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EU Conflict Resolution in Kosovo
Lack of Legitimacy, Lack of Authority?

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ABSTRACT

The paper suggests that the current state of policy discourse and academic literature on the EU's 'distinctive' normative foreign policy proliferate an implicit claim to legitimacy which has been a barrier to assess the Union as an agent of global governance realistically. The current literature persistently relies on inward-looking appreciation of normative power ergo introvert legitimacy claims, especially regarding conflict resolution while various local actors are less inclined to readily accept European values and policies as legitimate. If the EU wants to avoid Euro-centric, neo-liberal stance and better employ its limited influence to realise highly ambitious goal to resolve conflicts in its neighbourhood, it has to avoid legitimacy claims as a by-product of self-declared normative *telos*. The essential requirement of legitimacy beyond state is to determine the actual audience who has power to grant and deny legitimacy for an agent of global governance.

The first part of the paper examines the legitimacy *problematique* of EU foreign policy as currently stands in E foreign policy literature. Second part brings up a theoretical and conceptual argument regarding the qualities of legitimacy as a mutually constructed source of authority at the international level. Unless we (re)conceptualise legitimacy as an intersubjective phenomenon between the Union and their multifarious local addressees, the problem lying at the heart of legitimating EU foreign policy cannot be addressed truly. Third section focuses on the EU's legitimacy claims as consented/challenged by the local stakeholders.

Main findings of analysis of policy documents and fieldwork conducted in Kosovo during May 2011 suggest that despite the expanding involvement of the EU with multiple instruments of conflict resolution and as the main international actor of the ongoing external supervision, the EU has failed to construct salient legitimacy in Kosovo and is perceived by local communities as distant, foreign, ineffective and even hostile to the locals on the ground. However, the enlargement prospect still remains as the main framework that provides the EU main source of credibility in Kosovo albeit increasing disappointment with the lack of tangible steps towards membership.

Key words: legitimacy, conflict resolution, Kosovo

Introduction

The EU has come to the international scene as a foreign policy actor within an era characterized by complexity and change during which nations 'form and disintegrate for various reasons but mostly because of the ascendancy of ethnic and national conflicts' within the established state boundaries (Cederman, 1997). These changing relations of state and people have inevitably created 'unstable agencies' in the EU's immediate neighbourhood which make establishing and maintaining a firm role and relevance for the EU a difficult task.

Resolution of ethno-national conflicts has become one of the main foreign policy goals of the EU. Official policy circles often reassert this goal referring not only to the responsibility of the EU to contribute peace and stability of the international system also as a strategic priority due to the security threats challenging the intra-EU zone of peace (e.g. European Security Strategy). The EU's contribution to ethno-political conflict resolution is designed to stretch across security, economic, humanitarian, political and institutional solutions (Menon, 2009: 228).

Most of the scholarly work on EU's conflict resolution has attributed these military and civilian policies to the characteristics of a 'distinctive actor' in international relations in terms of its identity, role, objectives, strategies and capabilities in foreign policy domain (e.g. Elgstrom and Smith, 2006; Hill, 2005; Carlsnaes et.al, 2004; M. Smith, 2004; K.E. Smith, 2004; Whitman, 1998; Hill, 1993 and 1998). An outstanding part of the debate regarding the EU's foreign policy especially in conflict resolution field has been evolved around normative power Europe concept-NPE (especially Manners, 2002:253 but also, Sjurssen, 2006; see Hyde-Price, 2006 and Merlingen; 2007 for critiques of the normative power argument). NPE and its variants (Eriksen, 2006; Bjorkdahl, 2005; Checkel, 1999) primarily focus the "ability to shape conceptions of 'normal' in international relations" (Manners, 2002:239). The normative identity of the EU is built upon "the system of principles, values, meanings, and instruments

that embodies internal trajectories and understandings [of the Union] which become referential points and orientation sources for external action" (Tsagourias, 2007:106) and guides its foreign policy identity (Manners and Whitman, 2003).

This paper argues that while the existing debates highlight the EU's normative and distinctive identity, the foundations of such claims are not well-established. Namely, the EU's claims to distinctiveness are one-sided. While creating normative international image, "[i]n attempting to give greater substance to its underlying *raison d'être* as a global actor, the EU burdens itself with an endless search for meaning in its external relations" (Elbe 2001:274). However, this meaning has been based on a self-declared identity derived from the assumption of the EU as a 'force for good'.

Existing analyses of the EU rely on an introvert image to establish its power and authority in international relations. This paper argues these interpretations are rather inherently related to the question of legitimation of the EU foreign policy especially in conflict resolution. As always eager to emphasise the unique blend of civil and military measures, commitment to effective multilateralism and international law and self-appreciated normative rationale, self-declared normativeness is considered to provide the Union with an unquestioned right and sufficient reasons to get involved in conflict resolution. The EU is implicitly labelled as legitimate, justified or fair as a third party conflict resolver.

As will be discussed in detail, 'self-narratives of the EU do not occur against a blank slate. The perceptions, constructions and strategies of outsiders may be just as important for framing the EU's future development' (Christou and Browning, 2010:110). Legitimacy of the EU's international actions cannot be constructed only through one sided declaration of normative and distinctive identity. Broadly, legitimacy is said to require that 'people [or generally addressed body of audience] have beliefs about a political order that motivate them to support that order in some way, to accept obligations towards it' (Peters, 2005:89). Legitimacy as a concept would bring critical perspective of the actual addressees into the

analysis of the EU's conflict resolution policies as well as redefine the EU's international identity and affect the EU's policy making and authority in international affairs.

Kosovo conflict is particularly important from the perspective of legitimacy since from the very start, the EU is involved in the international efforts to resolve the conflict between Kosovo Albanians, Kosovo Serbians and Serbia. While the EU relies on the humanitarian grounds to justify its ongoing presence in Kosovo, unique enlargement prospect has been also employed as a conflict resolution tool. Kosovo also represents a secessionist claim which has triggered an unprecedented response from the international community in the form of recognised independence. Kosovo's independent statehood has so far recognised by 25 member states of the Union.

Main findings of analysis of policy documents and fieldwork conducted in Kosovo during May 2011 suggest that despite the expanding involvement of the EU with multiple instruments of conflict resolution and as the main international actor of the ongoing external supervision, the EU has failed to construct salient legitimacy in Kosovo and is perceived by local communities as distant, foreign, ineffective and even hostile to the locals on the ground. However, the enlargement prospect still remains as the main framework that provides the EU main source of credibility in Kosovo albeit increasing disappointment with the lack of tangible steps towards membership.

The following sections draw up the discussion and first discuss the illusion of legitimacy that the EU foreign policy studies resort to and assert the necessity to find a new basis for legitimacy the Union's conflict resolution one sided normative claims. The second part brings up a theoretical and conceptual argument regarding the qualities of legitimacy as a mutually constructed source of authority at the international level. Third part, with a special focus on Kosovo conflict, examines the EU's legitimacy.

Normative Power Europe and the Illusion of Legitimacy

According to Ian Manners, the Union's 'value-rational conduct' is embedded within the particular values of peace, democracy and rule of law. In his words "what the EU is" rather than "what the EU does" (read substantive values and norms) shapes its normative dimension. However, "normative power of the EU is sustainable only if it is felt to be legitimate by those who practice and experience it" (Manners, 2008:66).

Normative power argument attributes an importance to legitimacy of the EU foreign policy, however implicit in the normative power argument is that the norm-oriented concerns of the EU in its foreign policy is the utmost proof for its legitimate conduct in foreign territories. When deeply concerned by the current conduct of militarisation, Manners specifically refers to the central concept of legitimacy

'[T]he rapid and unreflexive insertion of military security policy is having a dramatic effect on the generally benign normative international identity of the E(s)U. This effect will undoubtedly be felt in at least three ways on the role, legitimacy, and perception of the E(s)U, both internally and externally. As discussed, the role of the E(s)U has undoubtedly moved beyond that of 'civilian power' with potentially negative consequences for the 'ethicacy' and efficacy of its non-military external policies. The legitimacy of the E(s)U when it engages in military intervention and peacekeeping is likely to be increasingly questioned by both Union citizens and those who are the subject of intervention, if they are not accomplished in a normative way" (2006:406).

