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## **Promoting Multi-Ethnicity or Maintaining a Divided Society: Dilemmas of Power-Sharing in Kosovo**

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### **Abstract**

Power-sharing, known also as a consociational democracy, is increasingly being adopted as a useful approach for conflict transformation and for promoting ethnic diversity in post-conflict and divided societies. This article explores power-sharing arrangements and their impact on interethnic relations and state legitimacy. It is based on the case study of Kosovo. This is done by the assessment of its key attributed dimensions, namely government coalition, segmental autonomy, proportional electoral system, and veto right. Moreover, it raises the question whether or not the existing constitutional and institutional design supports incentives to overcome rigid ethno-political identities. One of the major assumptions made in this article is that the current corporate model of power-sharing challenges state building and does not encourage the emerging of a shared identity. In order to promote ethnic diversity and support state legitimacy, a more liberal type of consociational democracy is required—a democracy which is more representative and which serves all the citizens.

**Keywords:** Kosovo; power-sharing; consociational democracy; multi-ethnicity; identity

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Many scholars suggest that the breakup of Yugoslavia was caused, among others, by the revival of nationalist movements following with the rise of ethnic animosities (Blitzt, 2006; Ramet, 2002). Under such circumstances, ethnic affiliation became a key source for political mobilization. Consequently, ethnic antagonisms escalated to violent conflicts in former Yugoslavia, including the Kosovo war during 1999. In addition to a great number of victims and enormous material damages, these conflicts left societies deeply divided along ethnic lines. The legacy of these conflicts shaped significantly peace and the political processes in the post-conflict period. This period is often characterized by tensions and challenges between former adversaries, opposing political struggles, the need for transitional justice; dealing with the past to social-economic stagnation, and the emerging of parallel systems. Therefore, peace building, reconciliation, and democratization in the aftermath of war strongly depend on rebuilding trust and cooperation between former conflicting parties. However, the precondition for achieving this is the existence of political stability and national unity (Kelman, 2005: 639-650). Consequently, this requires safeguarding diversity through institutional arrangements that could normalize ethnic relations and secure peace among communities (Goodwin, 2007; Weller, 2009).

From the theoretical viewpoint, consociationalism is the most prominent approach for managing conflict in divided societies (Norris, 2008; Taylor, 2009). It is often known that the power-sharing model entails participation and representation of all major ethnic or other groups in the state institutions and decision-making processes. Conceptually, power-sharing as a conflict transformation model can be considered as an effective tool for conflict management in the initial post-conflict phase, rather than an appropriate and long-term strategy for political solution and democratization in deeply divided societies (Snyder, 2000; Jarstad, 2009). Since it institutionalizes ethnicity in a longer term, it may well lead to political stalemate and entrench ethnic divisions. 'In practice, power-sharing can be institutionalised in such a way that it effectively precludes certain forms of political engagement while rewarding others' (O' Flynn and Russel, 2005: 9). The difficulties with the ethnically power-sharing model are evident in some states, such as Bosnia and Herzegovina, Macedonia, and Kosovo (Bieber and Keil, 2009). In these cases, power-sharing arrangements have not been proven very effective in solving ongoing political differences and ethnic divisions (Simonsen, 2005; Tansey, 2009; Rossi, 2014).

One of the main issues raised here is whether the consociational provisions have improved interethnic relations that accordingly would strengthen state legitimacy or, on the contrary, the power-sharing have deepened ethnic division. The main hypothesis presented here is that the current type of corporate consociationalism in Kosovo has institutionalized ethnic division, whereby ethnicity became basic criteria for political affiliation and representation. And the article suggests the modification of the existing provisions through a more liberal type of consociationalism.

This article will follow theory guided process tracing as a qualitative research method based on a single case study and content analysis of relevant reports and legal acts, as well as a broad use of literature review. Based on the case study of Kosovo, it examines the complexity of the state-building, focusing on the correlation between power-sharing arrangements and interethnic relations, and how they affect state legitimacy. It will put emphasis on the ethnic relations among two major communities (constituting the vast majority of the population), respectively between Albanians and Serbs, since their relations continue to determine the overall political situation in Kosovo. The existing consociational provisions will be examined in their four ascribed dimensions: the government by grand coalition of all constituent communities; the segmental autonomy as self-government at municipality level; the proportional electoral system; and the mutual veto right. The next section addresses the politics of identity with regard to the inclusion efforts of communities and their impact on state-society relations. At the end, conclusions will be drawn through a critical review of power-sharing provisions in Kosovo, and their impacts on ethnic relations and the overall state-building process.

