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TOWARD THE RULE OF LAW: KOSOVO 2000 ELECTIONS

*Albert J. Schmidt**

I. BOSNIA LESSON

Internationally supervised elections, which have become almost routine in Bosnia, and now Kosovo, may be considered on two planes: the political and the personal. As political ventures Bosnian elections, mandated by the 1995 Dayton Peace Accords (“Dayton Accords”), have commonly been ill-timed, poorly administered, susceptible to fraud, or have had unintended consequences. People in the Croatian sector of the Bosnian Federation and in Republika Srpska have almost always empowered diehard nationalists—some of whom are war crimes suspects. Such developments have left long-suffering Muslim Bosniaks disenchanted, all the more so since their own body politic has been hobbled with crime and corruption. Because Bosnian elections have yielded results often at odds with the kind of multi-ethnic society to which the Dayton Accords were dedicated, the elections stand in the minds of many as a flawed undertaking. In November of 2000, the European Community and the North Atlantic Treaty Organization (“NATO”) were shocked by Croatian and Serb ultra-nationalist electoral successes that largely negated modest gains made by moderates the previous spring. These results have, moreover, created uncertainties as to how the United States will play out its role in the Balkans.¹ While

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1. *See generally Is Dayton Failing?: Bosnia Four Years After the Peace Agreement*, ICG BALKAN REPORT N°80 (International Crisis Group, Sarajevo), Oct. 28, 1999, <http://www.nyu.edu/globalbeat/balkan/ICG110399.html> (on file with the Quinnipiac Law Review); U.S. GEN. ACCOUNTING OFFICE, BOSNIA: CRIME AND CORRUPTION THREATEN SUCCESSFUL IMPLEMENTATION OF THE DAYTON PEACE AGREEMENT (2000), <http://sun00781.dn.net/man/gao/nsiad-00-219.htm> (on file with the Quinnipiac Law Review); JON W. WESTERN & DANIEL SERWER, U.S. INST. OF PEACE, BOSNIA'S NEXT FIVE YEARS: DAYTON AND BEYOND (2000), <http://www.usip.org/oc/sr/sr001103/sr001103nb.html> (on file with the Quinnipiac Law Review); Jeffrey

Great Power² intervention stopped the killing, Western-style elections and billions of dollars in aid have done little to eliminate old animosities and corruption. One worries whether elections in Kosovo will have similar consequences.

Yet, Kosovo is different from Bosnia, and the October 2000 elections reflected this diversity. Coming on the heels of the horrendous Serb cleansing, NATO bombing, and Albanian counter-cleansing, voting in Kosovo was, arguably, premature. The Kosovo elections also differed from those in Bosnia in that the Serbs, a principal constituency, boycotted the elections.³ Finally, the Albanian Kosovar electorate, decidedly more homogenous than that in Bosnia, sought elections to consolidate their newly-won political position rather than to join a multi-ethnic entity as mandated by the Dayton Accords for Bosnia.

The administration of the Kosovo elections certainly improved upon the earlier ones in Bosnia, even though the organization charged with this responsibility, the Organization for Security and Cooperation in Europe ("OSCE"), showed once again that it does not operate elections well. OSCE is not well known in the United States, although this country is counted as one of its members. It is especially visible in breakaway portions of the former Soviet Union and throughout what was once the Communist Bloc of Eastern Europe. OSCE calls itself "a security organization whose [fifty-five] participating States span the geographical area from Vancouver to Vladivostok."⁴ "Its area includes continental Europe, the Caucasus, Central Asia and North America."⁵ Because it assumes responsibility for establishing electoral rules and regulations and organizing election monitoring to ensure free

Smith, *West is Tiring of Struggle to Rebuild Bosnia?*, WASHINGTON POST, Nov. 25, 2000, at A1, available at LEXIS, News Library, WPost file.

Of six OSCE-sponsored elections in Bosnia-Herzegovina and Republika Srpska since 1996, only those held in the autumn of 1998 and spring of 2000 promised, however slightly, to stem the ultra-nationalist political tide. Unfortunately, these minor gains were reversed in the October 2000 voting, which favored the nationalist Serb and Croat parties.

2. Great Power, essentially a nineteenth-century term, here refers to the NATO powers.

3. See International Crisis Group, *Elections in Kosovo: Moving Toward Democracy?* (July 7, 2000), <http://www.crisisweb.org/projects/showreport.cfm?reportid=7> (on file with the Quinnipiac Law Review).

4. *What is OSCE?*, OSCE HANDBOOK ON-LINE (Organization for Security and Cooperation in Europe, Pristina), July 7, 2000, <http://www.osce.org/publications/handbook/1.htm> (on file with the Quinnipiac Law Review).

5. *Id.*

and fair elections, OSCE has played a crucial role in recent Balkan politics.