Lately, Manners reaffirmed the centrality of legitimate conduct of foreign policy for normative power argument: 'conceptualising normative power involves a tripartite understanding of *legitimizing principles*, persuasive actions and socialising impact of actors in world politics' (2010: 76, emphasis added).

In this reading, legitimacy is treated as another value automatically created through normative behaviour. NPE is not alone conferring self-declared legitimacy to the EU. Similarly, Eriksen equates EU's legitimate foreign policy with self-deployed value and justice in universal higher ranking law

'I suggest as a criterion of a legitimate foreign policy that the EU does not aspire to become a world organisation- a world state- but subscribes to the principles of human rights, democracy, rule of law also for dealing with international affairs, hence underscoring the cosmopolitan law of the people' (Eriksen, 2006:10).

Put differently, legitimacy of the EU has been subjugated to self-congratulatory values and universal morals. Norm is considered to be "a close conceptual affiliate of the term 'legitimacy'" (Merlingen, 2007:439) while the relationship between legitimacy and self-declared normative orientation in foreign policy conduct is not explained further. The problems of self-identified normativeness of the EU can also be found in other inside out analyses of the birth of the EU as a peace project which is based on member states' rejection of inter-continental rivalries of the past (Waever 1996) and the EU's ability and willingness to export this 'peace-ensuring cooperation' through Europeanisation (Lavenex and Schmelfenning, 2009). The normative power idea is based on an argument of a 'distinctive' world power because the EU's "initial *telos* (peace through integration), its historical developments and its current institutional and normative framework (a post-Westphalian entity with a set of core norms) are believed to make it act as a 'qualitatively' different global actor" (Fiaromonti and Lucarelli, 2008:193).

The major problem associated with such one sided arguments is the confusion between of the desired role and identity (claims or strategies to create legitimacy) of the EU with legitimacy as conceived and consented by the external recipients of EU policies. In other words, discursive construction of the role and identity of the EU as predetermining factor of practice cannot be evaluated without the perceptions of the relevant audience, i.e. confirmation or rejection of the discursive and practical role-making by those who are subjects of EU policies.

Why do we need to go beyond the illusion of legitimacy?

Normativeness of the EU has been based on a linear, self proclaimed argument which has created a spectacularised-self identity for the Union is problematic for three related reasons. First and foremost, ideational aspects are prioritised over empirical concerns by normative power argument. Nonetheless, definition and particular channels of norm diffusion did not provide concrete guidelines to pinpoint a normative power, and created an ambiguity within the scholarly community. As stated by Sjusen (2006:170), there is an ongoing ambiguity over the theoretical and phenomenological implications of the concept. Setting concrete critical standards for normative power concept is crucial. '[D]efining the EU as force for good without clarifying the criteria or asking the question how legitimate is to pursue norms is 'could be enough to set the alarm bells ringing' (ibid2006: 235). Diez and Manners (2007) also acknowledge that the current ambiguity call for greater reflexion and reflexivity in assessing normative power.

Second, the characteristics of the Union presented as distinct and different are dubious for many and runs the risk of representing Eurocentric and neo-imperial connotations. Manners and Whitman (2003) discuss the multiplicity of different identities does not allow crystallisation of self and other for the EU. While the EU embodies multiple identities simultaneously, whether this situation outlaws practices of 'othering' is still questionable¹. Diez and Pace, contrary to Manners, discuss that the EU's self-representation displays a practice of 'othering' and warn against the tendency to slide into 'hegemonic constructions that come with normative power, even if it appears to be a force for good" (2007: 2). As

¹ The EU has already been engaged into defining self and others (e.g. the US and recipients of these normative policies, undemocratic states, and even the member states). This is not necessarily a 'conflictual differentiation' (Lucarelli, 2008: 34) and might be related to "fear of disunity rather than fear of 'others'" (see Wæver 1998; Schimmelfennig 2001). Still there is a clear juxtaposition of self and other. This fact creates 'identitarian pluralism' at international level. As Prozorov (2009) mentioned it is an ontological characteristic of international politics which becomes 'pluralistic interaction between particularistic entities' (ibid.:216). Thus, '[o]ntological alterity, the most elementary fact of human existence, itself generates the logic of the political before and beyond any positive structuration of the political space' (ibid:221). This brings political concerns into consideration for any type of actor at the international level.

stated by Nicolaidis and Howse, representing the EU as a 'micro-cosmos', or projection of the EU as a model to the external world often blocks the path to "self-awareness that would lead us to recognize how 'what' is being projected is not the EU *as is* but an 'EU-topia'" (2002:769). In this sense, there is a leeway for the normative power to fall into the trap of 'utopian normativity' and acts of 'fetthizing' some instruments over the others (Nicolaidis and Howse, 2002). Similarly, Tocci states that 'if we associate a normative foreign policy with a 'good' or an 'ethical' foreign policy, then we have to take great care not to slide into an imperialistic imposition of what is subjectively considered 'good' on the grounds of its presumed universality... [and] [n]ormativity which is inextricably tied to power and power-based relations" (2008:4).

Third, legitimacy of the Union's foreign policy is only touched upon indirectly in the literature. Limited empirical studies already points to a gap between self-representations of the EU and perceptions of non-EU publics and civil society organisations (Fiaromonti and Lucarelli, 2010, GARNET, 2007). The EU is found out to be less visible in public debates compared to the US and individual members states. Although there is high degree of confidence in the EU, there is no evidence that it is perceived normative and social model to be able to export values (Garnet, 2007). Despite the contrary claims, the spectacularised and distinctive normative identity of the EU is far from perceived as a benevolent world power able to act with universal norms but rather as an actor which has power to entrench 'imaginary lines' between democratic and normative 'model EU' and non-democratic, developing and (yet) non-Europe others. The EU is rarely seen as a distinctive actor, if it is able to capture attention at all. And contrary to the self-representations, it is seen as an economic opportunity but 'tootles player ' (GARNET Report, 2007:18) and sometimes an actor aiming at economic gains at the expense of developing regions.

Therefore, the existing account of external perceptions already suggests 'another Europe' quite distant from what the EU claims. 'In the interactive process of forming its political identity, the legitimacy of EU politics and EU-internal non-state actors crucially depend on

the evaluation given by those critical voices 'from outside', challenging and this stimulating the self-image of EU institutions to bring social and political change to Europe and to world politics' (Garnet, 2007:22). To claim 'doing good' for others 'through rightful conduct' essentially embraces a claim to legitimacy as Bicchi contends 'the EU can be said to apply to non-member states the same norms it applies to members on the basis of an *unspecified general legitimacy* that it commands as the EU, *rather than* because of *any defined rationale attached* to these norms, or the specific context in which they are applied' (2006:296, emphasis added).

In short, good motivations and intentions in support of normative means and ends are far from constructing legitimacy for the EU. In Laidi's words '[i]ntroversion is no longer an option for Europe, unless it is prepared to accept its own decline' (2008:3). The world is today less and less European and its social and normative preferences, especially applied in non-European regions, needs to be justified. The parties which are subject to European influence are less inclined to readily accept European values or even accept values as European. In this sense, their interpretations and receptions of values and European becomes a serious input in creating Europe. The 'relations between the EU and non-Europe [have diverted] to another phase where such countries have bigger power to affect the EU-zone by accepting or dissenting what the EU represents and what the EU tries to export. Therefore, the EU is in need of developing a new discourse, a new strategy to define its relations with the rest of the world and this relationship cannot be build upon ignorance of what non-Europe world perceives' (Laidi, 2008:X). As will be discussed in the next section, perceptions of the non-EU recipients and existing justifications offered by the EU are central to the theories of legitimacy.

