Chapter 7

Public Security Management and Peace Operations.

Kosovo and UNMIK: Never Land.

Edward Rees[1]

Introduction

> *"I liken our experience with UNMIK to being in a plane in which the windows are closed, we do not know who the pilot is and we have no idea where we are going, let alone how long it will take to get there."*
>
> A senior KPS Officer - March 2004.[2]

From the point of view of "local ownership" the international intervention in Kosovo has been laid upon a foundation of fantasy. Without a defined strategy or objective it is similar to Peter Pan's fairy tale Never Land.

This report serves to introduce, and address the issue of, developing appropriate indigenous political authority over the management of public

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[2] UNDP, "The Rise of the Citizen, Challenges and Choices", *UNDP Human Development Report – Kosovo 2004*, September 2004, p. 72.

security structures and processes in Kosovo between 1999 and 2005 under the aegis of the international intervention led by the United Nations and NATO. It is neither an exhaustive study nor the final word on the matter.[3] However, this report is designed to:

i)   Illustrate the political backdrop against which such efforts have taken place;

ii) Describe the progress made in developing appropriate indigenous political authority;

iii) Articulate the nature of the tools and processes used in such efforts;

iv) Identify shortcomings and lessons learned and propose new approaches in "getting it right";

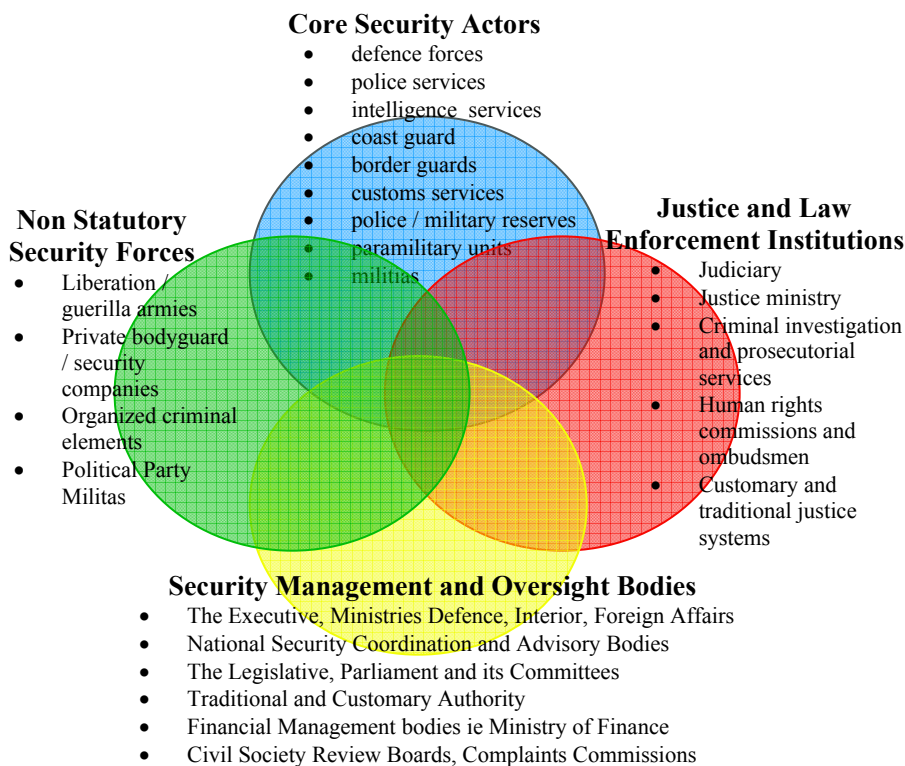v)   To point the way towards further research.

The international community has developed irrefutable expertise and credibility in the provision of emergency relief, post-war stability and early peace enforcement, the delivery of democratic elections, and as a neutral arbiter and monitor of peace agreements. Yet in increasingly complex peace operations it has not achieved any standard of consistent success, and especially so in attempts to engage with the indigenous security sector in the host environment. This report will illustrate that while this may be true generally, it is a fundamental cause for the mediocre results so far produced by UNMIK in Kosovo. Despite a host of "bad practice" there are increasingly some "best practice" initiatives being developed in the security sector in peace operations around the world – some of these are belatedly being pursued in Kosovo. Whether or not it is too little too late is a matter for debate.

Definition

Public security management sector is a key component of security sector reform. The notion of a security sector is relatively new and is plagued

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[3] Due to space limitations the in depth review of study of justice reform/development has been omitted. However, as is evident, many of the broad principles that apply to security sector reform in public institutions in general apply equally to the judiciary and its auxiliary elements.

by discordant definitions. Borrowing heavily from DFID, the security sector is defined, for the purposes of this report, as including the below institutions, state and non-state alike (see below).[4] It embraces a variety of unarmed and non-uniformed actors beyond the traditional understanding of armed and uniformed security practitioners in a broad interpretation what is security, who is affected by it, and who provides for it. The overlap and interdependence of the illustrated security sector actors is obvious and without requirement for further definition.

Core Security Actors
- defence forces
- police services
- intelligence services
- coast guard
- border guards
- customs services
- police / military reserves
- paramilitary units
- militias

Justice and Law Enforcement Institutions
- Judiciary
- Justice ministry
- Criminal investigation and prosecutorial services
- Human rights commissions and ombudsmen
- Customary and traditional justice systems

Non Statutory Security Forces
- Liberation / guerilla armies
- Private bodyguard / security companies
- Organized criminal elements
- Political Party Militas

Security Management and Oversight Bodies
- The Executive, Ministries Defence, Interior, Foreign Affairs
- National Security Coordination and Advisory Bodies
- The Legislative, Parliament and its Committees
- Traditional and Customary Authority
- Financial Management bodies ie Ministry of Finance
- Civil Society Review Boards, Complaints Commissions

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[4] Department for International Development, "Understanding and Supporting Security Sector Reform", London, 2002, p. 7.

The Issue

There is a growing preoccupation with developing sustainable local ownership of the management and oversight of the public security apparatus in international interventions. It is the contention of this paper that the term "local ownership" is too vague to be meaningful and what is actually being sought is robust, effective and legitimate indigenous political authority over the public security apparatus. It is in essence less an operational matter than it is a political and governance issue. While peace operations have demonstrated a somewhat successful track record at operationally disarming ex-combatants, or establishing police services, they have to date illustrated little talent for setting up the indigenous civilian structures designed to oversee and manage the public security apparatus. It is here that the peacekeeping community meets the development community, and it is proving to be a confused partnership.

The merging of the interests and priorities of the peacekeeping and development communities is prominently displayed in the debate regarding security sector reform. However, there is as yet no concept of operations or doctrine in this area. The actors charged with driving peace operations and international development are often at odds on how to best achieve lasting reform. As a result inadequate, inappropriate and at times incompetent actions appear to be the rule rather than exceptional. In the case of Kosovo, UNMIK has yet to, 5 years into its mandate, adequately grapple with this issue.

