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Kosovo at the crossroads

Perceptions of conflict, access to justice
and opportunities for peace in Kosovo



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The Forum for Civic Initiatives (FIQ) is a Kosovar non-governmental organisation promoting the involvement of Kosovar citizens in social and decision-making processes through programmes designed to focus attention on the values and functioning of an open and democratic society.



Saferworld is an independent non-governmental organisation that works with governments and civil society internationally to research, promote and implement new strategies to increase human security and prevent armed violence.



syri i vizionit

mendo globalisht vepro lokalisht



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Executive Summary

Kosovo is at a crossroads. The underlying drivers of conflict, including the fundamental decision on its future status, must be addressed in order to move Kosovo towards a more prosperous and stable future. This report is based on a participatory conflict analysis methodology¹ and is the culmination of research, advice and suggestions from civil society organisations throughout Kosovo. It looks at potential drivers of conflict and opportunities for peace in five main categories: future status of Kosovo; security and justice; politics and governance; social and cultural; and economics and livelihoods.

The research, which was conducted between September and October 2007 by Saferworld, the Forum for Civic Initiatives (FIQ) and eight other local NGOs², involved participants from Kosovo's main ethnic communities, NGOs and security and justice sector workers in workshops, focus groups and interviews. As such it reflects the perceptions of the Kosovo public and security and justice sector workers involved in the research rather than the views of the authors or their funders. Much of the process was accompanied by representatives from the Kosovo Police Service (KPS) and the Ministry of Internal Affairs of the Provisional Institutions of Self-Government (PISG).

The future status of Kosovo

'Final status' permeates the people's concerns as expressed throughout this report. It links to all spheres of life in Kosovo – social, economic, cultural, political and security. People are understandably anxious about how its resolution will affect their lives, and frustrated that delays in its resolution are hindering efforts to improve the situation in Kosovo. Many people feel cut off from high-level international negotiations and powerless to influence decisions made by the US, Russia and the EU about Kosovo.

- The international administration and the PISG must address this disenfranchisement by providing better information on the final status process to Kosovo's population and opportunities for the public to discuss it.

Security and justice

According to those who participated in research for this report, the weakness of the security and justice sector means that people cannot always resolve their grievances through the courts, prompting some to "take justice into their own hands". The unclear division of competencies between local and international institutions creates confusion over who is responsible for which aspects of security provision and the legal system, making it difficult to hold institutions to account and opening up space for corruption.

- It is critical that the PISG and international administration in Kosovo clarify and communicate the division of security and justice sector competencies between them.

¹ See Annex A: Methodology for a detailed description of the definitions and methodology used.

² Centre for Civil Society Development (CCSD) (based in Mitrovica); Centre for Social Development (CSD) (based in Gračanica/Graçanicë); Community-Building Mitrovica (CBM); Community Business Development Center (CBDC) (based in Gjakovë/ Djakovica); Iniciativa për Progres (INPO) (based in Ferizaj/Uroševac); Kosovo Centre for International Co-operation (KCIC) and Youth Network of Gjilan/Gnjilane (based in Gjilan/Gnjilane); Peace and Human Rights Council (based in Prizren); Syri i Vizionit (based in Pejë/Peć)

The Kosovo Police Service (KPS) is one of the more trusted institutions in Kosovo, but this success is being undermined by the weak capacity and perceived corruption in the justice system, and inadequate witness and victim protection. The conditions which allow corruption to thrive include the lack of judges, large backlog of cases, low salaries of judges and prosecutors, confusing sets of laws and conflicting competencies, and weak oversight mechanisms.

- The international administration and the PISG should promote co-operation between the different security and justice sector institutions, offer extra support to prosecutors and improve witness and victim protection mechanisms.

Information about the security and justice sector is not always accessible or sufficiently detailed, and it is difficult for some minority communities to find information about the Kosovo-run courts system.

- The PISG, local media and international administration alike have the responsibility to rectify the security and justice sector information deficit with better dissemination of information about cases, responsibilities, competencies and citizens' rights.

Governance and politics

There is confusion about the roles and responsibilities of different authorities, in particular the PISG and UNMIK, exacerbated by the gradual transfer of competencies from UNMIK to PISG and the lack of transparency in governing institutions and agencies. This makes it difficult to hold government representatives to account, and the international community remains unaccountable to the public and to Kosovo institutions. All of this leads to disenfranchisement and cynicism among the public.

- The specific competencies of the PISG, UNMIK and the potential future European Security and Defence Policy (ESDP) mission need to be made clear to the population of Kosovo.
- The PISG should be supported in taking a greater leading role in defining needs and practices in the areas where they do have clear competencies.
- Donors providing such support should co-ordinate their efforts and ensure their interventions are designed according to the specific needs of Kosovo institutions rather than replicating models from different countries which may ultimately not be appropriate for Kosovo.

The existence of parallel structures remains a contentious issue. Currently, Belgrade-financed institutions operate in Serbian communities throughout Kosovo, providing public services and separating Kosovo Serb politics and social services from those of the rest of Kosovo. While they offer a cultural and political lifeline to those who want to maintain links to Belgrade, the fact that they exist at all and the economic and political effect they have is considered by many to be a driver of conflict. Deciding on the fate of these structures is crucial for political stability and social service delivery, but it is a very sensitive issue that embodies some of the identity-related conflict drivers expressed by interviewees and focus group participants.

- Decisions on the future of parallel structures and the services they provide have to be transparent, consultative and take into account the likely social, economic and political impacts.

Social and cultural factors

There are many divisions in Kosovo society, including the growing urban-rural divide, the effects of migration within Kosovo, remaining issues around freedom of movement, and ethnic division. The latter is one of the key splits in Kosovo society. People are almost exclusively defined by their ethnicity rather than by other identities such as profession, interests, or gender, and there are few cultural linkages between communities, particularly between Kosovo Albanian and Kosovo Serb communities. There is frustration that while people recognise inter-ethnic divisions as an issue, there is little sustained discussion about the different aspects of inter-ethnic tensions and how to address them.

- Local and international institutions should help mitigate divisions between rural and urban populations and uneven development between different municipalities by ensuring their interventions are not only targeted at communities and municipalities in Prishtinë/Priština.
- Local and international institutions should support more sustained and committed discussion about 'inter-ethnic' issues.

Economics and livelihoods

Kosovo's economic challenges were aggravated by the 1998-9 war and the subsequent uncertainty about final political status. This has contributed to high unemployment, which in turn feeds into people's frustration about the delays in determining Kosovo's final status.

- The international administration and PISG need to address people's high expectations of the economic benefits of possible independence as Kosovo's political future becomes clearer.

The inability of the central government to tax all of its sources of income means that there is little opportunity to redistribute wealth to those most in need. Low standards of living are linked both to low salaries for those who are employed, and to high prices for basic commodities.

- The international administration and PISG should improve the privatisation process, making it more transparent to stimulate job creation and assist the fair redistribution of wealth. Local production and foreign and local investment should all be supported.

Electricity provision is also perceived as a driver of conflict. Scheduled and unscheduled power cuts, uneven distribution of electricity throughout Kosovo and difficulties paying electricity bills cause resentment and frustration, often directed against other communities rather than the Kosovo Energy Corporation (KEK). Many areas in Northern Kosovo receive relatively good electricity provision due to sustained support from Belgrade. There is a risk that differences in energy provision for different communities could contribute to resentment between them.

- The international administration and PISG should address electricity provision across Kosovo as soon as possible in a transparent manner.

Conclusion

In seeking and recording the concerns and perceptions of a sample of people from Kosovo's communities on a number of security-related issues, this report identifies potential drivers of conflict and suggests opportunities for peace which directly relate to the needs and experiences of the communities involved in the research.

To design needs-driven and people-focused security interventions which build on opportunities for peace and avoid exacerbating drivers of conflict, the international community, donor agencies and PISG should strive to involve communities in a genuinely participatory process to identify priority areas for action. By researching and analysing local needs and reflecting them in funding strategies and programme design, international and local institutions can work in partnership with local communities towards establishing a just and durable peace in Kosovo.

Contents

Acronyms.....	1
1 Introduction.....	2
2 Future status of Kosovo.....	3
2.1 (Unresolved) future status of Kosovo as a driver of conflict.....	3
2.2 The future status of Kosovo as an opportunity for peace.....	5
3 Security and justice.....	6
3.1 Security and justice issues as drivers of conflict in Kosovo.....	6
3.2 FOCUS: Access to Justice.....	7
3.2.1 Lack of clarity and unclear division of competencies.....	7
3.2.2 Lack of clarity of laws.....	8
3.2.3 Poor access to information.....	9
3.2.4 Perceived inadequacies in media reporting of crime.....	10
3.2.5 Uneven trust in the KPS.....	11
3.2.6 Weak capacity and perceived corruption of the justice system.....	12
3.2.7 Difficult access to courts.....	13
3.2.8 No effective witness and victim protection.....	14
3.2.9 Sentencing and bail.....	14
3.2.10 Informal justice mechanisms.....	15
3.3 Recommendations for improving access to justice.....	17
3.3.1 Consolidate roles and responsibilities in the justice sector.....	17
3.3.2 Clarify the legal basis.....	18
3.3.3 Improve access to courts.....	18
3.3.4 Strengthen the role of the media.....	19
3.3.5 Improve trust in the KPS.....	19
3.3.6 Address the lack of capacity in the courts system.....	20
3.3.7 Protect witnesses and victims of crime.....	20
4 Governance and politics.....	21
4.1 Governance and politics as drivers of conflict.....	21
4.2 Opportunities for peace in the politics and governance of Kosovo.....	23
5 Social and cultural issues.....	24
5.1 Social and cultural issues as drivers of conflict in Kosovo.....	24
5.2 Opportunities for peace in the social and cultural spheres.....	25
6 Economics and livelihoods.....	27
6.1 Economics and livelihoods as drivers of conflict in Kosovo.....	27
6.2 Opportunities for peace in the economic sphere.....	28
7 Conclusion.....	30
Annex A: Methodology.....	31

Acronyms

BIRN	Balkan Investigative Reporting Network
CBDC	Community Business Development Center
CBM	Community-Building Mitrovica
CCSD	Centre for Civil Society Development
CSD	Communication for Social Development
ESDP	European Security and Defence Policy
EU	European Union
EUPT	European Union Planning Team
FIQ	Forum for Civic Initiatives
ICO	International Civilian Office
INPO	Initiative for Progress
IDP	internally displaced person
KCIC	Kosovo Centre for International Co-operation and Youth Network of Gjilan/Gnjilane
KEK	Kosovo Energy Corporation
KFOR	Kosovo Force (NATO)
KJC	Kosovo Judicial Council
KLA	Kosovo Liberation Army
KPA	Kosovo Property Agency
KPC	Kosovo Protection Corps
KPS	Kosovo Police Service
KTA	Kosovo Trust Agency
NGO	non-governmental organisation
OSCE	Organisation for Security and Co-operation in Europe
PHRC	Peace and Human Rights Council
PISG	Provisional Institutions of Self-Government
RTK	Radio-Television Kosovo
SALW	small arms and light weapons
SiV	Syri i Vizionit
SOE	socially-owned enterprise
SPC	Serbian Orthodox Church
SRSg	Special Representative of the Secretary-General of the UN
UNMIK	United Nations Interim Administration Mission in Kosovo
UNSCR	United Nations Security Council Resolution

1 Introduction

Kosovo is at a crossroads. The underlying factors which currently keep the territory in a state of 'frozen conflict', including the fundamental decision on its future status, must be addressed in order to move Kosovo towards a more prosperous and stable future. After more than eight years of international administration and well-intentioned peace-building efforts by international donors and agencies, there remains a great deal to be done to ensure the future peace and stability of the territory. However, an increasingly confident and informed civil society, a common desire to emerge from post-conflict economic stagnation and the skills and knowledge of Kosovo's population all bring opportunities for establishing a just and durable peace.