Legitimacy

As a matter of fact, legitimacy is 'a highly contested and elusive concept' (Steffek, 2007: 177) which is central to the analysis of authority and rule-making at all levels of governance (Beetham, 1991). The notion of legitimacy is traditionally attached to the right to rule within

a polity. Today, legitimate rule is mostly related to democratic principles in the domestic sphere of states but with the developing hybrid global governance and 'a set of rules of a transnational character' (Steffek, 2007:203), legitimacy is no longer limited to its traditional sanctuary. Legitimacy beyond domestic borders of nation state has become a part of scholarly inquiry that is 'based not just on agreement between states but on public support, generated through global civil society' (Kaldor, 2003 cited in Steffek 2007: 203).

The idea of legitimacy beyond nation state departs from the same logic of legitimacy within the borders of a state. Steffek (2004:478) notes that when subjects give consent to a particular regime or policy maker, they make 'a moral choice' when they express acceptance. In other words, legitimacy cannot exist simply as an empirical fact separate from normative basics. Legitimacy, therefore, refers both to the relevant subjects' views on the regime, policy and/or policy maker and to the moral-political notion of legitimacy (Mulligan 2004). Legitimacy is the 'prestige of being considered binding' (Steffek, 2000:6), however these beliefs of relevant subjects are embedded in normative understandings 'that people voluntarily accept domination on the grounds that they believe in its normative rightfulness' (2000:6). Legitimacy can only be constructed upon a constant dialogue between rule/policy addressees and policy maker.

Indeed, this provides the concept with a broader applicability beyond nation state where pre-conditions of democracy only exist primitively, if not absent altogether. Bernstein states (2004:18) legitimacy in global governance is not 'conductive to formulaic lists of requirements' and cannot be reached by a single move from domestic to international level (Clark, 2007). The nature of international/transnational area renders actors' legitimacy more context-dependent and transitory compared to domestic level. Currently, the absence of democratic prerequisites and shared norms would force the international actors to constantly reconstruct their legitimacy claims. Legitimacy beyond national borders needs to rely on beliefs or consent of the addressed population and its peculiar normative yardsticks are used to evaluate the relevant actor or institution.

Acts of legitimation and presence of an assured body of policy receivers endows legitimacy with an observable quality. The importance attributed to the congruence between the EU disposition and receivers' perceptions in this paper suggests that the EU and addressees of conflict resolution policies might evaluate international legitimacy differently. Especially, long term engagement in conflict resolution sets policies on the ground and directly shapes and decides the form of local governance. Relying on multiple institutional representations on the ground, the EU chooses to establish a direct influence on local authorities' decision making, offers market access and membership conditional on implementation of norms and institutional structures decided by the EU. This form of direct control is beyond democratic principles of representation and accountability. As discussed previously, the literature rarely addressed the question of 'with respect to whom are the Europeans and the EU institutions underlining their *distinctiveness ergo legitimacy?*' (Lucarelli, 2008:33). If the EU wants to construct a stable and credible identity in its foreign policy through effective conflict resolution role projecting influence and authority beyond its borders, it needs to centralise the dialogical relationship between the EU and 'the Other'. As noted by Christou (2010:110)

'understood as a dialogue the Other becomes an agent whose recognition of the Self's claims to identity is important, not least in terms of legitimating policy and action ... [W]e need others to accept our descriptions of ourselves, to recognise us as certain types of actors. Consequently, it is not enough to simply proclaim an identity oneself. While that description may be accepted by outside actors, often such external recognition must be fought and earned. Otherwise the Self may need to narrate an alternative story that does gain the recognition and acceptance of the outside.

Seeking Legitimacy in and through Kosovo

The crisis in Kosova has been standing on the EU's border for more than twenty years now. The history of conflict resolution in Kosovo witnessed an entire set of diplomatic and military tools available to the international community so far. From the start, Kosova conflict has also brought up 'unusual' practices that are beyond the traditionally endorsed principle of sovereignty. Conflict resolution was initiated by stretching the existing international law

beyond its limits by an unauthorised NATO military action followed by direct administration of the territory by the UN. The long term efforts of the international community finally resulted in perhaps the most 'unwanted' outcome in the form of 'recognised secession'.

Conflict resolution attempts in Kosova are relevant for the EU's legitimacy for various reasons: first it is likely to have a huge determining impact for the future of international response towards ethnic conflicts and secessionist claims. Moreover, since the EU assumes a global responsibility to support the principles of human rights and democracy in world, discretionary and selective application of these principles would tarnish the EU's foundational claims to legitimacy based on international law and principles².

Second, the EU now has taken over the main responsibilities of the UN to establish and sustain democratic structures of 'a contested state' which was promised a clear future in Europe. In 2005, the Commission acknowledged the independent statehood of Kosova in the Communication 'A European Future for Kosova'. The Commission's report stated that the same path to western Balkans states, i.e. further integration and final membership, is also open to Kosova³. Given its biggest civilian mission set on the ground and a clear political commitment, the EU needs to win local parties' consent.

Last, the creation of new state has not resolved the conflict but recreated the problem between Serbia and Kosova at another level. While Kosova's right to independent statehood is still challenged at the international level (even the EU members are far from a unified approach towards independence), it has created another minority problem that challenges the EU's authority on the ground. Serbian minority of Kosova resists the creation of a Kosova state and rejects participation into new institutions under the EU supervision.

² The ongoing secessionist claims in Caucasus, whether the EU likes it or not, have already drawn parallels between their reasoning and international community's legitimisation of Kosova's long journey to supervised independence first under UNMIK and now under EU.

³ Communication from the European Commission, A European Future for Kosova, COM 156, 2005.

Instead, the Serbian minority remains loyal to Belgrade challenging the EU's one of the main goals to create a multi-ethnic state.

Background

During 1998-1999, the Serb dominated Yugoslav forces ethnically cleansed 300,000 Albanians before NATO launched a military campaign. While NATO forces were bombing Kosovo for eleven weeks, Serb forces continued the massacre of 12,000 Albanian civilians and expelled 1.4 million people in total (Pond, 2005). After NATO campaign, the Serb forces withdrew from Kosovo and the UN has set up the most extensive international administration ever. The mandate of UN Interim Administration in Kosovo (UNMIK) was granted through UN Security Council Resolution (UNSCR) 1244. It authorised UNMIK to set up an interim mission with executive functions and placed all authority to run Kosovo territory in the UN Secretary General Special Representative's (SGSR) hands until the final status is settled between the parties to the conflict. After Kosovo de facto separated from Serbia, the remaining Serbians in Kosovo were subject to revenge attacks which took place in the presence of international forces. During revenge attacks, it is estimated that 150,000 Serbians fled Kosovo.

Between 1999 and 2008, UNMIK was the highest authority in Kosovo. During nine years of administration, UNMIK transferred power to locals. The initial development of local authority occurred after two years of UNMIK administration with the adoption of Constitutional Framework setting up Provisional Self Government (PISG) in 2001. Provisional government was dominated by Albanians while Serbian population rejected any competence devolved to PISG.

In March 2004, discontent with the delayed status question and failure of reconciliation efforts ignited another wave of anti-Serb attacks creating 4,000 people from minority communities displaced by the Albanian majority (Tansey, 2009). March 2004 events redrew the attention of the international community to Kosovo conflict once again.

In a report evaluating the ongoing political situation in Kosovo, Kai Eide suggested the international community needs to take a step to decide Kosovo's final status given the extremely restive local opinion among Kosovo Albanians. Following '2005 Eide Report', Secretary General appointed Martti Ahtisaari to start direct negotiations in Vienna in 20 February 2005. While Kosovo Albanians did not give up independence demand, Serbia insisted on 'more than autonomy, less than impence' for Kosovo. In February 2007 Ahtisaari concluded that continuing negotiations were no longer useful given the irreconcilable stance of both sides.