### **1. Power-sharing in post-conflict societies**

Post-conflict states face immense difficulties in building sustainable peace and establishing democratic institutions. Furthermore, societies with a high level of ethno-political polarization are widely regarded to be more predisposed to violent conflicts (Fearon and Laitin, 2000; Simonsen, 2005). It is important to mention that the existence of ethnic diversity and different political interests do not lead automatically to conflict or ethnic segregation. In the first place, it is a struggle for power and contesting of the state legitimacy that usually lead to deep division of the society. Therefore, the issue of how political settlements are to be adopted in post-conflict and divided societies has received increasing

attention both in the academia and by decision-makers (Sriram, 2008; Wolff, 2011; Cammett and Malesky, 2012). This concern is also manifested in regard to political settlement of Kosovo's final status, whereby the crucial challenge was finding appropriate institutional framework that can manage ethnic diversity, in order to promote stability and durable peace.

As mentioned above, the most prominent theoretical model for solving this problem was that of consociational democracy, which includes institutional, constitutional, self-governing, and power-sharing arrangements (Jarstad, 2008: 105-133). This approach seeks to establish a democratic framework with accommodation of non-majority communities by emphasizing consensus and inclusion among different groups. It has been widely applied in different multi-ethnic and post-conflict states, and it is a crucial aspect of external state-building efforts (Wolff and Yakinthou, 2013; Aitken, 2007). In broader terms, those arrangements include power-sharing provisions in all governing structures among major ethnic or religious groups and include a certain degree of self-government for those communities. It has been widely applied in different heterogeneous societies or post-conflict countries. Taylor (2009: 1-11) has identified different multi-national, multi-religious, or post-conflict states that were considered to be illustrative cases of power-sharing, like Lebanon, Northern Ireland, Bosnia and Herzegovina, Macedonia, etc. Consociationalism, as with group autonomy and power-sharing models of democracy, refers to plural and divided societies in which segmentation is reflected in ethnic, religious, racial, cultural, and other diversities among members of the society (Norris, 2008: 22-27). Also, Andeweg (2000: 520) has pointed out that consociational democracy is defined by a deeply divided society and by elite cooperation; in other words, both the problem and its solution are part of the definition.

In the ideal case, consociation is a model of democracy which enables peace and stability in deeply divided societies. It was first identified by Arend Lijphart in (1968), and later presented more concisely in his cardinal work 'Democracy in Plural Societies: a comparative exploration' (1977). In its initial formulation by Lijphart, consociationalism is a theory of comparative politics that seeks to explain 'the political stability of a number of smaller European democracies' (Lijphart, 1977: 1). In Lijphart's explanatory model, it includes various arrangements, containing models of grand coalition governments in which all ethnic groups participate and are represented, segmental autonomy, an election system of proportionality, and a minority or mutual veto right (Lijphart, 1977: 25-47). It may involve any of the following types of practices: territorial autonomy; federal or confederal arrangements; communal federations based on ethnic populations; proportional representation

in the administration; a proportional electoral system with consensus decision rules; and legal framework that guarantees minority rights (Sisk, 1996: 47-67). In other words, it emphasizes elite cooperation and institutional engineering through the creation of stable multi-ethnic coalition government and other power-sharing institutions, thus developing a political culture of consensus. One of the basic assumptions made by Lijphart about the consociational approach in plural societies is that collaboration among political elites could ‘counteract the immobilizing and unstabilizing effect of cultural fragmentation’ (Lijphart, 1977: 212). Although this book initially focuses on mitigation of tensions in democratic pluralistic societies (Netherlands, Switzerland, etc.), the theoretical approach was developed further as a useful analytical framework in particular for post-conflict and multi-ethnic societies. Concerning the post-conflict state-building, consociationalism has two major dimensions of institutional design: power-sharing and self-governing (Wolff, 2011: 1777-1802).

One of the most critical voices of this approach is Donald Horowitz (1993: 18-38), who acknowledges that ethnic conflicts eventually might be brought to an end by power-sharing arrangements, but the durability of those settlements and their accomplishments remains very uncertain. In this critical vein Finlay (2011: 38) highlights that ‘the problem with consociational arrangements is that they make ethnicity normative’ by institutionalizing antagonistic identities and thus hindering reconciliation among former conflicting groups. According to Aitken (2007: 260), ‘Institutionalizing ethnicity, in a constitutional settlement, freezes ethnic divisions at the moment of greatest tension and limits the possibilities of a later decline in the salience of ethnicity.’ In particular, in the early state-building process, rigid power-sharing instruments may badly influence the enduring political stability and democratization. Consequently, this ‘often means deadlock, inefficient governments, and an institutionalization of polarization in already divided societies’ (Jarstad, 2009: 42). Additionally, a concern that needs to be considered in this context is whether consociationalism increases democratic participation and representation to all citizens, and to what extent this contributes to a state legitimacy as the basis for political unity. Regarding identity building and democratization processes, Snyder (2000: 36) resolutely argues against these stagnant arrangements.

Purported solutions to ethnic conflict that take pre-democratic identities as fixed, such as, ethno-federalism, ethnic power-sharing, and the granting of group rights, may needlessly lock in mutually exclusive, inimical national identities. In contrast, creating an institutional setting for democratization that de-emphasizes ethnicity might turn these identities towards more inclusive, civic self-conceptions.

