses this, or does something illegal and the UN doesn’t agree with it, it’s going to be part of the record, it will go to the SRSG, he can’t ignore it, and in the end he will report to the Security Council, and the balances are there, don’t worry. Promise [REDACTED] that you are not going to cause problems, [REDACTED]. So he didn’t object and that is how we got the OK for the constitutional framework. We got the green light and go ahead.’

(Interview with [REDACTED])

This account suggests that Russia had an effective veto power on UNMIK’s policies and the level of importance which the UN apparatus gave to Russia’s acceptance of its peace-building policies in Kosovo. In fact, it is revealing how UNMIK sought to offer assurances to Belgrade and Russia that in spite of the creation of the PISG, its autonomy would nevertheless remain limited as UNMIK will retain control over the processes. These assurances resulted in an agreement by President Koštunica regarding the participation of Kosovo Serbs in civil registration. This deal was reflected the next day, on May 9, 2001 in the report by the UNSG, Koffi Annan:

‘The ensuing roadblocks and the linkage made between the tax collection points and the Constitutional Framework rendered progress on the two issues of progress in the divided city of Mitrovica and Kosovo Serb cooperation with UNMIK very difficult. To this end, I met with President Koštunica of the Federal Republic of Yugoslavia in New York on 8 May. There have been some recent positive indications, including encouragement by the authorities of the FRY of Kosovo Serbs participation in civil registration and an agreement on tax collection points.’

(UN Secretary General, 2001, p. 2)

In this context, it is notable that Kosovo Albanians were not included in the talks about the veto powers while Kosovo Serbs actually boycotted the process. The debate between Kosovo Albanian representatives in the JWG and UNMIK on this issue was focused on the division of powers between UNMIK and the Kosovo institutions. They raised huge problems since Kosovo representatives did not agree on the scope of competencies which UNMIK planned to reserve for itself, while UNMIK believed that the authority of Kosovo institutions should be subject to UNMIK's control. This process shows that the establishment of consociational institutions was done at the behest of external interests, rather than resulting from an internal agreement between the elites, undermining the functioning of consociationalism in Kosovo. As I will show in the next sections, this process in which external powers had a de facto veto on Kosovo's internal arrangements steered parallelism and de facto partition within Kosovo.

5.2 General Analysis of the Veto Arrangements

The VIP was confined expressly to the CF provisions on cultural rights and identity (UNMIK, 2001a). Procedurally, the essence of the VIP was delay and bargaining through a mediation procedure between the majority and minorities but it fell short of blocking powers which were a reserved UNMIK competence. The VIP could be invoked by a justified petition signed by 6 MA's.⁵² Such an approach reflected UNMIK's position as sovereign in which Kosovars could not dictate political processes in any way: 'We didn't want to put up so many safeguards that we would end up in not being able to adopt anything' (Interview with Borg-Olivier). Thus, UNMIK designed strict procedures and deadlines for

⁵² The 6 MA's threshold is comparably lower than the threshold used in Northern Ireland, which requires 30 signatories for invoking a 'Petition of Concern.' The low threshold is set purposefully to allow minor groups to trigger the Vital Interest Procedure, as opposed to Catholic and Protestant reserved privilege of invoking the veto power. The difference between Kosovo and Northern Ireland is that the former relies on mediation in the first instance and arbitration as the last resort, while the GFA focuses on outright blockage and mediation as the last resort if weighted majorities are not formed.

bargaining and mediation after which it could exercise its own blocking powers. This reflects the international concept of controlled state-building in which local parties have no ownership over political processes.

In fact, the first instance was aimed at avoiding invocation of the VIP. Any Assembly Presidency member could request the Assembly Committee on Rights and Interests of Communities (CRIC) to review a proposed law and propose amendments during the debate on behalf of the Committee, which was dominated by Kosovo Serbs. If the approved law would not include the CRIC amendment, any MA with the support of additional 5 MA's could invoke the VIP within 48 hours on the grounds that a law or a provision violated the vital interests of the community to which the MA belonged.

The motion would then be sent to the Assembly Presidency which was composed of 7 MA's: two from the first and second party each, one from the third party, one representing Kosovo Serbs and one representing other minorities.⁵³ The Assembly Presidency would immediately request a reply from the ministry proposing the law within three days and ask both sides to appoint their members in a Special Panel which would decide with a majority vote if the Assembly Presidency failed to reach a consensus on the motion within five days. The Special Panel, which would be joined also by a representative of the SRSG, would adopt a recommendation within 5 days and make its proposal to the Assembly. If the Assembly rejected the Panel's proposal the law stood as it was previously approved and was sent to be signed by the President of Kosovo prior to the SRSG's promulgation. No law could enter into force without being promulgated by the SRSG. Thus, the SRSG had the power to decide whether to

⁵³ In 2002-2004, the KP was the third party so it had 2 representatives in the Assembly presidency: one as the third party and one as a Kosovo Serb party.

adopt the law or block it, regardless of whether it was signed by the President of Kosovo.

The VIP limited the bargaining and mediation period to a maximum of 12 days from the day it was invoked. This short procedure was not sufficient for inter-party bargaining, especially since in principle, minority issues entail sensitive topics on which finding common ground between the majority and the minority in question is not easy. However, the principle of the UNMIK administration was not to foster inter-ethnic bargaining: this aim had been abandoned as early as 2000 (Covey, 2011c), hence, the use of majoritarian decision-making in the Special Panel. This was especially evident when Belgrade's role as Kosovo Serb representative was introduced after the fall of the Milošević regime in 2000. Thus the coercive element of blocking the law or of amending it at will was added, but it was not UNMIK's policy of introducing consociational elements to the deal:

'We were very conscious of that (standstill) and we tried to avoid it, and I was personally strongly opposed to any veto arrangements, I preferred some harmony but within their (minority) rights, you could not let it go on forever, even the vital interest procedures, and you could see if you study it carefully, there were very strict deadlines because it can't wait forever, because a decision had to be made and the law had to go further... the panel had to examine the complaint, and would have to reach some kind of agreement and make a recommendation to the assembly. The recommendation is YES, there is a problem with this provision of the law, and we suggest that you change it like this and the assembly changed it like that and it was signed, if the panel made the recommendation and the assembly either did not take action and did not do anything and the law was sent for promulgation, it would stick until it was resolved.'

(Interview with Borg-Olivier)

Although classical consociational theory prescribes the limitation of veto power only to matters of identity, language and culture, evidence suggests a variety of veto powers and mixed experiences. These include limitations of the veto power to specified issues in Macedonia, or in contrast unlimited veto power applicability in Cyprus, BiH, Northern Ireland, as well as Belgium (Lijphart, 1977). While the CF limited the scope of the vital interest specifically to identity, language and cultural rights of minorities, this faithful consociational concept of limited veto arrangements was distorted by UNMIK's supreme authority to interpret the legal provisions passed by the Assembly in the context of the self-determination dispute. The veto arrangements were introduced more to assure Belgrade and Moscow that Kosovo will not move towards statehood rather than to protect minority identity. This external dimension corroded the otherwise consociational nature of the VIP.

As Taylor argues, identity has never been an issue between Kosovo Albanians and Kosovo Serbs. After all, minority issues were UNMIK's reserved competence. Rather, it was the status of Kosovo which represented the main cleavage around which the VIP was used by Kosovo Serbs. Thus, UNMIK's veto powers allowed Kosovo Serbs to make ample usage of the VIP in 2002-2004 on any issue which was viewed by them and Belgrade as an unacceptable evolution towards statehood. To this end, the KP invoked this procedure on 'almost anything while they were sitting in the parliament between 2002 and 2004,' (Interview with de Vrieze) including on such laws as Census and Housing, Access to Official Documents and Public Procurement (UN Secretary General 2003b). In this sense, a partnership between Kosovo Serbs and UNMIK frequently emerged with regard to the legal provisions of the laws approved by the Assembly. A key issue was whether the assembly's decisions fell under the powers delegated to the PISG or whether they were encroaching on UNMIK's reserved powers. It was clear that the underlying rationale for KP's usage of the VIP was the issue of the statehood of Kosovo.

In this view, the VIP was a controversial mechanism because it functioned in the context of deep mistrust and antagonism between Kosovo Albanian and Kosovo Serb MA's regarding the sovereignty of Kosovo. While Kosovo Albanian MA's were constantly pressuring UNMIK for more devolution of powers, the Kosovo Serb MA's represented Belgrade's position of minimizing self-government and maintaining the status quo established by both the CF and UNMIK-FRY Common Document. In this sense, the practical operation of the VIP featured de facto partition and a regional dimension, rather than a truly consociational method of internal conflict management. This context made the cohabitation between the elites impossible while UNMIK's position was shaped according to international policies regarding Kosovo's final status.

For example, Kosovo Albanian MA's rejected almost any amendment proposed by the KP MA's, even if such amendments dealt with technical, rather than minority or wider political issues: 'Sometimes, the KP would propose inadequate amendments just so as to provoke rejection by the majority' (Interview with Nekibe Kelmendi, Dec 2007). Indeed, the sovereignty conflict affected mutual perceptions of rejection and protest. Thus, the KP MA's would invoke the vital interest procedure because their amendments were not voted by the majority on technical issues such as weak translation of the law or if they felt ignored:

'They would raise an issue because the legislation was being developed where they were either ignored or were not given sufficient attention, they would use this procedure in order to block the law being put into force.'

(Interview with Borg-Olivier)

The VIP usage reflected largely the Kosovo Albanian-Belgrade sovereignty conflict since the mechanisms for minority protection were SRSG's reserved powers. In this context, the usage of the VIP reflected de facto partitionist logic

embedded in Belgrade's inclusion in Kosovo's political system. Procedurally though, the VIP contained both consociational and coercive features. The main consociational features of the VIP were the delay and bargaining aspects. The main coercive features of the VIP combined with the veto powers was arbitration by UNMIK, total blockage of legislation as well as international blockage and coercion into accepting minority demands. Another veto featuring Kosovo institutional arrangements was international control reflected through the authority of UNMIK to veto any decision of the Kosovo Assembly regardless of whether the VIP was invoked. This veto was used in wider international concert and was aimed at preserving the status quo in Kosovo and the region.

An additional mechanism built-into the Constitutional Framework was the SRSG's powers to block and annul any decision of Kosovar institutions considered to fall under UNMIK's remit (UNMIK, 2001a, Chapter 8). This practice represented a political oppression which showed zero tolerance on the expression of political will related to Kosovo's final status or indeed, even emergence of organic consociational practices which did not include Kosovo Serbs. As a senior OSCE official says:

‘UNMIK used the practice of annulling not only legislation and decision, but also opinions and non-binding resolutions passed by the assembly (which were usually not supported by Serbs). This was UNMIK's Legal Office interpretation of Resolution 1244 that Assembly cannot pass anything in the remit of reserved powers.’

(Interview with de Vrieze)

This ‘dogmatic interpretation of the Resolution 1244’ (Interview with Bajrami) was based on the exclusion of Kosovars from decision-making and had profound effect on the successful application of the consociational method because it created a controversy about UNMIK's agency and legitimacy. It

deepened mutual mistrust between the majority and the international administration. Knoll (2007) argues UNMIK's agency in Kosovo was a perplexing factor with an international mandate confronting domestic interests while, at the same time, seeking domestic acceptance in the context of final status ambiguity which tended to favour the concept of Belgrade's sovereignty over the wishes of the majority for independent statehood.

While UNMIK was formally designated as Kosovo's representative in international fora, in fact, it represented the interests of its international sponsors who at that period confronted what Kosovo's government perceived to be Kosovo's interests declared through Assembly's resolutions. During the status quo period, all these resolutions were vetoed by UNMIK. However, during the final status talks, when the international community considered such expressions of Kosovo's political will necessary for a successful closure of the final status process, these resolutions were tolerated (UN Secretary General 2006).

The practice of vetoing the Assembly's opinions and non-binding resolutions was based on the internationally accepted premise that the Assembly can pass decisions and express its opinion only about transferred competencies, but not about reserved powers. Thus, the IC practically prohibited expressions of the political will of Kosovars demanding from them the acceptance of the status quo (EU Presidency, 2002; Steiner, 2002; United Nations Security Council, 2002). During 2002-2003, the adoption of resolutions by the Assembly was quite frequent, reflecting the feeling of Kosovars that UNMIK was not representing Kosovo's interests. In fact, there was an expression of deep mistrust and an erosion of the credibility of the international community in Kosovo following the UNMIK-FRY Common Document as well as UNSC's support for the 2001 FRY-Macedonia Border Demarcation Agreement, which gave away 2,500 hectares of Kosovo land to Macedonia. The following section

will examine the functioning of the consociational and coercive features of VIP and UNMIK's vetoes through 7 cases when these mechanisms were used.

5.3 The Consociational and Coercive Features of the Veto Arrangements

5.3.1 Abusing the Consociational Method for Partitionist Purposes

On July 25, 2002, the Kosovo Assembly adopted the Law on Primary and Secondary Education by a majority vote. The KP proposed an amendment requesting a distinct status of the education for Kosovo Serbs. The KP's main objections to the law were related to the initiation of education reforms under the authority of Kosovo Ministry of Education, Science and Technology (MEST). It demanded an amendment which would exclude schools in the Serbian language from these reforms emphasizing that the education reform for Serbian schools should be done under the authority of the Serbian Ministry of Education and not the MEST (Diplomatic Report, 2002b). This reflected partitionist not consociational logic. However, such a demand was indeed based on the UNMIK-FRY Common Document. Kosovo Albanian parties rejected this amendment arguing that it would recognize Belgrade's sovereignty in majority Serb areas. As a result, the KP invoked the VIP, but to further a model closer to de facto partition rather than consociationalism.

A genuine face-saving solution was found, which would not delay the education reform in Kosovo, but would, at the same time, legitimize de facto partitionist logic in which the schools in the Serbian language would operate autonomously from the MEST. While the law itself was not amended as requested by the KP, the deal was reflected in an Administrative Instruction which stated that the schools with instruction in Serbian will be excluded from

the rules of the instruction until the following year (AI 10/2002, Article 11).⁵⁴ In this way the dispute was postponed while all schools in Kosovo could begin with the academic year on time without any legal obstacle. It was the only instance in which a deal was reached internally as a result of the VIP, but in fact it provided for furthering de facto partition because the schools in Serbian were never included in the Kosovo education reform.

SRSB Michael Steiner promulgated the law two months after the beginning of the academic year, noting that AI 10/2002 reflected the consensus reached in the Assembly presidency, (UNMIK 2002b).⁵⁵ In fact, this delay was used as a pressure on Kosovo Albanian MA's to accept UNMIK's amendment on the Law on Higher Education which licensed the Belgrade-controlled University of Prishtina in Exile as North Kosovo University, rejected by the Kosovo Albanian parties. SRSB Steiner was thus brought before a fait accompli, since 'further blockage would delay the implementation of education reforms and would be an embarrassment for UNMIK' (Interview with Rexhep Gjergji, May 2002).

5.3.2 Coercive Features of the VIP Featuring De Facto Partitionist Logic

Background

The KP invoked the VIP regarding the Law on Higher Education which was one of the most problematic issues reflecting the sovereignty conflict within the Kosovo Assembly. In order to create a better sense of the problem, a brief background on the developments in higher education in the Serbian language is needed. Up to 1991, when Kosovo Albanians were banned from attending education in public institutions by the Milošević regime, the University of

⁵⁴ Administrative Instruction on the Commencement of Academic Year 2002/2003. Administrative Instructions are used as mechanisms for the implementation of legislation.

⁵⁵ Academic year in Kosovo starts on 1 September. The MEST approved AI 10/2002 on 20 August. The SRSB promulgated the Law on Pr-University Education on 31 October.

Prishtina provided education separately in both Albanian and in the Serbian language. In June 1999, Albanian academics and students returned to the official premises of the University of Prishtina. With the Belgrade institutions having withdrawn, the University of Prishtina now provided education only in the Albanian language. On the other side, Belgrade began to re-establish its formerly Kosovo-based administration in Serbia, including police, courts, education facilities and other elements, known as ‘parallel structures’ (OSCE, 2003). Thus, the Government of Serbia established the University of Prishtina in Exile operating in several towns in southern Serbia. In the summer of 2001, after the fall of the Milošević regime, it began to relocate this university to the Serbian-controlled northern Mitrovica under the name ‘University of Prishtina with Temporary Seat in Kosovska Mitrovica’ (University of Prishtina in Exile) (den Boer & van der Borgh, 2011).

De Facto Partition in Higher Education

SRSJ Hans Haekkerup and the Government of Serbia signed on November 5, 2001, a UNMIK-FRY Common Document pledging to ensure ‘access of Kosovo Serbs to higher education in their own language adequately compatible with the Serbian education system’ (UNMIK & Federal Republic of Yugoslavia, 2001).⁵⁶ Accordingly, SRSJ Steiner then issued an executive order licensing the "University of Prishtina with Temporary Seat in Kosovska Mitrovica" as "North Kosovo University in Slavic Languages" (NKU) (UNMIK, 2002a). This was viewed by Kosovo Albanian parties as recognition of Belgrade’s sovereignty in Kosovo.

⁵⁶ The Kosovo Assembly stated its rejection of the Common Document in its resolution adopted on May 23, 2002 on the grounds that it was reached without the prior consultation and consent of Kosovo institutions.

UNMIK's aim was to establish its authority over the University of Prishtina in Exile by introducing a duality in the Kosovo education system as stipulated in the UNMIK-FRY Common Document.⁵⁷ These attempts were not supported by either Kosovo Albanian or Kosovo Serb representatives. Thus, UNMIK tried to include the NKU in the law on Higher Education without the consent of the assembly groups. It was its own initiative. When the Law on Higher Education was presented for the first time to the Kosovo Assembly on July 18, 2002, UNMIK included a provision on the licensing of the NKU (10.7) only in the English and the Serbian versions, and not in the Albanian version (Diplomatic Report, 2002b).⁵⁸ The MEST argued that it had worked only with the Albanian version and that it had no knowledge about these differences. The officials of the NKU rejected UNMIK's authority as

'The Rectorate of the newly established university in Mitrovica maintained that it fell under Serbian law and refused to recognize UNMIK as the single authority for all higher education issues in Kosovo.'

(den Boer & van der Borgh, 2011, p. 78)

Thus, the Kosovo Albanian MA's accused UNMIK of trying to 'smuggle' the Article 10.7 to the Assembly of Kosovo without knowledge of the MEST and it postponed the debate until these differences would be harmonized (Diplomatic Report, 2002b). On July 25, 2002, after a tense debate, the Assembly adopted the Law on Higher Education omitting article 10.7 which gave accreditation to the NKU on the grounds that the article did not recognize the authority of the Kosovo Government and that its licensing would legalize the Serb parallel

⁵⁷ The University of Prishtina in Exile will be referred to as NKU in continuation.

⁵⁸ During the UNMIK administration, all laws presented to the Assembly had to be in English, Albanian and Serbian with the English version prevailing over the versions in Albanian and in Serbian. However, most MA's in the Kosovo Assembly do not speak English.

structures in the north. Instead, they invited Kosovo Serb academics to resume instruction in the Serbian language at the University of Prishtina. This was an unrealistic call since the political climate was not conducive for a multi-lingual university in Prishtina. On the other side, the position of the KP leadership was that the NKU would continue to function within the Serbian education system as stipulated in the UNMIK-FRY Common Document regardless of whether the Assembly adopts article 10.7 or not (Diplomatic Report, 2002b). Gojko Savić, the KP member of the Presidency Assembly, who was also the Rector of the University of Prishtina in Exile, initiated the vital interest procedure but the Assembly Presidency could not reach a consensus solution between the parties as it did with the law on pre-university education.

Thus, on August 8, SRSG Steiner appointed a three-member panel headed by the former Special Envoy of the US President Bill Clinton to the Balkans, James C. O'Brien, Minister of Education of Kosovo, Rexhep Osmani, and Gojko Savić (UNMIK Press Office, 2002b). The appointment of O'Brien was hoped to convince Kosovo Albanian MA's to approve the panel's recommendations due to the political influence of the US in Kosovo. O'Brien issued a recommendation without the consent of the local co-members of the panel omitting the mention of NKU while extending the license of all the higher education providers that were licensed during the academic year 2001-2002, which entailed an extension of the license for the NKU by SRSG Steiner in February 2002 (den Boer & van der Borgh, 2011).

The Kosovo Assembly rejected O'Brien's recommendation and the SRSG withheld the law demanding that O'Brien's recommendation be included in the law (UN Secretary General, 2002c). This standstill between the Kosovo Assembly and the SRSG stalled the reform of higher education initiated by the law. Thus, on April 3, 2003, the Kosovo Assembly issued a statement instructing the Government of Kosovo to implement the law regardless of whether it was promulgated by the SRSG. The same day, SRSG Steiner

declared the Assembly's position "without legal effect" (UNMIK Press Office 2002a).

Following a standstill which lasted the entire academic year, the SRSG promulgated the Law on Higher Education amending it with the recommendation of the Special Panel (UNMIK, 2003). While SRSG's amendment was not protested further by the Assembly, this provision has never been implemented due to the refusal of the University of Prishtina in Exile to recognize UNMIK's authority: "University of Prishtina with seat in Mitrovica never requested UNMIK or the PISG to provide a license, since it already had a working permit provided by the Serbian government" (Vitošević & Stolić, 2007, quoted in den Boer & van der Borgh, p. p. 82).

While the existence of separate higher education facilities is consistent with consociational theory as part of group autonomy, one can see here the confusion of consociational with de facto partitionist logics, both shaped by UNMIK.⁵⁹ The UNMIK-FRY Common Document made an explicit reference to higher education in the Serbian language in Kosovo as part of the education system and labour requirements of Serbia. Thus, it is quite puzzling why the then UN Secretary General, Koffi Annan, accused Kosovo Albanian parties of preventing the NKU from becoming 'part of the unified education system of Kosovo,' when in fact, UNMIK had already condoned de facto partition when it accepted the separate nature of the NKU (UN Secretary General 2002c, p.

⁵⁹ In Kosovo, separate education being delivered in the same premises in all levels existed since 1945 when the schools in Albanian language were opened. The University of Prishtina had separate programmes in Albanian and in Serbian languages since its establishment in 1970. Thus, the licensing of the NKU according to the Common Document was perceived by Kosovo Albanian MA's as an acceptance of de facto partition.

1).⁶⁰ This accusation reflects the UN's desire to find a scapegoat for its failure to promote multiethnicity in Kosovo.

The developments that followed showed the futility of UNMIK's policy. After the change of government in Belgrade in 2003, the new Government of Serbia appointed Radivoje Papović as a Rector of the University of Prishtina in Exile.⁶¹ Papović was a hard-line nationalist and rector of the University of Prishtina during the Milošević regime. He played a pivotal role in sacking Albanian teachers and students from the premises of the University of Prishtina in 1991, leading to the establishment of a quasi-apartheid system in Kosovo. UNMIK did not react to this appointment which signalled that de facto partition was a fait accompli, nor did it make further attempts at placing the so-called NKU under its umbrella.

5.4 UNMIK Veto Powers and the International Concert

The first in a series of resolutions annulled by the then SRSG, Michael Steiner, took place in one of the first sessions of the Kosovo Assembly to denounce the UNSC position over border demarcation between FRY and Macedonia, as well as the UNMIK-FRY Common Document. On May 23, 2002, the Assembly of Kosovo adopted the Resolution on the "Protection of Territorial Integrity of Kosovo" declaring the Border Demarcation Agreement between FRY and Macedonia of January 21 unacceptable. The Kosovo Assembly stated that it does not recognize the UNMIK-FRY Common Document or any other agreement made without the consent of the people of Kosovo and its

⁶⁰ The UN Secretary General blamed the Kosovo Albanian majority in the Assembly for preventing the NKU to become part of Kosovo's unified education system: "the Kosovo Albanian majority voted to delete a provision in the draft law on higher education which would have made the university in northern Mitrovica, attended by Kosovo Serbs, part of a unified education system for Kosovo" (UN Secretary General 2002c, p. 1).

⁶¹ The new Government in Belgrade was headed by Prime Minister Koštunica, who had been President when the UNMIK-FRY Common Document was signed.

institutions, as well as declaring unlawful the Serb parallel structures in the northern municipalities of Kosovo.

In the days before the vote, the UNSC, EU and UNMIK escalated their pressure on the Assembly not to pass a resolution on a topic that is a reserved power of the SRSG. The reply of the MA's was that the resolution was merely an opinion over an important issue for Kosovo 'which the Assembly could not ignore' (Diplomatic Report, 2002a). Accordingly, the Assembly voted for the Resolution with 85 votes after all minority MA's left the Assembly session. Twenty minutes later, SRSG Steiner declared the resolution 'null and void' on the grounds that by approving the Resolution, the Assembly violated the CF, which according to Steiner, states that the Assembly can express its opinion only on issues within its jurisdiction (Steiner, 2002).

To show international solidarity with UNMK, the next day the EU and the UNSC issued Presidential Statements concurring with Steiner's statement (EU Presidency, 2002; United Nations Security Council, 2002).⁶² Both Steiner's and UNSC reactions referred only to the Border Demarcation Agreement which was endorsed by the UNSC after the confusion within UNMIK, the UN Legal Office and KFOR over its legal merits and application (Knoll, 2007). However, none of these reactions referred to the UNMIK-FRY Common Document, nor to the parallel structures, which, as the Assembly reminded, 'UNMIK was continuously failing to dismantle' (Diplomatic Report, 2002a). This international concert clearly limited the political scope of the Assembly. It was a signal to Kosovo Albanians that the value of their self-government was null vis-à-vis international interests.

⁶² These statements said that the Kosovo Assembly is not entitled to pass resolutions on matters reserved for the SRSG.

Similarly, the UN showed zero tolerance on the reactions of the Kosovo Assembly over the attempts of Belgrade to assert its sovereignty in Kosovo during the process of the dissolution of Yugoslavia. Thus, on November 8, 2002 the Kosovo Assembly adopted another resolution rejecting the inclusion of Kosovo as part of the newly-formed state union between Serbia and Montenegro which replaced the Federal Republic of Yugoslavia (FRY). While Steiner declared this Resolution invalid, the then UN Secretary General, Kofi Annan, accused the Kosovo Assembly of "overstepping its competencies" (UN Secretary General 2003a).

That the organized international community's main concern was regional stability rather than Kosovo's internal politics is shown by its brutal condemnation of an act, which in essence displayed a consociational and reconciliatory spirit between Kosovo Albanian political traditions which were in deep conflict between one another. It was a resolution which recognized and honoured the contribution of the variety of Kosovo political traditions, including that of the pacifist LDK and other minorities, not just that of KLA, in the emergence of Kosovo. This was the last in a series of malign international interventions, which indeed contributed substantially to the 2004 riots and the collapse of power-sharing.

In response to what was perceived as international tolerance of Belgrade's unilateral actions vis-à-vis Kosovo, in December 2002, the AAK proposed a resolution in which the Kosovo Assembly would pass a Declaration of Independence. This motion coincided with the approval of the Constitutional Charter of the State Union of Serbia and Montenegro (USM), which included again Kosovo as part of Serbia:

‘This proposal was a direct response to the charter itself, as well as to the lack of the same opposition from the international community to

Assembly's Resolutions on the prejudgment of the final status of Kosovo by the USM constitutional charter.'

(Interview with Bujar Dugolli, Nov 2002)

However, with the Assembly being already overwhelmed by fierce reactions from the highest international bodies in support of Steiner's vetoes, the first signs of deterrence could be already seen. In fact, this time the motion for independence was not supported by the majority of Kosovo Albanian MA's, notably by the LDK parliamentary group which was concerned over 'frequent squabbles with the highest international bodies whose support was necessary to achieve independence' (Interview with Naim Jerliu, Apr 2010). On the other side, refusal to support a Declaration of Independence placed the LDK in an unfavourable position in relation to the Kosovo Albanian population.

Thus, the LDK Assembly Chairman, Nexhat Daci, initiated a process of conciliation between the three main Kosovo Albanian parties that represented the so-called War-wing (PDK and the AAK) on the one side, and the Peace-wing (LDK) on the other, that would eventually lead to the recognition of a 'mutual historical contribution for freedom, independence and reconciliation'. While the resolution was not a direct declaration of independence, it mentioned independence as an aspiration. On May 15, 2003, the Kosovo Assembly, without its 22 Kosovo Serb MA's who walked out of the session during the vote, passed unanimously the 'Resolution on the Liberation Struggle of Kosovo for Freedom and Independence'. For the first time, such a resolution was supported by non-Serb minority members of the Assembly.

