Kosovo Divided: Ethnicity, Nationalism and the Struggle for a State

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Note: This paper is an overview of my forthcoming monograph and is therefore lacking substantial empirical analysis that is discussed in three separate chapters.

This paper investigates the difficult and controversial topic of the efforts to build a multiethnic liberal-democratic state in Kosovo with a twofold challenge to secure unity at the same time with managing and protecting diversity. Post-conflict and post-independence statebuilding in Kosovo has involved the adoption of an extensive framework for integrating, accommodating and protecting minorities, which I evaluated as follows. Firstly, there is a significant gap between *de jure* minority provisions and *de facto* levels of integration of minorities in Kosovo, depending mainly on the will and capacity of each community to assume their rights and on their socio-economic, demographic and political particularities. Secondly, the mixture of intended and unintended consequences highlights the volatility of the levels of integration and the lack of social cohesion in Kosovo despite the existence of a far-reaching minority rights framework. Thirdly, the legitimacy and domestic sovereignty of Kosovo have been conditioned by the accommodation of all its constituent communities and remain fragile because of the enhanced risk of segregation and marginalisation. Overall, in its quest to build sustainable plural democratic governance, Kosovo needs more than defining itself as a multiethnic republic, it also needs to function like one.[1]

The causes and consequences of the continuing struggle for a state in Kosovo reach far beyond the interests and actions of the key political actors engaged in the post-conflict and post-independence context. With or without recognition, the lives of all communities in

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[1] Veton Surroi, 'The Unfinished State(s) in the Balkans and the EU: The Next Wave' in J. Rupnik (ed), *The Western Balkans and the EU: 'The Hour of Europe*, Chaillot Papers (Paris: Institute for Security Studies, 2011), pp. 111–20.

Kosovo have been affected on a daily basis by the actions or lack of action of local, regional, national and international actors. Be it the struggle for independence, for a state, for a nation or for survival altogether, the people, including the majority and the minorities, constitute the bearers of democratic politics with all its triumphs and wrongdoings. This principle and the question of minorities after conflict have motivated my research to adopt a bottom-up perspective in trying to challenge the state-centric views and practices that have affected international statebuilding in Kosovo for the last twenty years. Nonetheless, the democratic, statebuilding and nationbuilding dilemmas discussed in my paper reach far beyond the borders of Kosovo. As in many other parts of the world, the remaining problem for Kosovo is to what extent and in what ways the voices of all its people and communities will continue to be heard and listened to. Recent waves of academic research on populism[2], far-right, white nationalism and majority identities, some of which I regard to contain much controversy and problematic claims[3], are testament to this. Despite the post-colonial, post-communist and post-conflict experiences, the formation of states, institutions and laws disconnected from their societies is an old yet still central dilemma of contemporary global politics and ongoing related academic debates.

The presence of minority groups with different ethnic, national, cultural, religious or linguistic identities within almost all contemporary societies has gradually gained more significance for both long-established and new states, particularly in post-conflict, post-communist and post-colonial contexts. Consequently, contemporary processes of state formation have included the *management of diversity* as a highly prioritised task in response to the historical changes in the practice and understanding of the relationship between state and society. In other words, the modern state has become more preoccupied with finding solutions for the integration, accommodation and protection of all its constituent peoples. Nonetheless, this preoccupation of Western-centric modern statebuilding has been historically shaped by an oxymoronic perception of diversity as an *asset* and as a *burden* at the same time.[4] In this sense,

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[2] *See* Roger Eatwell and Matthew Goodwin*, National Populism: The Revolt Against Liberal Democracy* (Pelican Books, October 2018); Eric Kaufmann, *Whiteshift* (Penguin, 2018); Ashley Jardina, *White Identity Politics* (Cambridge UP, 2019); Andre´ Lecours, and Nootens Genevieve (eds), *Dominant nationalism, dominant ethnicity: Identity, federalism, and democracy* (Bruxelles: Peter Lang, 2009); M., Abrajano, and Z. L. Hajnal, *White backlash: immigration, race, and American politics* (Princeton: Princeton University Press, 2015); B . De Cleen, 'Populism and Nationalism', in Kaltwasser, C. R., Taggart, P., Ochoa Espejo, P. (eds) *Handbook of Populism* (Oxford: Oxford University Press, 2017) pp. 342–62;

[3] John Holmwood 'Claiming whiteness', *Ethnicities* (2019).

[4] Sammy Smooha, 'Types of democracy and modes of conflict management in ethnically divided societies', *Nations and Nationalism* 8(4) (2002), pp. 423-431.

the troubled relations between the nation state model, liberal values, democratic governance, migration, multiculturalism and various processes of globalisation, continue to dominate some of the key challenges of current international relations. As already suggested, this is evidenced by recent general trends of resurging politics of nationalism, populism, far-right, isolationism and inequality, as well as by specific issues like extremism, migrant crisis and spread of civil wars and state fragility. In light of these problems, it is important to continue analysing how the international efforts to export the modern liberal democratic state has founded precarious political environments, hybrid governance and, broadly speaking, 'delusory efficacy and hallucinatory legitimacy.'[5] This paper discusses the impact of adopting a liberal-democratic state-model that aims to secure unity at the same time with accommodating diversity by looking at the process of statebuilding in post-conflict and post-independence Kosovo. The main research question of this study is: *Why, how and to what extent has Kosovo been able to manage diversity as part of statebuilding by adopting a multiethnic legal and institutional framework designed to integrate, accommodate and protect the ethnic minority groups within its territory?*

Methodologically, the approach is explicitly analytical and interdisciplinary and driven by a set of key questions that are addressed through formal models and theoretical frameworks. The investigation of the contemporary and highly complex situation in Kosovo has made use of detailed case-studies and qualitative data analysis consisting, for instance, of the evaluation of the constitution, laws, policy-briefs, official local and international documents, treaties, reports, political debates, conferences.[6] The information collected as a result of document-based research is complemented by the original empirical content and rich primary data gathered through fieldwork. More precisely, I triangulated the preliminary research findings as regards post-conflict and post-independence statebuilding in Kosovo by conducting semi-structured and elite interviews, ethnographic work and participant observation. Overall, the research design and methods employed in this paper allowed me to reflect on the central elements of nationbuilding/statebuilding in Kosovo and the particularities of this complex case-study, while also discussing its relevance for the general study of the symbiotic relationship between processes of state formation and the management of diversity.