The existing situation in Kosovo and in the region has revealed similar challenges, namely instead of promoting social inclusion and political integration, the use of power-sharing provisions has contributed to further preservation and reinforcement of ethnic divisions. By examining diverse case studies, Sriram (2008: vi) raises related concerns, stating that the power-sharing arrangements can impose habits of ethnic competition and mistrust into newly emerging institutions that cannot easily, if not at all, manage conflict. Even though the idea of consociational democracy is to encourage interethnic trust through a culture of cooperation, beginning with the political elites and moving through all community members, little is said about identity. Nonetheless, some scholars of consociational theory, such as John McGarry and Brendan O’Leary (2009: 15-84), pay more attention to the identity issue. In this context, they distinguish between corporate and liberal consociationalism, with the first category deriving primarily from peace accords, political settlements, plans or other forms of internationally negotiated agreements. This type describes what Lijphart (1977: 115-119) has regarded as ‘centrifugal democracy’, where societies remain fragmented by ethnic or other cleavages. This model of power-sharing does not primarily define and treat citizens as individuals, but as members of ethnic communities through constitutional entrenchment of group representation (McCulloch, 2014: 501-518).

On the other hand, liberal consociationalism as the second category is grounded on the deliberative or consensual forms between diverse groups and segments within that society. This form does not determine in advance the ones who share powers, leaving that to the voters who decide about political identities and group representation (McCulloch, 2014: 507-514). The main difference between these two types is that corporate consociation accommodates groups according to certain and predetermined criteria, and rests on the assumption that group identities are fixed. On the other hand, liberal consociationalism is based on the idea that political identity is expressed within democratic elections, no matter whether these identities are based on ethnic groups or any other form of belonging or not (McGarry and O’Leary, 2009: 66-82). Liberal consociation also allows citizens, not only political elites, to shape institutions and influence power-sharing arrangements. Unlike corporate model that involves the constitutional embedding of community representation, ‘the liberal consociationalism avoids constitutionally entrenching group representation by leaving the question of who shares power in the hands of voters.’ (McCulloch, 2014: 503).

Also to other scholars, corporate-liberal distinction is additionally relevant for the academic debates on consociational democracy, because it represents:

important modification to consociational theory that addresses one of its more profound, and empirically more valid, criticisms, namely that (corporate) consociations further entrench and institutionalize pre-existing, and often conflict-hardened, ethnic identities, thus decreasing the incentives for elites to moderate (Wolff, 2011: 1783).

Despite the fact that McCulloch (2014: 511-513) is openly in favour of liberal type, she admits that power-sharing, as long-lasting solutions for divided societies in any of abovementioned types, is difficult to achieve. This is due to the fact that both approaches depend upon the complexity of their implementation and on other factors like demographic constellation of the population, the loyalty of the groups to the state, the role of domestic political elites, and the impact of the international actors as third parties in reaching settlements and completing their implementation. All these factors are also very substantial in the case of Kosovo, where the corporate consociation is evident in the present model of power-sharing rules. The ongoing dispute of international and internal (Kosovo Serbs) actors over Kosovo's statehood further complicates achievements of the existing consociational model. Therefore, the implementation of corporate power-sharing is highly complex and causes serious challenges for the state legitimacy (Landau, 2017; Rossi 2014). Contrary, a liberal type that evolves truly representative democracy, serving the interests of all its citizens rather than only ethno-political elites, is the premise to sustainable peace and state-building.

## **2. Assessing power-sharing in Kosovo**

The rise of nationalist Serbian leader Slobodan Milošević at the beginning of 1990s was followed by drastic political changes which culminated with abrogation of Kosovo's autonomous status. Kosovo Albanians responded with the emergence of parallel system and peaceful resistance against the Milošević regime (Malcolm, 1998: 280-341; Clark, 2000). The situation escalated eventually into armed conflict between the newly formed guerrilla Kosovo Liberation Army (KLA) and the Serbian forces in 1998-1999. After the unsuccessful conclusions of the negotiations between the Serbian and Kosovan delegations in Rambouillet and Paris, the international community, through the North Atlantic Treaty Organization (NATO), launched military intervention that led to the withdrawal of Serbian forces, thus ending the armed conflict in Kosovo (Judah, 2008; Weller, 2000: 211-251). Based on

Resolution 1244 of the UN Security Council, Kosovo was placed under international protectorate by the United Nations Interim Administration Mission – UNMIK, gradually building self-governing institutions, but without prejudice to its final status. Until the first nation elections held in 2001, the Serb community refused vehemently to participate in the provisional institutions of Kosovo. On the other side, the international administration in Kosovo showed more interest in stability and security rather than in democratization, cooperation, and reconciliation of former conflicting groups (Chesterman, 2004; Tansey, 2009: 109-151).