The resolution expressed joint recognition of the contribution of all Kosovar political factions for freedom and independence including the LDK-led peaceful resistance in the 1990's as well as the KLA's armed struggle. It also recognized the crucial role of the international community for the liberation of Kosovo. This was the first time after the war that Kosovo Albanian political

factions had found a common ground on an internal political issue. Previously there had been inter-party squabbles over the legitimacy of their struggle resulting in the political murders of LDK activists. However, UNMIK's reaction was angry, swift and paradoxical. The same day, Steiner declared the resolution null and void, denouncing it as "divisive and against the reconciliatory spirit enshrined in Security Council Resolution 1244 and the Constitutional Framework" (UNMIK Press Office 2003) and accused Kosovo Albanian leaders of failing to recognize "the rights and interests of all communities in Kosovo and for dragging Kosovo into the past" (UNMIK Press Office 2003). In addition, Steiner undertook punitive measures against Kosovo Albanian MA's in conjunction with NATO, the EU and the Stability Pact for South-eastern Europe by withdrawing invitations to Kosovo officials to take part in the conferences of these organizations.⁶³

UNMIK's reaction over this resolution was paradoxical because it inhibited the evolution of peaceful practices in Kosovo politics after a series of political murders which threatened the outbreak of a civil war (Interview with Covey). In fact, the last UNSG report to the UNSC before the adoption of the resolution, in January 2003, expressed concern over the "recent violence to which LDK members fell victim" leading to increasingly tense relations between LDK on the one side, and PDK and AAK on the other, which had formed an "uneasy alliance" in the executive (UN Secretary General, 2003a, p. 3). Considering the context in which this resolution was passed, the IC should have felt relieved by such a conciliatory statement which was vital for the stability of Kosovo and the functioning of the PISG. However, the international intervention suggests the prevalence of geopolitical concerns and the imperative of imposing stability

⁶³ NATO Council on 21 May in Brussels, of the Stability Pact Parliamentary Conference on 21, 22 May in Brussels, of the EU/NATO/OSCE/Stability Pact Regional Conference in Ohrid on 22, 23 May.

through control, rather than by enabling emergence of organic political initiatives.

This way, the UNSG accused the PISG of "encroaching on the powers reserved for the Special Representative, such as the power to set the budgetary parameters, rather than focusing on the urgent matters over which these bodies have responsibility" because the executive responded to public reaction on a planned tax increase in 2003 by distancing itself from UNMIK's tax increase plan until a Law on Public Finance Management and Accountability was adopted by the Assembly. In spite of this accusation, UNMIK agreed to the Government's position because it was supported by the IMF and the World Bank (UN Secretary General, 2003b, p. 3).

The UN's paradoxical position stemmed from geopolitical concerns related to Kosovo's final status leading to the strengthening of UNMIK's sovereignty attributes in Kosovo. This infringed the capacity of Kosovo institutions to self-govern although self-governance was consistent with the Resolution 1244. The US Ambassador to Kosovo describes the situation of Kosovo's governing capacity in this way: 'Kosovo has very little own experience in governance. The international community had made an unwitting resemblance to Slobodan Milošević. UNMIK was deciding about everything and that left serious consequences' (Interview with Dell).

UNMIK's power as final interpreting authority of Resolution 1244 and of the CF gave it huge leverage to use its veto powers over any issue according to its own interpretation of the legal framework defining its mandate in Kosovo. This veto power showed international mistrust on domestic institutions, which deteriorated relations between UNMIK and Kosovo institutions to the point that 'the communication between the two sides was being done only through public statements' (Interview with de Vrieze). Many former senior officers of UNMIK regret this approach as 'it would have been much better if this veto power

would be defined specifically and narrowly' (Interview with Ross), enabling Kosovo institutions to take autonomous decisions and to develop an autonomous political culture. Instead, the dynamic of veto powers created a dependency culture which is still present in Kosovo politics (Interview with Dell).

This policy continued until the beginning of 2004 when the conflict between the Kosovo authorities and UNMIK culminated. Growing dissatisfaction with the status quo which affected other sectors including privatization and the functioning of public enterprises deteriorated relations between the Kosovo Albanian dominated government and UNMIK (Qirezi, 2005). Thus, on 17 and 18 March, massive unrest by Kosovo Albanians targeting Kosovo Serbs and UNMIK 'shook the foundations of the UN mission and Kosovar governing structures' (Qirezi, 2005).⁶⁴ These events convinced the international community that a process of determination of Kosovo's final status was necessary in order to stabilize Kosovo. The process began at the end of 2005 and was concluded with the declaration of Kosovo independence on 17 February 2008. However, a more subtle way of pressuring Kosovo authorities to approve decisions also emerged during this time.

5.4.1 Informal Veto Players and Final Status Conditionality

In addition to UNMIK, informal veto players increasingly took a role as part of final status conditionality, especially after 2005. This veto was applied behind closed doors, rather than in an open manner as done during 2002-2004. On July 27, 2006, as part of the 13 Priority Standards for Kosovo set by the Contact

⁶⁴ 'The events were sparked by an incident in the northern village of Cabra on March 16, when three out of six Albanian children drowned in the Ibar River, allegedly chased by a group of Serbs with a dog (as recounted by one of the surviving children). Before this tragedy, interethnic tensions were already running high when the Serb inhabitants of Çagllavica, near Prishtina, blocked the main highway to protest a drive-by shooting in which a Serb youngster had been wounded. The protesters blamed Albanians for the incident and attacked Kosovar Albanians driving by their village.' (Qirezi, 2005).

Group as a condition for acceleration of the final status process, the Kosovo Assembly adopted the Law on the Usage of Languages which established a 6% threshold for a single minority population for official usage in Kosovo municipalities (US Office Pristina, 2006b). It also left the possibility open for the official usage of minority languages to be decided by municipal councils in places where the minority population is lower than 6% if local traditions warrant. The local Turk representatives objected to this provision proposing an amendment that would lower the threshold from 6% to 5%, as well as recognizing Turkish as an official language in Prizren, regardless of the number of the Turkish population, due to traditional usage of the Turkish language in the city. The LDK MA's were against this proposal.⁶⁵

Prizren is a multi-ethnic and multi-confessional city with a strong Ottoman tradition. It also has a strong Albanian Catholic and Serbian Orthodox tradition. The LDK is conceptually attached to the Albanian anti-Ottoman nationalist tradition and thus tried to devolve the issue of the Turkish language at the municipal level, rather than deal with it at the national level. In addition, Ankara's neo-ottoman policy and its increasing political influence were viewed with unease by Albanian nationalists in general. Thus, the LDK MA's who formed the majority of those present in the Assembly voted against the KDTP's proposal, who then invoked the VIP.

In spite of the pressure by the US and EU diplomats, on 14 September 2006, the LDK MA's and the majority of the Assembly rejected the recommendation of the Special Panel consisting of the Prime Minister of Kosovo, Agim Çeku, the KDTP Head, Mahir Yagcilar, and an UNMIK representative to include KDTP's amendment (US Office Pristina, 2006c). As a result of the pressure by the US Head of Mission in Prishtina, the Chairman of the Assembly, Kolë Berisha

⁶⁵ The LDK was in power in the city of Prizren in 2006.

(LDK), an Albanian Catholic, met with the LDK caucus to ask them to vote for the law. He told them that this was necessary in order to avoid confrontation with the international community during the final status talks (OSCE, 2007). The Prime Minister then resubmitted the law containing the panel's recommendation and on September 21, the Kosovo Assembly repeated the vote passing the KDTP amendment with 61 votes pro, 7 against and with 3 abstentions.

The September 21 vote was unconstitutional and it reflects the manipulative nature of coercive consociationalism. The Constitutional Framework stipulates that if the Kosovo Assembly rejects a panel's recommendation, as it did on September 14, the procedure ends and the law remains as initially adopted by the Assembly. Thus, the law should have been sent to the President of Kosovo rather than being resubmitted by the executive. The repetition of the vote on September 21 was done as if the September 14 vote never occurred, thus violating the CF provisions of the VIP.

The Law on the Usage of Languages highlights the growing number of international veto players during the final status talks due to the conditions placed on Prishtina in return for the recognition of independence. These veto players included UNMIK and Contact Group member countries led by the US. This phenomenon, which is connected to the desire of the supporters of Kosovo independence to make this independence acceptable to Russia and in this case, to Ankara, is described in a US Mission in Prishtina cable: "This measure passed only after considerable international arm twisting -- with us leading the charge" (US Office Pristina, 2006a). This 'arm twisting' was applied in spite of the fact that, as a cable by the US Mission stipulates, "the law approved in its first reading in July probably meets the Council of Europe requirements for minority protection" (US Office Pristina, 2006a) and created high standards for the usage of minority languages in its initial draft, which are ahead of those applied in the western democracies (Lantschner, 2008).

5.5 Veto Powers in the Post-Independence Period

5.5.1 Internalizing Veto Powers within a Coercive Consociational Framework

During the 2005-2006 final status talks, the minority veto powers was one of the issues discussed within the general topic of minority rights. The VIP and UNMIK's veto powers would have to be replaced by new provisions in order to address minority concerns during the legislative and in the decision-making process. Kosovo negotiators were told that such provisions will be part of a new constitution. UNOSEK designed the Negotiating Principles for each topic to be discussed during the talks.⁶⁶ On the basis of these principles, UNOSEK compiled questionnaires on each topic. These questionnaires were to be responded to by the Kosovo negotiating team in the form of policy papers.

It is important to note that UNOSEK carried over much of the experience of UNMIK. In fact, UNOSEK was staffed by UNMIK echelons as well as civil servants from Contact Group member countries (Weller, 2009). The bottom line for any solution was the existing provisions of the CF. The consultations between UNOSEK and UNMIK were intensive with the latter "supplying" UNOSEK with the raw material on negotiating issues (Interview with Friedberg).

The initial position of the Kosovo negotiating team, called popularly 'The Unity Team' (KUT), did not include minority vetoes. In fact, the KUT viewed the blocking powers as a threat that might come up during the final status talks and tried to avoid the creation of any veto mechanism and double majorities in its constitutional design (Qirezi, 2006). However, confronted with intensive

⁶⁶ An exception to this was the international presence in the post-independence period which was a non-negotiable issue.

international pressure to be ‘forthcoming and generous’ (Contact Group, 2006) ‘as part of the price to be paid for independence’ (Interview with Jakup Krasniqi), the discussions in the KUT were framed within the principle that an existing constitutional right cannot be revoked.

Thus with the Constitutional Framework in mind, the Kosovo expert team proposed a so-called Vital Interest Clause which was a modification of the earlier CF VIP, entailing a combination of the VIP with a power-dividing mechanism for dispute resolution, rather than outright veto powers (Kosovo Unity Team, 2006). The KUT proposed a three-stage procedure with judicial review and arbitration as a final stage in case no consensus is reached in the first two stages. In the first stage, any minority group in the parliament could file a motion to the Assembly presidency during the discussion of legislation within parliamentary proceedings. In case the Assembly presidency failed to mediate a solution and the law would be approved by the assembly, the motion would be passed to the President of Kosovo who would take a decision to return the law to the assembly for further review or promulgate the law as approved initially. If no satisfactory solution emerged at this stage, the minorities could file a motion with the Constitutional Court Special Chamber for arbitration which would be able to declare the law null and void if it considered that the vital interests of minorities were violated. Belgrade’s position on veto powers did not change from the one demanded by Koštunica in 2001: a bicameral assembly in which the upper chamber of communities could veto any law adopted by the lower chamber of citizens if one of the communities wanted so.

UNOSEK turned down both approaches extending consociational features of the CF by combining formal veto rights for minorities as well as for International Community Representative (ICR) (2008, Articles 81, 144, 146,

147; 2007, Article 3.7, 10 Annex 1, 2 Annex 9).⁶⁷ These veto powers relate to a specifically defined list of matters pertaining to minority vital interests. There is a double-majority requirement for adoption, amending or repealing laws on the usage of language, cultural heritage, education, functional autonomy, inter-municipal cooperation, relations with kin states, municipal boundaries and powers, local elections, religious freedoms, general community and human rights, as well as such symbolic issues as holidays and state symbols. In addition, two-thirds double majorities are needed for any change in the constitution of Kosovo. Constitutional matters and laws subject to minority veto cannot be submitted to a referendum. These veto powers entered into force after the Constitution of Kosovo was approved on 15 June 2008. Prior to the approval of the constitution, the vital interest laws were adopted by a majority vote, according to the CF provisions, as part of the deal struck by the UNOSEK.⁶⁸

5.5.2 International Supremacy over Kosovo Institutions

This coercive consociational model is framed by the imposed nature of the CSP and its supremacy over the Constitution of Kosovo. This supremacy is ensured with the ICR's power to repeal any law or decision taken by Kosovo authorities, if such a decision violates the CSP, and they can remove officials who violate its provisions and spirit (2008, Articles 143, 146, 147). However, the ICR has never used these powers. Rather, after independence, informality has become an important feature of coercive consociationalism in Kosovo with the ICR and other international players using their power and influence in closed meetings and through diplomatic coercion:

⁶⁷ The International Community Representative (ICR) does not have the power to promulgate laws.

⁶⁸ All CSP-related laws were approved by the Assembly between 17 February and 15 June 2008 according to the CF decision-making provisions in the Assembly of Kosovo.

'To supervise and support CSP implementation, we work closely with them (Kosovars) as they prepare decisions. A spirit of cooperation prevails. Our approach is to hold frank and confidential talks early on, rather than to pass judgment after they act.'

(International Civilian Office, 2009)

Although the ICR and other international players have preferred behind-the-door consultation leaving a "light footprint"⁶⁹ in decision-making, rather than open pressure and the usage of veto powers, nonetheless their influence on decision-making by the executive and the assembly is real. The mere existence of the possibility of making such interventions highlights the coercive character of Kosovo's consociational structure. My point here is that the consociational literature itself has evaded the complexities and reality of what has become an important category of 'coercive consociationalism' in the internationally administered and supervised entities and states such as Kosovo.

With the vital interest laws having been approved by majority vote between February and June 2008, as part of the package for the implementation of the CSP, minorities were not in a position to use the veto power on any issue until June/September 2012 as no vital interest law was on the agenda of the Kosovo Assembly. The International Steering Group (ISG), in its meeting on January 24, 2012, decided "to begin an organized end to supervised independence and the closure of the International Civilian Office by the end of 2012" (International Steering Group, 2012). In order to do that, the ISG called on the Kosovo Government and the Assembly to prepare constitutional amendments to be approved by the ICR, in order to phase out the ICO. Here, the minority

⁶⁹ This term is used by international officials in Kosovo to describe a rather subtle interventionist approach. I have borrowed this term from Franklin de Vrieze, former OSCE Mission in Kosovo official.

representatives in the Assembly of Kosovo saw their chance for the usage of their veto power.

5.5.3 The Usage of the Veto by Minorities

Except for phasing out the supervisory presence, the main constitutional change that affects Kosovo's political system is the provision agreed between the PDK, LDK and the AKR in 2011 on the election of the President of Kosovo by popular vote. This provision would replace the current system of the election of the president by legislative majority which continuously produced political crisis because the President was part of the power-sharing negotiation package.⁷⁰ Other changes envisage a division of powers between the President and the executive in foreign policy and security as well as the introduction of presidential veto power on legislation, which, in fact, adds a power-dividing mechanism within the consociational framework.

This process of constitutional changes was seen as a bargaining opportunity by minority groups due to the double-majority requirement for constitutional changes. Thus, they used a threat to veto the reform for the election of the President of Kosovo unless the phasing out of reserved seats was postponed or indeed, annulled. Interestingly, this threat of veto was never made publicly, nor has any debate taken place about this issue. Minorities made a soft statement knowing that the most influential power in Kosovo, the US, supported their bid for maintenance of reserved seats. As the Head of the Assembly Constitutional Commission has explained,

‘The minority groups demanded a constitutional amendment requesting the omission of Article 3.3 of the Constitution of Kosovo on phasing

⁷⁰ The electoral reform for the election of the President of Kosovo was examined in the chapter on Electoral System.

out of reserved seats as a condition for their support of the amendments for presidential elections and powers.’

(Interview with Bajrami)

The threat to use this veto was confirmed to us by an SLS and Bosnian leader:

‘During the discussion on constitutional changes, the election of the President of Kosovo by a popular vote will be conditioned by the SLS with a provision that does not allow the switch over from reserved into guaranteed seats.’

(Interview with Stojanović)

‘We will not allow that to happen. We will not allow constitutional changes to take place...we are here a little blackmailing factor...we read the CSP carefully looking for an opportunity, you know what suits us...and you know what is important, no constitutional change can pass in the assembly without our votes.’

(Interview with █████)

Kosovar Albanian representatives view this as ‘blackmail and undemocratic imposition’ arguing that such conditioning makes the political system dysfunctional (Interview with Bajrami). This threat of veto power in fact undermines attempts by the Kosovar Albanian majority to reform the political system by increasing its efficiency ‘without touching on its key features’ (Interview with Bajrami). It highlights ethnic divisions manifested through the ‘lack of national interest... but they rather pursuit of [their]own narrow political interests’ (Interview with Feith).

The pursuit of these particularistic group interests is made in unison with international supervisors. Asked about the opinion of the US Government about the likelihood of a minority conditioning of this political system reform with the extension of the reserved seats, the US Ambassador in Kosovo replied :

‘they are doing a legitimate exercise of power to protect their interests’
(Interview with Dell).

Thus, political elites may find a common ground on the basis of pragmatic calculations and international pressure behind closed doors. Privately, both the international community and the Prime Minister 'have been looking favourably at this demand' (Interview with Feith), although the Head of the Working Group for Constitutional Reform, himself Deputy President of the PM's party, the PDK, had no knowledge on any talks between the PM, minorities and international community:

‘I have other information...if this is...it is...political approach. As a jurist, I can speak about legal issues but I cannot prejudge political agreements. However, these agreements are inexistent in terms of constitution as long as they are not turned into legal and constitutional instruments. For the moment, in the process which I am leading, nothing like this is included... No, and I think that any possible agreement, because sometimes we have the tendency to have political agreements beyond the constitution.’

(Interview with Bajrami)

The reason for this attentiveness is the opportunity to demonstrate to the Serbs the benefits of the CSP and hopefully, increase their participation in the political system of Kosovo. For example the US Ambassador in Kosovo, Christopher W. Dell, talking about the political position of Kosovo Serbs in Kosovo, told Kosovo Serbs publicly that their representatives can veto any constitutional change, including the phasing out of international supervision of independence and Presidential elections, in spite of the fact that the US Government has sponsored participation of a US expert in the constitutional amendment process and that Dell himself was part of the deal about the reform for the election of the President of Kosovo:

'The International Steering Group has decided to end the supervision of independence of Kosovo. In order to do this, there is a need to approve some law and some constitutional changes. In order to approve these constitutional changes, the Assembly of Kosovo needs two-thirds of overall assembly votes and two-thirds of the votes of minority MA's. This means that the Serbs have the power to block constitutional changes and to block the ending of supervised independence. That is tremendous power, not only for Serbs, but for other minorities as well.'

(Dell, 2012)

In fact, this statement was a signal to Kosovar Albanian parties that they will not be able to end supervised independence unless they accept the demand of minorities to omit the phasing out of reserved seats from the constitution. The internationals expect that their pressure and the threat of veto will convince Kosovo Albanian elites to accept minority demands:

'I think that the Albanian parties, certainly the PDK, is willing to look favourably at extending the reserved seats a little bit further because they know all too well the minorities could resort to the type of action that you mentioned (Veto powers). Whatever will be decided..., will in all likelihood be made to satisfy the minority communities, and therefore I do not expect that the intervention by me on the basis of my authority will be necessary.'

(Interview with █████)

In fact, the ICR would annul a decision by the Kosovo Assembly, if the constitutional amendments would be passed by a simple majority because that would violate the provisions of the CSP on a double majority requirement. The ISG has asserted the role of ICR to approve constitutional changes. However, if a negotiated settlement between Kosovar Albanian parties and minorities

resulted in the revision of the Constitution of Kosovo, such a solution would be accepted by the internationals.

In the end, the result of all this debate was that the provision on the election of the President of Kosovo by a popular vote was not presented to the Assembly when the constitution was amended in September 2012. Instead, the debate about the change in the system for electing the president of Kosovo was transferred into informal meetings of political party leaders as a way of postponing the debate over this issue. In all likelihood, the next president will be elected by the Kosovo Assembly and not by the voters, as agreed by the LDK, PDK, AKR and the US Ambassador in Spring 2011.⁷¹ This case approves Lijphart's contention of the 'danger of deadlock and immobilism that is likely to result from unrestrained use of the veto' (Lijphart, 1977, p. 37)

Indeed, a potential standstill is looming with regard to presidential elections and powers, in spite of the fact that the PDK and the AAK have agreed to evade the changes of the constitutional provisions for the election of the president and have publicly endorsed the minority demand for the maintenance of the reserved seats. The VV and the LDK have insisted that both proposed provisions take effect. While the parliamentary debate has been transferred to a behind-the-scene format of political party leaders' consultations, the interests of the majority and minorities in the parliament continue to collide:

'All conditions are met to phase out the reserved seats and to introduce guaranteed seats and we will not allow any compromise in this direction. The constitutional amendments on the election and the authorities of the president does not touch upon minority interests. If Kosovo continues with additional compromises due to minority

⁷¹ See chapter on Executive Power-sharing about details of this agreement.

blackmail, the constitutional system will always be blocked...for the sake of minority demands which in essence are undemocratic....sometimes there is a tendency to reach political agreements that supersede the constitutional arrangements. Now, whatever particularistic agreement is reached, it has to become a constitutional instrument enjoying the support of two-thirds of overall assembly votes. Thus, only an inclusive process involving the entire political spectrum, can give a chance to the present constitutional treatment of minorities. This cannot be an individual issue because an individual does not have the power to ensure two-thirds of the votes.'

(Interview with Bajrami)

However, as Kosovo faces increasing demands by the International Community and with new talks on the north of Kosovo being requested by the EU and the US, conditionality remains an international tool for manipulating the political process. It is very likely that Kosovo Albanian political parties will accept the minority demand on keeping the reserved seats due to a continuous sovereignty conflict and Kosovo's dependence for its stability upon the international presence. In order to keep on track the process of finalizing the supervision of independence and for a favourable outcome of the talks about the north of Kosovo, an issue depending mainly on the position of the EU and the US, Kosovar Albanian parties will have to agree on continued minority representation through reserved seats, as opposed to some alternative.⁷²

Conclusion

In contrast to what consociational literature suggests (O'Leary, 2005), evidence from this chapter has suggested that consociationalism was not the pre-

⁷² The analysis made here is limited to the end of 2012. As of the end of 2013, the question of the electoral reform is not yet resolved. The next regular parliamentary elections should be held at latest in December 2014.

determined peace-building strategy in Kosovo. The coercive consociational framework with the protectorate role of UNMIK influenced the model of veto arrangements in Kosovo. The question of internal veto powers emerged during the talks on the Constitutional Framework (CF) held in 2001 when Belgrade, supported by Russia, demanded veto powers for Kosovo Serbs in the assembly. An alternative type of veto called the Vital Interest Procedure (VIP), as a mediation mechanism in cases where minorities appeal decisions of the Kosovo Assembly, was then established as a compromise solution.⁷³ The veto powers were introduced to provide assurances to Belgrade and Russia that Kosovo's autonomy will be limited and that the balance established through the status quo would not be distorted by the majority. In this context, UNMIK's main purpose was to retain at all costs Belgrade's support for the participation of Kosovo Serbs in the PISG, and to prevent Russian criticism at the UNSC. In this sense, the de facto veto on Kosovo's institutional arrangements was transferred to UNSC members and to Belgrade with UNMIK playing the protectorate role and waiting for instructions from on high. The Kosovo sovereignty conflict was the underlying factor determining the nature and the usage of veto arrangements throughout the UNMIK administration, distorting the normative value of consociationalism as a minority protection mechanism. Albeit the VIP entailed delay and bargaining, it was never a genuinely consociational mechanism, because its usage served to further de facto partition with the backing of the International Community. In the post-independence period, the international dimension remained but was used in a more subtle way through direct negotiations behind closed doors. However, the minority elites use the threat of a veto as a bargaining chip to advance their own political interests, thus producing immobilism in the political process which is then normally 'resolved' through the imposition of solutions by internationals, who

⁷³ The majority vote was established as a decision-making mechanism of the Kosovo Assembly.

continue to remain key to the functioning of consociationalism in Kosovo. Thus, Kosovo's veto arrangements were subject to a strong international dimension which defines the coercive character of Kosovo's consociationalism.

With a view to another type of veto – that of the regional powers in Kosovo's institutional arrangements, an interesting case for study is the existence of ethnic autonomy and decentralization provisions imposed in the 2008 Constitution of Kosovo. As the most crucial element of consociational theory, group autonomy continues to be the most controversial feature of Kosovo's consociationalism since it is here where both consociational and de facto partitionist strategies confront and coexist at the same time. The next chapter will explore these controversial features of Kosovo's consociationalism in more detail.

6 AUTONOMY ARRANGEMENTS FEATURING ASYMMETRY AND DE FACTO PARTITION

This chapter examines the critical issue of territorial autonomy which is a key component of consociational theory. Whereas group autonomy as part of an international conflict-regulating strategy in post-conflict societies is taken for a fact, the evidence from Kosovo suggests a more complex picture showing that group autonomy is influenced by geopolitical concerns and external pressures involving regional kin states of minority communities. Confusingly the reality in Kosovo has also featured a de facto partition reality or parallel institutions in local Serb majority areas which have been influenced by successive governments in Belgrade. De facto partition is not confined only to the northern part of Kosovo as some of the literature suggests. A novel argument in this chapter is that de facto partition is as strong in other parts of Kosovo south of Ibar River. This is a complexity which is more than a detail, for it poses a challenge to cohesive state identity and unity which is quite different from what traditional Consociational theory advocates have imagined or endorsed. Rather than see the emergence of genuine autonomy in local Serb and other minorities where they enjoy local majorities, what one can see is a type of manipulated autonomy where Belgrade pushes for the creation of enclaves where it can maximise its leverage and the possibility of a viable de jure partition and integration into Serbia proper as a future possible option.

The unique part of my argument here is the claim made that this botched mix of territorial autonomies is where partitionist logic is strongest. What is unusual is not just Mitrovica but also south of the Ibar River rather and that its design reflects as much decisions by international representatives presiding over Kosovo's consociational experiment. Rather than being simply a case of locally led, bottom-up, Serb resistance to consociationalism manifesting itself organically in de facto partition practices, or from Belgrade led initiatives, instead de facto partition was permitted, accepted and at times even facilitated

by UN and EU administrators in Kosovo's transitional governance administrations. The de facto partition reality is as much a willed top-down creation of international administrators as it is anything else. As such it reflects the impact of wider international relations concerns and realpolitik upon the niceties of consociational design from the top down. The result is a badly botched territorial autonomy which weakens Kosovo's tentative consociational order and strengthens the logic of partition and joint sovereignty. The latter are very different constitutional paths to resolving the conflict and providing a stable future for Kosovo.

This chapter will start by examining conditions during the UN administration which led to the creation of autonomous arrangements during the final status talks. Second, it will analyze negotiations on autonomy reviewing the positions of Prishtina, Belgrade and UNOSEK. This will be followed by a description of the territorial and functional arrangements under the CSP, analyzing the functionality of these arrangements in the context of the international dimension in their implementation as well as the role of Belgrade as a former sovereign in the functioning of Kosovo Serb autonomy. Fourth, it will analyze various aspects arising from the international dimension, including the type and consequences of consociationalism created by the CSP, and finally, it will analyse the effect of autonomy in inter-group relations in Kosovo.

6.1 De Facto Autonomy and Partition during UNMIK

Administration

Formal institution-building in Kosovo under the custodianship of UNMIK established a unitary governance system. However, the situation on the ground with the enclavisation of majority-Serb areas featured a de facto partition underpinning the sovereignty conflict between Kosovo's majority Albanian population and Belgrade. The establishment of ethnic autonomy in Kosovo during the 2006 final status talks stemmed from the situation on the ground and early demands by Belgrade to create ethnic municipalities along enclavisation lines, rewarding the de facto partition created during the UNMIK administration (UN Secretary General 2002b, p. 3). In this view, it is important to outline how the conditions for the establishment of territorial decentralization evolved during the UN administration.

The 2001 Constitutional Framework envisaged protection of minorities through cultural autonomy, but did not grant minorities governing autonomy. Yet, Kosovo Serbs had practical governing autonomy from the central government in Prishtina since they never adhered seriously to PISG structures. Moreover, all Kosovo Serb affairs and majority Serb areas were under direct administration by Belgrade, although the only legal authority in Kosovo according to the UNSC Resolution 1244 was UNMIK. The international ambivalence on Kosovo's final status gave way to Belgrade's de facto control of all majority Serb areas through the establishment of its parallel administrative, judicial and governing institutions. This was not only accepted, it was rather endorsed and facilitated by the IC and UNMIK. This situation matches O'Leary's definition of internal partition modified in this study as de facto partition:

‘...an internal partition may be organized to promote the autonomy of a particular group that has no previously recognized jurisdiction... Such

internal partitions need lead to no change in the existing external sovereign border of the state...in question.’

