

RESPONSIBILITY TO REBUILD OF INTERNATIONAL SOCIETY IN KOSOVO*

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Abstract: The Kosovo War of 1998-1999 began with the operation of the Federal Republic of Yugoslavia against the Kosovo Liberation Army, which was in the struggle for independence. Although this war ended with the intervention of NATO on March 24, 1999, it has created a lot of controversy regarding its legitimacy in international law. The Responsibility to Protect report, which discusses the legitimacy of humanitarian intervention, appeared in 2001. The report stated that NATO's intervention in Kosovo was instrumental in the emergence of this concept. Despite this, the compliance of NATO's intervention to the report is a concept under discussion. In addition to this, the responsibility to rebuild that the report has given to international society after the intervention is as important as intervening itself. This responsibility is expressed in the reconstruction of the intervened state. This study examines how much the interventionist states that form international society fulfilled the responsibility to rebuild, which began with their intervention and still continues today. As a method, in accordance with the criteria for rebuilding, United Nations Mission in Kosovo reports were examined, and an extensive literature review was conducted. The claim of this article concludes that the international community has a continuing responsibility to rebuild, and to date, they have succeeded in some criteria and failed in some criteria.

Keywords: Responsibility to Protect, Responsibility to Rebuild, International Society, Kosovo, Serbia


KOSOVA'DA ULUSLARARASI TOPLUMUN YENİDEN İNŞA ETME SORUMLULUĞU

Özet: 1998-1999 Kosovo Savaşı, Yugoslavya Federal Cumhuriyeti'nin bağımsızlık mücadelesinde olan Kosova Kurtuluş Ordusu'na karşı yürüttüğü operasyonla başlamıştır. Bu savaş NATO'nun 24 Mart 1999'da müdahalesiyle son bulmuş olsa da uluslararası hukukta meşruluğu açısından pek çok tartışma yaratmıştır. İnsani müdahalenin meşruluğunu tartışan Koruma Sorumluluğu raporu ise 2001 yılında ortaya çıkmıştır. Raporda NATO'nun Kosova'ya müdahalesinin bu kavramın ortaya çıkışında etkili olduğu belirtilmiştir. Buna rağmen, NATO'nun müdahalesinin rapora uygunluğu tartışılan bir kavramdır. Bununla birlikte, raporun müdahale sonrası uluslararası topluma vermiş olduğu yeniden inşa etme sorumluluğu müdahalenin kendisi kadar önemlidir. Bu sorumluluk müdahale edilen yerin yeniden inşa edilmesini ifade etmektedir. Bu çalışma uluslararası toplumu oluşturan müdahaleci devletlerin, müdahalesiyle başlayan ve günümüzde hala devam eden yeniden inşa etme sorumluluğunu ne kadar yerine getirdiğini incelemektedir. Metod olarak yeniden inşa etme kriterlerine göre Birleşmiş Milletler Kosova Geçici Yönetim Misyonu raporları incelenmiş ve geniş bir literatür taraması yapılmıştır. Bu makalenin iddiası uluslararası toplumun yeniden inşa etme sorumluluğuna devam ettiğini ve bugüne kadar bazı kriterlerde başarılı, bazı kriterleri uygulamada ise başarısız oldukları bulgusuna ulaşmaktadır.


Anahtar Kelimeler: Koruma Sorumluluğu, Yeniden İnşa Etme Sorumluluğu, Uluslararası Toplum, Kosova, Sırbistan

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Introduction

The perceptions of security and peace have shifted as a result of the Kosovo and Iraq interventions. The theoretical inadequacy of the concept of humanitarian intervention and the problem of legitimacy in practice led to the introduction of the concept of Responsibility to Protect (R2P) by academics in 2001, with the support of the International Commission on Intervention and State Sovereignty (ICISS) report. The fact that the Kosovo problem forced the international community for humanitarian grounded intervention to stop aggression. This illegal, however so-called legitimized action of North Atlantic Treaty Organization (NATO), led to the creation of a broader concept. R2P is a controversial concept with acceptable criticisms of both interventionist and non-interventionist sides.

The aim of this study is to examine the post-intervention developments of the concept of *rebuilding*, which imposes responsibilities on the states concerned after the intervention. The concept of rebuilding uses some tools to build order after the crisis. While counting these tools as political, constitutional, legal and security tools, we can classify them as a set of vehicles that are not only dependent on the United Nations (UN) but also support the effective participation of non-governmental organizations (NGOs).

Nevertheless, the concept of rebuilding introduced by the ICISS report in 2001 was not included in the R2P's three-pillar structure in the 2005 Earth Summit Outcome Document. The peacebuilding mission was handled differently in the 2005 World Summit Outcomes. The R2P principle was unanimously accepted in the 2005 United Nations World Summit. The summit's result paper, paragraphs 138 and 139, act as the functional equivalent of R2P's constitution. Herein, responsibilities of prevent and react were affirmed but rebuild was not included. While United Nations Security Council (UNSC) would be in charge of executing R2P, the General Assembly (GA) would "*continue consideration of the responsibility to protect ... and its implications.*" Likewise, Former Secretary-General Ban Ki-Moon's following reports, taking the 2005 document as the agreed-upon intergovernmental text ignored peacebuilding as an inherent component of R2P (Thakur, 2018: 2).

The definition of the concept of peace in the UN is also controversial as above. While the UN, which was established after the Second World War, was established with the infrastructure to build negative peace, the humanitarian crises of the 1990s led to the emergence of ideal peace norms such as R2P in the 2000s. At this point, R2P created a perception of liberal and sustainable peacebuilding. However, not intervening in Libya and the attitudes of China and Russia in the Security Council may prevent the lack of a clear line of UN actors in peacebuilding. In this article, the rebuilding phase in Kosovo was examined according to the criteria in the ICISS report, which is the founding document of the R2P concept. However, the UN's failure to clearly integrate the concept of rebuilding into the 2005 World Summit Document has created a "blurry border" between peacebuilding and R2P, as Roland Paris has argued (Paris, 2016: 509).

