

THE POLICING GAP:
Law and Order in the New Kosovo

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I. INTRODUCTION

During June and July 1999 international military and civilian organisations entered a territory from which every form of administration and authority had become suddenly absent. Their job was to provide all forms of government while preparing the people of Kosovo to take over that responsibility.

Such a difficult and unprecedented task, the imposition of a foreign administration on a society technically in anarchy, is bound to encounter problems. This report examines the issue of law and order, a natural priority in a society so recently subject to fundamental upheaval. It attempts to assess whether permanent damage is being suffered in this difficult early period, when policing is being carried out by KFOR soldiers pending the deployment of the UN Civilian Police. It concludes by suggesting how the risk of damage can be minimised.

II. THE MANDATE: HOW IT IS SUPPOSED TO WORK

Under SCR 1244, KFOR is responsible for 'ensuring public safety and order until the international civil presence can take responsibility for this role'.¹ The civil presence is tasked with 'maintaining civil law and order, including establishing local police forces and meanwhile through the deployment of international police personnel to serve in Kosovo'.²

So a three-stage strategy is envisaged: (i) soldiers as policemen, gradually handing over to (ii) foreign policemen in UN blue berets, gradually handing over to (iii) an indigenous police service³, recruited by the UN but trained by the OSCE under the umbrella arrangement.

Stage (ii) is only just beginning, so KFOR soldiers are at the moment the only barrier between the citizen and crime. But policing is not KFOR's only task, and the range of policing duties it is performing is narrower than would be expected of a full-time police force.

¹ UNSCR 1244, paragraph 9(d).

² Ibid, paragraph 11(i).

³ 'Service', not 'force', is the word being used in recruitment, perhaps to emphasise the novel idea that the purpose of police is to protect the citizen, not to oppress him.

Is there a difference between 'ensuring public safety and order' and 'maintaining civil law and order'? KFOR's task is phrased in a way that suggests concentration on physical security, while UNIPTF is expected to provide a full policing service.

III. LIFE UNDER KFOR

A. Secure Environment

Under SCR 1244, KFOR is responsible for 'establishing a secure environment'⁴. In so few weeks, KFOR has made good progress towards this objective, at least for the international presence and the general population. Security incidents are few enough to be reported individually at daily press conferences in Prishtine/Pristina. KFOR patrols do occasionally come under fire and exchange shots with their attackers, though such incidents have not usually resulted in arrests, so it is hard to determine the motives of the attackers, though logic suggests that Serbs are more likely than Albanians to fire at KFOR.⁵ Civilian foreigners are not immune: a French journalist was slightly injured when shots were fired at his car at Kline/Klina on 27 July.⁶ Still, as a general conclusion, there is little security threat to KFOR and the international presence.

The military have been helped by a co-operative attitude from the UCK, so that there has been no organised armed force publicly creating insecurity. A demilitarisation agreement was signed between KFOR and the UCK on 21 June, under which the latter will by 19 September surrender all weapons except side-arms, and progress with this is reported as good – certainly a large number of weapons have been handed in, though no-one knows how many the UCK had originally. Co-operation between KFOR and the UCK is working for now.^{7 8}

But the environment remains far from secure for unpopular minorities, especially Serbs. The 14 farmers found murdered in a field at Gracko near Lipjan/Lipljan on 23 July were only the biggest single case in a series of anti-Serb actions which suggest at least generalised hostility against them, at most a co-ordinated campaign. Undeniably there is a revanchist threat to certain sections of the population. There is also, unsurprisingly, a generalised criminal threat, so far manageable, which makes travelling off major roads still risky.

B. Policing

Crime prevention by KFOR consists of manned patrolling on the streets and roads of Kosovo. Their orders are to intervene if they witness serious crime. If patrols detect a crime they file a report. The case is then handed over to military police units, some

⁴ UNSCR 1244, paragraph 9(c).

⁵ However, in a spate of attacks reported on 5 August on Russian troops, some Albanians were detained.