The complex and inter-related processes in security sector reform, be they defence/police/judicial or executive/legislative oversight sectors, require separate concepts of operations integrated into a general rule of law concept of operations. As in any constitutional democracy, these issues are too important to be addressed by the technicians in defence forces, police services or judiciaries alone but require the integration of planning and operations under the direction and cooperation of qualified civilians. It is here that the greatest risks and opportunities lie and the most urgent reform is required. UNMIK and Kosovo are a stark example of this dynamic.

Political Background

Set against the backdrop of a major war in Croatia and Bosnia and Herzegovina, the 1990s witnessed a growing sense of disenfranchisement in Kosovo. There was increasing disillusionment with the governance arrangements between the dominant regime in Belgrade and the majority K-Albanian populace in Kosovo.[5] Large numbers of K-Albanians fled the country to avoid military service and many were persecuted for trying to do so. A shadow government was established. This was combined with an increasingly repressive regime headed by Slobodan Milosevic. Hitherto, the K-Albanian leadership had pursued a pacifist policy in the hope that would result in concessions both from Belgrade and/or the international community. However, once the Dayton Peace Agreement was concluded in 1995 and the Bosnian war came to an end Kosovo did not reap any rewards. Rather, it remained very much under Milosevic's thumb, with K-Albanians being almost totally excluded from local government, the police, the courts, the university and other public institutions.

This was the setting for the early development of a new generation of younger and radicalized K-Albanians who established the Kosovo Liberation Army (KLA) in the mid-1990s. The socio-economic collapse of Albania in 1997 gave the KLA immediate access to a large supply of cheap weaponry in close proximity to many of its rear supply areas. While KLA's early actions were limited in number and ambition they were met with heavy handed Serbian police and military counter measures. This played into KLA's political objectives of creating the conditions for a broad collision between the Albanian population and the Belgrade regime. In March 1998 the Serbian police and military virtually eradicated the Jashari family in the Drenica region of Kosovo in retaliation for a perceived KLA attack on local Serb police. This action created the first broadly accepted and recognised KLA martyrs in the search for an independent Kosovo. The results were a substantial increase in Serb police and military presence in Kosovo, a massive rise in recruits into the KLA and a major escalation in the conflict.

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5   It is a contentious subject but prior to 1999 Serbs numbered approximately 20% of the population and in 2005 they number less than 10%.

Despite the efforts of the United Nations, NATO, the OSCE and the EU the Milosevic regime demonstrated complete disregard for the rights of K-Albanians and broadened the conflict in a manner which saw the wholesale persecution of the Albanian majority. This culminated with the systematic and forced deportation of hundreds of thousands of K-Albanians from Kosovo in what was a largest ethnic cleansing operation in the history of the modern Balkans. With diplomatic efforts having failed, on 4 March 1999 NATO launched an air offensive on police, military and strategic targets throughout Kosovo and Serbia proper. By June 1999 Milosevic conceded defeat and NATO ground forces officially entered Kosovo on 9 June 1999.

Much of Kosovo had been looted and destroyed. Thousands of K-Albanians were killed and many went (and remain) missing. The immediate response of some K-Albanians upon their return to Kosovo was to begin a retaliatory campaign of murder, arson and low level ethnic cleansing. The majority of remaining K-Serbs in turn were cleansed from Kosovo.

Under UN Security Council Resolution (UNSCR) 1244 UNMIK was created to administer Kosovo as a part of Serbia and as a United Nations protectorate. UNMIK was slow to deploy throughout Kosovo and there was a politico-security vacuum in which general public security broke down and KLA established zones of control in which it provided a highly politicised form of law and order. Well over a hundred thousand Serbs and other non-Albanians fled Kosovo as a result.

The development of the current transitional administration in Kosovo is founded upon the Constitutional Framework of 2001 in which the Kosovar Provisional Institutions of Self Government (PISG) were created in an effort to devolve many functions of government to indigenous political interests derived from the elections of October 2001. The most notable factor in this political compromise between K-Albanians and UNMIK was the division of government functions into those which are known as "reserved powers" versus "transferred powers". Broadly the transferred powers include education, health, some public services, spatial planning, trade and industry, finance and

economy, the environment and transport/telecommunications. After the 2005 election energy and mines, local administration and minorities/returns were transferred to the PISG. Significantly however, those institutions in which the legal power to use coercive force and/or with the remit to inhibit, thwart, and prohibit the illegal use of coercive force remained "reserved powers" within the sole remit of UNMIK and its UNMIK Pillar One (Police & Justice) and NATO's KFOR.

At the direction of UNMIK-Pillar One (Police & Justice) the UNMIK – Police (UNMIK-P) and the OSCE are responsible for training, "standing-up" and managing the Kosovo Police Service (KPS). It is also responsible for all executive policing duties with KPS acting as a junior partner. At the direction of UNMIK Pillar One the Department of Justice (DoJ) is responsible for overseeing Kosovo's judiciary and prison service. The oversight and management of the Kosovo Protection Corps (KPC) is the shared responsibility of the UNMIK Special Representative of the Secretary General (SRSG) and the KPC Coordinator in addition to that of the Commander of KFOR (COMKFOR). In essence the PISG is almost completely de-coupled from Kosovo's public security apparatus, and in effect as to date had almost no responsibilities for public security management in Kosovo. Furthermore, the KPC is placed in the ambiguous political territory between NATO and the UN, and is heavily subsidised by bi-lateral agreements and finances – well beyond the remit of the PISG.

UNMIK has primary responsibility for managing law and order within Kosovo as well as policing the border. KFOR has a mixed external defence and internal security role as it provides a deterrent to any irredentist sentiment in Serbia, secures parts of the border (although this is being transitioned to the police), provides static and mobile protection to K-Serb communities as well as acts as a potential back up to UNMIK-P and KPS in the eventuality that Military Assistance to Civil Power (MACP) is required during large disturbances (man made or natural).

The single most important positive or negative determinant to internal security in Kosovo is UNSCR 1244. It is essentially a cease-fire mechanism designed to provide for a period of mixed UN and local

administration until such time as a political settlement can be made between Belgrade and Pristina. However, the vast majority of K-Albanians viewed UNMIK and NATO's intervention as a stamp of approval for their independence struggle from Belgrade. Meanwhile, Belgrade and the K-Serb minority have consistently asserted that any eventual settlement will require that Kosovo being re-absorbed into Belgrade's orbit. It is this political tension which is at the root of all of most of Kosovo's current public security problems.

Challenges to Public Security

> *"On 17 March 2004, the unstable foundations of four and a half years of gradual progress in Kosovo buckled and gave way."*[6]

> *"The recent outbreak of violence that resulted in 19 deaths, over 800 injured numerous acts of aggression against personnel and the wholesale destruction property is a window into the real status of Kosovo: <u>that of a stalled transition</u>."*[7]

The March 2004 ethnic riots were initially centred on the controversial and ethnically divided town of Mitrovica, but within a few short hours UNMIK-P, the KPS and KFOR (a combined force of over 30,000 personnel) lost control and public security in Kosovo disintegrated wholesale.