The organization's origins lay in the Helsinki Process, begun in 1973.⁶ Earlier Soviet overtures to reduce tensions between the then Communist and Western Blocs had begun as early as the 1950s. These Soviet initiatives made no substantial progress because they would have excluded the United States and Canada from discussions. This failure was also due to Western nations' worries about Berlin. Not until the early 1970s did a more hospitable climate exist for Great Power negotiation. Such exchange was occasioned by Willy Brandt's *Ostpolitik*, the beginning of talks about Strategic Arms Limitation ("SALT-1") and the Nixon-Brezhnev Summit of May, 1972, which breathed life into something called *Détente*.⁷ Soviet willingness to entertain United States and Canadian participation led to a conference of the powers in Helsinki in early July, 1973. This so-called Conference on Security and Cooperation in Europe really initiated the Helsinki Process and made the CSCE a fixture on the international scene.⁸ It was transformed into OSCE in 1994, taking effect in 1995, the same year as the Dayton Accords.⁹

II. BALKAN MEMOIR

The second plane for pursuing this narrative on Balkan elections is a very personal one—an infatuation that I have had with the Eastern European borderlands, generally, and the Balkans in particular. My curiosity was initially aroused while researching World War II refugee problems at the United Nations in 1950. As a historian, I have been captivated by medieval Balkan heroes and their empires—Byzantine, Bulgarian, Serb, and Ottoman—which have impacted both past and present, but which do not always play prominently with generalist European historians.

6. See *History, the Helsinki Process*, OSCE HANDBOOK ON-LINE (Organization for Security and Cooperation in Europe, Pristina), July 7, 2000, <http://www.osce.org/publications/handbook/2.htm> (on file with the Quinnipiac Law Review).

7. The term used to characterize the improvement in relations between the U.S. and the U.S.S.R. in the early 1970s.

8. See *History, the Helsinki Process*, *supra* note 6.

9. See *id.*

I first visited Yugoslavia in the early 1960s and returned again, the second time to Bosnia, later in that decade.¹⁰ Although I traveled to the Balkans again in the 1970s, I had by that time become focused on the Soviet Union and Soviet law. The last course which I taught at the former University of Bridgeport Law School, in 1990, dealt with the dissolving Soviet Union and the constitutional implications for its constituent republics in Europe, the Caucasus, and Central Asia. When multi-ethnic Yugoslavia underwent a similar breakdown in the early 1990s, I became especially intrigued by a repeat of the Soviet phenomenon. After the Dayton Accords ended hostilities, I volunteered to supervise elections, which I hoped would lead to the re-emergence of a multi-ethnic Bosnia based on the rule of law.

In autumn of 1997, I supervised municipal elections in a Muslim village called Avdibasci in eastern Bosnia, some twenty kilometers from Tuzla. In this bleak mountain setting, the electorate was composed of either farmers who scratched out a living from an inhospitable soil, or miners who lived an equally hard life. The bent bodies of the elderly reflected all these privations. In 1998, I worked Bosnian presidential elections in the Serb villages of Saracica and Bistrica, outside Banja Luka, in the Republika Srpska. In October, 2000, I volunteered for municipal elections in Kosovo, where I worked with Albanian Kosovars in and around Rrahovec and Malisheve. These towns are located in west central Kosovo, near the Albanian border.

The Kosovo assignment was designated “hazardous duty.” Serbs and Albanians have been warring against each other in this impoverished province for years and treating one another in ways that are appalling, even when measured by Balkan standards. Americans know Kosovo as a place where Serb Kosovars abused the Albanian Kosovar majority during most of the 1990s. Matters reached a climax—accelerated ethnic cleansing by the Serbs—during the first half of 1999; the Albanian Kosovars have retaliated since NATO’s intervention. The Serb population in Kosovo consequently has shrunk to a fraction of the ten percent or so that it had been before NATO pacification. With a few exceptions—notably Mitrovica—Serbs reside

10. This trip was precipitated by a wish to see the bridge on the Drina, a reference to Ivo Andric’s Nobel Prize-winning book of that name. The bridge, an early sixteenth-century Ottoman structure, is situated on the Drina River, in Vishegrad, now a part of Republika Srpska.

in small KFOR-guarded enclaves.¹¹ By boycotting the elections, the Serbs presented no threat to the peace.

Was supervising elections in Kosovo a hazardous enterprise? Certainly, the prospect of electoral violence was taken seriously by KFOR, especially because of the bitter enmity between Albanian Kosovar political parties. Among a diverse partisan group, the chief contenders were the Partia Demokratike e Kosovës (“PDK”), identified with the Kosovo Liberation Army (“KLA”) and its best known leader Hashim Thaqi (or Thaçi); the Lidhja Demokratike e Kosovës (“LDK”), or Democratic League of Kosovo, under the pacifist Dr. Ibrahim Rugova had dominated political Kosovo politics for most of the 1990s; and the AAK, the Alliance for the Future of Kosovo (Aleanca për Ardhmërinë e Kosovës), represented by the KLA fighter Ramuz Haradinaj and less consequential than the first two.¹² Worries about violence were directed to the PDK, which frequently resorted to intimidation during the campaign; indeed, the post-election assassination of Xhemal Mustafa, a major figure in the LDK, has cast a shadow on the PDK and raised fears that the verdict of the polls might not be accepted.

Prior to elections KFOR contingents had been strengthened; on election day the military and international police, placed on full alert, patrolled roads, manned strategic checkpoints, and escorted supervisors with ballots and other crucial voting materials to and from their polling stations. Nothing was left to chance. The day passed peacefully. That international supervisors were awarded extra compensation for “hazardous duty”, a practice without precedent in Bosnia, was indicative of OSCE concerns.