The intervention in Kosovo is an intervention that does not comply with international law but can be considered legitimate. The most important reason is that R2P was not legalized in the UN at that time, and the concept of humanitarian intervention lacked its legal structure. NATO intervention can be considered legitimate as it averts the humanitarian crisis. However, the intervention is devoid of a UNSC resolution incompatible with international law. Even though it

was not a UNSC decision, those who believe that there was an intervention on humanitarian grounds were insufficient to support the UN political agenda in the peace-building part.

Moreover, there are some who accept this intervention as a step towards ensuring the independence of Kosovo. As a result, it is debatable whether humanitarian intervention or the R2P should include regime change or not. For this very purpose, the article will examine the actions of UN actors or non-state actors to reallocate peace in order to reduce tensions in the post-intervention region. In this regard, it will examine the effectiveness of the policies developed for the people of Kosovo to prevent conflicts with the Serbs.

The international community has implemented multi programs for the rebuilding of Kosovo. However, it is a matter of debate whether the responsibility to rebuild or the peacebuilding phase is sufficient practically in Kosovo. Also, it is debatable whether R2P is a development towards peacebuilding in the international structure or just a solid intervention. The concept of reconstruction is not given enough attention at the global and academic levels.

This study will seek to answer the question of whether the international community fulfills this responsibility within the framework of its responsibility to rebuild. This research will employ a qualitative research method. In order to examine whether the international community has fulfilled its responsibility to rebuild, the study will focus on the UN's mission to UN No. 1244 on Kosovo, United Nations Mission in Kosovo (UNMIK) reports and R2P report principles. In this sense, the political, economic, constitutional and security projects carried out by the international community from the date of the intervention in 1999 to the present will be examined. The article will discuss the actions of international organizations, non-governmental organizations, and associations to rebuild peace after the Kosovo intervention.

The report examined the responsibility of the interventionists for rebuilding on three main topics. These are post-intervention obligations, administration under UN authority and local ownership and the limits to occupation. It also examined its post-intervention obligations in four subheadings as peace building, security, justice and reconciliation and development. Herein, this study will examine the Kosovo case under these headings.

1. Post-Intervention Obligations

1.1. Peacebuilding

Peacebuilding is a criterion of the post-intervention phase which includes various actors. According to the R2P report, the aim of peacebuilding is creating durable peace, promoting good governance in alliance with sustainable development. As a means peacebuilding pillar prioritizes sufficient funds, organizations' role and impact with the close cooperation and collaboration with local actors. Reconciliation process should continue in different areas such as political dialogue, infrastructure development, housing, planting, and harvesting (R2P, 2001: 39).

UNMIK, the main mission of the rebuild phase to reach development and stability in the region, is institutionally made up of four organizations. The Organization for Security and Cooperation in Europe (OSCE), which carries out the process of institutional building, the UN High Commissioner for Refugees (UNHCR), which deals with the return of refugees, and the European Union (EU), which oversees restructuring activities, are four organizations with shared

responsibilities and the most importantly the UN serves as the civil administration (Akgün, 2012: 251).

In Kosovo to implement and support the development process, the United Nations Kosovo Team (UNKT) is working with different partners and budgets. UNKT is composed of UN entities, agencies, funds and committed to Agenda 2030. The UNKT is made up of 18 UN funds and programs (UNKT, 2022). UNKT is an important team because it works for overcoming different problems of post-war country and the scale of area is wide from women rights to solving migration problems. However, as will be argued, the functioning of the UNKT is intermittent due to the unstable relationship between the local and international actors.

There are achievements of the UNMIK mission in Kosovo. Firstly, to support political stability, following the legislative elections held in Kosovo on 14 February 2021, in which the Self-Determination Movement (Vetëvendosje) obtained a parliamentary majority, key political developments included the formation of the new government and the resumption of the EU-facilitated dialogue between Belgrade and Pristina. While the new government acknowledged the calls of international actors to prioritize the EU-facilitated dialogue, the two high-level meetings held under the auspices of the EU revealed even greater differences between the parties (UNSC, S/2021/861). Secondly, in terms of pandemic response and tackling poverty UNMIK worked closely with the UN Interim Administration Mission in Kosovo to continue to support Kosovo's public health agencies. UNMIK provided COVID-19 related humanitarian aid and medical equipment to the Kosovo community. With donations from the EU, UNHCR and the International Organization for Migration (IOM) provided asylum seekers and migrants with pandemic-related information, legal assistance, education, and psychosocial counseling. The UN Development Program (UNDP) humanitarian aid project, funded by the EU, has increased the capacity of social work centers to support 7,700 vulnerable families in extreme poverty (UNSC, S/2021/861). Thirdly, in 2022 during the local Kosovo elections, the EU Observation Mission supported election monitoring to observe transparency. There were also achievements to bolster dialogue between Belgrade and Pristina with the support from European actors and the United States (UNSC, S/2022/313).

