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## **Building State Failure in Kosovo?**

Book Review

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# Building State Failure in Kosovo?

Joseph Coelho\*

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## Introduction

Since the end of the Cold War, the international community has engaged in a number of ambitious interventions in postwar countries with the aim of fundamentally reshaping state-society relations through building new state institutions, restructuring economies and supporting the development of civil society. The notion that international actors are able to build effective and legitimate state institutions in societies recovering from war has led to a proliferation of studies that have explored, both theoretically and empirically, the impact of international state-building. The general consensus in the literature is that the record is not a good one: the few success stories of international state-building have been overshadowed by a laundry list of failures. Explanations of these failures typically range from a mismatch of resources and mission objectives<sup>1</sup> and the lack of strategic coherence among international state-builders<sup>2</sup> to the deleterious effects of liberal interventions<sup>3</sup> and so-called 'liberal imperialism'.<sup>4</sup>

The international intervention in postwar Kosovo is perhaps the epitome of international state-building missions. Since the 1999 NATO military intervention, Kosovo has been subjected to a series of highly invasive international missions that have built and supported the institutional architecture of its political and economic systems. From 1999-2008, it was a protectorate of the international community and administered by the United Nations Interim Administration Mission in Kosovo (UNMIK), a mission that wielded executive, legislative, and judicial powers. On 17 February 2008, Kosovo declared its independence from Serbia and was subsequently placed under the supervision of the International Civilian Office (ICO). Its police, border control, and judiciary are currently under the authority of the European Union Rule of Law Mission (EULEX). Yet after fifteen years of state-building, international administration and supervision, and billions in aid, resources and investments, Kosovo is still considered a 'black hole' in Europe. Today, the

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<sup>1</sup> See Chesterman, Simon. 2004. *You, the People: The United Nations, Transitional Administration, and Statebuilding*. New York: Oxford University Press, Fearon, James D. and Laitin, David D. 2004. Neotrusteeship and the Problem of Weak States. *International Security* 28(4), 5-43.

<sup>2</sup> See Paris, Roland. 2009. *Understanding the "coordination problem in postwar statebuilding*, in *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations*, edited by Paris, Roland and Timothy Sisk. New York: Routledge, 53-78.

<sup>3</sup> See Richmond, Oliver. 2011. *A Post-Liberal Peace*. Abington: Routledge.

<sup>4</sup> See Chandler, David. 2010. *International Statebuilding: The Rise of Post-Liberal Governance*. London: Routledge.

country's political system is designated as a 'semi-consolidated authoritarian regime.'<sup>5</sup> Political corruption and organized crime are rampant. Unemployment rates are among the highest in the region and about one third of the country lives in poverty. The economy is largely dependent on international aid and remittances from abroad. And recently, tens of thousands of desperate Kosovars left the country seeking refuge and economic opportunity elsewhere in Europe.

Two recent books on Kosovo offer some compelling insights and answers as to why international state-builders stumbled in Kosovo: Elton Skendaj's, *Creating Kosovo: International Oversight and the Making of Ethical Institutions* (hardback \$49.95) and Andrea Lorenzo Capussela's *State-Building in Kosovo: Democracy, Corruption and the EU in the Balkans* (hardback \$55.00). Both books are welcome additions to the growing discourse on state-building and touch on some of the more important themes that have recently dominated the literature, including the principle of local ownership, the limitations of technocratic approaches to state-building, and the dilemmas of political corruption and state capture in postwar societies.

### **Local ownership is overrated**

In *Creating Kosovo*, Skendaj attempts to answer a straightforward question: Can ambitious international interventions build states and democracies? His initial hypothesis going into the research was that international organizations would be unable to accomplish such goals. This is not surprising given that for sometime in the scholarship on state-building (and liberal peace-building alike) the pendulum swung from emphasis on institutional strengthening led by international technocrats with strong executive mandates to expressions of locally-driven transitions that genuinely promoted greater 'local ownership' of state-building processes. This shift towards local ownership represented a growing criticism among scholars and practitioners alike that international interventions usually lack the local sensitivities and knowledge needed for effective state-building. As a result, international missions create state institutions that are detached from the realities of the everyday local.

