

## The Turks of Kosovo and the Protection of Minority Culture at the Local Level

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It has become apparent that the interim administration in Kosovo has chosen to consolidate a democratic regime with its well-known, classical institutions. What makes this a problem, is the fact that such a democratic regime in Kosovo, based on the will of the majority, may generate new epicentres of conflict between communities which have long been engaged in hostilities. Possibly, democracy may survive in such a deeply divided society with the introduction of a political model, which relies upon sharing political power between the communities involved. However, a clear cut power-sharing or a consociational model, which contains political procedures such as an ethnic veto, is not a remedy, since it may deepen the Albanian recalcitrance and again exasperate ethnic conflict. In those circumstances, the call by the Turkish community for the restoration of its former constitutional status, has not been heeded by the UNMIK authorities. Yet, despite its attitude, which Turks find disturbing, and its constant refusal to accept changes that will amend their political status, UNMIK has succeeded in providing them with sound political procedures at municipal level by introducing some tolerable institutions of ethnic veto, which will enable them to avoid the encroachments of a foreign culture.

The question as to whether societies which are deeply divided along the lines of ethnicity, religious belief, culture and so forth, can operate a healthy democratic regime, has long been a focal point for students of political theory. The existence of a plethora of ideas about how different peoples, having distinct identities, can tolerate each other and cooperate in a democratic polity, confirms that our unassailable notion of democracy, based on dignified, equal yet atomistic individuals, poses a problem. The classical liberal approach envisages that public policy is formed with the participation, support or opposition of autonomous individuals to a common societal project, as well as postulating that while doing this, they act rationally and on behalf of the individual, and turn a blind eye to their ethnic or cultural idiosyncrasies.<sup>1</sup> For that reason, all the collectivities are supposed to be an aggregation of autonomous individuals who share similar interests, and at

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<sup>1</sup> Vernon Van Dyke, 'The Individual, the State, and Ethnic Communities in Political Theory', in Will Kymlicka, (ed.), *The Rights of Minority Cultures*, Oxford: Oxford University Press, 1997, p. 45.

the same time, individuals are allowed to depart from those collectivities.<sup>2</sup> What makes this questionable, is the fact that it is valid for some collectivities whilst not for others. In particular, despite the opposition of the liberal view,<sup>3</sup> some collectivities are the very resource from which individuals emerge and sometimes it is quite difficult for individuals to act independently of the priorities and basis of these collectivities.

Although the liberal approach dedicates itself to the rights of individuals, whilst theories of democracy take the form of the will of the people as their focal point, both approaches are engaged in a debate about the concept of citizenship. Classical democracy theory sees democracy with the will of a people/nation as congruous, and advocates that the political centre is always jealous of other possible power centres flourishing.<sup>4</sup> Otherwise, accordingly, chaos and secession will be inevitable. Yet, an ethnically homogenous political community can only be a utopian dream. In this context, it tends to view the political community as a homogenous population, sharing the same identity and the same (political) culture as the "community of citizens." Inherently, democratic regimes can not deny the existence of citizens who are separated from the majority in terms of cultural, linguistic and religious characteristics. Yet, they address the problem practically, by drawing a bold line between the spheres of private and public life. Naturally, this solution implies the insulation of dialects; a unique understanding of morality, rituals and so forth which exist behind the walls of houses, to the concern of those who do not belong to the majority, thereby paving the way to the domination of the latter's language and culture.

The acknowledgement of diversity – of different cultures and identities, is one of the obvious precepts of modern democratic regimes. In reality, democracy is based on the consent of the majority and the preservation of the minority. This sort of conceptualisation is completely in line with the prerequisites of the modern state, or to put it another way, the nation-state apparatus, needs at least a uniform means of communication, such as language, a code of coexistence and in the larger form, an instrumentally common culture, in which citizenship identity stands as the lynchpin. However, the nation-state has to cope with problems which emerge because societies containing varied cultures encounter serious difficulties in

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<sup>2</sup> Michael Freeman, 'The Right to National Self-Determination: Ethical Problems and Practical Solutions', in: *The Rights of Nations: Nations and Nationalism in a Changing World*, New York: St. Martin's Press, 1999, pp. 54-55. For instance, Beran argues that only the political community from which its members have the right to secede is rightful.

<sup>3</sup> Avishai Margalit and Joseph Raz, 'National Self-Determination', in Will Kymlicka, (ed.), *The Rights of Minority Cultures*, Oxford: Oxford University Press, 1997, pp. 82-83. Margalit and Raz contend that individuals are socialised by a cluster of social agents, like peer groups, school, political organisations and so forth and their community is simply one of them.