After nearly a decade of international administration and unsuccessful negotiations between Kosovo and Serbia to find a peaceful solution for political status, the UN Office of the Special Envoy for Kosovo (UNOSEK) came with a comprehensive proposal of “supervised independence” for Kosovo (Weller, 2009). This proposal for the final status of Kosovo consisted of power-sharing arrangements as a part of a broader strategy of peace-building efforts. These provisions were later incorporated in the Constitution of Kosovo, adopted several months after the Declaration of Independence on February 17, 2008, although it is not recognized by Serbia and many other countries yet. However, power-sharing regarding elections and group rights had been in place almost from the beginning of the international protectorate by UNMIK (Constitutional Framework for Provisional Self-Government, 2001; Taylor, 2001). According to Bieber and Keil (2009: 344) ‘the UN introduced in 2001 a constitutional framework for Kosovo, which included power-sharing elements, such as minority representation’.

Implementation of power-sharing arrangements was strongly challenged by Serbian parallel structures because they aimed ‘to strengthen Serbian state’s presence in Kosovo and counter the international state-building project’ (van der Borgh, 2012: 37). Involvement of Belgrade as a main decision-making authority for Kosovo-Serbs instead of domestic cooperation between ethnic groups only exacerbated relationships in the long-term, giving the Serb community expectation that Kosovo would be part of Serbia. For instance, education for Kosovo-Serbs continues to be compatible with the Serbian and not the Kosovo educational system, since UNMIK administration failed to integrate them in unified education structures, and thus “permitted” a parallel education system (den Boer and van der Borgh, 2011; Kostovicova, 2005: 182-205). Similarly, the health care system for the Serb community is under the authority of and financed by the Serbian government (Matveeva and Paes, 2003; van der Borgh 2012).

Therefore, the experience of Kosovo could serve as an appropriate example to evaluate the functioning and applicability of the power-sharing arrangements regarding state consolidation and interethnic relations. The following section examines and correspondingly debates four major characteristics of consociational democracy in the institutional, constitutional, and political system of Kosovo.

### **2.1 Proportionality**

In terms of electoral arrangements, and in accordance with the idea of the power-sharing approach, Kosovo applies the proportional electoral system on the basis of an open-list with a single constituency and a 5% threshold that enables ethnic groups to be represented in the parliament in proportion to their numbers (Law No. 03/L-073, June 5, 2008). Non-majority communities (Serbs, Bosniaks, Turks, Gorani, Roma, Ashkali and Egyptian (RAE) communities) have additional guarantees and an over-proportional number of seats (twenty) in the Assembly of Kosovo (Constitution of the Republic of Kosovo, Chapter VI. Art. 63). Furthermore, the Constitution in Article 64 states that ‘twenty (20) of the one hundred twenty (120) seats are guaranteed for representation of communities that are not in the majority in Kosovo’. According to the Ahtisaari’s Plan, the reserved seats shall be valid ‘for the first two electoral mandates upon the adoption of the Constitution’ (Comprehensive Proposal for Kosovo Status Settlement, 2007, Annex I, Art. 3.2). On the other hand, this transitional provision of the reserved mandates, known also as “ethnic quotas”, in the Assembly of Kosovo was valid for the previous two elections; therefore, these communities currently have only guaranteed mandates. This actually means that seats gained in the open elections could not be added to the twenty guaranteed seats. In other words, the Serb community candidates compete for only 10 seats and other non-majority candidates for the remaining 10 seats, no matter whether they win more or less beyond these mandates. Because of the ethnic composition of the Kosovo population, this essentially means that political candidates of minority communities compete mainly for the 20 guaranteed seats, while the representatives of the majority compete for the remaining 100 seats.

The principle of proportionality refers not only to the election system and representation in the Parliament, but also to allocation of financial resources and civil service appointments (Lijphart, 1977: 39-41). In accordance with these consociational principles, Kosovo also applies equal representation and proportionality in employment of ethnic

minority groups within the entire public sector and public owned enterprises. This affirmation is regulated and implemented by the Law on the Civil Service of Kosovo, which explicitly states that ‘at least ten (10) percent of the positions should be accommodated for the members of the minority groups’ (Law on the Civil Service of the Republic of Kosovo, No. 03/L-149, Art. 11). Further, at least 15% of the judges have to be from the non-majority communities, including a reserved seat in Kosovo Judicial Council (Constitution of the Kosovo, Art. v106). Also, at the local level minority representation in various bodies and committees are regulated by the Law on Local Self-Government.