The final report was presented in 2 February 2007 known as Comprehensive Proposal for Kosovo Status Settlement (Ahtisaari Plan) and submitted to UN Security Council in March. The Ahtisaari Plan envisaged 'limited independence' supervised by the EU based on the principles of multi ethnic and democratic statehood and society for Kosovo. The Proposal granted Kosovo international status, to conclude international agreements, to become a member of international organisations (Dzihic and Kramer, 2009). Under supervised independence through International Civilian Office(ICO) headed by International Civilian Representative and EU Special Representative(ICR/EUSR), unpopular UNMIK would be transform all its authority to ICR/EUSR who would also coordinate EU's rule of law mission. The Plan was rejected in UNSC due to the Russian veto. The situation once again was stalled at the international level. Kosovo, with the overt support from US, declared independence and unilaterally committed to the implementation of Ahtisaari Plan on 17 February 2008. As foreseen by the Plan, the EU has assumed the main role as conflict resolver in Kosovo after 2008. Today, the EU has three different representation in Kosovo: EULEX as the biggest rule of law mission, the Commission Liaison Office (ECLO) in charge of political dialogue, and the EU Special Representative who acted as the head of International Civilian Office until recently.

Although 75 countries have recognised Kosovo and it became a member of IMF and World Bank, Kosovo has a contested statehood and extensive executive roles remains with internationals. Five of the EU member states Cyprus, Greece Romania Slovakia and Spain did not recognise Kosovo which creates problems for Kosovo to further integrate with the EU through institutional links (i.e. SAA). Security still remains sensitive in north of Kosovo, while limited relations between Albanians and Serbians are slowly improving in Southern enclaves (Dzihic and Kramer, 2009).

EULEX: sustaining the UN protectorate?

During Ahtisaari negotiations, the EU had committed to assume UNMIK's responsibilities during transitory period after independence. After the Plan was revealed the signals of a disagreement among EU member states regarding recognition also suggested that it would be impossible to launch a mission after Kosovo would declare independence. Failure to be a part of the Ahtisaari implementation for the EU however would cause credibility problem for the EU's foreign policy since the EU was a major part of drafting Ahtisaari plan through EU Planning Team . The dilemma was resolved by the joint action establishing EULEX before Kosovo declared independence in order to secure none of the member states could block ESDP mission in a contested independence situation (Muharremi, 2010:366).

EULEX was officially launched in December 2008 (it was established in February 2008⁴) in Kosovo as the biggest ESDP mission to date in terms of staff and budget. According to the Joint Action, EULEX is 'responsible for ensuring the maintenance and promotion of the rule of law, public order and security, which could include the reversion or annulment of operational decisions taken by Kosovo authorities' (Muharremi, 2010:367).

In the aftermath of independence, Russia's and Serbia's resistance to Ahtisaari Plan blocked deployment of EULEX in Kosovo entirely until November 2008 when a deal was stroke

⁴ Council Joint Action 2008/124/CFSP of 4.2.2008 on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO, amended by Council Joint Action 2009/445/CFSP of 9.9.2009

between UNSG and Serbia. Named as Six-point Plan, the agreement has reversed EULEX's status, instead of being a supporter of rule of law in an independent Kosovo, EULEX would 'fully respect Security Council Resolution 1244 (1999) and operate under the overall authority and within the status-neutral framework of the United Nations'⁵. According to the plan, Serbia is given direct control over Serb populated areas of Kosovo. The deal ensured deployment of EULEX in the entire Kosovo under the condition that EULEX would act under Resolution 1244 and with a status neutral

The response from Kosovo Albanian side was unified against the deal. All political leaders, political parties, civil society organisations, public strongly rejected the plan (IPOL, 2009) which was considered as a direct violation of Kosovo Constitution through practically limiting Kosovo's sovereignty in Serbian enclaves and north *Mitrovica*.

Contested Legal Status

While Serbia and northern part of Kosova which is populated by Serbs gave consent for EULEX as status-neutral actor under UN Resolution 1244, Kosova interprets EULEX as an instrument to implement Ahtisaari Plan and monitor Kosova's transition to independence (Shepherd, 2009). At the end, both sides perceive EULEX as hostile to their aim given the lack of a clarification of EULEX's status and mandate.

Initially EULEX was most welcome institution by Kosova Albanian majority since it was designed as a force to fight against corruption and organised crime in Kosova. However, the EULEX as deployed under contentious legal conditions driving it towards the unwanted UNMIK rather than a pro-independence institution which would mingle with local institutions as expected by Kosovo Albanians⁶. Concessions to Serbia were for Kosovars in breach of the initial promise and against their sovereignty⁷. The government opposed the plan because it would undermine its authority over Kosova territory. The then Foreign

⁵ Statement by the President of the Security Council, UN Doc. S/PRST/2008/44 (26 Nov 2008)

⁶ Author's interview with Agron Demi, Head of GAP Institue, Pristina, 11 May 2011.

⁷ Author's interview with Adem Gashi, Analyst from KIREED, Pristina, 12 May 2011

Minister Skender Hyseni stated 'Kosova is not against the international community and we are interested in co-operating closely with them. But we don't recognise the plans which threaten our sovereignty'⁸. Similarly, President Sejdiu clearly challenged the decision by asserting "Kosova has its constitution and does not need new documents"⁹.

Local civil society organisations were also unified against the new status of EULEX. Instituti Demokratik i Kosovës (KDI) states

'The subsequent declarations of Kosovo Albanian leadership that the Six Point Plan is dead put EULEX in a very awkward position far from the initial warm welcome from Kosovo's population. EU's efforts to save face by achieving the full deployment of EULEX as soon as possible have had the very negative consequence of fatally undermining EULEX's legitimacy' (KDI, 2009:41-2).

Similarly, according to Iniciativa Kosovare për Stabilitet (IKS, 2008) EULEX's new role 'sounds very much like yet another 'status quo holding operation' proposed by the same institution [UNMIK] that has failed to improve the situation in Kosovo's north for the past nine years'. EULEX is seen a direct challenge to the sovereignty of independent Kosovo that 'emasculat[ing] the political leadership of Kosovo in the eyes if the citizens' (KDI, 2009:55).

EULEX even attracted reactions from local Kosovars before it was deployed. During street demonstrations, Kosovo public was unified against another institution which would forge protectorate status with slogans 'down with EULEX' (IKS, 2008). There is a large perception in Kosovo that what is proposed by the EU under Ahtisaari Plan for an ESDP mission and what is agreed and implemented on the ground are not the same¹⁰. According to Instituti Ballkanik i Politikave (IPOL) (2009) direct talks with Serbia after independence has created

⁸ Cited in Foniqi-Kabashi, Blerta. SE Times. UN Security Council approves Ban's six-point plan. 27/11/2008. Available at: http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2008/11/27/feature-02

⁹ New Kosova Report, Kosova united against six-point plan. 15 November 2008 <http://www.newkosovareport.com/200811151406/Politics/Kosova-united-against-six-point-plan.html>

¹⁰ Interview with Adem Gashi

an image among many Kosovars that Kosovo institutions are still seen inferior by EULEX. The EU has unilaterally altered the initial deal without Kosovo's consent as a sign of disregard for the independence of Kosovo and Kosovo's sovereignty¹¹.

While the deal with Serbia allowed the EULEX to deploy and saved the reputation of the biggest ESDP mission at the beginning, the EU's reputation is undermined due to EULEX's ambiguous status:

How can EULEX remain status-neutral and simultaneously deliver on its mandate to support the implementation of the Ahtisaari Settlement? How can EULEX provide 'mentoring, monitoring and advice in the area of the rule of law' when it does not recognise Kosovo laws and Kosovo authorities as the only legitimate source of legislative power? How can EULEX effectively fight organised crime when it fails to deploy throughout Kosovo? (ibid:2008).