III. THE TRAUMA OF KOSOVO HISTORY AND ITS CULTURAL DIVIDE

Why this apprehension? Certainly, the shocking images of the Serb “cleansing” of Kosovo in the late spring of 1999—Albanian families pouring into refugee camps in Macedonia and Albania—were still vivid. Yet, the horrors were hardly a unique late twentieth-century phenomenon; indeed, they have been a recurring theme in Kosovo

11. KFOR is NATO’s Kosovo Force.

12. See generally OSCE & United Nations Interim Administration in Kosovo, *Political Party Guide: Municipal Elections* (2000), <http://www.osce.org/kosovo/elections/pdf/ppg-e.pdf> (last visited March 21, 2001) (reviewing Kosovo political parties for the 2000 elections).

history. The traveler, Paul Rycaut, in the late Seventeenth Century, described the “license of the soldiery” which forced “the poor people [of Bosnia and Albania] . . . to abandon their dwellings and wander into other cities or seek refuge in the mountains or woods of the country.”¹³

Since the late Nineteenth Century, long-smoldering ethnic differences have been fueled by nationalism. The Serb wars against the Turks in 1876 through 1878 worked severe hardship on Albanians and Serbs alike when they resulted in a massive Balkan exodus. In conquering Nis in 1878, the Serbs burned Albanian villages, forcing their inhabitants to take refuge in Kosovo, which until 1912 remained Ottoman. Eventually, the excesses of Serb and Macedonian nationalism precipitated a nationalist awakening among Albanians as well. Kosovo became the center of this awakening, as evidenced by the formation of the League of Prizren in 1878.¹⁴

Early in the twentieth century, Balkan observers chronicled the misery of Kosovar Serb peasants. One of these observers, H.N. Brailsford, could only lament that “I realise painfully that I have visited the most miserable corner of Europe.”¹⁵ Unlike other emerging Balkan entities, Kosovo was without a golden age. Noel Malcolm’s assessment of Kosovo history as mysterious and little known to outsiders and which during the late Ottoman period “was marked by chronic disorder, violent rebellion, and even more violent repression” is an apt summary.¹⁶

Barbarous combatant behavior during the Balkan Wars preceding and during World War I fed old hatreds. The second Balkan War in 1913, usually treated as a footnote to the larger catastrophe that immediately followed it, brought much suffering to the Albanian peasants caught in its wake. Brailsford, an author of the American Carnegie Endowment report on the conflict, told of

houses and whole villages reduced to ashes, unarmed and innocent populations massacred *en masse*, incredible acts of violence, pillage and brutality of every kind—such were the means which were employed and are still employed by the Serbo-Montenegrin soldiery, with a view to the entire

13. ROBERT LEE WOLFF, *THE BALKANS IN OUR TIME* 66 (1956) (citing PAUL RYCAUT, *THE PRESENT STATE OF THE OTTOMAN EMPIRE* 170 (London, 1668)).

14. See TIM JUDAH, *KOSOVO: WAR AND REVENGE* 12-14 (2000)

15. *Id.* at 11 (citing N.H. BRAILSFORD, *MACEDONIA: ITS RACES AND THEIR FUTURE* 277 (1908)).

16. NOEL MALCOLM, *KOSOVO: A SHORT HISTORY* 1 (1998).

transformation of the ethnic character of regions inhabited exclusively by Albanians.¹⁷

The Report concluded:

[S]ince the population of the countries about to be occupied knew, by tradition, instinct and experience, what they had to expect from the armies of the enemy and from neighboring countries to which these armies belonged, they did not wait their arrival, but fled. Thus, generally speaking, the army of the enemy found on its way nothing but villages which were either half-deserted or entirely abandoned. To execute the orders for extermination, it was only necessary to set fire to [the villages]. The population, warned by the glow from these fires, fled in haste. There followed a veritable migration of peoples.¹⁸

This, too, was ethnic cleansing before the term became commonplace.

Cycles of violence continued after 1913. Vengeful Albanians caused havoc among retreating Serbs in 1915 after their heroic rout by Austro-Hungarian forces.¹⁹ By war's end, victorious Serbs turned the tables on Albanians. And so it went, and so it continues. Each side has, moreover, sought to erase the other's historic claims to the land. Early in 1999, Serb forces demolished the Prizren monuments to modern Albanian nationalism; Albanians, later the same year, pulled down those extolling medieval Serb princes.

How, you may ask, does this recurring Balkan violence—and, indeed, Kosovo elections—relate to the global concerns that often preoccupy Western policy makers in the early Twenty-First Century? That a dominant West has imposed these elections on a rough-hewn peasant society elicits the larger question: what kind of response should one expect in such instances from an underclass society? What are the prospects for transforming and molding traditional societies in our own image? Philip D. Curtin's thoughts on this matter seem germane to Kosovo and Bosnian elections, or any country that is not of "the West": missionaries, secular and religious, "have set out to persuade others to change their way of life, but they have usually succeeded only in part,

17. JUDAH, *supra* note 14, at 18 (citing CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE, REPORT OF THE INTERNATIONAL COMMISSION TO INQUIRE INTO THE CAUSES AND CONDUCT OF THE BALKAN WARS 151 (1914)).