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[5] David Roberts, *Liberal Peacebuilding and Global Governance: Beyond the metropolis* (London: Routledge, 2011), p. 16.
[6] Marius Calu, 'Unintended consequences of state-building and the management of diversity in post-conflict Kosovo', *Nationalities Papers* 46(1) (2018), pp. 86–104.

The statebuilding dilemmas discussed here apply to the wider global context, as similar solutions have been adopted in neighbouring statebuilding cases like Bosnia-Herzegovina and The Former Yugoslav Republic of Macedonia (FYROM) and in longstanding post-conflict state formation processes in Iraq and Afghanistan. What they all have in common is the perpetual struggle to synchronise liberal democratic norms with conditions of ethno-national, cultural, religious and social diversity. The promise of liberal democratic governance has been the sine qua non of contemporary international interventions, peacebuilding and statebuilding, as evidences by practices designed and conducted by the UN, the EU or the OSCE. The promotion of democracy, good governance, the rule of law, economic development and social equality are typical for these interventions and are intended to ease the local needs while also supporting these societies in creating legitimate and stable governance. But the reality of international interventions can be far apart from their proclaimed intentions in meeting local requirements. To the contrary, the promotion of liberal democracy by the state-centric ideological and institutional framework of interventionism can produce unintended consequences for local societies. In the case of Kosovo, the management of ethnic diversity has been a fundamental challenge after its break-up from Serbia in the post-conflict and post-independence contexts as reflected by the interplay of three core statebuilding tasks:

1) developing institutions, implementing the legal framework (institution-building/ setting-up the constitution, legal framework, democratisation) and enshrining core liberal-democratic values;

2) post-ethnic conflict reconciliation through legislative and institutional power-sharing arrangements designed to foster inter-ethnic cooperation and accommodation of minorities (mainly minority Serbs and majority Albanians), and

3) the 'generic' integration and protection of all other ethnic minorities (Bosniak, Turkish, Roma, Ashkali, Egyptian, Gorani, Montenegrin and Croat communities).

Kosovo has been the topic of many international controversies and academic debates over the politics of interventionism, international law, ethnic cleansing, peacebuilding and statebuilding, the role of international administrators in post-conflict states, secessionism and the right to self-determination and, most recently, the problems around the 2008 unilateral declaration of independence. Kosovo therefore declared itself an independent state nine years

after the 1999 conflict, but the lack of unanimous international recognition[7] continues to divide the international community on the status and future of the province. Although not the focus of this study, this situation is particularly important given that the international community has been involved in all stages of Kosovo's development from intervention (the role of the North Atlantic Treaty Organization (NATO)), peacebuilding/statebuilding (the administration of Kosovo by UNMIK and by the European Union, but also the involvement of OSCE and international donors) and post-independence (the continuing primary role of the EU by including Kosovo within the Europeanisation process and also, more specifically, though its EULEX mission). In the meantime, Kosovo has been aiming to foster its international recognition and defend its status[8] while also building-up its domestic sovereignty and continuing its transition to a sustainable liberal-democracy. In other words, in its post-2008 quest to meet international/EU standards and construct stable, functional and legitimate democratic governance, Kosovo has also continued to have a highly contested statehood, including five EU countries withholding recognition of the entity as an independent state.

Given that the liberal-democratic (nation state) model has become the dominant form of modern political organisation of states, it is essential to understand how the mutual relationship between state and society, between rulers and subject, between institutions and people has transformed over time. Drawing on Joel Migdal's 'state in society' approach[9], this paper adopts a view of the state as intrinsically embedded in society, thus reflecting the symbiotic state-society relationship confirmed by the mutual capacity to transform each other. From this perspective, the state is both the 'image' of a unitary and clearly bounded political body in control of a given territory and the 'practices' of its different social actors and agencies.[10] The state is not a fixed political entity and it can be seen as a process, as a changing form of political organisation responding to the impact of society. Therefore, the levels of state strength and legitimacy can be tested through an assessment of Kosovo's efforts and capacity to manage diversity and gain the obedience of its population by particularly attempting to integrate, accommodate and protect the rights of its minority communities.

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[7] To this date, Kosovo has been recognised by 110 UN member states (57 per cent), but it lacks UN membership as the UNSC remains divided on this issue, with Russia and China not recognising the declaration of independence. The EU member states are also divided as only 23 out of 28 members (82 per cent) have recognised Kosovo.

[8] For a detailed recent analysis of this *See* Gëzim Visoka*, Acting Like a State Kosovo and the Everyday Making of Statehood* (Oxon: Routledge, 2018).

[9] Joseph S. Migdal, *State in Society. Studying How States and Societies Transform and Constitute One Another* (Cambridge: Cambridge University Press, 2001).

[10] ibid., p. 18.

Given the important role of minorities in legitimising a post-conflict state, the promotion and protection of minority rights is a key indicator of Kosovo's willingness and capacity to deliver essential political goods. This becomes a vital responsibility if the state has also experienced major discrimination of a certain ethnic group and a history of ethnic conflict, similarly to the case of Kosovo. Furthermore, this will also help to study Kosovo's efforts to develop domestic sovereignty, which for Stephen Krasner refers to the actual strength of a state's authority, as well as its capacity to use it effectively and secure legitimacy.[11] Therefore, building legitimate domestic sovereignty depends on repairing or preventing social division and a broken state-society link, which is why the integration and protection of ethnic minorities have become fundamental statebuilding objectives.

Moreover, the critique of contemporary statebuilding needs to look more carefully at fundamental differences between mature-plural-democratic states without any recent conflicts and young-plural post-conflict democracies that are importing external models of democratic governance. Therefore, the management of diversity has been a problem for the development and proliferation of liberal-democratic norms of governance, it has been the source of external and domestic violent conflicts in the peoples' quest for self-determination and it has then become a fundamental task for contemporary statebuilding. Contemporary new 'polities' have experienced the challenge of internal disputes over establishing what the identity of the political community and their members should be. This state legitimacy issue has been described by Linz and Stepan as the *stateness problem*[12], originating in the relationship between the state, the nation and democracy and the difficulties in establishing territorial boundaries and the conditions of citizenship.