The findings presented in *Creating Kosovo*, however, push against the grain and in some ways swing the pendulum back towards the other direction: instead of handing over the keys to local officials during the incipient stages of post-conflict state-building, the international community should insulate state institutions from political and societal influences for an extended period of time. By insulating these institutions from local political pressures, internationals will be able to build and leave behind autonomous state bureaucracies that will recruit and promote based on meritocracy. From this, the new employees of these established bureaucracies would learn that professional success depends upon following rule-bound behavior through various mechanisms, such as strategic calculation, role-playing, and normative suasion. Such a sequence will lead to effective and ethical bureaucracies that will be able to implement public policies in an impartial manner. By contrast, the author hypothesizes that the local ownership approach, or the early

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<sup>5</sup>Freedom House. *Nations in Transit 2014: Eurasia's Rupture with Democracy* (accessed: 30 October 2015).

devolution of authority from international to local actors, leaves bureaucracies vulnerable to corrupt practices that result in ineffective institutional outcomes. In the end, the key to Skendaj's argument is that "international strategy matters more than international resources in state-building."<sup>6</sup>

Skendaj's analysis is essentially a Weberian approach to understanding state development. He arrives at his conclusion by unpacking Kosovo's state into four of its core bureaucracies: the central administration, court system, police force, and customs service. According to the author, this is an important first step because most of the literature on state-building treats the state as a unitary concept that is "overly abstract" and fails to take into account how state bureaucracies vary in terms of their effectiveness. In chapter 3, Skendaj provides evidence that supports his hypothesis and demonstrates the hazards of transferring authority early to elected leaders in the central administration and outright ownership of the judiciary by local judges and prosecutors. With regard to the central administration, UNMIK's strategy led to the politicization of this particular bureaucratic organization as "party elites brought their village or town networks and employed family and friends in the new administration."<sup>7</sup> In terms of the judiciary, the institution was corrupted from the beginning as local judges and prosecutors were exposed to intimidation, corruption and intense political interference. In chapter 4, the author's findings demonstrate the opposite institutional outcome when UNMIK insulated both the customs service and police forces from political and societal interference. He finds:

*"[t]he sequence for proper construction of the bureaucratic organization is therefore ensuring autonomy through insulation before embedding organizations in society. The socialization of officials into the professional norms of bureaucracy started with strategic calculation and it continued with roleplaying and normative suasion as employees learned appropriate behavior in the organization. With time, employees thus internalized such rules and acted on them habitually. Therefore public administration employees need to be socialized into the rules and norms of the bureaucracy in order to behave in a rational Weberian fashion."<sup>8</sup>*

Skendaj then shifts his attention from Kosovo's state-building process to democratization in chapter 5. The author argues that citizen mobilization in the 1990s during Serbian repression supported the theoretical argument that mass mobilization and public participation contributed to a democratic opening in Kosovo. However, in the postwar stage, the country's democratic development had been undermined by the unwillingness of Kosovo's voters and civil society to hold their elites accountable. This demobilization of citizenry is a direct legacy of the parallel structures of the 1990s when nationalism was used to silence opponents and critics of Kosovo's emerging political elites. This trend continued in the postwar phase as Kosovo's elites used the status question throughout UNMIK's rule to evade responsibility for poor governance

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<sup>6</sup> Skendaj, Elton. 2014. *Creating Kosovo: International Oversight and the Making of Ethical Institutions*. Ithaca: Cornell University Press, 132.

<sup>7</sup> Skendaj, *Creating Kosovo*, 80

<sup>8</sup> Skendaj, *Creating Kosovo*, 131

and denounced critics and opposition forces as “anti-Albanian” or “traitors.”<sup>9</sup> Moreover, the international community is equally responsible for demobilizing Kosovo society as “influential international actors tried to influence public opinion against engaging in protests or visible criticism of government policies.”<sup>10</sup> The key finding here is that international actors have to take different approaches to state-building and democratization: whereas state-building requires insulation from the public, democratization depends on active societal participation to drive the process and hold political elites accountable for their behavior and policies.