Realising the Rule of Law

The mission is provided with a mandate to assist local legal system, ensure implementation of Kosovo law, and support Kosovo Police and Customs. In line with Ahtisaari Package of Laws (closely drafted by EU Planning Team), Kosovo Assembly passed the law on Jurisdiction, Case Selection and Case Allocation of EULEX Judges and Prosecutors in Kosovo which foresees integration of international judges (albeit their total independence) into Kosovo judicial system in order to avoid creation of two parallel judicial systems (international and local) by EULEX in March 2008 (Spernbauer, 2010). According to the law EULEX judges and prosecutors are conferred functions of investigation, prosecution and adjudication granted to EULEX staff alone or in joint panels with Kosovo local judiciary staff (Muharremi, 2010).

On the other hand, in line with the Six Point Plan, EULEX is status neutral and cannot act under the independent Kosovo institutions. This confusion regarding the mandate often hinders implementation of law of Kosovo. An example of contention occurred in a case related to Kosovo Trust Agency (KTA). EULEX judges are a part of Special Chamber of the

¹¹ Author's interview with Jeton Zulfaj, Head of Celnaja, Pristina, 10 May 2011

Kosovo Supreme Court for KTA which was established by UNMIK. After the independence, KTA was subject to legislation by Kosovo Assembly. In a case in October 2009, a EULEX judge asked opinion of SRSG related to the matters of KTA and law adopted by the Assembly to clarify legal status of KTA (ibid. 2010). The dilemma is that EULEX judges have become a part of Special Chamber as a result of the legislation on Law on Jurisdiction and given competence as a result legislation by the Kosovo Assembly to decide on a case about KTA. But their status as neutral rule of law mission requires a mandate under the authority of SRSG with whom Kosovo government had ceased all direct communication.

The applicable law in Kosovo depends much on the discretion of judges. While Albanians are subject to Kosova legal system in Albanian dominated municipalities, Serb regions reject authority of Kosova institutions and Serbia appointed judges and prosecutors in northern part in the north applies a mixture of Yugoslav codes and UNMIK law adopted between 1999 and 2007 (Grevi, 2009). EULEX cannot deal with the huge number of cases passed through UNMIK.

Furthermore the EULEX has signed a protocol with Serbia setting direct cooperation between EULEX Police and Ministry of Internal Affairs of Serbia regarding organised crime. EULEX declared the protocol is of technical nature and to the benefit of Kosovo (IPOL, 2009); but signing it without consent of Kosovo institutions was enough to create another discomfort over EULEX's role in Kosovo. EULEX customs component suffers from continuous lack of staff. Especially in north Mitrovica customs points (famous Gates 1 and 31) were destroyed by Serbian minority in February 2008 [reference].

EULEX in Denial of Responsibility

The expectations of Kosovars were created in the optimistic environment of post-independence period through enthusiasm brought by the EU at the beginning of mission. The mission assumed tasks of monitoring, mentoring and advising. EULEX is also conditioned 'to ensure that any cases of war crimes, terrorism, organised crime, corruption, interethnic crimes, financial/economic crimes and other serious crimes [as well property

issues] are properly investigated, prosecuted, adjudicated' by international judges either independently or in mixed panels'¹². In other words, EULEX has also executive functions since through the power to 'reverse or annul operational decisions taken by the competent Kosovo authorities in consultation with the relevant international civilian authorities in Kosovo'¹³.

However, EULEX statements on the ground tend to emphasise more the role as 'strengthening not substituting' Kosovo institutions. The gap between expectations of Kosovar authorities and public and what the EU intends to deliver can be seen from EU statements which repeatedly claims that its mandate is narrower than UNMIK and is not running the state for Kosova¹⁴.

Nevertheless, the realities on the ground urge EULEX to engage in executive functions. Kosovo public is occupied by an awareness of corruption created by EULEX statements and emphasised continuously in Commission Progress Reports. For Kosovo public and civil society, EULEX is as responsible as the government for the lack of development in rule of law sector¹⁵. There is a perceived unwillingness of the EU in fulfilling its executive functions since April 2010 when EULEX Police has raided Ministry of Transport, Post and Telecommunications and arrested Minister Limaj and head of the Procurement Office Krasniqi for charges of corruption. Following the statements by Acting Chief Prosecutor of EULEX Police, Kosovo public expected that EULEX would keep investigating further cases in other ministries¹⁶. Since April 2010 there were no other investigations although six other ministries were named by the Chief Prosecutor. The public attributes this to EULEX's inability and unwillingness to fulfil its mandate: 'In fighting high-level corruption, EULEX has refused to use its executive function to take a single senior public official to court despite high expectations created by statements from EULEX officials' (IPOL, 2010).

¹² EULEX Kosovo, Council Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo 2008 O.J. (L 42)(16 Feb. 2008).

¹³ Ibid.

¹⁴ See EULEX Kosova website as well as in the EUSR and Commission's Liaison Office's websites.

¹⁵ Kosovo Progress Report Made in Kosova

¹⁶ Author's interviews in Pristina, May 2011

The EULEX's inaction to follow corruption allegations also points to the uneasy relationship between the Kosova government's authority and EULEX. Regarding fight against corruption and arrest of senior officials points to an uneasy relationship given the divisive statements of the government and EULEX. Regarding EULEX-led arrests, Kosova Prime Minister Thaci asserted that the arrests sent out a message that 'Kosovo's institutions were at war with the international institutions' and claimed that the International Civilian Representative Pieter Feith had interfered in the judicial system¹⁷. Prime Minister's statement was supported by the speaker of the parliament Jakup Krasniqi calling the raids of EULEX to ministry as a 'spectacle' and questioned why EULEX had not 'simply asked for the necessary documents'¹⁸.

Currently EULEX retracted any decisive move against corruption and organised crime, and too reserved to act in a manner to fulfil its executive functions¹⁹. The EU perhaps wants to avoid any direct clash with the Kosovo government and increase local capacity and political commitment to deal with corruption. But this has rather contributed to the perception that mission's *raison d'être* has been lost:

'It appears that there is a lack of a sense of the importance this mission has for Kosovo.... Another serious problem for EULEX is the evident lack of political support from Brussels. It is wondrous why EU showed no special interests in its largest civilian mission ever' (IPOL, 2009).

Lack of accountability and transparency of EULEX have also been questioned. Public information regarding ongoing trials of high level politicians has been limited due to confidentiality. Albin Kurti states that EULEX has been installed as 'the supreme instance of

¹⁷ Balkan Insight News Report, "EULEX: Limaj Could Face a Long Jail Term," BalkanInsight. 7 May 2010

¹⁸ Ibid.

¹⁹ Author's interviews with Muhamet Hajrullahu, journalist from BIRN, Pristina, 12 May 2011 and Agron Demi, GAP.

authority and kept the last word on every matter'²⁰. The lack of accountability of EULEX has turned to 'a hegemonic and irresponsible power' which has driven the biggest ESDP mission of the EU into a marginal position today in Kosovo (Kurti, 2009).

Land of EUMIK?

Peters states that "when the EU started planning a civilian mission in Kosova in spring 2006[...] the plan was to push the communicative dimension of the operation strongly in order to strengthen the image of the EU's foreign policy. [...] In order to portray EULEX as a symbol for a coherent, effective EU foreign policy, EULEX had to be a legitimate, credible, internationally agreed mission " (Peters 2010:20). Lacking mandate from international law dimension of legitimacy pushed to the EU to delink the status question of Kosova from its biggest civilian mission. Rather than portraying the EULEX as a part of the solution, the EU has separated its political instruments (by way of recognition of independence by most of the member states) and civilian mission (ibid).