<sup>4</sup> Freeman, *ibid.*, p. 57.

adopting democratic practices and institutions.<sup>5</sup> If we leave aside the practical difficulties in moulding populations into citizens in such societies, even the existence of the need to make a distinction between the "ethnic" majority and minority seems problematic. In other words, the process of creating fully-fledged citizens in such a polity will be considered by the ethnic minority as a means of tacit assimilation into the majority; a process that will inevitably culminate in the loss of the vernacular, links with the past and more dramatically, of authentic culture itself.

What makes the setting more exploitive, as Gellner highlighted, is that national identity is embedded in the practical requirements of a modern state with complicated economic, social and political relationships. It implies a linear course, at the end of which the dominant group's language will be unchallenged and the most efficient agent of assimilation will be left entirely free to absorb the culture of the ethnic minority into that of the majority; even beyond cultural encroachments, concomitantly to make them co-nationals. Gellner underlines the fact that modern societies need an official language and almost an official culture. This is a "functional imperative."<sup>6</sup> The high culture which gains this status, as dependent on the quantitative feature of its followers, "pervades the whole society, defines it and needs to be sustained by that polity."<sup>7</sup> Although the functional imperative brings positive results for society as long as the language in use is their own, for those who do not speak the language, it is not beneficial. This latter group has two options; to accept and become part of the process of assimilation in order to gain equality or to demand bilingualism and to redraw the boundaries in order to run economic-political activities in their native language. "The nationalist imperative" is born, and from then on, the fiction becomes "national" slipping out of its ethnic and/or minority character.<sup>8</sup>

In reality, it is generally assumed that citizenship confers membership status, invoking rights, duties and obligations and its subsequent implications such as equality, justice and autonomy.<sup>9</sup> Within this context, citizenship is inherently egalitarian and for this reason it is desirable. Yet, simultaneously, citizenship has a dual meaning; on the one hand its openness to a variety of groups and its potential to unify them, and on the other, its exclusivity and the alienation this creates among groups it regards as immigrants, guest workers, minorities and refugees.

Furthermore, from the eighteenth century onwards, citizenship has been closely bound to the institution of the nation-state and therefore in practice, has

<sup>5</sup> Füsün Üstel, *Yurttaşlık ve Demokrasi*, Ankara: Dost Yayınevi, 1999, p. 15.

<sup>6</sup> Charles Taylor, *Nationalism and Modernity*, in Robert McKim & Jeff McMahan, (eds.), 'The Morality of Nationalism' New York: Oxford University Press, 1997, p 33.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid, p.34.

<sup>9</sup> Keith Faulks, *Citizenship*, London and New York: Routledge, 2000, p.2.

acted as a "powerful instrument of social closure."<sup>10</sup> For this reason, boundaries of citizenship have remained identical to those of the state. This idea is inherent in the Jacobin concept of the state, which assumes polity is made up of citizens. Consequently, from the angle that interests us, the state is expected to deal only with citizens rather than with the communities to which citizens attach great value. Hence, the state paves the way for the dominant culture to impose its standards over individuals living outside the shell of their own communities "in the name of making them citizens; a legal fiction indeed."<sup>11</sup> Hence, this approach gives priority to individuals stripped of their idiosyncrasies, particularly their language, under a common identity, i.e., autonomous, dignified citizens and leaves no space for other identities or for other loyalties, at least in the public realm.

The outbreak of ethnic friction, even in societies which have successfully consolidated democratic institutions, demonstrates that the creation of a legal, fictional identity, such as citizen, can not correspond to the requirements of the political formula. This envisions the political community as a homogenous monolithic entity, and political groupings as only the combination of individuals who come together to enhance their political interests in the guise of selfless citizens. Fortunately, some ideas encourage us to hope for democratic polities which permit citizens to stand equidistant to the political centre and their own communities in terms of political loyalty, or, in which the problem of loyalty does not matter at all. Those ideas can inspire political/societal engineers who strive to hammer out democratic regimes particularly in this part of the Balkans. In my opinion, among them, the ideas of Lijphart are highly credible.

Lijphart's formula envisages that, if needed, public policy can be formulated through a bargaining process between distinct autonomous communities, rather than between autonomous individuals. Simply, if an ethnic minority considers the functional imperatives of modern society, in the words of Gellner - as assimilating agents, then a model based on equality between communities, in term of bargaining power, and the firm control of majorities through the creation of some mechanisms, may cushion ethnic tensions. In other words, even in the most deeply divided societies, there is a chance to keep democratic institutions alive. Lijphart extrapolated this conclusion from his case studies on the Netherlands, Belgium, Switzerland and Austria.<sup>12</sup> He bases these polities which he called "consociational democracies"- or political models-later

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<sup>10</sup> Ibid., p. 29.