How is it that the likely accidental drowning of three K-Albanian children at the hands of K-Serbian youth could have such disastrous effects after such a lengthy and comprehensive peace operation? Quite simply, UNMIK is in some respects the ENRON of peace operations. Large and high in profile it has a range of shareholders and executives who know the truth

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[6] ICG, "Collapse in Kosovo", International Crisis Group, Europe Report No. 155, Pristina/Belgrade/Brussels, 22 April 2004, p. i.

[7] UN Document, "Justice and Security Sector Advisory Mission Report - Kosovo", UNDP (BCPR), March 2004. This point is seriously hindered by the lack of a final status end state, which begs the question – transition to what?

but have been engaged in playing a shell game with the future of Kosovo, unable and unwilling to address it until disaster strikes.

The March 2004 riots attest to this, although many may not as yet recognise or publicly articulate it. Largely built upon the artificial and temporary foundations of "reserved powers", portrayed as a success and beyond the remit of effective oversight − UNMIK is in fact a house of cards. The collapse of this house of cards is not a foregone conclusion but should the development of indigenous and appropriate public security management structures and processes fail in Kosovo, collapse it will.

While many observers, Serb and otherwise, simplify the events of March 2004 into an anti K-Serb pogrom, and it certainly had many of the characteristics of such an operation, it was more complicated. With a stagnant economy, hundreds of thousands of unemployed young men look to UNMIK to know what the future holds. The Kosovar political elites lost faith in UNMIK once it was realised that the Constitutional Framework of 2001 was less a plan than a holding pattern. Aloof and directionless UNMIK was perceived to be leading Kosovo to a future without positive prospects. This provided fuel for the fire. While some efforts have been made at substantively enfranchising K-Albanians, there had been an increase in the distrust in the eventual intentions of the international community vis-à-vis Kosovo's final status.[8] One year after the riots it is now clear that they were an opportunistic and coordinated response to what was viewed to be a political impasse between K-Albanians and the international community. The frustrations of tens of thousands of rioters were simply directed in a manner to make a political point.

A review of security reform undertaken in the wake of the March riots articulated that:

> *Kosovo in some ways best exemplifies the pitfalls associated with peacekeeping operations that mutate into state-building exercises: the failure of the international community to shift in a timely or early enough manner its mindset from operational*

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[8] See UNDP Kosovo's Early Warning Reports between 2002 and 2004 (www.ks.undp.org).

fire fighting to transition planning. Driven by the dominant imperative of securing the peace, peacekeeping missions are forced to put aside considerations of participatory governance mechanisms and long-term institution building. While this strategic choice makes sense in the immediate aftermath of violent conflict, transition planning requires that a new framework for engagement be adopted. ...the focus [should] be on engaging the local population in institution building with the view of promoting democratization, good governance, and sustainable development.[9]

While UNMIK is similar to UNTAET in Timor Leste (as only other DPKO executive peace operation that assumed wholesale jurisdiction for a post-conflict territory secured by a coalition), it is there that the similarities end. Regional issues primarily associated with the former Yugoslavia, organised criminal elements in convenient alliances with extremists, a general lack of rule of law in the Western Balkans, altogether create a far less benign environment for DPKO than was the case in Timor Leste. Furthermore, the international community's inability to determine upon a road map for Kosovo's future status, be it independence, reintegration into Serbia, or a middle way has grossly complicated UNMIK's task in Kosovo.

One security sector reform practitioner has observed that a key starting point in security sector reform is the constitutional end state.[10] The primary, and seemingly intractable, dilemma facing UNMIK is how to build institutions closely associated with sovereignty without actually giving sovereignty. The security sector comprises at its heart the institutions which act as the instruments of coercive power in a sovereign state. Due to the lack of an end state, UNMIK is constrained in how much local participation it can solicit, or political power it can cede in the development and reform of Kosovo's security sector. Thus hampering and skewing the entire process.

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[9] UN Document, "Justice and Security Sector Advisory Mission Report - Kosovo", UNDP (BCPR), March 2004.
[10] Powerpoint presentation provided to the author by Graham Day, Deputy High Representative, OHR, BiH, November 2004.

As noted above the guiding and constraining documents governing Kosovo's political equation, and therefore the development of indigenous public security management, are the UNSCR 1244 and the Constitutional Framework of 2001 and the Kosovo Standards Implementation Plan. In Kosovo, over five years after being placed under international stewardship, the security sector remains the sole preserve of international actors. This severely limits both the privileges and responsibilities of Kosovo's people in the development of their security sector.

Significantly, Kosovo's public security apparatus consumes approximately 16% of the Kosovo General Budget FY 2004 – 2005; however, Kosovar civilians have almost 0% of political authority over how these funds are allocated either in policy or operations. It is in essence a totally exclusive arrangement, which divorces Kosovar civilians (Serb and Albanian alike) from their public security apparatus in a manner which is antithetical to the rule of law and constitutional democracy. It is in effect "taxation without representation".

The peace operation in Kosovo is in itself something of a confused Tower of Babel as compared to other peace operations. UNMIK and its partners are answerable to a disjointed combination of interested capitols, UN Headquarters in New York, NATO Headquarters in Belgium, OSCE Headquarters in Austria, and the EU in Belgium. This has created disconnects with detrimental effects on the development of Kosovo's security sector. The confusion that reigned between UNMIK-P, KPS and KFOR during the riots of March 2004 highlighted the gaps between these organisations.

Some major operational challenges to public security management in Kosovo are the presence of large numbers of illicit small arms, organised criminal groups mixed with proto-Albanian nationalists in Macedonia and South Serbia, and a geographically dispersed K-Serb community. However, it is the contention of this paper that the almost complete dearth of indigenous civilian oversight of the public security apparatus poses the greatest structural threat to public security in Kosovo now and into the future.

Providing Public Security

Public Security Policy and Coordination

There is little or no public security policy or management coordination in Kosovo, especially as it concerns coordination between UNMIK and indigenous structures. This is largely driven by the political equation which structurally separates "transferred" and "reserved powers" but there are other shortcomings.

The divisions between the UN, NATO, OSCE and EU make it virtually impossible to create mission coordination. How this will eventually translate itself onto PISG institutions is unclear, as they are currently not substantively involved. Although confused threat assessments and crisis responses leading up to and including the March 2004 riots suggest coordination mechanisms are sorely needed.

