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# WORK IN PROGRESS PAPER

## Decentralization and Peace-building in Kosovo: Is there a Role for Social Accountability?

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# **Decentralization and Peace-building in Kosovo: Is there a Role for Social Accountability?**

Markus Schultze-Kraft

## **Summary**

It is widely recognized that accountability is key to 'good governance', the effective provision of public services and goods, and constructive relations between citizens and the state. Yet particularly in countries that are emerging from violent conflict formal accountability mechanisms are often weak or absent. In such settings decentralization has been assigned a pivotal role in the quest for improving governance – helping make it more inclusive and effective as citizens elect local governments and are closer to decision-making. But does decentralization lead to stronger accountability in post-conflict settings?

This paper, which is work in progress, focuses on Kosovo, and highlights that despite efforts by the international community to help establish a functioning system of decentralized governance, accountability in the country remains weak. This is due to the fact that:

- The international community has used decentralization as a peace-building tool, principally seeking to protect the rights of the Serb minority in Kosovo by creating a number of new Serb-majority municipalities – issues of accountability have been of secondary importance.
- International stakeholders have employed decentralization as a state-building tool without recognizing the strength of countervailing forces – widespread corruption; the absence of an active local civil society; and limited commitment by Kosovo's new political elites to the process.

While decentralization has contributed to peace-building it has not strengthened accountability. Therefore, the paper asks whether citizen-driven, social accountability initiatives could help re-energize Kosovo's decentralized state-building project.

**Keywords:** Accountability; decentralization; peace-building; state-building; Kosovo

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# 1 Introduction

Accountability is key to 'good governance', the effective provision of public services and goods, and constructive relations between citizens and the state. Yet particularly in countries that are fragile and/or emerging from violent conflict the exercise of accountability is subject to numerous challenges. In such settings formal accountability mechanisms, both vertical and horizontal, are often weak or absent. Citizens encounter great difficulties to hold elected decision-makers to account, legislatures find it challenging to exercise oversight over the executive branch of government, and other public control entities, including the courts and ombudsmen, often do not fare much better.

In light of these challenges, decentralization has been assigned a pivotal role in the quest for improving governance in post-conflict countries. It is held that decentralization helps make governance more inclusive and effective as citizens elect local governments and are closer to decision-making; it is therefore expected that government becomes more responsive to citizens' needs and demands. But is this the case in post-conflict settings? If formal accountability mechanisms remain weak or absent despite a push for decentralization what could be put in place to achieve a *modicum* of accountability that would enable post-conflict countries to improve governance and the provision of public goods and services for citizens?

This paper addresses these questions in reference to the case of Kosovo and the potential role social accountability mechanisms could play in enhancing decentralization and strengthening local governance in the wake of 'supervised independence', which started in 2008 and ended in 2012 when the International Civilian Office (ICO) ceased to operate. The research found that despite enormous efforts by the international community to help establish a functioning system of decentralized governance, accountability in Kosovo remains weak. This state of affairs can in part be explained by reference to the two different aims that have underpinned Kosovo's decentralization process.

On the one hand, the international community has used decentralization as a peace-building tool, principally seeking to protect the rights of the Serb minority in Kosovo by creating a number of new Serb-majority municipalities. Issues of accountability have been of secondary importance in this process, not least because Kosovo's Serbs have remained locked in a 'parallel' accountability relationship with Belgrade which does not recognize Kosovo's independence and has continued to provide public services and pay salaries to civil servants in the new Serb-majority municipalities.

On the other hand, international stakeholders have employed decentralization as a key state-building tool without recognizing sufficiently the strength of countervailing forces in post-conflict/independence Kosovo. These include the heavy legacy of the international administration in the years after the 1999 war; widespread clientelism and corruption; the absence of an active local civil society; and limited commitment by Kosovo's new political elites to decentralization and 'good governance'.

Hence, while decentralization has contributed to neutralizing the spectre of persisting ethnic tensions and the potential re-emergence of inter-ethnic violence (peace-building goal), it has yet to be enhanced through strengthened accountability (state-building goal). In this setting it appears appropriate to ask whether citizen-driven social accountability initiatives could help re-energize Kosovo's faltering decentralized state-building project. While this research has produced some preliminary insights which point to the desirability of social accountability

initiatives in Kosovo, the questions whether they are feasible and what forms they could take remain to be researched in more depth.

## 2 Accountability and decentralization in international peace-building

Public accountability is a central element of ‘good governance’ and key to the effective provision of public services, economic development, and sustaining constructive relations between citizens and the state – both in developed and developing countries. The available evidence suggests that poverty reduction, social protection, domestic resource mobilization, and corruption control hinge on the existence of effective accountability mechanisms (Ackerman 2003; Deininger and Mpuga 2004; Bovens 2005). There is less clarity about how accountability relates to peace and state-building in post-conflict settings, where the political, social and institutional conditions for the exercise of accountability pose a number of particular challenges.

For the purposes of this paper we use the following definition of accountability:

‘Accountability refers to the various norms, practices, and institutions whose purpose is to hold public officials (and other bodies) answerable for their actions and for the outcomes of those actions. [...] Vertical accountability pertains to the relationship between entities of unequal ‘rank’, such as a government to its citizens or an employer to his or her employees. Horizontal accountability concerns the relationship among entities of equal ‘rank’, such as the independent pillars of a government or society (for example, the courts or media vis-a-vis the executive)’ (Caplan, c2005:2-3).

### ***Convergence on the peace and state-building continuum***

Since UN Secretary General Boutros Boutros-Ghali launched the ‘Agenda for Peace’ in 1992 international peace engagement has undergone a significant evolution. Whereas in its early days peace-building focused more narrowly on measures geared at preventing the eruption of, and the relapse into, armed conflict and violence, with time the concept and practice of building peace evolved to include also elements of what since the early 2000s has come to be known as ‘state-building’ (Graevingholt et al. 2009). The emphasis shifted from activities like disarming and demobilizing warring parties, collecting and destroying weapons, repatriating refugees, demining, training security personnel, monitoring elections and protecting human rights to recognizing that ‘peace-building is more than the elimination of armed conflict; after all stability can be achieved by a balance of threat or force. Instead, it involves the creation of a positive peace, the elimination of the root causes of conflict’ (Barnett et al. 2007:37,42).