<sup>11</sup> Olivier Roy, 'The Elusive Cultural Community', in Edward Mortimer (ed.), *People, Nation and State*, New York: Tauris & Co Ltd., pp. 56- 57.

<sup>12</sup> Arendt Lijphart, 'Self-determination versus Pre-determination of Ethnic Minorities in Power Sharing Systems' in Will Kymlicka (ed.) *The Rights of Minority Cultures*, Oxford: Oxford University Press, 1997, pp. 275-287.

called "consensus/power-sharing model" on two grand principles; grand coalition and segmental autonomy, along with two supplementary or secondary principles, proportionality and minority veto.<sup>13</sup>

Briefly, grand coalition is "an executive in which the political leaders of all segments (communities) participate", whereas, segmental autonomy is "the delegation of as much decision-making as possible to the separate segments." As for the supplementary principles, proportionality is "the basic standard in the allocation of public posts and funds between the segments", whereas minority veto is "the ultimate instrument in the hands of outnumbered communities to preserve their distinct identity and cultures."<sup>14</sup> These principles, particularly the last supplementary one, may help us in formulating sound solutions to the problems of the Turkish minority living in Kosovo. Lijphart underlines the fact that the consociational model does not necessarily mean a specific set of political institutions in operation and that it can be implemented in various ways. For instance, Lijphart holds that a grand coalition, in the form of a cabinet, can be established in a parliamentary system, segmental autonomy can take the form of territorial federalism or autonomy for segments independent from spatial components. Political arrangements may stipulate that a minority/ethnic veto be required in all political decisions or they may limit it through legislation which only pertains to the cultural rights of a given (ethnic) minority. The basic rules of power-sharing may be laid down by constitutions, laws or semi-public agreements, or they may simply rely on mutual understanding between community leaders.<sup>15</sup> The Kosovo example may enrich this approach in that the right of ethnic minorities to block the decision-making process regarding their politico-cultural rights, is given firstly by a foreign administrator and secondly on a local basis rather than on a national one.

In reality, the two grand principles of a consociational democracy, along with the supplementary ones, have been put into practice since 2002 in Macedonia. The crisis which escalated around the slopes of the Shar Mountains, ended with an interim agreement between the majority ethnic Macedonians and minority ethnic Albanians, which favoured the latter, despite some shortcomings. This agreement, the so-called Framework Agreement, which stipulated constitutional amendments entitling ethnic Albanians to political rights containing "ethnic veto", was accepted after a harsh political debate. Thanks to this right of "ethnic veto", ethnic Albanians acquired political leverage to prevent legislation jeopardising their cultural rights and they obtained semi-autonomy in the municipalities where they

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<sup>13</sup> Ibid., p. 277.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid., p. 279.

predominated. Furthermore, parliament acts have been scrutinised by a political institution, the Committee for Inter-Community Relations, in which ethnic Albanians are equally represented with the ethnic Macedonians. Unfortunately, the existence of this political institution does not necessarily imply the end of ethnic hostilities in this country, as the last referendum showed.

However, those political institutions have been, by and large, under the scrutiny of foreign mediators, particularly from the European Union and they constitute an important part of their scheme to stabilise Macedonia's economy and political system. Secondly, ethnic Albanians formed at least a quarter of the total population, though they have argued that they form 45 percent. They defended their already-granted political status in the former constitution, and the skirmishes between Albanian guerillas and Macedonian armed forces between 2001 and 2002, demonstrated that the majority had no power to dictate political arrangements favouring themselves. The agreement was the outcome of this military impasse. Thirdly, the prospect of possible European Union membership diverted attention from political bargaining for ethnic rights to the immediate implementation of the required constitutional amendments, because the ongoing ethnic conflict came to be recognised by both sides as the major obstacle to EU accession. The low turnout for the last referendum, has confirmed the existence of strong expectations in this direction as well. However, despite some constitutional - but not demographic similarities, the Turks of Kosovo had no means to acquire similar rights to those of ethnic Albanians in Macedonia.

**Kosovo Census Data: 1971, 1981, 1991<sup>16</sup>**

	1971		1981		1991	
	Population	%	Population	%	Population	%
Albanians	916.168	73.7	1.226.736	77.4	1.607.690*	82.2
Serbs	228.264	18.4	209.498	13.2	195.301	9.9
Montenegrin	31.555	2.5	27.028	1.7	20.045	1.0
Muslims	26.357	2.1	58.562	3.7	57.408	2.9
Roma	14.593	1.2	34.126	2.2	42.806	2.2
Turks	12.244	1.0	12.513	0.8	10.838	0.5
Croats	8.264	0.7	8.717	0.6	8.161	0.4
Others	6.248	0.4	7.260	0.4	12.498	0.7
<b>TOTAL</b>	<b>1.243.693</b>	<b>100</b>	<b>1.584.441</b>	<b>100</b>	<b>1.954.747</b>	<b>100</b>

<sup>16</sup> Julie Mertus, Kosovo: How Myths and Truths Started a War, Berkeley, Los Angeles, London: University of California Press, 1999.