In the wake of the March 2004 riots it was deemed timely, some five years after arriving, to establish a high level politico-security consultative group comprising UNMIK, KFOR, the PISG and other interested parties. Established in April 2004 the Kosovo Security Advisory Group (KSAG) lacked an operational purpose, vision and political will. It prematurely ceased to function after just two meetings once K-Serb parties boycotted the process. More appropriately the KSAG was an initiative which should have occurred several years earlier as a mechanism to prevent and manage conflict, rather than react to it. An earlier edition of the KSAG could have acted as a political compass for both UNMIK and the PISG to gauge political mood and determine policies designed to reform and develop the public security architecture in an appropriate manner. It is understood that the Office of Public Safety in the OPM is seeking to resurrect a more comprehensive version of the KSAG in the form of a more structured "public security council" designed to both manage the transition from UNMIK to the PISG in 2005 and 2006, as well as provide policy advice and coordination in the guidance and reform of the public security apparatus.

Attached to UNMIK's Office of SRSG is the Advisory Unit for Security (AUS). It was a creative idea designed to attempt coordination between NATO and UNMIK in the security sector, but it is understaffed, dominated by technicians and centred on operational crisis management much more than prevention through coordination. It has traditionally avoided substantive working relations with the PISG as it either had no counterpart or was politically restrained from such engagement.

However, since the March 2004 riots a number of positive developments have occurred. Firstly, as a result of promulgating Administrative Directive 2004/16 on 30 June 2004 the SRSG's office has approved the appointment of a Kosovar to act as Director of the Office of Public Safety (OPS) within the Office of the Prime Minister (OPM).[11] The OPS is a step forward to developing a mechanism not only to coordinate the transfer of "reserved powers", but also in developing the indigenous capacity to provide advisory and coordination services for public security management to the Prime Minister and the Cabinet. It is a step that more correctly should have been taken in 2001 or 2002.

Overall the neglect of policy has left both international public security structures, and indigenous (such as they exist) with little useful guidance.

Secondly, in early 2005 and at the initiative of the AUS and the O/SRSG the Government of the United Kingdom dispatched a Security Sector Development Advisory Team (SSDAT) to Kosovo to assist in plotting out a security sector reform and development strategy for UNMIK. Its remit will be to examine (through consultations with both UNMIK and Kosovars) broad public security policies, legislation, executive/legislative oversight as well as developing a process by which political authority, and thereby, ownership of/for the "reserved powers", is devolved to the PISG and Kosovars as a whole. As one senior UNMIK official remarked "this initiative is three years too late".[12] In

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[11] Mr. Enver Orucaj, an ex-KLA commander from the Drenica region. He was KLA Brigade Commander during the conflict, a senior police officer in Kosovo in the 1980s and a close confident of previous PDK Prime Minister Bajram Rexhepi – with whom he served in KLA.

[12] Conversation between the author and a senior O/SRSG officer in March 2005.

April 2005 the SSDAT obtained approval to conduct a 12 month Internal Security Sector Review. This process will likely be supported by the Office of Public Safety and the OPM acting as secretariat.

Thirdly, a major element of the political process in Kosovo is the Kosovo Standards Implementation Plan (KSIP). The KSIP sets out wide and varied range of "standards" that Kosovo and the PISG must attain in mid-2005 to be able to be considered a trusted partner in establishing a forum for the negotiation of final status with Belgrade in late 2005. Any cursory review of the Standards will reveal that they are less a technical guide than they are a political instrument whereby the international community can open and close the door towards final status negotiations. The KSIP would be difficult to achieve in its entirety in Canada and Sweden let alone Kosovo. One of the KSIP priority standards which must be achieved by mid-2005 is the development and promulgation of a Police Act for the KPS – which has to date, existed in a legal limbo as attachment to UNMIK-P. Initially UNMIK solicited the participation of the OPS in the process of drafting the Police Act, and this was expanded to include a larger Police Act working group. However, in the final version of the Police Act few Kosovar attitudes or recommendations will be included and it will not be debated and passed by the Kosovo Assembly but will be promulgated by a SRSG decree. In UNMIK's haste to exit Kosovo it is simply interested in creating paper structures and processes. The future Kosovo will have a Police Act which is neither representative, nor sustainable. It will also leave a powerful executive presence in charge of the police services, assuming that the SRSG is directly replaced by a Ministry of the Interior.

As of April 2005 tentative initiatives are underway to develop Ministries of the Interior and Justice. It is not clear how much substantive policy coordination will occur between UNMIK and the PISG let alone between the PISG executive and legislative on this key policy issue. For example the highly politicised decision on where or not to create a Ministry of Public Order (with stand-alone police responsibilities) versus a Ministry of Interior (binding the police services to local administration) will likely be made by UNMIK in isolation. If this process is to be legitimate and therefore sustainable and a stabilising

factor the political authority to make this decision should rest with the PISG.

Executive Oversight and Management of Civil Defence/KPC

UNMIK has yet to provide for a Ministry of the KPC. KPC exists in a management, oversight, budgetary and policy vacuum which is dangerous in the extreme. While its role as a civilian emergency service falls partially within the remit of the Ministry of Public Services', Department of Emergency Services, as a "reserved power", its chain of command extends upwards to the SRSG and COMKFOR. Hence, it is beyond the control of Kosovan civilians. NATO and UNMIK have created a quasi-military civil emergency service and have yet to give it the management and oversight apparatus necessary to keep it within civilian control – nearly six year after arriving in Kosovo. The Office of the KPC Coordinator, dominated by foreign military observers comprises the sole substantive oversight mechanism for the KPC.

Symptomatic of UNMIK and NATO's problems with the KPC and its future are the fact that they have failed to place the KPC in Kosovo's broader development matrix. It is securely tucked away from the Kosovans and the development community alike. As a result it is almost impossible for serious development and reform of the KPC to occur. The political and financial resources are not forthcoming because these constituencies are excluded from the decision-making process regarding KPC's future. By way of example the first donor conferences related to KPC held in December 2003 were an unmitigated failure, with UNMIK and the Office of the KPC Coordinator (OKPCC) presenting donors with a shopping list of equipment and training requirements without offering space for any indigenous civilian participation in the development of a strategic plan for the KPC.

There are some useful practices to be gleaned from the KPC experience. For example, the creation of the Office of the KPC Coordinator (OKPCC) was a creative way to provide for initial guidance and technical assistance in establishing and managing the KPC. Secondly,

the first KPC Donors Conference in December 2003 was a major leap forward in placing KPC inside the public security debate.

However, more mistakes have been made with KPC than otherwise. The OKPCC is poorly configured and resourced to provide for the civilian oversight and management required for the KPC. As a result it is a poor instrument for the development of indigenous and appropriate public security management of the KPC. The international community has created and organised thousands of former Kosovo Liberation Army (KLA) personnel into a coherent, efficient, and motivated organisation without giving it any civilian management and oversight apparatus. UNMIK has failed to generate any publicly articulated policy or legislation governing the KPC, a strategic development plan for the KPC. Finally, it was a serious error to wait 4 years to hold a KPC Donors Conference.