*Creating Kosovo* is a well-written and researched book that challenges the premise of local ownership, which at times has dominated the contemporary scholarship and practice of state-building. For this reason, it is an important and refreshing contribution to this growing field. The study relies on data drawn from fieldwork that generated over 100 semi-structured interviews with international representatives, government officials, and members of local civil society. In addition, he utilizes various survey data – including Gallup’s *Balkan Monitor Insights and Perceptions: Voices from the Balkans* (2008-2010) and the *Early Warning Reports* published by the United Nations Development Programme – to measure public perceptions of bureaucratic effectiveness. However, the implications of his findings will undoubtedly lead critics of international state-building to shake their heads in disagreement. The notion that internationals need to assume control over bureaucratic organizations in order to insulate them from local influences is hardly the solution that countries from the developing world are likely to accept. Moreover, the international appetite for costly and invasive international interventions is unlikely to materialize in the foreseeable future. With no international administrators or supervisors willing to insulate the bureaucracies of war-torn countries, Skendaj suggests that media and civil society will have to take the lead in monitoring these organizations and putting pressuring on local officials to behave professionally. But as Skendaj shows in the case of Kosovo, such societal organizations remain weak and ineffective at changing the behaviors of illiberal political elites. This left the reviewer scratching his head at the conclusion of *Creating Kosovo*.

### **Fearing Kosovo’s criminal elites**

*State-building in Kosovo* by Andrea Lorenzo Capussela is an insider’s account of the EU’s flagship mission – EULEX – to strengthen Kosovo’s rule of law institutions. Between 2008-2011, he served as the head of the economics unit of the ICO, which was in charge of supervising the functioning of Kosovo’s new state institutions laid out in the 2007 *Comprehensive Proposal for Kosovo Status Settlement*, generally known as the ‘Ahtisaari plan.’ In some ways, Capussela’s study is a sequel to Iain King and Whit Mason’s *Peace at Any Price*, which was also an insider’s account of the obstacles faced by UNMIK during its state-building mandate.<sup>11</sup> While both books offer astute observations

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<sup>9</sup> Skendaj, *Creating Kosovo*, 155-62.

<sup>10</sup> Skendaj, *Creating Kosovo*, 164.

<sup>11</sup> King, Iain and Whit Mason 2006. *Peace at Any Price: How the World Failed Kosovo*. Ithaca: Cornell University Press.

about the geopolitical issues of international interventionism in Kosovo and how they impacted the mandates of international state-builders, Capussela's analysis is much more in tune with the contemporary scholarly literature on institutional development and state-building.

Capussela's main argument is that the international community allowed Kosovo's main elites to capture and corrupt the new state it had created. Due to the controversial nature of NATO's military intervention in 1999, the Western governments had to demonstrate to both world opinion and their domestic constituents that the intervention was a moral decision, justified by their aims of laying the institutional foundations of a democratic Kosovo state that respected the principles of human rights and the rule of law. Preoccupied with the image of Kosovo being a source of regional instability, the international community made itself vulnerable to the threats of Kosovo's politico-criminal elites, who at times have instigated instability if their perceived interests were threatened by international policies, as evidenced by the unrest in northern Kosovo and in neighboring Macedonia. According to Capussela, the critical event that led the international community down this path was the failure of NATO to enforce its disarmament program of the Kosovo Liberation Army (KLA) after its bombing campaign: "Tolerating that its disarmament orders be openly flouted was a grave mistake, which weakened the credibility of Kosovo's new administrators and magnified the political influence of the worst elements of Kosovo's emerging elites."<sup>12</sup>

This vulnerability led the international community to neglect its state-building mandate by overly concerning itself with the short-term priority of maintaining stability at the expense of its long-term goals of developing a prosperous market democracy. It also opened the way for Kosovo's elites to gradually consolidate their grip over political and economic power. Entrenched in organized crime and a violent insurgent past, the emerging elites entered politics after the war and subverted Kosovo's fragile institutions as a way of expanding their criminal fortunes through patronage networks and rent extraction. According to the author, this led to the development of a particular 'social order' that emerged during the early days of Kosovo's status as an international protectorate. Here Capussela dips into the theoretical literature on institutional development and draws heavily from the economic historian, Douglass North, whose work in 2009, *Violence and Social Orders*, provides Capussela with his conceptual framework for understanding the high levels of corruption and state fragility in Kosovo. Classifying Kosovo as having a 'limited access social order,' Capuessla explains how this type of social order is predicated on a 'pact' among a dominant coalition of elites, who organizes society through various patronage networks. What keeps the pact together and self-enforcing is a balance of power in terms of the distribution of rents that are generated by limiting public access to valuable assets, resources, and activities. Rents are therefore the key to maintaining stability in limited access societies. International efforts aimed at strengthening state institutions contradict the logic of this social order as they threaten the dominant elite's privileges and access to rents. Accordingly, any disruptions to the distribution of rents will

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<sup>12</sup> Capussela, Andrea Lorenzo. 2015. *State-Building in Kosovo: Democracy, Corruption, and the EU in the Balkans*. New York: I.B. Tauris, 6.

likely lead to violence and instability, which in part explains why the international community behaved so cravenly and passively in Kosovo.