However, there are specific occasions the achievements of the UNMIK Mission were insufficient in the domestic political stalemates. For instance, in 2014 the separation of the Four Party Bloc and the Democratic Party of Kosovo has increased the polarization in the crisis. (UNSC, S/2014/773). This situation tells us the domestic obstacles to the success of actors like UNMIK; it was not successful enough in the process of 2014, except it established to ensure technical dialogue. Secondly, although UNMIK's sanctions and investigations to improve the justice system are large-scale, the functioning of the justice system in Kosovo is still a matter of debate (UNSC, S/2022/313). To create a statute establishing the Institute for Documentation of Crimes Committed During the War in Kosovo, the Ministry of Justice assembled a working group made up of representatives of pertinent Kosovo institutions and civil society. Thirdly, the role of women especially after the war effects is a matter of concern in Kosovo. Since its establishment in 2018, the Kosovo government commission responsible for the verification and recognition of the status of survivors of sexual violence has received 1,656 applications. UNMIK continued to support awareness. For example, UN-WOMEN developed mechanisms against gender-based

violence reduction in the region. In a study conducted between November 25 and December 9, UN-Women performed research on political violence against women and barriers to their political engagement among the Assembly of Kosovo members. The study discovered that exclusion, marginalization, paternalism, and other forms of discrimination were connected to violence against women in politics, which fueled a feeling of powerlessness among women involved in political parties and institutions in Kosovo (UNSC, S/2022/2013). Based on these findings, UNMIK team organizes programmes for increasing visibility and the role of women. However, in the last development phase of gender equality and deduction of violence against women could not be achieved in sufficient level.

1.2. Security

Three most important areas to consider for rebuilding are security, economic development, and the establishment of justice (Karaoğlu, 2019: 205). In particular, the report attached special importance to security (R2P, 2001: 40-41).

The report states that military intervention must first establish the security of the people and prevent groupings and acts of revenge. In this sense, one of the most important challenges to be faced is the disarmament of the conflicting groups and their reintegration into society (R2P, 2001: 41). In the first UNMIK document immediately after the intervention, great emphasis was placed on disarmament, and on 21 June 1999, the Kosovo Liberation Army (KLA) signed a demilitarization commitment which outlined the methods and timetable for the KLA's demilitarization (UNSC, S/1999/779). The interventionists created the necessary buffer zone to prevent the conflict between the Serbian army and the Kosovo Albanians (UNSC, S/1999/779, S/1999/987). After eliminating the risk of conflict between the two sides, measures were also taken against possible Serbian attacks (UNSC, S/2000/1196). In this context, it can be said that the interventionists successfully prevented the conflict between two ethnic groups in the post-intervention period.

Regarding security, the second most important problem is the re-establishment of the police force (R2P, 2001: 41, 65). As a matter of fact, one of the biggest criticisms encountered after the military intervention is that the military presence uses rigid methods to meet the police services and cannot communicate with the public (R2P, 2001: 41). For the intervention of the military mass to be temporary, the necessary plans must be prepared by the states and the local police force, and the military power of the intervened country must be re-established. Otherwise, the humanitarian crisis may reoccur, and the integrity of the country may be damaged after the withdrawal (R2P, 2001: 41).

One of the goals of the UNSC Resolution 1244, which also decided to establish UNMIK, was to create a new police force in Kosovo (UNSC, S/RES/1244). Therefore, the police force was established on 6 September 1999 immediately after the intervention. Although the police were predominantly Albanian, Serbs were also included. The police force was established under UNMIK (UNSC, S/1999/779; UNSC, S/2000/878). The force has played an important role in training and building a strong Kosovo police force. In particular, it was aimed to improve the border police by training them in criminal investigation (UNSC, S/2000/878; UNSC, S/2000/1196).

At the same time, it is planned to train the Kosovo Police with the help of the OSCE. The Organization renovated old school buildings and provided the necessary equipment for education. Accordingly, it was aimed to train 3,500 Kosovo Police Officers by 2001. UNMIK has undertaken this task until the Kosovo police are fully trained and self-sufficient (UNSC, S/2000/538). By 2001, UNMIK, which had achieved this goal, aimed to gradually increase this number every year and succeeded it (UNSC, S/2001/565). UNMIK has also organized parallel operations with the police forces to ensure that they are trained and experienced (UNSC, S/2002/62).

In 2007, Serbian ethnic group began to decline in the Kosovo Police Force (UNSC, S/2007/582). Finally, after the declaration of independence of Kosovo in 2008, many Serbian police did not fulfill their duties and some of them left their jobs (UNSC, S/2008/354). The Pristina Administration announced that the Serbian police officers who left their posts during this period would be replaced by UNMIK police officers (İhlas Haber Ajansı, 2008). After the independence, some Serbian polices returned to their jobs. It has always been ensured that members of the Serbian ethnic minority are included in the police force. By 2010, the balance was restored and 10% of the police force consisted of mainly Serbian ethnics (U.S. Department of Justice, 2018). The interventionists were successful in establishing and organizing the police force.

UNMIK has played a primary role in the establishment and strengthening of the Kosovo Police Force. After that, with the strengthening and expansion of the Force within the country, the Kosovo Police Force took the primary lead. UNMIK has taken a secondary position as the Kosovo Police Force has become stronger (UNSC, S/2005/335). During this process, UNMIK and the Kosovo Police worked in a correlated manner. Currently, UNMIK continues to support the Kosovo Police Force. Thus, it supports many issues such as human rights, the functioning of the judiciary and prosecution. In addition, UNMIK enables the force to cooperate internationally under the umbrella of UNMIK (UNSC, S/2022/313).

1.3. Justice and Reconciliation

Another important pillar of rebuilding is the restoration of justice services. Due to the humanitarian crisis, the courts may have stopped or lost their independence. In this sense, there is a need for a functioning justice system so that human rights can be protected by the legal order and criminals who cause humanitarian crises can be prosecuted. In particular, the rapid establishment of the criminal law system is essential to judge human rights abuses and genocides (R2P, 2001: 41-42).