This report, based on a participatory conflict analysis methodology,³ is the culmination of research, advice and suggestions from civil society organisations throughout Kosovo. Initially envisaged as a focused investigation into specific problems associated with access to justice in Kosovo, the enthusiasm and ideas of the eleven organisations involved have created a somewhat more ambitious piece of work. Researched between September and October 2007, a total of eleven workshops mapping drivers of conflict at Kosovo-wide and regional levels involved participants from all regions of Kosovo. Sixteen focus groups organised and run by regional non-governmental organisations (NGOs) and involving representatives from Albanian, Bosniak, Gorani, Roma, Serb and Turkish communities in Kosovo, looked at issues around broader access to justice, including both formal and informal mechanisms for resolving disputes.

The NGOs also interviewed around seventy people involved in some way in the justice sector – prosecutors, police officers, judges, court officials, representatives from the office of the ombudsperson, mayors and other municipal representatives, lawyers, specialist NGO representatives and journalists. Much of the process was accompanied by representatives from the Kosovo Police Service (KPS) and the Ministry of Internal Affairs of the Provisional Institutions of Self-Government (PISG).

The information and analysis discussed in the report derives from the workshops, focus group discussions and interviews, as well as desk research by Saferworld and the Forum for Civic Initiatives (FIQ). As such it reflects the perceptions of the Kosovo public and justice sector workers rather than the views of Saferworld, FIQ, the other NGOs involved in the research or their funders. While every effort was made to encourage the participation of a wide range of men and women from different regions and diverse ethnic backgrounds, the final report is a partial representation of the views of Kosovo's communities and does not claim to give the full picture. The quotes reproduced in text boxes throughout the report are illustrative of some of the opinions of those interviewed and are not necessarily endorsed by the authors.

'Final status' permeates the concerns of people throughout this report. It links to all spheres of life in Kosovo – social, economic, cultural, political and security. People are understandably anxious about how its resolution will affect their lives, and frustrated that delays in its resolution are hindering efforts to improve the situation in Kosovo. But more than this, they feel isolated from negotiations, powerless to affect political events, and ignorant of reasons behind key decisions, and are therefore increasingly cynical that there is anything they can do to take control of their destinies. Addressing this

³ See Annex A: Methodology for a detailed description of the definitions and methodology used.

disenfranchisement – regardless of what happens on or after 10 December 2007, when the international troika will report on the results of the latest negotiation process between Prishtinë/Priština and Belgrade – will be crucial to ensuring the future peace and stability of Kosovo.

This report was researched at a time of election campaigning when civil society is heavily involved with exercising its oversight role, and a time of tension when NGOs throughout Kosovo are working often against the odds to build peace in their own regions. The commitment and innovation of these organisations has been invaluable in producing a report that we hope reflects the subtleties and complexities of opinion and helps identify the main drivers of conflict and key areas for building peace in Kosovo. But we hope it will be more than this. We hope it will not be just “one more report that no-one will read”⁴ but a contribution to the start of a process of listening to the different communities’ voices, of growing mutual respect between local and international officials and the people of Kosovo, of designing and implementing reforms that address drivers of conflict and build on the numerous opportunities for peace in Kosovo today.

This report attempts to analyse and make links between potential drivers of conflict in Kosovo, grouping them into five main categories: future status of Kosovo; security and justice; politics and governance; social and cultural; and economics and livelihoods. Each section summarises the views and opinions expressed in the conflict mappings, focus groups and key informant interviews on each theme and suggests potential opportunities for peace-building related to that theme. The report ends with some recommendations for next steps to be considered by international and local policy-makers and implementing agencies.

2 Future status of Kosovo

2.1 (Unresolved) future status of Kosovo as a driver of conflict

Kosovo’s future status permeates all aspects of political life in Kosovo for all communities, and politicises many other aspects of life too. It is perceived as the primary driver of conflict by many people, due both to the uncertainty surrounding what will eventually happen and due to its links to so many other issues. The issue is one of the principal dividers between Kosovo’s Albanian and Serbian populations, with each group holding opposed views as to the desirability of ‘independence’. And although decisions on final status are bound to generate conflict at a number of different levels, it is also clear that continuously postponing a decision on final status could equally lead to violence and instability.

In all conflict-mapping workshops (both regional and Kosovo-wide), variations on the theme of final status figured as one of the top three drivers of conflict. Most people are concerned that the continued delay in negotiations on Kosovo’s future status is causing frustration which can lead to demonstrations and violent conflict, but for some (in particular Kosovo Serbs in the northern municipalities), the uncertainty of the status quo is preferable to the possibility of an independent Kosovo and the ramifications that would entail. The current uncertainty allows them to hope that independence will not happen, and removes any incentive for them to engage with Kosovo-based structures. All agree that the decision on future status, when it comes, will cause some level of conflict. If

⁴ Focus group participant in Graçanicë/Gračanica

Kosovo receives some form of independence, some minority communities are concerned that they will suffer under 'Albanian-majority' rule. But if Kosovo does not receive independence, then most of the participants of the mapping workshops are convinced that frustration among Kosovo Albanians could spill over into violence, and many of the other drivers of conflict will also not be addressed (such as unclear division of competencies of government structures and poor economic prospects).

The perceived need for unity of each 'side' is stifling debate and discouraging criticism of PISG and Belgrade policies alike, making informed oversight of policy-making almost impossible and preventing the development of inter-ethnic relationships that could have long-lasting positive reconciliation effects. But at the same time, people are often confused about what the negotiation process actually entails and how to interpret the various proposals (such as the Ahtisaari Proposal⁵) coming out of the ongoing negotiations. People (from all communities) feel cut off from high-level international-led negotiations, disenfranchised and helpless to influence decisions made in Washington, Moscow, Brussels and New York⁶.

Uncertainty over, and a decision on, future status link to all of the issues described in the rest of this report. For instance, many people believe that a resolution on status (specifically, an independent Kosovo) will result in improvements in the economic situation as international financial institutions become legally allowed to assist Kosovo more than they are already doing and the climate for foreign direct investment becomes more secure. This links directly to the high level of unemployment as one of the primary security concerns: many are assuming that this will be 'solved' on gaining independence for Kosovo. It will be essential to manage the public's expectations in this regard as resolved status for Kosovo will not result in an immediate alleviation of economic problems.

Similarly, the relationship between UNMIK and PISG competencies and laws is creating confusion, something which many assume will be resolved along with future status. However, much of the lack of clarity over competencies and legal bases will remain regardless of future status given the complex legal history of Kosovo and the remaining international involvement in the territory, unless additional efforts are made to clarify the situation. The confusion is allowing authorities – local and international – to avoid being held accountable for their actions. Lines of accountability and mechanisms for oversight are anyway weak, but they are further weakened by the current option of passing the blame to another authority for incompetence, negligence or just unpopular decisions.

According to the focus groups and interviewees, socially, the uncertainty over status is stymieing attempts by some to bridge inter-ethnic divides, politicising otherwise functional relationships and discouraging compromise. It is also being used as an excuse by politicians for ongoing problems with social ramifications, such as electricity and health provision, poverty and unemployment. In post-status Kosovo, these sorts of issues could become much more prominent and dissatisfaction with political responses to mitigate them could become a new driver of conflict.

⁵ Martti Ahtisaari, Special Envoy of the Secretary-General of the United Nations for the future status process for Kosovo, presented his Comprehensive proposal for the Kosovo Status Settlement to the United Nations on 2 February 2007. The proposal is available at <http://www.unosek.org/unosek/en/statusproposal.html> (accessed 17 November 2007).

⁶ Perhaps as a result of this, many people involved in the research were suspicious of the roles of the various liaison offices (foreign countries' offices in Kosovo) and some even cited these as drivers of conflict, with rumours circulating about allegations of spying and blackmail.

2.2 The future status of Kosovo as an opportunity for peace

The ongoing uncertainty about future status makes Kosovo's population feel frustrated and helpless to address any of the issues affecting their lives – 'everything is linked to final status' is a phrase that was used in almost every workshop during this process. But there are things that can be done at levels 'below' the international negotiation process on future status, to start addressing specific issues (some of which are outlined in the rest of the report). There are also some activities that can help reduce anxiety about future status and perhaps encourage envisioning (particularly for minority communities) what a post-status society may look like.

One of the key issues in this regard is the need to **provide much better information on the future status process and the implications of the various proposals for people's everyday lives**. The international community and the PISG have particular opportunities to communicate their actions (and the reasons behind their actions) in a much clearer and more transparent manner than they are currently doing. More opportunity for people to engage in open debate on these sensitive issues with the actors directly involved in negotiations would be a positive step towards reducing fear of the unknown and thus the confusion surrounding future status negotiations.

Liaison Offices, especially those perceived to be particularly influential in negotiations (the US, British, French, German and Russian) should consider holding debates and question-and-answer sessions in communities around Kosovo, addressing the reasons behind their political positions and answering questions about their precise political goals. Much of the confusion is outside the capital of Kosovo, Prishtinë/Priština, so it would be important to travel to other municipalities for this dialogue. In a climate where distrust of UNMIK is increasing in all Kosovo's communities, the **European Union** (in the form of the EU Planning Team and the International Civilian Office) has already made some effort to reach out to communities, but its efforts are not sufficient and have to date been mostly one-way. It is the opportunity to ask questions – and have them answered – and the ensuing dialogue that people throughout Kosovo are currently missing.

There is certainly more of a role for the **PISG** to play here, along similar lines but including more detail on their policies for Kosovo, in particular controversial policies such as decentralisation. The PISG in particular should reach out to ethnic minorities, women and rural populations, reinforcing the message that it is there to serve all the people of Kosovo – even if this message may initially be rejected in some of the more isolated communities. Community debates and informative seminars are useful in not only providing information, but also giving communities the opportunity to have their opinions heard. Such events could also be opportunities to share the stories of multi-ethnic communities who have found ways to live together. In more isolated communities, such events will have to be handled sensitively and may require a step-by-step approach so as not to risk the politicisation of outreach efforts to the extent that they do more harm than good.

Civil society, in particular non-governmental organisations and media, is a key bridge between institutions and communities, able to advise institutions on the content and practicalities of debates and able to facilitate interaction with communities, and to pass on communities' messages. Many civil society organisations are keen to assist in enhancing the quality of information and debate on future status issues, but too often they are treated without sufficient respect by local and international authorities and organisations alike.