This electoral design leaves little room for incentives of creating either multi-ethnic parties or encouraging moderate political elites oriented towards reconciliation and shared identity (Cammatt and Malesky, 2012). The existing Kosovo’s electoral system offers very limited motivation for political mobilization on the basis of policy programmes, social issues, or democratic values. On the contrary, it only reinforces ethnic division through institutionalizing and thus cementing political differences among communities by electing candidates or parties only within ethnic communities. Laura Wise and Timofey Agarin (2017: 99-124) support this thesis by examining the local elections of 2013 and the national election of 2014 in Kosovo; they came to the conclusion that political parties and the voting of the electorate continue to be dominated by ethnic belonging. Instead of voting for the parties and candidates in democratic elections based on their performance and the values they represent, citizens are primarily driven to support political subjects or candidates among “their” ethno-political bloc, because voting occurs essentially along ethnic lines. It means that issues or interests that gain relevance for their “own” ethnic group as the main electorate have grounds to be prominent on agenda of political elites, leaving aside public needs and common issues. Further, it has tendency to radicalize political discourse and reproduce ethnic polarization, thus eroding state legitimacy in the longer term (Reilly, 2001).

## ***2.2 Veto rights***

In addition to provisions in the electoral system, the Constitution provides very important veto power to the representatives of the communities in the constitutional amendment procedure, and over the vital interests of communities, such as language, education, and community symbols. Every amendment of the Constitution requires approval of two thirds of all members of the Assembly including two thirds of all members of the non-majority

communities (Constitution of the Republic of Kosovo, 2008, Art. 144). The veto right is an important consociational instrument, because it prevents the majority overruling a minority in the decision-making process. These affirmative mechanisms of minorities were also regarded as empowerment of communities, since ‘veto powers in adopting laws of vital interest for communities assured that community representatives also have influence on decision-making’ (Lončar, 2015: 364). But, at the same time, veto powers can block decision-making, prolong legislative initiatives, and eventually cause governmental crises. Thus, veto power over important decisions may undermine governance functionality. Since veto power can block decision making, it can also generate political instability and public dissatisfaction with state authority, which indirectly affects its legitimacy. A case in point here could be the postponement of the recent draft-law on transformation of Kosovo Security Force into the Kosovo Army and the dilemma with the proposal for a new Law on Higher Education, which also requires the vote of two thirds of the non-majority communities. They were both drafted a year ago, but have not yet been considered in the Parliament because of the opposition of the Kosovo-Serb political representatives and their threat of using their veto right against the amendments. By Kosovo-Albanians it is perceived as intimidation from the side of Serb representatives, and indirectly from Belgrade, aiming to undermine state-building, thus reinforcing mistrust among communities.

### **2.3 Grand coalition**

The grand coalition principle of consociationalism can be seen in the composition of Kosovo’s executive over the past fifteen years. In fact, to form the legitimate government, any given political party that wins the elections in Kosovo has to build a (wide-ranging) coalition with political entities from other ethnic communities. The political subjects of Kosovo-Serbs and other ethnic groups are regularly part of the government coalitions. Since the first parliamentary elections in post-conflict Kosovo held in November 2000, grand coalitions have been very common practice in the political system of Kosovo (Wise and Agarín, 2017: 116-121). These coalitions, however, have witnessed political instability and limited effectiveness, particularly in policy making and good governance (Baliqi, 2013: 43-55). Because of the ongoing political differences over the status of Kosovo, political elites of both Kosovo-Albanians and Kosovo-Serbs are using power-sharing arrangements often as a tool for political mobilization inside the group, but very little for mutual cooperation or consensus building. As a consequence, voting remains largely drawn on ethnic lines and

political representation continues to be based not on issues but merely on ethnicity (Mjekiqi and Gallagher, 2015). In this context, an unintended consequence of those power-sharing arrangements is segregation rather than integration at the societal level, thus hindering democratization of the party system. Despite the broad and enduring participation of all communities at the executive level, the lack of the underlying agreement about the Kosovo state seems to have influenced “normalization” of relations between Serbs and Albanians, primarily in regard to allocating governmental and political offices. In many other domains, like education, health, culture, or sport, communities remain deeply divided.

#### ***2.4 Segmental autonomy***

As one of the core features of consociationalism, segmental autonomy has partially been applied in Kosovo. This was done through decentralization and self-government at the local level (Wolff, 2011). Whilst avoiding conventional territorial autonomy, Kosovo’s Constitution and the respective legal framework grant a high degree of autonomy to local government in different spheres of social, economic, cultural, and religious life (Bieber and Keil, 2009: 355-357). The aim of decentralization of the local governance was to protect and promote the multi-ethnic character of society and at the same time ensure the self-governing of the communities in the local level (Bartlett et al., 2013: 3-29). ‘The decentralization process, as applied in Kosovo, foresees both administrative decentralization – the transfer of competencies from the central to the municipal level – and political decentralization – the creation of eight new municipalities [...]’ (Burema, 2013: 103). Derived from the “Ahtisaari Plan”, the decentralization process redrew municipal boundaries creating new municipalities, thus establishing new municipalities with majority Serb population (Law on Local Self Government No. 03/L-040). In addition to the three existing Kosovo-Serb majority municipalities (Leposavić, Zvečan, and Zubin Potok), the decentralization process established six new municipalities with Kosovo Serb majority populations (North Mitrovica, Gračanica, Ranilug, Parteš, Klokot, and Novobrdó) and one Turkish majority municipality (Mamusha). The municipalities in Kosovo have a wide range of competencies, such as local and economic development, primary health care, and primary and secondary education. Serb-majority municipalities were awarded “enhanced competencies”, thus granting additional self-governing competencies at the local level in the area of cultural heritage, higher education, and appointment of the Police Station Commander (Burema, 2013: 100-117). Instead of constituting segmental autonomy and self-government, decentralization and the formation of