Immediately after the intervention UNMIK stated that the biggest shortfall in achieving justice was due to the lack of institutions and organizations. It referred that gangs exploit justice by filling this gap in the lack of these institutions. It mentioned that in order for reconciliation to begin, those who committed war crimes must be brought to justice. For this purpose, UNMIK stressed that it is vital to establish institutions that will create the judicial system of Kosovo. For this purpose, it highlighted that a multi-ethnic judicial body should be established. (UNSC, S/1999/779).

Accordingly, it was planned to establish the Kosovo War and Ethnic Crimes Court (KWECC), where international judges and Kosovo judges will be the first (Terzioğlu, 2018: 152). UNMIK stated that the reason for the presence of international judges alongside Kosovo judges

is that local judicial bodies are not yet capable of self-sufficiency themselves (UNSC, S/2000/538). However, the establishment of this court, which would have jurisdiction over serious ethnic and war crimes, where international and Kosovo judges would work together, could not be established (Terzioğlu, 2018: 152).

Even though the idea of KWECC was not implemented, within the framework of the current judicial system in Kosovo, the International Judge and Prosecutors Program (IJP) was implemented, and thus the opportunity to judge the humanitarian law violations committed in Kosovo has arisen (Terzioğlu, 2018: 152-152; UNSC, S/1999/987). However, the IJP also encountered several problems. The fact that Kosovo judges have a majority of votes in war crimes cases has been an element that undermines the independence of the judiciary. Thus, unjust decisions were made against the Serbs and in favor of their own ethnic group. Thus, as a result of these judicial elements, it has led to the fact that the trials of some Kosovo Albanians who have been involved in war crimes in Kosovo cannot be held including KLA members (Hartmann, 2003: 1-2).

Following the declaration of independence of Kosovo, the EU Rule of Law Mission in Kosovo (EULEX) aims to support and strengthen the judiciary of Kosovo. EULEX is EU's largest foreign mission operating within the framework of UNSC Resolution 1244 (1999) and the EU Common Security and Defense Policy. The collaboration of UNMIK and EULEX has had a positive impact on the judicial system (UNSC, S/2008/692). It has been an important benefit of EULEX's application of EU standards and the motivation of both countries to enter the EU. In addition, Kosovo Serbs have also approached the steps of EULEX more moderately. Although there are many unresolved issues, it has had a positive impact on the institutionalization of the judicial system and the reconciliation of the two societies (UNSC, S/2009/149).

However, even the involvement of EULEX did not ensure the trial of some members of the KLA who had been involved in war crimes for a long time. Hence, the trial of these people was only possible with the Special Tribunal for Alleged Kosovo War Crimes, which was established in The Hague at the request of the EU in 2015 (UNSC, S/2016/99). Here, the court found war crimes charges against several high-ranking members of the KLA the ethnic Albanian separatist movement in the 1998-99 war of independence against Serbia. Former Kosovo President Hashim Thaci, who resigned after the accusations, is among those on trial with some KLA members (Euronews, 2022). It should be emphasized here that the Security Council condemned the terrorist acts of the KLA in 1998 before the intervention (UNSC, S/RES/1160), and again that year the US State Department listed the KLA as a terrorist organization and US state officials condemned the terrorist acts of KLA (Özerdem, 2003: 80; U.S. Department of State, 1998). Özerdem (2003) "From a 'terrorist' group to a 'civil defense' corps: The 'transformation' of the Kosovo Liberation Army" literally describes the transformation of the KLA in the eyes of the international community. As such, the failure to prosecute KLA members for such a long period of time undermines the achievement of justice and the establishment of reconciliation and trust, especially from the point of view of Kosovo Serbs and Serbia state.

Finally, the fact that the two communities have disputed lands is another factor that undermines the reconciliation between them. According to this, both communities claim rights in the regions where their populations predominantly live (Şener and Yalım, 2021: 172-173). This

conflict prevents the two states from joining the EU. As a solution to this, a land swap proposal is offered. Although the EU has undertaken the negotiations on the exchange of territories between the two sides, an agreement has not been reached yet (Şener and Yalım, 2021: 180).

1.4. Development

The purpose of this criterion is to promote economic growth, improvement of the economic market, local work with the help of national and international development agencies (R2P, 2001: 42). As an example of these steps, we can give the economic funds of the EU and the security policy towards Kosovo. To provide development, four different partners of UNMIK which are OSCE, UNKT, UNHCR and EU should work in collaboration with each other. However, according to the overall improvement phase, the efficiency of local and international actor's cooperation is facing with political and social effects which makes evolvement harder to achieve in different spheres.

Economic development in Kosovo still could not be achieved. Firstly, economic growth in recent years has been fueled by the work of immigrants from commerce and light industry in Kosovo who are exploiting cheap labor. There are many foreign and domestic experts who are starting to think about the long-term consequences of the crisis, which will lead to greater oversight of the financial systems of developed countries and, as a result, less investment in developing countries. Secondly, Kosovo's economy continues to face a large trade deficit in goods and services. Being open to the world in terms of trade, pushes it to become an importing country and this is a one-way move. Thirdly, large numbers of unemployed and poverty are serious problems in Kosovo. Despite the improvement of wages per capita, the financial situation of Kosovo citizens is still insufficient (Pantina, Ahmeti and Reçi, 2011: 10, 11).

Political situation in Kosovo is also an obstacle to achieve development. Internal political instability is affecting the progression phase. Therefore, UNMIK and government relation trust is quite fragile. According to a 2004 Riinvest study, Kosovo's residents consider their government to be the most trustable entity they can depend on. However, when it comes to the country's most powerful institution, the residents of Kosovo have a different perspective; they do not have faith in UNMIK, the province's governing temporary body (Siklias and Roukanas, 2007: 282). For example, on 21 May, the Kosovo government endorsed an agreement on the freedom of movement of citizens and third parties that provides for visa-free travel between and among Albania, Bosnia and Herzegovina, Montenegro, North Macedonia, and Serbia. The Kosovo government, however, continued to oppose the "mini-Schengen" initiative launched in October 2019 by the leaders of Albania, North Macedonia, and Serbia, which was renamed at their meeting in Skopje on 29 July the "Open Balkan" initiative, with the aim of creating a free economic area and single labor market by 2023. Pristina considers that the initiative does not provide equal status for Kosovo and undermines the common regional market agreement (UNSC, S/2021/261). This political step shows us how domestic politics and historical regional settings are quite vivid in Southeast Europe which makes the UNMIK role harder to achieve.