3 Security and justice

3.1 Security and justice issues as drivers of conflict in Kosovo

According to focus group participants, interviewees and the findings of the conflict mappings, the weak rule of law and related feelings of insecurity are key drivers of conflict in Kosovo. The weakness of the justice sector means that people cannot address their grievances through the courts system and therefore “take justice into their own hands”. Many people keep weapons because they feel insecure and unprotected (and fearful of a future conflict), and potentially use them because the law does not function⁷. This means that relatively minor disputes can rapidly escalate into violent confrontations. Legitimate democratic protests can also get out of control, and so responses by security providers to these protests need to be carefully thought out. Heavy-handed responses (such as on 10 February 2007⁸) can have ramifications far beyond the protest itself, but failure to act quickly (such as on 17 March 2004⁹) can also mean a protest gets out of control and becomes a riot. Moreover, despite subsequent improvements in policing responses to protests, many people (especially in Mitrovicë/Mitrovia) are nervous that KFOR and the KPS will not respond quickly enough in the future.

In this period of heightened tension, the visible presence of armed groups can cause conflict and naturally increases feelings of insecurity. In South Mitrovicë/ Mitrovia and Gjakovë/Djakovica, there is concern about several groups which have (re-)appeared recently, namely the Albanian National Army (AKSh), the Guard of Tsar Lazar, and the Bridge Watchers. While these groups are not in themselves structural causes of conflict in Kosovo, their presence contributes to feelings of tension and makes it more likely that an already tense situation could become violent.

Crimes from the past

While not one of the key drivers for conflict among the Albanian-majority community, Kosovo Serbs cited the failure to achieve justice for crimes committed in the immediate aftermath of the 1998-99 war and the March 2004 riots as “one of the largest constraints in the development of genuine interethnic dialogue and reconciliation”. This links to continued lack of trust in the Kosovo-managed courts system by Kosovo Serbs. However, those interviewed mostly blame UNMIK for failing to serve as a mediator between communities rather than Kosovo institutions.

People also expressed concerns about criminal groups (often also armed), particularly in border regions such as Gjilan/Gnjilane and Prizren where smuggling came up as an issue. At the time of the research and writing of this report, Kosovo was in the midst of an election campaign. Divisions between political parties and the election process itself came up as potential sources of tension and drivers of conflict several times in the course of the research. Responses on this issue suggested that those interviewed often associate

⁷ For further details of estimates of civilian ownership of weapons and public perceptions of security see *SALW Survey of Kosovo* (2006), Saferworld/SEESAC

⁸ On 10 February 2007, a demonstration by the movement Vetëvendosje in Prishtinë/Priština turned violent, resulting in the deaths of two protesters after Romanian UNMIK police officers fired rubber bullets into the crowd.

⁹ On 17 March 2004, riots lasting three days broke out, spreading throughout Kosovo and resulting in the deaths of at least nineteen people. The response of the international and local security providers was widely criticised for being slow and inadequate.

organised crime and insecurity with political parties and politicians. Politicians' rhetoric is also considered a potential driver of conflict for many participants, as it can play on people's fears, reinforce stereotypes and divide communities even further.

3.2 FOCUS: Access to Justice

Poor access to justice was identified as one of the main drivers of conflict in Kosovo in a previous conflict analysis conducted by Saferworld and FIQ in February-March 2007¹⁰. The inability to access justice sector institutions (because they are too weak, too few, corrupt or perceived to be unfair) can drive conflict because people feel they have to 'take the law into their own hands' to protect their families and obtain redress for wrongs they perceive they have suffered. Where weapons are widely held, this can mean that disputes can escalate quickly, and where informal justice mechanisms are widely used, vulnerable groups can be marginalised from the justice process. This research therefore focused on the specific problems with accessing justice mechanisms in Kosovo with the aim of providing practical recommendations for how to improve access to justice for all.

The information and analysis below derives from the work by regional NGOs in focus group discussions and interviews with justice sector officials, as well as some desk research by Saferworld and FIQ. It can therefore be seen to reflect only the perceptions of elements of the Kosovo public and a sample of justice workers.

3.2.1 Lack of clarity and unclear division of competencies

One of the biggest problems in Kosovo's justice system is the unclear division of competencies between the different actors. Kosovo is administered by UNMIK but competencies are being gradually transferred to the PISG. This process of transition means that some actors are unclear of their precise mandates, whether UNMIK or PISG is responsible for policy- and law-making in the justice sector, whether international or Kosovo judges are responsible for specific cases, and which laws are applicable.

Overall, the relations between the KPS, prosecutors and courts could be much improved. One journalist commented that "this triangle is often abused by one or the other. For example, when the police does its job, then the prosecutor delays it, or when the prosecutor does the job, then the courts delay it." The lack of clarity of competencies and poor communication allows different actors to pass on the blame for their own deficiencies.

"They [the prosecutors] do their job well, considering the difficulties that they have. We are partially satisfied with their work" – KPS officer

On 4 April 2004, responsibility for some aspects of investigations was transferred from the KPS to prosecutors, but there appears to have been little training for prosecutors on how to conduct

investigations¹¹, and the lines of communication between KPS officers and prosecutors are often blurred. In some municipalities, both KPS and prosecutors said that they had good mutual co-operation, but interviews in most other municipalities suggested that this is one of the main weak points in the justice chain.

"We have a very close co-operation with the KPS" – Public prosecutor

¹⁰ *Human security in Kosovo: A conflict analysis* (April 2007), SafePlace, unpublished

¹¹ See *Not on the Agenda: The continuing failure to address accountability in Kosovo post-March 2004* (May 2006), Human Rights Watch, pp 28-31, available at <http://hrw.org/reports/2006/kosovo0506/kosovo0506web.pdf>, accessed 9 November 2007

"The KPS-Prosecutor's Office relationship is not very satisfactory. We are 80 percent satisfied with this co-operation" – Senior KPS officer

All prosecutors interviewed said that co-operation with the KPS was "good" or "mostly good". However, many KPS officers interviewed did not have such a positive assessment, feeling that the prosecutors could be more professional,

that prosecutors do not communicate with the KPS sufficiently, and that they do not always follow up on KPS-initiated investigations. On the other hand, some prosecutors complained that the quality of evidence provided to them by the KPS was poor, some noting that this was to do with KPS' training and resources.

Media and NGO representatives interviewed had a more negative assessment of the co-operation between KPS and prosecutors. Some blamed the influence of politics on the different institutions, and others said that the KPS and prosecutors "give the impression that there is co-operation between them" but the reality is different. However, there is some evidence that this situation is improving. One NGO representative from Prishtinë/Priština noted, "I have the impression that the procedure of police-prosecutor investigations is beginning to be more efficient."

Communication and co-operation between the courts and the prosecutors is often poor, although this differs from municipality to municipality. In Ferizaj/Urosevac, a journalist claimed that "there's a lack of co-operation and mutual relations between the municipal court and the Public Prosecutor's Office. The Public Prosecutor's Office declares that they process the cases regularly but the indictments end up in the drawers of the municipal court and are kept there for a long time, and sometimes they are even forgotten. Hence, it is normal that all this creates tension and irritates the citizens."

"There are cases when the citizens are fined by the police and when the case is sent to the court, the fine is dismissed, and this gives the opinion that there is no good co-operation between [the KPS and the court]" – NGO representative, Pejë/Peć

Co-operation between the KPS and the Courts, specifically for minor

offences which do not go via the prosecutor's office, and for police escorts of defendants to and from the courts, could also be improved. Some judges complained that cases are sometimes jeopardised by the disclosure of confidential information by the KPS.

3.2.2 Lack of clarity of laws

The absence of a single legal basis in Kosovo is causing confusion among institutions and citizens alike¹². Not only is it difficult for citizens to understand what is against the law and

"We have a compilation of Former Yugoslav laws, from Milošević's time, UNMIK regulations, International Conventions, new laws promulgated by the Kosovo Assembly," – Ombudsperson representative

what is legal, it is also hard for justice sector institutions to explain the legal basis on which they are acting. At the same time, international judges from countries with different legal systems add to the confusion of interpreting a law or rule on a case. Moreover, this lack of clarity makes it very difficult for media to report accurately and civil society organisations to hold these institutions to account, because it is not obvious which standard or law the institutions should be adhering to.

¹² See UNMIK Regulation No. 1999/24 on the Law Applicable in Kosovo (12 December 1999) for more details, available at: <http://www.unmikonline.org/regulations/1999/reg24-99.htm> (accessed 16 November 2007).

“This foggy situation”*: Parallel courts systems

Kosovo Serbs throughout Kosovo, but particularly in the Kosovo-Serb majority northern municipalities of Zubin Potok, Leposaviq/Leposavić and Zvečan/ Zvečan, as well as Northern Mitrovicë/Mitrovica, use a parallel justice and security system run and financed by Belgrade, as well as the laws of Serbia (and sometimes under UN Security Council Resolution 1244, but not laws from the Kosovo Assembly). Kosovo Serbs will almost invariably use this parallel system, but there are occasions when they need to engage with the Kosovo-managed system as well. This inevitably creates confusion, difficulties for access and co-ordination between the two systems, and yet another area where institutions are not accountable to their constituents.

At this time of high political tension and ongoing final status talks, there is immense pressure on the Kosovo Serb community to use the Belgrade-managed courts system, but as one Kosovo Serb focus group participant put it, “judges, prosecutors and state-provided defence lawyers are not being transparent at all, and this is mostly related to the fact that they are working in the status quo whereby they are not being supervised by anybody, not even the relevant Belgrade ministries.”

The presence of two courts systems creates confusion among the public concerning which court people should address their grievances to. For instance, internally displaced persons currently living in Northern Kosovo do not know how to resolve property disputes because while they do not recognise Kosovo-managed courts (from a political perspective), they realise they may need to use this system to obtain redress. In fact, as one focus group participant in Northern Mitrovicë/Mitrovica said, it seems that the “Serbian government is admitting the jurisdiction of Kosovo-managed courts in [property dispute] cases, however it seems they are not admitting it openly for political reasons, leaving a number of Serbian community members confused and disoriented when it comes to actually submitting their cases to the Kosovo-managed courts. Would they be judged by other members of their community? Would they be marked by political hardliners as national traitors?”

Some interviewees with experience of working within parallel structures clearly felt helpless regarding their ability to improve the safety of their communities: “We [Belgrade-managed institutions] cannot influence any kind of security issues...We are just providing moral support to people and that is not enough.”

** - focus group participant, Northern Mitrovicë/Mitrovica*

3.2.3 Poor access to information

In most regions of Kosovo, journalists and NGOs comment that they can access the courts system and obtain information relevant to their jobs, as well as co-operation from prosecutors and courts.

Pejë/Peć is one exception here, with comments in focus groups suggesting that “journalists have no access in any court sessions, be it a small or a large case, and no press conference is held after these court sessions”¹³. A journalist from the region complains that, “The procedures for access to the prosecutor’s office are bureaucratic and direct contact with it is not easy. There is no clear information about our rights to meet with [the prosecutor’s office].” Another journalist from Prizren agreed: “The access is very difficult for NGOs and media in Prizren too.”

¹³ Focus group with women, Pejë/Pec

However, many journalists and NGO representatives note that access to information from the courts is easier for them than for ordinary citizens. “The prosecutor’s office is accessible on a selective basis, which means there is access for those who the prosecutor allows, as well as for human rights organisations”¹⁴. Focus group participants too are unclear from where they can obtain information and what information they are allowed to access (and what should be confidential), although many cite the Internet as a key source of information.