(O’Leary, 2007)

The reasons why UNMIK allowed the operation of Belgrade’s administration presence in the majority Serb enclaves are complex. Evidence suggests that its presence in Kosovo was allowed in return for Belgrade’s consent for Kosovo Serb participation in UNMIK’s institutional framework as well as because of Belgrade’s traditional alliance with Russia as a permanent UNSC member. As Covey (2011a) suggests, and confirmed by other former UNMIK officials, UNMIK had to navigate through various conflicting interests of the great powers and international organizations which, as other sources confirm, precluded confrontation with Belgrade: ‘UNMIK did not want confrontation with Belgrade because it would complain to Russia at the UNSC’ (Interview with Ross). Secondly, the change of regime in Belgrade with the fall of Milošević strengthened the status quo in Kosovo because the Western powers saw this as a way of maintaining the stability of the post-Milošević regime. This policy undermined UNMIK’s official policy of integrating Kosovo Serbs in the PISG which remained a façade for wider geopolitical considerations involving Russia and Belgrade which favoured enclavisation as a precursor to external partition (Dahlman and Williams, 2010).

The existence of such independently run systems of governance deepened the divide between the Kosovo Serbs and other communities, especially the Kosovo's Albanian majority: ‘the general segregation of the Kosovo society thus leads to a clear division in terms of seeking and providing health care (and other) services,’ with the existence of such divisions nurturing ‘the idea that a community can only be served by members of that community’ (OSCE, 2008, pp. 7, 44). This description of de facto autonomy matches Lijphart’s (1984) description of the group isolation effect of consociationalism. The difference here is that such segregation was cemented by external regional and

international intervention furthering thus de facto partition. Weller (2008a) contends that dissatisfied with Kosovo's institutional evolution, Kosovo Serbs withdrew in enclaves, which was akin to de facto autonomy. It is argued here that this was not an internal issue. Thus, rather than Kosovo Serb withdrawal, it was a partition steered by Belgrade's parallelism, frequently condoned and facilitated by the IC.

Belgrade indeed became the key interlocutor on behalf of Kosovo Serbs both during UN administration and during the final status talks of 2006-2007 (Weller, 2008c). While UNMIK remained focused on discussing the issue of Kosovo Serbs with Belgrade, it excluded internal Kosovo Albanian and Kosovo Serb parties. This undermined the initiation of organically grown initiatives on power-sharing. The coercive element here is that minority issues were a reserved UNMIK power with the Kosovo government having no authority over minority issues and Kosovo Serb enclaves (UNMIK, 2001a, Articles 4.6 and 8.1). However, UNMIK allowed the functioning of Belgrade's own institutions out of UNMIK's jurisdiction. These institutions have continuously prevented Kosovo Serbs to participate in the Kosovo institutions via threats of cutting their fiscal and other financial benefits, as well as through direct intimidation (OSCE, 2008). Although the existence of these institutions was in violation of the UNSC Resolution 1244 they operated under the same roof with UNMIK and Kosovo institutions receiving financing both from Belgrade and Prishtina (ICG, 2011; OSCE, 2003, 2008).⁷⁴

During the final status talks, UNOSEK mainly attempted to recognize the reality on the ground created during UNMIK's administration. Thus, the CSP granted most of these enclaves a status of municipality with special self-governing arrangements and entitled Belgrade to directly participate in the

⁷⁴ UNMIK had the final decision-making authority on Kosovo's budgetary and fiscal matters.

administration of these municipalities. Considering the importance of home-grown elites for the establishment and operation of consociationalism and ethnic autonomy as its constituting element, Belgrade's continuing control further undermines the evolution of such Kosovo Serb elites and prompt implementation of decentralization provisions.

6.2 Negotiations on the Final Status

6.2.1 The views of the Kosovo Albanian leadership on decentralization

The proposals on decentralization of the Kosovo Albanian leadership, organized as the Kosovo Unity Team (KUT), were done under pressure by the IC to deliver solutions which would enable self-governance for Kosovo Serbs. These proposals featured a soft consociationalism with strong integrationist elements reflecting the principle that UNMIK's official policy for minority protection should remain in place after Kosovo's independence. The thrust of the KUT's approach consisted of the integration of Kosovo Serbs into Kosovo's institutional structures and the promotion of multiculturalism, and the creation of ethnically mixed municipalities.

Ethnic decentralization was an internationally driven concept accepted by Kosovo Albanian parties under the international policy of conditionality in return for the support of major western powers for independence. However, the fear of de facto partition underpinned their proposals on decentralization. Thus, the KUT was against the creation of municipalities along ethnic lines or along the boundaries of the existing Kosovo Serb enclaves as well as against asymmetric governing arrangements (KUT 2006a). In going against the idea of mono ethnic territorial governments the KUT was actually going against consociational theory and practice in many states. Of course de facto partition goes also well beyond what consociational theorists such as Lijphart have advocated. The negotiations on decentralization were concentrated on the topics discussed below.

Creation of majority Serb municipalities

Although it acknowledged that the interests of minorities, especially of Kosovo Serbs had to be addressed, KUT's position on decentralization objected to any sort of territorial autonomy for Kosovo Serbs. This position promoted inviolability of the unitary character of Kosovo as well as exclusion of any possibility for the 'creation of corridors, enclaves, or any form of ethnic segregation or territorial aims aimed at a de jure or de facto territorial division along ethnic lines' (KUT 2006a). Accordingly, KUT's proposal also addressed the position of the town of Mitrovica which had been partitioned since 2000. The proposal stated that Mitrovica, as any other town in Kosovo, could be organized into sub-municipal units of north and south rather than into separate municipalities which would legalize the partition of the town.

In addition, KUT proposed the creation of three municipalities: Graçanica (vicinity of Prishtina) with 12 or 16 villages, Ranillug (east - bordering Serbia) with 13 villages and the extension of Novo Bërdë (east-central Kosovo) into 6 villages of Gjilan and one village in Kamenica. KUT insisted that the new municipalities should have a mixed population albeit with a Kosovo Serb majority. However, the IC was not satisfied with this concept. Thus, faced with intense international pressure, KUT established a Task Force in order to prepare the second proposal for UNOSEK. The Task Force modified KUT's approach conceding to the demand for the creation of more Kosovo Serb municipalities. However, it also set four 'political red lines' aimed at preventing the creation of territorial links in the new Kosovo Serb municipalities with Serbia or between each other, as well as retaining the boundaries of the existing multi-ethnic municipalities.⁷⁵ They reveal the quite realistic fear of territorial partition which

⁷⁵ The four red lines state: '1) N-Mitrovica may not be territorially linked with the border to Serbia; 2) K/Serb majority should not have direct territorial links with Serbia; 3) K/Serb majority municipalities must not have direct territorial links with each other; 4) Existing, functional multi-ethnic municipalities shall not be ripped apart' (KUT 2006c)

explains Kosovo resistance to the territorial decentralization. Thus, Ranillug, a territory that borders with Serbia was removed from the list of new municipalities in eastern Kosovo in favour of Partesh (KUT 2006f).

Competencies, Equitable Representation and Local Finance

Kosovo's concept of functional decentralization was based on a linear decentralization of power in all municipalities without special provisions for majority Serb municipalities (KUT 2006a). All municipalities would have their own and delegated competencies from the central government. The main novelty was the possibility of municipal assemblies to appoint local police commanders out of three names proposed by the Ministry of Interior. However, the proposal introduced a strong integrationist dimension asserting the power of the Ministry to remove the police commanders without prior consultations with the municipalities and that the police and judiciary should remain centralized. KUT insisted on its objection on a wider functional autonomy to govern its own higher education and secondary health-care since these were considered exclusive powers of the central government (KUT and UNOSEK 2006).

The proposal otherwise promoted consociational principles of proportional representation in the municipal assemblies, administration, judiciary and police, proportional allocation of funds through the principle of minority fair share, as well as a Vital Interest Clause used by minority representatives for municipal regulations and other acts affecting 'culture, use of language, education, personal documentation, and use of symbols' (KUT and UNOSEK 2006). In addition, the Serbian language would remain an official language in the whole territory of Kosovo with other minorities having their language official in the

municipalities where they comprise at least 5% of the population. The proposal also promoted cultural autonomy including education in the mother tongue and the right to form cultural associations with public funding. According to Weller, Kosovo minorities, including Kosovo Serb representatives from south of the Ibar River were involved intensively in drafting these principles (Weller, 2008c).

Involvement of Serbia and Inter-municipal Cooperation

KUT's proposal was aimed at affirming Kosovo's sovereignty and jurisdiction in the majority Serb areas and the dissolution of Belgrade-controlled parallel structures. It emphasised the principle of reciprocity entailing Kosovo's equal involvement in the three majority Albanian municipalities in southern Serbia.⁷⁶ In this context, the proposal suggested the creation of Joint Commissions in the fields of culture, education and cultural heritage at the central level.

Participation of Kosovo Serb municipal representatives would be done only 'where useful and necessary' (KUT 2006a). Cross border cooperation was subject to the inter-state agreements specified for regional, urban and rural development, environmental protection and the improvement of public facilities with the municipalities of the neighbouring countries. In addition, the Kosovo proposal contained the possibility of the creation of consortia of several municipalities in order to carry out tasks of common interest.

In other areas, such as for example financing from Serbia, Kosovo's position was that Serbia's financing of majority Serb municipalities should be treated like all other foreign donations which can be done only through the Kosovo treasury, although Kosovo was ready to 'extend preferential treatment to Serbia as a donor.' This principle was expressed in the two following clauses which

⁷⁶ There are three majority Albanian municipalities in southern Serbia, bordering eastern Kosovo: Preshevo, Bujanovac and Medvedja.

promoted Kosovo's sovereignty and the demand that the Belgrade-controlled parallel structures are dissolved:

‘5.4. Any foreign monetary or non-monetary assistance rendered to units of local government shall be compatible with the territorial integrity and sovereignty of Kosovo and must be consistent with the legislation in force; 5.5. The monopoly of legal force and supervision of municipalities rests solely with the central Kosovo institutions. All currently existing parallel institutions must dissolve and no new forms of parallel institutions outside the exclusive control of Kosovo may exist on or exercise control over any part of the territory of Kosovo.’

(KUT and UNOSEK 2006)

6.2.2 Belgrade's Partition Drive

Belgrade's main concern was the creation of a de facto territorial and functional partition of Kosovo which would remain part of Serbia with an ongoing UN administration (Government of Serbia, 2006a). Thus while Belgrade's input on functional issues in the Vienna talks remained scarce (Weller, 2008c), evidence suggests that Belgrade essentially wanted the territorial and functional partition of Kosovo, with proposals to establish its jurisdiction in majority Kosovo Serb areas:

‘The UNOSEK delegation then (after Prishtina) travelled on to Belgrade... While Belgrade is careful to formally avoid the term “entity”, conceptually this is of course the objective, and will likely remain to be until the very end. In substance, their concrete demands are even going beyond what was hitherto known: e.g. direct relation between the Serbian Ministry of Education and relevant Kosovo schools respectively the Ministry of Health and relevant Kosovo hospitals.’

(KUT 2006c)

However, the negotiations with Belgrade were difficult since its position was known only ‘informally’ and was presented in ‘various versions,’ (KUT 2006c). For example, at one stage, Belgrade demanded the establishment of 15 to 17 new majority Serb municipalities which would sometimes contain ‘only several hundred inhabitants’ (Weller, 2008c, p. 671). In other instances, it proposed the creation of a single Kosovo Serb entity it had demanded in 2001 and in 2004 with five districts: the north, the east, the south, the west and the central district with a separate UN administrator and veto powers on the decisions of the Kosovo government (Government of Serbia, 2004a). These districts would include also ‘sizeable territorial enclaves surrounding religious and cultural sites’ (Weller, 2008c) ‘connected through ethnic corridors’ (Interview with Sejdiu).

6.2.3 The International Position on Decentralization

UNOSEK’s strategy was focused on discussing only Kosovo’s constitutional arrangements, without touching upon the final status of Kosovo. This strategy was based on the demand of the Contact Group that ‘the process must be brought to a close’ by focusing on ‘practical issues’ (Weller, 2008c). To this end, there existed an international concert in pressuring Prishtina for a solution that would create functional autonomy for Kosovo Serbs, increase the number of majority Serb municipalities and legalize Belgrade’s involvement in the administration of these municipalities.

UNOSEK objected to the position of Prishtina on the territory of new municipalities, while Belgrade’s demands for Kosovo’s territorial reorganization to be focused on territorial control by Kosovo Serbs were also considered ‘unsustainable’ (KUT 2006f). Prishtina was pressured to accept a bigger number of majority Serb municipalities including Ranillug, Klllokot and Partesh in eastern Kosovo, Graçanica and Prilluzhje in Central Kosovo and northern Mitrovica in the north (KUT 2006e). In addition, it demanded the extension of the territory of Graçanica and Novo Bërdë with additional majority

Serb villages in order to include as many majority Serb villages within these municipalities as possible/feasible etc..

6.2.4 The Reactions of Prishtina

KUT's reactions to UNOSEK's demands reveal a position based on consociationalism with civic and integrationist ingredients and suggests a fear of partition being legalized (KUT 2006e). KUT agreed to the extension of the territory of Graçanica, Novo Bërdë and the creation of Ranillug, thus departing from its position that there should be no territorial connection between the new municipalities and Serbia. However, it objected to the creation of the municipality of Prilluzhje in central Kosovo as well as of the separate municipalities of Partesh and Killokot, but offered the creation of a single municipality of Partesh and Killokot as a single bigger municipality rather than as small separate municipalities three years after the declaration of independence and after population census (KUT 2006e). The reason for this objection was the fear that 'the creation of such miniscule municipalities would legitimize Belgrade's proposal for establishing its territorial control in each majority-Serb village across Kosovo' (KUT 2006b). While a consociational deal might allow ethnic municipalities at micro-level, evidence suggests that the fear here was that these municipalities were being run and dominated by Belgrade and that the IC was in fact condoning that. In fact, partitionist, rather than consociational, outcomes were haunting these negotiations.

Competencies and Relations with Serbia

The key UNOSEK demands were focused on the creation of functional autonomy for Kosovo Serb municipalities in the sectors of higher education, secondary healthcare as well as involvement by Belgrade in local financing, staffing and curricula. KUT opposed such provisions arguing that asymmetry would contribute to ethnic segregation rather than the creation of a multi-ethnic Kosovo. However, it did agree to the creation of a separate university in the Serbian language with a condition that it is placed under the jurisdiction of a

Kosovo Serb deputy minister of education vested with a veto right, a proposal consistent with consociational logic within a unitary state. In its reply to the UNOSEK, KUT stated:

‘We sincerely believe that our proposals meet the combined objectives of improving services and of promoting minority rights...they ensure maximum feasible control of Kosovo Serbs over their daily lives without furthering disintegration of our communities... Diverging opinions so far existed only regarding the issues of secondary health care and higher education and, linked to that, about the notion of “ethnic asymmetry”... The establishment of a general “ethnic asymmetry” in these or other areas, on the other hand, would harshly go against both Kosovo’s and the international community’s objective and efforts of creating multi-ethnic institutions...It would instead reintroduce a concept of ethnic differentiation in Kosovo that we hoped to have overcome in 1999. We kindly ask you to bear in mind that it is only seven years that Albanians stopped being second class citizens in their own country, and it is inconceivable that Kosovo should now introduce a system which would again grant one ethnic group more rights than others. Kosovo is adamant to treat all its ethnic communities equal and subject to the same civic rights, to integrate the society and its institutional framework, to create rules and institutions for all.’

(KUT 2006e)

6.2.5 The Reactions of Belgrade

Belgrade’s post-negotiation actions highlight a continuity of its partitionist position through the creation of a single-Serb entity with substantial autonomous powers and direct links with Serbia, as presented in various resolutions and strategies by the government and parliament of Serbia between 2004 and 2006 (Government of Serbia, 2004b, 2006b; National Assembly of the Republic of Serbia, 2004, 2005). Only weeks before the scheduled

presentation of the CSP to the UNSC in March 2007, Belgrade made its ‘Amendments to the CSP’ in which it clarified its position on Kosovo’s internal arrangements (Government of Serbia, 2007). In the section on autonomy, Belgrade demanded the creation of 9 new ‘Serb municipalities,’ in addition to the 5 existing ones, through which a single Serb entity would be created. This entity would be based on ethno-territorial engineering, occupying around 30% of Kosovo’s territory. This was obviously a maximalist claim, but consistent with Belgrade’s position expressed since the end of 1999 war. In line with the partitionist strategy, during the talks in Vienna, Belgrade had reiterated its 2004 strategy which stated that

‘Serbs would be entitled to parts of the territory that links in a natural way Serb-dominated settlements, in which they previously did not make up a majority, but to which the Serbs exiled from their homes during the ethnic cleansing operation tend to return.’

(Government of Serbia, 2004a; see also Weller, 2008d, p. 671)

In contrast, the 2007 amendments of the Government of Serbia to the CSP did not contain such a proposal. However, as Figure 3 in Annex 1 shows, the pattern in which scattered villages and uninhabited territories are organized suggests a tendency for the creation of corridors. The proposal went so far as to isolate majority-Albanian areas or, at some instances, allow for majority-Albanian areas to be connected by corridors. These amendments proposed the inclusion of the Serbian Orthodox Churches even when they are situated in a majority Albanian settlement. In its display of a territorial control orientation, Belgrade’s amendments demanded the return of the Orthodox Church property granted to it by the Serbian Monarchy during 1918-1941 and nationalized in 1945, or monetary compensation by the Kosovo Government at a market value. These proposals were not taken into account since UNOSEK had already published the CSP after an additional round of talks led by the EU in the second part of 2006 which did not result in any agreement (Weller, 2008d).

6.3 The 2008-2012 Decentralization Arrangements

There were several objectives which the international community aimed to achieve through decentralization in Kosovo in the context of the final status talks. The first one relates to the external reasons, including the assuaging of Belgrade and Russia to accept the deal. The second was the integration of Kosovo Serbs in the Kosovo political system and the gradual dissolution of parallel structures. It was hoped that Kosovo Serbs would see the political and economic benefits of the generous provisions for self-government. Combined with other consociational elements of the deal, it gives them a considerable degree of autonomy and enables direct involvement by Serbia in Kosovo Serb politics, thus rewarding and legalizing de facto partition practices established during the UNMIK administration. In this section, the degree to which these objectives were accomplished, as opposed to continuing de facto partition, is analyzed.

6.3.1 Territorial Decentralization

The attempts to divide Kosovo into ethnic entities and to create corridors were avoided by the CSP. However, the ethnic element prevailed when the boundaries of the new municipalities were created. The delineation of the boundaries of new municipalities in the areas where the majority Serb population encompassed a number of connected villages served the creation of homogenous Serb majorities where the demographic situation permitted (UNOSEK, Attachment to Annex 3, 2007). Thus, effective segregation between Kosovo Serbs and others was created. As a result of this concept, the CSP created five new Kosovo Serb municipalities (North Mitrovica, Graçanica, Ranillug, Partesh and Klllokot) and extended the territory of one balanced municipality (Novo Bërdë). A Turk-majority municipality of Mamusha was created in the southern region of Prizren.

As the ethnic distribution map designed by the UN in 2000 according to the 1991 FRY census shows (Figure 4), the areas where the new municipalities

were created match the ethnic composition according to where the 1991 former Yugoslavian census reflected the biggest concentration of Kosovo Serbs (Kosovo Humanitarian Community Information Center, 2000). However, the municipalities that remained dispersed as single Serb-majority villages within majority-Albanian areas were not considered for such territorial delineation. This had been Belgrade's main demand 'in order to create a Serb corridor through single village municipalities from north, through the coal basin in central Kosovo, Graçanica, Novo Bërdë and Ranillug' (Interview with Kosovo Senior Official 1). Evidence from this section suggests that an additional number of reasons prompted the international choice for the creation and extension of the territory of these municipalities. An interesting case in point is Novo Bërdë, the territory which was extended to re-establish a Serb majority in order to satisfy Belgrade's historical preferences. Below, a short background of each new municipality is presented.

Graçanica

With an overwhelming Kosovo Serb population, after the 1999 conflict, Graçanica, a village on the outskirts of Prishtina, became the central Kosovo Serb enclave south of the Ibar River hosting a substantial number of displaced Kosovo Serbs from the city of Prishtina. Its political significance rests in the existence of the medieval Orthodox Monastery as the seat of the Serbian Orthodox Bishop of Kosovo. Thus, Belgrade established here its parallel institutions, serving the Serb residents of Graçanica and the surrounding Serb-majority villages. As shown in the Annex 4, Figure 5, the municipality of Graçanica includes 16 majority Serb villages spanning across territories of Prishtina, Fushë Kosova and Lipjan including all majority Serb villages in order to create a compact majority-Serb municipality.

Eastern Kosovo: Novo Bërdë, Ranillug, Partesh and Killokot

Novo Bërdë municipality is located in central-eastern Kosovo bordering Prishtina, Lipjan, Gjilan and Kamenica. It can be regarded as the most complex case both in the process of creation and in the implementation period. A prominent medieval mining and trade centre, Novo Bërdë was ruled by the Serbian Tsars between 13-15th century until it fell under Ottoman rule and is thus viewed by Belgrade as a Serbian historical site (Malcolm, 1998, pp. 49, 52). Thus, in the case of Novo Bërdë, UNOSEK has skewed the process in order to satisfy Belgrade's historic preferences of having a majority Serb municipality through ethno-territorial fine-tuning. Similar ethno-territorial engineering was carried out by Belgrade in 1965 in order to change the ethnic balance of this municipality in favour of Kosovo Serbs.

For example, Table 9. shows a sharp decline of the Albanian population between 1961 and 1971 censuses from 45% to 20%. This decline was ensured in 1965 by slicing out two Albanian majority villages, Marevc (2953:12) and Makresh i Ulët (Donji Makreš-385:0) to Prishtina and Gjilan, respectively (Varjačić, 2009a, 2009b, SORS, 1961, 1971).

Table 9. Variations in the population of Novobërdë between 1961-2011

Census year	Albanians	Serbs	Others	Total
1961	4358 45%	5271 54.5%	61 0%	9731
1971	1091 20%	4216 79%	51 0%	5358
1981	1652 30%	3636 70%	40 0%	4984
1991 a	5802 69%	2676 31%	19 0%	8553
1991 b	1854 42%	2676 58%	19 0%	4640
2011	3524 52%	3122 47%	80 1%	6729

Sources: Kosovo Agency of Statistics (2012); Statistical Office of the Republic of Serbia (1961; 1971; 1981; 1991a, 1991b).

The post-war international estimates scaled the Albanian-Serb proportion of Novobërdë to be 60:40 in favour of the Albanian majority (ECMI Kosovo, 2010). Thus, in the middle of the negotiating process, UNOSEK launched an extended Novobërdë territory of 14 Serb-dominated villages of Gjilan and Kamenica in order to re-establish a Serb majority in a total of 240 sqkm, as opposed to the Kosovo Albanian proposal of extending its territory with an additional six villages or 156 sqkm.

Ranilug is created out of 13 Serb-dominated villages in the municipality of Kamenica bordering Serbia and creating an almost uninterrupted corridor between Graçanica, Novobërdë, Ranilug and Serbia. This is the reason why KUT had objected to this municipality. Partesh, a three-village municipality with 18 sqkm, is the last formed Kosovo Serb municipality due to the resistance of local Kosovo Serbs stemming from a strong presence of parallel structures in this area and a few local Serbs who hold high-ranking positions in the Government of Serbia. Kllokot was created in the beginning of 2010 in the territory of four villages, covering an area of 24 sqkm of Viti municipality. Unlike Partesh where the establishment of a municipality was delayed due to resistance by local Serbs, here, it was the Kosovo Albanian dominated municipal authorities of Viti that resisted the creation of the Kllokot municipality. The reason for this objection was the touristic and health facilities situated in the SPA of Kllokot, an important economic and employment resource which Viti remained deprived of with the creation of Kllokot municipality. Perhaps unsurprisingly, ‘there was violence by extremists from Vitina against the creation of Kllokot when a bomb was installed in the car of the Albanian deputy Mayor of Kllokot from the ranks of LDK’ (Interview with Matko Svilanović, Nov 2011).

6.3.2 Institutional Validity

What seems to be featured by this type of ethno-territorial decentralization after its establishment is the emphasis on the geopolitical objectives of decentralization, rather than the objective of improving governance:

‘The creation of municipalities was not viewed from the functionality aspect, but from the point of view of accomplishment of political objectives. Overall, decentralization in Kosovo displays several problems in relation to the principles with regard to bring services closer to the citizen because of territorial reorganization. This happens because decentralization was not done due to assessment of functionality, but because of a higher, global political agenda.’

(Interview with Tahiri)

The creation of a number of miniscule ethnic municipalities which lack resources or dysfunctional ethno-territorial engineering was done at the peril of efficient governance and better services for the citizens who live in the newly created municipalities. International civil servants even questioned their survival due to weak economic and administrative structures:

‘Even though the international community is giving a lot of credit to the fact that these municipalities have been established, they will reach a point when it would be a question of survival because they are not sustainable.’

(Interview with an EU Expert)

However, the point of the creation of these municipalities was the legalization of Kosovo Serb enclaves, reflecting thus de facto partition logic and the existence of parallel structures. For example, the territory of Graçanica and Novobërdë was extended into all majority-Serb villages, regardless of viability in terms of citizen services. Or, for that matter, the overall sustainability of

Partesh and Ranillug is also brought into question. As the Mayor of Gračanica says:

‘They (Partesh and Ranillug) are not sustainable as municipalities, but they are important culturally for the Serb inhabitants. They live in small numbers there and they would have been a very tiny minority if they would not have these municipalities. For the sake of culture, their functioning as separate municipalities should continue with subsidies.’

(Interview with Stojanović)

This ethno-territorial engineering produced a rather cynical situation and new minorities within a majority area. While such solutions are normal for consociational systems, the difference between Kosovo and other places is that it created divisions where it was unnecessary and served the purpose of rewarding de facto partitionist practices. For example, the inhabitants of the village of Uglare, situated just a few hundred metres from the centre of the town of Fushë Kosova are now residents of Gračanica municipality, which is about 7 kilometres away from their village. Considering that Gračanica municipality offers services within the enhanced powers provisions, the Kosovo Serb Uglare residents are therefore part of the Kosovo Serb territorial and structural self-governance. A dozen Kosovo Albanian families of this village are now a minority within a Serb-majority municipality, in spite of the fact that the area where they live consists of an overwhelming Albanian majority. This solution seems to have created fiscal and functional imbalances between the municipalities, since ‘the residents of Uglare, including Kosovo Serbs continue to receive their health services in Fushë Kosova’ (Interview with Burim Berisha, Jun 2012).⁷⁷

⁷⁷ Kosovo municipalities receive special grants by the Government of Kosovo per number of the members of minority residents.

Novobërdë is a case in point regarding the abnormality of the situation created as a result of territorial decentralization and de facto partition logic. Here, the process was skewed to respond to Belgrade's historical preferences, rather than because of any consociational logic. The large scale extension of Novobërdë territory from 90 sqkm to 240 sqkm creates many difficulties for its inhabitants and for the local authorities whose lack of financial and human capacity makes service delivery impossible. Belgrade has intensified its activity in the scattered villages:

‘The territory of the municipality is too large, the terrain is mountainous, while the number of inhabitants and economic activity too low. Therefore, the municipal authorities do not have the capacity to provide even some of the most basic services.’

(Interview with Bajrush Ymeri, Jun 2011)

‘Novo Brdo is an example where decentralization concept was very ambitious and if you look at the cadastral zones it is true that there are challenges to make it work because certain cadastral zones end up being rather isolated from mother municipality. From the point of view of governance it is true what mayors and authorities have warned us against-that this may create constraints and problems.’

(Interview with █████)

‘Citizens of Novobrdo continue to be served by their mother municipalities (Gjilan and Kamenica).’

(Interview with Jan Luenberg, July, 2011)

On the other side, while the Government of Kosovo is required to make excessive investment to increase capacities and build infrastructure to enable majority Serb municipalities to exercise their special powers, their ability to do

so has remained limited, putting into question the viability of these special powers:

‘It is not easy for a young state and above that a poor one, to delegate powers to municipalities. Some municipalities are capable of absorbing these new responsibilities; others have more difficulty and need institutional strengthening. Fortunately as I said, there were friendly donors; the Americans have been extremely helpful in providing this institutional strengthening. So my comment, if any comments I can make on decentralization-it is not so much about integrating the Serb community but it is rather the governance aspect of decentralization which in my view at hindsight, were rather ambitious.’

