

Europäisches Zentrum für Kurdische Studien
European Center for Kurdish Studies

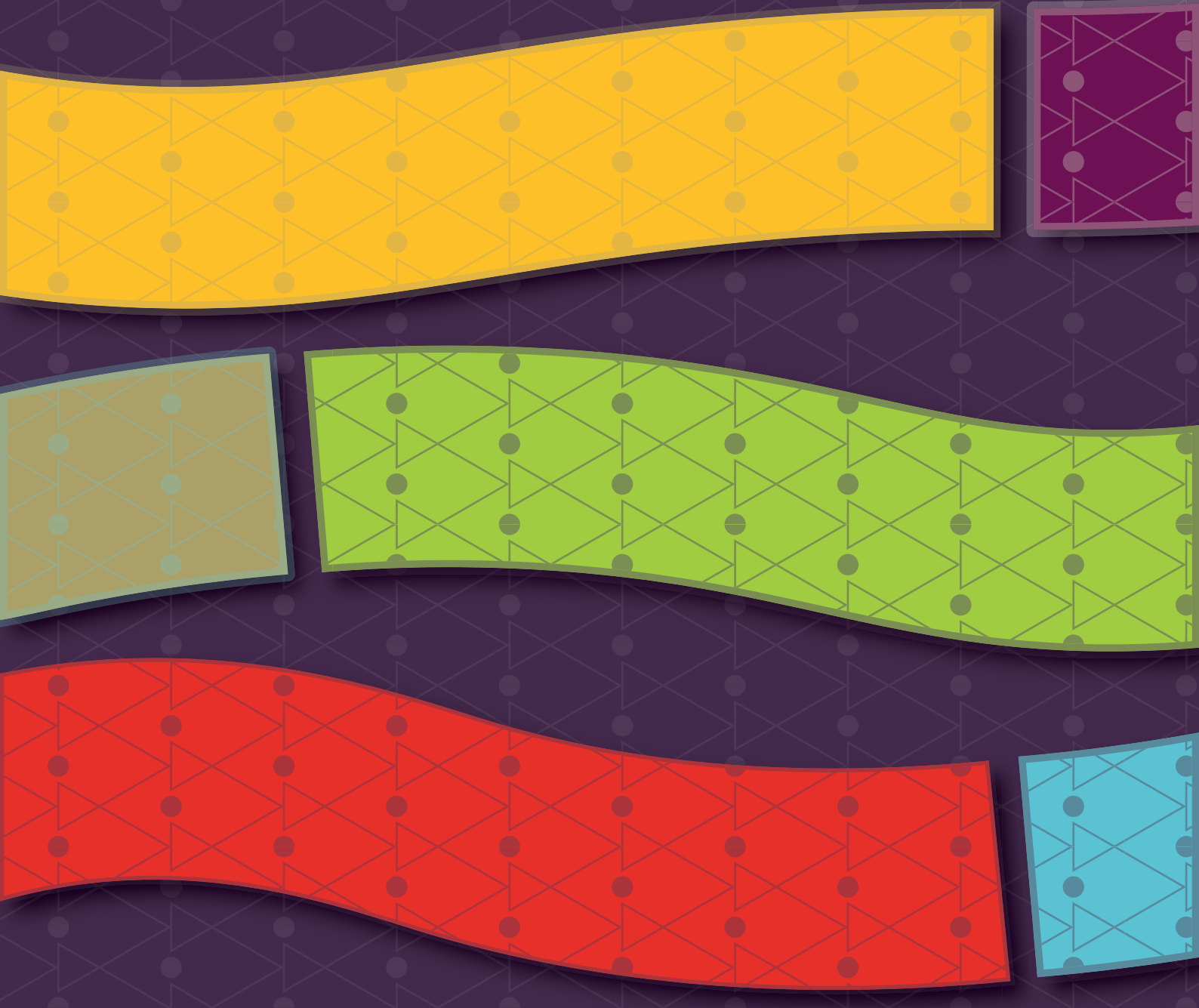


Institut für Föderalismus
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Kosovo's Journey to Independence: Lessons for the Syrian Conflict

Prishtina Paper

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Disclaimer: The principles in this paper reflect the discussions of the study trip. This does, however, not mean that all participants agree on all points of this document.