“The citizens have started to be more aware” – South Mitrovicë/Mitrovica focus group

3.2.4 Perceived inadequacies in media reporting of crime

In close-knit communities in Kosovo, rumours travel fast. People often hear very quickly when an incident occurs, and they will then read about what happened in the local newspapers. However, people will often not know the details of what happened, and there is little follow-up by media to note what happened afterwards. Several interviewees and focus group participants complained that while they know of someone’s arrest from reading the local newspaper, the newspaper does not then report on the process and outcome of a trial, leaving many people to assume that the trial has come to nothing. This lack of follow-up creates opportunities for corruption as suspects have been accused of paying bribes for charges to be dropped or early release from prison out of the media spotlight. The converse is also true: for people who have been wrongly accused (and the accusations published in the local media) there is little chance to “clear their name” when charges are finally (and legitimately) dropped.

“Instead of giving more information regarding crimes or justice cases, for which citizens are more interested, the media broadcast music programmes or different Latin soap operas” – male participant, focus group in Pejë/Peć

¹⁴ Human rights NGO representative, Prishtinë/Priština

Information provision in Kosovo Serb communities

It remains very difficult for Kosovo Serb communities to find information about the Kosovo-run courts system for several reasons. Information is often not translated into Serbian (or is translated badly), but Kosovo Serbs do not recognise the Kosovo institutions that are providing some information in Serbian (such as laws published on the Internet in three languages). Moreover, Kosovo institutions do not address these communities directly and the media which report on Kosovo institutions' work do not always reach Kosovo Serb communities. There are no Serbian-language Kosovo-based newspapers, for example.

As focus group participants in Northern Mitrovicë/Mitrovica point out, "On the one hand, the Kosovo Serbian community doesn't recognise Priština-managed institutions but on the other, community members feel under-served and not treated equally because they do not receive information from those same institutions." The problem is two-way: Kosovo Serbian community members do not feel the need to provide information back to the justice institutions and the PISG on issues related to implementation of laws, police or court performance.

The situation is slightly different in the Serbian enclave of Graçanicë/ Gračanica, where there is some willingness to find out about information from PISG, but the media that provide information to the rest of Kosovo reportedly does not do so to Graçanicë/Gračanica. It was claimed by one focus group participant that "RTK don't have a programme in Serbian language and it is also not possible to see it in Gračanica...Local radio stations deal with local problems and we are again separated from Priština." [see www.rtklive.com for information about their language programming]

3.2.5 Uneven trust in the KPS

Broadly, many participants trust the KPS and are increasingly satisfied with their work. There are still issues with the professionalism of police officers, and some comments concerning corruption and lack of training, but there is a general acknowledgment that the KPS has improved greatly. However, in focus group discussions and interviews specific allegations were made against the KPS including in Pejë/Peć, where there is a perceived chronic problem with the justice system, including the KPS.

Trust in the KPS among Kosovo Serbs interviewed is generally extremely low (although they expressed some positive perceptions of KPS work and understanding of the difficulties faced). KPS officers in the northern Kosovo Serb-majority municipalities are perceived as people without initiative, without adequate capacity and with doubtful educational background. Participants stated that numbers of KPS officers are maintaining low-profile collaboration with so-called 'parallel security structures' such as the 'Bridge Watchers' and Serbian undercover police. This is perceived positively by part of the Kosovo Serbian community since this links KPS officers more closely with the "Serbian side", but others see these kinds of linkages as "space for corruption and manipulation". There is also a feeling that the KPS does not usually intervene on time when it comes to inter-ethnic violence and ethnically motivated crime, which limits its capacity to serve as an effective liaison

"I believe that the KPS is doing an excellent job given the circumstances, and it is true – they are limited with the existing parallel court systems. Nobody can expect that situation to improve when we have dysfunctional structures, it is simply not reasonable" – male NGO representative, Northern Mitrovicë/ Mitrovica

with the court system.

In Graçanicë/ Gračanica, the issue is partly tied to the ethnicity of the police officers and partly to do with wider corruption issues: "People from the Serbian community do not have any trust in Albanian KPS representatives... People from the Serbian community who work in the KPS do not have any authority and are usually ex-criminals." Despite this, support was also expressed for multi-ethnic KPS patrols, not just in Serbian areas but throughout Kosovo.

Minority communities who are relatively well-integrated into broader society are much more positive concerning the KPS. Kosovo Serb and Gorani participants in a focus group in Ferizaj/Urosevac region had friendly relations with their security and justice providers: "We are very grateful to [the KPS]. They visit our village and ask us always whether we have any problems. So, there is a good relationship between the villagers and the KPS."

3.2.6 Weak capacity and perceived corruption of the justice system

It is clear that corruption and the perception of corruption within the justice system is a major concern for those interviewed. It is less clear, however, whether the solution lies in tackling the corruption itself or the conditions which allow it to thrive, such as the large backlog of cases, the low salaries of judges and prosecutors, the confusing sets of laws and conflicting competencies and the weak oversight mechanisms.

"We have around 9,000 unsolved cases" – senior member of the judiciary, Ferizaj/Urosevac
"We have around 2,500 unsolved penal cases, around 5,000 civil cases and many other ones" – member of the municipal court,

A consistent complaint from prosecutors, police officers, judges and citizens alike was the lack of judges¹⁵, leading to a growing backlog of cases and therefore

extreme frustration felt by people waiting for their cases to be solved, as well as problems with long detention times for suspects who are then cleared.

Possibly deterring new people from becoming judges is the lack of security for judges, particularly for those dealing with serious criminal cases. Several judges and prosecutors expressed fear for their own safety if they hand down judgements unfavourable to powerful families, organised crime groups and other individuals. Safety concerns are exacerbated when a

"It's a shame that in courts, we are lacking basic things like pens, pencils, paper or other means that we need for working" - FG male participant, Prizren

"A group was sentenced to 70 years' imprisonment for organised crime. After the trial, the prosecutor finished his business day, and went to a public transport vehicle to go home. There were all the family members of the sentenced persons. You can imagine what happened to him" – journalist

case is not in the public eye; publicity of cases was mentioned as offering some protection from threats. Low salaries for judges could also be deterring new people from joining the profession. The low salaries paid to judges are seen to be one of the key drivers of corruption in the judiciary, and combined with the large backlog of cases, there are

¹⁵ As of April 2007, there were 311 local judges and 88 local prosecutors in Kosovo according to UNMIK Fact Sheet, available at http://www.unmikonline.org/docs/2007/Fact_Sheet_apr_2007.pdf (accessed 16 November 2007). This works out at roughly one local judge per 6,430 people. By way of comparison, in Macedonia, there is around one judge for 3,210 people (a relatively high number) (source: Nationmaster.com).

frequent examples of people paying to get their cases heard sooner.

Courts do not have their own fixed budget. The Kosovo Judiciary Council decides on funds for administrative expenses. This prevents courts from being able to take the initiative, for instance to design community outreach or communication programmes, improving physical access facilities or issuing brochures containing information about the local courts. One suggestion from a judge interviewed during this analysis was to decentralise the court budgets. If this were to be done (for instance, as part of the broader decentralisation process), sound and transparent financial systems would need to be put in place to prevent further risks of financial mismanagement and corruption.

Case study: Corruption at the heart of the justice system

"I had a situation in the Municipal Court in Pristina, and it leads me to conclude that the judicial system in Kosovo is corrupt. If the judge is corrupt, then it is obvious that the whole of the system is corrupt. My store was robbed of several thousand euros. People that used to work for me stole from me and they were caught by KPS police. KPS police officers recorded all the happening of actual robbery.

"What I want to say is that despite the police's proofs and pictures and recording, those thieves were released a few days after and the reason was lack of proof. I knew that the system is corrupt and that is why I wanted this robbery to be recorded by the police but it didn't help. I even hired a lawyer but later I found out that even the lawyer was corrupt. He didn't inform me when the lawsuit would be, he didn't even show up and the judge just decided to let the thieves go home. That means that lawyers' offices are connected with judges etc. I tried to hire another lawyer but he told me that for 4,000 euros everything could be solved, which is another proof of corruption in this system."

– focus group participant.

3.2.7 Difficult access to courts

While most members of the public can physically access courts when they need to, there are some problems with access for specific groups of people, and a focus group participant from Shtime/ Štimlje complained that he could not access a court at all because there wasn't one in his municipality.

Courts are situated in cities and large towns, and access can be difficult for people from rural areas using their services. Restrictions on freedom of movement for some communities limit their access to court buildings. In Mitrovicë/Mitrovica, the District Court is situated in the northern part of the city, making it difficult for people from the southern part to reach it. There is a bus designed to transport people from the south side to the court in the north, but it takes much longer than walking and costs more than a regular bus fare. Similarly, Kosovo Serbs from Graçanicë/Gračanica have difficulty accessing the Municipal Court based in Prishtinë/Priština, partly due to the issue with licence plates (see section 5.1) and being afraid to travel to Prishtinë/Priština and partly because they feel unrepresented by judicial employees.

Physical access can also be difficult for people with disabilities, and specific mobility needs (such as wheelchair access) tend not to be catered for in the design of court buildings.

Students in focus groups complained that they did not have good access to the courts, feeling that they were not taken seriously by court officials if they wanted to get any sort of information from the court.

3.2.8 No effective witness and victim protection

There is total confusion among judicial professionals and the public alike as to whether formal provision exists for protecting witnesses and victims, but there is near complete agreement that in practice, witnesses and victims are not protected. People feel very

"Once I saw a crime but I did not go to the court to testify. I didn't feel safe" – participant in Prishtinë/Priština focus group

unsafe, fearing that they or their families will be put at risk if they testify against a defendant, and victims can be reluctant to report crimes (and to follow through with cases). In some cases this is linked to the presence of close-knit communities in Kosovo, with irresponsible media reporting, and with examples of KPS and prosecutors revealing information about witnesses' identities (in part due to corruption but also due to carelessness and unprofessionalism).

Without witnesses, and given that KPS and prosecutors tend to lack the skills to collect and analyse material evidence such as forensic and ballistic evidence, cases often collapse or never reach court. This dysfunction in the justice system contributes to the use of informal justice mechanisms and thus can further undermine the formal justice system or lead to informal justice that does not meet human rights standards.

"In my country...": International judges in Kosovo

There is a large degree of consensus that international judges are often not as competent as local judges because they do not understand Kosovo culture and 'mentality'. Most focus group participants would prefer to be judged by a local judge, although some admitted that in sensitive crimes such as inter-ethnic incidents, an international judge could be more appropriate. The higher salaries of international judges were frequently mentioned, with some participants believing that this prevented corruption and was therefore positive, and others arguing that the salary difference is yet another example of double standards. Some raised the issue of international judges having bodyguards, again something that mitigates corruption and demonstrates how unsafe local judges can feel in their everyday work.

3.2.9 Sentencing and bail

Partly due to corruption within the justice system, and partly as a result of inadequate follow-up reporting of cases by the media (see section 3.2.4), there is a perception that many criminals are given sentences that are too light for the severity of the offence. One

"The courts should determine cases when bail is allowed"; "Bail rules should be set by law" – male focus group participants in Gjakovë/Djakovica

example given by a participant in a focus group in South Mitrovicë/ Mitrovica involved the suspects in a child rape case being put under house arrest rather than in custody, and a focus group participant in Gjilan/Gnjilane claimed that someone sentenced for murder had begun

working in the education system. Concerns were also expressed that corruption can alter a verdict from 'guilty' to 'not guilty': "Different factors influence cases where the offence is the same but the verdict is different".