(Interview with █████)

6.4 Provisions on Functional Decentralization and De Facto Partition

6.4.1 Provisions on Functional Decentralization

The defeat of the demands for territorial partition was in a way compensated for Belgrade with generous functional provisions, akin to de facto partition. Decentralization as such would not have been problematic unless, as it happens in the context of Kosovo, it rewarded the de facto partition installed during the UNMIK administration, beyond what is believed only in northern Kosovo. Thus, anything that is not an integrationist consociationalism will veer towards reinforcing the logic of de facto partition. The CSP has combined ethno-territorial decentralization with special self-governing powers to govern education in the Serbian language, culture, healthcare, the creation of joint governing bodies and relations with the kin state. The CSP has formalized what had been heretofore a de facto partition under Belgrade's control in education, health, administration and fiscal matters.

Education in the majority Serb municipalities remains administered by the Ministry of Education in Belgrade. It is indeed hard to imagine that these miniscule municipalities, lacking basic administrative capacities, can administer universities. Such authority would be an insurmountable burden even for bigger cities within Kosovo. For example, the municipality of North Mitrovica has the authority to establish and run public universities and to license private ones. Normally, this is an exclusive power of the MEST. However, the MEST has no authority in the administration of Serbian language universities under the authority of the municipality of North Mitrovica. This devolved authority is not conditioned by any other provision that would create a connection with the Kosovo education system or with the rules governing Kosovo's public administration and public finance management. In other words it is very far from being a consociational arrangement and rather more reflective of partitionist thinking in the context of the situation in higher education during UNMIK administration.

Thus, according to the CSP, the Serbian-language education system in Kosovo remains an integral part of the education system in Serbia as stipulated by the UNMIK-FRY Common Document. It is important to note here that recent cases highlight external involvement in many policy areas as part of consociational arrangements, as proven for example by the case of Northern Ireland. The difference in Kosovo is that a de facto reality of partition is being forged by Belgrade preventing majority Serb municipalities from engaging with the government in Prishtina.

At the initial stages, KUT had objected to such devolution of education at the local level proposing a consociational arrangement governing education for Kosovo Serbs: 'Higher education and secondary health-care are under the responsibility of the central level and not suitable for delegation for reasons of financial viability and quality standards' (KUT and UNOSEK 2006). KUT proposed Kosovo Serb autonomy in education carried out by the central level

through Kosovo Serb deputy ministers of education who would have a veto power on any decision about education (and health):

‘To introduce constitutional/legal provisions to the effect that decisions regarding higher education or secondary health-care facilities located in Kosovo Serb majority areas require the consent of the deputy ministers for health and education respectively, which could be earmarked as reserved posts for members of the Kosovo Serb community.’

(KUT 2006e)

This would not entail involvement of the government in the administration of the university itself, because the public university of Prishtina in the Albanian language is an autonomous institution; rather, it would have symbolic value for integration of the educational system of Kosovo Serbs within Kosovo’s institutional framework. However, neither the Kosovo Serbs nor the internationals require a reserved position for the Kosovo Serb Deputy Ministers of Education and Health. In other words, there was no interest in consociational arrangements. Gračanica, Shtërpce and North Mitrovica also have the authority to establish and run public hospitals and to license private ones, normally a central government authority in Kosovo. The existing health institutions continue to be administered by Belgrade. Hence the solution reflected a de facto partition reality pursued by Belgrade as current arrangements recognize the existence of two separate education and health systems.

All other majority-Serb municipalities are autonomous in running cultural affairs including the protection of cultural and religious heritage within their territory. It is important to note here that the enhanced competencies are not confined to these municipalities in a singular manner, which would entail a structural division of local Serbs. In fact, municipal self-government for Kosovo Serbs is further enhanced by the provision for inter-municipal cooperation, in which the municipalities can join in partnership to provide

services within their own competencies by creating inter-municipal governing boards for issues delegated to the partnership by municipal assemblies (UNOSEK, 2007, Annex 3, Articles 4.3, 9).

Here, the CSP has opened the opportunity for a single, wide structural autonomy for Kosovo Serbs to govern higher education, culture and heritage, health and other non-delegated municipal competencies. For example, North Mitrovica, Gračanica (central Kosovo) and Shtërpce (southernmost Kosovo) can create a joint body to govern special self-governing powers including pre-university and higher education and health as well as culture, in addition to other own municipal competencies enjoyed by all other municipalities. These competencies represent typical autonomy provisions, applied for example, in Belgium. The Kosovo Government does not have the authority to suspend decisions falling under the enhanced competencies provisions. Instead, the CSP has introduced power-dividing mechanisms establishing judicial-review procedures as a dispute resolution mechanism between the central and the local government at a respective district court as a compromise to Prishtina's demand that 'the monopoly of legal force and supervision of municipalities rests solely with the central Kosovo institutions' (KUT and UNOSEK 2006).

In addition to education, special self-governing powers allow connections between the majority-Serb municipalities and Belgrade or municipalities in Serbia. The CSP allows for Belgrade financing of the majority-Serb municipalities as well as cooperation with, and provision of services with technical assistance from Serbia, provided that there is written agreement between the municipalities and Belgrade. The Ministry of Local Government Administration (MLGA) may review these agreements and suspend them in case where they are in direct violation of the Constitution of Kosovo and of the Law on Local Government. However, municipalities can use the judicial review to dispute such decisions by the MLGA. (Annex 3, Articles 10, 11). The CSP has given intervening authority to the Kosovo executive regarding the activities

which may be financed. However, considering the level of control exercised by Belgrade, these intervening powers remain weak.

For example, the financing of municipal activities by Serbia need not be done through the budget of Kosovo whereas it would be re-allocated to recipient municipalities by the Kosovo Ministry of Finance. In fact, these grants can take the form of financial transfers through Kosovo commercial banks as demanded by Belgrade. This provision weakens the control of the Kosovo executive on budgetary matters in the majority Serb areas. Such arrangement creates an asymmetry because the Law on Public Finance of Kosovo does not allow public institutions to make such transfers through commercial banks or in cash. Currently, financing from Belgrade continues under the parallel system and not under the CSP framework, which has in fact rewarded the de facto partition practices by formalizing direct institutional and financial connections between Kosovo Serbs and Belgrade.

6.4.2 De Facto Partition under Belgrade's Control

While the aim of decentralization was to provide Kosovo Serbs with maximum self-government so they would accept the CSP provisions, the main failure of the IC was addressing Belgrade's partitionist intervention in majority-Serb municipalities which is the main obstacle for Kosovo Serbs to accept the CSP. In fact, there was increasing awareness that the parallel structures were problematic:

'While we have additional Serb municipalities, we haven't got rid of parallel structures, which have never ceased to exist in these areas, being parallel to the local governments created under CSP with employees of new municipalities playing on both sides. It would be important to look at how these structures can be integrated within Kosovo system, but both the IC and Kosovo authorities have lost the track in trying to strategically address this problem.'

(Interview with EU Expert 1)

Indeed, education in the Serbian language continues to be part of parallel structures, although it is financed both by Kosovo and Serbia. Kosovo Serb teachers receive salaries both from Serbia and from Kosovo but they remain under the administration of Belgrade. At times, they terminate their contracts with MEST when Belgrade threatens to dismiss them and cut them off the Serbian pension scheme, but they return eventually. There is in fact a perverse situation in which newly-created municipalities coexist with parallel institutions with the Government of Kosovo financing de jure legitimate municipal bodies and de facto partitionist institutions. The situation continues to be the same as during the UNMIK administration with Belgrade holding the jurisdiction over all sectors, in spite of generous provisions on decentralization and parallel financing. The paradox here is that the newly elected municipal authorities, the Government of Kosovo, as well as the IC have accepted and work with these arrangements. The description provided by the Deputy Mayor of Klllokot is illustrative of the situation in all majority-Serb municipalities:

‘There are relations with parallel institutions. The Mayor has no competencies there, but he cooperates with the parallels who appoint school directors and teachers. They request financial support from municipal authorities for goods and services, while they have contracts both with us and with the Government of Serbia.’

(Interview with Svilanović)

Kosovo Serb municipalities have not been using the opportunity to exploit fully the autonomy by creating joint governing bodies due to the persisting de facto partition: ‘Serbs are not seeking opportunities to create horizontal links with other Serb-majority municipalities in Kosovo’ (Interview with Luenberg). The alternative of Belgrade’s administration and de facto partition makes the implementation of the generous CSP provisions impossible: ‘Kosovo Serbs

prefer Belgrade's unifying presence rather than autonomy' (Interview with Robert Wilton, Jul 2011). Similar situation exists with regard to cross-border cooperation between Kosovo Serb municipalities and municipalities in Serbia: 'Cross border cooperation does not work because new Serb-majority municipalities that function within Kosovo's institutional system might not be recognized by municipalities in Serbia' (Interview with Luenberg). In fact, this cooperation is not necessary since they continue to remain under direct administration of Belgrade's partitionist structures.

In fact, the US and the EU have hoped that with time parallel structures would simply 'melt away' and be naturally integrated in the Kosovo governance system within decentralization framework. As one senior US diplomat argued: 'Stojanović has been gradually weakening the parallels in Graçanica' (Interview with US Senior Diplomat 2). Mounting international pressure mainly coming from the leading EU states, such as Germany, has been focused on conditioning Belgrade's EU integration agenda with the halting of support for parallel structures. However, as the EU itself remains divided, with five member countries not recognizing Kosovo's independence, this pressure has not yet given concrete results. Instead, the EU has embarked on a negotiating process between Prishtina and Belgrade which will be mainly focused on north Kosovo and will likely result in the autonomy of the north and legitimating Belgrade's involvement in Kosovo Serb affairs.⁷⁸

Even if this type of complex arrangements could function, they are arguably flawed because they were done to assuage Belgrade's opposition to the final status of Kosovo by rewarding de facto partition practices rather than creating viable institutional practices. These arrangements represent a botched type of

⁷⁸ This thesis is covering events up to 2012. The latest seeming breakthrough which allows Serbia to enter accession talks is unclear as regards to what it means for the parallel structures and recognition of Kosovo's independent statehood.

consociationalism which prevents Kosovo from becoming a viable state because they permit the existence of a two-tier political system: one which is connected to Prishtina, and the other to Belgrade, thus permitting de facto partition which became a reality during the UNMIK administration.

With this approach, the internationals have been dealing with regional stability which focused on mitigating Belgrade's discontent and ensuring that the borders in the region do not change. In fact, consociational theory argues that consociationalism is indeed an alternative to partition. However, even here the stability of the region is not ensured. This stability does not only entail guaranteeing borders of the states in the region; above all, stability in the region is guaranteed by the internal stability of the states which depend on the stability of institutional frameworks and their functioning. Here, the main flaw is continuous involvement by another regional state in a way which undermines the long term viability of consociational structures, as well as the lack of insistence on liberal integrationist policies to make Kosovo a viable state.

6.5 The Assessment of Stability

6.5.1 The International Dimension

The process of the implementation of autonomy arrangements has been ensured through international dictate, rather than internal process. In fact, with the de facto partition being stronger than any integrationist element, it takes international intervention to maintain this botched design, which is a consequence of the delay in resolving Kosovo's final status. This delay has prevented the creation of viable institutional roots from the beginning. As a senior ICO official explains:

‘The political elite in Kosovo is still...has not developed a very clear sense of national interest, in the sense of a national purpose. The expectations, the attitudes are very much focused on personal interest, regional, clan interest, and that in a way, makes it a little bit more

complicated to work on issues like creating a multiethnic state. You mentioned in the beginning the example of The Netherlands with the concept of consociationalism. That was possible in a well-developed, old nation where there is consensus between religions and a strong sense of national identity. That has still not developed very much and as a result there are relatively few initiatives being developed by the political elite; agreement is difficult to reach, and therefore the international community remains an essential player to move forward.’

(Interview with █████)

Feith’s argument that the lack of a ‘sense of national identity’ in Kosovo inhibits the functioning of consociationalism in Kosovo suggests that the flaw in the international imposition of consociationalism lies in the emphasis upon an ethnic differentiation and in granting a strong regional dimension through involvement of Belgrade. The real flaws seem to be an unwillingness to encourage and reward locals engaged in self-governing and to force Belgrade to trade having a say in Kosovo for recognizing and working with the new reality from the outset which could have been achieved if Kosovo’s independence would not have been postponed, thus inhibiting the creation of a sense of national unity.

This argument is also relevant for consociational theory because it confirms the validity of what Lijphart called the ‘predictive power’ of favourable factors by a practitioner in charge of the implementation of a consociational deal (Lijphart, 1977, p. 54). Lijphart stressed the importance of what he called ‘overarching loyalties’ as a background factor which helps the functioning of consociationalism: ‘It is obviously helpful for consociationalism if the divisions among the segments are counterbalanced to some extent by an overarching sense of belonging together’ (Lijphart, 1985, p. 124). In contrast, the lack of an overarching national identity within the state may have serious consequences because it may question the existence of the unity of the state: ‘Not only its

strength is important, but also the question of whether it truly unites the society or instead acts as an additional cleavage by providing a loyalty to a ‘nation’ that is not coterminous with the state’ (Lijphart, 1977, p. 82). The notion of nationalism in the Balkans is in fact coterminous with language and religion, rather than with state boundaries. Thus, it is argued here that the lack of a sense of such overarching identity in Kosovo becomes a bigger problem than it already is when the pattern of consociationalism lacks both local ownership by elites and has only weak integrationist capability in the face of competing partitionist practices which were continuously condoned by the IC.

In fact, evidence suggests that the intention of Kosovo’s consociationalism was not to overcome, but to strengthen the existing divisions:

‘The basic concept of the CSP is to establish Serb-majority municipalities with minority protection rather than power-sharing. The CSP Article 12.4 under Annex III allows further decentralization on one hand. On the other, Article 14.2 under Annex III provides the option for review of the entire decentralization process suggesting that the implementation of the CSP is a transitional phase leading to more sustainable governance arrangements. Due to the unilateral implementation of the CSP by Kosovo Government, it is highly unlikely that these two clauses will take place as envisioned’.

(Interview with Paivi Nikander, Jun 2011)

Indeed, Feith’s statement highlights the main problem of consociationalism in Kosovo: The internationals forced a mixture of partitionist elements within a corporate type of consociationalism as opposed to Kosovo’s demand for a type of consociationalism that promotes integrationist tendencies through the affirmation of an overarching identity cross-cutting through the ethnic divide. Such polarization makes international involvement essential for the implementation of the deal since the deal itself emphasises dividing, rather than

uniting, elements, maintaining the sovereignty conflict at the core of the political process.

6.5.2 The Influence of Regional Kin States and Group Inequality

The external dimension of Kosovo's consociationalism is reinforced further by the influence of regional kin states on who gets what. As a result, decentralization was applied only to Kosovo Serbs and the Turks, creating inequality among minority groups depending on the influence of their kin states in the CSP institutional design which I discuss below. This group inequality affects the internal stability as the relations between the groups are influenced by mutual perceptions.

The CSP and its related laws allow for the creation of new municipalities after independence wherever a homogenous community of a minimum of 5,000 members demands, suggesting a liberal consociationalism approach. However, Kosovo Bosniaks, whose total number only in the region of Prizren is 16, 896 inhabitants, outnumbering the total number of Kosovo Turks by 8,795 people, remained short of benefiting from decentralization (Kosovo Agency of Statistics, 2012). Kosovo Bosniaks encountered unwillingness by the Kosovo Government and by other international stakeholders to implement this provision in the majority-Bosniak areas. As a Bosniak leader explains:

'Bosniak community is the third largest community in Kosovo. We number about 40,000 Bosniaks in Kosovo and what is a painful point for us in terms of decentralization is that we realized that the question of resolution of the creation of new municipalities is exclusively a political issue. It is exclusively a political issue for a simple reason that we did not use the momentum when the municipalities were given, for example the Turkish community which is much smaller than us, they have a municipality in Mamusha... the Ahtissari Package, Article 12.4. says that the Government is obliged to start negotiations with the

communities that qualify for the creation of their municipality...and then we realized that even according to Ahtissari Package we fulfill all the conditions...I claim that Kosovo Serbs are privileged. I know the position of the lady that works in NDI (US organization) who is working with decentralization and she says you know, Kosovo has no budget for another municipality...but how can Kosovo budget have money for Serbian municipalities?’

(Interview with █████)

This situation can be explained by the influence of regional kin-states in the creation and implementation of territorial decentralization. The process of the creation of ethnic autonomy for Kosovo Serbs was a direct consequence of the sovereignty conflict between the majority Kosovo Albanian population and Belgrade on the one side, and the inability of the UN to give direction to Kosovo’s final status in the early years of its intervention, which de facto condoned Serbia’s presence in Kosovo through its parallel institutions. During the final status talks, Serbia was a party to the negotiations for Kosovo’s final status as a former sovereign and because it was considered the key to the functioning of any governance system in Kosovo with the Kosovo Serbs included.

On the other side, Ankara supported Kosovo’s independence, but it demanded the ethno-territorial delineation of Kosovo Turks. Ankara’s military presence in Kosovo, through KFOR, and its wide political and economic influence in the region was a precursor for the creation of one majority Turkish municipality, although their numbers were by far exceeded by Kosovo Bosniaks who did not benefit from decentralization. Evidence suggests Turkey’s illegal involvement in the administration of the majority municipality of Mamusha: ‘No one is talking about parallel institutions that exist here in Mamusha’ (Interview with a USAID Expert, Feb 2013). Indeed, there were reports that Kosovo Turk teachers receive salaries in cash from the Turkish Government, apart from those

paid by the Kosovo Government. It has been suggested that Ankara directly influences the internal political dynamics of Turkish elites within the KDTP (Interview with a Mamusha local KDTP Official, Jun 2012).

Kosovo Bosniak positions were weaker due to the irrelevance of Bosnia-Herzegovina in the final status process stemming from the strong influence of Republika Srpska in Sarajevo, in principle opposed to Kosovo's independence. In fact, the BiH Government ambivalence over Kosovo's independence is a result of the threat that BiH's support could result in the secession of Republika Srpska from BiH.

Thus, while the IC's official discourse about decentralization is that of creating a 'multiethnic democracy' Kosovo, in private the key international officials contend that the concept of decentralization is based on privileging Kosovo Serbs and creating inequality between various ethnic group in Kosovo:

'I think Kosovo Serbs are privileged by the CSP. Serbs have been given affirmative rights with a view to helping them integrate. Normally in other countries a minority would not be given such extensive rights as the Serb community has been given and I think that sometimes among my Serb friends this is forgotten. They should recall and they should not forget that what the Albanians say, that the Ahtissari Package was a compromise for them is true and that the Serbs should not overplay their hand and ask for more concessions. So, yes...I should also add that we should not forget about the rights of non-Serb communities.'

(Interview with ██████)

Indeed, there is a general feeling that this asymmetric inequality has extended privileges to a formerly privileged group. This runs contrary to what O'Leary (2008) suggests regarding the extension of privileges to formerly privileged minorities in the consociational systems as a dangerous and unethical approach.

The reason for this in Kosovo is that a mixture of consociational and de facto partition practices was applied to respond to geopolitical concerns, rather than to the need for internal stability:

‘They (Kosovo Serbs) do not get their municipality for any other reason...they get their municipality so they accept integration in the Kosovo society so they remain here, so they feel good in this state and they can get their municipality whenever they feel like they want it no matter if they fulfill legal conditions or not! Partesh does not fill legal conditions to be a municipality! Partesh complains how they do not have money to pay street lights...so they fear thieves...and they do all that because they get their municipality for a simple reason that they are Serbs.’

(Interview with Balje)

This shows that the ‘multi-ethnic’ democracy is a façade and that the international policy of territorial decentralization has entrenched ethnic divisions between Kosovo Serbs and others, rewarding de facto partition. The viability of internationally presided consociationalism here is seriously undermined, as opposed to what the liberal consociationalists ideal is - that consociationalism need not privilege any particular group (McGarry, O’Leary and Simeon, 2008). While the literature has generally acknowledged this façade feature, it has ignored the regional and international context in which the territorial decentralization and ethnic autonomy in Kosovo were created, hence downplaying the coercive nature in both its establishment and implementation (Gjoni, Wetterberg, & Dunbar, 2010; Hehir, 2010; McKinna, 2012). Thus, while the CSP’s acceptance by Belgrade was the main international argument for decentralization, the implementation of its key provisions that enhance the powers of majority-Serb municipalities has failed largely due to continuous obstructions by Belgrade and the existence of its parallel institutions in Kosovo which has created a situation of de facto partition in Kosovo. In both these

contexts, the political and institutional stability and validity seems to be far from being achieved.

6.5.3 The Effects of Decentralization on Inter-group Relations

The last element to be analyzed regarding the stability and validity of decentralization is the relations between Kosovo Serbs and Kosovo Albanians. The literature has suggested that decentralization has entrenched ethnic divisions in Kosovo with the integration of Kosovo Serbs in the political system of Kosovo being only a façade to de facto partition. Moreover, the internationals have imposed the solution which weakens it because the local elites have not bought into it. Secondly, the result has been a botched effort which allows and works with the reality of de facto partition. Parallel structures continue to operate and to have influence on Kosovo Serbs while increasing frustration among Kosovo Albanians who view this as directly weakening the viability of the state: ‘they (Albanians) remain opposed to these arrangements which they consider unfair and as a way of extending privileges to Kosovo Serbs’ (Interview with Arifi).

While inter-ethnic cooperation was the main international priority in Kosovo and decentralization was viewed as a sensible way to foster this cooperation, the creation of new majority-Serb municipalities has had the effect of furthering divisions between the communities: ‘If there was inter-ethnic cooperation earlier, now there is none’ (Interview with Tahiri). This is a normal consequence of ethno-territorial divisions. For example, part of the Prishtina municipality, Graçanica, has seen a construction boost due to the pre-2009 expansion plans of the Municipality of Prishtina. This resulted in an influx of the Albanian population and of businesses in this area. When Graçanica became a municipality in 2009, its Mayor, Bojan Stojanović, continuously complained that the influx would threaten the existing ethnic domination of Serbs, although the municipal income from this influx has made Graçanica one of the most successful municipalities in Kosovo as regards its own source revenues.

One of the first actions taken by the Serb Mayor of Gračanica when the new municipal authorities were established in the end of 2009 was to revoke a major construction license for a residential area issued by Prishtina municipal authorities before decentralization began. Because such licenses created substantial own-source revenues for Gračanica, the mayor Stojanović decided to issue a business license but revoked the construction license in order to prevent non-Serb residents from settling in his municipality out of the conviction that the IC will not allow this:

‘It is forbidden by law to the existing ethnic structure of new municipalities...this will not be even allowed by the foreigners (international community)...you know, our work is based on ethnic politics.’

(Gazeta Express, 8 May, 2010)

However, Stojanović's position was changed subsequently due to pressure by the US Embassy to issue a major and profitable construction license to the local Kosovo Albanian businessman: ‘The US Embassy has played a direct role in convincing Stojanović to issue the construction license’ (Conversation with US Senior Official 3 Dec 2010).

This shows that the external role remains essential even at the micro level because local actors consider consociational arrangements as legitimization for ethnic exclusivity in the same way it functioned during Milošević's rule when a prohibition of inter-ethnic real estate transactions was introduced. If elite cooperation is one of the factors contributing to successful consociationalism, the case of Gračanica highlights elite intransigence even at the cost of the economic benefits of inter-ethnic cooperation. Notwithstanding this intransigence, the continuing increase of own source revenue by Gračanica municipality as well as the lack of any reports on inter-ethnic incidents suggests that relations between local authorities and the new-coming Kosovo Albanian

businesses and residents are not problematic, something which may be attributed to economic incentives created by increasing Kosovo Albanian investment in the territory of Graçanica.

In general, however, evidence suggests that there has been a general decrease in mutual social acceptance between Kosovo Serbs and Kosovo Albanians after new municipalities were established. Table 9. shows results from opinion polls data taken from UNDP (2012) on social acceptance confined by four basic questions: 1) Readiness to work in the same workplace, 2) Readiness to live in the same town, 3) Readiness to live in the same street or quarter, and 4) Readiness to accept inter-ethnic marriage between Albanians and Serbs. While these polls are done on quarterly basis, the table shows only the results from the poll done at the end of each year between 2005 and 2012. The reason why 2005 was chosen as starting date was an all-time low level of trust between Albanians and Serbs due to the March 2004 Albanian riots against Kosovo Serbs and UNMIK. The poll suggests that decentralization has not contributed to improvement of inter-ethnic relations either. While only 10% of Kosovo Albanians in 2005 and 2006 and a high 60% of Kosovo Serbs in 2005 and 22% in 2006 believed that inter-ethnic relations are not improving, in 2011 and in 2012 respectively, when no serious inter-ethnic incidents were seen, this number increased to a 65% and 78% high for Albanians and 90% and 65% in 2012 for Serbs – substantially higher levels of mistrust than amid the highest inter-ethnic acrimony in the post-war period (UNDP Kosovo, 2012).

Table 10. Social acceptance between Kosovo Albanians and Kosovo Serbs between 2005 and 2012

	2005		2006		2007		2008		2009		2010		2011		2012	
	Alb.	Srb.	Alb.	Srb.	Alb.	Srb.	Alb.	Srb.	Alb.	Srb.	Alb.	Srb.	Alb.	Srb.	Alb.	Srb.
Readiness to share workspace a)	48.1	51.1	52	58	43	28	48	35	55	43	36	6	41.5	43	29	42
Readiness to live in the same town b)	43	23	41	80	48	28	56	41	40	21	47	45	43.5	31	28	35
Readiness to live in the same street or quarter c)	41	21.8	48.7	61.2	37	25	46	7	40	28	25	5	37	20	27	25
Acceptance of inter-ethnic marriages	3.9	3.9	3.9	3.9	2	4	0	0	0	0	5	0	1.5	0	0.9	5
Disbelief in the improvement of inter-ethnic relations	10	60	10	22	19	70	30	72	21	51	22	40	65	90	78	65

Notes:

- a) Data are taken from the UNDP polls in the end of each respective year.
b) Values are expressed by percentages.
c) Source: UNDP Kosovo, Public Pulse: http://www.kosovo.undp.org/repository/docs/pulse_eng_409069.pdf

This decline in mutual trust can be explained by two events that are not directly connected to coexistence between Albanians and Serbs south of the Ibar River, highlighting the fragility of the current institutional arrangements. The first one which increased the mistrust of Kosovo Serbs has to do with the failed attempt by the Government of Kosovo to assert its control over the two border crossings with Serbia in northern Kosovo in August 2011. The second event which has contributed to the increased mistrust of Kosovo Albanians has to do with the beginning of talks on the normalization of relations between Kosovo and Serbia, mediated by the EU Council representative, Catherine Ashton, which seeks the return of Belgrade's involvement in Kosovo and the creation of the 'Community of Kosovo Serb Municipalities'.⁷⁹ Most interestingly, working together is the most preferred option chosen by respondents from both ethnic groups. This indicates that economic opportunities and development promote inter-ethnic trust and cooperation.

The post-independence period has seen a considerable increase of participation by Kosovo Serbs in the elections as well as in the 2011 census. While less than 1,000 votes were received by Kosovo Serbs in the 2004 and 2007 elections, the 2009 and 2010 municipal as well as parliamentary elections saw a boost in participation of Kosovo Serbs. This is directly connected by the observers to decentralization, although evidence presented in the previous chapters suggest that election fraud may have boosted the number of Kosovo Serb voters. Notwithstanding the overall massive fraud noted in the majority Albanian areas, such fraud, although not reported, is suggested to have taken place in Kosovo Serb majority municipalities, which were ignored both by international and local observers.⁸⁰

⁷⁹ Such an arrangement was introduced in 2013, but the talks leading to this began in 2012.

⁸⁰ More detailed account about possible elections fraud in the chapter on electoral system.

The second indicator of increased participation of Kosovo Serbs in Kosovo's political system is their participation in the census. While the participation of Kosovo Serbs can be seen as progress towards the acceptance of Kosovo institutions, considering their earlier absolute boycott of Kosovo, it nevertheless suggests that Belgrade, whose government has called Kosovo Serbs to boycott the census, still holds a tight grip over Kosovo Serbs (Zejneli, 2011). Even those Kosovo Serbs who have participated in the census, have declared themselves citizens of Serbia and not Kosovo. In fact, out of 27, 983 Kosovo Serbs who have participated in the census south of the Ibar River, 26, 010 have declared themselves Serbian, rather than Kosovo nationals (KAS, 2012). As the Kosovo Deputy PM explains:

‘In the south of Ibar River Serbs have entered in the institutions, but have not been integrated yet. They have accepted to participate in the institutions, not to be integrated, but to organize themselves exclusively of others. If this integration does not happen, there will be ghettoization of Serbs. In spite of this, the institutional connection of these municipalities with central government and investment we are doing retains the hope that this project can work.’