\* Estimate of the Federal Institute for Statistics, based on the data on the natural augmentation and migration during the previous period (1981-1990)

The Turkish minority forms a respectively much smaller ethnic community in Kosovo and has no demographic leverage, unlike ethnic Albanians in Macedonia, that could enable it to force the political authorities to make some concessions. The interim administration here, under the aegis of the United Nations, seems to have espoused a course entirely contrasting with that which had already been adopted in Macedonia. During the confrontation in Macedonia, the mediators tried to find a middle path between unitarism and federalism, by forcing the parties to accept a political solution resembling a consociational model, thereby highlighting the status of the minority. However, in Kosovo, the interim administration has so far pursued a methodology that subordinates the political problems of the Turkish minority, along with other marginal groups, to the political struggle between the majority Albanians and Serbian minority, thereby turning a blind eye to the former constitutional arrangement which entitled the Turks to a more significant status in the administration of the province. Hence, it follows, that the Turkish community here, is not convinced that the interim administration's probably benign concern and efforts to create a modern polity that will embrace all inhabitants of the province, and make them loyal, responsible citizens, can work.

Actually, it is difficult to claim that the interim administration of Kosovo seeks to implement a consociational regime in the province, when it has become impossible to persuade the majority Albanians to accept the sharing of political power with other minorities in Kosovo. Therefore, it can be deduced from the political arrangements under the scrutiny of UNMIK, that its aim is to establish a democratic polity, whilst taking some measures against dissident elements. If Serbs are pushed further to the political margins, what has been accomplished so far is doomed. Hence, the sensitivity of the interim administration to the cause of the Serbs and its concern to find a middle path is understandable. What makes the case problematic, is the fact that the interim administration has not appreciated the fragile state of the Muslim minorities of the province, who are afraid of being assimilated into the Albanian majority. They are justified in this fear, by the intention of the interim administration to create a homogenous political community of citizens. This harbours the perils which Taylor pointed out. The only exception seems to be the Serbs, as yet again they are exempted, or excluded, in order to be included. However, the Turks have not received the same treatment from UNMIK. The Turkish minority now feels much more alienated because the 1974 constitution of Kosovo had recognized them as equal with the now, positively discriminated, Serbs. Consequently, they have opted for the most difficult path, and have based their political demands on the restoration of their status, as stipulated in this 1974 constitution.

The matter of the former status of the Turkish minority is not on the agenda of the interim administration and it is highly probable that it will be so after the departure of UNMIK. After its approval, the Turkish leaders announced that they found the Constitutional Framework acceptable in terms of communal rights, since it assigned a specific number of seats for the Turks in the Kosovo assembly, allowed the use of the Turkish alphabet and language in assembly sessions and acts and in elementary education. However, they pointed out that it stopped short in providing the Turkish minority with a sound means to preserve its identity, particularly its native language, it did not attempt to solve the problem of constitutional status and thereby did not promote a political community which the Turks could comfortably join.<sup>17</sup> However, as discussed below, the interim administration seems to have achieved at local level what it has abstained from doing at national level, lest it should provoke insubordination on the Albanian side. At this point, Lijphart's suggestions can give us inspiration.

The Turkish community of Kosovo possesses no political trump cards, as do their Albanian counterparts in Macedonia, and consequently they need a tolerant approach from the interim administration as well as from the majority Albanians. In my opinion, their demographic disadvantage deprives them of sufficient political leverage to claim the status of a fully-fledged party, equally sharing political power with the ethnic Albanians. Yet their concerns to preserve their distinct identity and culture should also be respected by all. In this context, I plan to examine the local institutions, such as the municipal committees, founded and operated under the firm tutelage, even the co-optation of the Special Representative of the Secretary General (SRSG) in Kosovo, in order to review some of the mechanisms they contain, which overlap with one of Lijphart's supplementary principles; "minority veto". However, in the Kosovo case minority veto seems to have been introduced on a local basis and is considerably limited, since the interim administration appears to seek the solution to the problem of political integration of the smaller minorities in a horizontal fashion. In other words, through the means of political decentralisation, rather than in a vertical fashion, that is, through constitutional arrangements, legislatures, political institutions with a special mandate and so on. Obviously, they are impaired and it will probably take a long time for them to operate efficiently.