The face saving deployment of EULEX in Kosovo has come with a high reputational cost and EULEX remains as an apolitical/technical mission (ibid, 2010). As the most visible EU representation in Kosova open to observation by both public and civil society organisations, there are virtually no difference between the role of UNMIK and EULEX. Most of UNMIK's staff was recruited by EULEX (KDI, 2009:42) which contributed to a sense among Kosovar that EULEX is continuation of UNMIK with name change.

The EU has shouldered extensive commitments unprecedented in its civilian mission record in Kosovo. To date, EULEX's image has changed from a very popular one to an institution without a clear agenda and cooperation with local institutions, i.e. simply an unwanted extension of UNMIK. "Early plans to present EULEX as a symbol for the evolving strong

²⁰ Author's interview with Albin Kurti, Leader of Vetvendosje and Member of Kosovo Assembly, Pristina, 20 May 2011

international actorness of the EU have been undermined by political disagreements inside and outside of the Union about the status of Kosova and the mission itself" (Peters 2010:25).

As an unelected foreign rule on the ground, the EULEX justifies its presence with a claim to remain on the driving seat to 'fill the initial administrative vacuum' to shape and create local capacities (Knoll, 2007:9). Instead of being a part of local agency in favour of independence and local ownership EULEX is perceived as a useless and/or oppressive authority. This is mainly due to the ambiguous mandate and legal status of EULEX which is contested by both Albanians and Serbia (K-Serbs as well) and avoidance of the EU from its executive functions. The EU has entered a temporary power sharing agreement (ibid) with Kosovo institutions from local point of view in order to help developing good governance and rule of law capacities for a democratic state. Today, what is rather witnessed is EULEX with limited capacities and non-existent political will to be a part of local governance and destined to share the fate of UNMIK.

Building Independent Statehood

The second component of the EU's conflict resolution in Kosovo is state building. However, supporting a contested independence is not straightforward. It is not only challenged by Belgrade and Kosovo Serbs but also by five member states which do not recognise Kosovo as an independent state due to similar secessionist claims they face internally. This has created obstacles for the EU to realise goals of statebuilding and integration of Kosovo into the EU.

For Kosovo Albanians, anything falling short of independence has a potential to waste international efforts in Kosova, entrench isolation and insecurity of majority of population and runs risk of destabilising the entire region (Forum 2015 Report, 2005). Kosovo Prime Minister Hashim Thaci asserted that with independence,

'a new chapter in Kosova's history has started. The process of the independence supervised by the internationals has been successfully concluded. Now a new chapter is opening. We are becoming more sovereign and we should act with less supervision. In this process, we will be supported by the international institutions, like EULEX is now doing – but which will have an advisory role. Kosovo does not look for confrontation with them but for their cooperation, because we are partners²¹.

Transferring authority to another international presence would merely serve to impede the formation of a politically strong citizenry and an active civil society able to assume the ownership of and responsibility for their own government (Forum 2015, 2005:7). Nevertheless, the notion of independence and full sovereignty has not been realized by the local public fully because of the proliferation of international presence after declaration of independence. IKS (2008) states that

'[t]he optimists among us, who hoped that independence, would bring clear rules of governance, democratic accountability and certainty over Kosovo's future, have been holding their breath for months. The situation unfolding on the ground has created an even more muddled governance system than Kosovo has ever seen in the past'.

For so long the promise of EU membership has been employed by local elites in order to legitimise the demanding reforms to domestic audience. Membership is employed as a part of civilisational narrative, as a way to secure/forgo Kosovo's future and independence, protect security against 'Serbian threat' forging the expectations of the Kosovar population further towards EU membership (KCSF, 2010). However, the disagreement among member states regarding independence has blocked Kosovo's path towards further integration with the EU through Stabilisation and Association Process.

The priority of Kosova public is economic development and closer ties with the EU. At the same time, local stakeholders seemed convinced that the EU does not have an agenda to resolve the recognition of Kosovo²². Since the EU's promise of European future for Kosova is not linked to tangible integration steps, public feels disillusioned and abandoned by the

²¹ PM interviews, 31 July 2010 [accessed march 2011]

²² Interview with Muhamet Hajrullahu

EU²³. Kosovars know that membership is not possible in the near future but they expect some tangible steps to confirm the political commitment of the EU. For so long, Kosovars think they are forced live in a ghetto in the region as a result of what they see as 'Schengen wall of exclusion'[reference]. Compared to the other countries in the region, Kosova is the only country who has not signed SAA and visa liberalisation agreement. Failure to take tangible steps towards institutional relations would risk a perception that the EU is perceived as a closed empire and even a neo-colonial power in places like Kosovo which is under direct EU supervision (Krasnev, 2005). The reason is the ongoing supervision of independence sits uneasily with statebuilding and membership prospect. The situation has created 'a blame game' between local and international actors (FOL Movement 2010:5). Accession perspective has been 'little more than an empty promise' for Kosovars (KIPRED, 2010).

On the other hand, the general support in favour of the presence of the EU in Kosova remains high especially among Albanian population. European integration is seen as a national goal in Kosovo that should supersede narrow policies of incumbent governments²⁴. Kosova's place in Europe is unquestionable for Kosovars and final goal is to join the EU and at least Kosovo public and civil society acknowledges that Kosovo government needs to commit further to meet conditionality of membership²⁵.

Nation-Building through Ethnic Reconciliation

The third main policy of the EU that addresses Kosovo is the strategy to build a new national identity based on multi-ethnicity in Kosovo. In the post-independence period, decentralisation has become the main tool to realise this goal. Serbian minority was granted extensive autonomy and cultural rights in municipalities where they constitute the majority under the Ahtisaari Plan. Although decentralisation was designed to ensure cooperation and consent of Kosovo Serbs in post-independence, current situation points to only a limited

²³ Author's interviews in Pristina, May 2011

²⁴ Interview with Adem Gashi

²⁵ Interview with M. Hajrullahu

success in terms of ethnic reconciliation. Far from being satisfactory for Kosovo Serbs, decentralisation is also opposed by Kosovo Albanians as a means to de facto separate social realms of communities and institutionalisation of separate Serbian governance under Belgrade's control.

During the status negotiations, the Albanian side was aware that in case of independence Kosovar Serbs would be granted extensive autonomy in the north and within the enclaves. It was clear that in case of independence; Kosovo Serbs would not accept the decision and most likely react by non-cooperating, civil disobedience or even declaring their independence from Kosovo (KIPRED, 2007:4). The only way to generate support from the international community for independence within the existing borders of Kosovo was to agree 'the Western idea' of decentralisation (Pond 2005). In reality, for Kosovo Albanians, the issue of decentralisation as required by the internationals is a bitter price for independence in the middle of state building and sovereignty building²⁶.

Albin Kurti states that the idea of tolerance pushed by Western project of decentralisation is based on ethnicity 'as a most essential trait, and as an unbridgeable characteristic of people in Kosova'. Decentralisation has been introduced is to create a multi ethnic society but started with defining ethnicities and dividing governance (central and local through quotas and municipalities) according to ethnicity²⁷.

Furthermore, it is frequently argued that "the creation of new municipalities is taking place along ethnic lines and that will practically be difficult to function" (Krasniqi, 2006):

"Decentralization will remove from Gjilan/Gnjilane a very large piece of its territory, it will take away its arable land and water resources and the town will be left with nothing; in addition to such decentralization plans, the main communication roads will be shut down" (Mustafa 2006).

²⁶ Authors' interview with Fatmir Curri, Head of European Integration Unit. Kosovo Civil Society Foundation, 13 May 2011, Pristina

²⁷ Interview with Albin Kurti.

The same reasoning is shared by the mayor of Viti/Vitina

“Let them [central government] come and implement it” (Misini, 2006). Here, the municipal leadership firmly refuses to implement the proposed decentralization plan, considering it unjust, imposed and involving a heavy financial burden on the municipality’s budget.

