

Kosovo: The Land of empty promises

Essay on the field trip to Kosovo 13-20 January 2014

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When the NATO bombings in Kosovo started I was 8 years old and living 10.500 km away, in a country that had overcome a horrible civil war just 9 years before. Probably because of the distance and my age it was easy for me to ignore this terrible war, but Europe was shocked because this war was happening in their backyard. After the field trip to Kosovo I can say that this war might have taken place in Europe's backyard, but the human rights violations and atrocities were committed just on their front door. Human rights violations continue to happen disregarding the strong international presence in the country.

When you arrive in Pristina, it is hard to bear in mind that this city is only 700 km away from Vienna, the city with the highest life quality in the world. Though not comparable with the poverty I know from Nicaragua, Kosovo reminds me of any developing country in Latin America. This is because of the discrepancy in the development of the country, at least in Pristina. On the one side there is a significant development in infrastructure; people (certainly just a small group) seem to be recovering financially and are building high-rises. On the other side, Pristina has problems with water distribution, heating and waste administration. The overall poverty in Kosovo already comes with numerous human rights violations that go from the weak educational and health care system to housing and food security issues. In the present essay I will distance myself from challenges regarding poverty and development (though they are all interdependent), but rather focus on human rights challenges like property rights, compensation and justice for victims and freedom of movement. Under the title "Kosovo: The Land of empty promises" my approach is a strong criticism towards the role of the international community. I chose this title because Kosovo and its people amazed me, but at the same time I could not avoid to develop a strong sentiment of frustration with the overall situation. It reminded me of the frustration I feel towards my own country sometimes.

Visa liberalization: the Janus face of the European Union

For those of us who have the great privilege of having an EU passport, freedom of movement is something we take for granted. For us it was enough to buy a two way ticket to Pristina in order to not only visit Kosovo, but to learn from this amazing country and to benefit from the information its people were so kind to share with us. This relationship is more than unequal. For me, this relationship is almost exploitative since we somehow "extracted" insight knowledge from Kosovar people, while most of them will never have the chance to visit

Europe, even less to study around here. Mobility only in one direction is no mobility, at least not one that appears to be in our contemporary notion of a cosmopolitan world.

“Kosovo: The Land of empty promises”, sums up great part of the visa liberalization negotiations between Kosovo and the EU. In the Visa Liberalization with Kosovo Roadmap¹ of the EU, a series of conditions for a “perspective of eventual visa liberalization” are set. The first thing that pop out for me is the double conditioning in the very concept; “perspective”, which is not even a fact but something that might happen in a close, next or undefined future, and “eventual”, which just adds to this banality in terms of time. Summarized, Kosovo would have to meet conditions regarding readmission, reintegration, document security, border control, migration management, asylum, law enforcement and organized crime prevention, in order to only start a dialogue for visa liberalization. Even though the EU is providing assistance in issues related to law enforcement and border control, it has also put a great weight on readmission agreements. Although I respect the prerogative of a state to decide on its migration policy, I have been always sceptical regarding readmission agreements since many times they have been instrumentalized for mass deportations and forced returns. A senior protection officer of UNHCR in Pristina shared this scepticism with me, arguing that UNHCR was stepping back in EU-projects “supporting” assisted voluntary returns of refugees and migrants. In his view these returns could hardly be seen as voluntary because of the fact that most people were being deported or came back to Kosovo on the basis of (empty) promises like social assistance. Considering the context of poverty, unemployment and property issues, the Kosovar government is barely capable of providing such assistance to all returnees. Additionally, these readmission agreements affect the most vulnerable population, including refugees, stateless persons and persons belonging to minorities. It is easy to understand why both parties are playing along with this game where returnees are merely a means for establishing a political dialogue and not the reason to start a dialogue aiming at a more comprehensive and sustainable solution for this issue. Whilst members states of the EU aim at getting rid of migrants overall, the Kosovar government is pursuing its goal to hasten the process to become part of the EU.