⁶ KFOR/UN press conference, 28 July 1999.

⁷ Again, except in the case of the Russians, whose intentions the UCK continue to suspect, especially since a Russian checkpoint detained the UCK military commander Agim Ceku for several hours on 31 July.

⁸ And the good climate is not guaranteed to continue, as the UCK continues to press for its members to be allowed to constitute a US-style National Guard.

with special training such as the UK's Special Investigations Branch (SIB). Arrests may follow a successful investigation, and 28 judges have already been appointed by the UN to try cases (see section E below). There is a KFOR presence at Kosovo's international borders, which attempts to prevent the import of weapons into the territory. Troops manning the border are neither trained nor tasked to carry out any sort of immigration or customs and excise functions.

As noted above, progress towards the establishment of a generally secure environment in Kosovo has been good, though the objective has not yet been reached. At least two types of crime are rife, however. There is crime against minorities motivated by revenge, as is universally acknowledged; and there is the gradual entrenchment of criminal mafias, which is much harder to document.

C. Crime Wave or Ethnic Terrorism?

The international community intervened in Kosovo to stop and reverse widespread human rights abuses being committed by forces under Serbian command. It did not intervene as an ally of the UCK or of the Albanians in their own right. However, some Albanians are finding it hard to distinguish between these two concepts. The idea that the Serb minority too has human rights which the internationals are logically bound to defend as strongly as they have defended those of the Albanians, is difficult to understand, too far removed from people's understanding of how things are.

While Kosovar leaders rhetorically support the international goal of a "multi-ethnic" Kosovo, Albanians intent on revenge continue to intimidate and attack the territory's dwindling minority population.

No day passes without at least one report of an attack on some member of an ethnic minority in Kosovo. Serbs and Roma (gypsies) are the most vulnerable, but Gorani, Bosniacs and members of the majority Albanian community have also been targeted.⁹ Attacks include house-burnings, physical assault and murder. The Orthodox church in Gjakove/Djakovica was destroyed on 23 July, and another in Pristine/Pristina was bombed on 1 August. In all some 15 Orthodox churches have been attacked in Kosovo since KFOR deployed, according to church sources.

These attacks are so widespread that some observers are speculating that there is an organised campaign aimed at creating an ethnically pure Albanian Kosovo. Already fewer than a quarter of the former Serb population remain in Kosovo.¹⁰ The only organisation among the Albanians capable of co-ordinating such a campaign is the UCK, which has denied responsibility at command level for the killings.

This denial is at least credible. Much of the population was recently expelled or killed by forces representing Serbian authority. Terrible atrocities were committed by these forces. Arms have been freely available for some time, following the raiding of Albanian army arsenals in 1997. Every single Albanian has suffered, and many have lost family members. There is an ancient tradition of individuals taking personal responsibility for revenge, rather than waiting for due process of law, and the concept of revenge is attached not just to the offending individual but with anyone associated

⁹ 'Preliminary Assessment of the Situation of Ethnic Minorities in Kosovo', UNHCR/OSCE, 26 July 1999.

¹⁰ According to UNHCR, 164,000 out of approximately 200,000 have left (quoted by *Human Rights Watch* report, 3 August).

with him. In these circumstances the widespread attacks upon minorities identified with recent aggressors could easily be many spontaneous acts by individuals. Naturally, once such activity starts, each case encourages the next, and a 'copycat' phenomenon becomes established. The attackers probably do include ex-UCK members who have taken their weapons home: if so this suggests poor discipline within the chain of command or, worse, acquiescence by UCK leaders in the attacks. It is not sufficient proof of a concerted campaign.¹¹

Active measures are being taken to protect populations identified as vulnerable. These can be summarised as follows:

*"While in some areas KFOR has provided dedicated security for minority communities, this has not always been able to be comprehensive. Manpower constraints are a factor, but there is also the more general issue of providing area security with its demands on resources."*¹²

Compact communities can be guarded. Individuals living in isolation or in city apartments can be identified and monitored. But there is not the manpower to place a guard on every door, and KFOR cannot be everywhere at once. Guarding communities can even have a perverse effect: the majority local population reason that if certain people are under guard it proves they must be criminals.¹³

Although these attacks on minorities can be viewed as a large number of individual crimes, the scale and pattern of activity actually raises this phenomenon to a level where it becomes a question of whether 'public safety' exists, at least for the vulnerable sectors.