On the other hand, there is a high visibility of decentralisation among Kosovo Serbs. Decentralisation practically seen as fundamental to improve the bad living conditions of the Serb community and would allow freedom of movement and public services to Serbians²⁸. However, for Kosovo Serbs the new municipalities are unacceptable since they are under the control of central Kosovo government. According to Sasa Ilic, ‘there are certain things that Kosovo Serbs cannot receive from decentralisation. Integration into independent Kosovo structures is imposed on Kosovo Serbs against their will’²⁹.

Indeed, Serbian structures in the areas of security, health care, education, pension, and other public services which were set up parallel to UNMIK and PISG remain intact if not further entrenched³⁰ after the independence. The deal reached between Serbia and EULEX has not facilitated any of the mission’s goals especially in North Mitrovica. Despite the efforts, Serbian authorities reject establishing any direct communication with EULEX and ‘the perception of EULEX remains very negative among Kosovo Serbs especially in north Mitrovica. There is only a couple of EULEX staff based in Mitrovica and they know they are not welcome there’³¹.

²⁸ Author’s interview with Vlara Trajkovic, Staff from ICO Decentralisation Unit, Pristina, 20 May 2011

²⁹ Author’s interview with Sasa Ilic, Head of Center for peace and Tolerance and KPAN Gracanica, 19 May 2011.

³⁰ On 28 June 2008, Serb municipalities in Kosovo formed an “Assembly of the Union of Municipalities of the Autonomous Province of Kosovo and Metohija,” which rejects Pristina’s declaration of independence. The unofficial Kosovo Serb assembly meets in Mitrovica since June 2008 with the task of coordinating forty five elected Serbian representatives after Serbian general elections in Kosovo

³¹ Interview with Sasa Ilic.

Reconciliation has been happening very slowly. The Serbians living in southern enclaves are limited in terms of freedom of movement. At societal level, Kosovo Serbs and Albanians re-established daily relations however, besides political separation, Serbian and Albanian populations mostly remain in separate neighbourhoods. There are a limited number of Kosovo Serbs works in the Kosovo Police Service in northern Kosovo and in southern enclaves. (KIPRED, 2008:7). And there is still a high perception among Kosovo Serbs that they are not welcome and accepted in society to be employed in state institutions or big companies³².

Conclusion: Lack of Legitimacy, Lack of Authority?

Legitimacy is not the "icing on the cake of power" (Beetham, 1991:39), it is 'the yeast that enters the dough and makes the bread what it is' (Bickerton, 2007:22). As discussed above, in analysing EU conflict resolution, non-EU recipients are imbued by EU policies. They "reproduce an image of ourselves which we can compare our self-representation, particularly if those Others are relevant sources of our self-esteem from whom we demand *recognition*" (Lucarelli, 2008:35).

Since the current state of expanding foreign policy activities has brought the EU closer to the regions variegated extensively in terms of political, economic and social configurations; the paper argued that over-reliance on self-image as good and distinctive (or normative) runs the risk of 'being too abstract and or hypocritical or complacent' (Tsuruoka, 2006). It also has important practical repercussions for the EU such as becoming increasingly irrelevant and disempowered in the long run. This paper suggests that the EU conflict resolution needs to be built upon a firm legitimacy rather than self-congratulating normative image. In this sense, the EU needs to construct a sound legitimacy in foreign territories. Legitimacy requires consent of actual addressees, i.e. local parties to the conflict, to allow the EU rely on moral authority in the long term.

³² ibid

Analysis of extensive EU policies with an aim to resolve Kosovo conflict suggests that the EU is engaged in various legitimisation claims of its role and identity as an international actor. Kosovo is always used as a reference point when the EU needs to emphasise its normative foreign policy identity, its power to shape changing international community's rules and practices, and its willingness to support and reinforce 'new' understanding of morality. It has also served to claim capabilities of a foreign policy actor through multiple instruments of stabilisation and conflict resolution including economic instruments, civilian mission and membership prospect and the importance to embrace the Balkans as a strategic concern over the right to have access to a secure neighbourhood.

The EU's has mostly engaged with mirroring what the EU thinks it stands for to the rest of the world in Kosovo. Rather Kosovo has become a test case to assert the EU as an international player capable of delivering multi-dimensional conflict resolution. However, these claims have shaped local perceptions and facilitated high expectations from the EU in Kosovo.

The contestation between the EU and Kosovo local stakeholders stems from the fact that the EU pursues nation building (democratisation, decentralisation) and (member) state building (Europeanisation) in Kosovo along with supervising (stabilisation) the country as a protectorate at the same time. The incompatibility of these three strategies has created a gap between the EU's self justifications and expectations/perceptions of local stakeholders. Instead, the EU relies on a standardised technical conflict resolution in Kosovo. The EULEX is increasingly seen as a face saving exercise to demonstrate the EU's capabilities to the international community rather than help building democratic local capacities by locals. Perceived reluctance of the EU to take steps furthering integration of Kosovo into the EU, i.e. recognition, signing SAA, granting visa liberalisation has created widespread disappointment on the local side that the EU evades from taking responsibility. Moreover, anything that is seen as an obstacle for forging sovereignty and independence is rejected in Kosova and is likely to create the same extreme resistance faced by UNMIK. For Kosovo

Serbs what is imposed by internationals since 1999 and supervised by the EU since 2008 is against their will and human rights actually the EU is seen as 'pretending they do a favour to Serbians but actually Ahtisaari Plan didn't give Serbs what they hadn't had previously. It was taken by force, now it is given back with small spoons.³³

While the EU still possesses a power of attraction through membership prospect, it does not confer legitimacy in the eyes of local audience. The EU with political and civilian decision making structures, civilian missions, economic aid; ideals and principles do not mean much to Kosovars unless they see 'the same old' internationals promising but unwilling to commit to realise it[reference].

To sum up, the EU's normative claims and power of attraction can only allow it to secure initial consent of Kosovo public which created high expectations not legitimacy. Legitimacy needs to be based on consent and acceptance of local populations in the long term. The EU has to take local demands into consideration and make EULEX more accountable and transparent, and to deliver effective results. In order to build a legitimate presence it has to unify its stance towards Kosova's recognition and take steps towards establishing institutional links. The challenge for the EU in terms of building a legitimate role in Kosovo lies in the fact that '[t]here is too much at stake: the credibility of the EU; the credibility of those 22 countries that have recognized Kosovo and invested in its future – politically and financially; the credibility of the largest-ever EU rule of law ESDP mission, and the credibility of the EUSR; finally, the credibility of the government and the local political class in Kosovo'. (KIPRED, 2010).

³³ Ibid.

Bibliography

- Beetham, D., 1991. *The Legitimation of Power*, Palgrave Macmillan.
- Berstein, S. 2004. The Elusive Basis of Legitimacy in Global Governance: Three Conceptions, Institute on Globalization and the Human Condition, Working Paper Series, available at <http://www.ciaonet.org/wps/ighc/0007538/index.html>
- Bicchi, Federica (2006) *Our Size Fits All: Normative power Europe and the Mediterranean*. *Journal of european public policy*, 13 (2). pp. 286-303.
- Bickerton, C.J., 2007. Legitimacy through norms: the political limits of Europe's normative power. Available at: <http://aei.pitt.edu/7699/>.
- Browning C and Christou G (2010) '**The constitutive power of outsiders: the European neighbourhood policy and the eastern dimension**', *Political Geography*, 29: 109-18
- Carlsnaes, W., H. Sjursen & B. White (Eds.) (2004), *Contemporary European Foreign Policy*. London: Sage Publishers.
- Cederman, L., 1997. *Emergent actors in world politics: how states and nations develop and dissolve*, Princeton University Press.
- Checkel, J.T., 1999. Why Comply? Constructivism, Social Norms and the Study of International Institutions. *ARENA Working Papers, WP 99/24*, available at http://www.arena.uio.no/publications/wp99_24.htm., 1-51.
- Clark, I. 2007 Legitimacy in International or World Society? In Hurrelmann, D.A., Schneider, D.S. & Steffek, J., 2007. *Legitimacy In An Age Of Global Politics* illustrated edition., Palgrave Macmillan.
- Clark, I., 2001. Another: The Great Transformation After the Cold War? *Review of International Studies*, 27(05), pp.237-255.