The KPC is typical of the reality and perceptions gap that exists between UNMIK and the K-Albanian community, while its English acronym refers to the "Kosovo Protection Corps", its Albanian version, TMK, is translated into "Kosovo Defence Troops". The international community has successfully managed to maintain the façade that the KPC is a civil emergency service, with responsibilities for assisting the civil power in times of natural disaster or other civil emergencies. KPC answers directly to UNMIK and NATO, with no civilian management or oversight functions being performed by Kosovo civilian authority. However, Kosovo Albanians are almost entirely of the opinion that regardless of some unsavory ex-KLA in the KPC that it will form the future defence force of an independent Kosovo. Whether or not this will eventuate is entirely a different matter – but it is difficult to explode the myth one or the other when the community is so far removed from the oversight and management of the KPC. At the March 2005 ceremony marking the Jashari family tragedy KPC was on display in what only could be described as a military demeanor.

While internationals view the KPC as a civil emergency service, K-Albanians view it as an army in waiting, and Serbs both inside Kosovo and Serbia proper consider it a criminal organisation with streak of

terrorism running through.   The distance between these positions is enormous and will only be resolved once the KPC is properly placed squarely inside the security sector reform process in Kosovo.[13]

Executive Oversight and Management of Public Security

Nearly six years after NATO ejected Serbian security forces from Kosovo, UNMIK has yet to create Ministries of the Interior or Justice. While a seemingly obvious requirement, these structures have been viewed by some as being too close to "sovereignty" and thus too sensitive to establish. UNMIK Pillar One (Police & Justice) has acted as the executive oversight and management body for the police services and judiciary, both foreign and indigenous. Comprising of a handful of international staff, with little or no contextual experience or understanding of Kosovo, UNMIK Pillar One is an inadequately designed and under resourced structure. Tasked with providing for the strategic guidance, policy and broad operational direction, and management and oversight of nearly 10,000 police officers (UNMIK Police and KPS), hundreds of court officials, and a combined budget of over 70 million euros, UNMIK Pillar One has proved unequal to the task. Consequently, the institution building which is a fundamental part of establishing indigenous political authority over public security management in Kosovo has been left to the amateurish attentions of international police officers, prosecutors and judges.[14]

However, since 2003 UNMIK Pillar One has taken some tentative steps towards developing plans for the creation of Ministries of the Interior and Justice. In 2003 UNMIK Pillar One engaged the UK's Department for International Development (DFID) in designing a strategy for the establishment of a Ministry of Justice.   DFID's private sector sub contractor established the Justice Sector Experts Group (JSEG) in late

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[13]   In the run up to the KSIP review in June-July 2005 the Government of Serbia released an inflammatory anti-Albanian website in April 2005.   K-Albanian responses have been dismissive, seemingly unaware of the security implications such a wide gap in thinking present. See http://www.srbija.sr.gov.yu/kosovo-metohija

[14]   It was only in 2003 that UNMIK Pillar One appointed a single officer to be responsible for donor coordination in police and justice sector institution building.

2003 and through a limited series of consultations dominated by UNMIK directions it arrived at what was considered to be local ownership of the process and the product. However, while Kosovars appreciated being consulted they realised that it was largely an act of window dressing as they were not being allocated any measure of political authority to ensure that any of their recommendations on a Ministry of Justice would become reality. The final strategy document (some 100 pages) was presented to UNMIK Pillar One in April 2004 and was immediately dismissed as being too large to be "useful". The JSEG was reconvened and the Ministry of Justice remains elusive. It is useful note that as late as 2005 Kosovar judges and prosecutors remain almost entirely divorced from being operationally entrusted with serious crimes; it still being the purview of foreigners.

With regards to a Ministry of the Interior and the KPS, UNMIK is also only in the early stages of development. With public disenfranchisement viewed as being potentially a major cause of the March riots UNMIK has accelerated the transfer of power in the "reserved powers". No where is UNMIK being more ambitious than in the police sector. By September 2005 it is envisaged that UNMIK-P will have transferred operational responsibility of all police stations and regional commands over to KPS. Furthermore, UNMIK-P is also intending to hand over all executive policing responsibilities with Main Headquarters in Pristina to KPS with the exception of the four most senior positions (Commissioner, Deputy Commissioner (Operations), Deputy Commissioner (Crime) and Deputy Commissioner (Administration)). It is important to appreciate that much of the impetus for this rapid downsizing has emanated from New York where member states (especially the US) are no longer happy with carrying the financial burden for a peace operation without a plan. So it has forced a plan on the mission by slashing budgets. CIVPOL being expensive felt the pinch first, as early as 2003.

In late 2004, recognising that the accelerated operational handover of police responsibilities required some consideration regarding civilian oversight, UNMIK Pillar One engaged the European Agency for Reconstruction (EAR) in designing a strategy for the establishment of a

Ministry of Interior.   EAR engaged the services of a private subcontractor from Slovenia who drafted a strategy paper notable for its similarity to the Slovenian model and an almost complete lack of attention of the context in Kosovo.   Initially discouraged by UNMIK Pillar One to consult with relevant Kosovar organisations it was allowed to seek the opinion of the OPS in February 2005.   However, the obstacles hindering the development of a representative and participatory process and product require that Kosovar political interests become broadly involved.   For example the decision as to whether or not to create a Ministry of Public Order (stand alone police body versus a Ministry of Interior comprising police, local government, and possibly emergency services and domestic intelligence) is a decision which only the highest political authorities can undertake.   However, due to the perceived political sensitivities surrounding these issues UNMIK has yet to engage the Kosovo Assembly, political party leadership, the Prime Minister's Office let alone the broader community.

UNMIK has created core public security sector institutions without crucial executive civilian oversight and management.   Nor is there any explicit plan for such bodies. To date UNMIK and NATO have created institutions without credible participation from local authorities, thus calling into question their sustainability in the post peace operation environment. There is no publicly articulated public security policy or legislation for Kosovo's police services and judiciary.   Given that Kosovo's final status will likely be on the table by September 2005 UNMIK's efforts appear to be too little to late, and are more an exercise in appearances than substance.

The Kosovo Police Service (KPS)

One of UNMIK's core functions as mandated by the UNSCR 1244 has been the development of the KPS. The KPS has been DPKO's largest and most expensive police development and reform initiative ever undertaken. The challenges facing UNMIK in the early days of 1999 and 2000 cannot be overstated. The KPS was created from thin air. Due to the exigencies of the emergency period such as the varying standards

and deployment rates of UNMIK Police, UNMIK had to draft indigenous personnel into the KPS faster than what was desirable, an example being the absorption of certain ex-KLA into the KPS. It was unable to properly vet the admission of ex-KLA and others into the KPS. Poor vetting procedures have potentially resulted in a small class of undesirables (both from the point of view of Kosovars as well as UNMIK) entering the KPS with negative effects now and into the future. A survey of the public attitudes towards the KPS undertaken in 2003 shows that a significant portion of the K-Serb community view the KPS as an extension of Albanian nationalist organisations.[15]

Largely with the assistance of the OSCE Pillar Three (Institution Building) the KPS School was established and KPS recruits were provided basic training and rapidly put on the streets, by the hundreds, in a remarkable display of basic police institution building.