There is a further problem involving gangs, usually claiming to represent the UCK, claiming ownership of occupied homes and evicting or harassing the existing inhabitants. Although at first this seemed to be another manifestation of ethnic aggression, targeted at Serbs, more recently and increasingly Albanians are victims too. In Prizren and Peje/Pec, so probably elsewhere too, there are reports from homeless Albanian families who have occupied Serb houses, who have then been evicted by men claiming to be UCK who tell them the house is to be burned down. Some businesses have been expropriated by the same means.

All of this is acknowledged as a serious problem at all levels. KFOR commander Lt-Gen Sir Michael Jackson has called for 'an end to the cycle of violence'. US Secretary of State Madeleine Albright, speaking in Prishtine/Pristina on 29 July, called upon Serbs to remain and build a future in a multi-ethnic Kosovo. British Prime Minister Tony Blair, given a warm welcome by cheering crowds on 31 July, also urged tolerance. But despite the unambiguous message coming from these popular and prominent people, there is no sign so far that it is having any impact.

¹¹ Nor, of course, does anything said here prove that there is in fact no such campaign, but if an explanation based on human nature and local culture looks adequate it should surely be accepted, at least provisionally, in favour of yet another Balkan conspiracy theory.

¹² UNHCR/OSCE, op.cit, page 2.

¹³ This reaction reported by local NGOs in Gjakove/Djakovica with reference to a group of Roma under KFOR guard.

D. Mafias – Making Hay While the Sun Shines?

Kosovo at the moment represents a perfect environment for entrepreneurs to make money. There is no black market, since no customs duties are levied at the border, and no taxes are imposed on economic activity within the country. As a result commercial activity has revived with a speed and vigour which has surprised all who have witnessed it. Increasing numbers of shops are full of goods, mostly of Macedonian origin. To this extent, the lack of frontier controls has been benign.

KFOR makes no pretence of being able to address economic issues: as noted above, it checks traffic entering Kosovo only for weapons. The UN administration re-established a customs presence at some border posts on 31 July, though for now it is only gathering information about goods in transit. Eventually revenues will start to be raised which will contribute to the administration of the territory.

But the problem of Kosovo's borders is not just about getting entrepreneurs to pay duty. Kosovo under Belgrade rule was a corrupt environment. Allegations were common of deep penetration by Serb and Russian mafias. Such organisations are unlikely to have survived the recent turnaround in circumstances,¹⁴ but their departure will have left a vacuum. The drugs trade through Kosovo was already in Albanian hands from the 1980s, and now various groups are starting to compete for the supply-routes disrupted during the recent conflict. Government control in northern Albania is very weak, so organised gangs already operate freely there. The UCK is well placed to run this kind of activity itself, but denies any involvement, pointing to Bujar Bukoshi and the FARK – who certainly have enough money to run a large operation, but who in turn accuse the UCK.

The danger is that, if any organisations have been using the past few weeks to build up criminal networks and supply lines (as seems likely), they will have a substantial advantage over a fledgling customs service. Every customs officer knows that against organised crime border controls are never enough, particularly once the drug-dealers start to operate – and the UN-run Kosovo service may not be very efficient at first. The possibility looms of Kosovo as a Balkan Sicily or, worse, a mini-Russia. The rumour-mill is rife already with reports that networks are establishing themselves and digging in. These fears may be exaggerated. But at the moment there is no way to know just how bad the situation is.

E. Justice

KFOR can detain suspects but cannot try them. For this reason a panel of 28 judges has been recruited on an emergency basis to hear the most serious cases around the territory.