Normalization of relations between Belgrade and Piristina is another important mission of UNMIK which is a goal to achieve stable development. For example, during the 2017 period, the EU-facilitated dialogue between Pristina and Belgrade resumed at the presidential level, with informal consultations held in Brussels between Kosovo President Hashim Thaçi and Serbian

President Aleksandar Vučić (UNSC, S/2017/911). In 2019 Belgrade and Pristina leaderships attended a meeting of Western Balkan leaders in Berlin conducted by the Chancellor of Germany and the President of France (UNSC, S/2019/461). These attempts are emphasizing the role of the EU as a dialogue partner and its role as a force for the dialogue to create bilateral improvements between Pristina and Belgrade.

Reconciliation and cultural heritage, and community relations are another important mission of UNMIK to leverage Kosovo as an independent and safe country. The UNMIK found out that most of the younger generation is willing to migrate to other developed countries. To overcome this problem, made specific emphasis on returns to the country. In 2017, 113 volunteer (UNSC, S/2017/911); in 2018, 53 volunteer (UNSC, S/2018/981); in 2019, 31 volunteer (UNSC, S/2019/797); in 2022, 118 volunteer return (UNSC, S/2022/313) was recorded and still continues to support returns which specialized agencies of the UNMIK such as IOM and UNHCR.

The European Commission's annual report on Kosovo was released on October 6, 2021, gave a mixed evaluation of the country's progress in eradicating corruption and preserving the independence of the judiciary, among other areas. The report found out that the COVID-19 pandemic's consequences and ongoing political unrest are the main reasons behind the slower pace (UNSC, S/2021/332).

2. Administration Under the UN Authority

Regarding this heading, the report refers to Chapter XII of the UN Charter which indicates the International Trusteeship System. Accordingly, the UN administration should provide international peace and security, promote political, economic, social, and educational advancement, and promote human rights. While doing that, the UN administration should support the self-government of the trusteeship area. It is possible to state that the interventionists were successful in providing this system. UNMIK has played a good trusteeship role (R2P, 2001: 43).

The most important point on this topic is the statement about the right to self-determination. According to the report, "*protective enforcement usually indicates sustaining or restoring forms of territorial self-government and autonomy*". And it continues, "*the responsibility to protect is fundamentally a principle designed to respond to threats to human life, and not a tool for achieving political goals such as greater political autonomy, self-determination, or independence for particular groups within the country*" (R2P, 2001: 43). From here, we can clearly understand that interventionists should have protected Kosovo's autonomous status. Instead, the fact that the first countries that recognize Kosovo after its declaration of independence are interventionist states makes this situation questionable. Indeed, Kosovo declared its independence while under the UN tutelage. Parallely, the International Court of Justice, the main judicial organ of the UN, also concluded that Kosovo's declaration of independence did not violate international law (UN, 2010). At this point, it is possible to mention that the decisions taken do not comply with the R2P principles.

There may be some who describe the recognition of Kosovo's independence as a positive development in terms of preventing possible violent conflicts between the two communities. However, encouraging communities to recognize their right to self-determination should not be the only way to avoid the risk of conflict between two communities. The international community

needs to be consistent in this regard. For example, Turkey's intervention in the systematic massacre of Turkish Cypriots in 1974 was described as an invasion by the UN and the right of self-determination of Turkish Cypriots was not recognized (UNSC, S/RES/353; UNSC, S/RES/367). Furthermore, many UN Secretary Generals such as Kofi Annan, Ban Ki-moon, and Antonio Guterres have worked hard to resolve the Cyprus "question". Thence, the fact that Yugoslavia guaranteed its territorial integrity before the intervention (UNSC, S/RES/1207) and then encouraged Kosovo's independence raises questions about the consistency of the international community.

3. Local Ownership and the Limits to Occupation

How long the intervener state must remain to achieve sustainable reconstruction and rehabilitation has both positive and negative effects (R2P, 2001: 44). Firstly, discussions on the sovereignty of the intervened state are one of the controversial situations in the literature. The ICISS view on sovereignty is as follows:

"The intervention suspends claims of sovereignty to the extent that peace and stability, as well as good governance, cannot be promoted or restored unless the intervener has authority over a region. But the suspension of the exercise of sovereignty is only de facto, not legal, for the period of intervention and follow-up." (R2P, 2001: 44).

According to the report, the rebuilding program should be able to adequately analyze local priorities and structures owned and be careful about the dependency and distortion period of the intervened state. Local priorities and domestic development are crucial because intervention can also create one sided dependency on other states and non-state actors. In this case, the dependency period provides a political and economic burden for two sides. Moreover, the implication and success of the intervention process and the level of dependency are important for future applications of R2P.

Another crucial point of the R2P report for achieving local ownership emphasize on balance between local, transitional, and international actors. According to report:

"International actors should take steps to set up a political process between the conflicting parties and ethnic groups in a post-conflict society that develops local political competence within a framework that encourages cooperation between former antagonists." (ICISS, 2001).