This departure from a narrower notion of ‘negative peace’ (absence of war/armed conflict) and the introduction of the concept of ‘positive peace’ (more than the absence of war/armed conflict) was prominently contained in the Brahimi report of 2000<sup>1</sup>. Since then, it has undergirded the gradual convergence of peace and state-building interventions (Graevingholt et al. 2009; Manning 2003; DFID 2010). Yet it is important to recognize that this process has not been linear and without contradictions. In practice there has been a trend toward the clustering of activities along the *peace and state-building continuum* around the core dimensions of ‘stability creation’

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1 The terms ‘positive’ and ‘negative peace’ in the context of the international peace-building debate derive from the work of Johan Galtung (Galtung 1969).



and 'socioeconomic recovery', which has not been matched by equal attention to the third peace-building dimension, that is, the 'restoration of state institutions' (Barnett et al. 2007).<sup>2</sup>

This reflects a persisting stand-off in the specialized literature between advocates of the 'liberal peace', who see the establishment of peaceful conditions closely related to the creation of the 'liberal state, which respects human rights; protects the rule of law; is constrained by representative institutions, a vigilant media, and periodic election; and protects markets'; and the critics of this approach to peace-building, who 'argue in favour of a more sequenced, slower-paced, and strategic peacebuilding project that emphasizes the establishment of security and stable institutions before seeking the prize of liberalization and democracy' (Barnett et al. 2007:51; see also Paris 2004).

The difference between the two approaches is not that the first would *not focus at all* on the state and the second *only* on the state. Rather, the difference has been usefully captured as reflecting diverging concerns with the building of which 'kind of state' as opposed to which 'degree of state' in a country emerging from violent conflict. Yet, as noted by Barnett et al. 'the desire to make sure that the post conflict state is strong enough to contend with uncivil forces might easily undermine the desire to build a liberal state, one that is accountable to society and fastened by the rule of law' (Barnett et al. 2007:52).

### ***Enter decentralization...***

Decentralization (political, administrative, fiscal) and measures to strengthen local governance in decentralized post-conflict settings have gained increasing prominence as peace-building 'tools' in the past decade (Brinkerhoff 2011). They are perceived to incorporate both elements of the 'liberal peace' and of the approach to peace-building that emphasizes the construction of a strong and capable state, particularly in settings where violent conflict was driven by societal cleavages and identity politics. Decentralization is seen to offer opportunities for consolidating peace - though not making peace - in situations where power sharing can help mitigate ethnic, sectarian, and territorial conflicts inside a country (Kauzya 2005). Further, based on the experiences in their home countries, mostly Western democracies, international peace-builders have operated on the basis of the assumption that decentralization and local governance strengthening are 'good things' in their own right and therefore ought to be pursued.

The focus on decentralization and local governance strengthening in post-conflict settings has dovetailed with the broader, longer-standing donor push for similar reforms in many countries of the developing world in the past twenty years or longer. In this vein, John-Mary Kauzya writes, 'decentralization is viewed as a policy of high priority and used as an instrument of people empowerment, a platform for sustainable democratization, a structure for the mobilization of resources for economic development, a veritable instrument of reconciliation, social integration and well-being in post-conflict environments, and a vehicle for the promotion of a culture of political, economic, civic and managerial/administrative good governance' (Kauzya, 2005: 2-3). While the specific challenges of decentralization in fragile and socioeconomically devastated post-conflict settings have been recognized, this is a field of enquiry that still deserves more rigorous scholarly attention.

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<sup>2</sup> According to Barnett et al., 'stability creation' includes measures such as security sector reform, disarmament, demobilization and reintegration (DDR), demining, repatriation and return, security stabilization, and collecting and destroying small arms and light weapons; 'socioeconomic recovery' includes (re)building infrastructure, providing health and education, protecting human rights, building NGO capacity, and providing food/agricultural support, and enabling truth and reconciliation; and 'restoration of state institutions' includes rule of law, good governance, democratization, election assistance, and decentralization (Barnett et al. 2007:51).

One central tenet – and expectation - of decentralization reforms has been that they help make governance more inclusive and effective as citizens can elect local governments and are closer to decision-making, and therefore can expect that government becomes more responsive to their needs. Yet to make decentralization work strong mechanisms of accountability are essential. ‘Mechanisms (formal systems, institutions, laws, regulations, as well as the informal day-to-day practice of government) must be put into place such that two things occur: political leaders and bureaucrats become answerable to the citizenry for their actions and the citizenry takes on, and accepts responsibility for, the collective actions that governments make on their behalf’ (Schaeffer 2007:169). Much of the academic and policy literature on accountability has focused on formal, supply-driven mechanisms of accountability (both horizontal and vertical), such as elections, parliamentary enquiries, legal scrutiny by the courts, and independent administrative and financial oversight mechanisms (Bovens 2005: 187-188).

### ***...and accountability in fragile and/or post-conflict settings***

But in post-conflict settings the effective exercise of public accountability is commonly fraught with difficulties. In such settings accountability mechanisms, both vertical and horizontal, may - at best - be provided for in constitutions, laws and administrative regulations, but in practice they tend to be weak or even absent. Citizens encounter serious limitations to hold elected decision-makers and other public officials to account, legislatures find it challenging to exercise oversight over the executive branch of government, and other public control entities, such as the high courts and ombudspersons, lack effective means to prevent and redress abuses of power and authority. Furthermore, transparency with respect to decision-making is low; citizens lack access to information with which they could make informed judgements about the decisions and behaviours of public officials; and legal and other mechanisms of enforcement and sanction are of reduced effectiveness (Caplan, c2005).

This is due to the weakness and/or limited legitimacy of governments, state institutions and electoral processes; fragmentation among civil society; the absence of a strong and independent media; the persistence of violence and of a general climate of distrust and secrecy among both power holders and ordinary citizens; and – often - the presence of powerful external actors. Multilateral peace-building or stabilization missions, such as those in Bosnia, Kosovo, Haiti, Liberia and East Timor, leave deep footprints in the countries in which they intervene. While there usually are differences in respect to the mandates of the interventions and of the international actors tasked with implementing them, accountability often runs upwards from the central host governments to the international agencies and donors, and not downwards to communities and citizens. Further, for a number of reasons, including standard immunities enjoyed by international personnel deployed to crisis or conflict settings, international officials can commonly not be held accountable by local authorities, but rather they are answerable to their headquarters and the governments of troop contributing and donor countries (Caplan, c2005).