This raises the question of what laws are in force in Kosovo. The existing legal system, imposed by the Belgrade government since 1989, is discriminatory against Albanians who, not surprisingly, reject it. The provisional government under Hashim Thaci is calling for a return to the laws prevailing before 1989. The UN has made it clear that FRY laws will remain in place except where they conflict with international standards.¹⁵

¹⁴ Nonetheless, some in Kosovo believe they continue to operate.

¹⁵ Press briefing, 6 August.

This ought not to be a problem with the most serious cases, since murder and arson are crimes everywhere, even under the most discriminatory legal system. Nonetheless, three of the newly-appointed judges have resigned in protest against the retention of the existing laws.

Even without this complication, the judges available are not sufficient to try all the cases, with the result that many malefactors, despite having been caught in the act of committing a crime, are let go. Fear of punishment thus is not becoming a significant deterrent.

IV. DEPLOYMENT OF THE UN INTERNATIONAL POLICE TASK FORCE

UN police in blue berets have started to appear in Prishtine/Pristina, but they have not been policing. Start-up teams have established a headquarters and are setting up police stations in regional centres. But of the total force of some 3125, only around 600 have so far arrived¹⁶: they are being trained for the job they are to do, and new arrivals will be trained as they come in. The Commissioner of the force has decided not to deploy incomplete teams: as a designated unit comes up to strength it will be set to work.

The take-over from KFOR, area by area, will be gradual. KFOR patrols will at first be joined by UN civilian police, and then will gradually withdraw from patrolling and leave the streets to the policemen, if all goes well.

The UN Police Commissioner, Sven Frederiksen, made a welcome announcement on 6 August that Police would begin full operations in Prishtina over the weekend of 7 - 8 August. But coverage of the whole territory is plainly several weeks away.¹⁷ National authorities, at first slow to volunteer manpower for the UN effort, are now coming forward with personnel, though some still hold back because they perceive the assignment as dangerous (the more they hesitate, the more likely they are to be right). Meanwhile many personnel who have arrived are doing nothing, other than receiving their introductory training. To outsiders this appears expensive and inefficient: insiders protest that they are doing the best they can with the mechanism they have been given.

This force, when deployed, will have the advantage over KFOR that its members see policing as their exclusive task and will have a greater collective experience in policing work. But they will also suffer the intrinsic weakness of any such policing effort, that colleagues from widely-differing backgrounds will need to work together, understand each other, and apply laws which may differ from those they are used to. Training can only partly eradicate this problem. Local police chiefs, who will have no control over the identity and quality of officers sent to them, will have a huge responsibility in trying to lead a unified and determined effort.

Moreover, as in Bosnia, continuity will be a problem. Secondments to UNIPTF are likely to be generally for six months, much shorter than the usual tour of duty a policeman would expect at home. Many officers will just be beginning to understand the alien environment they are working in, when it will be time to go home.

¹⁶ Press briefing, 2 August, including new arrivals that day in Skopje.

¹⁷ *Koha Ditore*, 4 August.

And UNIPTF will face a further problem which KFOR already faces. They will be working within a cultural environment which is traditionally very closed to outsiders. Even with the help of interpreters they will find investigation difficult of any crime which the local population feel is "ours" rather than "against us". In the same way, the sort of intimate local knowledge on which a police force depends will be hard to acquire: fearing that the foreign police cannot protect them from organised crime, potential informers and ordinary people may fear to speak and give evidence. Keeping law and order should be possible, provided the environment cools down with time: solving crimes, especially inter-ethnic crimes, may be harder.

V. THE FUTURE KOSOVO POLICE SERVICE

The UN report that some 26,050 recruitment forms have been handed out to members of the public, and 17,111 applications have been received to join the future police service.¹⁸ The attractions of such a job are easy to see: secure employment and wages, and the right to carry weapons. It will be up to UNIPTF to decide whom to accept for the service, intended to number 3,500-4,000. The recruits will then be trained under the auspices of OSCE, in accordance with the division of tasks agreed between the OSCE chairman-in-office and the UN Secretary-General in June.