Bail is also regarded ambivalently by most people interviewed, with several focus group participants noting that it either benefited the rich or allowed suspects to bribe their way out of prison. This is closely linked with witness and victim protection concerns, as a focus group participant in Gjilan/Gnjilane noted: “[Bail] is not so good because it enables the accused to escape from the country, buy the witnesses or manipulate them, and cause the disappearance of evidence.”

“Bail is not necessary for criminals. They are released even without bail”
– focus group participant, Graçanicë/
Gračanica

3.2.10 Informal justice mechanisms

Given the failures of the formal justice system, many people turn to informal mechanisms to resolve disputes. Some of these are positive examples of taking initiative and formulating community-specific solutions amenable to all concerned and can, if done fairly and transparently, assist in reducing the pressure on the overloaded formal justice system. For instance, in a village in Ferizaj/Urosevac, there is a joint commission between Serbs and Albanians for joint resolution of problems. A female participant in Gjakovë/Djakovica commented that property disputes “are usually solved by an agreement between the persons involved, and not through courts.” But others are less positive, in particular some of the use of the Kanun of Lekë Dukagjini, which was mostly referred to in relation to property disputes (specifically within families). The Kanun is interpreted and used by different people in different places at different times and as such there is confusion and inconsistency in its use¹⁶. It appears to be more prevalent in rural areas, linked to some extent to the intimidation rural residents sometimes express when dealing with the (city-based) formal justice system.

“There are still cases when we solve problems by two constitutions, the first being through the courts and the other through traditional Kanun. It happened when after finishing an issue in the courts, the people dealt with the problems again by violently solving them” – participant in focus group of Albanians and Gorani, Ferizaj/Urosevac

Many interviewees noted that the Kanun of Lekë Dukagjini was mostly used in revenge cases, and several NGO representatives argued that the Kanun is often misused or misinterpreted. Some areas of Kosovo, particularly in the western region, experience blood feuds between families; these are often perceived to be linked to the Kanun, and reflect on traditional Albanian values of pride and honour. The formal justice system’s failure to offer adequate witness and victim protection exacerbates the situation, and people are not always safe even in jail. Moreover, the formal justice system in blood-feud cases not seen to offer appropriate redress for a wrong suffered, so on leaving jail, the feud can continue if forgiveness (“the word”) has not been sought and given.

But informal mechanisms can also provide for reconciliation stemming from use of the Kanun, through for example reconciliation councils or respected individuals from a community.

¹⁶ There is a great deal of confusion over how and whether the Kanun of Lekë Dukagjini is actually used. It was referred to frequently in both focus groups and interviews with judicial officials, but it appears that it is often conflated with the idea of revenge (including in blood feuds), while other people separate revenge-related issues from the Kanun entirely. More research is necessary to establish precisely how the Kanun is used (and where it is not, despite people’s claims). More discussion and information on the content and use of the Kanun would also be useful for Kosovo’s society as a whole to understand it more fully.

Case study: "The word" of forgiveness

"Two families, one from a village [in Ferizaj/Urosevac] and the other one from Shtime were in enmity with each other. The member of the family from [Ferizaj/Urosevac] was in prison for the murder he had committed, and even during this time, his family did not have "the word" [of forgiveness] from the other family. The children did not go to school because they were afraid, and the other members of the family were isolated in their house. By taking into account this information, and many cases of revenge, a "Conciliation Council" was established for Kosovo, and this Council succeeded in reconciling these two families. Today, the members of the family from [Ferizaj/Urosevac] live freely. As a result of this, I can say that in the rural areas, where the courts don't even try to work, or inform the citizens, the informal councils have an essential role."

– Journalist

In one focus group held with students in Northern Mitrovicë/Mitrovica, there was no knowledge of informal mechanisms used to resolve land and property disputes, but participants argued that where formal justice systems are not functional and adequately recognised by all communities, any informal mechanism should be perceived as a threat because its nature would not be preventative and educational. However, NGO representatives in another focus group in the same location noted a visible increase in the use of informal mechanisms to resolve these disputes, particularly regarding Kosovo Serb IDPs from urban centres of Kosovo such as Prishtinë/Priština and Prizren. In these cases, contacts and settlements of disputes are done directly between Kosovo Serb and Kosovo Albanian community members.

Both focus groups in Northern Mitrovicë/Mitrovica commented on using members of the 'Bridge Watchers'¹⁷, Serbian undercover police and monasteries as mediators in "smaller disputes" such as drug abuse, family disputes and intra-youth violence.¹⁸ The Serbian Orthodox Church (SPC), especially the monasteries, plays not only cultural, religious and traditional roles, but increasingly plays the role of counsellors and mediators, making the SPC one of the strongest, if not the strongest, non-formal mechanism for addressing the common problems of Kosovo Serb community members.

Case study: Taking justice into your own hands

"I will tell you my story. In 2005 three bombs were thrown in Prishtinë and I wrote a story about this in the local newspaper. The next day some persons, who appeared to be important, came to me and they threatened me, so I reported them to police. Even though they knew that I had reported them to the police, they came to me again. The police did not take any measures. That is why I had to use my brothers and my family to protect me, because they were informed of details about my case that was reported to police." – focus group participant

¹⁷ The so-called Bridge Watchers are a group of Kosovo Serbian men with the self-styled task of 'watching' the main bridge across the River Ibar in Mitrovicë/Mitrovica with the purpose of monitoring those crossing the bridge into North Mitrovicë/Mitrovica.

¹⁸ Participants made a clear distinction between monasteries and churches, whereby trust is given to monks in monasteries rather than to priests in churches because of the widespread attitude that priests are misusing the people to gain personal financial benefit, charging for even the smallest service, while monks in monasteries are providing their services free of charge and in more personal manners.

Informal mechanisms: The dilemma for the Roma community

The use of Serbian-dominated informal mechanisms for solving disputes can be particularly problematic for the Roma community living in Serb-majority areas. In most cases where there is a need to address a problem between Roma and Kosovo Serbian communities, the Bridge Watchers may intervene. However, according to focus group participants on many occasions the resolution of the problem may not be in the best interests of the Roma community because the Bridge Watchers are keener to protect the interests of the Kosovo Serbian community. They would therefore not be the first choice of non-formal mechanism from the perspective of the Roma community. To avoid additional problems, the Roma community is reluctant to report these kinds of "conflict mitigation cases" to the KPS, since the KPS is mostly staffed with Kosovo Serbian officers and perceived to work, unofficially, in collaboration with the Bridge Watchers.

3.3 Recommendations for improving access to justice

3.3.1 Consolidate roles and responsibilities in the justice sector

Consolidating roles and responsibilities and better training provision in the justice sector are important factors in improving service delivery and accountability and reducing inefficiency. There are several ways that this could be achieved:

- **Clarify division of competencies:** Actors in the justice sector are still unsure of their precise roles and mandates, in particular where the KPS' role ends and the prosecutor's role begins. Also, there is still some confusion as to whether Kosovo or international (UNMIK) actors are responsible for certain issues, in particular for local and international prosecutors. These should be clarified as a matter of urgency.
- **Establish the Judicial Police Unit:** The establishment of a judicial police unit has been mandated by law but no progress has yet been made. Prosecutors, police officers and judges all suggested that the establishment of the Judicial Police would be a positive step in clarifying responsibilities, lessening the burden on the courts and ensuring the right people have the right skills for conducting investigations.
- **Train prosecutors:** When prosecutors were given an investigative role in April 2004, it is claimed that they received little or no training on how to conduct investigations. Complaints from both KPS and judges regarding the work of the prosecutors referred to this lack of understanding of how to do investigative work. Providing targeted training for prosecutors on conducting investigations is an essential first step in building their capacity and thus strengthening the capacity of the whole justice system.
- **Strengthen co-operation between justice institutions:** There are many problems of co-operation and communication between the workings of KPS, prosecutors and courts. With clearer competencies, a specialist Judicial Police Unit and better trained prosecutors, co-operation between these three institutions should improve automatically. However, there are certain ways of working that could be supported to strengthen this co-operation further:
 - **Joint trainings:** By training the different actors together, they will deepen their understanding of each other's roles and responsibilities, as well as develop mutual trust and respect.

- **Regular meetings:** Some prosecutors and KPS officers already have regular meetings to discuss their work, and agree that this contributes positively towards co-ordination and efficiency. However, this does not happen throughout Kosovo. There should be a requirement for these meetings to occur, and minutes of the meetings should be taken and circulated to all interested parties. (Having only verbal communication is not sufficient from the perspective of holding each other to account.)
- **Better communications:** While KPS and prosecutors do communicate with each other in most regions of Kosovo, this is often not formalised. Specific communication protocols should be developed jointly by KPS and the prosecutor's office to ensure that both institutions have received all the necessary information and gaps and problems can be identified quickly.

3.3.2 Clarify the legal basis

The lack of clarity of which legal basis is applicable is causing frustration and confusion among those interviewed. Moreover, it is in some people's interest to preserve these 'grey' legal areas to permit corruption, to undermine PISG authority and to stop institutions being accountable to the public. Much of this is directly linked both with the transitional status of Kosovo and political positions on final status negotiations, and can therefore not be tackled at this time. However, there is certainly an opportunity to **clarify when UNMIK regulations or Kosovo law (pre- and post-1999) are applicable**.

3.3.3 Improve access to courts

Physical access to courts is sometimes difficult, and people are also often unaware of how they can access courts and information about courts and other justice sector institutions.

- **Provide clearer information:** Justice sector institutions should produce much clearer information (for instance, in brochures and advertisements) on how to access them, telephone numbers and contact points, and on what their roles and responsibilities are.
 - This is an even bigger problem in communities with little engagement with the PISG. **Establishing information liaison posts** in larger communities where residents can ask about the workings of Kosovo government and justice institutions may go some way to bridging this information gap.
 - Institutions should also **use the Internet** to provide information (in all relevant languages) about justice processes in general and public cases in particular, and courts should regularly **produce information booklets on solved and unsolved cases** and actively disseminate them to the community.
 - There is little **knowledge about access to pro bono lawyers** and what citizens' rights are concerning the use of pro bono lawyers. More and clearer information should be provided on this subject and the performance of lawyers doing pro bono work should be monitored just as strictly as when they do private work.
- **Give citizens better access to courts:** Most media and NGO workers feel positive about their access to courts officials and documents, although some thought this was too superficial. Court officials should extend this positive relationship to all citizens, making it clear the hours between which citizens can access the courts and their information, which court sessions are open to the public, what information they are

entitled to access, and what processes and institutions they should use for this access. It is also important for officials to be available in their offices when they say they will be.

- **Treat all citizens equally:** It is essential that every member of the public is treated the same, regardless of where he or she is from, gender, age, ethnicity or profession. If necessary, it could be useful to provide supplementary training to court officials on how to avoid discriminating against specific groups of people.
- **Improve access to courts throughout Kosovo:** For instance, the bus that takes people from the southern part of Mitrovicë/Mitrovica city to the court in the northern part of the city is a positive development, but it should be made free for all. If this results in people using the bus for non-court-related business, then that could be a positive side-effect on improving freedom of movement more generally. The PISG should consider establishing similar bus services for other communities elsewhere in Kosovo.