However, UNMIK Police held responsibility for police field training and the development of KPS as a public service institution. In these roles UNMIK's record has been poor. The events of March 2004 highlighted this fact when KPS found itself without a comprehensive communications system in a time of intense public security crisis. As a result KPS's response to the disorder was *haphazard and ad hoc*. Between 1999 and 2004 UNMIK Pillar One and UNMIK Police assumed an *ad hoc and haphazard* approach to building KPS as an institution. That Kosovo's premier public security organisation was unable to talk to itself is stark evidence of this fact.

As indicated above, UNMIK Pillar One has been poorly configured and resourced to provide for the executive management required to drive and guide the institution building so crucial to setting the KPS on solid foundations for the future. Not only has the external oversight and management not been forthcoming, but due to this the internal mechanisms for such activity have been left to international police officers, with little or no interest in, or ability to create the systems necessary to build the KPS.

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[15] Rees, E., *Light Blue: Public Perceptions of Public Security and Police Performance in Kosovo*, UNDP Kosovo, June 2004.

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Between 1999 and 2003 UNMIK Police was responsible for the operational provision of its own key public administration functions ranging from, but not limited to;

    i)   strategic planning;
    ii)   finance;
    iii) budget;
    iv)   procurement;
    v)   human resources;
    vi)   IT and communications;
    vii) data/statistics management;
    viii) and logistics functions.

Additionally, UNMIK Police provided these functions to KPS, but was also responsible for building capacity inside the KPS itself as a public service institution in its own right. Police officers are properly deployed in policing functions and are generally not well suited to performing these functions; as the lack of a communications system in 2004 confirmed. These functions are equally, or more, critical to successful security sector reform than the provision of equipment, police training and even human rights training and yet have traditionally been ignored by civilian police in peace operations.[16]   Planning and budgetary transparency are key political functions, the manipulation of which can result in actions which undermine the police services. These functions are too important to be left to police technicians. Between 1999 and 2003 UNMIK Police's record in building this capacity inside KPS was abysmal.

In 2002 UN HQ announced a staged reduction in UNMIK's budget. Faced with the prospect of cutting the numbers of police officers in traditional policing roles UNMIK made a decision to begin the process of handing over back office roles in the above public administration functions to the KPS. UNMIK Pillar One made the groundbreaking decision to engage the services of a development partner in an Institutional Capacity Building Program for the Kosovo Police Service.

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[16]   O'Neill, W., "Police Reform and Human Rights", a Hurist Document, New York, July 2004.

With the assistance of UNMIK Pillar One and UNMIK Police UNDP designed a programme of technical assistance.[17] UNMIK Police was directed to engage with and coordinate with UNDP in the reorientation of these functions. UNDP's remit has been to, at UNMIK and KPS's direction, build a civilian administrative division in the KPS with capacity to perform the necessary strategic planning, finance, budget, procurement, human resources, IT and communications, data/statistics management, and logistics functions.[18]

The above cursory view of UNMIK-P raises an important question. Has DPKO received value for money from the 1,000s of expensive Civilian Police posts that have been allocated to UNMIK in the past 6 years? It would appear that the answer is clearly no – especially as it pertains to institution building.

UNMIK only recognised that the key to building successful public security management processes and structures is institution building, one in which authority is ceded to indigenous parties in a judicious and staged manner. The building of the KPS Administration Division is a case in point. It will not be coincidence that the Ministry of the Interior will be largely born from practices developed in the KPS Administration Division. It is hoped that DPKO will not attempt to use Civilian Police in institution building roles for which they are poorly suited in the future.

Legislative Oversight and Management

Under the Constitutional Framework the Kosovo Assembly has no role in the security sector and the design, oversight and management of Kosovo's public security management apparatus. Despite the fact that the Kosovo General Budget FY 2004-2005 allocates 16% of the budget to public security the Kosovo Assembly has no input into how these funds are allocated. As noted above it is in effect "taxation without

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[17] http://www.ks.undp.org/Projects/KPSICB/kpsicb.asp
[18] As noted above, this program acted as the model for the PNTL Institutional Capacity Building Program in Timor Leste.

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representation" – an inherently destabilising condition. As King George III would no doubt attest to. UNMIK has therefore divorced Kosovars from having the privilege of guiding their security sector, while at the same time enabling Kosovars to formally abdicate their responsibilities for it. Notably, the promulgation of a Police Act which is a priority standard to be attained by June 2005 will likely be passed by an SRSG decree thus bypassing the Kosovo Assembly. It is a standard that will essentially be fulfilled not by Kosovars but by UNMIK – thus exposing some of the hypocrisy of the process.

While there are a range of actors led by the OSCE, EAR, NDI and UNDP engaged in parliamentary development in Kosovo, none are conducting programmes in areas of "reserved powers". The international community is in essence setting up Kosovo for a heavily executive dominated system.

Non-Governmental Organisations

Civil society in Kosovo is marked by a virtually complete lack of interest in, and or capacity to appropriately engage the security sector. Kosovo's civil society is not interested primarily because it has not been given an "interest" by UNMIK.

Consequently, four years into the transitional administration there is in fact NO Kosovar civilian (governmental or non-governmental) management and oversight of the security sector. While this may have been satisfactory for the past four years it is potentially dangerous and destabilising if the status quo is allowed to remain entrenched.
The inability of officials in the PISG, let alone Kosovar citizens to influence policy in the security sector has eroded the legitimacy of UNMIK and the new institutions it has tried to build, e.g. the Department of Justice and the KPS (KPS). Behind closed doors, some Kosovars call UNMIK "ARMIK" or "enemy" and compare the mission to a foreign occupier. If Kosovo is to make a successful transition to democratic rule, Kosovar attitudes will need to change. Kosovars will need to gain a sense of civic duty that includes participating in policy

debates and exercising a watchdog function over government institutions. Non-violent lobbying and advocacy must riot. But for this to occur, civil society must be taught how to play a constructive role in policy formulation and how to exercise an oversight function. The first step towards this objective is creating channels through which citizens can have their voice heard.

While the civil society scene remains bleak there are some positive steps being taken. Largely on the initiative of DFID, OSCE and UNDP in 2003 the notion of substantive engagement with communities beyond the simple mantra of "community policing" was urged upon the largely international dominated Kosovo Community Based Policing – Steering Group. In early 2004 the UNMIK-P Deputy Police Commissioner (Operations) recognised the importance of active and preventative engagement and assumed responsibility for pushing the Community Safety Agenda through the KCBP-SG. Subsequently, in late 2004, UNMIK Pillar One established Local Community Safety and Crime Prevention Councils (LCS&CPC) designed to strengthen public security management at the lowest level of government in Kosovo. Furthermore, while the LCS&CPCs remain immature in nature they are increasingly receiving the interest and participation of local communities and public security providers as forum for communication and conflict prevention/management.