While nationalism offers the possibility of defining the demos, this may not include the entire population or all the constituent peoples of the state. When 'stateness' and 'nationness' overlap, building democracy and legitimate governance is expected to occur more easily, while when they are not in congruity, the process is likely to be more challenging and unstable. In a similar fashion to former colonies and former communist societies, post-conflict societies have had to accept an external form of authority that did not need (direct) popular legitimisation while having to develop non-coercive means of governance. The common

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[11] Stephen D. Krasner, *Sovereignty: Organized Hypocrisy* (Princeton: Princeton University Press, 1999).
[12] Juan J. Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe* (Baltimore: Johns Hopkins University Press, 1996).
[12] ibid., p. 429.

problem of all these three contexts of contemporary statebuilding is that they have produced states with little capacity to monopolise violence and secure social cohesion. Therefore, the understanding and practice of state sovereignty in new plural liberal-democracies has been challenged by the absence of a bond between state and society.

The *management of diversity* has become both a challenge and an objective for contemporary processes of state formation. On the one hand, it has been a challenge primarily because it complicates the task to secure unity for the liberal-democratic nation state model built around the norms of popular sovereignty, social solidarity and reliance on a dominant nation. On the other hand, it has become a key objective for statebuilding not only because of the social-demographic and political changes of the 20th century, but also because of the increasing number of internal (ethnic) divisions, conflicts and civil wars. These issues have characterised the ex-colonial and ex-communist societies aiming to adopt the liberal state-model but struggling to synchronise the (proposed) state-society relationship with the ground realities.

Challenges for contemporary post-conflict statebuilding practices have been generally studied within the critique of liberal interventionism.[13] This literature has been focused on the imposing character of international involvement in peacekeeping and post-conflict administration such as the United Nations-led missions in Bosnia-Herzegovina, Kosovo, East Timor, Iraq, South Sudan or Afghanistan. From this perspective, the international involvement in Kosovo has started with a controversial humanitarian intervention, followed by the imposition of a multiethnic state model and the administration of post-conflict reconstruction. This suggests that the international community has become responsible for the flaws of statebuilding in Kosovo and for creating a certain degree of external dependency in the detriment of democratisation, local ownership and domestic legitimacy. In the context of

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[13] *See* Richard Caplan, *International Governance of War-torn Territories: Rule and Reconstruction* (Oxford: OUP, 2005); David Chandler, 'The Problems of 'Nation-Building': Imposing Bureaucratic 'Rule from Above', *Cambridge Review of International Affairs*, 17(3) (2004), pp. 577–591; David Chandler, *Empire in Denial: The politics of State-building* (London: Pluto 2006); David Chandler, *International Statebuilding. The rise of post-liberal governance* (Oxon: Routledge, 2010); Christopher Clapham, *Africa and the International System: The Politics of State* Survival (New York: CUP, 1996); Aidan Hehir, *Kosovo, Intervention and Statebuilding: The International Community and the Transition to Independence* (London: Routledge, 2010); Michael Ignatieff, *Empire lite: nation building in Bosnia, Kosovo and Afghanistan* (London: Vintage, 2003); Robert Jackson, *Quasi-States: Sovereignty, International Relations and the Third Word* (Cambridge: CUP, 1990); Roland Paris, 'Peacebuilding and the Limits of Liberal Internationalism', International Security 22(2) (1997), pp. 54–89; Oliver P. Richmond and Jason Franks, *Liberal Peace Transitions: Between Statebuilding and Peacebuilding* (Edinburgh: Edinburgh University Press, 2009); Dominik Zaum, *The Sovereignty Paradox: The Norms and Politics of International Statebuilding* (Oxford: OUP, 2007).

decolonisation, the Western/Eurocentric origins of state-formation were immediately challenged by the mission to align people and territory: 'It is often problematic, both politically and morally, either to redraw territorial borders or to relocate populations in an effort to achieve alignment. The first raises the questions of partition or secession, the second questions of forced population transfers or what has come to be called ethnic cleansing.'[14] International/external statebuilders have shown great incapacity to avoid either internal or external contestation of new states. Thus, it should come as a no surprise that almost two decades since the 1999 NATO intervention, the emergence of discussions about territorial swap and 'correction of border' are once again threatening the stability of Kosovo and the entire Western Balkans.[15]

International administration has thus been identified as the key problem because it installs an exogenous source of legitimacy and undermines domestic sovereignty. The post-conflict statebuilding literature underlines the non-democratic and illiberal character of liberal interventionism in its paradoxical quest to spread liberal-democratic ideals through statebuilding missions. At the same time, this criticism also questions the self-proclaimed universality of an externally generated political model. The identification of the flaws of international statebuilding is not, however, always supported by endogenous, case-specific and convincing explanations for the multifaceted causes of why states fail to develop sustainable democratic governance or to achieve long-term reconciliation and inter-ethnic cooperation.

Moreover, in the case of Kosovo its unresolved status is often over-emphasised and used to explain almost all deficiencies of the statebuilding process, despite the fact that scholars[16] have observed that processes of democratic transition and institution-building are not unique to established states and can occur outside the state system as confirmed by the post-1999 *standards before status* approach in Kosovo. This highlights the dynamic character of the state under the impact of a multitude of external and internal processes. Furthermore, Krasner's taxonomy of sovereignty is also relevant here because despite the absence of

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[14] ibid., p. 100.

[15] Mersiha Gadzo 'Are ethnic borders being drawn for a 'Greater Serbia'?', *Al Jazeera News*, 10 August 2018.

[16] Oisın Tansey, 'Democratization without a State: Democratic Regime-building in Kosovo', D*emocratization* 14 (1) (2007), pp. 129–150; *See also* Nina Caspersen, *Unrecognized States: The Struggle for Sovereignty in the Modern International System* (Cambridge: Polity, 2012) and Bridget Coggins, *Power politics and state formation in the twentieth century: the dynamics of recognition* (New York: CUP, 2014).

international/legal sovereignty, Kosovo has developed domestic sovereignty. This is extremely important for my paper's aim to contribute to these debates by analysing the capacity and willingness of Kosovo to integrate and accommodate its minorities as potential indicators of the legitimacy and strength of domestic sovereignty.