Capussela posits that Kosovo's social order is the main causal mechanism for generating corruption and state failure in the country. For this reason, the biggest obstacle to international state-building in Kosovo is the elite class, which is opposed to any meaningful reforms that may mitigate the logic of this social order. His main findings are located in chapters 4 and 5 where he examines the ICO and EULEX respectively. The author goes to great lengths to demonstrate that, while both missions were given extensive resources and powers to accomplish their objectives, the misalignment of interests among certain international actors and the international community's obsession with the policy of local ownership undermined them. In terms of the former, Capussela traces the powerful influence that American diplomats have wielded throughout Kosovo's postwar development. From selecting presidents and prime ministers to organizing political coalitions, the actions of the American embassy have had a detrimental impact on Kosovo's state-building process. In particular, the American embassy defanged the ICO and prevented the mission from criticizing governmental corruption and upholding the governance principles outlined in the Ahtisaari plan: "it was clear that, should improving governance in Kosovo come into conflict with other national interests [...] Washington was more likely than the EU to pursue the latter to the detriment of the former, because Kosovo's long-term development is not a US priority."<sup>13</sup>

Capussela attributes EULEX's inability and unwillingness to prosecute serious crimes to a combination of factors, including the misallocation of funds at the expense of its judicial mandate, the mission's unpopularity among the local population, and EULEX's propensity to avoid conflict with the dominant coalition out of fear of elite retaliation. As for local ownership, Capussela makes a persuasive case that EULEX's obsession with local ownership mitigated the effectiveness of the mission. Local ownership was in contradiction to the EU's Joint Action plan that established the mission in the first place: "it confirms the importance of the executive functions and, in particular, the need to tackle high-level corruption and organized crime."<sup>14</sup> Yet, instead of wielding this executive authority in the judiciary, the most corrupted institution in Kosovo, EULEX simply opted to perform its monitoring and advisory functions that allowed political corruption and organized crime to flourish in the country since its deployment. Here, Capussela presents his most interesting findings that are both revealing and provocative. He analyzes 23 criminal cases of critical political and economic importance that were adjudicated between 2008-2014 and opened by the EULEX mission. Of the 23 cases, EULEX issued 15 indictments, of which only 4 of them ended in convictions. A closer analysis is provided in the Annex, which is accessible online,<sup>15</sup> and suggests that the "mission tended not to prosecute high-level crime, and, when it had to, it sought not to indict or convict prominent figures."<sup>16</sup>

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<sup>13</sup> Capussela, *State-building in Kosovo*, 104.

<sup>14</sup> Capussela, *State-building in Kosovo*, 115.

<sup>15</sup> To access the Annex, visit: <https://eulexannex.wix.com/draft>.

<sup>16</sup> Capussela, *State-building in Kosovo*, 121.

*State-building in Kosovo* is a compelling book that provides a comprehensive analysis of the limitations of state-building interventions that underestimate or misunderstand the social orders of post-conflict societies. The significance of the study lies in how it approaches the subject matter from a perspective of political economy, which is sorely lacking in the scholarship of state-building.<sup>17</sup> To assess the impact of international efforts on Kosovo's institutions, Capussela employs data from the World Bank's *Worldwide Governance Indicators*, which allows him to draw developmental comparisons in the region. In addition, the book heavily relies on internal reports by the European Commission and leaked intelligence documents by NATO and Germany's intelligence agency, all of which paint a controversial image of Kosovo's government dominated by political elites steeped in organized crime and political corruption. While his analysis is theoretically informed and supported by a plethora of international and local sources, one must also reserve caution about certain findings due to his involvement in the ICO; especially those claims that involve rivalries among his former organization and other international actors. Nevertheless, what it may lack in 'scientific objectivity' is more than made up for with his inside accounts and anecdotes that reveal the contentious relationships among international actors and the dilemmas they faced in interacting with Kosovo's criminal elites.