(Interview with Kuqi)

Being a Serbian, rather than a Kosovo national is, in fact, the main reason why the rest of Kosovo Serbs have boycotted the census altogether. This suggests that mere participation in elections and censuses does not necessarily imply integration or acceptance of Kosovo institutions. In fact evidence suggests that decentralization has institutionalized divisions with a promise of further strengthening Belgrade's partitionist role and entrenchment of the ethnic element in Kosovo politics. An alternative to Belgrade's direct rule has weakened the design which was meant to dismantle that rule by creating ethnic coexistence in Kosovo.

Conclusion

This chapter has argued that the external role in making and breaking consociationalism in Kosovo remains essential due to the geopolitical factors which have influenced the establishment of these arrangements and that local actors retain little role in shaping the workings of the deal. Rather than as a way of protecting the identity of minorities, as consociational theory suggests, the provisions on autonomy are a result of the sovereignty conflict between Kosovo Albanians and Belgrade. In fact, this identity was not as contentious an issue as most cases of consociationalism would suggest (Lijphart, 1977). Rather, as Dahlman and Williams (2010) suggest, it was Belgrade's partitionist drive that induced an internationally endorsed strategy of divisions between Kosovo Serbs and Kosovo Albanians through parallel structures and, later on, through decentralization. Thus, rather than a bottom-up reaction to Kosovo's evolution as literature would suggest (Jarstad, 2007), it was a top-down facilitated process that resulted in a system that would seem consociational, but represents the reality of de facto partition. In this context, the lack of integrationist elements risks deepening the de facto partition problem. The CSP created a balance between an overwhelming Albanian majority and the territorial dispersion of the Kosovo Serb minority by establishing a unitary state on the one side, and by creating majority Serb municipalities with special self-governing powers in which the central government has no jurisdiction on the other. Functional autonomy, the establishment of joint governing bodies between these municipalities, special relations with Belgrade as well as legal equality between the Kosovo Serb municipalities and central authorities of Kosovo are the key features of the CSP autonomy provisions.

These arrangements were not a result of an organic dialogue between Kosovo Albanians and Kosovo Serbs. They were imposed by the external international parties. It was hoped that such wide autonomy would tone down any opposition from Russia at the UNSC and would moderate Belgrade's resistance to Kosovo's independence. In fact this gamble throughout the period 2001-2012

did not pay off, with various Serb governments in Belgrade alternating between openly hostile and undermining actions, to more passive-aggressive policies. What ensued from this botched consociationalism, was that parallel and de facto partition became a viable alternative for Serb enclaves and a widely accepted reality. Thus the international community was Janus faced; it preached multi-ethnicity but facilitated and conspired in facilitating de facto partition. The point here is that partition is not only a problem of northern Kosovo and Mitrovica: It is almost as common to other parts of Kosovo.

Lack of integrationist features is based on asymmetric governance powers of Kosovo Serbs which cannot be overridden by Kosovo authorities. The main difference between Kosovo's asymmetry and the asymmetry in other places is the role of the former sovereign in keeping control over the territory and its kin and the geopolitical considerations of the great powers which tended to create a regional balance through compromises between a Kosovo Albanian integrationist approach and Belgrade's partitionist approach. In the face of continuous Belgrade control over much of the governing issues, the arrangements continue to feature elements of de facto partition as strongly as during the UNMIK administration.

As far as the validity is concerned, the creation of Kosovo Serb municipalities with asymmetric governance powers was done against the warnings by local authorities that ethno-territorial engineering would lead to dysfunctionality and ethnic segregation. Thus, the establishment of territorial decentralization in Kosovo was not done by the will of the majority to offer insurances to Kosovo Serbs in post-independence Kosovo; rather, these insurances were offered by the international community, which in turn, took over the responsibility of coercing the majority into implementing territorial decentralization during the period of international supervision. This intervention had features of both benign involvement and of coercive methods by direct imposition.

This in turn has several consequences on the design of decentralization as a strategy of ethnic delineation between Kosovo Albanians and Kosovo Serbs. First, it does not achieve the effect of bringing the government closer to its citizens. Second, its implementation remains difficult because it is viewed as an internationally based solution implemented through international supervision, rather than through the will of local actors. Kosovo Albanians view decentralization as a painful, but necessary concession they had to make in return for independence; Bosniaks, who are the third biggest majority, actually view decentralization as a way of extending privileges to Kosovo Serbs. The latter are indeed deeply divided between those that see decentralization as a way of affirming their special stature within Kosovo but lack the capacity to exploit the CSP offerings due to the default alternative of Belgrade's partitionist presence.

Thus, while the CSP has emulated the provisions for cultural autonomy from UNMIK regulations, it has also emulated the reality of de facto partition in the Serb enclaves by granting asymmetric governance powers and by allowing a considerable degree of involvement by Belgrade in the context of an independent Kosovo. For this reason the CSP has disregarded Kosovo Albanian proposals for a more integrationist type of consociationalism and the promotion of an overarching civic identity. Parallel structures continue to function in the post-independent Kosovo in the majority-Serb areas throughout Kosovo. The persisting influence of Belgrade which has continued to affect the degree of Kosovo-Serb adherence to autonomy arrangements of the CSP is largely owed to the international policy of condoning and facilitating de facto partition.

With the previous chapters having analyzed and explained the empirical data on the external dimension of Kosovo's consociational and de facto partitionist strategies applied in each of the four constituting elements of consociational theory, the next chapter will discuss the implications of the findings from these

chapters for consociational theory and post-conflict reconstruction by drawing together and explaining the main findings and arguments of this research.

7 DISCUSSION AND CONCLUSIONS

The purpose of this chapter is to draw together and explain the main arguments and findings of this thesis in a discussion that relates these to the existing literature on Kosovo and consociationalism. In doing so, it will provide answers to the research questions and discuss the extent to which the arguments and findings from this study offer new perspectives on the viability of consociationalism in Kosovo and in general.

The role of external intervention in creating viable consociations is the main subject of this study, which has attempted to shed light on the relationship between external intervention and the viability of consociationalism in Kosovo. This has been examined using two main parameters of the viability of consociationalism: creation of stability and avoidance of partition (Lijphart, 1977; McGarry & O'Leary, 2004; O'Leary, 2005). In doing so, this thesis has explored the four constitutive elements of consociational theory: executive power-sharing, the electoral system, veto powers and group autonomy. The main proposition that informs the theoretical framework of this thesis is that external intervention has made consociationalism transferable to any self-determination dispute and that it can and should be transferred to any country, regardless of the context (McGarry & O'Leary, 2006). Based on this proposition, it is argued that the consociational prescription has become the international blueprint for conflict-regulation (O'Leary, 2005). Both propositions are questioned in this study.

The relationship between international intervention and viability of consociationalism is analyzed through the central research question: How did external intervention shape Kosovo's complex consociational power-sharing? Other questions underpinning the research problem are: Why did the IC use consociationalism in Kosovo? What was the role of local parties? What was the

role of external parties? How did external dynamics shape Kosovo's consociation? How did consociational institutions operate during 2001-2012? How did they affect the thresholds of stability and partition?

These questions are answered here through the following arguments. The main argument of this study is that the external domination in the shaping of Kosovo's institutional framework has resulted in a fundamentally compromised pattern of power-sharing in both categories examined: stability and partition. Rather than a coherent blueprint for institutional design, in Kosovo, the external interveners improvised using a bricolage of bits and pieces including external sovereignty, consociation and de facto partition in order to manage international disunity over Kosovo's self-determination dispute. This was also done to respond to immediate concerns regarding regional stability, especially the stability of the post-Milošević coalition of democratic parties in Belgrade. This type of consociationalism, in all its elements, was imposed to provide guarantees that Kosovo would not move towards statehood in a sudden or unqualified way. Thus the local actors remain subordinate to the interests of international players concerning regional stability and the balance of power between the US, EU and Russia. In pursuit of these interests, the external actors have been using brute coercion, conditionality and at times, malign intervention, rather than a benign intervention as it is argued in the literature. Rather than coupling the institutional design with ongoing efforts to enhance inter-ethnic communication, the International Community soon after deployment mostly abandoned efforts to create an internal political process between Kosovo Albanians and Kosovo Serbs. Instead, they preferred to involve Belgrade, thus providing it with a de facto veto on the institutional design of Kosovo. This restricted Kosovo's self-government, undermining stability and creating a situation of de facto partition operating in duet with consociationalism. My point here is that rather than presenting de facto partition as a reality on the ground that is evolving in opposition to Kosovo's institutional arrangements, the evidence presented here suggests that the

International Community facilitated and worked with de facto partition, practicing both approaches in Kosovo, in a way that badly undermines the attempts to foster the evolution of consociational practices. Thus, Kosovo is a type of externally imposed coercive consociationalism, albeit lacking in integrationist or liberal features and badly hampered by Serb partitionist tendencies which the international community have condoned. In order to explain these arguments, the following section will draw together the main findings from each chapter.

7.1 Findings

7.1.1 Electoral System

Kosovo's electoral system has been shaped by two major objectives of the international actors. The first of these was UNMIK's concerns about intra-Albanian tensions in the immediate aftermath of the conflict, and the second has been international concerns on keeping the status quo of the self-determination dispute. For example, the evidence presented here suggests that PR was not the very first preference of international interveners. Rather, the decision to impose the PR system with reserved seats was to prevent a working Kosovo Albanian majority from emerging in the context of LDK's electoral domination in the 2000 municipal elections. Fear from an intra-Albanian conflict haunted international interveners. Thus, ensuring inclusion of post-KLA political forces was viewed as essential for Kosovo's and UNMIK's stability. Additionally, by sabotaging an impending LDK majority in the Kosovo Assembly, UNMIK ensured a balance in which it could more easily manage the Kosovo Albanian drive for independence.

The Inter-ethnic cooperation was stymied by the inclusion of Belgrade's governing coalition in the KP, thus engineering a Belgrade-controlled Kosovo Serb elite which opposed meaningful self-governance of the PISG and brought to the fore the self-determination dispute at the centre of the political conflict within the Kosovo Assembly. Thus, while consociationalism functioned with a

de facto partition logic between independence and Belgrade's sovereignty, the international community furthered this partition by allowing Serbian elections which undermined participation of Kosovo Serbs in spite of generous representation provisions through the reserved seats. Hence, one can argue that the boycott by Kosovo Serbs was facilitated by the international community because they were offered a default alternative of participating in the Serbian political system which had been operating with a de facto partition logic.

Another finding which affects the stability of the system is the corporate character of Kosovo's election system, which prevents the evolution of more integrationist features of consociationalism. UNOSEK's design for phasing out the reserved seats in favour of guaranteed seats has created a deadlock on wider political reform intended to stabilize the executive power-sharing system due to the minority conditioning of these reforms with preservation of the reserved seats. While this deadlock remained beyond the end of 2012, international involvement in pressurizing Kosovo Albanians to give in to minority demands may be essential to maintain the stability of the system, highlighting the lack of an emerging stability in the system.

7.1.2 Executive Power-sharing

The main argument of this chapter was that external control and ambiguity over the final status hampered the evolution of executive power-sharing. The post-independence period marked an improvement of executive power-sharing, although external intervention remains essential in maintaining stability. During the UNMIK administration the executive power-sharing did not provide for enhanced cooperation between Kosovo Serbs and Kosovo Albanians because there was no power to share between them. The unaddressed self-determination dispute and Belgrade's inclusion prevented an evolution in inter-ethnic cooperation. The scarce transfer of authority to the PISG was intended to guarantee Belgrade and its ally, Russia, that Kosovo would not be able to move towards statehood. While one could argue that the external role in maintaining

the stability of the executive is essential, it is argued here that the stability of the executive power-sharing was undermined by the external actors' approach to control and by the injection of a regional dimension. The failure to determine Kosovo's final status was the main reason for this type of flawed institutional design. In fact, the final status ambiguity was reflected in a path-dependent manner, whereby consociationalism was identified with the independence of Kosovo while facilitating Belgrade's control of Kosovo Serb elites and the de facto administration of majority Serb areas were both identified with Belgrade's continuing sovereignty in Kosovo. This path dependence then featured in the de facto partition of Kosovo facilitated by UNMIK, which reserved minority issues for itself, but in effect, devolved these powers to Belgrade in relation to Kosovo Serbs.⁸¹

The post-independence period marked an improvement of executive power-sharing as a result of increased participation of Kosovo Serbs in elections and the emergence of more autonomous Kosovo Serb political parties together with a more substantial participation in the executive. However, the evidence presented here suggests that consociational practices have not bedded down and that international involvement remains essential in maintaining power-sharing coalitions. The problem with the stability of the executive throughout the period examined and especially in the post-independence period, has been the rejection of Grand Coalition practices by Kosovo Albanian parties, which have preferred a competitive, rather than accommodationist, style of doing politics, as well as continuous external intervention and manipulation of the political process. This

⁸¹ This discussion is limited to the period ending in 2012. In the 2013 municipal elections, the Serbian list, a Kosovo Serb coalition reflecting the new coalition in Belgrade between the Socialist Party of Serbia and the Progressive Party of Serbia (the former of the former President of Serbia, Slobodan Milošević, and the latter of the former Radical Party Leader, Vojislav Šešelj, indicted for war crimes in Croatia, Serbia and Kosovo), won most majority Serb municipalities. The Serbian list was established during the EU-mediated talks between Kosovo's and Serbia's PM's, Taçi and Dačić, respectively.

is because the ethnic principle of coalition-building disregards the demographic reality which makes coalition-building without intervention from outside almost impossible. Thus, while the threshold rules of minority engagement are respected, consociationalism seems to be an inadequate design in the context of the domination of one ethnic group with distinct and competing political traditions.

7.1.3 Veto powers

A combined system of an internal dispute resolution procedure through the VIP and an external absolute veto on decision-making was introduced to prevent destabilization through internal blockages. However, the use of the external veto became common as a result of the pressures regarding the self-determination dispute between the Kosovo Albanian majority and Belgrade. It was in fact established to offer guarantees to Russia and Belgrade that the status quo would be maintained. Thus, UNMIK used its veto power to manage this self-determination dispute by ensuring that the regional balance established through the status quo was not distorted. UNMIK's veto powers were used to limit self-governance which in turn, increased Kosovo Albanian dissatisfaction and undermined the relations between the international administration and the PISG. The VIP, by way of contrast, was used by the KP to further the de facto partition logic of Belgrade's administration of education. Multiple veto players, including the ICO, the US and the EU continue to influence Kosovo's decision-making through informal pressures, especially with regard to minority issues, a trend which had been installed since 2006 when the final status talks had begun. Thus, one can argue that external veto players' role in the functioning of consociational arrangements has become common in all varieties in which it can be employed. This is not only a Kosovo related trend. Such strong international veto players are present in BiH, while the UK's suspension of Northern Ireland power-sharing highlights also a type of external veto on consociational arrangements.

7.1.4 Autonomy

The duet of consociationalism and de facto partition is expressed at its best in the international facilitation of Belgrade's de facto control of majority Serb areas through enclavisation of these areas and the condoning of the operation of Belgrade's parallel structures throughout Kosovo. While UNOSEK emulated all CF consociational elements, it also strengthened consociational features by creating majority Serb municipalities in the areas where the most relevant enclaves existed during UNMIK administration. In doing this, the CSP merely recognized the reality on the ground which featured de facto partition of the Kosovo Serb enclaves. The CSP allowed for Belgrade's direct involvement in the administration of these municipalities through technical assistance and direct budgeting, legalizing the de facto partition logic of Kosovo's consociational features. In addition, autonomy in education and health created the logic of dual sovereignty in which these sectors remain the exclusive power of Kosovo Serb municipalities with strong links to Belgrade. The IC hoped that these provisions would melt the parallel structures into the CSP framework. However, Belgrade continues to keep its parallel structures functioning without any obstacle, while undermining the ability of the new municipalities to fully utilize their authority.

This botched mix of territorial autonomy is not only working poorly, but its design reflects decisions by international representatives presiding over Kosovo's consociational experiment. Rather than being simply a case of locally-led, bottom-up Serb resistance to consociationalism manifesting itself organically in de facto partition practices, or Belgrade-led initiatives, in fact de facto partition was permitted, accepted and at times even facilitated by the UN and EU administrators in Kosovo's transitional governance structures. The reality of de facto partition is as much a willed top-down creation of international administrators as it is anything else. As such it reflects the impact of wider international relations concerns and realpolitik upon the niceties of consociational design from the top down. The result is a badly botched

territorial autonomy that weakens Kosovo's tentative consociational order and strengthens the logic of partition and dual sovereignty. The latter are very different constitutional paths to resolving the conflict and providing a stable future for Kosovo.

A more integrationist group autonomy was both necessary and possible. Failure to ensure a greater degree of civic and integrationist elements has reinforced the de facto partition logic. The flaw the internationals did was not to spot that the partition logic, which enjoys clearer and stronger political advocates (Belgrade and Russia in the UNSC), will undermine any weak and vague territorial autonomy drive. Hoping that such opposition will become milder through provisions that would give Kosovo Serbs substantial autonomy and strong links with Belgrade, actually rewarded the latter's partitionist logic by the IC throughout the stage of supervised independence.⁸²

7.2 Discussion of Findings

7.2.1 The Literature on Kosovo

That Kosovo's institutional design was imposed by external interveners and that it has not been working as perhaps desired is widely acknowledged by the literature on Kosovo and on power-sharing (Bieber, 2005a, 2005b; Hehir, 2010; Jarstad, 2007; Schneckener, 2008; Tansey, 2007; A. J. Taylor, 2005; Weller, 2008; Wolff, 2008). However, it is argued here that the literature has not explored all aspects of the role of external intervention needed to explain the viability of Kosovo's consociationalism, including the rationale used by external interveners as well as the factor of regional dynamics in shaping Kosovo's complex power-sharing arrangements. Rather, this literature has used

⁸² In the first half of 2013, the EU opened the question of autonomy of the north through direct talks between Kosovo and Serbia PM's which resulted in an agreement offering the possibility of a single-wide structural and territorial autonomy of all Kosovo Serb majority municipalities and integration of parallel structures in the institutional framework of Kosovo.

the traditional canons of consociational theory in which the analysis is based on internal dynamics and institutional design, in spite of the increasing trend towards external imposition of consociationalism.

As Daalder (1974) has argued, to ‘question why and how such a consociational system developed’ is helpful in assessing the viability of consociationalism. Hence this study has used a new approach in explaining the reasons for, and the method of, imposition of consociationalism. This approach may shed light on the implications of international intervention on Kosovo’s institutional design as well as the wider relationship between international intervention and the viability of consociationalism. Further, I will explain in more detail how these findings relate to the literature on Kosovo and to consociational theory.

In relation to the question of how international intervention shaped consociationalism in Kosovo, this thesis argues that external domination in shaping Kosovo’s institutional design resulted in a fundamentally compromised pattern of stability and has facilitated the de facto partition of Kosovo. Rather than a coherent blueprint for institutional design, in Kosovo, the external interveners improvised using a bricolage of bits and pieces including external sovereignty, consociation and de facto partition in order to manage international disunity over Kosovo’s self-determination dispute and to respond to the Western concerns regarding regional stability, especially the stability of the post-Milošević coalition of democratic parties in Belgrade which opposed the creation of substantial self-government for Kosovo.

This approach has had a far reaching effect on how consociationalism in Kosovo was shaped. Evidence from this thesis suggests that the weaknesses of Kosovo’s institutional design have stemmed both from external control as well as from the de facto partitionist intervention by Belgrade. Yet the literature suggests that Kosovo Serbs abstained from participating in the power-sharing institutions either because of Belgrade’s coercive tactics, its abstention, or as a

result of bottom up reaction to the political developments (Bieber & Kiel, 2009; Borgh, 2012; Jarstad, 2007; Weller, 2008). By way of contrast, evidence from this thesis suggests that de facto partition was facilitated by the IC through the inclusion of Belgrade as a representative of, and administrative authority for, Kosovo Serbs. In fact, during UNMIK's administration, Kosovo Serbs either participated as representatives of Belgrade's ruling coalition parties, or otherwise, when they refused to participate, they did so because a default alternative of Belgrade's direct rule was offered to them. In both cases, de facto partition featured the functioning of power-sharing institutions. A similar phenomenon is described by McGarry with regard to the Unionist rejection of Sunningdale who preferred a default British rule instead of power-sharing with Catholics (McGarry, 2008). The difference here is that the alternative of Belgrade's default rule was facilitated by the external interveners.

A small part of the literature has argued that Kosovo displays a de facto partition masquerading under the veil of an externally-dominated consociationalism (Garrigues, 2007; Jarstad, 2007; Jenne, 2009). This literature suggests that de facto partition effectively operates in the Kosovo Serb-dominated north, while Kosovo's institutional design in the Kosovo Serb pockets in the south is undermined by the external domination or that Belgrade's parallelism as a bottom-up resistance to Kosovo's evolution towards statehood (Borgh, 2012).⁸³ Other authors have criticized the international imposition of autonomy as a way of entrenching ethnic divisions and deepening ethnic segregation arguing that more integrative institutions would have enhanced the viability of Kosovo (Gjoni, Wetterberg, & Dunbar, 2010; Hehir, 2010).

⁸³ A similar argument about the Kosovo Serb boycott is made by Weller (2008).

It is argued here that de facto partition has been effective in the south as much as it has been in the north, with the difference that this de facto partition has been shrouded by external domination and unrestricted movement in these areas, unlike in the north. Secondly, evidence presented here suggests that rather than being a reality on the ground that is evolving in opposition to consociational power sharing, instead what emerges in this thesis is that the International Community facilitated and worked with de facto partition even though in theory it is incompatible with consociationalism. In reality international elites have practiced both approaches in Kosovo, first by facilitating the de facto partition and then by rewarding it in the CSP, in a way that badly undermines attempts to foster consociationalism.

It is suggested here that Kosovo featured a type of coercive consociationalism intended to guarantee to the external players, principally Russia and Belgrade, that Kosovo's institution-building will not evolve towards statehood, or a full sovereignty. The failure to quickly address the self-determination dispute has affected stability and has created a design which has condoned the de facto partition of Kosovo. Rather than being established and operating as the theory expects, Kosovo has ended up with two unpleasant opposites which coexist under a continuous external domination: one which features an unworkable type of unstable consociationalism; and the other which features de facto partition of majority Serb areas.

The fact that Kosovo has nudged towards independent statehood does not mean the abandonment of this dynamic. In fact, there are continued international elite interests in restraining Kosovo's independence and in tolerating, if not cynically furthering Belgrade's parallel structures. The findings offered here suggest that a primary concern of internationals was to delay and deny a unilateral declaration of independence by Kosovo Albanian dominated institutions. The much delayed final status solution, which impacted upon Kosovo's post-independence design, was concerned with Belgrade's and Russia's responses to

Kosovo's independence, rather than Kosovo's internal viability. Thus, it was designed to serve external geopolitical concerns, rather than internal needs. This failure to address in a timely way the self-determination dispute has affected stability and has created a design which has condoned the de facto partition of Kosovo. It is as if the Belfast Agreement evolved to allow Dublin a parallel direct role on the ground in Catholic nationalist enclaves, with whole policy areas such as education, policing and health being steered from Dublin. Whatever this might be, it would not be a workable model of consociationalism.

7.2.2 The Regional Dimension

Kosovo's consociation has been a creation of international diplomats in charge of its administration. Thus, international concerns dominated the choices for Kosovo's institutional evolution. This proposition implies that an international relations perspective could provide valid explanations about external intervention and the viability of consociationalism. For example, evidence in this thesis suggests that the evolution of Kosovo's institutional design and features reflect international actors desire to avoid a possible regime change in Serbia after 2000, repartition and change of borders, resumption of large scale conflict in the region, and also reflect, in particular, a worry about the Serbian and Russian response to Kosovo's evolution towards full, independent statehood. It is worth noting that NATO's military intervention in Kosovo occurred at a very particular geopolitical moment when Russia was in the throes of yet another domestic crisis formed by their 1998 debt default, exhaustion after a second Chechnyan war, and the end of the Yeltsin regime and the rise of Putin. Russia was thus unable to protest or assert its opposition, other than a few dramatic gestures at the close of the conflict, evidenced by the seizure of Prishtina airport. By the middle of the last decade Russia under Putin was, and remains, a much more assertive, active and belligerent great regional power in the vicinity, which includes the Balkans and her traditional allies such as Serbia and Greece.

This thesis suggests that the missing link in explaining Kosovo's consociationalism is the external dimension, including the motivations of key actors and the wider environment. While it is beyond the scope of this thesis to specify a particular international relations theory from which to draw, it is suggested here that future studies of externally presided consociationalism should combine both political science and international relations approaches. This thesis suggests that a neo-realist account may be a fruitful way of examining why and how externally imposed political systems evolve.

It is here where most inconsistencies in the analysis of the external dimension of consociationalism in Kosovo lie. In fact, the literature on Kosovo has neglected the Kosovo Albanian-Belgrade dimension of the conflict, rather focusing on the internal Kosovo Albanian-Kosovo Serb conflict which is merely a derivative of the former. And as this thesis argues, the main flaws in Kosovo's institutional design and its implementation stem from the problem of the lack of statehood and conflict over Kosovo's status between Kosovo Albanian majority and Belgrade.

In this regard, external concerns over Belgrade's stability had as much weight as the concerns about the stability of Kosovo. For example, Bieber (Bieber, 2005a) understates the external influence in the workings of consociational arrangements, notably in the form of Belgrade's intervention to prevent Kosovo Serb participation within the UNMIK system: 'In the case of Kosovo, the focus of the conflict was also on territory, with the main actor Serbia not formally partaking in the institutional setup of the region' (Bieber, 2005a, p. 92). In fact, findings in this thesis suggest that Belgrade's informal intervention was condoned by the international community, although it operated akin to de facto partition, in a way that has corroded Kosovo's evolution within a consociational framework. This intervention was never officially recognized, but in a way, as I

describe here, it was facilitated by UNMIK itself and has arguably prevented a more workable form of consociationalism emerging.

7.2.3 Implications for Consociational Theory and the Transferability of Consociationalism

Favourable Factors

The theoretical debate on consociationalism has paid considerable attention to the question of the transferability of consociationalism. As noted in the second chapter of this thesis, the argument of transferability of consociationalism was first developed with the assumption of a conscious act of political elites to counter the divisive effect of societal fragmentation (Lijphart, 1969, 1977). This argument was countered on the grounds that the cases of consociationalism in Western Europe show that the tradition of mutual accommodation as a political culture is the key prerequisite to establishing and maintaining consociationalism (Daalder, 1974). Thus, the so-called favourable factors came at the fore in further evolution of consociational theory, especially as new opportunities beyond Western Europe emerged, as a pre-condition of conscious elite decision to establish consociationalism (Lijphart, 1985).

An important variable to assess the stability of consociationalism in Kosovo are the favourable factors. This thesis has taken into consideration Lijphart's favourable factors as additional conditional variables affecting causal homogeneity in order to achieve more internal validity. Where important for the analysis, they were 'part of the substantive explanation', and vice-versa, where proven unimportant they were 'discarded' (Munck, 2004, p. 110).⁸⁴ The findings in this thesis suggest that some of the favourable factors continue to be

⁸⁴ An explanation about this was given in the section on methodology. See p. 30.

relevant for the stability of consociational system in Kosovo, although, in order to achieve validity, this assertion needs to be set against other cases with different internal conditions.

Newer literature on consociationalism, including that on Kosovo, has, in a way, neglected the question of favourable factors in its analysis of the constituting elements of consociationalism (A. Taylor, 2005, 2008). This trend in the literature arguably results from critique of the lack of methodological validity of favourable factors or their opportunistic usage in the context of emerging democracies at the end of the last century (Steiner, 1985) as well as the increased incidence of external imposition of consociational systems in which the role of external interveners in the maintenance of consociationalism has increased substantially (McGarry, O'Leary 2006, 2007). The findings in the thesis suggest that such an overlooking of the favourable factors has, in a way, impoverished the explanatory validity of the analysis of consociational systems, regardless of, as Steiner argues, opportunistic usage of these factors by Lijphart. Hence, this thesis argues that the favourable factors should remain an important variable for the analysis of the viability of consociationalism, rather than focusing on the role of elites, both internal and external, only. This argument is explained more thoroughly below.