Indeed, Kosovo represents a unique endeavour and a very ambitious case of statebuilding not just because of its internationally contested statehood[17], the circumstances of the 1999 war and the subsequent international administration, but also because of the impact of the dual legacy of communism and conflict. More research is thus needed to understand the role of endogenous factors[18] that may obstruct the aims of building a multiethnic liberal-democratic state capable of securing unity and managing a plural society. In this sense, 'the twin and deeply intertwined dynamics of post-Communist and post-conflict transition'[19] have simultaneously complicated the state-society relationship in Kosovo and the externally-led efforts to establish a multiethnic polity. This dual legacy has been characterised by illiberal practices and understanding of governance, substate forms of authority, ethnic, social and political fragmentation, the absence of national cohesion, economic dependency, institutional weakness and security issues. The combination of exogenous and endogenous factors indicates why a particular type of statebuilding has been developed in the contemporary context of post-conflict societies, which in the case of Kosovo has a multiethnic political-institutional model at the forefront of the process. Nevertheless, this interplay also helps to analyse the difference between theory and practice, between legislation and implementation and between intended and unintended consequences of adopting and implementing a particular state model.

Post-conflict statebuilding in Kosovo has been an externally-driven multifaceted process aiming to build peace, stabilise and reconcile ethnic tensions and to develop at the same time a functional liberal-democratic form of governance. Therefore, the immediate goal was to pacify the relations between Albanians and Serbs while keeping the province under the

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[17] *See* James Ker-Lindsay, *Kosovo: the path to contested statehood in the Balkans* (London: I.B.Tauris, 2009); Aidan Hehir, 'Introduction: Kosovo and the international community' in A. Hehir (ed) *Kosovo, Intervention and Statebuilding: The International Community and the Transition to Independence* (London: Routledge, 2010), pp. 1-16 and Marc Weller, *Contested statehood: Kosovo's struggle for independence* (Oxford: OUP, 2009).

[18] *See* Vesna Bojicic-Dzelilovic, James Ker-Lindsay, and Denisa Kostovicova, 'Introduction: civil society and multiple transitions – meanings, actors and effects' in D. Kostovicova and V. Bojicic-Dzelilovic (eds), *Civil Society and Transitions in the Western Balkans. New perspectives on South-East Europe* (Basingstoke: Palgrave Macmillan, 2013), pp. 1-25.

[19] ibid., p. 13.

administration of the international community (UNMIK mission) until its future legal status would be resolved.[20] Maintaining peace and achieving sustainable reconciliation has become part of the liberal statebuilding process. In Kosovo, this has consisted of adopting and implementing of a multiethnic liberal state-model aiming to develop the capacity to secure unity, perform the main tasks of a functional state and also manage ethnic diversity through a set of far-reaching legal and institutional framework for the integration, accommodation and protection of minorities.

Management of Diversity and Minority Rights in Kosovo

For the purpose of this paper, a minority is a group or a community that identifies itself as different by virtue of a shared ethnic, national, religious, cultural, linguistic or communal identity and has historically been marginalised by policies and practices of a state, and normally also constitutes a numerical minority within a state with a majority group. It is therefore crucial for the study of the management of plurality during statebuilding to establish the official position of the state as regards ethnic diversity and the relationship between majority and minority groups. A state may therefore recognise the dominance of an ethnic majority, it may associate the national identity with that of the majority group, it may disregard ethnic identities by promoting an overreaching civic identity or it may actually declare itself multiethnic/multinational/multicultural with a non-partisan national identity despite the existence of a majority group.[21]

In the case of Kosovo, the understanding and practice of measures adopted to manage diversity vary among different minority communities depending on many endogenous factors and on their will and capacity to assume their rights. The character of statebuilding in Kosovo reflects the intersection of the traditional liberal democratic (nation-) state-model requiring some form of national cohesion (civic identity), with the contemporary focus on distinctiveness, and more specifically, on the accommodation of different ethnic communities co-existing within the same state. With the purpose of arguing my case that local particularities need much more consideration by both policy makers and scholars of post-ethnic conflict statebuilding, this paper underlines that Kosovo is an example of intended and unintended consequences and an intersection of an oxymoronic pro-communality and pro-distinctiveness

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[20] Henry H. Perritt, The Road to Independence for Kosovo: a Chronicle of the Ahtisaari Plan (Cambridge: CUP, 2009).

[21] Sammy Smooha, 'Types of democracy and modes of conflict management in ethnically divided societies', *Nations and Nationalism* 8(4) (2002), pp. 423-431.

rationales of state formation. The asymmetrical impact of the top-down measures among different communities and the risk of further political, linguistic, social and territorial segregation and marginalisation may have a fundamental role in the long-term effects of statebuilding. Overall, this paper aims to explain why regardless of how far-reaching the rights and institutional provisions for ethnic minorities may be, they cannot compensate for a sustainable *de facto* integration and accommodation of these communities. By the same token, Kosovo's *de jure* identity and image as a multiethnic liberal-democratic state is not necessarily an accurate reflection of the complexities of ground realities and actual societal practices.

Post-independence Kosovo: The struggle continues

The analysis of the post-2008 context shows that even if political integration and representation have developed quickly at the elite level, minorities continue to be highly segregated at the community level. In the case of Kosovo Serbs, this has been a consequence of the lack of willingness within the community to accept the authority of Pristina and of the rights and privileges at central and local levels of governance that discourage cross-ethnic relations. In contrast with the aim to secure the obedience of the Serb minority after empowering them, some have actually assumed their political rights and have developed local self-governance in line with the policy of anti-establishment and non-recognition of the central authority of Kosovo. At the same time, the smaller non-Serb minorities have also been affected by the post-conflict power-sharing arrangements and similar measures, despite the fact that they have been designed to mainly address the particular situation of Kosovo Serbs. As a result of their (ethno-) political mobilisation and aspirations to fully benefit of their unanticipated rights, Bosniaks, Turks, Gorani, RAE and even the smallest communities have become more differentiated and segregated from the rest of the society. Therefore, these findings confirmed my argument that extensive formal provisions for minorities do not necessarily translate into effective integration or accommodation and may become instead tools for resistance and unintended marginalisation.