### **Conclusion**

Although the international state-building efforts can play an important role in helping societies move out of conflict, the overall impact in terms of promoting development and creating the institutional foundations of a capable and legitimate state remains decidedly mixed. The books reviewed here highlight a number of themes in the literature that help explain why international state-building in Kosovo fell short of the expectations of international and local actors alike. Perhaps the most dominant theme that transcends both books is the principle of local ownership. Both authors seem to question the strategy of devolving authority over to local actors early on in the state-building process. In Kosovo, this led to the capture of state institutions as these "bureaucracies became embedded sites of patronage politics, in which employees were only loyal to top politicians without substantial concern for public services."<sup>18</sup> The international strategy of insulating state bureaucracies from local influences and wielding executive authority for an extended period of time is similar to that of Steven Krasner's 'shared sovereignty' approach, which recommends external actors taking responsibility for some of the domestic authority structures of target states for long stretches of time.<sup>19</sup> Yet, today, such solutions seem very unrealistic given the recent failures in Afghanistan and Iraq and the current financial crisis, which have dampened the international community's inclination for engaging in such ambitious interventions.

A second theme that emerges from both books is the issue of relying on technocratic approaches and solutions to rebuilding postwar societies. The

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<sup>17</sup> See Berdal, Mats and Dominik Zaum. 2013. *Political Economy of Statebuilding: Power After Peace*. New York: Routledge.

<sup>18</sup> Skendaj, *Creating Kosovo*, 174.

<sup>19</sup> Krasner, Stephen. 2004. Sharing Sovereignty: New Institutions for Collapsed and Failing States. *International Security* 29(2), 85-120.



strategy of treating failed states much “like broken machines, [which] can be repaired by good mechanics”<sup>20</sup> has been increasingly challenged in the contemporary literature of state-building. Such approaches and solutions have been criticized for their Western dogma on state development; their tendency to treat local actors as merely passive recipients of international measures; and for their failure to consider how local interests and values interact with international ones, and what the implications of this are for state-building outcomes. In some ways *Creating Kosovo* falls victim to some of this criticism: Skendaj’s approach to understanding successful institutional outcomes is contingent on whether or not international technocrats have insulated local bureaucracies and employed Western practices of meritocratic hiring and promotion. Such an approach fails to consider the political nature of international state-building and how such efforts interact with local values and conceptions of legitimacy. Conversely, the political economy approach taken in *State-building in Kosovo* is more in tune with the contemporary scholarship and its growing aversion to technocratic approaches. In his analysis, Capussela demonstrated how important it is not to gloss over the interests and motivations of Kosovo’s local elites, who in many ways actively worked to weaken the state and its institutions in order to entrench their own power and personal economic interests. His examination of Kosovo’s prevailing social order showed the critical role of informal authorities and power structures, and the continued existence of wartime economies and political networks that subverted Kosovo’s newly established institutions.

A final theme worth noting is the problematic impact of political corruption on Kosovo’s democracy and institutional development. Both authors go to great lengths to show the extent to which political corruption and organized crime have penetrated many aspects of the country’s economy and public institutions. Perceptions of Kosovo as one of the most corrupt countries in the region (and in the world) has dissuaded foreign investments, and has prevented the European Commission from lifting visa requirements, which has further isolated the country’s image as a regional pariah. However, the authors of the two books reviewed here provide different explanations on the ubiquity of corruption in today’s Kosovo. According to Skendaj, the corrupt practices of today’s dominant elites in Kosovo are a direct legacy of communist Yugoslavia: “One of the enduring legacies of the Yugoslav socialist party organizations in Kosovo has been the continuing presence of clientelist networks in the local courts and the central administration.”<sup>21</sup> He contends that patron-client networks were an indispensable source of stability in Yugoslavia’s communist system and that the persistence of such networks in the 1990s and onwards is a common feature throughout the rest of post-communist Europe. Skendaj therefore paints a historical and cultural understanding of Kosovo’s current problems with political corruption. By contrast, Capussela dismisses partially the premise that links Kosovo’s predilection for poor governance and corruption to historical and cultural explanations. For him, such explanations are “self-serving” and over-simplistic and ignore the power and interests of the country’s emerging elite and the passive role that international state-builders played in facilitating the nexus of politics, corruption, and organized crime in Kosovo.

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<sup>20</sup> Ellis, Stephen. 2005. How to Rebuild Africa. *Foreign Affairs* 84(5), 136.

<sup>21</sup> Skendaj, *Creating Kosovo*, 42.

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