In sum, while the past decade has seen a convergence of international peace and state-building along a continuum on the back of which decentralization, local governance strengthening and public accountability have crept onto the agenda, the conditions in fragile and post-conflict settings pose significant challenges for making them work effectively. The question then arises of what peace and state-builders could do differently to achieve their ultimate goals of preventing a country emerging from internal armed conflict to relapse into violence and building the political, socioeconomic and institutional foundations for a lasting peace and a capable and legitimate state. In this respect it appears worthwhile to briefly review the debate about social or demand/citizen-driven accountability, as opposed to state/supply-driven accountability, which could offer some additional insights to begin addressing this conundrum.

### ***Could there be a role for social accountability in peace and state-building?***

The interest among the international development community in social accountability began to emerge in the late 1990s, forming part of the broader debates about 'good governance' and accountability's pivotal role. At the root of the work on social accountability has been the recognition that state/supply-driven accountability mechanisms have oftentimes had limited developmental impact and that a new focus on 'civic engagement' was necessary to improve governance and increase development effectiveness and citizen empowerment. 'Traditionally, efforts to tackle the challenge of accountability have tended to concentrate on improving the 'supply-side' of governance using methods such as political checks and balances, administrative rules and procedures, auditing requirements, and formal law enforcement agencies like courts and the police. These 'top-down' accountability promoting mechanisms have met with only limited success in many countries – be they developed or developing' (Malena et al. 2004:1).

Common definitions of social accountability contain the following elements. It is an 'approach towards building accountability that relies on civic engagement, i.e. in which it is the ordinary citizen and/or civil society organization who participate directly or indirectly in exacting accountability' (Malena et al. 2004:3). Other authors have stressed the importance of the *collective* nature of the engagement of civil society actors to 'hold the state to account for failures to provide public goods. Bypassing the classic forms of accountability such as voting and more recent additions such as independent auditing processes [...], these initiatives attempt to use political and reputational costs to push power holders to respond' (Joshi and Houtzager 2012:15). 'At the heart of social accountability strategies are alliances formed across the public-private divide, which enable societal actors to gain leverage (through information access etc.) vis-a-vis the state' (Joshi 2008:14). As such, social accountability initiatives use both institutional and non-institutional channels, and they are not tied to electoral cycles, thereby increasing their potential effectiveness (Joshi 2008). This is disputed, however, by other authors who hold that the 'effectiveness and sustainability of social accountability mechanisms is improved when they are 'institutionalized' and when the state's own 'internal' mechanisms of accountability are rendered more transparent and open to civic engagement' (Malena et al. 2004: Abstract).

In practice, social accountability initiatives have taken a number of different forms, including advocacy campaigns, investigative journalism, participatory budgeting and planning, citizen report cards, the exercise of the right to information, social audits, citizen advisory boards, and even governance councils (Ahmad 2008; Joshi 2008; Malena et al. 2004). Among social accountability actors have been civic associations, non-governmental and civil society organizations, social movements and the media. While there have been significant advances in conceptualizing social accountability and examining the involved civic actors and their actions and relationships to the state, much less is known about the political effects of social accountability activities and why they come into being in the first place. In addition, there appears to have been no systematic attempt to integrate the peace and state-building literatures with the scholarly debate about social accountability. It is beyond the scope of this paper to engage in any depth with these issues and therefore merely a few tentative ideas will be offered.

State-society relations in post-conflict settings are often fractured and mediated by distrust, fear, violence, and unfulfilled citizen expectations. Following the end of armed conflict, groups of the population also may well continue to view one another as enemies or with apprehension due to differences (purportedly) related to identity, ethnicity, inequality or class. At the same time, relationships between different state and political entities tend to be characterized by a lack of transparency, corruption and the absence of effective checks and balances. In some countries that have witnessed international intervention domestic actors' room to manoeuvre is

constrained, at least temporarily, by the overpowering influence and specific (geopolitical and security) interests of external actors. Accountability in the broad sense of 'a means of restraining power' (Joshi and Houtzager 2012:147) is very difficult to establish but crucial in such settings. Without at least a *modicum* of accountability movement along the peace and state-building continuum appears to be next to impossible.

As discussed above, in the past decade decentralization has gained traction as an international peace and state-building tool but it has encountered significant problems due to the difficulties to establish effective mechanisms of public accountability, both at the local and central levels of government. In some cases, this has been related to the use of decentralization as a narrowly conceived peace-building tool, i.e. aiming to separate previously warring parties/population groups and protecting the rights of minorities, without paying sufficient attention to the requirements of decentralization as part of a broader state-building effort. In other cases, it simply turned out to be extraordinarily difficult to imbue decentralization with life because formal mechanisms of public accountability proved power and toothless in contexts dominated by domestic 'uncivil forces' (Barnett et al. 2007: 52) and the interests of powerful external actors.

The case of Kosovo, to which I turn below, shows that decentralization in post-conflict settings has included establishing some mechanisms of social accountability, especially participatory budgeting and municipal planning. However, in Kosovo these initiatives have been driven by the international community, which designed the country's decentralization framework and played a key role in implementing it. There has been little by way of civic engagement and accountability demands from citizens, regardless of whether they belong to Kosovo's Albanian majority or Serb minority.

However, social accountability initiatives could play a role in breathing life into post-conflict decentralization and local governance. The case could be made that because of the ineffectiveness of formal public accountability mechanisms for the reasons outlined above, citizens seek other forms of holding public officials to account for the low standards or non-delivery of essential public services, such as health, education and waste management. These are pressing concerns for people in many fragile countries. Yet it is likely that the barriers to social accountability initiatives in countries emerging from violent conflict are higher than in equally impoverished or even poorer developing countries that have not witnessed intra-state war because of deep-seated, both collective and individual sentiments of distrust and fear – the scars of war.

But as countries move along the peace and state-building continuum and people find that decentralization actually provides them opportunities of 'voice' and that they can contribute to shaping local affairs that directly affect their lives, resistance to, and lack of interest in, engaging in demand-driven accountability activities may become smaller. Yet for this to happen a fundamental issue appears to be with what aims decentralization and the creation of mechanisms of public accountability are pursued in the peace-building process, and by whom; and whether the associated state-building process is sufficiently robust to consolidate and institutionalize decentralization and public accountability and create the space for both state/supply-driven and social/demand-driven accountability.