mono-ethnic municipalities only reinforced enclavization and marginalization of the local Serb community, and thus led to larger inter-ethnic discrepancies and increased isolation of local populations. Though the territorial separation began immediately after the end of conflict, many Kosovo Serbs withdrew in the Serb dominated north region and others in central part of Kosovo concentrated mainly in the localities where they compose majority of the population (van der Borgh, 2012: 36). ‘The ethnic segregation achieved by enclavization merely advances the illiberal agenda of ethno nationalism’ (Dahlman and Williams, 2010: 424). In somewhat more optimistic, though in critical manner, Rossi (2014: 880-881) appropriately summarizes the dilemmas around autonomy and political solution as following:

Although current policies of decentralization have already helped alleviate some problems of co-existence between Kosovo’s Albanian and Serb communities such as in the area of community self-management, the lack of a clear agreement on political authority, particularly in light of Pristina’s absence of legitimacy in Serb-held areas since 1999, has continuously stymied international efforts in reaching a final agreement between the two sides.

Broad provisions on minority rights, self-government, and asymmetrical decentralization of local governance for Serb community reveals doubts that segmental autonomy might be appropriate mechanism of promoting interethnic cooperation, and strengthening legitimacy of the state, that most of them are rejecting. In more optimistic tone, Burema (2013: 110) argues that:

decentralization expands and improves on the consociational elements of Kosovo’s political system by providing minority communities in Kosovo with the legal, political and financial space to attend to their own needs and develop their own identity, while ensuring that this takes place within the overarching framework of Kosovo institutions under strong international scrutiny and not within a parallel institutional system outside the Kosovo constitutional framework.

In addition to the aforementioned power-sharing provisions, the constitutional framework is in the spirit of consociational democracy, whereby Kosovo is defined as a multi-ethnic state providing specific rights for non-majority communities including bilingualism, namely Albanian and Serbian being official languages at both the central and local levels.

### **3. Problems and prospects of power-sharing**

The key success of power-sharing arrangements in deeply divided societies rests on ability to increase political participation and democratic quality of representation rather than simply to ensure formal and institutional presence of different ethnic groups. The consequence of this formal participation is that little attention is paid by the political elites to the social and economic issues that extensively challenge state legitimacy, like unemployment, poverty, corruption, etc. The findings from the survey conducted in October 2017 shows that more than 65% of the Kosovans consider that the largest problems facing Kosovo currently are related to the socio-economic conditions. The opinion poll data indicate that the proportion of Serbs (57%) dissatisfied with economic situation is higher than that of Albanians (47%) or other communities (UNDP, 2017). Hence, the overall dissatisfaction with these conditions converts into low trust in and satisfaction with the state institutions, particularly among minorities.

Another crucial challenge is ongoing political attitudes and diplomatic activities of Serbia against Kosovo independence that shape to a large extent the political affiliation of Kosovo-Serbs. At the same time, this has also increased ethno-nationalist tendencies and the resentments towards Serbs among certain Albanian political forces. The main characteristic of the political participation of the Serb community in Kosovo institutions is the existence of parallel systems, established and supported from the government in Belgrade (van der Borgh, 2012). In this context, the readiness or willingness of Kosovo-Serbs to engage politically in Kosovo's institutions and society is still dictated by Belgrade's policy toward Kosovo (Matveeva and Paes, 2003; Bieber, 2016: 191-195). The dominant role of Serbian government toward Kosovo Serbs has several reasons: first, because of the feeling of being unsafe, especially after the March 2004 riots, they rely on Belgrade for security; secondly, the salaries and employment chances from the Serbian government are higher (van der Borgh, 2012: 36-38). And they follow the political strategy of seeking to gain more power and eventually partition (North) Kosovo through enduring pressure to Prishtina for "renewed" political agreement. The UNMIK administration has made the government in Belgrade the main advocate of Kosovo Serbs interests and the key participant in power-sharing structures, thus undermining the internal dialogue and political cooperation between Albanian and the Serb communities in Kosovo. In addition, it has obstructed attempts of Kosovo-Serbs in building their own political elites independently from Serbian government. Even the negotiations between Kosovo and Serbia started in 2011 through EU mediation known as "dialogue between Belgrade and Prishtina" has neither achieved normalization of relations

between both states, nor has it significantly improved domestic interethnic relations.<sup>1</sup> According to the recent public opinion research, 50% of the respondents, or 51% of Albanians, 31% Serbs and 47 % of other communities do not believe that dialogue has improved relations between Kosovo and Serbia (KDI, 2018).