Local ownership, trust-building, partnership, and cooperation are other areas that UNMIK reports are emphasizing on similar development steps to the R2P report. In 2022 UNMIK continued to pursue a people-centered approach focused on trust-building driven by local change-makers. In accordance with that aim the Mission promoted Kosovo Trust-building Platform (UNSC, S/2022/313). In 2021, the UN Human Residence Program helped four local governments in Northern Kosovo community development and sustainable urban mobility programs aimed to increase ethnic interaction and community participation in policymaking. The design of the cultural mobility map of the ethnically mixed villages of Skenderaj / Srbica for the first time facilitated a shared vision of multi-ethnic neighborhoods based on shared cultural and natural heritage (UNSC S/2021/861). In 2020 during the pandemic UNMIK and the UN Kosovo Team worked in collaboration to ensure continuity of operations with the support of local authorities

and institutions (UNSC, S/2020/964). In 2018, the establishment of the “Association of Women in the Kosovo Correctional Service” was attributed in part to the collaboration of EULEX with a number of local non-governmental organizations (NGOs), local institutions, and international organizations (such as the Kosovo Women’s Network, the Office for Gender Equality, UN Women, and the US Department of Justice’s International Criminal Investigative Training Assistance Program). The new internal association’s goals are to promote gender equality, increase awareness of it, and develop the status of women inside the Kosovo Correctional Service. Similarly, UNMIK provided training for the new members of the Kosovo Youth Task Force, with focus on how to bring issues to the attention of local authorities, youth action councils, civil society representatives and religious community leaders that are repeatedly mentioned in the reports (UNSC, S/2018/981).

In Kosovo, the 2004 riots and clashes between UNMIK and local elites demonstrated the failure of international efforts to reduce questions of statehood and independence to questions of local ownership. As a result, a “local ownership” policy could not be produced by the politics of local and global space. Because of this uncertainty, UNMIK’s legitimacy and power were undermined (Narten, 2008: 382). Therefore, according to the UN administration of Kosovo’s internal UNMIK paper: “*the Mission displayed a lack of cultural sensitivity and an insufficient knowledge of the dynamics of the society, in terms both of power structures and of negotiations*” (Hebert, 2009: 79).

4. A Different Perspective on Rebuilding Kosovo: Hybrid Peace

The concept of R2P, whose liberal and idealist assumptions have been criticized, seems to have failed to provide the balance between local and national realities during the rebuilding phase. So much so that not only Kosovo’s post-intervention situation, but also the concept of peace, that has been put forward in regions that share similar fates in Southeast Europe such as Bosnia and Herzegovina, has been questioned. The definition of the concept of rebuilding peace discussed in the literature is considered as positive, negative and hybrid peace. Positive peace deals with the concept of sustainable peacebuilding, while the negative peace concept describes the cessation of aggression and not creating new conflict areas as peace (Galtung, 2013: 1, 2). Unfortunately, although negative peace makes it easy to explain the impotence of the post-intervention environment in the regions where the intervention was unsuccessful, it is insufficient to explain the governance problems of local and global actors in building sustainable peace, and it is a definition that cannot produce a solution in the re-building phase.

At this point, hybrid peace examines the dynamics of the post-intervention society and political system in two dimensions. The term hybrid refers to the coexistence, interaction, and even clashing of liberal and illiberal norms, institutions, and actors (Jarstad, Bellon, 2012: 1). It proposes to explain the exclusion of local actors during system construction and the failure of ‘top to down’ systems imposed by international actors. It also pays attention to the impact and importance of local values and norms in regions where nationalist movements are active and where positive peace is not fully achieved, just like Kosovo.

As demonstrated in Nicaragua, Haiti, Bosnia and Herzegovina, Afghanistan, and other post-war states, the institutionalization of liberal peace approach core ideas like democratization, human rights, the rule of law, and a liberal market system to post-conflict states and so-called ‘fragile/failed states’ aiming to bring peace and security has failed to create a comprehensive and sustainable peace on the ground (Anam, 2015: 46). The hybrid peace method aims to lessen the influence of liberal values and processes, so it may be able to keep peace and security in unstable or failing nations (Eminoğlu, Köse, 2021: 506-507). The fragility of trust in UNMIK after the intervention in Kosovo shows that the balance between local and global actors could not be achieved. Political, social, and economic stability in Kosovo could be sustained if restructuring steps were taken, reinforced by the concept of hybrid peace.

Criticism and Conclusion

The responsibility of the international community to rebuild has not been completed and is still an ongoing process. The process has been going on for 23 years since NATO intervened. The international community, which assumed more observer status after Kosovo declared its independence, has not been able to complete this process yet. No specific timeframe was given in the report. The study determined that this is a deficiency. Rebuilding needs to cover a certain period of time in the line with a specific target.

Intervener powers succeeded in some criteria and failed in others according to the principles of rebuilding. Although we can say that the mission was relatively unsuccessful during the reconstruction phase, but the roles and activities of UN specialized agencies have positively supported political and social development in the region compared to the wartime stalemate. In particular, the UN and EU facilitated dialogues of international actors opened a room for the mediation by increasing the dialogue between Serbia and Kosovo in political stalemate situations. UNMIK and UN have provided the necessary support by working collaboratively on pandemic tackling and response. Although this period creates a positive perception of Mission’s success, the domestic political polarization in 2014 showed UNMIK’s incompetence in the face of domestic issues again. During this period, UNMIK could not create any effective change other than increasing the political dialogue. Although efforts were made to raise awareness about the role of women in society and war crimes, in the final analysis, the desired level of development could not be achieved in these areas.

It has been seen that the interventionists are quite successful in the field of security. After the intervention, they successfully took the necessary measures to prevent the two communities from clashing again. They also successfully re-established the police force, which constitutes the most important part of security. The fact that it includes Serbs ethnically, also contributes to the peace between the two communities in the rebuilding. In addition, with the contributions of UNMIK and EULEX, the police force was trained and enabled to participate in joint exercises. Today, UNMIK remains in the background and continues to support the Kosovo police force.