As I will discuss in more detail in the next section of this paper, my research on Kosovo suggests that matters of public accountability were assigned secondary importance in the post-1999 peace-building process, which was fundamentally geared at managing tensions between Serbia and Kosovo and protecting Kosovo's Serb minority. Decentralization played a key role in this 'hard' international community-led peace-building strategy which, however, was not buttressed

by an equally 'robust' state-building effort that would have been capable of creating an institutional environment for public accountability mechanisms to function properly. Rather, the relatively unchecked persistence of strong countervailing forces in post-conflict/independence Kosovo, including widespread clientelism, and corruption and the limited commitment by Kosovo's new political elites to making decentralization and 'good governance' work, has undercut a state-building process which five years after independence still suffers from an acute accountability deficit.

### 3 Decentralization and the accountability deficit in post-independence Kosovo

In many ways, Kosovo presents a conundrum for the international peace and state-building communities as well as for its own people.<sup>3</sup> Following the military intervention of the North Atlantic Treaty Organization (NATO) in 1999, the United Nations Mission in Kosovo (UNMIK) deployed under UN Security Council resolution 1244. UNMIK was tasked with administering the territory of Kosovo by means of an interim civilian administration and overseeing the transfer of authority from Kosovo's provisional institutions to a set of new institutions, which would substantially enhance the autonomy of the people of Kosovo.

After years of 'status negotiations' between Kosovo and the Republic of Serbia, triggered by a renewed outbreak of heavy ethnic rioting in Kosovo in 2004 and led by the international community, former Finnish President Martti Ahtisaari tabled the Comprehensive Proposal for the Kosovo Status Settlement or, in short, 'Ahtisaari Plan'. Although the plan was ultimately not endorsed by the UN Security Council, it served as the basis for Kosovo's unilateral declaration of independence in February 2008 as well as the country's new constitution, which was adopted in June that same year. Since 1999, Kosovo has received more than US\$6 billion in international assistance; starting in 2003 it has also witnessed the design and implementation of a major, state-of-the-art decentralization programme, among other far-reaching institutional and economic reform measures.

This notwithstanding, five years after independence there is a growing sense that decentralization is not living up to the expectations of citizens and donors. Of particular concern is the weakness of accountability mechanisms, which is associated with high levels of corruption, low-quality of public services, the controversial management and privatization of municipal land and assets, as well as organized criminal activities that allegedly involve members of Kosovo's new political elite (Briscoe and Price 2011; Montanaro 2009; Kosovo Stability Initiative 2010).<sup>4</sup> At the root of these troubles is the hybrid nature of the decentralization process, which was designed by the international community to serve both 'political' (peace-building) and 'functional' (state-building) purposes. In the end, this approach has been relatively successful in terms of mitigating and reducing ethnic tensions between the Albanian majority and the Serb minority in Kosovo.<sup>5</sup> But it has clearly not been sufficiently effective with respect to

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3 This section draws heavily on the report 'Supporting Kosovo's Transition. An assessment of SDC's support to decentralization, state-building and democracy promotion in Kosovo', 2012, which was prepared by the author and Engjellushe Morina for SDC-Kosovo.

4 Author's interviews, government, political opposition, NGO and international donor representatives, Pristina, 22-24 April 2013.

5 Author's interviews, government, political opposition, NGO and international donor representatives, Pristina, 22-24 April 2013.

state-building, which necessarily includes the establishment of effective accountability mechanisms in Kosovo's decentralized post-conflict structure.

The 'political' dimension of decentralization has arguably been the main driver of the process. From the beginning it had strong backing from the main international players in Kosovo and the Western Balkans, i.e. the European Union (EU), the U.S. government and the UN. An essential part of the international peace-building effort, decentralization was used as a 'tool' to attract the Serbian minority community in Kosovo to accept and adhere to the institutions of the new government in Pristina. Further, decentralization and the cooperation of the Serb community with Kosovo's institutions were conceived as a means to help diminish the influence and presence of 'parallel', Belgrade-funded government and public service structures for the Serb community in the country. The stance of the major donors in Kosovo has consistently been that decentralization has to work, 'we will not let the Serbs of Kosovo alone'.<sup>6</sup>

Decentralization, therefore, has not been a political project to which Kosovo's Albanian majority would have related easily and over which it would have had significant control. In effect, Kosovo's authorities appear to have adopted the stance that accepting the Ahtisaari Plan, including its core provisions on decentralization, was the price they had to pay for independence from Serbia. Although three municipalities in the north of Kosovo (Zvecan, Zubin Potok and Leposavic) as well as Mitrovica North remain outside of the control of Pristina,<sup>7</sup> four new Serb-majority municipalities with 'extended competencies' were created in the wake of the local elections of 2009 (Gracanica, Partes, Ranilug and Kllokot) and one, Novo Brdo, was extended.

The 'functional' dimension of decentralization has operated through the transfer of numerous competencies from the central government to municipalities (regardless of whether they are inhabited by Serb or Albanian majority communities), expanding their role in public administration, and policy-making and implementation at the local level. After the enactment of the constitution of the Republic of Kosovo in June 2008, the Laws on Local Self-Government (LLSG), Municipal Boundaries (LMB), and Local Government Finance (LLGF) were approved by the new state's legislative – the Kosovo Assembly. Based on nothing less than the European Charter on Local Self Government, the overarching aim of this complex administrative and legal process has been to achieve better quality of local governance and service delivery across the country. Additionally, 'functional decentralization' aimed at enabling citizens to hold their locally elected mayors and municipal assembly members accountable. This turned out to be more problematic than anticipated.

### **Key features of 'functional' decentralization in Kosovo**

The Ministry of Local Governance and Administration (MLGA) was established in 2004 and acts as the supervisory authority in relation to the municipalities, unless the responsibility for the review of the municipalities is assigned by law to the responsible line ministry (i.e. Ministry of Education or Health) or public institution (e.g. Privatisation Agency of Kosovo, PAK).<sup>8</sup> There is little evidence about cooperation between MLGA and other line ministries and other state institutions because of lack of clarity as to the flow of information. For instance, if the education director of a certain municipality needs to address an issue with the Ministry of Education in Pristina they would do so directly without involving the MLGA. If the MLGA does nonetheless

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6 Author's interview, senior international donor official, Pristina, 15 February 2012.