18. *Id.* Conflict between the two sides continued in the 1920s and 1930s. Tens of thousands of Albanians and Muslims emigrated to Anatolia (Turkey) between 1918 and 1941. *See id.* at 19-22.

19. *See id.* at 20.

and only when their audience wanted to hear what they had to say.”²⁰ The point here is that by failing to take into account the Balkan obsession with a selective past and their clannish notions of patriarchy and vengeance, the NATO powers have unrealistically pursued dreams of instant success, such as Western-style democracy derived from Western-style elections. My own elections experience and reading the history of this region suggests otherwise—it will take time and patience.

IV. RESOLVING THE ELECTION DILEMMA

In autumn of 2000, Kosovars experienced their first democratic and internationally supervised elections. Although Serbs opted not to participate, Albanians embraced the notion enthusiastically. It would be misleading, however, to assume that Kosovars were strangers to elections or even self-government. The LDK leader Ibrahim Rugova was, from 1989 to 1998, the president of the so-called Republic of Kosova, independent of Serbia but not of Yugoslavia.²¹ Because of Rugova’s adept and steadfast leadership, Kosova was really a state within a state. While the Serbs exercised control, often brutally, they permitted Rugova to carry on, evidently concluding that they had more to lose by liquidating his regime than allowing it.²² Adhering to Rugova’s policy of non-violence, Albanian Kosovars, meanwhile, acquired valuable experience in self-government, especially administering education and health care. That the LDK, founded in December, 1989, carried the burden of governance for nearly a decade was not lost on those participating in the October 2000 elections. The LDK leadership established its legitimacy by asserting continuity with the old Republic of Kosova. In so doing it invited Kosovars to engage in politics with some self-confidence.

With the Serbs out of the picture, Albanian Kosovars pushed for all-Kosovo elections. In appropriating the international community’s vaunted rhetoric about justice and rule of law, they would use all-provincial elections to cement their hold on the country and end once and for all any prospects of power-sharing with Serbs. Confronted with this dilemma, the Great Powers backtracked—elections would be local. There was an urgency, it was reasoned, to elect municipal authorities to

20. PHILIP D. CURTIN, *THE WORLD & THE WEST: THE EUROPEAN CHALLENGE AND THE OVERSEAS RESPONSE IN THE AGE OF EMPIRE* 109 (2000).

21. JUDAH, *supra* note 14, at 61-69.

22. *Id.* at 68.

attend to multitudinous local problems and in so doing build democracy from the bottom up.

Announcement of elections for Kosovo did engender dissent. One who spoke adamantly against them was Balkan authority Misha Glenny,²³ who favored Kosovo's putting its administrative and judicial house in order before undertaking elections. An efficient and honest civil service, he argued, would avoid a reliance on local, often corrupt, party patronage and subversion of local politics by the kind of mafia that had emerged in Bosnia.

This view did not prevail: during the summer of 2000 it was determined by NATO powers that elections would be held at the end of October. OSCE would manage these by drawing upon its Bosnian experiences of 1996, 1997, 1998, and 2000. Fortunately, OSCE did not have to cope with the kinds of registration problems, which had been so exasperating in Bosnia.²⁴ Most Albanian Kosovars had returned to their homes after their travails in early 1999. Serb Kosovars, while resembling Bosniaks in their insecurities, either fled Kosovo or holed up in enclaves and resolved to boycott the election. By doing so, they spared OSCE's having to make hard decisions, at least for the present. Summer registration provided each registrant with a receipt certifying the right to vote. Furthermore, the Final Voter Registration ("FVR") list identified the registrant by name, age, domicile, and place of birth. Such care exercised in registration made voting immeasurably more efficient and accurate in Kosovo than it ever had been in Bosnia, where diaspora had created chaos.

V. SUPERVISOR RECRUITMENT AND TRAINING

Finding international supervisors became easier with each passing Bosnian election; the databases had expanded greatly since the first election in 1996. Head-hunting organizations like Greater Washington-

23. *Prospects for Security and Stability in Former Yugoslavia: British Perspective*, in WOODROW WILSON CENTER, NATO AND EUROPE IN THE 21ST CENTURY: NEW ROLES FOR A CHANGING PARTNERSHIP 55-59 (A-M Crisen ed., 2000).

24. Although this account deals only with elections, the importance of Bosnia voter registration and the manner in which it was carried out should not be ignored. Ethnic cleansing caused a Bosnian diaspora in the early 1990s, making it exceptionally difficult to certify who should be voting where or whether former residents were entitled to return to their former homes. OSCE sadly mismanaged this registration process in Bosnia and in so doing contributed toward the ultra-nationalist parties' holding sway in most of the elections.

based Pacific Architects and Engineers (“PAE”) and Quality Support Systems compiled slates of candidates replete with dossiers, which were sent to the United States State Department for final approval. The training routine for Kosovo supervisors and the election format were essentially the ones used for Bosnia. Just as Bosnia supervisors had been flown into Zagreb and Split, Croatia, those assigned to Kosovo headed for Skopje, Macedonia.

While that which follows chronicles my personal experience, it also, I feel, typifies that of others.