Only 500 or so of the applications received have been from Serbs, so that the goal of a multi-ethnic force may be hard to achieve.

After recruitment, the new police will undergo 5 weeks' training at Vushtri/Vucitrn (the former MUP centre), and then 18 weeks in the field alongside their UN colleagues. So, depending on how long the recruitment process takes, indigenous policemen could be visible on the streets by the autumn, though still with trainee status. The first batch of 200 are scheduled to enter the new academy on 30 August.

Recruitment could be delayed or soured by a political issue. The UCK maintain that many of their ex-soldiers should be recruited as police, though it is not clear how they wish to process this claim, since they have prepared no list of candidates and the UN has not agreed to accept such a list. Instead, UCK members are applying as individuals like other candidates. The UN has rejected the idea of a UCK 'quota', but has let it be known that experience in bearing arms may be one positive qualification to be taken into account in recruitment.

There is a clear difference of views and objectives here. It would be naïve to hope that the UCK merely wants to reward its members with good secure jobs: more likely it wishes to establish a controlling presence within the new service. It will be hard to reconcile this with the intention of the OSCE and UN to form a western-style police in the service of the citizen, answerable to the law rather than to any political power. Although the UCK does not seem to have thought its position through, since it has no strategy for actually getting its men into the new police service, it does seem ready to make trouble over the question.

There is no tradition in the Balkans of policing as a public service (compare the difficulties IPTF has faced in Bosnia), so creating the new police will be a difficult enough task even if all the new recruits are independent of political influence. As an obvious example of a difficult point: how willing will Kosovar Albanian police – who will make up the overwhelming majority in the service - be to defend remaining Serb

¹⁸ Daily press briefing, 6 August.

populations from other Kosovar Albanians, with such recent shared memories of very different behaviour by ethnic Serb police? Commissioner Frederiksen has taken a robust line on this, saying that any policeman found unfit for the job will be fired – but what if many or most prove ‘unfit’?

VI. CONCLUSION

Experience in Bosnia suggests that policing is an indispensable part of achieving the sort of society in which democratic pluralism can flourish. If control over the police remains in the hands of political parties, or if an army-style statist attitude prevails (in the style of the Yugoslav MUP, the only example with which Kosovars are familiar from the past), then the police are more likely to be a force preventing change rather than allowing it to happen. International officials charged with recruiting and training a new police ‘service’ for Kosovo are fighting a whole cultural tradition.

But before that battle can even be fought, international policing agencies in Kosovo have a lot to do to show their determination that rule of law shall prevail in the territory. The most urgent problem in Kosovo at the moment is deterring and clearing up crime, much of which is ethnic (i.e. political) in its motivation.

It is necessary to preach the message of tolerance and reconciliation, as the only future for a democratic Kosovo. But it is also necessary to acknowledge (in private) that no-one is listening. The words being spoken are the right words, because they are the only ones possible. But public perception of the actual behaviour of the international community will matter a lot more.

Therefore it is vital that the crimes now being committed should start to be solved and prosecuted, in numbers sufficient to get across to the population that punishment is a matter for the courts, not the citizen or vigilante groups. Solving crimes where the malefactor is not caught red-handed is a particular problem. Good work is being done by specialist crime-detection units in KFOR, but the scale of the problem is too big for them. They need reinforcements.

The UN police effort has already come under much criticism for its slowness to deploy. The announcement of imminent deployment in Prishtina is a welcome response, and no doubt the commanders of the international force are already looking for ways to speed up processing new arrivals and deploy units as quickly as possible. But, like all quick-start operations which rely on contributions from governments, they were caught between the slowness of governments at first in committing men, and later the difficulty of processing large numbers of new arrivals all at once. Unlike KFOR, the UN did not have a large pool of personnel ready to deploy from day 1 of the operation. Unfortunately, damage has been done in the interim, and is still being done.