My research also reveals the inconsistent results of the efforts to implement the rights and provision for minorities in Kosovo. Therefore, unintended consequences can destabilise the situation of minorities and their relationship with the majority and between them. In other words, it can emphasise the perception of minority rights as the right to differentiation. Moreover, ethnic politics can weaken the political environment at both central and local levels of governance and the new Kosovan civic (national) identity is too fragile to act as an

overarching cross-ethnic bond between the state and its citizens. Kosovo continue to be heavily undermined by social fragmentation and the politicisation of ethnic identity. The application of the multiethnic framework in Kosovo has a double problem. Not only is the functionality of minority provisions dependent on the actual capacities of each community, but their lack of appropriateness in relation to the particular circumstances of minorities can make them counterproductive. Instead of stimulating inter-ethnic cooperation and addressing the needs of each community, the multiethnic institutional and legal setting in post-2008 Kosovo has induced differentiation and insecurity by putting emphasis on group differences.

Community profiles & main challenges

Serb community

> Reconciliation has not happened yet in Kosovo. We have a continuation of war by other means. As long as there is no reconciliation the situation cannot improve, despite the examples of Serbs who have integrated, who speak Albanian and who accept the new state. The problem is the position taken by the majority of Serbs and the impact of Serbia's determination to motivate them against integrating within Kosovo.[22]

Serbs have been the largest and most difficult community to integrate in Kosovo as indicated by a number of institutional, political, social and economic challenges. Some of these are the lack of unity and cooperation within the community, different views on how to respond to the new context[23] (participation in Kosovo institutions or support the parallel system facilitated by Belgrade), lack of commitment from self-interested actors and representatives[24], contested support from Albanian parties and limited capacity to develop a self-sustainable strong position of the entire Serb community in Kosovo.[25]

> What is the point of being part of the Kosovo institutions and boycotting them? If you are part of the institutions you should try to get more support and make a change. You cannot help the community of you are boycotting the institutions.[26]

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[22] Personal Interview with Sami Kurteshi, Kosovo Ombudsperson, Pristina, Kosovo, 18.05.12.

[23] ECMI, *Special Report: Community Political Parties and Government Formation* (Pristina: ECMI, February 2011).

[24] This behaviour was confirmed by most NGOs working with minority rights protection in Kosovo (ECMI, KFOS, CIVIKOS, Balkan Sunflower, YIHR, HLC).

[25] Ilir Deda, *Kosovo after the Brussels Agreement: From status quo to an internally ethnically divided state* (Pristina: Konrad-Adenauer-Stiftung, 2013).

[26] Personal Interview with Jasmina Živković, Serb Community, MP for SLS, Pristina, 04.04.13.

Overall, the Serb community has been rather sceptical about their new status in post-conflict Kosovo and the idea of integration has not truly penetrated beyond the elite level institutional forms of representation and participation.[27] In the context of the twofold objective to provide post-conflict reconciliation and post-independence integration, another challenge for Kosovo Serbs has been to find and secure the genuine support of governmental institutions at both central and local levels of governance. In this sense, in addition to the adoption of the current constitutional framework, Kosovo also needs to prove long-term commitment and build capacity to sustain its minorities.

Another challenge is the sustainability of the cooperation between Serbs and Albanians at both elite and community levels, particularly because the political cooperation build so far has been contested not only by the Albanian opposition and civil society but also by the Serb community itself. The rather sudden and abrupt change for Serb representation within Kosovo politics (from pro-cooperation to Belgrade-sponsored politicians) has also exposed the fragile and volatile situation of Kosovo Serbs. This questions the effectiveness of the political representation of Serbs within central and local institutions and showed how their activity has been affected by factors like the lack of trust and contestation within the community, limited legitimacy given the small turnouts in the elections, capacity problems and Serbia's policy to encourage the boycott of Pristina institutions. Another essential factor has been the presence of the Serbian parallel institutions, which have been providing real support for Serbs but have also undermined the authority of Pristina and the task of integrating the community.

Furthermore, pragmatic policies have been effective at the higher level of representation and participation of Serbs, but they have not been properly expanded at the community level in order to motivate and create sustainable opportunities for all members of the Serb minority. While there have been concrete results with the integration of Kosovo Serbs, the legislative framework and the formal provisions for protecting minority rights cannot fully compensate for practical needs. The recent discussions between Serbian and Kosovar representatives to potentially correct borders and swap land based on ethnic criteria confirms some of the main risks identified in this paper as regards the territorial and social enclavisation of Serbs.

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[27] Anna Matveeva and Wolf-Christian Paes, 'The Kosovo Serbs. An ethnic minority between collaboration and defiance', Bonn International Center for Conversion, Friedrich Naumann Foundation and Saferworld, June 2003.

Bosniak community

> The main responsibility lies with each community as it mainly depends on them to foster inter-ethnic cooperation and diminish social division. The idea of integration itself is controversial given that we are already part of the Kosovo society. It is one thing to ask migrants for instance to integrate in a society that they emigrate to and another thing to ask communities that are already a substantial part of the society.[28]

As the largest non-Serb minority group in Kosovo, Kosovo Bosniaks have generally managed to live peacefully alongside both the majority of Albanians (religious ties) and Kosovo Serb community (linguistic ties).[29] However, even though the Bosniak community has been among the well-integrated minorities, the post-conflict and post-independence measures and legislation have been challenging their position and situation within Kosovo. For instance, the incentives for political participation and mobilisation have created much division among Bosniak elites and have resulted in a fragmented Bosniak political community. In consequence, the representation and power of Bosniaks at both central and local levels of governance has been fragile and bellow its potential to play a significant role in decision making. From the bottom-up perspective on statebuilding, the community has not been feeling advantaged by the new political and social context.

This highlights that the focus on Serb-integration and particular challenges like the lack of a strong kin-state and its geographical spread undermines the Bosniaks' opportunities to make use of their constitutional rights. In addition, the community has had limited capacity to exercise their language and education rights, meaning that Bosniaks continue to partially rely on services provided by the Serbian parallel institutions and study in Serbian language without learning Albanian.[30] These issues are in the detriment of integration and limit the socio-economic opportunities of the community. Lastly, the fact that Bosniaks have not benefited from the decentralisation process as much as other communities also illustrates that de jure rights have limited effectiveness without capacity and external support.