7 A recent 'EU-brokered' agreement between Pristina and Belgrade over the four municipalities in the north of Kosovo, which thus far have *de facto* been outside of the control of Kosovo, may contribute to normalizing relations between Kosovo and Serbia and resolve the stand-off over the northern part of Kosovo. Serbia has not recognized Kosovo's independence.

8 LLSG, Chapter X, Article 74.

become involved, it is not clear what procedures are in place - the Law on Local Self Government (LLSG) does not clarify this issue. Further, the list of income receivers in the education (teachers, school directors) and health sectors (nurses, doctors and hospital directors) is approved by the respective line ministries. Mixed panels of central and local officials select school and hospital directors. Additionally, public land and public property is managed by Privatization Agency of Kosovo (PAK) (some argue that public property is managed by the government through PAK although PAK is an independent agency). Local stakeholders see the lack of autonomy in the management of public land and property by the municipalities as a major obstacle for economic development at the local level.

Kosovo's decentralized system of government gives extensive powers to the municipal executive, the *mayor*, who is directly elected by the municipal electorate<sup>9</sup> and by law holds all competencies not assigned to the municipal assembly and its committees. The mayor is the figurehead in local governance, as he/she represents and acts on behalf of the municipality, conducting all financial administration (including proposing and executing the municipal budget).<sup>10</sup> The mayor is charged with organizing the establishment, staffing and financial management of the municipal administration (including the appointment of the municipal directors), directing municipal policy, and reporting to the municipal assembly on the economic and financial situation of the municipality. The mayor must provide any information that the supervisory authority (central government) requests, including all acts adopted by the municipal assembly.<sup>11</sup> In practice, it is the mayor and the municipal directors who keep close contact with the central government and the relevant line ministries, seeking to influence, for instance, the budget process which is controlled by the central government.

Interestingly, the LLSG does not define the competencies and responsibilities of the *municipal assembly* in the affirmative, as is the case with the mayor; but merely stipulates that it 'may not delegate its responsibility for decisions'. The responsibilities range from approval of the budget and investment plans and the adoption, amendment or repeal of the rules of procedure and municipal regulations to the establishment of the assembly committees, naming and renaming roads and making inter-municipal and intra-municipal agreements.<sup>12</sup> The agenda of municipal assembly meetings is to be set by the chairperson of the assembly upon the agreement by the mayor.<sup>13</sup> The field work carried out by the author revealed that the mayors are more visible and better known among the electorate than the members of municipal assemblies.<sup>14</sup> The municipalities operate as single electoral districts and most of Kosovo's municipalities are rather large (with the exception of newly formed municipalities). Hence, the members of the municipal assemblies face difficulties when it comes to developing ties to constituencies at the sub-municipality level, i.e. in the villages. One consequence of this system is that in fact not all villages that form part of a municipality are represented in the municipal assemblies while other villages are overrepresented. Further, political parties mediate the nomination of the members of municipal assemblies' Communities Committees and the appointment of 'village leaders', who by law do not have any formal functions and powers and are not remunerated for their work.

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9 Each municipality functions as a single electoral district.

10 LLSG, article 58.

11 LLSG, article 78.1

12 LLSG, article 40.

13 LLSG, article 47.

14 In Peja municipality, for instance, the mayor is commonly referred to as 'president' and the chair of the municipal assembly told the author that citizens would often confuse the roles of mayor and chair of the municipal assembly, believing that the mayor was at the same time the chair of the municipal assembly.

The influence of village leaders on decision-making by the elected local governments is therefore mostly limited to representing villages in consultations about matters related to the municipal budget and infrastructure investment. These consultations are arranged in a 'top-down' fashion by the mayors. The municipal assembly committees, whose members are elected by the municipal assembly, tend to exercise a merely formal role. Arguably, among the most important functions of the municipal assembly is approving the municipal budget. However, as will be discussed below in practice this function does not carry much meaning and significance. In municipalities where the chair of the municipal assembly belongs to the same political party as the mayor the chances are that the municipal legislative fails to exercise rigorous scrutiny of the actions and decisions of the municipal executive, who has a 'direct connection' to the party leadership. Municipal assembly 'rubberstamping' of decisions taken by the mayor is a real risk, as is the reduced accountability of the mayor. Whether this has a negative impact on local public service delivery is an open question.

According to the LLSG, any person or organization with a particular interest in the municipality may attend public meetings, and representatives of non-governmental organizations (NGOs) can attend consultative committees and 'may submit proposals, conduct research and provide opinions on municipal assembly initiatives in accordance with the Municipal Statute'.<sup>15</sup> However, the number of *active* civil society organizations (including NGOs, professional associations, social membership organizations) in Kosovo is still quite low. The most visible and vocal ones are based in Pristina, and overall they enjoy better access to international donor funds than civil society organizations (CSOs) in smaller and/or rural municipalities. In Viti and Peja, the author found that there was a sense among local CSO representatives that the decentralization process is not yet fully understood by citizens and that 'governance sits in Pristina' (Viti), and that CSOs do not play a significant part in municipal affairs (Peja). By the same token, it was pointed out that the decentralization process needs to be taken further, in particular with respect to including village leaders and councils more, and in a more formal way, in local governance arrangements by providing them specific competencies.<sup>16</sup>

### **Municipal competencies and revenue**

Kosovo's new legal framework foresees the transfer of many competencies to the local level, providing, in line with the Athisaari Plan and Kosovo's constitution, for differentiated treatment of municipalities where the Serb community is in the majority. 'Own' competencies apply across all municipalities and range from local economic development and the provision and maintenance of public services and utilities, including water supply and waste management, to the provision of public pre-primary, primary and secondary education and public primary health care.<sup>17</sup> In addition to municipalities 'own' competencies, the central government may delegate responsibility to municipalities regarding, *inter alia*, cadastral records, business registration and forestry protection.<sup>18</sup>

'Enhanced' competencies apply only to municipalities in which the Kosovo Serb Community is in the majority, and they cover secondary health care, university education, culture and the selection of local station police commanders. In relation to enhanced competencies in secondary health care, the LLSG only refers to Mitrovica North, Gračanica and Shtërpce, and with respect to enhanced competencies in university education only to Mitrovica North. The municipality of Mitrovica North has yet to be created, but the other four Serb-majority municipalities (Ranillug, Klllokot, Partes and Gračanica) are also not mentioned in the LLSG because they were

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15 LLSG ,articles 68.1. and 73.2.