The implementation of these readmission agreements also implies the failure of EU Member States to meet their human rights obligation. Even though the open conflict in Kosovo has ended, sending refugees or asylum seekers who’s temporary protection expired, and thus are in a (il-) legal limbo, back to Kosovo violates the principle of non-refoulement. After I

¹ European Union. Visa Liberalization with Kosovo Roadmap. 14 June 2012.

experienced the situation in Mitrovica, I can't imagine how it would be safe for someone to return. In this sense, one face of the EU is looking forward to European integration and the progress in the realization of human rights in Kosovo, whilst the other face is engaging in agreements that not only allow but also foster further human right violations.

Furthermore, the EU is not only involved in dubious readmission agreements, but is failing to recognize an opportunity to gain greater influence in Kosovo. You might ask how the EU could possibly increase its influence even more. It might sound trivial but by providing education abroad, which requires visa liberalization. Dardan Islami, a former UCK member with radical views on everything, argues that the EU has failed to make itself attractive to young Kosovars. The visa restrictions have made it so difficult for Kosovar students to enter the EU, that now they are tending to go to countries like Saudi Arabia. Islami even dared to affirm that this would cause the islamization of Kosovo and the region (making reference to the influence of Saudi Arabia in Bosnia). In his view, this is not a very smart move of the EU. I would rather be careful with statements like this, but agree on the fact that the EU missed the momentum and keeps missing them. Many Kosovar young people do not see the EU in a very good light. The EU and other international organisations besieged their country and instead of gaining their trust, have fed a deep rooted sentiment of distrust. If the young population would have access to universities in Member States of the EU, they might develop a relationship to the EU, a positive one that also would have an impact on the overall perception of the EU. If the (very) long-term goal is to integrate Kosovo in the EU, this would facilitate the process for both sides.

The dilemma of the right to property and the right to a fair trial

I never expected to have the opportunity to witness a real war crime trial. Even though the trial was in three different languages, making it sometimes difficult to follow, it seemed to be almost flawless. The defendant, a Kosovar Serb, accused of participating in attacks against Kosovo-Albanians and the abduction of three of them, pledged not guilty, but the Kosovar-Albanian witness being interrogated made it hard to believe because of the strong accusations in his testimony. Nevertheless, the statement of the latter appeared to be somehow inconsistent, even more after he was interrogated by the defending lawyer. I automatically assumed that this was understandable, since it was a traumatizing experience that happened so long ago. To my surprise one of the EULEX judges then explained to us that these inconsistencies would be crucial for the decision since there was a hint that the defendant might have been framed because of a property dispute. I then asked myself why I had

assumed the defendant's guilt from the beginning on. I believe this has to do with my lack of experience in similar cases, but also with certain attitude of human rights activist to assume the guilt of people accused of the worse crimes. Even though the defendant had not been proven guilty or innocent yet, I also realized how pre-judgemental I entered the court. This image of the "bad Serb" that was many times used to justify the intervention in Kosovo and also to defend human rights violations committed by UCK, had influenced me. This not necessarily means that all Serbs are innocent, neither does it mean that war crime accusations are mainly misused to frame people. It just shows the high sensitivity and complexity of these cases. Particularly in the Kosovar context, where property rights are one of the biggest challenges, and where many Serbs actually were involved in atrocities against Kosovar-Albanians.

EULEX's task to take over war crimes and related cases from the domestic courts seems to be pertinent in order to ensure a fair trial. On the one hand it would be very problematic for a Serb to be judged by Kosovo-Albanians after the conflict and the still remaining sentiment of resentment within the population. On the other hand, the impunity of crimes committed by UCK members can be tackled. It is crucial for the process of reconciliation for victims to find justice, and in this way the EU is doing an important work. When the EULEX judge mentioned that he was surprised by the quality of the defender, another question came to my mind, namely the possible discrepancy of the quality of prosecutors and defenders. The prosecutors were American and British, and supported by an international human rights NGO, while the defendant probably had to engage a private lawyer. Considering the statement of the EULEX judge, many times Serbs defendants do not have the means to get a high quality defender, which is also crucial for a truly fair trial. Even though I understand the reason why Kosovo-Albanians might have a better access to NGO that help them to put perpetrator of war crimes to justice, this is a problematic that should be addressed, since it also influences the legitimacy of EULEX.