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[28] Personal Interview with Refik Saciri, Deputy Minister of European Integration, 28.05.12.
[29] MRGI website, 'Minorities and indigenous peoples in Kosovo'- Bosniaks, March 2018, Available at: https://minorityrights.org/minorities/bosniaks-5/ (accessed 1 September 2018).

[30] OSCE, *2010 Kosovo Communities Profiles.*

Turkish community

> Integration is a very, very wrong word. Nobody explains what it means to be integrated. I don't need to be integrated. I am here, I have always been here. To whom do I have to be integrated?[31]

As the above words of a significant civil society representative of the Turkish community indicate, the grass-root level understanding of the idea of 'integration' represents a very powerful endogenous challenge to the top-down language and policies of integration. Moreover, this paradoxical feeling about the necessity of Kosovo-wide integration is shared by most communities and highlights once again the discrepancy between legislation and *de facto* situation in Kosovo. In other words, the rationale behind protection and promotion of minority rights in Kosovo does not necessarily takes into consideration all cultural, social and regional particularities of each community apart. The Turkish community has had a significant presence and influence in Kosovo since the Ottoman conquest of Kosovo in the 14th century and it has been composed by both descendants of the Ottoman Empire and indigenous population that converted to the Muslim religion and adopted the Turkish language and culture.[32] Their privileged status during the Ottoman Empire, the fact that they share the Muslim faith and many cultural traits with Albanians and the notion of Turkish as an elite language among many people in Kosovo, have all helped Turks to become active and well-integrated into Kosovo's society over time.[33]

Altogether, the examination of the Kosovo Turkish community confirms the benefits of being helped by a strong kin-state (Turkey), historical legacy, territorial concentration of the population, economic capacity, political unity and backing by majority elites.[34] These are all key positive factors that have helped Turks to secure a strong position as a minority in a diverse society. Nevertheless, the changing and unstable political environment in Kosovo has shown that the political unity of Turks is fragile and that their representation and participation might not be sustainable[35]. Moreover, the better conditions for exercising their language and education rights at the local level also have the downside of facilitating protection of rights without integration. Like in the case of Serbs and Bosniaks, Kosovo Turks, in particular the younger generations, are becoming linguistically segregated from the majority population. A

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[31] Personal Interview with Tahir Luma, Turkish Community, Member of CCC, Prizren, 06.04.13.

[32] OSCE, *2010 Kosovo Communities Profiles*, p. 3.

[33] ibid.

[34] Ibid.

[35] KIPRED, 'Strengthening the statehood of Kosovo through the democratization of political parties', 2012.

similar situation is indicated by the impact of ethnic decentralisation, which despite allowing Turks to create their own municipality, it might also determine territorial segregation and new problems given the lack of self-sustainability.

Roma, Ashkali and Egyptian communities

> We are struggling with 99,9 per cent of Kosovo on this issue of not differentiating between the three communities. The government, the internationals, people are all treating us like one community, like a new one, R.A.E., which doesn't exist in any paper and this is a human right, to respect the identity of others.[36]

By contrast, the Roma, Ashkali and Egyptian minorities remain the most vulnerable, disadvantaged and discriminated groups in Kosovo. This is mainly due to the lack of social and political cohesion within the communities, their troublesome official recognition, their limited socio-economic resources, the highest unemployment rates in Kosovo, the lack of education and their continued marginalisation by the majority and other communities in Kosovo.[37] It has been very difficult to correct this situation given the implications of the war and post-conflict context (accused for taking the side of one party or the other), but also given that one of the only ways of differentiating between them is through their capacity to speak one of the two official languages (Albanian or Serbian) and rarely both. Moreover, the lack of education (high levels of illiteracy) and professional training, their geographical spread, movement of the population and high numbers of refugees and the absence of competent elites have excluded RAE communities from decision making and from meaningful participation in the civic and political life of Kosovo. Another important yet largely ignored factor is related to their condition as a stateless nation in the wider European political context.[38]

> While the legislation for minorities is excellent, the implementation is very poor because the Roma community lacks education, because we are discriminated and we have very little representation in both the private sector and the public sector…poor representation in public institutions and ministries.[39]

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[36] Personal Interview with Muhamet Arifi, Ashkali member of CCC, Pristina, 06.03.12.

[37] OSCE, *2010 Kosovo Communities Profiles.*

[38] *See* European Roma Rights Centre, 'Abandoned Minority: Roma Rights History in Kosovo' December 2011, p. 44; Gerlachus Duijzings, *Religion and the Politics of Identity in Kosovo* (London: Hurst & Co., 2000) and The Norwegian Helsinki Committee (NHC), 'Second-class Minorities: The Continued Marginalization of RAE Communities in Kosovo' (NHC, 2007).

[39] Personal Interview with Besnik Advosoj, Roma Community, Project Coordinator 'Iniciativa 6', Prizren, 10.04.13.

The situation of these minority groups shows that the constitutional provisions be expected to have the same impact as seen in the example of communities with more capacity and more support from institutions and the majority population. In actual fact, there are clear indicators that the legislation can be counterproductive and segregate vulnerable communities like the RAE as it has stimulated and institutionalised group-differentiation.[40] The rationale behind protecting minorities should be to directly address the issues that make such communities politically and socially vulnerable in diverse societies. Conversely, the legal provisions for minorities in Kosovo have actually become attributes for those considered a political priority (Serbs) and for those with more capacity to employ their rights. This has consequently been creating a hierarchical order of communities in Kosovo[41] that, in the circumstances presented by this paper, places the RAE minorities at the lower end of the list.