In 2003 UNDP (in partnership with UNMIK and KFOR) attempted to implement an ambitious 'weapons in exchange for development', weapons collection as part of a broad weapons amnesty. Only 100-200 weapons were returned despite the presence of well over 100,000 illicit small arms in Kosovo. While the reasons for failure are multifaceted, lingering K-Albanian fear of Serbia and K-Serb fear of K-Albanians caused by the lack of a political settlement to Kosovo's status are a root cause of results. Also due to the "reserved powers" UNDP was forced to use UNMIK and KFOR as their primary interlocutors in what should have in essence been an initiative in which the Kosovar gun holder is the centre of gravity. Rather, a massive amount of time and energy was directed towards international security providers.

In short - UNMIK is withdrawing, but has yet to articulate plans for the handover of responsibilities for civilian oversight and management of Kosovo's public security apparatus. A haphazard and wholesale devolution of power could lead to a dangerous and destabilising vacuum which would generate unregulated and unhealthy levels of competition within Kosovo's community, and leave the public security apparatus wide open to corrupting and politicized interests.

Options for the Future

The Under Secretary-General for UN Peacekeeping recently wrote that: "In 17 operations around the world peacekeepers are working to create a halfway house of stability between the chaos of war and the rule of law."[19] However, in the war to rule of law continuum, UNMIK and other foreign interventions need to focus their efforts on developing civilian oversight and management of the security sector, if rule of law is ever going to take root.

The delivery of successful indigenous public security management in peace operations is thwarted by the existence of a fundamental tension. As a fundamentally developmental activity, based upon institution building, it requires planning, sustained energy, timelines, resources and considerable political courage to achieve results. Traditionally, peace operations do not have much of these. Peace operations are responses to crisis. Long term peace operations operate in the 5+ year bracket, but remain dependent on six or twelve month mandate extensions. To date they have found it difficult to corporately and culturally bridge the gap from crisis to development.

As a result, the crisis managers in peace operations make decisions in the early planning and operational stages that provide weak political, legal and structural foundations for development initiatives in the security sector in general and public security management specifically. As the above study highlights security sector reform is often viewed as

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[19] Guéhenno, J-M., "Giving Peace a Chance", *The Economist – The World in 2005*, December 2004, p. 83.

part of a peace operations' exit strategy rather than entrance strategy. Peace operations tend to treat the shift from crisis response to developmental state building as the end point rather than the starting point. This is a conceptual understanding that has yet to fundamentally inform and guide foreign interventions, and its Senior Managers in addition to the Military and Civilian Police Divisions – and key member states. In order for security sector reform to properly take place it needs to be part of the planning matrix from day one. The decisions made in the planning stages and early days of a peace operation have lasting impact on the likelihood of success.

"Just as the absence of conflict is not peace, imposition of order is not the provision of [public] security."[20] Peace operations often fail to recognise this. Set against the backdrop of the headquarters (both in New York and at mission level) strategic configuration, short term horizons and resources of the largely crisis oriented DPKO, security sector reform is seriously hampered from the outset. If the DPKO and its partners are to appropriately engage with and conduct successful security sector reform it needs to radically adjust its thinking, planning, operations and assessments/evaluations.

The DPKO and partners needs to embrace the holistic challenge of restoring peace and security through to building lasting security sector institutions, across a range of inter-related and complex governmental and non-governmental institutions and processes. It is not about the armed and uniformed services alone. Be it the operational security providers, the executive, legislation, judiciary, corrections, combatants, NGO's or the average citizen – they all comprise, together, the security sector. Security sector reform is increasingly more about processes, policies, institutions, legislation and political will as it is about police training, equipment, human rights seminars, and military to military education. Furthermore, should DPKO and its partners accept this evolution in thinking they will then have to consider becoming a more proactive actor in the prosecution of security sector reform?

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[20] Feil, S., "Building Better Foundations: Security in Post Conflict Reconstruction", *The Washington Quarterly*, Autumn 2002, p. 99.

A more aggressive prosecution of security sector reform will necessitate an acceptance of an increasingly politicized activities in peace operations, and the challenge of "getting its hands dirty" with the business of sanctioning those spoilers who would undermine the rule of law and subsidizing those positive agents for change who are interested in upholding the rule of law. The determination of which is a highly politicized act, but not beyond the scope of an objective assessment. This concept of activist and principled intervention is highlighted in the ground breaking 2001 report *The Responsibility to Protect*[21] as well as the recent report by the High Level Panel on Threats, Challenges and Change *A more secure world: Our shared responsibility*.[22]

DPKO's military assets are clearly the necessary backbone of any intervention, while police, judicial and corrections staff form necessary subsidiary elements. Some have argued that "In post conflict society the transition to democracy follows a social continuum of three phases order, law and order, and finally law and order with justice."[23] However, to properly address security sector reform peace operations require civilians with complex skill sets traditionally suited to oversight bodies, institution building, and contextualizing the security sector. It is not just about law and order, it is about the rule of law, and crucially, how the security sector plays a role in undermining it or upholding it.

To achieve successful security sector reform requires that the DPKO and others realise it is not solely about the cessation of hostilities and the imposition of order. It is about the provision of a sense of long term security for communities. This entails a level of political engagement with indigenous structures which is both fraught with risk as it is with rewards. Successful security sector reform is premised on engaging with the power relations of host communities be they the executive, legislature, judiciary, civil society and importantly ex-combatants. In

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[21] Report of the International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, December 2001.

[22] UN Document, *A more secure world: Our shared responsibility*, Report of the High Level Panel on Threats, Challenges and Change, 1 December 2004.

[23] Day, G. and Freeman, C., "Policekeeping is the key: Rebuilding the Internal Security Architecture of Post War Iraq", *International Affairs*, 79 (2), 2003, p. 341.

this process DPKO and others need to practice the fine art of activism and restraint in pursuit of its goals.

This process is necessarily complicated and requires an integrated and comprehensive program of activities across a broad spectrum of institutions from the very outset of the peace operation. Bad decisions in the early days of a peace operation will have deleterious and expensive effects in later years. Due to the wide range of interests and complexity of the tasks involved, security sector reform is necessarily the business of a host of stakeholders. In situation where DPKO has a lead role in crisis/conflict prevention and management it will necessarily be primus inter pares. However, in order to successfully execute its tasks in security sector reform it needs to dramatically reconfigure and retool itself. It also needs to improve the planning and coordination of its security sector reform activities before and during peace operations with partners such as development agencies, regional organisations and the broader UN family.