Taking into consideration the economic development, it is still not at a sufficient level. Foreign investment has also decreased after independence, and the dependence-distortion balance has not been established for creating sustainable economic development in Kosovo. To achieve development, there should be an increase in the number of non-governmental organizations that

can work actively and in correlation in both states. National and international actors' reconciliation is quite hard because of the ethnic nationalism and political instability in the state supported by the criticisms about the sovereignty of Kosovo. Even in matters such as national education, ethnic identities play an ethnic role, so that Kosovo statism is replaced by ethnic nationalism, which makes the reconciliation process harder to achieve.

The administration under UN authority part is quite controversial. As a matter of fact, when this part of the report is examined in detail, Kosovo's gaining an independent identity instead of the continuation of its autonomous status does not comply with this criterion of the report. Parallel to this, the fact that when Kosovo first declared its independency, those who recognized it were interventionist states, which indicates that this criterion was not applied successfully.

Considering local ownership and limits to occupation, we can say that the people and institutions of Kosovo still do not trust UNMIK enough and the divisions between UNMIK and local elites are causing instability. The lack of trust in UNMIK and the disconnect between local and international elites demonstrate the failure of liberal peacebuilding assumptions. At this point, social and economic stability could have been more successful if the hybrid governance-centered peacebuilding, reinforced by the concept of hybrid peace, had been implemented in Kosovo. Even, the 2022 North Kosovo crisis and the re-emerging inter-group ethnic tension highlight the difficulty and failure of the peacebuilding process.

In UNMIK, it is mentioned that the accession of Kosovo and Serbia to the EU will positively affect the process and even complete peacebuilding. Nevertheless, we must emphasize that, in this process both states must join the Union at the same time. In the opposite scenario, the state participating in the Union can use the threat of veto against the other. The EU's role as a guardian will increase the peace between the two communities, and in this scenario, even if a land swap agreement cannot be made the tension in disputed areas will decrease with the removal of the borders. Considering that NATO members forming the interventionists are also EU members or strategic allies, it can be said that the interventionists have a responsibility under the principles of rebuilding the inclusion of both communities in the EU at the same time.

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References

- Akgün, S. (2012). Kosova’da yeniden yapılandırma çalışmaları kapsamında bugünkü durum. *Gazi Akademik Bakış*, 5(10), 249-268.
- Anam, S. (2015). Peacebuilding: The shift towards a hybrid peace approach. *Global Strategies*, 9(1), 37-48. <https://doi.org/10.20473/jgs.9.1.2015.37-48>
- Badivuku-Pantina, S. M. & Ahmeti, S. S. (2011). Developments in Kosovo’s economy analysed on a macroeconomic point of view. *ILIRIA International Review*, 1(2).
- Eminoğlu, A. & Köse B. (2022). Liberal Barış İnşası ve Geleneksel Çatışma Çözme Yaklaşımlarının Hibrit Barış Modeli Oluşturma Potansiyeli: Ubuntu Üzerine Bir Değerlendirme. *Gazi Akademik Bakış*, 15(30), 203-223.
- Euronews (2022). Lahey Uluslararası Savaş Suçları Mahkemesi Kosovalı gazilere yönelik kararı açıklıyor. <https://tr.euronews.com/2022/05/18/lahey-uluslararası-savaş-suçları-mahkemesi-kosovalı-gazilere-yönelik-karar-acıklıyor>
- Evan, G., Sahnoun, M., Côté-Harper, G., Hamilton, L., & Ignatieff, M. (2001). Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty. IDRC, Ottawa, ON, CA.
- Galtung, J. (2011). Peace, Positive and Negative. in *The Encyclopedia of Peace Psychology*, D.J. Christie (Ed.). <https://doi.org/10.1002/9780470672532.wbep189>
- Hartmann, M. E. (2003). International judges and prosecutors in Kosovo. A new model for post-conflict peacekeeping. *United States Institute of Peace*, Special Report, Washington.
- İhlas Haber Ajansı (2008). “Kosova Polis Gücü’nde Sırp Polislerin Yerini Unmik Polisi Alacak” <https://www.haberler.com/dunya/kosova-polis-gucu-nde-sirp-polislerin-yerini-unmik-haberi/>
- Jarstad, A. K. & Belloni, R. (2012). Introducing hybrid peace governance: Impact and prospects of liberal peacebuilding. *Global Governance*, 18, 1-6.
- Karaoğlu, A. O. (2019). Libya’ya Askeri Müdahale ve Uluslararası Hukukta Yeniden İnşa Sorumluluğu. *İstanbul Medipol Üniversitesi Hukuk Fakültesi Dergisi*, 6(1), 199-224.
- Lemay-Hébert, N. (2009). State Building from the Outside-in: UNMIK and its Paradox.
- Narten, J. (2008). Post-conflict peacebuilding and local ownership: Dynamics of external–local interaction in Kosovo under United Nations administration. *Journal of Intervention and Statebuilding*, 2(3), 369-390.
- Özerdem, A. (2003). From a ‘terrorist’ group to a ‘civil defence’ corps: The ‘transformation’ of the Kosovo Liberation Army. *International Peacekeeping*, 10(3), 79-101.
- Özkan, Y. (2016). Lahey’de Kosova için özel mahkeme: ‘UÇK’nın suçları ele alınacak’. *BBC* https://www.bbc.com/turkce/haberler/2016/01/160115_lahey_kosova
- Paris, R. (2016). The Blurry Boundary between Peacebuilding and R2P. In Alex J. Bellamy, and Tim Dunne (eds), *The Oxford Handbook of the Responsibility to Protect*, Oxford Handbooks, 509–523.
- Sklias, P. & Roukhanas, S. (2007). Development in post-conflict Kosovo. *South-Eastern Europe Journal of Economics*, 2, 267-287.
- Şener, M.B. & Yalım, B. (2021). 21. Yüzyılda Kosova Sırbistan Anlaşmazlığı. içinde O. Limon, Ü. Güneş, S. Karagöz (Ed.), *21. Yüzyılda Bölgesel Sorunlar* (163-185). Nobel Yayınevi.