Another aspect of the issue is to what extent those institutions can ease the tensions which have resulted from the political integration process. The attempt to make the inhabitants of Kosovo into autonomous, dignified and rational

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<sup>17</sup> Yeni Dönem, No: 67, 31 May 2001, p. 2-3.

individuals, who are members of a democratic polity, is still a courageous one for a variety of reasons. Primarily, the capacity of the present political institutions to cope with the tensions inherent in the protracted ethnic conflict in the province is completely subject to the performance of post-conflict political cadres, presently divided along ethnic lines. Too much should not be expected when the current political cadres are composed either of people who have emerged from the political school of the former authoritarian system, or ardent nationalists, who have long conducted a struggle against the Yugoslav regime, and have no experience of civic politics. Therefore, it is still doubtful that those political institutions will operate healthily after the departure of UNMIK and the end of the tutelage of the SRSG. Nevertheless, I strongly believe that, at least under the scrutiny of the interim authorities, there is a chance to robustly plant a "limited minority veto" at local level in Kosovo, which may well serve the purpose of aiding the Turkish community's peaceful political integration.

The Turkish community's demands regarding their rights to use their mother tongue in education and to form associations and political organisations to express and preserve their distinct identity, became a problem because these demands were seen by the interim administration as political demands, which could destabilise its grandiose project of creating a homogenous, political community of citizens in the province. However, as the nationalist flank of the Turkish leadership see it, the attitude of the UNMIK administration has been to turn a blind eye to the ongoing Albanian hawks' implicit policies which target all Muslim communities in the province. Concomitantly, both the moderate and nationalist segments of the Turkish leadership, seem to have no doubt about the continuation between their Ottoman antecedents and current generations, and claim that westerners continue to ignore the importance of Turkish culture, which has had roots in the province for centuries. Nor do they appear to value the contribution to civilisation which the Turks have made in this part of the Balkans.<sup>18</sup> On the contrary, the reports of the OSCE and UNHCR, which form the humanitarian pillars of UNMIK here, have rarely assigned space for the grievances of the Kosova Turks. Furthermore, despite the Turkish community's claims that Circassians and Goranis are in reality Turks, those reports have refrained from including those communities under the same heading as Turks. Yet, it should be noted, despite their shortcomings, those reports have managed by and large, to highlight the conditions under which the Turkish community has lived since NATO intervention.

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<sup>18</sup> For instance, according to a Turkish view with highly nationalist overtones, expressed by journalist Özfatura, when the province was parted from the Ottoman Empire and seceded to Serbia in the 1913 London Conference, 40 or 45 % of the population was made up of Turks and Turkish was the dominant language spoken by all in Kosovo. Up to 1913, Turkish families had possessed 55% of the land.

According to OSCE reports, by September 1999, the main targets for Albanian revenge were mostly Kosovar Serbs and Roma. Due to fear, as well as to a lack of facilities, many members of non-Albanian minorities continued to leave for places other than Kosovo. In addition, the main holders of positions in the public sector, mostly Serbs and other minorities, including Turks, Gorani and Slav Muslims, lost their jobs, and their positions were then predominantly taken by ethnic Albanians. This can be considered as Albanian revanchism, because in the past, the socialist regime had promoted non-Albanian elements in the province to disguise Kosovo as a multicultural, rather than an Albanian-dominated province, particularly during the Milosevic regime. Milosevic had attempted to balance the demographic superiority of the ethnic Albanian majority, through the promotion of non-Albanian minorities. The regime pursued deliberate policies in which other ethnic elements in the region were employed disproportionately in the public sector. Naturally, this led to Albanian resentment. Thus, by April 2001, in Prizren alone, 70% of those who were fired by the municipality, were members of non-Albanian communities. Of those non-Albanian communities, around 95% of them were composed of Turks.<sup>19</sup>

What made the problem more complicated and made the Turkish community more vulnerable, was that the interim administration did not want to recognise the former constitutional status of this minority. The former constitutional status had meant that Turkish was accepted as equal with other dialects, namely Albanian and Serbian. This problem of language was the main reason for the friction between the Turkish community and the interim administration, or truly Mr. Kouchner, the SRSG of the time, prior to the local elections of 2000. Actually, UNMIK Regulations 1999/4 and 1999/25, recognised the validity of laws permitting Turkish, as well as other languages, to be used in official documents. Ironically the community was called to register through a series of advertisements printed in Turkish. Yet UNMIK registration forms were not issued in Turkish, even in places where the predominant population was Turkish. Although the Turkish parties, the TDB (Democratic Union of the Turks) and the KTHP (People's Party of Kosovo Turks) announced that they would participate and compete in the local elections to be held in October, the Turkish community refused to register unless the registration forms were issued in Turkish. The outcome of this reluctance on the part of the UNMIK authorities to agree to the Turkish request was to have a negative impact in terms of the representation of Turks in municipal bodies. Later on, this problem was largely overcome through the "cooptation formula." This formula gave the SRSG the authority to directly appoint members of

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<sup>19</sup> Yeni Dönem, No: 61, 19 April 2001, p. 10.

the municipal assembly when necessary.<sup>20</sup> Nevertheless, the seeming indifference of the interim administration to their grievances, caused considerable resentment in the Turkish community of Kosovo.