The golden rule in any development activity is that the host country/organisation/individual must feel a legitimate sense of ownership of the process. Ownership is ultimately about political control, and the ability of the host to participate in making political decisions about the development activity. No where is this more pronounced than it is in the area of the security sector and the instruments of a state's coercive power. Therefore, if DPKO is to embark on a peace operation with major elements of security sector reform it needs to accept the fact that the sharing of political control of the process must occur early in the process and must be substantive in order to have lasting effects. Furthermore, while DPKO must be willing to share control of the process it must have the practical resources and political will to thwart and/or sanction spoilers both inside and outside the process.
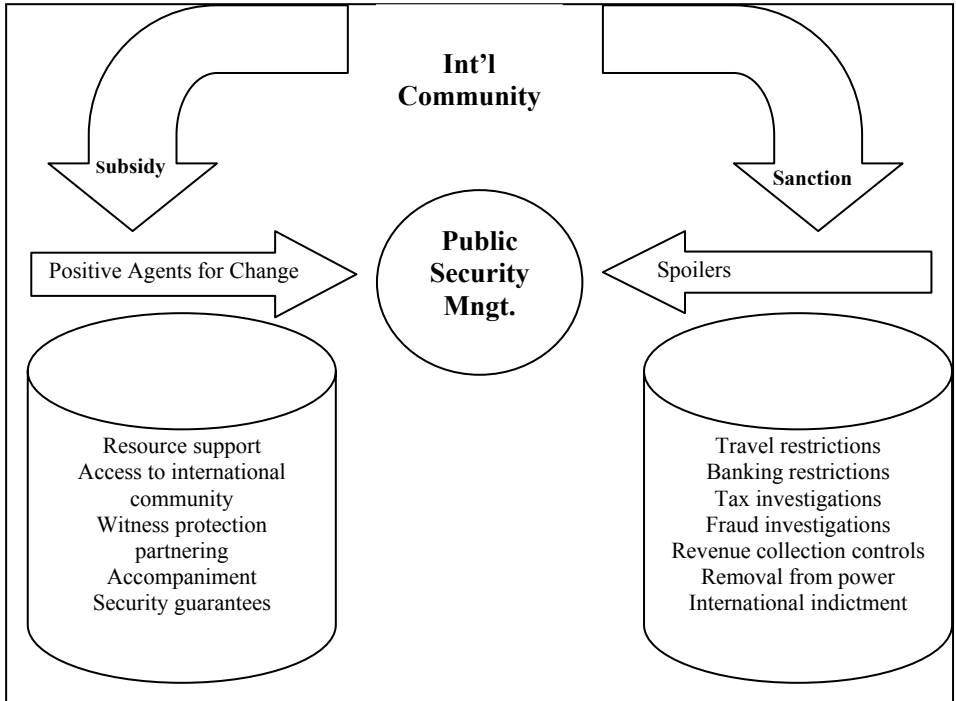
Once these concepts are accepted the planning for peace operations will necessarily have to evolve. Currently, the DPKO is largely designed for the engaging with the security sector as determined by a 1995 definition as opposed to a 2005 definition. As a result of a growing and more

complex constituency the strategic planning for security sector reform in peace operations requires greater integration between a growing host of stakeholders and partners. Beyond the wider UN family, particularly its development arm, DPKO should consider establishing fixed means for integrated planning that spans the UN family, member states, "interested" states, development agencies, international financial institutions, relevant NGOs, corporations and others.

Local Ownership (Building Appropriate Indigenous Political Authority for Public Security Management)

If local ownership is just another way of stating indigenous political authority, or control, then foreign interventions require a mandate and a concept of operations designed to cede political authority to indigenous structures early on but retain superior executive and legislative privileges, and a set of instruments designed to both sanction the spoiler and subsidize positive agent.

The experience of the limited foot print and robust executive powers of the Office of the High Representative in Bosnia and Herzegovina may provide inspiration. Despite some serious obstacles it is a foreign intervention which not only provides political space for building "local ownership" but it retains the powers necessary to remove public officials from office should they be deemed to be undermining the rule of law and thus healthy public security management. Colloquially, OHR gives the spoiler "the rope to hang himself" and the positive agent for change enough room to develop truly sustainable and representative public security management processes and structures. Given the major war that was conducted in Bosnia and Herzegovina and particular circumstances of UNPROFOR UNMIBH and OHR versus such expansive interventions as UNTAET, UNMIK, the Solomon Islands and Iraq, what is lacking is a concept of operations which maps out a more sophisticated set of transfer mechanisms from foreign to indigenous public security management. Current transfer mechanisms consist of a rapid handover in which foreign and indigenous partners have all or nothing. This is an inadequate equation.

Int'l Community

subsidy

Sanction

Public Security Mngt.

Positive Agents for Change

Spoilers

Resource support
Access to international community
Witness protection
partnering
Accompaniment
Security guarantees

Travel restrictions
Banking restrictions
Tax investigations
Fraud investigations
Revenue collection controls
Removal from power
International indictment

Furthermore, if international interventions are to progress beyond war-fighting and the imposition of law and order and move towards the development of appropriate indigenous political authority over public security management an integrated concept of operations for the prosecution of security sector reform is required – encompassing but not limited to:

1) Development of Executive Civilian Oversight and Management Concept of Operations:
   - National/Public Security Coordination
   - Line Ministries
2) Development of Legislative Oversight and Management Concept of Operations;
3) Development of Defense Force Development Concept of Operations;
4) Development of Police Service Development Concept of Operations;

5) Development of Judicial Services Concept of Operations;
6) Development of Corrections Development Concept of Operations;
7) Development of Intelligence Development Concept of Operations;
8) Development of DDR Concept of Operations;
9) Development of Sanctions and Subsidies Concept of Operations

Acronyms and Abbreviations

AUS	Advisory Unit on Security (UNMIK, O/SRSG)
COMKFOR	Commander KFOR
DDR	Disarmament, Demobilisation and Reintegration
DFID	Department for International Development
DPKO	Department of Peacekeeping Operations
DSRSG	Deputy Special Representative of the Secretary General
EAR	European Agency for Reconstruction
IOM	International Organisation for Migration
JSEG	Justice Sector Advisory Group
K-Albanian	Kosovar Albanian
KCBP-SG	Kosovo Community Based Policing Steering Group
KFOR	Kosovo Force
KLA	Kosovo Liberation Army
KPC	Kosovo Protection Corps
KPS	Kosovo Police Service
KSAG	Kosovo Security Advisory Group
K-Serb	Kosovar Serb
LSC&CPC	Local Community Safety and Crime Prevention Council
LDK	(Democratic League of Kosovo)
MACP	Military Aid to the Civil Power
NATO	North Atlantic Treaty Organisation
PDK	(Democratic Party of Kosovo)
PISG	Provisional Institutions of Self-Government (Kosovo)
OPM	Office of the Prime Minister

OPS	Office of Public Safety
SRSG	Special Representative of the Secretary General
SSDAT	Security Sector Development Advisory Team
UNDP	United Nations Development Programme
UNMIK	United Nations Interim Administration Mission in Kosovo
UNMIK-P	UNMIK Police

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