Gorani community

> The political representation of the Goranis is fragile as a lot of issues that happen at the top level of governance influence the smaller communities significantly. Moreover, division within the community itself, political division and the fact that many voters have been co-opted by other parties, are all factors weakening our representation in Kosovo.[42]

The situation of the Gorani community in Kosovo reveals further issues with the protection and integration of minority groups who must face not only common challenges for non-majority small communities but must also struggle to preserve and promote a generally accepted notion of their identity. The main problems facing Gorani in terms of social, economic and political conditions are the lack of qualifications, the lack of information regarding job opportunities and professional development, assimilation, language issues, territorial segregation as well as the poor state of the economy as a whole.[43] What is particularly challenging for Goranis is their assimilation not by the majority group in this case, but by other minority communities (mainly Bosniaks, but Serbs too) as well as by external national groups (Bulgarians, Macedonians). Consequently, the community is generally divided between those who identify themselves as either Gorani or Bosniaks, a split that is also caused by their different political affiliation rather than having distinct cultural and ethnic features. Kosovo

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[40] Kosovo Foundation for Open Society (KFOS), 'The Position Of Roma, Ashkali And Egyptian Communities In Kosovo. Baseline Survey' (KFOS, 2009),

[41] Gëzim Krasniqi, 'Equal Citizens, Uneven Communities: Differentiated and Hierarchical Citizenship in Kosovo, *Ethnopolitics*, 14(2) (2015), pp. 197-217.

[42] Personal Interview with Murselj Halili.

[43] OSCE, *2010 Kosovo Communities Profiles.*

has a very difficult task to achieve a sustainable integration the Goranis given the worrying levels of fragmentation within the community itself.

> People have been declaring themselves as either Gorani or Bosniaks depending on their interests: political or for employment. They say they are Gorani at the local level and then declare themselves as Bosniaks at the central level.[44]

Furthermore, the example of the Gorani community reveals how the focus on political representation and participation can undermine the development of rights and measures meant to address the preservation and promotion of cultural identity as well as the socio-economic needs of a small minority. Unsurprisingly, the strong provisions for empowering minorities in Kosovo have stimulated the political mobilisation of Goranis. However, the subsequent signs of fragmentation and segregation, as well as the fragility of their ethnic/cultural identity represent worrying unintended consequences of statebuilding. The case of the Gorani community suggests that the interdependence between the cultural identity of a minority group per se and their political status has been counterproductive in post-conflict and post-independence Kosovo.

Montenegrins and Croat communities

> We are part of the Kosovo society as we have always been here. But we do not feel as part of the society.[45]

Kosovo Montenegrins and Croats were not included in the 2008 Constitution of Kosovo or the initial Law on Communities and both minorities were officially recognized only in December 2011. As a result, they have been generally excluded from most legal provisions regarding the promotion and protection of minority rights in Kosovo and therefore they are not represented politically and have not been yet granted the right to guaranteed seats in the Kosovo Assembly.[46] The situation of these two very small communities is illustrative for some of the key the problems with the legislation on minority rights in Kosovo. On the one hand, the focus on developing a framework for the main minority, the Serbs, combined with the inconsistency of the understanding and application of the notion of 'community' have undermined the equal inclusion of all minorities and, in the cases of Montenegrins and Croats, their exclusion through

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[44] Personal Interview with Murselj Halili, Gorani Community, MP for GIG, Pristina, 04.04.13.

[45] Personal Interview with Snežana Karadžić, Montenegrin Community, Political Adviser, Ministry of Local Government Administration (MLGA) and former Member of CCC, Pristina, 03.04.13.

[46] OSCE, *2010 Kosovo Communities Profiles.*

non-recognition.[47] On the other hand, the development of a far-reaching system of minority rights protection has stimulated the very small communities to ask for recognition and inclusion in the political life of Kosovo in accordance to the constitutional provisions for minorities. This could become, at least formally, a clear example of overrepresentation and excessive rights leading to segregation rather than integration of minorities. Therefore, while the minorities in Kosovo represent overall a small percentage of the population, the tiny size of these two communities has a particular significance. In this context, Croats and Montenegrins exemplify almost all challenges, limitations and problems derived from the design and implementation of the multiethnic institutional and legal framework in Kosovo. The capacity and willingness variables explain why they were excluded from the list of official non-majority communities, or in other words, not even included in the hierarchical structure of Kosovo communities. The lack of interest in their situation and their limited capability to militate for their rights and to develop a 'voice' next to the other communities confirm the ineffectiveness of far-reaching minority rights in the absence of de facto conditions to facilitate their implementation.

> We are an old and traditional community in Kosovo. But after the war, it was a big mistake to be associated with the Serb community. This was not true. We are our own community, this is our country too, and we are diaspora of Montenegro. We have tried to integrate for the last ten years by participating and getting involved in the public sphere in Kosovo.[48]

Overall, the exclusion by non-recognition and the marginalisation of Croats and Montenegrins reveal the inconsistent and unequal application of minority rights. Moreover, it also highlights the discrepancy between the objectives behind the design of the multiethnic framework of governance and the genuine needs of minority groups. The emphasis on political provisions and elite level forms of participation might actually indicate a counter-productive effect in terms of misperception of minority rights and neglect of factual problems. The Montenegrins have been partially assimilated by Serbs and remain dependent on the parallel institutions, while the less than three hundred remaining Croats live isolated in a remote village and are very likely to become extinct. Such small and vulnerable communities should have probably been a priority of the system for safeguarding minority rights because they have almost no capacity to protect, preserve and promote their identity and their particular requirements. By contrast, they were not recognised initially in the post-independence Kosovo

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[47] Personal Interviews with Kosovo civil society representatives, February-June 2012, Pristina.
[48] Personal Interview with Snežana Karadžić.

and continue to be a victim of the promotion and use of minority rights merely as political rights rather than as an interconnected plethora of cultural, social, economic and civic rights.

Further research implications

At a broader level, this paper demonstrates the vital role of endogenous factors in challenging the applicability of an externally generated model of plural democracy and management of diversity. My research findings vis-à-vis the case of Kosovo underline the difficulties of trying to build a multiethnic liberal democratic state and present sufficient evidence to show that the exogenous and imposing character of statebuilding has been overemphasised in relation to identifying the main causes of its shortcomings. This observation challenges the extensively studied diagnoses of 'state weakness' and 'state failure' in Kosovo and similar cases of contemporary liberal interventionism and post-conflict statebuilding. The objection to this line of thought is that it mainly draws on an ideal (Western) liberal-democratic model of state in order to evaluate the results of statebuilding. Instead, this paper has examined Kosovo based on the idea that gaining legitimacy is at the heart of statebuilding and has adopted the *limited state*[49] approach to highlight the transformative nature of state-society relations and their inevitable impact on shaping the actual form of the state.