Saturday, October 21

I arrived in Skopje on a Lufthansa flight out of Munich and with other supervisors was immediately directed to waiting buses. These carried us through rugged mountains (awash in autumn colors) to a Lake Ohrid resort hotel, where for three days we would receive intensive elections training. Upon arrival we were given identification, per diem stipend in Deutschmarks, and our Kosovo destination before being assigned a room overlooking the lake and served a leisurely dinner. Then it was early to bed for my roommate and me.

Sunday, October 22

We had orientation on mine awareness, health, Kosovo geography and politics, map reading (replete with Serb and Albanian place names), security, and election procedures. The KFOR military/security presentations were uniformly good; the OSCE staff instruction on election procedure was tedious.

Monday, October 23

The morning was free to visit historic Saint Naum Monastery, important in the spread of Slavic Christianity and culture in Eastern Europe. During the afternoon we practiced operating hand and car radios, crucial items in the security apparatus as well as in avoiding election snafus. We also reviewed election management.

Tuesday, October 24

The morning was devoted to role-playing possible election scenarios. As in Bosnia, OSCE structured elections based on

proportional representation to accommodate multiple parties. Here, however, voting would also be for individuals. The process appeared exceedingly complicated, especially for an unsophisticated (often peasant) electorate. Little was learned, it seemed, from Bosnia where spoiled ballots had abounded. Tallying the ballots promised to be no less bewildering, especially to an inexperienced Kosovo elections committee.

Afternoon was again devoted to security lectures by KFOR officers. We received further assurances that the re-enforced KFOR would safeguard elections: security had never been better in Kosovo. That said, we were given detailed emergency procedures and informed that duty in Kosovo was categorized “hazardous.”

Wednesday, October 25

The Macedonia phase concluded. We were awakened at 3:45 a.m. for an early breakfast and departure. Our group then filled a five-bus convoy, which left for Kosovo at 5:00 a.m. The morning was very mysterious and eerie. Our convoy followed the same mountain route we had used in coming, this time skirting Skopje and its enveloping layers of yellow-gray pollution. After expected delays at Macedonian passport control, we were admitted into Kosovo.

At the Kosovo checkpoint we picked up an armed KFOR (Greek) escort. Riding atop the armored vehicle in front of us, fully-armed troops scanned the mountain passes as our convoy rolled through them. At the Greek base, OSCE personnel from Rrahovec/Orahovac (Albanian/Serb names in that order) joined us. We then proceeded through Kacanik, Ferizaj/Utrosevac, Suhareke/Suva Reka, Shtime/Stimlje, and Malisheve/Malishevo before reaching Rrahovec. This area had in 1999 been a flash-point between Serbs and KLA. At Shtime, we passed near Racak, where a Serb massacre of Albanian Kosovars had helped precipitate NATO intervention in 1999. The OSCE staff informed us that villagers here tilted toward the PDK and that the LDK had been subjected to intimidation by PDK at its recent rallies. Any election-day problems would likely be of that sort.

Malisheve, a few kilometers from the polling center to which I would be assigned, resembled a Western frontier town—shops fronting on the sidewalks and streets with gaping potholes. Shattered houses and vacant lots testified to the previous year’s fire fights. Beyond Malisheve, on the Rrahovec Road, we passed both newly restored and

still demolished houses and mosques, rusted vehicles, and withering vineyards.

We reached Rrahovec in late afternoon, much later than anticipated. We were greeted at our destination, a nondescript motel/cafe, by thirty or so men. They were, no doubt, our drivers, interpreters, and the just plain curious. They willingly assisted in unloading our baggage, which was stacked unceremoniously in the middle of the motel dining room. We were then invited to be seated in the midst of this chaotic environment for a very late lunch.

Our OSCE hosts had difficulty getting their act together, especially the making of housing assignments. First, who wished to remain in the motel? Although convenient for meals and meetings, it was not so clean and invariably submerged in tobacco smoke. Who wished to bunk at the nearby German military base? This was an intriguing option for the several who were veterans of World War II; however, old guys were unacceptable because of the spartan living (tents, sleeping bags) of this KFOR contingent. A few stated a preference to reside with a Kosovar family. Some hours later, well into the evening, three of us were offered a place on the outskirts of the town. After what seemed an interminable drive on pitted and unpaved roads, we came upon our quarters, a huge, typical Albanian house.

When we arrived, we were greeted by our host with lantern in hand. Both electricity and water had failed that night. Not to worry. The owner, a gracious and even jolly fellow, assured us that there would be both—in time. Eventually, we acquired electricity but had no water until next morning. The toilet, an outdoor privy, was the kind commonplace in Kosovo (a hole in the floor), which presented a challenge on cold nights and mornings for those with arthritic knees.

On arriving, we had a delightful talk with the host, his wife, and their three children. While we did not speak Albanian, nor they English, we conversed reasonably well in German. The father, who had worked in Germany, spoke some; the elder daughter, who studied the language in school, was fluent. We assumed that they would retire to another part of the house, but they suddenly gathered stuff and left to lodge elsewhere. Their house was ours for the remainder of that election week.

Our home proved wonderfully comfortable and secure. This house had been burned, gutted, and restored—all in just over a year. The new red brick surface would have to do until the addition of a white stucco finish. The front faced the nearly impassable road, which we had

traveled the night before. One entered by a locked side garden gate and through a rear door into the house. The bath was situated to the left of the entrance; the kitchen beyond also served as the dining room and socializing center. Our three bedrooms surrounded it. This house suited us well—electricity and water did not fail us after the first night.