The UN police should make a big difference once they are deployed. Even so, foreign police face a daunting task in a society as closed to outsiders as the Albanian community in Kosovo. Local knowledge will only come when local policemen join the internationals – and then the question becomes: are they working to the same agenda and with the same objectives?

Coupled with a higher rate of successful prosecutions, the message needs to reach the public that law is being enforced. This is partly a matter of skilful use of media (at

which KFOR has already established an excellent track record) but also of spreading the message by word of mouth in the villages.

Finally, any emerging 'mafias' need to be identified before they become too strong. This should be a priority task for intelligence services, including military intelligence (even though it is not one of KFOR's listed duties), because a Kosovo ruled by mobs is in no-one's interest. Intelligence must be shared with KFOR and the UNIPTF commanders, who would then be able to devise a strategy to counter the problem, if it is as serious as many believe. Better information, coupled with the new measures to control the borders, may be able to prevent this from becoming a threat to stability.

VII. RECOMMENDATIONS

Everyone involved in handling the new Kosovo knows that the attempt to change entrenched secular traditions will not be easy, and that no amount of resources will guarantee success. But they are committed to making the effort. For anything else to be achieved, it is vital that the population should gradually come to understand what 'rule of law' means and entails.

Neither KFOR (with its many tasks) nor UNIPTF (with its slower start and long build-up) is directly to blame for the dangers described in this report. Nonetheless, there is no-one else to fill the gap, and both have come under criticism. Moreover the credibility of the UN has also suffered from press reporting of the visible presence of UN police walking around Prishtine/Pristina not yet carrying out any duties.

That should now start to change. But meanwhile at the moment the challenge of law and order is not being met. The problem *may* diminish with time, as tempers cool and the existing efforts to combat crime start to take hold. But it might just as well get worse, and meanwhile minorities continue to leave. These few weeks are dangerous. There may be some measures which could be employed as a short-term response to the short-term situation, and which could make a difference. For example:

- KFOR military police could be strengthened with more crime-detection officers who would concentrate on investigating serious crimes. These would mostly be crimes against ethnic minorities, but the stress would be on the seriousness of the crime rather than its ethnic aspect. Murders and arson would naturally be among the most serious.
- Crime-detection officers within UNIPTF should be deployed immediately, even before other units are ready, in support of, and in co-operation with, KFOR military police. If such officers are not available then they should be requested urgently, ideally from police forces which have experience of working in ethnically-divided societies (Northern Ireland, Basque country).
- Resulting trials should be given maximum publicity. The current message that toleration is the only future should be hardened by a message that rule of law is also an indispensable pillar of a democratic society.

- UN police could be billeted in vacant Serb houses, which will act as a safeguard against arson. It is most unlikely on existing trends that houses would be burned despite being occupied by internationals.¹⁹
- Intelligence agencies should investigate the threat of organised crime. The task needs to be done quickly before the problem becomes too established, and there is no other agency available to do it.
- Albanian concerns about discriminatory laws could be addressed by an undertaking from the UN to repeal by decree all laws found to be discriminatory, and the appointment of a panel to identify such laws. This would be less confusing and more progressive than returning to the 1989 legal code, as the Albanians demand.
- Recruits for the new police service should be tested, as part of the recruitment process, on their attitude towards human rights. We should not expect to find much familiarity with Western concepts of human rights. But a clearly intolerant attitude towards minorities should be a disqualification for entry into the service. No amount of training can change a person's basic character. Readiness to serve alongside Serb recruits, for example, should be taken into account at the recruitment stage.
- A community policing programme could be attempted along the lines of the 'Guardian Angels' programme in New York. Local volunteers of good will could provide inside information about crime and trouble-makers in their communities, and identify the presence of organised crime. These people would not automatically become part of the new police service, but could be issued with equipment (radios, uniforms, not weapons) by KFOR or UNIPTF on a temporary basis until the new police is ready.

¹⁹ Though one incident was reported on 5 August of an attack on a house under KFOR guard near Rahovec/Orahovac, such incidents are rare.