In this respect, I argue that the effectiveness and the actual negative or positive impact of contemporary practices of post-conflict statebuilding are dictated by local realities to a larger extent than the existing state-centric literature affirms. Therefore, policy makers and scholars should engage in more balanced and accurate work on whether the failures of contemporary statebuilding derive from the lack of more case-specific solutions and mechanisms or they are intrinsically embedded in the peculiar Western-centric nature of the liberal-democratic state. Furthermore, while it is not always easy to measure the actual impact of diversity on the process of statebuilding, my evaluation of Kosovo suggests that, depending on the case, it transforms and challenges the adoption of a legitimate and functional liberal-democratic state model. The actual circumstances and results of the system developed to manage diversity reflect the mutual influence between exogenous and endogenous factors. Likewise, as the study of Kosovo has illustrated, the actual form and character of newly built states are the result of the permanent multiple tension between liberal-democratic norms of governance and the conditions of

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[49] Migdal, *State in Society*, p. 250.

plurality, between the need of social cohesion and the management of diversity, between intended and unintended consequences of implementation, between local and international understanding of authority, between national and subnational forms of identity and, more broadly, between the state's *image* as a unitary and coherent political entity and the *practices* of different social actors and agencies.

This paper also suggests that the mechanisms aiming to integrate and accommodate minorities in Kosovo have been developed based on an assumption rather than an indisputable claim that these groups are not integrated and, thus, will be equally helped by the adoption of political, social, economic and cultural minority rights. Given the priority to integrate the Serb community, the overall assumption has been that specific post-ethnic conflict tools for reconciliation through power-sharing arrangements would be appropriate for all communities. Therefore, the multiethnic framework of governance in Kosovo has not only been based on a generalising view of minority integration as a uniform problem, but it has also been developed in response to the situation of one particular group, the Kosovo Serbs. This indicates another important implication of my research findings concerning the effectiveness of consociational arrangements for post-conflict statebuilding. Consociational power-sharing measures have been seen as necessary and useful for addressing the delicate situation of Kosovo Serbs given their new post-conflict status detached from the authority of Serbia and their relationship with the Albanians constituting the new majority community. To this end, it has enabled elite level representation, participation and cooperation with the majority and other minority communities and has become a source of legitimacy in Kosovo.

However, in the long run these restrictive mechanisms for the protection of minorities may lead to the new forms of ethnic politics instead of facilitating cross-ethnic cooperation and integration. This is visible among non-Serb minorities when evaluating how the adoption of extensive rights has stimulated political mobilisation of even the smallest communities and has become a source of competition and differentiation within all aspects of life beyond cultural identity, namely politics, education, social relations and economic development. Moreover, the power-sharing arrangements in Kosovo have also illustrated the problematic dependency on the willingness and ability of elites to represent the interests of their communities and reach a consensus with other groups. The ineffectiveness of minority consultative bodies and municipal human rights units in Kosovo indicates the volatility of minority representatives and their preference to secure a more direct access to power. Overall, some of my key findings subscribe to the integrationist critique of the divisive risks associated with extensive

accommodation of minorities or consociational arrangements that disregard the long-term necessity of integration.

Overall, the shortcomings regarding the legislation-implementation gap and the series of unintended consequences discussed in this research cannot be neglected. They indicate the serious risks that derive from policies and strategies of statebuilding vis-à-vis the management of diversity that are based on assumptions rather than factual evaluation of the local circumstances. This is even more problematic in the context where similar solutions have been adopted in neighbouring statebuilding cases like Bosnia-Herzegovina and Macedonia, which nonetheless have been struggling to synchronise liberal democratic norms with conditions of diversity. The externally-led and externally-designed solutions for managing ethnic diversity in Kosovo, and possibly in most other contemporary post-conflict statebuilding cases, have disregarded a fundamental issue deriving from the impact of endogenous factors: *variation*. As Kosovo's case-study shows, the multidimensional differences between groups and the changing nature of inter-ethnic relations may require fully customised solutions and tools for management of diversity, be they in support of integration, accommodation, protection, representation or participation. Whether or not these tensions can be overcome through practices more concerned with the impact of endogenous factors and the inclusion of local agency in the design and practice of statebuilding remains open for investigation.

Statebuilding in Kosovo has required the extensive accommodation of ethnic diversity under the umbrella of an ethnically-neutral civic Kosovan identity. However, in the absence of a strong emotional attachment to the Kosovan identity, political homogenisation through the construction of a civic nation on a predominantly rational basis becomes much more challenging.[50] Despite the presence of an overwhelming majority population belonging to the Albanian community, Kosovo has not been designed to become a homogenous nation state, but a hybrid multiethnic polity with an overarching civic national identity. The mechanisms to accommodate diversity have been established, but the new born state has yet to develop a generally accepted, strong and genuine common Kosovan national civic identity. Classical statebuilding and nation-building aspired to develop national cohesion through the promotion of an assimilating overarching identity. Conversely, contemporary processes of statebuilding like the one in Kosovo have become extremely concerned with the

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[50] Montserrat Guibernau, *Belonging: Solidarity and Division in Modern Societies* (Cambridge: Polity Press, 2013), p. 6.

accommodation of diversity. However, even though assimilation and accommodation have been contrasting responses to diversity, they have both been challenged by the lack of social cohesion. While assimilating statebuilding has not always managed to deny diversity and contain the inevitable fracture of the society, accommodating statebuilding has been struggling to secure unity because of its (over-)emphasis on distinctiveness. Therefore, as the findings revealed in this paper suggest, in contexts like Kosovo that also lack a civic identity this deficit of accommodating diversity is more problematic for the relationship between state and society and between state and nation.

While the post-conflict standards before status approach in Kosovo made statebuilding without statehood possible by developing a de facto state with domestic sovereignty in the absence of international recognition, the post-independence context seems to have turned this situation upside down. Despite the still limited recognition of its statehood, Kosovo has established its status as a new independent democratic, secular and multiethnic republic, but in practical terms, Kosovo does not meet the presumed standards: the society is largely ethnically homogenous with little diversity per se but cannot pursue an Albanian-based national project of statehood, the small but existing different groups remain divided in the absence of social cohesion and a common civic link and Kosovo has yet to create the nation. Consequently, the relationship between state and society in Kosovo remains largely undefined.

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