16 Author's interviews, CSO representatives, Viti and Peja, 14 and 21 February 2012.

17 See list of own competencies in LLSG, article 17.

18 See list of delegated competencies in LLSG, article 18.



established after the law came into effect. It should be highlighted that the LLSG stipulates that the exercise of the 'enhanced' competencies is subject to the monitoring by the central government, which is not the case with 'own' competencies over which municipalities have 'full and exclusive' powers.

The Law on Local Government Finance (LLGF) stipulates that the financial resources of a municipality consist of its (a) own source revenues; (b) operating grants; (c) grants for enhanced competencies (where applicable); (d) transfers for delegated competencies; (e) extraordinary grants; (f) financial assistance from the Republic of Serbia; and (g) proceeds from municipal borrowing.<sup>19</sup> Own source revenues include, *inter alia*, municipal taxes, fees, user charges, other payments for public services provided by the municipality, and regulatory charges and fines authorized by law to rents on immovable property and grants and/or donations from foreign governments (except for financial assistance from the Republic of Serbia) or from foreign organizations. In accordance with the LLGF, municipalities can only levy and collect a tax on immovable property within its borders but have no authority to assess, levy or collect any other duties or taxes<sup>20</sup>.

The existing system of inter-governmental finance reveals the limited nature of financial decentralization in Kosovo. Municipalities are heavily dependent on grants from the central government, be they earmarked (as in the case of grants for education and health services) or general grants. The grants from the central government make up around 80 per cent of municipal revenue; own source revenue generation is limited to (in order of importance in 2010) property tax (29 per cent), construction permit fees (26 per cent), business registration fees (8 per cent), health and education fees (8 per cent), civil registration fees (6 per cent), vehicle and road taxes (5 per cent), asset revenue (5 per cent), land transfer fees (6 per cent) and other revenue (7 per cent) (Disha et al., 2012). Municipalities are currently not allowed to own property and 'they have been assigned control over very little real land and buildings' (Disha et al., 2012:5).

The property rights of local governments have to be clarified as assets located in their jurisdictions could be important sources of own source revenues as well as key for local economic development. Further, the conditions under which municipalities can borrow money, as laid out in the LLSG, are very restrictive and a 'number of local government own-revenues and shared taxes frequently found in other countries' are missing, including a 'Hotel or Tourism tax; a system of environmental fees and charges that are typically shared with local governments; concessions for the use of mineral rights; and perhaps most importantly over the long term, the sharing of Personal Income Tax with local governments on the basis of the place of residency of tax payers' (Disha et al. 2012:4-5). Until recently the municipalities could also manage the fees of business registrations (estimated to make up 8 per cent of municipal budgets), but that competence has now been abolished in order to boost investment and doing business in Kosovo.

It is pertinent to mention that the municipalities are facing to different degrees challenges with respect to the capacity to absorb the competencies that have been transferred to them, as well as with respect to the absorption of donor funds. A recent report on the matter states that 'the evidence provided [...] illustrates that more has to be done regarding financial planning, needs assessments, and managerial or absorbing capacities of the new municipalities' (Tahiri 2010:8).

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19 LLGF, article 7.

20 LLGF, article 3.

## Relations between the central and municipal governments

As mentioned above, the relations between the central government (MLGA, line ministries, Kosovo Assembly) and the municipalities are shaped by high dependence on financial transfers from the former to the latter. On average, 80 per cent of municipal budgets are made up of grants from the central government. Municipal own source revenues generation is still low, basically limited to income from property tax and a number of charges and fees levied by the municipalities on services they provide to citizens and private businesses. In the new Serb-majority municipalities the dependence on central government funds is even higher, approaching 100 per cent in some cases (e.g. Klllokot), not counting transfers for health and education services from Belgrade.<sup>21</sup>

Not surprisingly, municipal budgets and the allocation of central government funds across Kosovo are a constant source of tension and political bargaining between the central and municipal governments. In a nutshell, two sets of grievances on part of the municipalities with respect to financial decentralization can be identified.

- i. While legally municipalities are empowered to draw up the municipal budget, because of the relatively small amount of own source revenues they are generating and the rather extensive control the central government exercises over the municipal grants, municipalities are budgeting within tightly set parameters. Once the municipal budget law has been approved by the municipal assembly, usually following some formal public hearings which are not perceived as effective as they have not much of an influence on the final decisions taken by the municipal executive and legislative, it is submitted to the central government. At the central level budgetary restrictions can be imposed and oversight conditions apply, which in practice means that the municipalities have little influence over the final shape of their budgets. The own source revenues that are collected by the municipalities (in practice mostly through the property tax and charges and fees on public services) have to be transferred to the central level before they can be made available and used at the municipal level. Municipalities are only allowed to borrow funds under very strict conditions. In sum, the municipalities' financial room to maneuver is actually very limited.
- ii. Some municipalities, particularly larger ones such as Peja, take issue with the way central government grants are distributed across Kosovo. The argument is that the formula used to determine the size of the grants for the individual municipalities is inappropriate as it is not based on the data of the 2011 census. In Peja municipal authorities also pointed out that political considerations at the central government level played a role in the establishment of the size of grants.<sup>22</sup>

Other contentious issues between the municipal and central government levels are water and waste management (which is the responsibility of regional POEs that are under the control of the central government) and ownership and use of land. According to the LLSG, it is the municipality that is responsible for water supply and waste collection, but the Law on POEs stipulates that these are competencies of the central government which presently exercises them through seven regional water companies.<sup>23</sup> According to a source in the prime minister's office, there is a strong interest in some municipalities to have this competence transferred to them because they want to be able to set tariffs and use the income from water for cross-subsidizing other municipal investments. Further, municipal water companies would also fulfill an employment function and

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<sup>21</sup> It is difficult to know the size of the funds that are transferred from Belgrade to Serb communities in the south. However, they are most likely not channelled through the Kosovo central government.

<sup>22</sup> Author's interview, mayor of Peja and several of his directors, Peja, 21 February 2012.

<sup>23</sup> Law on POEs, article 3.3.

could potentially attract donor funding.<sup>24</sup> All of this could be quite problematic for the efficient provision of water services, although municipal officials point out that quality services can only be provided if they have more control over them. This dispute has been ongoing for years and is still far from being resolved because of the ambiguities in the relevant laws and because of an adamant stance at the central government level not to permit the municipalities to take over water management on the grounds that this would undermine the potential for economies of scale and undercut the effective performance of the Water and Waste Regulatory Office, including with respect to setting water tariffs.

