

## The Perils of Global Governance: Why has the European Union Failed to Address Corruption in Kosovo?

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### Abstract

*Since the Kosovo War ended on June 10, 1999, the European Union (EU) has allocated vast influxes of official development assistance (ODA) to Kosovo, including humanitarian aid, technical assistance and financial grants. In large, this support has sought to facilitate accountable, democratic governance that fosters ‘uncorrupt’ institutions within the country. Although the EU has made considerable advances in this pursuit, Kosovo’s public institutions remain riddled with corruption, notably access payments, which impede the development of transparent governing bodies. Accordingly, this paper conducts a critical analysis to assess why the European Union has been unable to address widespread corruption in Kosovo. It contends that during the international post-conflict reconstruction of Kosovo, the EU provided ODA to local political elites who used such resources to establish clientelist networks that undermine accountable, democratic governance. This advent created ‘path dependency’, making institutional reform difficult thereafter. Second, ODA programs from the EU have imposed market-oriented reforms that have directly and indirectly nurtured clientelism when implemented.*

**Keywords:** Kosovo; European Union; Corruption; Path Dependency; Post-Conflict Reconstruction

### Introduction

On October 7, 2005, the Special Envoy of the United Nations Secretary-General in Kosovo, Kai Eide, published a report which identified corruption as one of the main factors impeding democratic development in Kosovo (Coelho, 2018). Entitled, *A Comprehensive Review of the Situation in Kosovo*, the report went on to indicate that if political officials did not reconcile this issue, public institutions would remain undermined for years to come. Almost nineteen years later, Eide has proven to be starchily accurate. To date, Kosovo is ranked eighty-three on the Corruption Perceptions Index (Transparency International, 2023). Although many types of corruption pervade Kosovo, the most prominent form it takes is that of access money, an informal exchange method during which elites transfer wealth among themselves to enhance personal gains (Ang, 2020). While access money is not uncommon in post-communist countries, its sustenance in Kosovo is concerning because the European Union (EU) continues to allocate vast influxes of official development assistance (ODA) to facilitate accountable, democratic governance that ensures ‘uncorrupt’ institutions. Given this reality, the following inquiry arises: Why has the EU been unable to address corruption in Kosovo?

To answer this question, this essay critically analyzes the European Union’s official development assistance allocations to Kosovo since the Kosovo War ended on June 10, 1999.

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The analysis derives two principal findings. First, during the initial post-conflict reconstruction of Kosovo, the EU provided ODA to local political elites who used such resources to establish clientelist networks that undermine accountable, democratic governance. This advent created ‘path dependency’ making institutional reform difficult thereafter. Second, ODA programs from the EU have imposed market-oriented reforms that have directly and indirectly nurtured clientelism when implemented. To prove these findings, this essay overviews how the EU uses ODA to reduce corruption in Kosovo, before moving into the critical analysis.

## **EU's Ideological Framework**

The EU has used a liberal state building ideological framework to address corruption, and notably, the social embeddedness of access payment practices in Kosovo. Broadly, the framework seeks to help local politicians establish European standards of liberal democracy under the pretense that this will diminish the prevalence of corruption countrywide. According to pundits working for the EU, such is the case because liberal democratic states intrinsically rely on a combination of ‘stick’ and ‘carrot’ structural measures that effectively reduce corruption. Stick measures, such as decentralized governance and a strong rule of law, hold citizens accountable for engaging in corrupt ventures and thus deter individuals from committing related criminal activities (Holmes, 2015: 89). Conversely, carrot measures, such as positive working environments and fair wages, encourage citizens not to engage in corruption. As such, the intergovernmental organization has attempted to address corruption in Kosovo ‘technocratically’, by preparing the country for the rights and obligations of European Union membership outlined within the *Copenhagen Criteria*, which it views as a viable ‘anti-corruption’ doctrine.

However, in Kosovo, the European Union pursued this objective in a top-down manner that prioritized the incentives of the Kosovar elites while concurrently minimizing or excluding participation from its larger populous, including the Kosovo Roma, Ashkali, and Egyptian (RAE) communities. This is evidenced immediately following the end of the Kosovo War on June 10, 1999. Despite the uncertainty surrounding Kosovo’s sovereign status, the EU envisaged entity as a ‘potential candidate’ for membership and was thereby heavily involved in the post-war reconstruction process which occurred under the supervision of the United Nations Interim Administration Mission in Kosovo (UNMIK) (Kundseni 2013: 290). However, the post-war situation remained grim as two local resistance groups, the Kosovo Liberation Army (KLA) and the Democratic League of Kosovo (LDK) jockeyed for political power. Moreover, Kosovo Albanians continued to represent ethnic Serbs as potential conductors of Serbian state oppression, while ethnic Serbs viewed Albanians as violent occupiers of the ‘cradle of the Serbian people.’