Despite all the above-mentioned challenges, the consociational arrangements have established peace<sup>2</sup> and improved the security situation by reducing significantly interethnic excesses and violent escalation, thus creating a precondition for peaceful coexistence. Further, they established the means to integrate communities in Kosovo institutions, for instance, in the police, public television, judiciary, etc., which increasingly improves ethnic relations and state legitimacy. Nevertheless, the chance of power-sharing depends largely on the outcomes of the “Brussels negotiations” and on the perspectives of both countries in the European integration. Therefore, power sharing arrangements are not the only and most important element which determines ethnic relations or state legitimacy, but are interlinked with diverse external and domestic factors, one of which is certainly issue of identity.

### **5. State legitimacy and identity ambiguity**

Though a more liberal version of consociationalism is more likely to promote a multi-ethnic state, it does not clarify what kind of identity politics should be implemented beyond ethnically based power-sharing settlements. It is also unclear to what extent these arrangements diminish interethnic cleavages and establish a common state identity. More specifically, there is a growing concern that the institutionalization of differences at the political level will only halt and not help to resolve the ethnic conflict. There is also a claim that power-sharing leaves almost no opportunity for common civic identity formation and no sufficient space to develop a real sense of state unity (O’ Flynn and Russel, 2005). The contradictions regarding state legitimacy have profound political and social implications, reinforced by prevailing ethnocentric symbols, narratives, and attitudes by both political elites of communities.

Ten years have passed since the unilateral declaration of Kosovo independence and nearly twenty years since some aspects of the power-sharing arrangements began being implemented. But, it is still unclear if consociational democracy is success story or not. Certainly, there is no simple or definitive answer to this; however, in order to understand it, it is crucial to emphasize state-society relations and the issue of identity which affects

functioning of power-sharing institutions. Under the authority of the UN Security Council Resolution 1244 through civic administration by UNMIK, Kosovo gradually began to build self-governing institutions, while not dealing with the legal status of the country and its citizens. Because of Kosovo's unresolved political status, the identity issue and state legitimacy for a long period of time was uncertain. During the international administration, priority was set to protection of minority groups and interethnic relationships and there was little interest or incentives to regulate issue of legitimacy or identity. One of the main reasons for this neglected policy might be UNMIK's mandate as transitional administration, leaving political future of Kosovo unresolved. Another and most important factor certainly was and remains to be the contested political attitudes of both ethnic communities about state and its legitimacy. Particularly, the relations of the Serbian community with its kin State remain very influential in this regard. Thus, interethnic relations in Kosovo are characterized by antagonistic views, because, beyond political elites, there is very little cooperation between ethnic communities (Krasniqi, 2012: 361-364).

In this sense, moving from ethnicity as a rigid and essential determinant of belonging to a more open and multi-layered civic identity is not only a constitutive element of statehood but also of the peace building and democratization process. Besides this, under the existing political conditions and the corporate consociational provisions, the Kosovan society may share common citizenship, but as Smootha argues, these relationships do not necessarily 'constitute a community, [but] lack common goals, do not feel solidarity with fellow citizens and do not have moral commitment to the state' (Smootha, 2002: 424). In other words, in a deeply divided society, particularly in our case study, it seems that the way how consociational democracy has established institutional arrangements is less important than whether the state could be legitimized and recognized as its "own" political entity belonging equally to all ethnic groups or not. Consequently, the legitimation of the state depends significantly on the development of the political unity and a shared identity. However, it does not require only providing specific rights for communities, but also recognizing them as being a constituent part of the state and society.

Power-sharing arrangements in Kosovo, built upon provisions of the Ahtisaari's Plan and later of the Constitution, utilize "multi-ethnic" society by pre-determining ethnicity, causing an essential contradiction regarding state regulation and political unity. The Constitution provides a range of specific rights for communities, including rights to maintain their identity, culture, language, religion, education, and representation in local and national