Lijphart argues that 'a factor that is favourable for the establishment of a consociation will also be a positive condition for its maintenance' (Lijphart, 1985 p. 119). In contrast though, this proposition would also suggest that a factor that is unfavourable for the establishment of a consociation is also unfavourable for its maintenance. For example, the factors of 'No majority segment' and 'Segments of equal size,' as arguably the most relevant factors (Lijphart, 1985), come out forcefully as relevant pre-requisites for the stability of the system in Kosovo, especially with regard to the electoral system and executive power-sharing. In fact, this thesis suggests that where there is a majority segment and where there are no segments of equal size (two more or

less similar factors), then consociationalism loses much of its institutional stability. The case of Kosovo suggests that proportionality, notwithstanding the type of proportionality imposed on Kosovo, against a background of overwhelming majority can have devastating effects on institutional validity and the overall stability of the system. In fact, in Kosovo this has produced, as Bieber calls it ‘Non-consociational consociationalism’ (Interview with Florian Bieber, 2012). Perhaps this game of words describes the invalidity of external imposition of consociationalism. However, it also suggests that the new waves of consociational theory, including that of complex power-sharing, have lost their analytical and explanatory value by losing sight of the internal context of consociational cases. Rather than comparative analysis of consociational cases, which frequently results in superficial descriptions of the institutional set-up, what is needed is thick analysis of various case studies which would include internal and external elite behaviour against given background conditions. Such would offer better explanations of the viability of externally imposed consociations and complex power-sharing, as a relatively new research programme.

The second relevant background factor is that of the overarching loyalties. This thesis suggests that consociationalism indeed can become superfluous where there is a sense of national unity among segments and where the divisions are not based on the issue of sovereignty. Accordingly, the sharing of power has successfully mitigated post-conflict divisions among Kosovo Albanian political traditions, which, it can be argued, posed a much greater danger for peace in Kosovo than any inter-ethnic strife, especially in the context of a massive NATO presence in Kosovo. On the other side, the lack of such loyalty in the context of the presence of a regional power that opposes the stability of the system, suggests a consociational system is more likely to be compromised than to bring about stability of the system. In this second sense, the International Community chose the so-called ‘creative ambiguity’ approach, in which it sought to control the process by creating a dual system of consociationalism

and de facto partition co-existing under the umbrella of international administration.

However, the question of minority rights remains open when it is suggested that consociationalism in contexts such as the one in Kosovo is not viable. This thesis has suggested though that the partitionist drive was not a bottom-up reaction to Kosovo's institutional and political evolution (in spite of a likely dissatisfaction of Kosovo Serbs with such evolution). Rather, this thesis suggests that the de facto partitionist drive was as much a top-down policy for maintaining regional stability, as it was anything else. The mere presence of the default alternative of Belgrade rule fed the hopes of Kosovo Serbs for a de jure partition and compromised any sort of institutional, if not societal, integration of Kosovo Serbs throughout the period examined. Had this default alternative not been provided, the likelihood of Kosovo Serb integration within the UN-Kosovo institutional framework would have been higher.

Whereas the territorial concentration of segments would be favourable for a territorial autonomy, Kosovo's demography suggests the dispersion of minorities (e.g. Kosovo Serbs) south of the Ibar River and concentrations in the north of Kosovo, a territory consisting of three miniscule mountainous municipalities bordering with Serbia. The post-conflict period has seen significant movements of the populations on both sides. While Kosovo Serbs were forced to leave urban centres and concentrate in villages with predominantly Kosovo Serb populations as a result of the revenge attacks or fear from these attacks by Kosovo Albanians, the Kosovo Albanian majority of the northern part of the city of Mitrovica were forced to leave their houses and find refuge from the attacks of the parallel security structures controlled by Belgrade in the beginning of 2000. While UNMIK designed a de jure system of cultural and ethnic autonomy for Kosovo Serbs, de facto, it left the majority Serb areas under the control of Belgrade, thus condoning and facilitating de

facto partition, in excess of any territorial autonomy as prescribed by the consociational or complex power-sharing theory.

A dual autonomy system in which Kosovo Serbs from the north would enjoy territorial autonomy while those living in the southern part of Kosovo would have cultural autonomy under the decentralization framework has been opposed by the latter on the grounds that this duality would result in an increased vulnerability of southern Kosovo Serbs as a result of the likelihood of partition of the north through territorial autonomy. As difficult as this question may remain for future debates on Kosovo's institutional design, a middle ground in which Kosovo Serb majority municipalities would be able to have an effective self-governance with extensive participation of Belgrade has been proposed by the EU negotiators, thus maintaining the trend of de facto partitionist policy and dual sovereignty of these municipalities.⁸⁵

In the end, this thesis suggests that there are two unexamined factors whose presence or lack of presence would arguably be favourable, or unfavourable for the establishment of consociationalism. The first, regarding the internal context, relates to the existence of segmental elites. Up to the third wave of complex power-sharing theory, consociational theory has placed the focus on the role of internal elites in the establishment and maintenance of consociationalism. In contrast, the second wave of consociationalism and the third wave, that of complex power-sharing, have neglected almost altogether the context in which such institutions are established (Weller and Metzger, 2008). The second, regarding the external context, relates to the regional powers, which, in the case of Kosovo, as this thesis argues, has remained an unexamined variable by the consociational and complex power-sharing literature.

⁸⁵ A proposal which resulted in the 'Community of Serb municipalities' had been negotiated by the EU in 2013. This thesis examines the developments until the end of 2012.

The findings from the chapter on the electoral system suggest that Kosovo did not fulfil the factor of the existence of segmental elites. Rather, the International Community has created a consociational system without such elites being in place and has created a process of engineering of ethnic elites where there were none, hoping that this will be a sufficient condition for inclusion of minority groups in the system. In fact, this thesis argues that such assumptions proved wrong. On one side, minority representation remained limited at a personal level for some groups, while for others elites were imposed by Belgrade, rather than being born out of an organic political process. The latter became a prerequisite for deepening the ethnic divide and furthering de facto partition, rather than a functional consociational system emerging.

The second implication of this thesis is that consociationalism can be transferred only when there is external consensus on the self-determination dispute and consociationalism itself. This can be considered as another factor whose presence could be favourable for the establishment and maintenance of consociationalism and vice-versa. The lack of such consensus may lead to instability and ultimately to partition. The ongoing self-determination dispute appears as the main obstacle in establishing a viable institutional design for Kosovo. With the great powers failing to address the self-determination dispute, as early as 1999 the game was based on the ambiguity of the final status aimed at keeping both Kosovo Albanians and Belgrade, along with Kosovo Serbs, on track. Thus, path dependence was created: the power-sharing institutions implied eventual independence, while Belgrade's partitionist inclusion implied a contrary impulse for sustaining a parallel Serbian sovereignty in Kosovo and delaying full statehood. Hence, the International Community found a middle ground in which it established neo-colonial control of Kosovo's power-sharing institutions with minor self-government and a strong presence of Belgrade's governing structures in the Kosovo Serb polity. This approach seriously undermined consociational practices and thresholds, including stability and partition.

The case of Kosovo shows a different pattern than that of Northern Ireland from Mc Garry and O'Leary's inference that consociationalism is transferrable when there is external resolve. They based this argument on the assumption that external intervention is benign and, as such, is intended to regulate the conflict internally. However, they neglect wider international and regional implications of power-sharing, as well as the influence of these external interests in the nature and functioning of consociational structures. The example they draw most inspiration from, Northern Ireland, may well be unusual in that the external states were all in agreement on consociationalism and all were liberal democratic states, while the local elites mostly agreed by the early 1990s on the need for some type of complex power sharing. Even at that it took over three decades to put together a successful consociational agreement in Northern Ireland, a fact often overlooked by the consociational advocates. In many other post conflict situations the international context might feature a divided UN Security Council, mostly regional powers which are not liberal democracies, and internal parties who are not at all ready to concede any need for complex power sharing with bitter ethnic or other opponents. In these contexts, this thesis suggests that attempting to apply consociationalism will likely be very far removed from the theoretical caveats reflected in the literature. In short it will look a lot more like what Kosovo has looked like in the last years and consequently be a lot less effective as a conflict resolution approach.

Liberal Vs. Corporate Consociationalism

The two main models discussed in consociational literature are 'corporate consociations' and 'liberal consociations' (McGarry & O'Leary, 2007). The institutional design of the former is based on 'pre-determined' ethnic groups and the latter on 'self-determined' ethnic groups (Lijphart, 1991b). The latter represents a more flexible mode of government and has become a preferred type of institutional design in consociational theory (Lijphart, 1991b, 2004; McGarry & O'Leary, 2004, 2007; McGarry, et al., 2008). The institutional specification of the revisionist consociationalism became increasingly liberal,

with institutional features to be applied ‘where they are deemed necessary’ rather than in a comprehensive manner (O’Leary, 2005, p. 18). Rather than assume there were favourable factors, which make or break a consociational deal, the emphasis is now on a toolbox of institutional reforms that may or may not work. Thus, there is a considerable variety of institutional prescriptions for the executive which do not preclude intra-segmental competition: 1) Complete consociation which resembles Lijphart’s Grand Coalition in which all parties from all ethnic groups are represented, 2) Concurrent consociation consisting of the majority from each ethnic group, and 3) Weak or Plurality consociation in which, a plurality from each significant group is represented (McGarry & O’Leary, 2006; McGarry, et al., 2008; O’Leary, 2005).

However, recent practices of corporate consociations such as Kosovo and Bosnia and Herzegovina (BiH) feature a more rigid type of institutional design in which pre-determined ethnic groups are distinct elements of the political system, with ethnic representation and ethnic veto rights as well as ethno-territorial autonomy (Bieber, 2008). The next sections will discuss this in more detail.

As Cockell notes, this ethnically-based approach by international policy-makers has had severe consequences on the functioning of the multiethnic polity in Kosovo because it undermined processes that could lead towards the creation of a more civic identity (Cockell, 2007). Jarstad argues that the lack of an integrative approach has resulted in de facto partition in Kosovo (Jarstad, 2007). Hence, recent cases (Bosnia and Herzegovina and Kosovo) suggest that the corporate type of consociation remains a preferred peace-building method (Bieber, 2006; Weller, 2009). It is therefore important to discuss whether corporate or liberal consociationalism are better suited as conflict-regulating strategies that enable post-conflict societies to reach democratic stability and sustainability (Aitken, 2007; Taylor, 2006).

The creation of political stability through a balance of power between ethnic groups is the main rationale for the prescription of consociationalism in ethnically divided societies. This is in spite of the fact that its stable functioning in ethnic conflict and self-determination disputes has been questioned since its inception (Lijphart, 2008a, p. 273; McGarry & O'Leary, 1994).

Promotion of stable democracy through corporate consociationalism is a flawed proposition because it strengthens ethnic politics and weakens the dynamic scope that can exist for cross cutting integrationist social, economic and political ties to evolve. By way of contrast, in liberal consociation the focus is on a more dynamic set-up, more prone to change and less rigid than the corporate type (McGarry & O'Leary, 2007). This method is more open to transition towards a civic culture. This is because ethnicity is not the criteria for political representation and, hence, the artificial stability of using rigid ethnic building blocks is dispensed.

The case of Kosovo suggests that it takes a robust interventionist approach by the international community to maintain the system of the corporat-type of consociationalism promoted over the last two decades. These cases enlighten Daalder's proposition that the functioning of consociations in places where political culture does not help accommodating practices is most difficult. Thus the role of international interventionists is not confined to benign intervention and facilitation, as revisionist consociationalists believe (McGarry, O'Leary, 2006). Rather, they become part of the implementation through dictation and other forms of coercion undermining the evolution of internal political dynamics.

It has been argued that increasingly international intervention is aimed at regulation of self-determination conflicts and at preventing further fragmentation of the world political map but not necessarily of internal maps of the states since corporate consociation with ethno-territorial autonomy has

become the preferred conflict regulating strategy (Bieber, 2008; McGarry & O'Leary, 2007; Weller, 2008). The case of Bosnia highlights the absence of large-scale violence between ethnic groups as an indicator of stability. This stability is owed to international dictates, which were accepted by group elites in Bosnia as the only way to stop the war (Bosniaks) or because of the interests of regional ethno-guarantors (Serbs and Croats) (Bieber, 2008).

In Kosovo, international leadership was accepted by local Albanian elites because 'cooperative internationalization' (O'Leary, 2001, p. 45) has long been viewed as a way of realizing the national objective of independence. However, the record of political developments suggests a reality of domination by international dictate, as well as the establishment of ethno-corporatism due to geopolitical concerns. In fact, as Jenne (2009) argues, ethnic partition in Bosnia and Kosovo has happened under a direct international administration that has failed to implement the more integrationist elements of the peace deals. I argue here that in contrast to what is assumed in the literature, *de facto* partition in Kosovo was a reaction of Kosovo Serbs to post-war institutional evolution; it was, in fact, a top-down approach by internationals who facilitated a type of internal partition of Kosovo by inviting Belgrade's partitionist intervention in Kosovo.

Pre-determination of ethnic groups in Bosnia and Kosovo, territorial autonomy, veto rights, the strengthening of ethnic leaders and the amalgamation of ethnic identity as the only legitimate political structure of the society have closed the possibilities for the reform process according to the accounts of liberal consociationalism. Caspersen (2004) contends that after the initial stage of consociational politics, the international community has pursued more integrative politics which have had a stabilizing effect in Bosnia. However, having been enforced internationally, these 'reforms' have not been ingrained in Bosnia's politics. Rather, they have taken place through external administrative measures instead of an internal political process, which makes

integration difficult to achieve (Chandler, 2005a). This effects, negatively, the sustainability of the system, particularly in the event of the loss of international interest which may find internal actors unprepared to grasp the complex process of state-building through the politics of statesmanship rather than through corporate ethnic politics.

Liberal consociation does not create a fixed ethno-political system. It is more dynamic and more prone to changes should political process result in such direction (McGarry & O'Leary, 2007). This proposition may respond to the crucial question of consociational theory: what outcomes can be expected from a consociational system in a deeply divided society? Aitken believes that corporate consociation solidifies ethnic divisions and hinders transition to a more majoritarian system and the political cohesion of countries. He argues that in order to allow post-conflict societies to reform in this direction, international peace-builders who engage in consociational nation-building should avoid ethnic quotas based on pre-determined groups and use a more liberal approach to building democracies in post-conflict societies, leaving space for integration (Aitken, 2007, p. 262).

A useful lesson for Kosovo could be that liberal consociation with strong integrationist elements and respect for ethnic and political diversity could be a way out of ethnic politics and towards more civic practices. Liberal consociation conducive to political change and leadership change would increase political responsibility and accountability for the processes undertaken because the interaction between political groups as well as between the leaders and their constituencies will be more dynamic and concentrated on issues rather than on ethnicity. This way, international tutelage would become unnecessary while Kosovo would gain its self-respect (O'Leary, 2001) in functioning on equal terms with the surrounding states and in establishing a process where political process is determined by the will of the voters rather than by international and local elites interests.

Lessons for International Intervention

Owen's research of foreign imposition of domestic institutions from 1551 to the end of the twentieth century shows that this imposition is done through military occupation, economic pressure and other inducements (Owen, 2002). For example, Caspersen and Iyer contend that the external influence in BiH and Fiji is based on the dependency of these societies on the international community to maintain peace and stability as well as on the economic aid (Caspersen, 2004; Iyer, 2007). The International Community used final status conditionality to impose consociationalism in Kosovo. Based on the experience of Northern Ireland, McGarry and O'Leary identify arbitration (Northern Ireland Act of 1972) and international treaty (Anglo-Irish Agreement of 1985) as two forms of international imposition of consociational systems. Military intervention, international treaty, external arbitration, were applied in Bosnia, Kosovo (no treaty) and Iraq, where NATO, the United Nations and informal great powers' bodies such as the Contact Group and Quintⁱ, as well as the US-led 'Coalition of the Willing', were the main organizations involved.

Bosnia's dysfunctional consociation has prompted a shift in the literature toward more integrative features of post-conflict arrangements (Weller & Metzger, 2008). Hence, even when power-sharing and autonomy is viewed as necessary, it has been argued that the lack of integrative features may harm stabilization and democracy in post-conflict societies (Bose, 2005; Caspersen, 2004; Weller, 2008). Proponents of complex power-sharing disapprove of the lack of integrative approaches in power-sharing settlements:

'Some settlements fail to add a sufficiently strong integrative element, to balance the autonomy. These are, technically, poor and incomplete settlements, concluded because a bad peace is better than perpetual conflict'

(Weller, 2008, p. xiii)

However, it has been suggested in the literature that international organizations involved in peacekeeping and conflict management are increasingly promoting corporate consociationalism with complex arrangements for minority rights (Choudhry, 2008; McGarry, et al., 2008). While this form of consociationalism has become increasingly unpopular, it is seen as a necessary alternative to perpetual conflict and partition (Weller, 2008). However, once more, the power-sharing literature has neglected the international role in creating de facto partition due to geopolitical concerns of wider stability and their increasing role amid a dysfunctional consociation. These designs perpetuate an ongoing external intervention and create dependency among local elites.

Indeed, recent cases like Bosnia and Herzegovina, Kosovo, and Iraq, all reveal that international organizations and great powers are taking the leading role in devising consociational institutions in conflict-prone countries where, from a mere ‘facilitator’ of elite cooperation, the international community has become a dominating party to the implementation of consociational arrangements (Bieber, 2005b, 2008; Bose, 2005; Chandler, 2005b; Cockell, 2007; Manning, 2006).

In Kosovo, the International Community has missed a vital opportunity to regulate the Kosovo conflict as early as 1999, or at least to set a clear agenda of statehood while Milosevic was still in power. This would have placed the post-Milosevic Belgrade in a new situation for which they would not feel responsible, while Kosovo Serbs would not have been offered an alternative of Belgrade’s administration. The process of Kosovo’s peace-building was dominated by the outsiders with domestic actors excluded from the type of arrangements. This flaw has minimized incentives for inter-ethnic conciliation within Kosovo, which would be a pre-requisite for a wider conciliation between Prishtina and Belgrade, rather than vice-versa. In this sense, this thesis has identified four main issues undermining consociationalism in Kosovo: the postponing of Kosovo’s final status; the domination by international agenda in

both the establishment and implementation of consociationalism; de facto partition and parallelism being stronger than the consociational design itself, and finally, a corporate type of consociationalism with minor and symbolic integrationist elements.

The findings in this thesis suggest that apart from playing with both consociationalism and de facto partition, the main problem of consociationalism in Kosovo is that the internationals forced a corporate type of consociationalism as opposed to Kosovo's demand for a type of consociationalism that promotes integrationist tendencies through the affirmation of an overarching civic identity which would cross-cut through the ethnic divide. This corporatization of ethnicity makes international involvement essential for the implementation of the deal since the deal itself emphasizes dividing, rather than uniting, elements. The ongoing international involvement since 1999 was indeed based on divisions and has inhibited local initiatives. Thus, Kosovar elites are not ready to work within a consociational framework, due to their exclusion from political processes involving regional and global agendas, which requires consistent international meddling in making the current consociational deal work.

To respond to the Kosovo Albanian elite preference for a more integrationist type of consociationalism with strong civic identity ingredients, UNOSEK introduced some trappings of liberalism by promising a review of the deal according to demographic and political developments on the ground. However, such a review never took place because of the lack of any internal consensus. In fact, minority veto powers and the weakness in the implementation of these arrangements made the review of the deal impossible, thus locking Kosovo into the caveats of ethnic politics and regional meddling.

7.2.4 Is Consociationalism a Conflict Regulating Blueprint?

Given the external imposition of Kosovo's institutional structure, and an arguably international preference for consociationalism in general, one could argue that consociational prescription suffers from the lack of proper advice for policy makers in the sense of what would be a proper setting for consociational institutions. As consociationalists themselves have argued that consociationalism is not a panacea, consociational and complex power-sharing prescriptions should at least have advice on where consociational institutions are less likely to succeed.

As each case displays different environmental factors that should determine the approach to institutional design, makes attempts at prescriptive generalizations flawed. Context-based institutional design should inform the institution-building process, rather than a set of universal prescriptions, because each case suggests these prescriptions are not equally useful for every country.

For example, McGarry and O'Leary hail the autonomy in Iraq (McGarry & O'Leary, 2007), but the autonomy in Bosnia is considered an obstacle for the workings of consociationalism, or indeed, a general privileging of formerly privileged groups is viewed as a normative flaw (McGarry & O'Leary 2006; O'Leary, 2008). The difference between Northern Ireland, Cyprus, BiH, Kosovo, Iraq, Afghanistan and other cases of internationally-imposed consociations suggests that institutional design should be crafted with full consideration for contextual factors and the participation of legitimate local elites. Negative consequences of corporate consociationalism could inform future approaches to state-building in post-conflict societies. If corporate consociation and ethno-territorial autonomy are a liability for the functioning of post-conflict societies, another approach to successful implementation of power-sharing arrangements argues that liberal consociation may be the best prescription for the democratic process to evolve in divided societies (Lijphart, 1991b, 2004; McGarry & O'Leary, 2007).

This argument is based on the proposition that the main reasons for the failure of consociationalism are inadequate mechanisms as well as their non-adaptability to the political process (Lijphart, 2004, 2008b). According to this, it can be argued that to be successful, consociations require permanent adjustment so as to adapt to demographic, political and socio-economic changes, notwithstanding the need for the political will of both international and local elites to engage in such a complex process. It may be plausible to say that these kinds of adjustments may lead Kosovo to transition towards more competitive politics with a system of control, which, as Lustick suggests, may be a more useful solution than a false and unworkable consociation (I. Lustick, 1979).

In this sense, the overall argument in this study is related to the widely accepted proposition that consociationalism has become an international blueprint for post-conflict institutional design (Aitken, 2007; Jarstad, 2007; O'Flynn, 2010; O'Leary, 2005; R. Taylor, 2009). However, although this proposition places the emphasis on international intervention, the analysis of consociationalism remains contained within the traditional canons of consociational theory. In order to assess the viability of Kosovo's consociationalism, this thesis has used a new perspective to question this proposition, namely what motivated this specific institutional design for Kosovo? The initial assumption of this research was that the IC has used a consociational toolbox perhaps modified and reduced to some extent to avoid BiH's blockage arrangements (Weller, 2008).⁸⁶

However, the evidence here suggests that the IC has had no preconceived ideas about imposing consociationalism as its preferred conflict-regulating strategy in post-war Kosovo. The findings here suggest that other motivations, including

⁸⁶ Rambouillet Accords were designed in the height of the conflict between the KLA and Serbian forces in Kosovo, while the CF was designed during international administration.

geopolitical concerns, organizational expediency, and managing the unresolved status of Kosovo were the primary concerns of international interveners. Bellow is an excerpt from the interview with the designer of Kosovo's electoral system, Daan Everts, which denies directly that consociational prescriptions informed international decisions:

Q: Did you have in mind a certain recipe, certain academic prescription about proportional representation and all these protective mechanisms for minorities, or these ideas came out of momentary sense?

A: No there was no...the OSCE particularly had a lot of experience with elections and electoral issues, electoral organization and electoral systems so there is no shortage of information on various systems and so that is only a matter of assessment-what would be appropriate in certain circumstances and I think the majority ran along...

Q: Were these people in your team...were they acquainted with the work of Arend Lijphart-the Dutch political scientist?

A: Hmm...yeah...but I don't think that has played any major role. I think it was very...in that sense it was very home grown, it was very Kosovo bred, it was not borrowed from outside. I have heard of Lijphart's story before, but not...this was really from our own experience on the ground...it was a meeting of many, many minds.

Q: OK...?

A: So what we did not do, we did not bring an expert to give us a recipe of how to do it. No, no... First of all, we were more thinking ourselves what would the situation warrant, what would be best given the circumstances? I certainly had the feeling that nothing can automatically be copied. So, there wasn't really that much to look around for. Kosovo was a very specific, unique setting...'

(Interview with Everts)

Rather than what is believed by the leading scholars that, as O’Leary argues, ‘...consociation has become the prescribed method of conflict regulation of the “international community.” (i.e., the United States when it has the support of the European Union [EU] and the United Nations [UN])’ (O’Leary, 2005, p. 3), the findings here suggest that in the case of Kosovo, the external interveners do not have an understanding of consociationalism. In fact, most international diplomats requested explanation about the term. As a senior US diplomat asked: ‘What is consociationalism or how you call it? I have Googled it and could not find anything about this term’ (Interview with Senior US diplomat 2). As evidence here suggests, in Kosovo, the US initially supported the Kosovo Albanian position for more integrative institutions. However, they buttressed the positions of the EU and the OSCE in order to ensure international unity on Kosovo policy.

Moreover, developments in Kosovo highlight a major paradox in what is practiced and what is expected by external interveners. While their practices match the consociational design of ethnic politics, their expectations are consistent with the centripetal method of conflict regulation.⁸⁷ Whereas this finding could be opposed on the grounds that, as O’Leary argues, ‘politicians have refined, innovated, and reinvented consociational institutions and practices...’ (O’Leary, 2005), the Kosovo case suggests that the motivations of external interveners as another explanatory variable matter and that they may provide for relevant explanations as to why and how consociations are established and, not least, whether they can stand (O’Leary, 2005). My point here is that the external dimension has not been explored sufficiently and as a

⁸⁷ See the citation from the interview with the former head of OSCE, Daan Everts, who was the main proponent of PR with reserved seats.

consequence, it has been under-theorized by the consociational literature (O'Leary, 2005).

The implications of this finding for complex power-sharing and consociational research include the motives of external interveners as well as the implications of the wider external dynamics in shaping an institutional design. This novel perspective can help develop a better understanding of the relationship between the international intervention as it happened and the viability of consociationalism in general. Kosovo is a crucial case of international intervention where major international organizations which have been increasingly engaged in managing various conflicts throughout the world, like the UN, the OSCE, and the EU as well as major world powers have intervened to build institutions from scratch and may transfer their experiences elsewhere including Afghanistan and Iraq.

My point here is that consociational theory has not adequately taken into account, in a nuanced way, the external international relations aspects which underpin consociations, rather focusing on internal group rivalry stemming from what can be called an international or regional conflict, such as the dissolution of the former Yugoslavia, of which both BiH and Kosovo were part. Thus, I argue here that an international relations approach to consociational theory may provide a better analysis of the causes and consequences of the external imposition of consociationalism.

7.2.5 Limitations of the Study

The main limitation of this study is the lack of interviews with Belgrade officials as well as with the officials at the UN HQ and Department for Peace-keeping Operations (DPKO). Perspectives from these sources would enrich my data and provide more evidence from which inferences about the external dimension could be made more extensive. Whereas difficulties (?) travelling to Belgrade made these contacts impossible, a lack of interviews with Belgrade

officials was compensated to some extent by looking at the statements of its key officials in charge of policies on Kosovo at given periods. Interviews with UN HQ and DPKO officials were impossible due to financial limitations. Although their perspective may be different from UN administrators who have served in Kosovo, the latter's perspective offers substantial evidence to make valid explanations about the external dimension of Kosovo's consociational design. However, future research based on the inclusion of officials from Belgrade and from the UN may enrich these explanations.

7.2.6 Quo Vadis Kosovo?

Kosovo's institutional arrangements need to look at its internal rather than external context. Whereas the external context has played a major role in the decisions about its institutional design, this approach has damaged its viability as a state and has undermined the initiation of inter-ethnic reconciliation. The main problem with the functioning of democracy in Kosovo is the electoral system based on the reserved, or indeed guaranteed, seats for minorities. While the PR electoral system itself is not considered problematic, it is argued here that the reserved seats infringe the political capacity of the political parties to deliver on the expectations of the citizens and of the EU for democratic governance and accountability. The President of Kosovo should be elected with a two-round majority vote, in order to eliminate this position from inter-party bargaining during the coalition formation. It is also argued here that centripetal institutions are not practical in Kosovo due to the demographic reality which does not create incentives for moderation. On the contrary, the demographic reality in Kosovo would have effects which are contrary from what centripetalism would expect in the sense of moderation.

In fact, the only viable solution for Kosovo would be some form of a majoritarian system obviously with strong minority guarantees. As McKinna (2012) argues, without integration of minorities, they will continue to suffer

from lack of jobs and economic opportunity which may be caused by the current system of ethnic segregation.

A similar effect is created by the reserved seats in the executive. In fact, inter-ethnic cooperation would be more meaningful if there were to be incentives for the majority party and minorities to negotiate regarding the coalition building without limiting intra-ethnic competition, which currently appears to happen in the reserved seats system. The minority Veto powers should be replaced by strong power-dividing mechanisms such as a presidential veto and judicial review. The latter exists; however, it is heavily diluted by the presence of any minority veto. With regard to autonomy, it is argued here that the policy of ethnic affirmation that existed in the former SFRY is an adequate mechanism for the protection of minorities. Their right to education in their mother tongue, including cooperation with Belgrade on cultural matters, is legitimate. However, in order to create a viable state in Kosovo, Belgrade's role in Kosovo Serb affairs should be limited to a traditional kin state role, rather than as a participant in Kosovo's political system.