### **The Setting up of Municipal Committees and the Creation of Political Means of Limited Ethnic Veto**

The debacle between the Turkish community and UNMIK seemed to have contributed to efforts made to counter any democratic deficit, particularly in the administration of local governments. In August 2000, UNMIK Regulation 2000/45, stipulated that in municipalities where a community lived whose language was neither Albanian nor Serbian, the proceedings of the Municipal Assembly and its committees should be translated, when necessary, into the language of that community (Section 9/2). In addition, all official documents of the municipality should also be made available in the language of that community (Section 9/3). Official signs, indicating or including the names of cities, towns, villages, roads, streets and other public places in municipalities which were predominantly non-Albanian/Serbian, should also be in the language of that community (Section 9/4).<sup>21</sup> Although, UNMIK seemed to have recognised the right of non-Albanian/Serbian ethnic minorities to use their language and alphabet in official documents, in toponym and so forth, the mentioned sections of the regulation envisaged that the original documents would be in the languages of Albanian and Serbo-Croatian and only in municipalities where neither Albanians nor Serbs lived, would the documents be translated into the tongue of Turks, Romani or others. With this wording, the regulation also confirmed that it continued to recognise only Albanian and Serbo-Croatian as the official languages of Kosovo. At this point, Turkish political leaders decided to resume their struggle for the right to have their language recognised.

UNMIK's determination not to introduce Turkish in some public services hampered decisively the accession of Turks to public service. For instance, UNMIK regulations stated that the education programmes of the academies which trained police officers or other public officials, should only be conducted in Albanian and Serbian. Naturally, the adoption of a variety of languages, other than Albanian, might have hindered uniformity, particularly in the field of education as in other realms of public life. However, Serbian was again exempted, to the chagrin of other, smaller minorities. Obviously, UNMIK had taken into account the fact that Kosovo

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<sup>20</sup> The cooptation method was ruled out in the second local elections in Kosovo held in 2002.

<sup>21</sup> UNMIK Regulation No: 2000/45 on Self-Government of Municipalities in Kosovo, 11 August 2000.

would remain part of Serbia and be autonomous or beyond autonomous, after the end of the interim administration. However, Turks believed that it would be better for UNMIK to assume the task of reconstruction rather than recreation, in the matter of language, though the majority wholeheartedly supported the notion of an independent Kosovo.

Fortunately, the regulation regarding municipal bodies provided the ethnic minorities in the region other than Serbs with remarkable instruments to preserve their distinct ethnic identities. Accordingly, Regulation 2000/45 envisaged the setting up of special committees under the Municipal Assembly mandated with the task of ensuring the protection of minorities and prevention of discrimination. These committees would be appointed by the municipal assembly. The municipal assembly would also decide on their competency and activities. The method of co-optation-direct appointment by the SRSG- would be employed again in order to ensure fair representation of the communities in these administrative organs. Section 21/4 stipulated that the co-opted members of the committees would not necessarily be members of the municipal assembly and that the majority of the members of the committee should also be members of the municipal assembly. Section 49/1 stipulated that the Municipal Administrator would have the mandate to appoint members of a Communities Committee and of a Mediation Committee who were not members of the Municipal Assembly. In addition, the head of the Community Office and the staff of the Community Office could be appointed by the Municipal Administrator. Hence, the function and importance of the Municipal Administrator as the agent of the SRSG at local levels was maintained in the new regulations. The above-mentioned provisions were prepared as precautions against the inevitable supremacy of the Albanians in the municipal administrative bodies. On the other hand, the very existence of the specialized committees and of SRSG cooptation indicated that the interim administration was deeply concerned with the abuse of this supremacy by the majority Albanians.

At Section 23 of the regulation, it was stipulated that the municipal assemblies would establish their own Communities Committees and Mediation Committees which would consist of both the members of the assemblies and representatives of communities. The regulation required that at least one member of the communities residing within the borders of that municipality participate in the Communities Committees. On the other hand, representatives of the majority community residing in the municipality should constitute at least one half of the membership of the Communities Committee and the remaining membership should reflect the numbers of other communities in that municipality (Section 23/3). As for

Mediation Committees, it would consist of equal numbers of members of the Municipal Assembly who were not also members of the Communities Committee and representatives of the communities other than the majority community within the borders of that municipality. The Communities Committee was required to ensure that no person undertaking public duties or holding public office should discriminate against any person on any ground such as language, religion, ethnic origin, or association with a community; that all persons should enjoy, on an equal basis, civil, political, economic, social and cultural rights, and fair and equal employment opportunities at all levels of municipality service; and that the municipal civil service should reflect a fair proportion of qualified representatives of communities at all levels (Section 23/4). The Communities Committee should also promote the rights and interests of the communities living within the municipality (Section 23/5). The committee was also entrusted with the task of observing the decisions of the Municipal Assembly and, if it found out that those decisions resulted in any violation of the rights of community members, it would bring the issue before the Mediation Committee (Section 23/6).