government etc. (Doli and Korenica, 2013). Moreover, it defines the Republic of Kosovo as ‘a multi-ethnic society consisting of Albanians and other Communities’ (Constitution of the Republic of Kosovo, Chapter I, Art. 3). However, these constitutional and institutional provisions do not correspond completely with the identity building process amongst Kosovo society. On one hand, there is legal and constitutional formulation that proclaims Kosovo as ‘a state of its citizens’ (Constitution of the Republic of Kosovo, Chapter I, Art. 1). At the same time, participation and representation in the political, social, and other spheres are possible only as a member of a certain ethnic community. This inconsistency does not encourage incentives of overcoming ethnicity and building a common identity based on citizenship as a membership of belonging to a certain state. Although Kosovo’s state-building is founded on an approach of multi-ethnicity and provided inclusive policies for minorities, it is neither a nation-state of the overwhelming Albanian majority, nor a civic state of all its citizens. Instead, as Landau (2017: 14-17) describes it, it is as a ‘state of communities’ which remains contested, and for different reasons continues to challenge the legitimacy of the state. The power-sharing measures launched to support state-building process and improve ethnic relations, appear to be not sufficient for the identity formation and state legitimacy. In order to preserve the state legitimacy and constitute a shared identity, consociational democracy should be based primarily on civic attitudes and political unity rather than merely on ethnicity. The identity politics in Kosovo, as result of existing power-sharing provisions and instrumentalism of ethno-political elites, does not promote citizenship as attachment to the state, thus hindering the emergence of a common political community. On the contrary, it has resulted merely in institutionalization of ethnicity and loyalty exclusively to respective ethnic group. Forging a political system that, instead of promoting democracy and diversity, might be also called “power-sharing ethnocracy”.

## **Conclusion**

According to consociational democracy, institutional representation of main ethnic groups, including other power-sharing mechanisms, significantly reduces the potential conflict in divided societies. In the initial post-conflict phase, this institutional engineering offers a solid basis for necessary cooperation between political elite of different ethnic groups. However, broader consensus and successive confidence building across broader social segments requires more than enactment of power-sharing institutions. Power-sharing arrangements through accommodation of minorities to a certain degree have de-escalated interethnic

tensions, but in the long-term created difficulties in the consolidation of the Kosovo's statehood and democracy. Political elites have to share not only power, but also a common polity and identity.

As illustrated in our case study, power-sharing in Kosovo through institutional engineering and political arrangements has contributed to a certain degree to reducing interethnic tensions, but not enough in overcoming contested identities and in consolidation of the multi-ethnic society. By analysing the key features of consociational democracy, this article arrives at the findings that power-sharing has institutionalized political representation and the interests of different ethnic groups. However, it has failed to promote transitional justice, reconciliation, and to foster trust among communities. Findings also indicate that the impact of these provisions on state-building and interethnic relations was challenged by the enduring rejections of the Serbian community to recognizing Kosovo as their own state. In contrast to other constituent communities, political participation and representation of Kosovo-Serbs is concentrated strictly on the political elites with very limited spread at the community level. Consequently, this has hindered social inclusion and broad democratic participation as a bond between state and its citizens. Some of the other weaknesses of consociational approach include the failure to address the role of external factors and their involvement into domestic affairs, namely very strong influence of Serbia in Kosovo affairs. Consequently, these challenges have offered limited incentives to overcome ethnic division and develop a truthfully multi-ethnic character of the state and its society. Furthermore, the article underlines that, in contrast to the corporate type, the variant of liberal consociationalism in the long-term has more probabilities to increase state legitimacy and promote common identity (e.g. through a unitary educational system) and hence advance democracy in ethnically divided societies. This is because power-sharing arrangements, in its existing corporate type, only reinforce segregation of ethnic groups and leave no chance to be constituted as a multi-ethnic society. The capability of corporate consociationalism to transform ethnic cleavages has been further complicated because group identities are pre-determined by institutional accommodation, thus rewarding ethno-political hardliners and disabling incentives for interethnic cooperation and shared identity formation. In the liberal model, the constituent groups of a society are self-determined with identities that are understood as constructive and changeable. Therefore, the liberal type of consociationalism, which promotes the idea that political identity should be encouraged as an outcome of democratic processes, has a greater potential to overcome ethnic divisions and create

incentives for diversity and increased state legitimacy. This encourages trust among communities and could create political conditions under which shared state identity is possible. Without long-standing and comprehensive efforts for better institutional arrangements that result in improving interethnic relations and comprehensive integration, state building in Kosovo will remain uncompleted and power-sharing ineffective. For power-sharing provisions to ensure sustainable peace and democratization, a political unity and strong legitimated state are required, which can be provided only through another and more liberal type of consociational democracy.

### Notes

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<sup>1</sup> The so-called “Brussels Negotiations” resulted in a series of agreements, including the ‘First Agreement of Principles Governing the Normalization of Relations’ of April 2013 signed by the Prime Ministers of both countries. This 15-points plan basically foresaw the disbandment of the parallel Serbian structures and incorporation into Kosovo institutions and the creation of the Association/Community of Serb Municipalities. However, most of these reached agreements are being implemented only partially, if at all.

<sup>2</sup> According to Global Peace Index (GPI), out of 163 states analysed in the Report, Kosovo was ranked in place 76, which is slightly better than in previous years. See: *Global Peace Index 2017: Measuring Peace in Complex World*. Institute for Economic and Peace. <http://visionofhumanity.org/app/uploads/2017/06/GPI17-Report.pdf>. Retrieved: February 4, 2018.

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