When I initially received my assignment to Rrahovec/Orahovac municipality I had no notion whether it was a good or bad one, but it did not take long for me to conclude that it was an interesting part of Kosovo and that elections there could be significant. Located in the western hills of central Kosovo, Rrahovec municipality includes some sixty towns, villages, and hamlets.²⁵ Before 1998 and 1999, it was about ninety percent Albanian, the remainder consisting of a mix of Serbs, Turks, Montenegrins, Muslim Slavs (Gorane), and Roma, or “Gypsies.”²⁶ The Serbs had largely congregated in a village southeast of Rrahovec town. The municipality had, as I noted above, seen much fighting between the KLA and Serbs during 1998 and 1999. Aside from securing themselves in the rural areas, the KLA had taken even Rrahovec briefly, the first instance in which control of a municipality was actually wrested from the Serbs. The fighting had resulted in numerous casualties and extensive property damage. As the OSCE bulletin on human rights violations stated: “The fighting in and around Orahovac [Rrahovec] town was fierce, since control of the town was considered key to a supply route to the nearby small town of Malisevo/Malisheve, temporary UCK [KLA] headquarters.”²⁷

Rrahovec town was, before 1998 and 1999, about eighty-four percent Albanian, thirteen percent Serb, and three percent other. According to OSCE, the Serb offensive in late March 1999 had resulted in extensive looting and killings—individuals rather than mass executions. The polling station to which I was assigned was the village of Libizhde, just outside Malisheve. The OSCE report, that Malisheve and vicinity had been shelled by tanks and rockets in late March, 1999, was confirmed by our first impressions of this town. Indeed, a disabled Serb tank along the roadside stands as a KLA trophy. During this Serb offensive many villagers had fled to the mountains; those who remained

25. See ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE, KOSOVO/KOSOVA AS SEEN, AS TOLD (Apr. 1, 2000), <http://www.osce.org/kosovo/reports/hr/part1p5ora.htm> (on file with the Quinnipiac Law Review).

26. *Id.*

27. The UCK subsequently lost control of Malisheve to Serbian forces on July 28, 1998. During this period both sides engaged in human rights violations.

behind were among those who were expelled by buses and trucks to Prizren or were otherwise brutalized. Villages to the south of Rrahovec town, near the boundary with Prizren municipality, also came under attack by the Serbs in late March, 1999.

Thursday, October 26

Supervisors were introduced to their interpreters and drivers and received radios. My interpreter was Ramadan Kastrati, a common Albanian surname; my drivers were (I had two at separate times) Hamza and Shehu. My housemate's driver was Morina; his interpreter was another Kastrati. As I reviewed polling committees, interpreters, and drivers, I discerned no Serbs. Recurring Albanian surnames like Krasniqu, Rexa, Thaqi, Morina, Pacarizi, Kastrati, Bytyqu, Gashi, Kryeziu, Selimi, Zogaj, Hoxha, Hamza, Shehu, and Shala appeared to signify proverbial Albanian clannishness. My housemate and I invited our Morina/Kastrati/Hamza team to lunch to get acquainted.

I liked Ramadan Kastrati, a high school English teacher, who was the best interpreter that I encountered in Rrahovec. He was also politically adroit and helped me immensely during the elections with advice about local customs and coping with difficult situations. Above all, he was a nice guy who invited my housemate and me to see picturesque Prizren after the elections, but he was an ardent Kosovo nationalist and proud ethnic Albanian who left no doubt of his hatred and mistrust of Serbs. During the recent war he had survived by taking his wife and two small children to the mountains.

My polling station, situated in the Lubizhde village school building with two other such stations, comprised the polling center for that larger area. The other polling station supervisors included a federal judge from Minnesota and a filmmaker from Prague. The three of us were assigned two cars and drivers and two hand and car radios.

Friday, October 27

On the day before elections, we three Lubizhde polling station supervisors retrieved the non-sensitive materials (portable cardboard voting booths, pens, pencils, pencil sharpeners, scissors, lanterns, flashlights, batteries, and much else) from the Rrahovec OSCE warehouse and set out for our polling station. It was a once-gutted and burned-out school, now restored. Although new in most respects, the building had no indoor plumbing, and electricity proved problematic.

Lighting in some rooms worked; in others it did not. New furnishings were layered with dust, as were the floors. We were promised a cleanup before elections. The outdoor privy was an abomination.

In the midst of curious primary school children, I was greeted by my elections committee, a good-natured, attentive, and evidently excited group each of whom bore the surname Morina. Chairman Ismet, the eldest, was a high school music teacher.

Saturday, October 28—Election Day

I was up at 3:30 a.m. and picked up by our driver, Shehu, at 4:30 a.m. We then stopped for my judge colleague and the boxes of non-sensitive materials, which he had secured for the night. From his place we then drove to the OSCE office in Rrahovec, arriving there about 5:00 a.m., to retrieve sensitive materials—ballots, final voting lists, tally forms, etc. At this OSCE office we were joined by our Prague filmmaker colleague and two police escorts, a young Kosovar and a seasoned Turk. With a convoy of two vans, police in each, we headed through the cold damp (it had rained most of night) dawn for Lubizhde. We were twice stopped at KFOR (German) checkpoints and passed occasional military vehicles on patrol. We reached Lubizhde, a forty-minute trip, at 5:45 a.m., fifteen minutes early, and an hour and a quarter before voting was due to begin.