Consequently, to prevent conflict relapse, the European Union endorsed an ‘elite co-optation policy’ in which EU officials would help place warring elites in positions of power in exchange for their peaceful demobilization, disarmament and reintegration. Thus, from 2000 to 2006, the intergovernmental organization used its *Community Assistance for Reconstruction, Development, and Stabilization* (CARDS) program to provide ODA for incorporating KLA and LDK members into government without formal inputs from Kosovo’s broader population (Beha & Selaci, 2018: 100). On this basis, individuals with notable track records for human rights violations acquired positions of power. These elites thereby began utilizing access payments



to establish clientelist networks across the country. Subsequently, these networks perpetuated institutional corruption by systematically and strategically undermining functional democratic governance (Smillie, 2017: 47).

### **The Emergence of State Capture in Kosovo**

The most notable of the co-opted elite was Ibrahim Rugova, the former leader of the LDK. With the help of EU officials, Rugova became the President of Kosovo in 2002, a position he would hold until 2006. In power, he established informal and personal connections with patrons across the country to acquire political support (Džankić, Keil & Kmezić, 2019: 169). As such, under his presidency, his political party operated based upon a system of personalized power, which, despite being outwardly oriented towards liberal democratic governance, was reliant upon ‘pyramids of coercive power’ that impeded positive democratic change. In parallel, Hashim Thaçi, a former KLA freedom fighter, was co-opted into a government position in 1999 under his founding party affiliate, the Democratic Party of Kosovo (PDK). Yet, once in public office, Thaçi used government expenditure to run an organized crime circle that smuggled various illegal commodities to notable businesspeople in exchange for their voter support (Coelho, 2018: 113-114).

Hence, with the help of the CARDS co-optation program, a system of ‘state capture’ emerged in Kosovo by 2007, whereby governing elites used clientelism, patronage, and nepotism to attain informal political support from clientele whom they rewarded with access to state power and resources (Beha & Selaci, 2018: 111). Although this system maintained stability, it weakened the Kosovar state’s capacity to achieve the objectives of ODA support; that being liberal democracy which could deter widespread corruption through stick and carrot measures (Stapenhurst et al., 2017: 63). As such, Kosovo’s governing institutions demonstrate notable path dependence, unable to address widespread corruption due to the social embeddedness of access payment practices within governing insertions.

The history of the *European Union Rule of Law Mission in Kosovo* (EULEX) demonstrates such realities well. The EU operationalized the ODA program after Kosovo’s unilateral declaration of independence on February 17, 2008, to address the emergence of state capture by strengthening democratic institutions. Thus, EULEX’s central mandate, outlined within the *Common Security and Defence Policy* (CSDP), stated that the mission would exercise executive authority over Kosovo’s judicial system, including the adjudication of crimes and prosecution (Beha & Selaci, 2018: 119-120).

It was also to be responsible for mentoring, monitoring, and advising local political officials on how to identify as well as combat corruption. However, in parallel to the CARDS program, EULEX officials closed their eyes to persisting corruption amongst the Kosovar elite as long as these individuals were contributing to the maintenance of stability within the country (Coelho, 2018: 114). As a result, the mission as a whole was unable to effectively address the everyday use of access payments because the majority of the Kosovar elite it provided ODA support for remained intent on using clientelist networks for personal gains.

Note that in 2008, EULEX dismissed all five hundred criminal cases it inherited from UNMIK due to what it deemed to be insufficient or improperly obtained evidence (Simangan, 2018: 131). By 2013, the mission had received €618.8 million in funding from the EU but only conducted fifteen trials pertaining to corruption, and subsequently released all of the accused

individuals without charges (Beha & Selaci, 2018: 120). In 2014, multiple intergovernmental reports found that access payments were responsible for the dropping of numerous cases involving senior Kosovo officials (Džankić et al., 2019:169). Although the EU denied such allegations in 2016, a former EULEX prosecutor, Maria Bamieh, revealed corresponding evidence in 2017 which demonstrated that EULEX officials mismanaged resources and worked in conjunction with local Kosovar elites to ensure that certain high profile political officials remained immune to prosecution. The most explicit example of this occurred when EULEX acquitted Fatmir Limaj, the former Minister of Transport and Telecommunications, whom police arrested in 2012 for his participation in organized crime, despite public evidence demonstrating his involvement in illegal activity (Elbasani, 2018: 152). Hence, while the EU employed EULEX as a stick measure to reinforce sociopolitical structures that ensure Western standards of liberal democracy, in actuality it had a negligible impact on reducing corruption.

However, the European Union has also contributed to the further entrenchment of access payments and other forms of corruption in Kosovo by imposing or promoting market-oriented economic reform packages that have sought to facilitate a high degree of privatization as well as liberalization of trade and capital. To be clear, there is little evidence that these measures in and of themselves contribute to corruption. In fact, according to the EU, implementing market-oriented reforms is an important carrot measure in that they can create a viable free market economy that minimizes corruption by producing socially desirable outcomes such as increased macroeconomic growth and reduced social inequalities. However, in Kosovo, the privatization and liberalization programs promoted by the EU have neutered clientelism by giving Kosovar elites more leverage over political affairs while reducing the amount of autonomy Kosovo's population has over decision-making.