7.2.7 Publication of Findings

An important criterion for a viable research is the question of whether the research constitutes publishable material. It is asserted here that this thesis can be published in several ways, including, but not limited to:

- A Monograph on Intervention and Consociationalism in Kosovo
- A review of the Power-sharing Literature on Kosovo – a Classification
- The Relationship between Judicial Review and Veto power
- Political Party Engineering in Kosovo as a Post-conflict society
- The Relationship between Regional Dimension and Group Autonomy

CONCLUSION

This thesis has attempted to shed light on the research problem raised by McGarry and O’Leary – the effectiveness of international intervention on the viability of consociationalism. It has done this by exploring the effectiveness of international intervention on the viability of consociationalism in Kosovo. John McGarry and Brendan O’Leary, who are considered the main authors of the external dimension of consociational power-sharing (Wolff, 2009), argue that international interveners merely facilitate consociationalism. Moreover, they argue that consociationalism can and should be transferred to many post-conflict societies by external fiat.⁸⁸ They base this argument on the assumption that external intervention is benign and as such, that it is intended to regulate the conflict internally.

However, they neglect the wider international and regional implications of power-sharing, as well as the influence of these external interests on the nature and functioning of consociational structures. Decisions about Kosovo’s institutional arrangements were determined, at times in an ad-hoc manner, by conflicting national interests of the great powers and international organizations. Complex consociationalism and Complex Power-sharing theory have not only acknowledged – they in fact appeal for such intervention. However, both these literatures have evaded the complexities of such intervention. In the case of Kosovo, these decisions were frequently a result of compromises aimed at maintaining unity at the UNSC, the stability of the post-Milošević coalition in Serbia or the control of the status quo in Kosovo. This status quo was a result of the great power compromise in order to forge a consensus at the UNSC about placing Kosovo under UN administration

⁸⁸ Similar approach is prescribed by the Complex Power-sharing theory (Weller and Metzger 2008).

following disagreements regarding the 1999 NATO intervention against Serbian troops. Consociationalism in Kosovo was imposed in the context of the dissolution of Yugoslavia, in which Belgrade, as a former sovereign whose jurisdiction and sovereignty was disputed by the majority of the population of Kosovo, opposed independence and statehood. Belgrade's policy was to claim sovereignty in Kosovo through control of Kosovo Serbs and by establishing jurisdiction in the majority Serb areas of Kosovo, hoping that such control would create conditions for the formal partition of Kosovo as an ultimate solution.⁸⁹

On the other side, the IC played a pivotal role in facilitating Belgrade's partitionist intervention. Kosovo Serbs, whose position as a privileged minority in Kosovo throughout the last century stemmed from their position of a majority in Serbia, were offered an alternative to power-sharing provisions: an alternative which meant that if they could continue to be a privileged and ruling group in Kosovo, they could at least continue to be privileged under Belgrade's jurisdiction.⁹⁰ Thus, international intervention has manoeuvred along the lines of international interests for the stability of the post-Milošević regime in Belgrade, as well as maintaining unity in the UNSC, by creating a botched type of consociationalism, paralleled by strong partitionist tendencies driven by Belgrade. This entails that intervention in Kosovo has created a political system in which both consociationalism and de facto partition, two contradictory conflict-regulating mechanisms, are facilitated and function simultaneously through international fiat.

⁸⁹ Partition of Kosovo has been frequently advocated by the top Belgrade officials, including the late Serbian Premier Djindjic as well as the current Prime Minister, Ivica Dacic.

⁹⁰ A relative equality was established between 1974 – 1989 when Kosovo's status was advanced from an autonomous region of Serbia into autonomous province of Serbia and Yugoslavia. Still, Kosovo Serbs continued to be overrepresented in public employment, both in administration and in economy.

The point here is that the International Community has created a botched type of consociationalism which is self-undermining because it was based on external policy priorities and dynamics, side-lining the option of an organic growth of power-sharing as part of a viable peace process. The main reason for this was the international failure to determine, or to set a clear agenda for Kosovo's final status, which has placed the self-determination dispute between Kosovo Albanians and Belgrade at the centre of political conflict within Kosovo's institutions. Thus, the core hypothesis which has emerged throughout the research was that as a consequence of the unresolved self-determination dispute, the International Community has managed rival claims over Kosovo by imposing consociational self-government to the Kosovo Albanian majority on the one side, but also paradoxically facilitating de facto partition by conspiring to allow Belgrade's administration of majority Serb areas, on the other.

Therefore, the evidence here suggests that the viability of imposed consociationalism is significantly determined by the motivations of external actors, which in turn determines the degree to which local actors are involved in shaping the nature of the institutions developed. In the case of Kosovo, the policy choices of the International Community were shaped by geopolitical concerns involving Great Power politics and regional powers, rather than by a pre-conceived policy agenda, or indeed, the desires of the local actors. Hence, the case of Kosovo suggests that international intervention has undermined the viability of consociationalism because it has forced an unsustainable state model which is based both on the logic of power-sharing and de facto partition.

BIBLIOGRAPHY

- Abazi, B. (2011) 'Kosovë: Arrihet marrëveshja për presidentin, shmangen zgjedhjet e jashtëzakonshme [Kosovo: Agreement on President Reached, Extraordinary Elections Avoided]', Voice of America, 7 April, available: <http://www.voanews.com/albanian/news/balkans/Kosove-Arrihet-marreveshja-per-presidentin-shmangen-zgjedhjet-e-jashtezakonshme-119359684.html> [accessed 4 May 2012].
- Abrahams, F. (1996) 'Persecution Persists: Human Rights Violations in Kosovo', YUGOSLAVIA (Serbia and Montenegro) [online], available: <http://www.hrw.org/legacy/reports/1996/Serbia.htm> [accessed 22 August 2012].
- Aderbach, J. D. and Rockman, B. A. (2002) 'Conducting and Coding Elite Interviews', *Political Science and Politics*, 35(December), 673-676.
- Aitken, R. (2007) 'Cementing Divisions? An assesment of the impact of international interventions and peacebuilding policies on ethnic identities and divisions', *Policy Studies*, 28(3), 247-267.
- Almond, G. A. (1956) 'Comparative Political Systems', *The Journal of Politics*, 18(3), 391-409.
- Andeweg, R. B. (2000) 'Consociational Democracy', *Annual Review of Political Science*, 3(1), 509-536.
- Assembly of Kosovo (2006) 'Law on the Use of Languages', [online], available: http://www.kuvendikosoves.org/common/docs/ligjet/2006_02-L37_en.pdf [accessed 1 December 2011].
- Assembly of Kosovo (2008a) 'Electronic voting results from the Assembly Session held on 20 February 2008', Assembly Transcript Unit [online], available: http://www.assembly-kosova.org/common/docs/voting/2008_02_20_12_01_1_1.txt [accessed 9 September 2012].
- Assembly of Kosovo (2008b) 'Results form electronic voting in the Kosovo Assembly in the Session of 17 February', [online], available: <http://www.assembly-kosova.org/common/docs/voting/> [accessed 8 September 2012].

- Assembly of Kosovo (2011a) 'Legislation adopted by the Assembly of Kosovo between 2002-2011', [online], available: http://www.assembly-kosova.org/common/docs/ligjet/Evidenca_e_ligjeve-anglisht.pdf [accessed 1 December 2011].
- Assembly of Kosovo (2011b) 'Transkript nga mbledhja e jashtëzakonshme plenare a Kuvendit të Republikës së Kosovës, të mbajtur më 7.04. 2011 [Transcript of the Extraordinary Plenary Session fo the Assembly of the Republic of Kosovo, held on 07.04.2011]', [online], available: http://www.assembly-kosova.org/common/docs/proc/trans_s_2011_04_07_18_al.pdf [accessed April 7 2011].
- Aybet, G. (2010) 'NATO Conditionality in Bosnia and Herzegovina: Defense Reform and State-Building', *Problems of Post-Communism*, 57(5), 20-34.
- B92 (2001) 'Kostunica sa poslanicima Koalicije "Povratak" [Kostunica with Koalicija Povratak Deputies]', B92, (8 December)available: http://www.b92.net/info/vesti/index.php?yyyy=2001&mm=12&dd=08&nav_category=1&nav_id=54871 [accessed 27 June 2012].
- B92 (2007) 'Hronologija Parlamentarnih Izborâ [Chronology of Parliamentary Elections]', (21 January)available: http://www.b92.net/info/vesti/index.php?yyyy=2007&mm=01&dd=21&nav_category=418&nav_id=228593 [accessed 26 June 2012].
- B 92 (2002) 'Čović: Koalicija Povratak nema razloga da žuri u Skupštinu [Čović: Coalition Return has no reason to return to the Assembly]', B92, (29 November)available: http://www.b92.net/info/vesti/index.php?yyyy=2002&mm=11&dd=29&nav_category=11&nav_id=77162 [accessed 27 June 2012].
- B 92 (2012) 'Serbia's platform on Kosovo and Metohija', (26 December), News Article, available: http://www.b92.net/eng/insight/strategies.php?yyyy=2012&mm=12&nav_id=83846 [accessed 8 March 2013].
- Bajraliu, B. (2010) 'Kelmendi: U shkarkova, se nuk lejova dy gjykata apeli, një në Prishtinë e tjetrën në veri [I was dismissed because I did not allow two appeal courts, one in Prishtina and one in the north]', *Koha Ditore*, 4 July, 2010, 4.

- Batakovic, D. T. (1999) 'The Cantonization of Kosovo-Metohija-A Proposal', [online], available: http://www.academia.edu/2537082/The_Cantonization_of_Kosovo-Metohija_A_Proposal Accessed 3 March, 2013.
- BBC Albanian (2006) 'Çeku konfirmon letrën e LDK-së [Çeku confirms LDK's Letter]', (3 August)available: http://www.bbc.co.uk/albanian/news/2006/08/060803_kosovopm.shtml [accessed 5 February 2012].
- Belloni, R. (2009) 'Bosnia: Dayton is Dead! Long Live Dayton!', *Nationalism & Ethnic Politics*, 15(3/4), 355-375.
- Bieber, F. (2005a) 'The Challenge of Institutionalizing Ethnicity in the Western Balkans: Managing Change in Deeply Divided Societies' in *European Yearbook of Minority Issues Vol 3, 2003/4*, The Netherlands: Koninklijke Brill NV, 89-107.
- Bieber, F. (2005b) 'Power Sharing after Yugoslavia: Functionality and Dysfunctionality of Power-sharing Institutions in Post-war Bosnia, Macedonia, and Kosovo' in Noel, S., ed. *From Power Sharing to Democracy. Post-conflict Institutions in Ethnically Divided Societies*, Montreal, Kingston: McGill-Queen's University Press, 85-104.
- Bieber, F. (2008) 'Power-sharing and International Intervention: Overcoming the Post-conflict Legacy in Bosnia and Herzegovina' in Weller, M. and Metzger, B., eds., *Settling Self-determination Disputes: Complex Power-sharing in Theory and Practice*, Leiden and Boston: Martinus Nijhoff Publishers, 193-242.
- Bieber, F. and Kiel, S. (2009) 'Power-sharing revisited: Lessons learned in the Balkans?', *Review of Central and East European Law*, 34(4), 337-360.
- Bogaards, M. (1998) 'The favourable factors for consociational democracy: A review', *European Journal of Political Research*, 33(4), 475-496.
- Borgh, C. v. d. (2012) 'Resisting International State Building in Kosovo', *Problems of Post-Communism*, 59(2), 31-42.
- Bose, S. (2005) 'The Bosnian State a decade after Dayton', *International Peacekeeping*, 12(3), 322-335.
- Brand, M. (2003) 'The Development of Kosovo Institutions and the Transition of Authority from UNMIK to Local Self-Government', available: <http://www.isn.ethz.ch/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=20295> [accessed 17 May, 2010].

- Capussela, A. (11 November 2012) 'Fundi i mbikëqyrjes? [The end of supervision?]', Koha Ditore, available: <http://www.koha.net/?page=1,9,115014> [accessed 13 September 2012].
- Caspersen, N. (2004) 'Good Fences Make Good Neighbours? A Comparison of Conflict-Regulation Strategies in Postwar Bosnia', *Journal of Peace Research*, 41(5), 569-588.
- Central Election Commission (2007) 'Counting and Results Centre Election Results-Detailed Results by Municipalities including by Mail Votes', [online], available: <http://www.osce.org/kosovo/38257> [accessed 8 September 2012].
- Central Election Commission (2009) 'Final Results from C&RC – Municipal Results (seat division) ', [online], available: <http://www.kqz-ks.org/SKQZ-WEB/al/zgjedhjetekosoves/materiale/rezultatet2009/komune/ResultsByMunicipality.pdf> [accessed 3 May 2012].
- Central Election Commission (2010) 'Zgjedhjet për Kuvendin e Republikës së Kosovës [Elections for the Assembly of the Republic of Kosovo]', [online], available: http://www.kqz-ks.org/Uploads/Documents/rezultatet_e_pergjithshme_eyeodbpohj.pdf [accessed 13 April 2012].
- Chandler, D. (2005a) 'From Dayton to Europe', *International Peacekeeping* (13533312), 12(3), 336-349.
- Chandler, D. (2005b) 'Introduction: Peace without Politics?', *International Peacekeeping*, 12(3), 307 - 321.
- Choudhry, S. (2008) 'Bridging comparative politics and comparative constitutional law: Constitutional design in divided societies' in Choudry, S., ed. *Constitutional Design for Divided Societies*, New York: Oxford University Press, 3-40.
- Constitution of the Republic of Kosovo (2008) [online], available: <http://www.kushtetutakosoves.info/repository/docs/Constitution.of.the.Republic.of.Kosovo.pdf> Accessed 4 February, 2011.
- Contact Group (2005) 'Guiding principles of the Contact Group for a settlement of the status of Kosovo', [online], available: <http://www.unosek.org/unosek/en/docref.html> [accessed 4 April 2012].
- Covey, J. (2011a) 'The Custodian of the Peace Process' in Covey, J., Dziedzic, M. and Hawley, L. L., eds., *The Quest for Viable Peace: International Intervention and*

- Strategies for Conflict Transformation, Washington, D.C. and Arlington: United States Institute for Peace Press and Association of the United States Army, 77-98.
- Covey, J. (2011b) 'Making a Viable Peace: Moderating Political Conflict' in Covey, J., Dziedzic, M. and Hawley, L. R., eds., *The Quest for Viable Peace: International Intervention and Strategies for Conflict Transformation*, Washington, D.C. and Arlington: United States Institute for Peace Press and Association of the United States Army, 99-122.
- Daalder, H. (1971) 'On building consociational nations: the cases of the Netherlands and Switzerland', *International Social Science Journal*, 23(3), 355.
- Daalder, H. (1974) 'The Consociational Democracy Theme', *World Politics*, 26(4), 604-621.
- Dahlman, C. T. and Williams, T. (2010) 'Ethnic Enclavisation and State Formation In Kosovo', *Geopolitics*, 15(2), 406-430.
- Dell, C. W. (2012) Interview with Radio Television of Kosovo Programme in Serbian Language: March 7, 2012 [Radio Television of Kosovo],
- den Boer, N. and van der Borgh, C. (2011) 'International Statebuilding and Contentious Universities in Kosovo', *Journal of Intervention and Statebuilding* 5(1), 67-88.
- Diplomatic Report (2001) Haekkerup presents Legal Framework for PISG, Prishtina: Anonymous, unpublished.
- Diplomatic Report (2002a) Kosovo Assembly Adopts Resolution on 'Territorial Integrity of Kosovo', Prishtina: Anonymous, unpublished.
- Diplomatic Report (2002b) Report on Education Law in Kosovo 1, Prishtina: Anonymous, unpublished.
- Diplomatic Report (2003) Report on Higher Education in Kosovo 2, Prishtina: Anonymous, unpublished.
- Doc. Dr. Slavisa Orlovic (2008) 'Parlamentarni izbori (1990-2008): Dokumentacioni prilog, (Parliamentary election, 1990-2008: Documentary contribution', [online], available: <http://www.politikolog.com/sr/node/57> Accessed 26 June, 2012.
- Doli, D. and Korenica, F. (2013) 'The Consociational System of Democracy in Kosovo: Questioning Ethnic Minorities' Special Status in Kosovo's Constitutional Regime', *International Journal of Public Administration*, 36(9), 601-613.

- Ebbinghaus, B. (2005) 'When Less is More: Selection Problems in Large- N and Small- N Cross-National Comparisons', *International Sociology*, 20(2), 133-152.
- ECMI Kosovo (2010) 'Novobërdë / Novo Brdo', [online], available: http://www.ecmi-map.com/map/index.php?option=com_content&view=category&layout=blog&id=55&Itemid=82&lang=en Accessed 15 November, 2012.
- EU Presidency (2002) 'Summary: June 26, 2002: EU Statement at the Security Council on Kosovo', [online], available: http://www.eu-un.europa.eu/articles/en/article_1460_en.htm [accessed 11 April 2012].
- Evera, S. V. (1997) *Guide to Methods for Students of Political Science*, Ithaca and London: Cornell University Press.
- Everts, D. (2001) 'The OSCE Mission in Kosovo — Two Years into Institution Building', *Helsinki Monitor*, 12(4), 245-256.
- Farquharson, K. (2005) 'A Different Kind of Snowball: Identifying Key Policymakers', *International Journal of Social Research Methodology*, 8(4), 345-353.
- Feroz, A. (1993) *The Making of Modern Turkey*, London: Routledge.
- Garrigues, J. (2007) 'De Jure vs De facto a pyrrhic victory in Kosovo', FRIDE Comment [online], available: www.fride.org/download/kosovo2.pdf.
- Gazeta Express (8 May, 2010) 'Probleme me leje [Problems with License]', available: <http://lajme.shqiperia.com/lajme/artikull/iden/1046862900/titulli/Probleme-me-leje> [accessed 31 December 2012].
- Gerring, J. (2004) 'What Is a Case Study and What Is It Good for?', *American Political Science Review*, 98(02), 341-354.
- Gerring, J. (2008) 'Case Selection for Case-Study Analysis: Qualitative and Quantitative Techniques' in Box-Steffensmeier, J. M., Brady, H. E. and Collier, D., eds., *The Oxford Handbook of Political Methodology*, New York: Oxford University Press Inc., 645-684.
- Gjoni, R., Wetterberg, A. and Dunbar, D. (2010) 'Decentralization as a conflict transformation tool: The challenge in Kosovo', *Public Administration and Development*, 30(5), 291-312.
- Glas Javnosti (2001) 'Najviše kandidata iz DSS-a (Majority of candidates from DSS)', (10 November) available: <http://arhiva.glas->

- javnosti.rs/arhiva/2001/11/10/srpski/P01110915.shtml [accessed 27 June 2012].
- Government of Serbia (2004a) 'A Plan for the Political Solution of the Situation in Kosovo and Metohija ', [online], available:
www.cpi.hr/download/links/hr/11175.pdf Accessed 9 May, 2013.
- Government of Serbia (2004b) 'Plan for the political solution to the situation in Kosovo and Metohija', Documents [online], available:
<http://www.srbija.gov.rs/kosovo-metohija/index.php?id=35023> Accessed 10 May, 2013.
- Government of Serbia (2006a) 'Platform on the Future Status of Kosovo and Metohija', [online], available:
http://www.b92.net/eng/insight/strategies.php?yyyy=2006&mm=06&nav_id=35257 Accessed 9 May, 2013.
- Government of Serbia (2006b) 'Platform on the Future Status of Kosovo and Metohija1', [online], available: <http://www.srbija.gov.rs/kosovo-metohija/index.php?id=23974> Accessed 10 May, 2013.
- Government of Serbia (2007) 'Amendments to Comprehensive Proposal For the Kosovo Status Settlement by the Negotiating Team of the Republic of Serbia', [online], available:
http://www.media.srbija.gov.rs/medeng/documents/amendments_eng.pdf
Accessed 10 May, 2013.
- Hehir, A. (2006) 'Autonomous province building: Identification theory and the failure of UNMIK', *International Peacekeeping*, 13(2), 200-213.
- Hehir, A. (2010a) 'The Efficacy of the International Administration's Policy of Coerced Co-operation in Kosovo ', in *SGIR 7th PAN-EUROPEAN CONFERENCE 2010*, Stockholm, <http://stockholm.sgir.eu/>: ECPR Standing Group on International Relations.
- Hehir, A., ed. (2010b) *Kosovo, Intervention and Statebuilding: The international community and the transition to independence*, London and New York: Routledge.
- Hensell, S. and Gerdes, F. (2012) 'Elites and International Actors in Post-War Societies: The Limits of Intervention', *International Peacekeeping*, 19(2), 154-169.

- Hoddie, M. and Hartzell, C. (2005) 'Power Sharing in Peace Settlements: Initiating Transition from Civil War' in Roeder, P. G. and Rothchild, D., eds., *Sustainable Peace: Power and Democracy after Civil Wars*, Ithaca and London: Cornell University Press, 83-106.
- Horowitz, D. L. (1991) 'Making Moderation Pay: The Comparative Politics of Ethnic Conflict Management' in Montville, J. V., ed. *Conflict and Peacemaking in Multiethnic Societies*, Lexington: Lexington Books, 451-476.
- Hurwitz, L. (1973) 'Contemporary Approaches to Political Stability', *Comparative Politics*, 5(3), 449-463.
- ICG (2003) *Kosovo's ethnic dilemma: the need for a civic contract*, Prishtina/Brussels: International Crisis Group.
- ICG (2011) *North Kosovo: Dual Sovereignty in Practice*, 211, Prishtina, Mitrovica, Brussels: International Crisis Group.
- Ilievski, Z. and Wolff, S. (2009) 'Resolving Self-determination Disputes in the Western Balkans: Towards Complex Power-sharing?', in *Annual World Convention of the Association for the Study of Nationalities*, New York, 23-15 April 2009, New York:
- International Civilian Office (2009) 'Report of the International Civilian Office to the International Steering Group', [online], available: <http://www.ico-kos.org/d/ISG%20report%20finalENG.pdf> [accessed 7 April 2012].
- International Steering Group (2012) 'Fourteenth meeting of the International Steering Group for Kosovo: 24th January 2012, Vienna', [online], available: <http://www.ico-kos.org/?id=10> [accessed 26 February 2012].
- Iyer, V. (2007) 'Enforced consociationalism and deeply divided societies: some reflections on recent developments in Fiji', *International Journal of Law in Context*, 3(02), 127-153.
- Jarstad, A. (2007) 'To Share or to Divide? Negotiating the Future of Kosovo', *Civil Wars*, 9(3), 227-242.
- Jenne, E. K. (2009) 'The Paradox of Ethnic Partition: Lessons from de facto Partition in Bosnia and Kosovo', *Regional & Federal Studies*, 19(2), 273-289.
- Joseph, J. S. (2009) 'Cyprus: Domestic Ethnopolitical Conflict and International Politics', *Nationalism & Ethnic Politics*, 15(3/4), 376-397.

- Kaufmann, C. (1998) 'When All Else Fails: Ethnic Population Transfers and Partitions in the Twentieth Century', *International Security*, 23(2), 120-156.
- Kelly, B. B. (2007) *An Exploration of the Relationship between Consociationalism and Stability in Plural Societies throughout the World*, unpublished thesis (PhD thesis), Trinity College Dublin. The University of Dublin.
- Kliot, N. and Mansfield, Y. (1997) 'The political landscape of partition : The case of Cyprus', *Political Geography*, 16(6), 495-521.
- Knoll, B. (2007) 'Legitimacy and UN-Administration of Territory', *German Law Journal*, 8(1), 39-56.
- Korenica, F. and Doli, D. (2010) 'Politics of Constitutional Design in Divided Societies: The Case of Kosovo' in *Croatian Yearbook of European Law & Policy*, Zagreb: 265-292.
- Kosovo Agency of Statistics (2012) 'Kosovo Population and Housing Census 2011: Final Results - Main Data', 210, available: http://esk.rks.gov.net/rekos2011/repository/docs/Final%20Results_ENG.pdf [accessed 30 November 2012].
- Kosovo Humanitarian Community Information Center (2000) 'Ethnic Majorities Map 1991', [online], available: <http://euroheritage.net/kosovoethnicmap.JPG> [accessed 1 December, 2012].
- Kouchner, B. (1999) Foreword - Human Rights in Kosovo: as seen as told, 2, Prishtina: OSCE Mission in Kosovo.
- Kurir (2007) 'Srbima trecina Kosova [A Third of Kosovo to the Serbs]', *Kurir*, (15 August) available: <http://arhiva.kurir-info.rs/Arhiva/2007/avgust/15/V-05-15082007.shtml> [accessed 10 May 2013].
- KUT (2006a) *Basic Principles of Local Government Reform in Kosovo*, February, Prishtina: Kosovo Unity Team, unpublished.
- KUT (2006b) Confidential communication, 11 March, Prishtina: Kosovo Unity Team, unpublished.
- KUT (2006c) Internal Report, Prishtina: Kosovo Unity Team, unpublished.
- KUT (2006d) *Issues on the Final Status of Kosovo: Minority Rights Protection 1 March*, Prishtina: Kosovo Unity Team, unpublished.
- KUT (2006e) Letter to UNOSEK, 12 June, Prishtina: Kosovo Status Delegation, unpublished.

- KUT (2006f) Task Force New Municipalities, 15 April, Prishtina: Kosovo Unity Team, unpublished.
- KUT and UNOSEK (2006) Decentralization - UNOSEK technical mission: Questions and Responses, 8 March, Prishtina: UNOSEK and KUT, unpublished.
- Lantschner, E. (2008) 'Protection of Minority Communities in Kosovo: Legally Ahead of European Standards—Practically Still a Long Way to Go', *Review of Central & East European Law*, 33(4), 451-490.
- Leech, B. L. (2002) 'Asking Questions: Techniques for Semistructured Interviews', *PS: Political Science & Politics*, 35(04), 665-668.
- Lehmbruch, G. (1993) 'Consociational Democracy and Corporatism in Switzerland', *Publius*, 23(2), 43-60.
- Lijphart, A. (1969) 'Consociational Democracy', *World Politics*, 21(2), 207-225.
- Lijphart, A. (1971) 'Comparative Politics and the Comparative Method', *The American Political Science Review*, 65(3), 682-693.
- Lijphart, A. (1975) 'Review: The Northern Ireland Problem; Cases, Theories, and Solutions', *British Journal of Political Science*, 5(1), 83-106.
- Lijphart, A. (1977) *Democracy in Plural Societies: A Comparative Exploration*, New Haven: Yale University Press.
- Lijphart, A. (1984) 'Time politics of accommodation: Reflections-Fifteen years later', *Acta Politica*, 19(1), 9-18.
- Lijphart, A. (1985a) 'Non-Majoritarian Democracy: A Comparison of Federal and Consociational Theories', *Publius*, 15(2), 3-15.
- Lijphart, A. (1985b) 'Power-sharing in South Africa', *Policy papers in international affairs*, (24).
- Lijphart, A. (1991) 'Self-Determination Versus Pre-Determination of Ethnic Minorities in Power-Sharing Systems' in Schneiderman, D., ed. *Language and the State: The Law and Politics of Identity*, Cowansville: Editions Yvon Blais, 153-165.
- Lijphart, A. (2002) 'The Evolution of Consociational Theory and Consociational Practices, 1965-2000', *Acta Politica*, 37(1/2), 22.
- Lijphart, A. (2004) 'Constitutional design for divided societies', *Journal of Democracy*, 15(2), 96-109.
- Lijphart, A. (2008) *Thinking About Democracy: Power sharing and majority rule in theory and practice*, New York: Routledge.

- Lorwin, V. R. (1971) 'Segmented Pluralism: Ideological Cleavages and Political Cohesion in the Smaller European Democracies', *Comparative Politics*, 3(2), 141-175.
- Mahoney, J. (2007) 'Qualitative Methodology and Comparative Politics', *Comparative Political Studies*, 40(2), 122-144.
- Malcolm, N. (1998) *Kosovo: A Short History*, London: Macmillan.
- Maleskic, I. (2010) *Organizational Culture of Bosnian and Herzegovinian Military*, Strategy Research Project, Carlisle: U.S. Army War College, unpublished.
- Manning, C. (2006) 'Political Elites and Democratic State-building Efforts in Bosnia and Iraq', *Democratization*, 13(5), 724 - 738.
- McGarry, J. (2008) 'Power-sharing Theory: Lessons from Complex Power-sharing Project' in Weller, M. and Metzger, B., eds., *Settling Self-determination Disputes: Complex Power-sharing in Theory and Practice*, Leiden: Martinus Nijhoff Publishers, 691-719.
- McGarry, J. and O'Leary, B. (2004) *The Northern Ireland Conflict: Consociational Engagements* Oxford University Press.
- McGarry, J. and O'Leary, B. (2006a) 'Consociational Theory, Northern Ireland's Conflict, and its Agreement 2. What Critics of Consociation Can Learn from Northern Ireland', *Government & Opposition*, 41(2), 249-277.
- McGarry, J. and O'Leary, B. (2006b) *Northern Ireland Conflict: Consociational Engagements*, Oxford: Oxford University Press.
- McGarry, J. and O'Leary, B. (2007) 'Iraq's Constitution of 2005: Liberal consociation as political prescription', *ICON*, 5(4), 670-698.
- McGarry, J., O'Leary, B. and Simeon, R. (2008) 'Integration or accommodation? The enduring debate in conflict regulation' in Choudhry, S., ed. *Constitutional Design for Divided Societies*, New York: Oxford University Press, 41-88.
- McKinna, A. (2012) 'Kosovo: The International Community's European Project', *European Review*, 20(1), 10-22.
- Mesquita, B. B. d. and Downs, G. W. (2006) 'Intervention and Democracy', *International Organization*, 60, 627-649.
- Ministarstvo Drzavne Uprave i Lokalne Samouprave Srbije (2010) 'Lista brisanih stranaka [List of deleted political parties]', [online], available: <http://www.drzavnauprava.gov.rs/article.php?id=785> [accessed 13 April 2012].