We had to set up the polling station, paper over PDK graffiti with OSCE posters and cover Albanian flags indoors—those outside could remain. Covering graffiti, especially, was a thankless task, for the OSCE posters were ripped down soon thereafter. Together with Chairman Ismet Morina, I assigned tasks to his elections committee. Agron Morina took on the difficult task of crowd controller; Fadil Morina accepted the position of identification officer; Asllan Morina became ballot issuer; and Tafil Morina ballot box overseer. To handle thorny problems a “Help Desk”, manned by Rrahim Pacarizi and Izeff Krasniqi, was set up outside our door. The two other polling stations also used this “Help Desk.” We retained our same two policemen to keep order.

Crowds began collecting before 7:00 a.m. From then until late afternoon voting was heavy. There were several queues—a long one outside the building and shorter ones at each polling station doorway inside. By mid-morning the polling station queues were chaotic: crowds in the doorways pushing, forcing their way into the station. Crowd

controller Agron shoved back but in the end had to call for police assistance. The mob was good-natured; there was never the slightest display of anger. They simply wished to vote.

The voters' mode of transport to the polls was reminiscent of that used in Bosnia—cars, tractors, even an occasional ox- or horse-drawn cart. Typically, a young father brought his wife and child in the cab of his tractor; an older father attached a cart to his tractor and carried his larger family in it. Election day was festive; families dressed in their Sunday best—Saturday notwithstanding—and chatted amiably outside as they waited in the long queue snaking toward the polling center door. The Lubizhde electorate was disproportionately male. Many older men were attired in their white felt *plis*; there was even a fez or two. This oval, rimless *plis*, a cap traditionally worn by shepherds, signified both Albanian nationalism and Kosovo patriarchy. Women also had their national garb. Typically, they covered their heads in the Muslim fashion with the recognizable Balkan kerchief, or *shami*, and often they sported pantaloons (*dimi*) of leopard motif.

The elections committee set up rows of chairs in the polling station for the physically impaired as well as for local and international observers. Usually, these chairs were filled with the elderly, infirm, and women with small children. Many voters exhibited effects of a hard life and poor health care and diet—bent bodies, game legs, toothless mouths, and weathered skin. Whenever possible, I invited the elderly to the head of the line and to sit while awaiting their ballot. On several occasions, I escorted pregnant women and those with babies to enter through a back door to take a seat. On one occasion I even carried ballots to two infirm voters unable to leave their car. Although OSCE manuals had little to say about such courtesies, I believe that a supervisor's role is one of facilitating the voting process beyond those prescribed by OSCE. In the after-election tallying, when the supervisor has final authority in determining ballot validity, I held to the same principles; I sought in each instance to comprehend voter intent rather than rush to invalidate ballots technically in question. I am gratified that such attempts at fairness won strong approval from the committee and hope that they will be remembered when Kosovars assume responsibility for their own elections.

Most problems that I encountered stemmed from deep-rooted Kosovar patriarchy. When a father entered the polling station, he often did so with his family. From the point of their having established identity and receipt of a ballot, he tried exercising control over his

family's voting. In Bosnia I had experienced this problem but not to the degree as in Kosovo. In Bosnia, supervisors had allowed husbands and children to assist illiterate (usually elderly) wives and parents. While some of that occurred in Kosovo, wives (illiterate or not) generally bowed to their husbands' insistence to control their vote. I had gently (but often physically) to remove several family members from a single booth where the father had corralled them. Even after I had detached wife and daughters from the father and escorted each to separate booths, they and the father continued communicating across the room. When I smilingly admonished them; they smiled back but ignored me! It was a game. When mild disapproval did not work, I stood in their line of vision to prevent cross booth talk. Even when I guided wife or daughter from the booth to the ballot box to deposit her ballot, I had to be alert to father's attempts to intercept her in order to inspect or even alter the ballot. Although interpreter Ramadan conveyed my concern to Chairman Ismet, the latter chose to ignore my entreaties. Likely, he was of the same patriarchal mentality as those whom I had berated. Such ingrained Balkan machismo is totally at odds with the kind of election that OSCE conducts and one with which it must contend in future elections.

Voter crowds diminished by late afternoon. Problems did not end, however. Just before 6:00 p.m., an hour before the polls were to close, we lost our electricity. Because our battery-powered halogen lantern shown on only the ID officer and ballot issuer, I used my own flashlight to assist the voter in the booth. Fortunately, most had voted by the last hour; we closed the polls promptly at 7:00 p.m. Straightaway we rearranged the tables and gathered around them to begin the tally, which promised to be a long and tedious task. I determined to proceed slowly, guiding the committee through each step in the process. Their understanding and acceptance of it seemed basic to the entire election experience.