The Mediation Committee was required to examine all matters referred to it by the Communities Committee within 28 days and finally prepare a report which included recommendations to be delivered to the Municipal Assembly (Section 23/7). After the submission of the report, the Municipal Assembly was required to decide, by majority vote within 3 weeks, what action or further action to take in relation to the matter. If the Municipal Assembly failed, or if the Communities Committee found the decision of the assembly unfair or inefficient, it was required to refer the matter to the Central authority for review. Hence, the SRSG would take the ultimate decision on the matter in the case of conflict between the decisions of these committees and the municipal assembly (Section 23/9).

Another important administrative body was the Community Office, which was to be established in municipalities where substantial numbers of non-Albanian communities resided. These bodies were considered as temporary, and they could exist only for as long as the SRSG considered them necessary, in order to comply with UN Security Council Resolution 1244, which required fair representation and equal participation of minority communities in the administrative structure. This Office would be responsible for enhancing the protection of community rights and ensuring access of communities to public services at municipal level. The Community Office, headed by an ex-officio member of the Board of Directors of the municipality, (the body which comprised the head of departments as well as the Community Office) was required to prepare reports for submission to the

Communities Committee on the conditions under which the non-Albanian community lived. It was also stipulated that sub-offices of the Community Office could be opened as branches when necessary (Section 23/11-14).

Incidentally, although UNMIK had initially stipulated that the interim administration should take into account internationally recognised human rights standards in performing its task, it neglected other important international documents protecting the rights of minorities, such as the European Framework Convention for the Protection of National Minorities, the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the European Charter for Regional or Minority Languages and the European Charter for Local Self-Governments.<sup>22</sup> Fortunately for the Turkish community here, with Regulation 2000/45 UNMIK corrected this mistake.

However, it was reported that by the end of 2001, many municipalities decided against forming Communities Committees, in some municipalities, Mediation Committees were formed. Yet, reports indicated that mediation committees remained mostly dysfunctional in addressing the problems of minorities. In addition, the loopholes in the wording of the regulation entailing the responsibilities of the Community Office were obvious in practice. The Regulation 2000/45, envisaged that the Community Office would be responsible for ensuring equal access of minorities to public services in municipalities where they lived in "a substantial number", a very blurred definition. Cooptation changed the

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<sup>22</sup> For instance, Article 10/2 of the European Framework Convention for the Protection of National Minorities provides that: 'in areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to the real need, the Parties should endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.' Another relevant constitutive international document is the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The Declaration stipulated that 'states should protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their territories and should encourage conditions for the promotion of that identity. States shall adopt appropriate legislative and other measures to achieve those ends (Article 1).' Probably, the most outstanding provisions regarding the language rights of the ethnic and national minorities were contained took place in the European Charter for Regional or Minority Languages dated 1992. The Article 7/1 of the Charter stipulated that the parties to the charter should base their policies, legislation and practice on the recognition of the regional and minority languages as expressions of cultural wealth (7/1a); the need for resolute action to promote regional or minority language in order to safeguard them (7/1c), the facilitation and/or encouragement of the use of regional or minority languages, in speech and writing, in public and private life (7/1d). The parties of the charter were also obliged to eliminate any justified distinction, exclusion, restriction or preference relating to the use of a regional or minority language discouraging or endangering the maintenance or development of it (Article 7/2) and, in determining their policy on these languages, to take into consideration the needs and wishes expressed by the groups using such languages (Article 7/4). Article 10 of the Charter also envisaged that, if reasonably possible, the parties to the charter should correspond in the regional or minority language with the user of that language (Article 10/1a). As follows, later on, probably, the remark of 'possibility' was used adeptly by the UNMIK authorities to deny the demands of the Turkish community involving the use of the Turkish language throughout the province. In addition, the parties were obliged to make available widely used texts and forms for the population in the regional or minority languages or in bilingual versions as well as to allow the administrative authorities to draft documents in a regional or minority language (Article 10/1b). The local and regional authorities were also responsible to conduct for conducting official correspondence in regional and minority languages within the framework of the regional or local authority (10/2a), to publish their official documents also in the relevant regional or minority languages, to allow the usage of that language in local assemblies as well as in toponym (10/2e and g).