The regime of uncertainty

The position on Kosovo's status seems to be more than clear when talking to local politicians. On the one side Kosovo is a state since 2008, supported by the recognition of more than hundred states, and on the other side, in a more militant tone, "Kosovo is Serbia". Interestingly, when talking to representatives of the international community on the field, the status of Kosovo seems to be an uncomfortable issue, almost a taboo. "Our missions mandate is defined through Resolution 1244" seems to be the standardized answer, which avoids to

assume any position on this matter and thus, instead of leaving an impression of consequent neutrality, leaves behind a aftertaste of uncertainty. I dare to assume that I am not the only one wondering how it is possible to promote the rule of law in a country, autonomous region or state, depending on the respective political positioning, when there is no clear consensus on how to deal with Kosovo. What laws are being implemented and supported, then? To this question a representative of the OSCE stated that they are working in a highly complex context, followed by a shy and somehow awkward smile.

This uncertainty lies in the very nature of resolution 1244, which established a UN protectorate in order to avoid further human rights violations from both sides and does not foresee a long term solution for the region. Although the 1244 recalls on the sovereignty and territorial integrity of Serbia (Federal Republic of Yugoslavia back then), it also makes reference to a “substantial autonomy and meaningful self-administration of Kosovo”², as well as to the Agreement of Rambouillet. It remains silent on the final status of Kosovo for the reason that this resolution was supposed to create a framework for an interim UN administration and was specific to the context of 1999. Using an outdated resolution to justify the presence of the international community in Kosovo seems a practice of cowardice. Additionally, the Brussels Agreement on the normalization of relations between Kosovo and Serbia, though having a symbolic meaning, only adds to the overall environment of uncertainty. To me, the international community has proven to be a champion in delaying and avoiding any concrete decision by formulating recommendations and statements in a very ambiguous manner. Even though I am sceptic about Albin Kurti’s radical, even a bit nationalistic, discourse, at some extent I can agree with him on the fact that normalizing the relations between Kosovo and Serbia is nonsense. Kurti claims that this is so because neither of both countries is normal, I would rather argue that this is nonsense because these relations have already become normalized. Put in simple words, it is normal for the relation between these countries to be bad. By marking Kosovo as a post-conflict region, the international community is implying that the situation has been normalized. The normality of a situation which is not normal is endangering a genuine process of reconciliation and sustainable political transformation.

The regime of uncertainty ruling over Kosovo is even strengthened by local politicians. Both sides are certain of their goal and still are engaged in negotiations. When I asked a Serbian political leader in the municipality of Gracanica, a little city 25 minutes from Pristina, what

² S/RES/1244 (1999)

the negotiations where about if the Albanians wanted independence and the Serbs would never accept this, he answered “That is a good question; I also would like to know.” Politicians seem to be in a dilemma, since dialogue and negotiations do not seem to be the solution, but not having them is not either. Before the trip to Kosovo I had the full certainty that Kosovo should be fully recognized as a state and now, though I still believe Serbia should accept Kosovo’s succession, I am very uncertain on whereas it is not premature or even realistic. On a long-term Serbia, as a state, will have to give up Kosovo, in order to become part of the European Union (even an extremely nationalist Serbian friend of mine, the kind that likes to say that he would prefer to destroy Kosovo with an atomic bomb before accepting independence, had to recognize this), but will the Serbian population in Kosovo accept this as well?

Uncertainty seems to be a low price to pay in order to have peace, but can peace be reduced to the mere absence of an open conflict? I don’t think so. The best solution for today is procrastination, something I know too well as a student when I don’t know what to do. “Let uncertainty rule for today, tomorrow will be another day for the follow up on nothing”.

These last lines only show the frustration I felt during our stay in Kosovo. But frustration is a starting point from which really good initiatives and alternatives can rise. The Strong Party, a satiric party whose “legendary leader” won a seat at the city council in the last municipal elections in Pristina, is a proof for this. It was a refreshing experience to see how young people deal with their problems by showing the absurdity of the local politics and criticising the international community. Because of the fact that this party refuses to attach to the prevailing political culture in Kosovo, it should be taken serious.

I just can recall to one of my favourite contemporary political thinkers, Slavoj Žižek. He argues that pessimism means things are getting messy, but being optimist means that it is precisely in these times when change is possible. Following this argument, frustration can act like a source for change, a change that is urgently needed in Kosovo.

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