3.3.4 Strengthen the role of the media

The media have a role in informing the public of incidents of crimes accurately and in a timely fashion. Much of this they are already doing, but they could also **follow cases throughout the trial and sentencing process**. This will have the effect not only of informing members of the public sufficiently to allow them to have their own opinion on a specific case, it will also give police and prosecutors the opportunity to appeal for witnesses and other information on crimes. Moreover, transparent and rigorous reporting of court decisions would narrow the space for corruption to occur, particularly in giving sentences that are too light or letting people out of prison early.

3.3.5 Improve trust in the KPS¹⁹

The KPS is one of the strongest institutions in the wider justice sector of Kosovo, but among some communities trust is very low, and among the wider public, there is still hesitation to report crimes. It is extremely important that people trust the KPS in order to feel comfortable reporting – and therefore ultimately reducing – crimes and for people to feel safe. The KPS should therefore focus on **building up trust among communities** where trust is low, for instance by continuing and extending the practice of multi-ethnic patrolling, always in consultation with local communities, and improving community consultation more generally.

Police officers need to **maintain the highest standards of professionalism** at all times. This of course should involve being polite to and approachable for all members of the public, but police also need to ‘keep their distance’ from people with whom they are familiar so as to avoid being perceived as partial. They should also be professional in their relations with the prosecutors in particular, adhering to procedures at all times.

The KPS should strive to **keep the public informed** of criminal cases as and when it is legally possible, including by providing regular updates of the progress of investigations to Kosovo media. Similarly, the KPS should **strengthen channels of communication for citizens** to assist the police with information.

¹⁹ See *Policing in Kosovo: A survey of perceptions* (provisional title), Saferworld and FIQ (forthcoming) for more detail on attitudes towards the KPS and recommendations for future improvements in policing.

3.3.6 Address the lack of capacity in the courts system

The main weaknesses in the justice system from a capacity perspective are with the inadequately trained prosecutors and the lack of judges. While these actors' capacity can be built up directly (see section 3.3.1), there are also ways of lessening the burden on this part of the justice system.

- **Strengthen the institution of the ombudsperson:** The offices of the ombudsperson appear to be well respected by many members of the public, with reports that citizens are increasingly turning to this institution and that other government institutions are (gradually) responding more to its enquiries. There are still some difficulties regarding how to access the ombudsperson and what he/she is mandated to do. This could be a key institution in improving information access for the public and guaranteeing due process is followed by legal institutions, and should be strengthened particularly in the short term.
- **Focus on the courts and prosecutors:** Up until now, the focus of capacity-building by international agencies and donors has been very much on the KPS, something reflected in the broadly favourable assessment of KPS work. However, this success is creating additional burdens on the courts, which cannot cope with the extra work in their current state, and the KPS is in danger of being blamed (as the most visible institution) for these failures. Therefore, attention should now be focused on strengthening the capacity of prosecutors and judges (in skills and in number, and their premises). All this should be done in a co-ordinated fashion, taking a "joined-up" approach to security and justice sector development in Kosovo.
- **Take non-contested cases out of the courts:** For the simpler civil cases, one solution could be to give adjudication powers to administrative tribunals or clerks, which would take care of strictly business-oriented cases or non-contested matters such as contracts and licence-granting.
- **Use informal justice mechanisms carefully:** Members of the public are already making use of informal justice mechanisms to solve disputes that could potentially take years in the courts system. Some of these mechanisms can potentially help reduce the burden on the courts system, such as village councils and using respected families and village leaders to mediate disputes. However, these informal mechanisms often do not have an 'appeal' system, and can be non-transparent and unaccountable. Moreover, they do not always protect vulnerable groups or 'weaker' parties to a dispute, and can reinforce patriarchal structures, ignoring the specific needs of women and children. Therefore, any use of these systems or support to them should be given very carefully.

3.3.7 Protect witnesses and victims of crime

There is provision in the Provisional Criminal Procedure Code for Kosovo to protect witnesses and victims of crime inside the court room. Chapter 21 – Protection of injured parties and witnesses (articles 168-174 of the Code)²⁰ deals with this. However, information about this is confusing and difficult to access. As a matter of urgency, the Kosovo Judicial Council should **run a media campaign and hold community meetings** to inform the public about provisions for witness and victim protection that already exist.

²⁰ Provisional Criminal Procedure Code of Kosovo, available at: http://www.unmikonline.org/regulations/2003/RE2003_26_PCPC.pdf (accessed on 8 November 2007)

A November 2007 report by the OSCE²¹ contains several detailed recommendations for improving witness protection, including provision for relocation and other long-term protection measures, and recommendations for improving UNMIK's Witness Protection Programme in particular. These should be supported as a matter of urgency because without reliable witness testimony, rule of law in Kosovo will remain weak and powerful criminals will continue to offend with impunity.

There is also provision to sanction legal personnel if they reveal the identity of protected witnesses or if they reveal details that could lead to a protected witness being identified. If a prosecutor or judge jeopardises the confidentiality of a protected witness, the Kosovo Judicial Council is competent to issue disciplinary measures²². If the offence is committed by a lawyer, the Chamber of Kosovo Advocates is competent, based on two documents: The Law on Advocates and Legal Aid (Official Gazette of Kosovo 48/79) and the Statute of the Kosovo Chamber of Advocates. Awareness of these provisions needs to be increased and the necessary measures taken against those across the justice and security institutions who transgress.

4 Governance and politics

4.1 Governance and politics as drivers of conflict

Workshop participants expressed confusion as to the roles and responsibilities of different authorities, in particular the PISG and the international administration. The incremental transfer of competencies from UNMIK to PISG has meant that ministries' responsibilities are changed frequently, and officials are often not clear about their roles and obligations. The confusion also allows representatives of local government authorities to avoid being accountable for their decisions and actions. At the same time, there is no mechanism to enable the public and Kosovo institutions to hold the international administration or international organisations accountable. The linked problems of evading responsibility (especially when things go wrong), being genuinely unclear of what responsibilities are, and having no clear mechanism for holding these bodies to account leads to disenfranchisement and cynicism among the public.

The workings of governing institutions and agencies - local/municipal, PISG and international - are non-transparent. It is unclear to the public what the authorities do. There is insufficient publicly available information on government activities, responsibilities and research projects and people do not know how to access the information that does exist. Newspapers can be an important source of information but the reporting can be of poor quality, confusing or insufficient. The PISG are also not seen to be proactive in providing information and asking for feedback, something emphasised in Graçanicë/Gračanica where information about the PISG is minimal but where many people would like to know more. In these situations, the lack of information hinders people who want to change their relationship with Albanian communities and in this way, obstructs reconciliation and positive change.

²¹ *Witness Security and Protection in Kosovo: Assessment and Recommendations*, OSCE Mission in Kosovo (November 2007), available at http://www.osce.org/documents/cio/2007/11/27752_en.pdf, accessed 9 November 2007

²² Section 7, UNMIK/REG/2005/52 On the Establishment of the Kosovo Judicial Council, available at http://www.unmikonline.org/regulations/unmikgazette/02english/E2005regs/RE2005_52.pdf, accessed 9 November 2007

The existence of parallel structures remains a contentious issue. Currently, Belgrade-financed institutions are operating in Serbian communities throughout Kosovo, providing public services and separating Kosovo Serb politics and social services from those of the rest of Kosovo. On one hand, they offer a cultural and political lifeline to those who want to maintain links to Belgrade, delivering vital services in areas of need which may otherwise be neglected by other institutions. On the other hand, the fact that they exist at all and the economic and political effect they have is considered by many to be a driver of conflict in Kosovo. For example, the salaries of employees of parallel structures are generally higher than those paid by the PISG (see footnote 26), making people reluctant to move out of the parallel system. At the same time, the parallel system undermines the ability of the PISG to serve the whole population of Kosovo: some communities have no link whatsoever to Kosovo structures, since all their services are provided by parallel structures. And in some of these communities, such as Graçanicë/ Gračanica, parallel structures themselves are not always perceived to be serving Kosovo Serb communities either. Furthermore, these parallel structures are considered by many to be unaccountable to constituents in Kosovo as well as in Serbia proper. People are now so dependent on parallel structures for service provision and jobs that they are nervous about the future of these structures once final status is decided.

Focus groups in Graçanicë/Gračanica and Prizren complained of inadequate minority representation in central government institutions. Specifically, it was felt that minority government representatives did not represent the best interests of their constituent minority communities.

Unclear division of competencies, roles and responsibilities between PISG and UNMIK, and inadequate transparency in all governing institutions, create opportunities for failures in service delivery, nepotism and corruption. These issues are of immense concern to the Kosovo public and permeate everyone's opinion of all levels of government. There are similar concerns relating to the parallel structures in part due to the lack of clarity over their legal status²³ and their perceived lack of accountability.

Participants in the research for this report expressed concern and confusion surrounding the process of decentralisation as proposed in the Ahtisaari Proposal which provides for the creation of new municipalities and investing competency for a range of services at municipal level. For instance in Gjilan/Gnjilane region, where there are mixed community villages (such as Cernicë/Cernica, Stanishor/Stanišor, Koretin and Pasjak) interviewees expressed concern that creating new municipalities will cause problems with the transfer of personal documentation (such as drivers' licences and identity documents). Similar problems with access to documents arise already in South Mitrovicë/Mitrovica.

"Corruption leads to poor governance, poor services for citizens and unhappiness with institutions"
- NGO representative from Ferizaj/Uroševac

Moreover, the process of decentralisation along ethnic lines is creating deep separation between communities. Some of these issues are related to unclear information about the

²³ Parallel structures are *de jure* illegal under UN Security Council Resolution 1244 (1999) and are not recognised by UNMIK. Despite this, they do exist and were perceived by focus group and workshop participants as playing a *de facto* role in Kosovo with an impact on tensions and conflict. In addition, in addressing the issue of decentralisation, the Ahtisaari package would in practice permit the incorporation of some parallel structures into the governance framework of Kosovo as municipalities and would permit financial donations from Serbia to these municipalities under certain conditions, thus affording them *de jure* recognition.

process of decentralisation. At the same time, participants did not appear to realise that the process of decentralisation could pose an opportunity for improved and more accountable municipal level governance if it is done based on the needs of citizens.

4.2 Opportunities for peace in the politics and governance of Kosovo

The politics around final status discussions dominates everything, and a lot of this is completely outside the control of ordinary citizens. While at the time of research and writing, internal criticism of the PISG and Unity Team²⁴ members seemed to be deliberately toned down, there are some healthy examples of criticism and oversight, such as the television debates organised by the Balkan Investigative Reporting Network (BIRN) and the Task Force of local NGOs during the election campaign. However, there are clearly some emerging problems in the Kosovo political system relating to corruption, non-transparent tenders and employment practices at the national and municipal level. Some of this is exacerbated by the difficulties of the transition process and it is important for all involved to continue efforts to support an accountable, competent governance system that can serve Kosovo far into the future – not to become trapped in a focus on final status alone.