VI. TALLYING AND BUNDLING THE BALLOTS

The semi-darkness of the polling station made tabulating votes difficult although not impossible. Committee members counted their separate piles of ballots and repeated this routine for accuracy. They then called out the totals while my interpreter and I recorded them. Predictably, the elections committee deferred the complicated scoring and completion of the OSCE statistical forms to me, although I

subsequently reviewed each with the committee. I also had problems, for I discovered some OSCE forms for which I was responsible were in Albanian. In this instance, interpreter Kastrati played a crucial role. Behind us sat observers from the LDK and PDK, as well as several international observers. Because these party people could hardly restrain themselves from direct participation in the count, I had constantly to cajole, reprimand, and even threaten to oust them from the room when they pressed too near the ballots.

When the count had concluded, we had a surprise. An upset had occurred in this Rrahovec community: The moderate LDK of Ibrahim Rugova had swamped the favored PDK by nearly two-to-one, by 304 votes to 155. The voter turnout of those registered approximated ninety percent.

After concluding the tally, completing the OSCE forms, and placing these sensitive items in tamper-proof bags, I had another two hours to wait until our convoy reassembled. While I enjoyed spending the intervening time talking with our friendly Turkish policeman, I was very tired and ready to pack it in around 12:45 a.m. The drive back to Rrahovec was anti-climatic: the early morning mountain air was bitter cold; moreover, driver Hamza had car trouble. Our usually forty minute trip to Rrahovec took an hour and a half. Even then, we had two mandatory stops in town—first at the field office to turn in the sensitive materials, e.g. ballots and tallies. Our police escort stayed with us until this was done. Then we disposed of our non-sensitive stuff at the OSCE warehouse.

Back at the house, I was elated to discover that the electricity was on and that there was hot water in the tank. I took a hot shower, welcomed my housemate back from his polling station, and went to bed a little after 3:00 a.m. There was symmetry here; I had been up nearly twenty-four hours for this ordeal. Still, it was fulfilling, although I would not characterize it as did interpreter Burim Kastrati, who called it “the happiest day of my life.”

The OSCE staff forgot to inform us that we switched to standard from daylight time, a mere annoyance. After breakfast, we turned in our radios and in the debriefing offered observations about the elections. OSCE officials took notes, which I hope will be heeded for the future. I spoke to what I regarded as a flawed aspect of the orientation, the supreme focus on the mechanics of voting and tallying to the exclusion of any consideration of the cultural gulf separating the Kosovo voter from Western electoral practices.

After debriefing, my housemate and I accepted an invitation from interpreter Ramadan Kastrati to join him on a jaunt to historic Prizren. That we went to this city, essentially on a pilgrimage, was no accident, for no city in Kosovo is more closely identified with Albanian nationalism and with the absolute claims of Albanian Kosovars to this province. Ramadan proudly took us to the principal Albanian nationalist shrine. Afterwards, as we walked the streets of the old Turkish quarter and past outdoor cafes, we were greeted warmly and invited to join in drink to celebrate. Here we discerned the Albanian elation both at the Serb expulsion and the free elections, which we had managed.

VII. ELECTION RESULTS AND POST ELECTION REFLECTIONS

An OSCE press release of November 10, 2000 offered the first clue of the October 28 election results. Ambassador Daan Everts, Head of the OSCE Mission in Kosovo, observed:

There is no question that the elections have done Kosovo and its people well. The whole election process, including the preparations and especially the behaviour of the electorate on 28 October have deeply impressed the world. This will help in shaping the future. All the cynics and sceptics about the democratic credentials of the Kosovo population have been silenced.

For any elections the key success criteria are turnout, transparency, absence of fraud and no violence. On all these points Kosovo scored very highly. The turnout of 79 per cent is truly remarkable and about the highest possible in any democracy. The elections and the count were transparent, aided by the thousands of domestic observers put forward by Kosovo non-governmental organizations and political parties. The elections were free of fraud and manipulation, mirrored by the fact that very few complaints about irregularities were made and those were marginal in nature. Violence was virtually absent, so much that KFOR wished there were elections every day!²⁸

Yes, these elections went better than any had in Bosnia, but democracy and free elections still have a long way to go before the rule of law, as we know it, pervades the land of Kosovo.

28. Press Release, Ambassador Daan Everts, OSCE, Elections Help Shaping the Future in Kosovo, says Everts (Nov. 10, 2000), http://www.osce.org/news/generate.php3?news_id=1266 (on file with the Quinnipiac Law Review).

POSTSCRIPT 2001

When I wrote the above article at the end of last year, I did not anticipate that Kosovo politics would take such a drastic turn so quickly—and for much the worse insofar as the rule of law is concerned. The force of Albanian nationalism, while evident to me last autumn, now appears barely containable. Its partisan associate it, for the present at least, with a greater Kosovo, not a greater Albania. My interpreter Ramadan Kastrati, one such Kosovar, had disdainfully dismissed impoverished and backward Albania as a rallying point, and now guerilla groups, operating in the Presevo Valley opposite Serbia, and along the Macedonian border are garnering support for what they trumpet as a limited Kosovo undertaking. This new KLA, or National Liberation Army as it is called, correctly senses NATO's reluctance to risk casualties by intervening. Yes, those who are pressing forward in this conflict are the very types who lost the Presevo buffer zone and Macedonia fends off intruders, the prospect of a wider Balkan conflict looms. Meanwhile, the rule of law languishes, becoming possibly the latest victim of Balkan history.