Regarding the ownership and use of municipal land, in some municipalities a large part of the land is publicly owned and managed by the Privatization Agency of Kosovo (PAK)(e.g. in the new Serb majority municipality of Klllokot 95 per cent of the land is in public hands). It is the central government which through PAK determines ownership rights. Proceeds from privatization go to the Fund for Privatization and not the municipalities. Municipalities are contesting this state of affairs on the grounds that it restricts their possibilities for economic development and attracting business investments.

Mayors are the key actors in managing the often difficult relations between the municipal and central levels of government, both as individual elected officeholders and through the Association of Kosovo Municipalities (AKM).<sup>25</sup> While mayors work the higher political contacts in the central government and their respective political parties, the municipal directors are dealing directly and on a constant basis with their respective line ministries in order to resolve specific issues. This management of the relations between the municipalities and the central government institutions raises questions about effectiveness, transparency and accountability, as well as the risk of corruption. Next to all government departments and Publicly Owned Enterprises (POEs), municipalities are among Kosovo's more than 150 contracting authorities. Procurement is carried out by procurement officers who are relatively low-level members of the municipality's staff and as such ultimately subordinate to the mayor. It has been pointed out that procurement officers carry a lot of responsibility and are usually not sufficiently well trained. They are also vulnerable to pressures from the contracting authorities and are not sufficiently well protected by law. 'Their position is one of the weakest links in the public procurement system and gives room for political interference and corruption' (IKS 2010:26). With respect to international donor funds, the risk of corruption appears to be lower as those funds tend to be subject to stricter accountancy and monitoring mechanisms established by donors.<sup>26</sup>

Corruption is also an issue at the central government level. Although there is uncertainty as to the scale of corruption in Kosovo and its actual character experts in the matter have stated that 'grand and/or political corruption' is to be found especially in relation to public procurement at the central level and the management of POEs. For instance, following independence the boards of Kosovo Post and Telecommunication Company (PTK) and Kosovo Energy Company (KEK) have allegedly been peopled with individuals that do not qualify under the terms of the Law on POEs because they have a political affiliation or are former holders of public office. Public procurement, in turn, is increasingly relying on non-competitive procedures in which contracting authorities pre-select potential contractors and issue them invitations to tender rather than call for an open and widely publicized competition. Kosovo's national anti-corruption system is not working well, it is underfunded and understaffed and there is hardly any cooperation ongoing between its constituent parts (IKS 2010).<sup>27</sup> According to the EU progress report 2011, 'Kosovo

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24 Author's interview, senior official in the Prime Minister's Office, Pristina, 22 February 2012.

25 See below for more detail on AKM.

26 Author's interview, corruption expert, Pristina, 17 February 2012.

27 Author's interview, corruption expert, Pristina, 17 February 2012.

continues to face significant challenges in fighting corruption. The adopted legislation now needs to be fully implemented. The capacity to investigate this type of crime, and the level of expertise, remains limited. Law enforcement and judicial authorities need to be more proactive in this area' (European Commission 2011:13).

The Association of Kosovo Municipalities (AKM) fulfills the crucial role of a broker in municipal-central government relations. As a NGO funded by voluntary membership fees from the municipalities and international donor support, AKM's mission is 'to create efficient, sustainable and democratic local government through high quality performance in providing services according to the needs of citizens. In its founding documents, the AKM claims to dedicate its activities to fostering good governance at the local level, harmonizing the division of labor between central and local authorities, and advocating for decentralized governance that avoids unnecessary parallelism and centralist tendencies'<sup>28</sup>. AKM appears to be generally well regarded among municipal authorities (as well as the central government) for the lobbying in national legislative processes it undertakes is seen as a significant contribution to the strengthening of the municipalities and local governance.<sup>29</sup>

This notwithstanding, the organization is facing a number of challenges that are related to its set up and internal governance structure. A recent assessment report on the AKM stated that some international donors believe that the association 'is occasionally used as an instrument by municipality mayors to advance their narrow interest' and that there is a tendency to 'make the AKM an organization of mayors and less of municipalities' (UBO Consulting 2011:37). A board of seven mayors governs AKM. The biggest municipality of the ruling party in the central government chairs the board and has an additional two board members. Two other members come from the second biggest party, another member of the board comes from the third biggest party and one place is reserved for a Serb mayor. There is an assembly of AKM and council of mayors. The membership is voluntary and it comes with a fee. In 2011, AKM collected some 120,000 Euro in membership fees. The structure of AKM also contains eleven 'professional *collegia*' and twelve commissions, which are integrated by municipal directors, other municipal officials and technical experts from the municipalities. The chairs of municipal assemblies are not represented in the AKM and there are no 'independent' citizen or CSO representatives. As has been observed by the International Civilian Office (ICO), there is a need to 'balance the overpowering of municipal mayors' and, by implication the political parties, which puts the AKM at risk of becoming politicized (UBO Consulting 2011:37). For instance, if the ruling party does not want support amendments to a certain law for political reasons it is likely that the amendments will not happen.<sup>30</sup>

### **Relations between municipalities and villages**

Kosovo's legal framework on decentralization does not foresee an administrative-political tier below the level of the municipality. According to the LLSG, the MLGA may 'issue instructions' on the arrangements between the municipality and the villages.<sup>31</sup> Villages can carry out activities that are within the responsibility of the municipal government if they are given permission.

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28 Strengthening Local Governance in Kosovo. An Assessment Study on the Association of Kosovo Municipalities. November 2011, p. 11.

29 For instance, in 2011 AKM made significant proposals in the process of amending the Laws on Public Private Partnership, Forestry, Public Enterprises and Waste (AKM, 2011: 2-3).

30 A local expert in decentralization and local governance pointed out that this politicization could be observed with respect to the amendment of the Law on POEs and the transfer of competencies to manage public enterprises, such as waste collection, to the municipalities. Author's interview with a representative of the Kosovo Local Government Institute, Pristina, 16 February 2012.

31 LLSG, article 34.3

Municipalities must provide sufficient resources for this.<sup>32</sup> While there are village councils and leaders as well as a coordinator in the mayor's office charged with liaising with village representatives, their selection, functions and competencies are not defined by law; their work is not remunerated; and there are no specific lines in the municipal budgets for the village councils/leaders. As such, relations between municipalities and villages are rather informal and can be mediated by political party membership, i.e. relations between the mayor and the village leaders are likely to be closer if they are members of the same political party.<sup>33</sup> In some instances, village leaders are appointed by the mayor after consultation with the village councils, in others they are 'selected' by residents.