- The specific competencies of the PISG, UNMIK and the potential future European Security and Defence Policy (ESDP) mission need to be made very clear to the population of Kosovo. Opportunities to discuss this with PISG and international organisation representatives should be created, such as in public meetings where the public across Kosovo (not only in Prishtinë/Priština) can discuss important issues with representatives from these bodies. This is the only way in which the public can understand who to hold accountable for public policy and services and is crucial in terms of fostering a culture of political accountability for the future. The apparent lack of accountability of international organisations and parallel institutions, and weak accountability mechanisms of the PISG, are detrimental to the future political system in Kosovo and should be addressed.
- Depending on what happens on 10 December, some of the details of the PISG's mandate and responsibilities may remain unclear for some months to come. This complicates support to PISG institutions. However, **PISG should be supported to take more of a leading role in defining their needs** and ways of working on the areas where they have clear competencies. In addition, **donors providing such support should become more co-ordinated** and avoid replicating models from different countries into components of the PISG, which may ultimately leave the PISG with an array of contradictory or inefficient institutional arrangements.
- Deciding on the fate of parallel structures across Kosovo is crucial for political stability and social service delivery, but is a very sensitive issue that embodies some of the identity-related conflict drivers. Any decisions on this matter therefore have to be **transparent, consulted on and have to take into account the social, economic and political impact** of either dismantling or retaining these structures.
- More generally, **service delivery and decentralisation** across Kosovo are a real opportunity for peace if done **based on needs**, and decisions (and budget allocations) are made in a transparent and accountable way.

²⁴ The Unity Team is a five-member Kosovar negotiating team consisting of representatives of the ruling coalition and opposition parties set up to deal with final status issues.

5 Social and cultural issues

5.1 Social and cultural issues as drivers of conflict in Kosovo

There are many divisions in Kosovo society, some of which can act as drivers of tension and conflict. For example, regularly in focus group discussions people from rural areas were described as not being treated with the same respect as people from urban areas,

"Freedom of movement is much much better than it used to be, but some people still feel the issue, some people just don't feel safe" – NGO representative from Graçanicë/Gračanica

particularly in the context of accessing legal institutions. At the same time, some people from urban areas complained that immigrants from the village to the city are often poorly adapted to city life.

While this research did not focus specifically on the issue of women's rights there are clearly conflict-related issues pertaining specifically to women which require more detailed and focused research. In the context of this analysis, only in Pejë/Peć and Gjakovë/Djakovica regions, (where the large number of widows from the 1998-9 war gives women a stronger voice) was concern expressed for inadequate protection of women's rights. One woman in a focus group in

"The tie is always more important than the 'plis' [traditional white hat]" – male from Prishtinë/Priština

Gjakovë/Djakovica summed up the problem in her region: "I work with women in rural areas, especially with women who are head of the family. Most of them stay at home, are limited and do not have property rights, and their fathers-in-law take the decisions. They usually do nothing because they are not secure and do not have rights."

Ethnic division remains one of the key splits in Kosovo society, not least because people are almost exclusively defined by their ethnicity rather by other identities such as profession, interests, or gender, and there are almost no cultural linkages between communities, particularly between Kosovo Albanian and Kosovo Serb communities. Different ethnic communities define 'the other' with negative stereotypes, but people also use positive stereotypes to define their own ethnicity. This means that much social discourse is based on ethnic identity which can, when perceived as a divisive issue, reduce space for people to discuss what they have in common across different ethnicities.

There is much positive debate and discussion within ethnic groups. However, there is also still a lot of internal pressure within some communities (particularly Serb communities in some of the enclaves, but also in more hardline Albanian communities) for people not to engage with joint structures or the 'other side'. It is a widely held view among participants in the research that politicians on all sides are suppressing debate in order to present a unified front, assuming it will further their high-level political position, particularly with reference to ongoing future status talks. This leads to frustration that some arguments are being ignored. For instance, the interests and opinions of Serbs in enclaves, mixed communities, Serbian majority municipalities in northern Kosovo and the Serbian-majority municipality of Shtërpcë/Štrpce are very different, but there is the feeling that these differences are being ignored as Belgrade and some Kosovo Serb politicians are perceived to be acting in their own interests and not those of their constituents.

Migration to and within Kosovo within the past decade has resulted in population shifts: 'newcomers' are often regarded with suspicion and resentment but are also often very

poor with little representation and access to government services. Many people have still not returned to their original homes after leaving them in 1999 and 2004, and there are still refugees from the Bosnian and Croatian wars living in northern Kosovo.

Freedom of movement remains a problem for many people in Kosovo but has improved dramatically since 1999. Moreover, many people argue that perception is worse than reality. Nevertheless, minority communities in particular are often afraid to travel far from their homes especially after dark.

A specific issue inhibiting the freedom of movement is that of licence plates. For instance, in the Serbian enclave in Graçanicë/Gračanica, most cars have licence plates from the pre-1999 regime rather than the new KS ones. Some people have refused to change their licence plates because it would imply recognising the authorities of Kosovo institutions, but others would like to change their licence plates but cannot afford to because vehicle registration centres require proof that they have paid their electricity bills²⁵. In Mitrovicë/Mitrovica city, KS number plates are used in the southern part and Serbian number plates are used in the northern part. Most people feel that it is not possible to cross the River Ibar (which runs through the city) with the opposite licence plates because they are fearful of how hardline members of the community on the other side of the river will react. Therefore, people do not cross the river because they do not have neutral number plates (such as those used by international organisations) even though they may want to travel to the rest of Kosovo given the chance.

"In Pejë/Peć people feel unsafe. There is no freedom of movement after midnight" – NGO representative from Pejë/Peć

Even within the same ethnic communities people do not always feel safe to leave their houses after dark. In Pejë/Peć and Gjakovë/Djakovica, many people are afraid to be outside at night because of criminal gang activities and poor policing.

5.2 Opportunities for peace in the social and cultural spheres

At the heart of Kosovo's conflict dynamics lies the division between different communities. Despite years of peace-building efforts by local and international organisations²⁶, these tensions still exist and there are still communities where contact with the 'other side' is simply unacceptable. It is probably fair to say that at the moment, the continued uncertainty about Kosovo's future political status is contributing to maintaining these divisions as it allows the continued isolation of Kosovo-Serb communities from Kosovo-based structures in hope of a solution that will retain their ties to Belgrade. At the same time, the Albanian majority seems to be increasingly confident – and uncompromising – about Kosovo becoming independent. The particular impact of the final status discussions is elaborated on in section 2.1. In this section, the emphasis is

²⁵ On 4 July 2007, a memorandum of understanding and co-operation between the Ministry of Energy and Mining, the Ministry of Internal Affairs and the Kosovo Energy Corporation (KEK) was signed requiring proof of payment of all electricity bills in order to be eligible for a KS-style licence plate. In some cases, particularly for Kosovo Serbs, this amounted to thousands of euros as some electricity bills had not been paid since 1999. In this way, people are being penalised twice for one infraction. Available at: http://www.mem-ks.com/index.php?option=com_content&task=view&id=137&Itemid=102&lang=en

²⁶ See the report, *Has Peacebuilding Made a Difference in Kosovo? A Study of the Effectiveness of Peacebuilding in Preventing Violence: Lessons Learned from the March 2004 Riots in Kosovo* (July 2006), CDA Collaborative Learning Projects and CARE International, for an in-depth assessment of peacebuilding efforts in Kosovo.

on what can be done in the meantime as well as after final status to start addressing some of these social and cultural conflict drivers.

- In order to mitigate divisions between rural and urban populations, and uneven development of different municipalities, local and international institutions (including PISG, UNMIK/potential future ESDP mission, foreign government agencies and local and international NGOs) should take more care to ensure their **work and investments are targeted at communities and municipalities not only in Prishtinë/Priština**. This will help to ensure that skilled people are available across Kosovo and could perhaps be linked to an eventual decentralisation process. Similarly, budget allocations across different municipalities of Kosovo will have to be adapted to support this objective.
- There seems to be a real need to support **more discussion about 'inter-ethnic' issues**. Some participants expressed frustration that everybody seems to recognise inter-ethnic divisions as an issue, but there is an absence of sustained and committed discussion about the different aspects of inter-ethnic tensions and how to start addressing these. There are several different potential areas in which this issue can start to be addressed, including:
 - **Revise the education system** to include more open discussion of the concepts of discrimination, equality, human rights etc. and revise the curriculum to portray different perspectives of historic events to counteract propagandistic teaching in schools.
 - **Continue to address freedom of movement**, including through addressing the vehicle licence plates issue and the difficulties of obtaining documentation. For example, it would be helpful to de-link the acquisition of Kosovo licence plates from proof of payment for electricity bills, so that those who are keen to travel outside their areas can do so more easily.
 - The media have a particularly important role to play in terms of informing the public about real policy and political issues so that all PISG and UNMIK information reaches all parts of the population and is available in all the relevant languages (in good translations). At the same time, there is a real opportunity **for improving inter-community relations in terms of local radio stations** that can share information across areas. This should include positive examples of how some mixed communities in Kosovo have found ways to solve their problems together and are collaborating successfully. Some media are doing good work in this regard already, such as the collaboration between the Balkan Investigative Reporting Network and B92, the work of Radio Kamenica and the Communication for Social Development's radio programme Bla Bla Café.²⁷
- Monuments are always a sensitive part of post-conflict transition, but this is a complex issue in Kosovo and one which will have to be handled with care so that all communities feel that their side of the story has been portrayed, but that they are also able to look forward and work on reconciling with other communities.

²⁷ See *Evaluation report on Medienhilfe network projects in Macedonia and Kosovo* (September 2006), Mark Thompson, available at <http://www.medienhilfe.ch/fileadmin/medienhilfe/mh-Evaluation2006.pdf>, accessed on 9 November 2007, for assessment of some successes in this field.

6 Economics and livelihoods

6.1 Economics and livelihoods as drivers of conflict in Kosovo

In all of the regions in Kosovo with the exception of Prishtinë/Priština and Northern Mitrovicë/Mitrovica, unemployment was perceived by participants in this research as one of the key drivers of conflict, partly because of the associated poverty and low self-respect, and partly because without an income, it is not possible to travel or socialise, contributing to boredom and frustration and increasing isolation. The privatisation process is also driving unemployment in some areas. 'Jobs for life' are disappearing as socially-owned enterprises (SOEs) are sold and their employees are made redundant. One factory in Prizren exemplifies this trend. Three thousand people lost their jobs when it was sold and changed its field of work.

"We will get 40 euros a month for pensions. How are we supposed to live off of that?"

- A 55-year-old male from Prishtinë/ Priština

At the same time, nepotism in hiring practices can mean that unqualified people are employed due to family connections, reducing the economic efficiency of enterprises and creating resentment among people without family connections. This issue came up particularly in Prishtinë/Priština in the context of people receiving jobs for which they are not properly qualified.

While remittances from abroad sustain many families in Kosovo, and higher-than-average salaries from Belgrade-financed parallel structures²⁸ do provide some people with relatively good standards of living, the inability of the central government to tax these sources of income (as well as the informal economy) means that there is little opportunity to redistribute wealth to those most in need. For instance, pensions are barely enough to cover food²⁹ and low salaries, particularly among public sector workers, were considered by focus group and workshop participants to be a contributing factor to corruption. Corruption in government institutions inevitably favours the wealthy, who can access policing, legal, health and education services more quickly and efficiently, sustaining and potentially increasing the stratification of society and increasing levels of inequality.