composition of the municipal assemblies. However, the power of minority groups could only be felt in those subcommittees, since the Regulation 2000/45 Section 47/2, envisaged that without a minimum of 50% participation of the minorities, a Mediation Committee could not be convened.<sup>23</sup> Yet, by the end of 2001, reports indicated that many municipalities dragged their feet in forming their Communities Committees or Mediation Committees. For instance, in Gjilan/Gnjilane, where the Turkish community was allowed to be represented by a member in the municipal assembly, the Mediation Committee performed very poorly in coping with the problems of minorities of the municipality.<sup>24</sup> By April 2002, 22 Communities Committees and 25 Mediation Committees were formed in 30 municipalities, and the only positive development was in Lipjan, where the Mediation Committee of the municipality contributed remarkably to fostering of dialogue and ethnic-peace between the Roma and Albanians there. Until now, UNMIK has made no effort to enact any code to regulate their constitution or operation, thereby contributing to their incompetence.<sup>25</sup>

The Turkish community is right to be concerned about the guarantees that are required for the preservation of its distinct identity because UNMIK have no plans to form official institutions, such as the Committee for Inter-Community Relations in Macedonia, which has been mandated to deal with the problems of ethnic minorities. At the municipal level, Regulation 2000/45 envisaged the setting up of Mediation Committees, yet, it follows that their efficiency will also be dependent on the will and interests of the Albanian majority. Obviously, in the future, particularly after the departure of UNMIK from the region, those mediocre institutions, along with other similar political institution at national level, will be of vital importance. In reality, the current UNMIK administration is much more beneficial for the Turkish community in Kosovo, even if it has occasionally pursued policies which cause concern to Turks here. Because, in a normal democratic system which is based on the will of the majority, the Turkish community can be excluded from the political sphere by a variety of means, due to its demographic inferiority. The UN announced its ultimate aim as the operation of democracy in Kosovo with its classical institutions. It does not necessarily mean that the Turks of Kosovo should conduct a harsh opposition to the democratic institutions under construction and seek the introduction of a similar "ethnic veto" mechanism to that which has been given to the Albanians in Macedonia. Yet, current political

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<sup>23</sup> UNHCR/OSCE, Assessment of the Situation of Ethnic Minorities in Kosovo: Period Covering October 2000 through February 2001, p. 25.

<sup>24</sup> UNHCR/OSCE, Ninth Assessment of the Situation of Ethnic Minorities in Kosovo: Period Covering September 2001 to April 2002, p. 41.

<sup>25</sup> *Ibid.*

developments in Kosovo as they have unfolded, have shown that the current mediocre institutions which have been mandated with inspecting the decisions of the legislature, regarding the rights of ethnic minorities at local level, should be empowered to act, or if needed, new ones should be put in their place. It is obvious that such an initiative could find a larger number of sympathisers both among the ethnic groups of Kosovo and the international community and even from Belgrade, which is deeply concerned with the political status of the Serbian minority in the region.

In reality, the SRSB recently announced that UNMIK planned to set up some institutions other than Communities or Mediation Committees, at the local level, due to inspecting the decisions of the municipal assemblies regarding ethnic and cultural rights. Yet, no concrete steps have been taken while this study is being prepared. Although, in the past consociational models were unsuccessful in dealing with ethnic divisions and are seen as having led to the ethnic ghettoization of the society, it offers some credible solutions to the problems of ethnic minorities struggling to preserve their distinct culture and identity. The model in reality failed in the case of Cyprus, Lebanon and Nigeria. However, it does not necessarily mean that some institutions, which are regarded as peculiar to the model, should not be introduced. For instance, Horowitz criticised Lijphart by underlining the fact that consociational political systems could be operated only by prosperous nations of Europe, which had a tradition of democracy and civil politics.<sup>26</sup> He also claims that the minority/ethnic veto, as well as the disproportional minority influence over decision making, may fan ethnic conflict and lead to an escalation. In Macedonia it is the very basis of a new conflict in the future. Yet in Kosovo, UNMIK had not planned to give such broad competencies to the ethnic minorities of the province, as to paralyse the jurisdiction of the majority Albanians. Nonetheless, this does not necessarily mean that it will never recognise the rights of ethnic minorities to demand new institutions, which have the capacity to obstruct the arbitrary decisions of the majority, which may jeopardise their very identity.

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<sup>26</sup> Donald L. Horowitz, 'Democracy in Divided Societies', in Larry Diamond and Marc F. Plattner, (eds.), *Nationalism, Ethnic Conflict and Democracy*, Baltimore: Johns Hopkins University Press, 1994, pp. 35-55.