- Terzioğlu S. S (2018). Uluslararası Hukuk Açısından Kosova Uzman Daireleri. *Ankara Barosu Dergisi*, 0(1), 147-190.
- Thakur, R. (2018). Peacebuilding and the Responsibility to Rebuild. *Asian International Studies Review*, 19(2), 1-12.
- United Nations Kosovo Team (2020). <https://unsdg.un.org/un-in-action/kosovo-team>
- United Nations (2010). Kosovo's declaration of independence did not violate international law – UN court. <https://news.un.org/en/story/2010/07/345532-kosovos-declaration-independence-did-not-violate-international-law-un-court>
- United Nations Security Council (1974). Resolution 353 (1974) / [adopted by the Security Council at its 1781st meeting], of 20 July 1974. S/RES/353, <https://digitallibrary.un.org/record/93470>
- United Nations Security Council (1975). Resolution 367 (1975) / [adopted by the Security Council at its 1820th meeting], of 12 March 1975. S/RES/367, <https://digitallibrary.un.org/record/93485>
- United Nations Security Council (1998). Resolution 1160 (1998) / adopted by the Security Council at its 3868th meeting, on 31 March 1998, S/RES/1160, <https://digitallibrary.un.org/record/252117>
- United Nations Security Council (1998). Resolution 1207 (1998) / adopted by the Security Council at its 3944th meeting, on 17 November 1998. S/RES/1207, <https://digitallibrary.un.org/record/264009>
- United Nations Security Council (1999). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 12 July 1999. S/1999/779, https://unmik.unmissions.org/sites/default/files/s-1999-779_1.pdf
- United Nations Security Council (1999). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 16 September 1999. S/1999/987, <https://unmik.unmissions.org/sites/default/files/s-1999-987.pdf>
- United Nations Security Council (1999). Resolution 1244 (1999) / adopted by the Security Council at its 4011th meeting, on 10 June 1999. S/RES/1244, <https://digitallibrary.un.org/record/274488>
- United Nations Security Council (2000). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 15 December 2000. S/2000/1196, <https://unmik.unmissions.org/sites/default/files/s-2000-1196.pdf>
- United Nations Security Council (2000). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 18 September 2000. S/2000/878, <https://unmik.unmissions.org/sites/default/files/s-2000-878.pdf>
- United Nations Security Council (2000). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 06 June 2000. S/2000/538, <https://unmik.unmissions.org/sites/default/files/s-2000-538.pdf>
- United Nations Security Council (2001). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 07 June 2001. S/2001/565, <https://unmik.unmissions.org/sites/default/files/s-2001-565.pdf>

- United Nations Security Council (2002). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 15 January 2002. S/2002/62, <https://unmik.unmissions.org/sites/default/files/s-2002-62.pdf>
- United Nations Security Council (2005). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 23 May 2005. S/2005/335, <https://unmik.unmissions.org/sites/default/files/s-2005-335.pdf>
- United Nations Security Council (2007). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 28 September 2007. S/2007/582, <https://unmik.unmissions.org/sites/default/files/s-2007-582.pdf>
- United Nations Security Council (2008). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 12 June 2008. S/2008/354, <https://unmik.unmissions.org/sites/default/files/s-2008-354.pdf>
- United Nations Security Council (2008). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 24 November 2008. S/2008/692, https://unmik.unmissions.org/sites/default/files/s-2008-692_0.pdf
- United Nations Security Council (2009). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 17 March 2009. S/2009/149, <https://unmik.unmissions.org/sites/default/files/s-2009-149.pdf>
- United Nations Security Council (2014). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 31 October 2014. S/2014/773, <https://unmik.unmissions.org/sites/default/files/s-2014-773.pdf>
- United Nations Security Council (2016). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 01 February 2016. S/2016/99, https://unmik.unmissions.org/sites/default/files/s-2016-99_1.pdf
- United Nations Security Council (2017). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 31 October 2017. S/2017/911, <https://unmik.unmissions.org/sites/default/files/s-2017-911.pdf>
- United Nations Security Council (2019). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 4 June 2019. S/2019/461, https://unmik.unmissions.org/sites/default/files/s_2019_461.pdf
- United Nations Security Council (2019). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 4 October 2019. S/2019/797, https://unmik.unmissions.org/sites/default/files/s_2019_461.pdf
- United Nations Security Council (2018). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 01 November 2018. S/2018/981, <https://unmik.unmissions.org/sites/default/files/s-2018-981.pdf>
- United Nations Security Council (2020). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 1 October 2020. S/2020/964, https://unmik.unmissions.org/sites/default/files/s_2020_964_e.pdf

- United Nations Security Council (2021). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 8 October 2021. S/2021/861, https://unmik.unmissions.org/sites/default/files/211008_sg_report_on_unmik_s-2021-861.pdf
- United Nations Security Council (2021). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 5 April 2021. S/2021/332, https://unmik.unmissions.org/sites/default/files/211008_sg_report_on_unmik_s-2021-861.pdf
- United Nations Security Council (2022). Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo 12 April 2022. S/2022/2019313, https://unmik.unmissions.org/sites/default/files/s_2022_313-en.pdf
- U.S. Department of State (1998). https://1997-2001.state.gov/policy_remarks/1998/980222_gelbard_pristina.html