Low standards of living are linked both to low salaries for those who are employed, and to high prices for basic commodities such as bread, cooking oil and milk. Local NGO representatives note that Ferizaj/Urosevac is the poorest municipality in Kosovo according to the World Bank, and there is a perception that the municipality does not receive its fair share of the Kosovo budget, fuelling resentment towards the PISG.

²⁸ Some receive salaries both from Belgrade-financed institutions and Kosovo-based institutions (for instance in the health and education sectors).

²⁹ The monthly pension will be increased from €40 to €75 on 1 January 2008.

Perceived mismanagement of economic infrastructure

Kosovo is a society in transition, and as such its economy is undergoing profound structural changes such as privatisation. At the same time, the capacity of its infrastructure (for instance, electricity and water networks) is weak and acts as a hindrance to economic development. Exacerbating this is the perceived mismanagement of the economy and its infrastructure.

The ramifications of the policies and practices of some of Kosovo's large utility companies were cited as drivers of conflict by workshop participants, in particular the Kosovo Energy Corporation (KEK). Scheduled and unscheduled power cuts, uneven distribution of electricity throughout Kosovo (which is only likely to worsen as winter approaches) and difficulties paying electricity bills cause resentment and frustration, often directed against other communities rather than KEK itself (although increasingly directed at KEK). The mismanagement of the electricity grid creates the conditions for frequent and widespread theft of electricity, reducing KEK's efficiency and passing on the costs to customers. As one NGO representative from Gjakovë/Djakovica put it, "Poor management of KEK leads to social problems". (See sections 5.1 and 6.2 for more on issues with electricity.)

The Kosovo Trust Agency's (KTA) privatisation programme is often cited as unfair, mismanaged and politically driven. The sale of government property to commercial owners has often caused resentment in post-communist societies, but in Kosovo, the perceived corruption in tender processes is fuelling distrust of the government and widening divisions in society between 'haves' and 'have-nots'.

6.2 Opportunities for peace in the economic sphere

Kosovo's economic challenges have been aggravated by the war and the subsequent uncertainty about its final political status. This has contributed to high unemployment, which feeds into people's frustration about the delays to determining Kosovo's final status. While there are some steps that can already be taken to start addressing some of the economic drivers of conflict, it is also important to recognise that people's expectations about the economic benefits of possible Kosovo independence are very high and will need to be addressed in the next few months as Kosovo's political future becomes clearer.

- The manner in which privatisation is conducted can be improved in order to stimulate job creation and ensure that the **process of privatising businesses is completely transparent**. First, there is a need for more transparent tender procedures and for more attention being paid to verifying that the ownership of the land on which the business is situated, is adjudicated following a transparent and acceptable process. Secondly, some types of privatisations of SOEs are 'spin-offs', providing incentives for the new owners to continue the same business, keep the same employees and invest in the business³⁰. However, there is a **lack of**

³⁰ "The Special Spin Off privatisation method adds two conditions to the highest sales price criteria: The employment level and the capital expenditure. As a result, after paying the winning bid price, the winning bidder will have two years to implement the pledged employment and the capital expenditure in the newly acquired company." *Privatisation by Special Spin Off*, Ardian Hackaj, Director of Control and Supervisory Department, KTA SOE Division, available at

supervision and evaluation of enterprises privatised with a special spin-off. Given how frequently unemployment featured as a key driver of conflict during this research, creating more jobs has the potential to significantly mitigate the possibility of future conflict. Linked to this, it is important to **make more information available to the general public about the role and mandate of the Kosovo Trust Agency (KTA)** in order to counter unrealistic expectations, but also to ensure that the KTA is accountable for its actions and that its competencies are well distinguished from the Kosovo Property Agency (KPA).

- In order to stimulate economic growth, another potential area for improvement is more **proactive support of local production**, which includes dealing with cheap imports and high export tariffs, as well as finding a way to stimulate Kosovo's agriculture and manufacturing and thus make more of the key commodities available locally. There is also a need to **encourage more foreign and local investment**, which includes addressing the problems with electricity provision (which would save businesses money and encourage new businesses to set up), the importance of settling Kosovo's final status³¹ and making sure that property disputes are dealt with as soon as possible with the records being available to potential investors. Perhaps there is a need for some 'guarantees' to be laid down to encourage investors, for example that all private property ownership will be respected, and making sure that banks start providing better loan conditions, particularly to small and medium enterprises, which will enable investment in Kosovo's economy. The current risk-averse attitude of financial institutions makes it very difficult for small businesses to get off the ground.
- Linked to the above, there is also a need to **keep better track of the social impact of key commodity price increases**, particularly on those with fixed incomes such as pensioners.
- Many participants in the conflict analysis process mentioned the informal economy, which provides an important livelihood for many people in Kosovo, particularly internally displaced persons in some areas. **Supporting the informal economy** could be an opportunity to ensure that these people have a way to sustain themselves and stay out of poverty. Any initiatives to deal with informal trading (such as bringing it into the formal economy through taxation and licensing, or cracking down on informal traders) therefore have to keep this in mind and find solutions that are consulted and sensitive to the needs of particularly those affected by the war in order to support people's recovery.
- The difficulties with electricity provision are hampering the Kosovo economy, anecdotally seem to be deterring foreign and local investment, and therefore have an important impact on Kosovo's ability to attain the economic growth needed for a stable society. Many areas in Northern Kosovo are receiving relatively good electricity provision due to sustained support from Belgrade, and if this trend continues (particularly after the determination of final status), there is a risk that the differences in energy provision for different communities could contribute to the

http://www.euinkosovo.org/uk/express/express_article.php?cat=49&id=119&eniid=12 (accessed 9 November 2007)

³¹ Opinions are divided as to how much resolving Kosovo's status would assist in encouraging investment, but the adoption of incentives or clearer business and dispute resolution laws – made easier by a resolved status – would surely help.

divisions and resentment between them.³² This should be avoided by **addressing electricity provision across Kosovo as soon as possible** and informing the public about what is being done and about the realistic expected timeline for improvements to materialise.

- Currently, debt for electricity payments is accrued to the household rather than the resident of a house or apartment, which means that people cannot pay off unpaid electricity bills only from the time that they have been living somewhere as this penalises the some of the poorer sections of society. Allowing people to **pay off only the debt that they have accrued** would benefit these poorer sections of society.
- Belgrade-financed parallel structures currently provide employment and income to a large number of people in different municipalities. Any future plans about how to deal with these structures will therefore need to **consider the economic impacts and how such impacts could influence relations between (and within) different communities**.

7 Conclusion

In seeking and recording the concerns and perceptions of a sample of people from Kosovo's communities on a number of security-related issues, this report identifies potential drivers of conflict and suggests opportunities for peace which directly relate to the needs and experiences of the communities involved in the research. In a place with as many different opinions and interests as Kosovo, where security is a priority yet attempts to provide it have often proved inappropriate or unsustainable, it is vital that those most affected have a voice in the design and implementation of security policy.

In order to design needs-driven and people-focused security interventions which build on opportunities for peace and avoid exacerbating drivers of conflict, the international community, donor agencies and PISG should strive to involve communities in a genuinely participatory process to identify priority areas for action. By researching and analysing local needs and reflecting them in funding strategies and programme design, international and local institutions can work in partnership with local communities towards establishing a just and durable peace.

³² During previous winters, this division was already apparent, especially with the creation by KEK of the ABC zone system, which penalised poor and rural communities. Although the system was based on bill payment levels, the effect in practice created a divide between ethnic and rural/urban communities, ultimately leading to the ABC system being scrapped.

Annex A: Methodology

This analysis was undertaken by a large network of non-governmental organisations. The project was managed by the Forum for Civic Initiatives and Saferworld, and the analysis was undertaken in conjunction with nine NGOs based in Kosovo. These NGOs were:

- Centre for Civil Society Development (CCSD) (based in Mitrovicë/Mitrovica)
- Communication for Social Development (CSD) (based in Gračanica/Graçanicë)
- Community-Building Mitrovica (CBM) (based in Mitrovicë/Mitrovica)
- Community Business Development Center (CBDC) (based in Gjakovë/ Djakovica)
- Iniciativa për Progres (INPO) (based in Ferizaj/Uroševac)
- Kosovo Centre for International Co-operation (KCIC) and Youth Network of Gjilan/Gnjilane (based in Gjilan/Gnjilane)
- Peace and Human Rights Council (based in Prizren)
- Syri i Vizionit (based in Pejë/Peć)

The analysis drew largely on the UK's Department for International Development's (DfID) Strategic Conflict Assessment methodology.³³ The approach focuses on analysing and linking together social, economic, political and security issues causing or likely to cause conflict in a given context. It examines the interests of different parties, dynamics of the conflict and current responses to it.

This analysis used a participatory approach to gain a more in-depth understanding of the issues that are causing tensions or divisions at municipal or local levels. The research was gathered between 14 September and 25 October, and followed the steps below.

Step 1: Kosovo-wide conflict mapping

Three workshops were held to map out drivers of conflict at the Kosovo level under the categories Politics and Governance; Economics and Livelihoods; Security and Justice; and Social and Cultural. The first workshop was attended by members of the Kosovo Police Service and Ministry of Internal Affairs of Kosovo, the second by representatives of international NGOs which already undertake some form of conflict analysis, and the third by representatives of regional NGOs in Kosovo.

Step 2: Regional conflict mapping within Kosovo

Workshops were held in Gjakovë/Djakovica, Gjilan/Gnjilane, South Mitrovicë/ Mitrovica, Gračanica/Graçanicë, Prizren, Ferizaj/Uroševac, Pejë/Peć and Prishtinë/Priština by regional NGOs and attended by civil society representatives from the broader region. They followed the same format as the Kosovo-wide conflict mapping, mapping out drivers of conflict at the regional level within Kosovo.

Step 3: Focus groups

Focus groups were held in all of the Kosovo regions and aimed to encompass as many groups in Kosovo's society as possible. Held separately where appropriate, focus groups comprised different ethnic communities (Roma, Bosniak, Serb, Gorani, Turkish, Albanian), men and women, people with different professions and people of different ages. Overall, 16 focus groups were held, organised by the regional NGOs.

³³ As set out in *Conducting conflict assessments: Guidance notes*, Department for International Development (DFID) of the United Kingdom (2002). Available at: <http://www.dfid.gov.uk/pubs/files/conflictassessmentguidance.pdf>

These focus groups looked at issues around access to justice for ordinary citizens, and all followed a similar format. More specifically, the focus group participants commented on their experiences with the security and justice structures (the courts system, police, ombudspersons, prosecutor's office), actors in the justice sector (lawyers, victims' support organisations, witness protection schemes) and experiences of the formal and informal justice system (as witnesses, victims of crime, criminals or bystanders).

Step 4: Interviews

The eight regional NGOs and FIQ each undertook a series of interviews with relevant actors in the justice sector. These included with ombudsperson representatives, judges, prosecutor's office representatives, lawyers, police officers, court officials, witness protection and victim support staff, specialist NGOs, local media, representatives of municipal authorities, legal academics and many others.

Step 5: Feedback workshop

All this information was collated and presented at a workshop led by FIQ. The regional NGOs presented their key findings to each other and the representatives of the Ministry of Internal Affairs of the Provisional Institutions of Self-Government and the Kosovo Police Service.