There is some evidence that in both Albanian-majority and Serb-majority municipalities the mayor's offices have been making efforts to consult with village representatives on matters related to the budget, public services and infrastructure investments. For instance, the mayor of Peja emphasized that his administration was working hard to incorporate minorities in local governance, including through the setting up of municipal offices in villages with minorities in order to bring public services closer to them and by consistently working in Peja's three official languages, in accordance with a municipal regulation. However, the consultations are 'voluntary' and not regulated by law or municipal regulations.<sup>34</sup> Addressing these issues, civil society representatives in Viti (with close links to some villages) suggested that Kosovo's decentralization process should go further and include the sub-municipal political-administrative level with clearly defined competencies/budget lines for the village councils and leaders.<sup>35</sup>

### **Growing concern about Kosovo's accountability deficit**

Well into the first year after the end of internationally 'supervised independence', declared by Kosovo in 2008, there are growing concerns that the country still lacks strong accountability mechanisms. Interviews with representatives of the governing Democratic Party of Kosovo (PDK), the political opposition, NGOs and international donors revealed that a broad range of political and social sectors in the country feels that the checks on the exercise of public authority are strong on paper but weak in practice.<sup>36</sup> As one senior government official put it, 'we have the [decentralized and democratic] system in place but we need to make it work better through strengthened accountability'.<sup>37</sup> In effect, now that the international presence and role in Kosovo has been significantly reduced and tensions between Kosovo Albanians and Serbs as well as Pristina and Belgrade have begun to subside, in part due to decentralization and the creation of new Serb-majority municipalities, it is up to the people of Kosovo to make accountability work.

There are numerous issues in this respect that would need to be addressed both at the central and local level of government, ranging from strengthening and depoliticizing the justice system and fighting corruption and organized crime to increasing the checks on mayors and enabling municipal assemblies to hold mayors to account. Accountability mechanisms need to be strengthened both along the vertical and horizontal axes, and they need to involve organized civil society much more than has been the case thus far, especially in the municipalities outside of Pristina. One of the often highlighted issues is that of the dominant position of the mayor in municipal governance and in managing the relations between municipalities and the central government, which have been analyzed in the previous section. 'The institutional design of local

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32 LLSG, article 34.2

33 Author's interviews, NGO and international donor representatives, Pristina, 22, 24 April 2013.

34 Author's interview, mayor of Peja and several of his directors, Peja, 21 February 2012.

35 Author's interviews, mayor of Viti and civil society representatives, Viti, 14 February 2012.

36 Author's interviews, government, political opposition, NGO and international donor representatives, Pristina, 22-24 April 2013.

37 Author's interview, senior government official, Pristina, 24 April 2013.

government has enabled mayors to assume a position of dominance that was not expected by the spirit of the constitution, and by other legal provisions. Continued mayoral dominance of political structures sows the seeds for a future scenario in which checks and balances of power are further disrupted' (Tahiri 2013:4).

This situation is compounded by the fact that a 'general democratic culture is almost non-existent'; which, in turn, is reflected in low electoral participation and limited knowledge on the part of citizens about accountability mechanisms (Tahiri 2013:4). In addition, it is important to recognize that relations between the electorate and politicians in post-independence Kosovo appear to be structured in a significant manner by patron-client exchanges and transactions. Some preliminary evidence suggests that Kosovo's political parties are at the heart of this clientelistic system, which involves patrons at the municipal level and 'super patrons' in the central government. It is believed that clientelism cuts across ethnic lines and equally affects Kosovo Albanians and Serbs.<sup>38</sup>

## 4 Conclusion

This paper, which is work in progress, posits that accountability is both a key necessity and challenge for preventing that countries emerging from internal armed conflict relapse into violence and building the political, socioeconomic and institutional foundations for lasting peace and a capable and legitimate state. The centrality of accountability has come to the fore due to a gradual convergence of peace and state-building, as concepts and practices, on a continuum. Heightened interest in, and the increasingly common pursuit of, decentralization as a peace/state-building 'tool' reflects the importance assigned to effective accountability in post-conflict contexts.

However, while in theory decentralization can help to improve accountability as relations between citizens and the state become 'closer' and more 'immediate', it is also the case that effective decentralization depends on the existence of working mechanisms of accountability. Whether this challenge can be resolved appears to hinge on the underlying political goals of decentralization, who drives the process (domestic or external forces), and how it relates to both peace and state-building aims, which may overlap but may also not be fully reconciled.

The case of Kosovo reveals that, on the one hand, the international community has used decentralization as a peace-building tool, principally seeking to protect the rights of the Serb minority in Kosovo by creating a number of new Serb-majority municipalities. Issues of accountability have been of secondary importance in this process, not least because Kosovo's Serbs have remained locked in a 'parallel' accountability relationship with Serbia. Belgrade does not recognize Kosovo's independence and has continued to provide public services and pay salaries to civil servants in the new Serb-majority municipalities. On the other hand, international stakeholders have employed decentralization as a key state-building tool without recognizing sufficiently the strength of countervailing forces in 'post-conflict/independence' Kosovo. This includes the heavy legacy of the international administration in the years after the 1999 war; widespread clientelism and corruption; the absence of an active local civil society; and limited commitment by Kosovo's new political elites to decentralization and 'good governance'.

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38 Author's interviews, academic researcher and donor representative, Pristina, 23 and 24 April 2013.

Hence, while decentralization has contributed to neutralizing the spectre of persisting ethnic tensions and the potential re-emergence of inter-ethnic violence (peace-building goal), it has yet to be enhanced through strengthened accountability (state-building goal). Against this backdrop this paper has asked whether citizen-driven, social accountability initiatives could help re-energize Kosovo's decentralized state-building project. While the research points to the desirability of social accountability initiatives in Kosovo, it also highlights the challenges due to institutional weaknesses and the persistence of clientelism and corruption, civil society fragmentation and civic apathy. But perhaps most importantly, it appears that the case of Kosovo confirms the view put forward by some scholars that the effective exercise of social accountability depends on the existence of at least a *modicum* of state/supply-driven mechanisms of accountability.

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