Bilge Yabanci
University of Bath
Draft Paper for UACES Student Forum Conference
University of Surrey, Guilford
30 June- 1 July 2011

Clark, I., 2005. *Legitimacy in international society*, Oxford University Press.

Cooperation and Conflict December 1, 2009 44: 378-399

Diez, T. & Pace, M., 2007. Normative Power Europe and Conflict Transformation. Available at: <http://aei.pitt.edu/7798/> [Accessed November 25, 2010].

Dogan, M, 2004. Conceptions of Legitimacy in Hawkesworth, M.E. & Kogan, M., 2004. *Encyclopedia of government and politics*, Routledge.

Elbe, S, 2001. 'We Good Europeans...': Genealogical Reflections on the Idea of Europe, *Millennium* 30(2): 259-83

Eriksen, E. O. (2006). The EU—a cosmopolitan polity? *Journal of European Public Policy*, 13(2), 252-269.

Fiaromonti, Lorenzo – Lucarelli, Sonia (eds) External Perceptions of the European Union

Forum 2015, Hynal and Peteri (eds). 2001 Local Reform in Kosovo,

Grafstein, R., 1981. The Failure of Weber's Conception of Legitimacy: Its Causes and Implications. *The Journal of Politics*, 43(02), pp.456-472.

Grevi G 2009. EULEX Kosovo: the Rule of Law Mission in Kosovo in Grevi G, Damien H and Keohane D, *European Security and Defence Policy: The first ten years, 1999-2009*, the European Union Institute for Security Studies, PARIS

Hill, C. (1993), 'The Capability-Expectations Gap, or Conceptualizing Europe's International Role', *Journal of Common Market Studies* 31(3): 305-28.

Hill, C. (1998), 'Closing the Capabilities-Expectations Gap?' in J. Peterson and H. Sjursen (eds), *A Common Foreign Policy for Europe?* London, Routledge

Iniciativa Kosovare për Stabilitet, IKS, 2008 Who is the Boss? <http://www.iksweb.org/Fillimi.aspx>

Instituti Ballkanik i Politikave, IPOL, 2009. EULEX: In Search of an Identity, Instituti Ballkanik i Politikave, IPOL, 2010, Second Follow Up Report, EULEX: Still In Search of an Identity, www.policyinstitute.eu

Bilge Yabanci
University of Bath
Draft Paper for UACES Student Forum Conference
University of Surrey, Guilford
30 June- 1 July 2011

Instituti Demokratik i Kosovës, KDI, 2009. **Decentralizimi në Kosovë – Përvojat nga Komunitet e Rajonit të Prizrenit** (Eng. Transl.), <http://www.kdi-kosova.org/en/index.php>

Laïdi, Z 2008 EU foreign policy in a globalized world : normative power and social preferences, Oxford : Routledge, 2008.

Lavenex, S. & Schimmelfennig, F., 2009. EU - rules beyond EU - borders: theorizing external governance in European politics. *Journal of European Public Policy*, 16(6), p.791.

Manners Ian and Thomas Diez, 'Reflecting on normative power Europe', in Felix Berenskoetter and Michael J. Williams, eds, *Power in world politics* (London: Routledge, 2007), pp. 173–88.

Manners, I. (2002) 'Normative power Europe: a contradiction in terms?', *Journal of Common Market Studies* 40(2): 235–58.

Manners, I., 2008. The Normative ethics of the European Union, *International Affairs* 84: 1. pp. 65-80.

Manners, I., 2010. Global Europa: Mythology of the European Union in World Politics. *JCMS: Journal of Common Market Studies*, 48(1), pp.67-87.

Manners, I., Whitman, R. G., 2003. The 'difference engine': constructing and representing the international identity of the European Union. *Journal of European Public Policy*, 10 (3), pp. 380-404.

Manners, Ian (2006) 'Normative power Europe reconsidered: beyond the crossroads', *Journal of European Public Policy*, Volume 13, Number 2

Menon, A., 2009. Empowering paradise? The ESDP at ten. *International Affairs*, 85(2), pp.227-246.

Merlingen, M. (2007), "Everything is Dangerous: A Critique of 'Normative Power Europe'" ,

Muharremi, Robert 2010 The European Union Rule of Law Mission in Kosovo (EULEX) from the Perspective of Kosovo Constitutional Law /

Zeitschrift für ausländisches öffentliches Recht und Völkerrecht (2010), volume 70 , issue 2 , p. 357-379

Bilge Yabanci
University of Bath
Draft Paper for UACES Student Forum Conference
University of Surrey, Guilford
30 June- 1 July 2011

Mulligan, S., 2004. Questioning (the Question of) Legitimacy in IR: A Reply to Jens Steffek. *European Journal of International Relations*, 10(3), pp.475-484.

Mulligan, S.P., 2006. The Uses of Legitimacy in International Relations. *Millennium - Journal of International Studies*, 34(2), pp.349 -375.

Nicolaides K. and R. Howse "'This is my EUtopia...": Narrative as Power' (2002) 40/4 *Journal of Common Market Studies*, pp. 767–792.

Oisín Tansey. "Kosovo: Independence and Tutelage." *Journal of Democracy* 20.2 (2009): 153-166. *Project MUSE*.

Peters, B, 2005. Public Discourse, Identity, and the Problem of democratic legitimacy' in Eriksen, E.O., 2005. *Making the European polity: reflexive integration in the EU*, Routledge.

Pond, E. 2005. The EU's Test in Kosovo, The Washington Quarterly, Volume 31, Number 4, Autumn 2008, pp. 97-112

Rajagopal, B., Counter-Hegemonic International Law: Rethinking Human Rights and Development as a Third World Strategy. *SSRN eLibrary*. Available at:
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=937341 [Accessed August 17, 2010].

Shepherd, "A J. K 'A milestone in the history of the EU': Kosovo and the EU's international role," *International Affairs* 85, no. 3 (May 1, 2009): 513-530.

Sjursen, H., 2006. What kind of power? *Journal of European Public Policy*, 13(2),

Smith, Karen E. (2004) *The making of EU foreign policy: the case of Eastern Europe*. Palgrave Macmillan, Basingstoke, Hampshire ; New York.

Smith, M. E. (2004), *Europe's Foreign and Security Policy*, Cambridge: Cambridge University Press.

Spernbauer M, 2010. EULEX Kosovo – Mandate, Structure and Implementation: essential clarifications for an unprecedented EU mission Cleer Working paper series,

Bilge Yabanci
University of Bath
Draft Paper for UACES Student Forum Conference
University of Surrey, Guilford
30 June- 1 July 2011

http://www.asser.nl/upload/documents/7302010_24440CLEER%20WP%202010-5%20-%20SPERNBAUER.pdf

Steffek, J. 2007 Legitimacy in International Relations from State Compliance to Citizens Consensus in Hurrelmann, D.A., Schneider, D.S. & Steffek, J., 2007. *Legitimacy In An Age Of Global Politics* illustrated edition., Palgrave Macmillan.

Steffek, J., 2003. The Legitimation of International Governance: A Discourse Approach. *European Journal of International Relations*, 9(2), pp.249 -275.

Tocci, N. & Hamilton, D.S., 2008. *Who is a normative foreign policy actor?: the European Union and its global partners*, CEPS.

Tsagourias, N, 2007. *Transnational constitutionalism: international and European models*, Cambridge University Press.

Whitman, R. 1998. The Common Foreign and Security Policy and the Intergovernmental Conference: The incremental communitizing of pillar two?' in: A. Dobson & J. Stanyer, *Contemporary Political Studies 1998 Volume One*, Nottingham, PSA, 1998.

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