- Ministarstvo Pravde i Drzavne Uprave Srbije (2011) 'Izvod registrovanih politickih stranaka [List of registered political parties]', [online], available: <http://www.drzavnauprava.gov.rs/article.php?id=784> [accessed 13 April 2012].
- Munck, G. (2004) 'Tools for Qualitative Research' in Collier, H. E. B. a. D., ed. Rethinking Social Inquiry. Diverse Tools, Shared Methods, USA: Rowman & Littlefield Publishers, Inc., 105-121.
- National Assembly of the Republic of Serbia (2004) 'Resolution on Kosovo and Metohija ', [online], available: <http://www.srbija.gov.rs/kosovo-metohija/index.php?id=8887> Accessed 10 May, 2013.
- National Assembly of the Republic of Serbia (2005) 'Resolution of the National Assembly of the Republic of Serbia on a Mandate for Political Talks on the Future Status of Kosovo and Metohija ', Documents [online], available: <http://www.srbija.gov.rs/kosovo-metohija/index.php?id=20797> Accessed 10 May, 2013.
- Nenad Lj. Stefanovic (2001,) 'Bojkot, glasanje, svada (Boycott, Voting, Wrangle)', Vreme, (568, 22 November)available: <http://www.vreme.com/cms/view.php?id=302178> [accessed 22 November 2011].
- Nenadović, M. (2010) 'An uneasy symbiosis: the impact of international administrations on political parties in post-conflict countries', Democratization, 17(6), 1153 - 1175.
- Nikolic, S. (2003) 'Poslanici koalicije "Povratak" i nasi aktuleni politicari "otkrili" tajne poteza Mihaela Stajnera i siptarskih separatista [KP's deputies and our politicians 'discovered' secret acts of Michael Steiner and of Albanian separatists]', Artel Geopolitika [online], available: <http://www.mail-archive.com/sin@antic.org/msg05122.html> [accessed 27 June 2012].
- Nitaj, M. (2007) 'PDK e LDK në qeverinë e përbashkët [PDK and LDK in a Joint Executive]', BBC Albanian, (26 December)available: http://www.bbc.co.uk/albanian/regionalnews/2007/12/071226_nitaj_government.shtml [accessed 2 May 2012].
- Norris, P. (2008) Driving Democracy. Do Power-sharing Institutions Work?, New York: Cambridge University Press.

- O'Flynn, I. (2010) 'Deliberative Democracy, the Public Interest and the Consociational Model', *Political Studies*, 58(3), 572-589.
- O'Leary, B. (1989) 'The Limits to Coercive Consociationalism in Northern Ireland', *Political Studies*, 37(4), 562-588.
- O'Leary, B. (1997) 'The Conservative Stewardship of Northern Ireland, 1979-97: Sound-bottomed Contradictions or Slow Learning?', *Political Studies*, 45(4), 663-675.
- O'Leary, B. (2001) 'The Elements of Right-Sizing and Right-Peopling the State' in O'Leary, B., Lustick, I. and Callaghy, T., eds., *Right-sizing the State: The Politics of Moving Borders*, New York: Oxford University Press, 15-73.
- O'Leary, B. (2005) 'Debating Consociational Politics: Normative and Explanatory Arguments' in Noel, S., ed. *From Power Sharing to Democracy. Post Conflict Institutions in Ethnically Divided Societies*, Montreal and Kingston: McGill-Queen's University Press, 3-43.
- O'Leary, B. (2006) 'Debating Partition: Justifications, Critiques and Evaluation', *MFPP Working Paper 28*, 28), 30.
- O'Leary, B. (2007) 'Analysing partition: Definition, classification and explanation', *Political Geography*, (26), 886-908.
- O'Leary, B. (2008) 'Complex Power-sharing in and over Northern Ireland: A Self-determination Agreement, a Treaty, a Consociation, a Federacy, Matching Confederal Institutions, Intergovernmentalism, and a Peace Process' in Weller, M. and Metzger, B., eds., *Settling Self-determination Disputes: Complex Power-sharing in Theory and Practice*, Leiden: Martinus Nijhoff Publishers, 61-124.
- O'Leary, B. and McGarry, J. (1993) *The Politics of Antagonism: Understanding Northern Ireland, Conflict and Change in Britain*, London and Atlantic Highlands, NJ: The Athlone Press.
- Obradović-Wochnik, J. (2011) 'Kosovo: A Way To Go', *The World Today*, February (February), 7-9, available: <http://www.chathamhouse.org/publications/twt> [accessed 5 January 2013].
- OSCE (2008) 'Parallel Structures in Kosovo: 2006-2007', [online], available: www.osce.org/kosovo [accessed 10 September 2010].

- OSCE Mission in Kosovo (2001a) 'Certified Results of 2001 Parliamentary elections', [online], available: <http://www.osce.org/kosovo> [accessed 10 September 2010].
- OSCE Mission in Kosovo (2001b) 'Head of Mission welcomes certification of Kosovo Serb citizens' initiative ', [online], available: <http://www.osce.org/kosovo/53840> [accessed 27 June 2012].
- OSCE Mission in Kosovo (2003) 'Parallel Structures in Kosovo', [online], available: <http://www.osce.org/kosovo/42584> [accessed 11 November 2011].
- OSCE mission in Kosovo (2007) Assessment of the work of the Assembly of Kosovo: Compilation of the monitoring reports, 5 August 2006-30 November 2007, Prishtina: OSCE Mission in Kosovo.
- Owen, J. M. (2002) 'The Foreign Imposition of Domestic Institutions', *International Organization*, 26(2), 375-409.
- Pacolli, B. (2011) Interview on Zona B Zona e debatit, Prishtina: TV Klan Kosova, 7 Apr, 20:30, [Podcast], 120 minutes. Available <http://klankosova.tv/index.php/zona-e-debatit/7063-interviste-me-behgjet-pacollin-2.html>
- Peabody, R. L., Hammond, S. W., Torcom, J., Brown, L. P., Thompson, C. and Kolodny, R. (1990) 'Interviewing Political Elites', *PS: Political Science and Politics*, 23(3), 451-455.
- Qirezi, A. (2002a) 'Elections Marred by Political Killing', *Balkan Crisis Report*, (378)available: <http://iwpr.net/report-news/kosovo-election-marred-political-killing> [accessed 11 April 2012].
- Qirezi, A. (2002b) 'Kosovo Talks Stall after Djindjic Murder', *Balkan Crisis Report*, (417)available: <http://iwpr.net/report-news/kosovo-talks-stall-after-djindjic-murder> [accessed August 1, 2011].
- Qirezi, A. (2004a) 'LDK Takes a Stand on Kosovo Violence', *Balkan Crisis Report*, (400)available: <http://iwpr.net/report-news/ldk-takes-stand-kosovo-violence> [accessed 10 March 2013].
- Qirezi, A. (2004b) 'Old Foes Unite to Form New Kosovo Government', *Balkand Crisis Report*, (528)available: <http://iwpr.net/report-news/old-foes-unite-form-new-kosovo-government> [accessed September 23, 2011].
- Qosaj-Mustafa, A. (2011) 'Kosovo' in Walker, C., ed. *Nations in Transit 2011*, New York: Freedom House, 285-302.

- Ragin, C. C. (2004) 'Turning the Tables: How Case-Oriented Research Challenges Variable-Oriented Research' in Brady, H. E. and Collier, D., eds., *Rethinking Social Inquiry. Diverse Tools, Shared Standards*, USA: Rowman and Littlefield Publishers, Inc., 123-138.
- Republican Electoral Commission of the Republic of Serbia (2008a) 'Izborne liste za izbore za narodne poslanike u Narodnu skupstinu Republike Srbije [Electoral lists for the election of people's deputies in the People's Assembly of the Republic of Serbia]', [online], available: http://www.rik.parlament.gov.rs/cirilica/propisi_frames.htm [accessed 26 June 2012].
- Republican Electoral Commission of the Republic of Serbia (2008b) 'Rezultati izbora (Local Election Results)', [online], available: http://www.rik.parlament.gov.rs/cirilica/propisi_frames.htm [accessed 26 June 2012].
- Rivera, S. W., Kozyreva, P. M. and Sarovskii, E. G. (2002) 'Interviewing Political Elites: Lessons from Russia', *PS: Political Science & Politics*, 35(04), 683-688.
- Roeder, P. G. and Rothchild, D., eds. (2005) *Sustainable Peace: Power and Democracy after Civil Wars*, Ithaca: Cornell University Press.
- Rucker, J. (2007) 'Development of new Parallel Structures in Kosovo Serbian inhabited areas', UNMIK Cable, (UNMIK/59), 30, available: <http://www.scribd.com/doc/8007197/New-Parallel-Structures> [accessed 15 April 2013].
- Sabri Hamiti and other Deputies Pristina Constitutional Review of the Decision of the Assembly of the Republic of Kosovo concerning the election of the President of the Republic of Kosovo (2011) 04-V-04(19).
- Saldaña, J. (2009) *The Coding Manual for Qualitative Researchers*, Cornwall: Sage Publications Ltd.
- Sartori, G. (1977) *Parties and Party Systems: A framework for analysis*, New York: Cambridge University Press.
- Schneckener, U. (2002) 'Making Power-Sharing Work: Lessons from Successes and Failures in Ethnic Conflict Regulation', *Journal of Peace Research*, 39(2), 203-228.
- Schneckener, U. (2008) 'Third-party Involvement in Self-determination Conflicts' in Weller, M. and Metzger, B., eds., *Settling Self-determination Disputes:*

- Complex Power-sharing in Theory and Practice, Leiden: Martinus Nijhoff Publishers, 467-500.
- Seawright, J. and Collier, D. (2004) 'Glossary' in Brady, H. E. and Collier, D., eds., *Rethinking Social Inquiry: Diverse Tools, Shared Standards*, New York: Rowman & Littlefield Publishers, Inc., 273-314.
- Seawright, J. and Gerring, J. (2008) 'Case Selection Techniques in Case Study Research: A Menu of Qualitative and Quantitative Options', *Political Research Quarterly*, 61(2), 294-308.
- Simonsen, S. G. (2005) 'Addressing Ethnic Divisions in Post-Conflict Institution-Building: Lessons from Recent Cases', *Security Dialogue*, 36(3), 297-318.
- Spaic, T. (2010) 'US force Sejdiu into resignation to postpone dialogue ', *Blic Online*, (30 September 2010) available: <http://english.blic.rs/News/6923/US-force-Sejdiu-into-resignation-to-postpone-dialogue> [accessed 10 May, 2012].
- Staletović, L. (2001) 'Za opstanak i povratak Srba [For Existence and Return of Serbs]', *Glas Javnosti*, (6 November) available: <http://arhiva.glas-javnosti.rs/arhiva/2001/11/06/srpski/P01110502.shtml> [accessed 27 June 2012].
- Statistical Office of the Republic of Serbia 'Data on the Population Censuses: 1921, 1931, 1948, 1953, 1961, 1971, 1981, 1991', *Elektronska biblioteka [Electronic Library]* [online], available: <http://pod2.stat.gov.rs/ElektronskaBiblioteka/Pretraga.aspx> [accessed 4 January 2013].
- Steiner, J. (1981) 'Review: The Consociational Theory and Beyond', *Comparative Politics*, 13(3), 339-354.
- Steiner, J. (1987) 'Review: Consociational Democracy as a Policy Recommendation: The Case of South Africa', *Comparative Politics*, 19(3), 361-372.
- Stroschein, S. (2008) 'Making or Breaking Kosovo: Applications of Dispersed State Control', *Perspectives on Politics*, 6(04), 655-674.
- Tansey, O. (2007) 'Process Tracing and Elite Interviewing: A Case for Non-Probability Sampling', *PS: Political Science and Politics*, 40(4), 765-772.
- Taylor, A. (2008) 'Electoral Arrangements in Systems of Complex Power-sharing' in Weller, M. and Metzger, B., eds., *Settling Self-determination Disputes: Complex Power-sharing in Theory and Practice*, Leiden: Martinus Nijhoff Publishers, 451-466.

- Taylor, A. J. (2005a) 'Electoral Systems and the Promotion of "Consociationalism" in a Multiethnic Society. The Kosovo Assembly Elections of 2001', *Electoral Studies*, 24(2005), 435-463.
- Taylor, A. J. (2005b) '“We are not asking you to hug each other, but we ask you to co-exist”: The Kosovo Assembly and the Politics of Co-existence', *The Journal of Legislative Studies*, 11(1), 105-137.
- Taylor, R., ed. (2009) *Consociational Theory: McGarry, O'Leary and Northern Ireland Conflict*, New York: Routledge.
- Thatcher, M. (1984) 'Press Conference following Anglo-Irish Summit ("out ... out ... out")', [online], available: <http://www.margareththatcher.org/document/105790> Accessed 20 December, 2013.
- UN Secretary General (1999) 'Report of the Secretary General on the Interim Administration Mission in Kosovo S/1999/779', United Nations Security Council [online], available: http://www.un.org/en/ga/search/view_doc.asp?symbol=S/1999/779 [accessed 22 March 2012].
- UN Secretary General (2000a) 'Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo S/2000/538', United Nations Security Council [online], available: http://www.securitycouncilreport.org/site/c.glKWLeMTIsG/b.2693011/k.6DA1/KosovobrUN_Documents.htm [accessed 13 April 2012].
- UN Secretary General (2000b) 'Report of the Secretary General on the United Nations Administration Mission in Kosovo S/2000/1196', United Nations Security Council [online], available: http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2000/1196 [accessed 15 December 2011].
- UN Secretary General (2000c) 'Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo S/2000/177', United Nations Security Council [online], available: http://www.securitycouncilreport.org/site/c.glKWLeMTIsG/b.2693011/k.6DA1/KosovobrUN_Documents.htm [accessed 12 April 2012].
- UN Secretary General (2001) 'Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo S/2001/565', United Nations Security Council [online], available:

- http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2001/565 [accessed 17 November 2011].
- UN Secretary General (2002a) 'Report fo the Secretary-General on the United Nations Interim Administration Mission in Kosovo S/2002/436', United Nations Security Council [online], available:
http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2002/436 [accessed 3 January 2012].
- UN Secretary General (2002b) 'Report fo the Secretary General on the United Nations Interim Administration Mission in Kosovo S/2002/779', United Nations Security Council [online], available:
http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2002/779 [accessed 3 January 2012].
- UN Secretary General (2002c) 'Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo S/2002/1126', United Nations Security Council [online], available:
http://www.securitycouncilreport.org/site/c.glKWLeMTIsG/b.2693011/k.6DA1/KosovobrUN_Documents.htm [accessed March 29, 2012].
- UN Secretary General (2003a) 'Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo S/2003/113', United Nations Security Council [online], available:
http://www.securitycouncilreport.org/site/c.glKWLeMTIsG/b.2693011/k.6DA1/KosovobrUN_Documents.htm [accessed 30 March 2012].
- UN Secretary General (2003b) 'Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo, S/2003/421', United Nations Security Council [online], available:
http://www.securitycouncilreport.org/site/c.glKWLeMTIsG/b.2693011/k.6DA1/KosovobrUN_Documents.htm [accessed 28 March 2012].
- UN Secretary General (2006) 'Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo S/2006/707', United Nations Security Council [online], available:
http://www.securitycouncilreport.org/site/c.glKWLeMTIsG/b.2693011/k.6DA1/KosovobrUN_Documents.htm [accessed 30 March 2012].
- UN Security Council (1999) 'Resolution 1244', S/RES/1244 (1999).

- UNDP Kosovo (2012) 'Public Pulse Report 4', Public Pulse [online], available:
http://www.kosovo.undp.org/repository/docs/PULSE_ENG_409069.pdf
Accessed 2 February, 2013.
- United Nations Security Council (2002) 'Security Council Deplores Kosovo
Assembly's Resolution concerning Province's 'Territorial Integrity' SC/7413',
Press Release [online], available:
<http://www.un.org/News/Press/docs/2002/sc7413.doc.htm> [accessed 4
February 2012].
- UNMIK (2000a) 'Regulation No. 2000/1 on the Kosovo Joint Interim Administrative
Structure', UNMIK/REG/2000/1 [online], available:
<http://www.unmikonline.org/regulations/2000/reg01-00.htm> [accessed 13
April 2012].
- UNMIK (2000b) 'UNMIK-JIAS Factsheet: Kosovo Transitional Council', [online],
available: <http://www.unmikonline.org/1styear/unmik18.htm> [accessed 3
December 2010].
- UNMIK (2001a) 'Regulation 2001/9 on the Constitutional Framework for the
Provisional Institutions of Self-Government', 2001/9 [online], available:
<http://www.unmikonline.org/regulations/2001/reg09-01.htm> [accessed 15
December 2010].
- UNMIK (2001b) 'Regulation No. 2001/19 on the Executive Branch of the Provisional
Institutions of Self-government in Kosovo ', 2001/19 [online], available:
<http://www.unmikonline.org/regulations/unmikgazette/01english/E2001ads/E2001ads.htm> [accessed 15 April 2012].
- UNMIK (2002a) 'Administrative Direction No. 2002/2 Implementing UNMIK
Regulation No. 2000/11 on the Establishment of the Administrative
Department of Education and Science', UNMIK Official Gazzette [online],
available:
<http://www.unmikonline.org/regulations/unmikgazette/02english/E2002ads/E2002ads.htm> [accessed 10 April 2010].
- UNMIK (2002b) 'Regulation No. 2002/19 on the Promulgation of a law adopted by the
Assembly of Kosovo on Primary and Secondary Education in Kosovo',
UNMIK Official Gazzette [online], available:
http://www.unmikonline.org/regulations/index_reg_2002.htm [accessed 31
March 2012].

- UNMIK (2003) 'Regulation No. 2003/14 on the Promulgation of a Law adopted by the Assembly of Kosovo on Higher Education in Kosovo', UNMIK Official Gazette [online], available:
<http://www.unmikonline.org/regulations/unmikgazette/02english/E2003regs/E2003regs.htm> [accessed 2 February 2012].
- UNMIK and Federal Republic of Yugoslavia (2001) 'UNMIK-FRY Common Document', [online], available:
http://www.mfa.gov.rs/Policy/Priorities/KIM/unmik_e.html [accessed 10 December, 2011].
- UNMIK Press Office (2002a) 'Assembly Position on unpromulgated draft legislation on higher education', Press Release [online], available:
<http://www.unmikonline.org/Pages/UNMIK%20Key%20documents.aspx> [accessed March 30, 2012].
- UNMIK Press Office (2002b) 'Press Conference by UNMIK SRSG, Michael Steiner [Unofficial Transcript]', [online], available:
<http://www.unmikonline.org/Pages/MediaMonitoring.aspx>.
- UNMIK Press Office (2002c) 'SRSG Appoints James C. O'Brien to Chair Three-member Panel on Higher Education Law. August 8, 2002', UNMIK Press Release [online], available:
<http://www.unmikonline.org/Pages/UNMIK%20Key%20documents.aspx> [accessed March 30, 2012].
- UNMIK Press Office (2003) 'Declaration of the SRSG Michael Steiner on the Assembly Resolution on War Values', Press Release [online], available:
<http://reliefweb.int/node/126069> [accessed 4 February 2012].
- UNMIK Press Release (2003) 'SRSG issues declaration on Kosovo Assembly resolution on war values', [online], available: <http://reliefweb.int/node/126069> [accessed 4 February 2012].
- UNOSEK (March 26, 2007) 'Comprehensive Proposal for Kosovo Status Settlement', S/2007/168/Add.1, S/2007/168/Add.1(61).
- Varjačić, V. (2009a) 'Opština Novo Brdo 1991-2009 godine [Novo Brdo Municipality 1991-2009]', [online], available:
<http://sr.wikipedia.org/wiki/%D0%94%D0%B0%D1%82%D0%BE%D1%82%D0%B5%D0%BA%D0%B0:NovoBrdo2008.png> [accessed 5 January, 2013].

- Varjačić, V. (2009b) 'Opština Novo Brdo do 1965 godine [Novo Brdo Municipality until 1965]', [online], available:
<http://sr.wikipedia.org/wiki/%D0%94%D0%B0%D1%82%D0%BE%D1%82%D0%B5%D0%BA%D0%B0:NovoBrdo65.png> [accessed 5 January, 2013].
- Vecernje Novosti (2004) "'Povratak" na putu rasula [KP on the way to dissolution]', Vecernje Novosti, 29 May, available:
[http://www.novosti.rs/vesti/naslovna/aktuelno.69.html:158315-Povratak-na-putu-rasula\[6/27/2012](http://www.novosti.rs/vesti/naslovna/aktuelno.69.html:158315-Povratak-na-putu-rasula[6/27/2012) [accessed 27 June, 2012].
- Weller, M. (2008a) 'Interim-governance for Kosovo: The Rambouillet Agreement and the Constitutional Framework Developed under UN Administration' in Weller, M. and Metzger, B., eds., *Settling Self-Determination Disputes: Complex Power-sharing in Theory and Practice*, Leiden and Boston: Martinus Nijhoff Publishers, 243-263.
- Weller, M. (2008b) 'Kosovo's final status', *International Affairs*, 84(6), 1223-1243.
- Weller, M. (2008c) 'Settling Self-determination Conflicts: An Introduction' in Weller, M. and Metzger, B., eds., *Settling Self-Determination Disputes: Complex Power-sharing in Theory and Practice*, Leiden and Boston: Martinus Nijhoff Publishers, xi-xvii.
- Weller, M. (2008d) 'The Vienna negotiations on the final status for Kosovo', *International Affairs*, 84(4), 659-681.
- Weller, M. (2009) *Contested statehood: Kosovo's struggle for independence*, Cambridge: Oxford University Press.
- Weller, M. and Metzger, B., eds. (2008) *Settling Self-Determination Disputes: Complex Power-sharing in Theory and Practice*, Leiden and Boston: Martinus Nijhoff Publishers.
- Wolff, S. (2008) 'Power-sharing and the Vertical Layering of Authority: A Review of Current Practices' in Weller, M. and Metzger, B., eds., *Settling Self-Determination Disputes: Complex Power-sharing in Theory and Practice*, Leiden: Martinus Nijhoff Publishers, 407-450.
- Wolff, S. (2009a) 'Complex Power-sharing and the Centrality of Territorial Self-governance in Contemporary Conflict Settlements', *Ethnopolitics: Formerly Global Review of Ethnopolitics*, 8(1), 27 - 45.

- Wolff, S. (2009b) 'Peace by Design? Towards "complex power sharing"' in Taylor, R., ed. *Consociational Theory: McGarry and O'Leary and the Northern Ireland conflict*, Oxon: Routledge, 110-121.
- Woliver, L. R. (2002) 'Ethical Dilemmas in Personal Interviewing', *PS: Political Science & Politics*, 35(04), 677-678.
- Yin, R. K. (2003) *Case Study Research. Design and Methods*, Applied Social Science Methods Series, Third ed., Thousand Oaks: Sage Publications Ltd.
- Zejneli, A. (5 April 2011) 'Srbi sa severa bojkotuju popis, na jugu bolji odziv [Serbs in the North are Boycotting Census, Better Participation in the South]', *Radio Free Europe*, available:
http://www.slobodnaevropa.org/content/popis_je_u_interesu_srpske_zajednice/3548088.html [accessed 6 January 2013].

APENDICES

Figure 4 Map of the Kosovo Serb entity as envisaged by the Government of Serbia



Source: Kurir, a daily newspaper in Belgrade (2007).

Figure 5 Map of ethnic distribution according to 1991 Yugoslav Census



ICIC Kosovo
 Humanitarian Community Information Centre
 Pristina, Kosovo - 10 February 2000
 Sources: NIMA, Yugoslav Institute of Statistics, UNHCR

Source: Kosovo Humanitarian Community Information Center (2000).

Figure 7 Map of Gračanica Municipality reflecting modification of municipal boundaries



Figure 8 New municipalities in the eastern region of Gjilan.



Interviews used

Albin Kurti – Leader of Vetevendosje, MA, 2010-ongoing

Alexander Borg-Olivier - UNMIK Chief Legal Advisor.Negotiator for Constitutional Framework (2001-2008)

Arban Abrashi – Former Deputy Minister of European Integration (2008-2010)

Arsim Bajrami – MA (PDK: 2001-ongoing)/Kosovo negotiator for Constitutional Framework and CSP

Avni Arifi – former Adviser to Kosovo PM and Kosovo Standards Coordinator (2004-2008) – AAK Party

Bajrush Ymeri – Mayor of Novo Bërdë, 2007-ongoing – LDK party

Besnik Osmani – Secretary General of the Ministry for Local Government (2005-ongoing)

Besnik Tahiri – former Advisor to Kosovo PM (2004-2008), Director of Institute for Local Government, Prishtina – AAK party

Bojan Stojanovic – Mayor of Gracanica (2009-ongoing), former MP (2008-2009), Vice President of SLS

Bujar Dugolli – Former Member fo the Assembly (2001-2010)

Burim Berisha – Mayor of Fushë Kosova (2007-ongoing) LDK

Carne Ross – Former UNMIK Standards Coordinator (2004-2005) and Advisor to the Government of Kosovo for Final Status (2006-2007)

Christopher Dell – US Ambassador to Kosovo (2009-2012)

Daan Everts – Dutch Diplomat, Former Head of OSCE Mission in Kosovo (1999-2001)

USAID Expert on Local Governance in Kosovo

Dejan Cocis – Kosovo Serb, ICO Advisor (2008-2012)

Duda Balje – Kosovo Bosniak MP VAKAT party

Fatmir Sejdiu (Anonymous in this chapter) – former President of Kosovo (2006-2010) – Head of Unity Team

Florian Bieber: Academic, expert on consociatinoaism and on Balkans

Franklin de Vrieze – Former OSCE Head of Assembly Support Initiative (2001-2008)

Hajredin Kuqi – MP 2001-2009, Deputy PM (2008-ongoing)
Jakup Krasniqi – MA, PDK (2001-ongoing), Chairman of Kosovo Assembly,
Member of Kosovo Final Status Negotiating Team (2006-2008)
Jan Luenberg – OSCE Head of Local Governance Department
Jock Covey: Former Principal Deputy SRSG in Kosovo 1999-2000, Former
Principal Deputy of OHR in Bosnia
John Cockell: Former OMIK Political Party Officer, 1999-2002
EU Expert-Prishtina
Kim Friedberg – Former SRSG Special Advisor (2005-2007)
Matko Svilanovic – Deputy Mayor of Klllokot
Milan Stojanovic - Deputy Mayor of Gjilan for communities (2010-ongoing)
Naim Jerliu – Former MA LDK (2001-2007)
Nekibe Kelmendi, LDK, MA (2001-2009) former Secretary General and Vice
President
Paivi Nikander – ICO Officer for Decentralization
ICO Expert 1
Rexhep Gjergji – Frm Senior Adviser to Minister of Education (2002-2004)
Robert Wilton (Anonymous) – Political Director of ICO
KDTP Official in Mamusha
Sabri Hamiti – MA, LDK Vice President, (2001-ongoing)
ICO Expert 2
Skender Hasanxhekaj, Director in the municipality of Istog
US Senior Diplomat 1
US Senior Diplomat 2

Other unpublished primary sources:

C.P. 2006. [REDACTED]. Prishtina: Kosovo Unity Team.
KOSOVO UNITY TEAM 2006. Issues on the Final Status of Kosovo: Minority
Rights Protection
KUT 2006. Letter to UNOSEK. Prishtina: Kosovo Status Delegation.

KUT 2006. Basic Principles of Local Government Reform in Kosovo.

Prishtina: Kosovo Unity Team.

KUT & UNOSEK 8 March, 2006. Decentralization - UNOSEK technical mission: Questions and Responses. UNOSEK and KUT.

POLITICAL STRATEGIC GROUP April 2006. Task Force New Municipalities. Prishtina: Kosovo Unity Team.

Communication [REDACTED] of the Political Strategic Group