In 2002, the European Union established the *Kosovo Trust Agency* (KTA) to facilitate the privatization of Kosovo's Socially Owned Enterprises (SOEs), a type of business that was previously owned by its employees for management on behalf of society when Kosovo was a member of the Socialist Federal Republic of Yugoslavia. The populous in Kosovo expected the transference of these SOEs to yield significant profits, as they comprised over ninety percent of the industrial and mining sector as well as half of the country's real estate and agricultural land (Gashi, 2020: 330). However, EU officials overseeing the KTA transferred just twenty percent of the profits accrued from this process to workers for their loss of ownership. They thereby allocated the remaining eighty percent to the federal state budget, and political elites would subsequently use the accrued monetary gains for access payments that led to unproductive expenditures (Knudsen, 2013: 295).

Perhaps the most prominent example of a businessman linked to the political elite in this manner is apparent within the sell-off process of Onyx Banja, a famous consortium located in Gjakova, Kosovo. In 2009, Ekrem Luka, a powerful local businessman, acquired a tender offer for the SOE. However, Luka withdrew from the sale shortly after requesting that the Kosovo Privatization Agency (the successor to the KTA) return his €500,000 deposit. Luka claimed that he withdrew from the sale because an individual involved in the privatization process threatened him by requesting a 15 percent share in the company, or €150,000 in cash (Beha & Selaci, 2018: 113). However, when Onyx Banja was tendered for privatization a second time in 2012, it was sold to a company owned by Luka that held a 90 percent share in the consortium (Beha & Selaci, 2018: 114). This time the consortium privatized the company



with a bid €2.56 million lower than the first bid in the 2009 tender and about €1 million lower than the second bid in the first tender. Later, several local media reports tied the privatization deal to Luka's personal links with politicians in power (Beha & Selaci, 2018: 114).

Similar instances of European Union-necessitated corruption are apparent when the results of the intergovernmental organization's *Instrument of Pre-Accession Assistance (IPA)* program in Kosovo are analyzed. In part, the IPA seeks to help politicians in Kosovo generate foreign direct investment (FDI) by encouraging them to promote lower labour costs, more significant corporate tax breaks, and deregulated working conditions. Specifically, according to the program's 'hard conditionalities', if Kosovar officials successfully implemented market-oriented reforms that align with these policy objectives, the EU would transfer ODA to the federal state budget, expecting local politicians to use such resources to reinforce institutions which guaranteed European standards of liberal democracy. Hence, to meet the requirements of the IPA, governing elites have pursued a 'nation branding' economic development strategy that promotes Kosovo's large youth population as a consumer-oriented group that can enable corporate profits. One such example of this is the state-funded campaign entitled *Kosovo: The Young Europeans* (Kaneva, 2018: 82-82).

However, these initiatives have been unsuccessful at generating FDI, encouraging politicians to revert to access payments for garnering political and business-related funding. The prominence of the public procurement sector in Kosovo evidences this reality well. This sector fosters clientelism between politicians and business elites as it enables political parties to provide contracts to businesses, which in turn provide significant funding for their election campaigns or state-related development initiatives. In 2014, over €1.5 million of the state budget was spent on public procurement, while from 2007 to 2014, donors of political parties acquired €220 million from public tenders (Beha & Selaci, 2018: 116). Hence, in a similar manner to lobbying practices in Western countries, donors have found a viable way to influence decision-making procedures and garner large profits, while politicians have found a way to acquire political power (Graycar & Monaghan, 2015.: 589).

The most famous example that demonstrates the detriments of public procurement is the Ibrahim Rugova Highway (I7), which was constructed by Bechtel-Enka, a joint American-Turkish consortium (Kaneva, 2018: 84-87). After the consortium finished building the highway in 2013, local and international media outlets reported irregularities with its contract and tenure. Most glaringly, the I7 was paid for entirely with public money, costing €1 billion, which was twenty-five percent of Kosovo's budget when the contract was administered to Bechtel-Enka in 2010 (Beha & Selaci, 2018: 114). Its completion was later deemed to be a consummation of corporate-political interests and an example of how market-oriented economic reforms imposed by the EU have nurtured clientelism rather than facilitated accountable, liberal democratic governance.

## Conclusion

Hence, in conclusion, this essay has conducted a critical analysis to determine why ODA from the EU has been unsuccessful at addressing corruption within Kosovo. The analysis has derived two principal findings. First, the European Union has provided ODA to Kosovar political elites, who have utilized such resources to establish clientelist networks that undermine accountable, democratic governance. Second, ODA programs from the European Union have imposed market-oriented economic reforms that have promoted a high degree

of privatization as well as liberalization of trade and capital. When implemented, these reforms have directly and indirectly nurtured clientelism by providing political and corporate elites in Kosovo with more leverage over political affairs. While it is largely beyond the scope of this paper to provide a list of solutions to these detriments, it is worth noting that the EU's approach to combatting corruption has been widely unsuccessful not just in Kosovo but many other post-communist countries (Holmes, 2015: 123). Given this reality, it can reasonably be said that ODA programs must employ a more comprehensive anti-corruption strategy that moves beyond the universalist assumptions of liberal state-building toward an approach which more in tune with unique sociohistorical realities.

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