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Project: Empowerment Through Inclusion
Human and Minority Rights in Syria

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Prishtina Paper

1. Syria and Kosovo are very different countries. While discussions in Syria center around a sustainable, inclusive and transformative peace process, Kosovo's main challenges pertain to the country's international personality and its relations with Serbia. Yet, there are also important similarities – for example the existence of multiethnic, multireligious and multicultural societies (which regularly leads to conflict), the need for a peace process build on inclusion and reconciliation, and the transition to a functioning democratic governance system.
2. An important lesson to learn from Kosovo is that independence and a peace deal do not solve all the problems. Kosovo's transition to a multicultural, inclusive and democratic country began with the end of the conflict in 1999. Until today, key challenges remain in regards to inclusion and democratic consolidation. Syria will face a similarly challenging and lengthy process if a peace deal can be reached in the future.
3. Independence is not a solution per se. For minority communities it might be difficult to achieve without the backing of major global powers (as was the case in Kosovo). Yet, for majority communities, it might be challenging to prevent the secession of other groups, if these groups are consistently excluded and face substantial discrimination (and even violence) over a period of time. A solution focused on integration, and a common, inclusive, democratic framework that allows all groups to participate in the state is consequently essential for Syria.
4. Kosovo demonstrates that independence raises a lot of issues. Kosovo's independence was backed by major powers, but remains internationally contested. There are still contested visions about Kosovo's sovereignty between Albanians and Serbs in the country, with the North of Kosovo heavily integrated into Serbia rather than Kosovo. A key challenge in contemporary Kosovo is the contested nature of the post-1999 development. For Syria, this means that any agreement needs to be accepted by all major sides, and receive international support. Any peace deal for Syria needs to contain a joint vision for the future Syrian state.
5. Building an inclusive system is complex and will take time. While Kosovo's constitutional framework provides the highest international standards in terms of minority protection, inclusion and non-discrimination (including the integration of the European Convention of Human Rights in the Constitution), these remain partially implemented even 16 years after the declaration of independence. Laws such as representing different groups in public administration, implementing bilingualism, and ensuring proper representation of different groups in parliament and government are still not fully implemented as a result of the lack of commitment by actors from different communities. Sometimes, it is important to think in small steps, for example increasing the representation of smaller communities in the administration, police and security forces step by step rather than aiming to reach a quota quickly. For Syria, finding a system that can be implemented efficiently will be important. Ensuring that whatever is agreed is actually implemented is also essential in avoiding further sectarian separation and continued conflict. Clear action plans and a commitment of domestic and international actors to the re-integration of the country will be critical.
6. Good institutions matter. The Office of the Ombudsperson in Kosovo has proven to be significant for individual citizens to complain about human rights abuses and for community members to raise issues regarding discrimination. But it is important to think about how institutions are meant to work, and also be realistic about what they can do. The Ombudsperson writes reports and can require state institutions to act, but it has no legal enforcement powers, for this it needs to work with the Courts. Institutional interplay is therefore also important – as is a functioning rule of law. Non-majority communities need protection through different institutions and frameworks at different levels. For Syria, this means that a system focused on inclusion and democratic participation needs to protect rights at va-

rious levels -within a Constitution, through a multilevel governance structure (which includes a second chamber of the national parliament), and through inclusion of international human- and minority rights standards and frameworks in domestic law.

7. Minority inclusion is important, but it is also important to think about who is meant to be included. It is vital to think about which political parties are represented in government and in parliament. It also matters how these parties are elected and how people can choose their representatives. For example, while 20 seats and 2 government posts are reserved for members of the non-majority community in Kosovo (meaning non-Albanian communities), in practice they have shown little impact on improving the situation of minority communities. However, other legal protection mechanisms, such as the Badinter Principle, which requires a double-majority in parliament including a majority from members of the non-majority community, on issues related to culture, language and municipalities have proven to work much better in practice. Thinking about how institutions and rules should be designed in Syria is important, but it is also important to evaluate how these provisions work in practice, and adjust them if needed. Finding the balance between protecting minority rights and ensuring their inclusion on the one side, and making the system still efficient and workable on the other is challenging and requires careful consideration of institutional and legal frameworks.
8. Language and education policies in Kosovo aim to create a multiethnic society. However, the bilingual approach is not consistently implemented, and Serbian authorities have established a parallel system for health, education and administration in the North of Kosovo, thereby undermining the functioning of Kosovo's institutions. Despite a very good legal framework, the practice in Kosovo is one of ethnic separation and a lack of implementing language and other cultural rights for different groups. In Syria, the design of language, education and other policies, as well as its implementation, will be important for the functionality and commitment of the different groups to the post-war system in the country. The existence of joint language spoken by all groups should help in Syria, but the current divergence in educational systems amongst the areas controlled by the regime, the opposition and the autonomous administration in the North will make any re-integration challenging. Future commitments to multiple languages and to the protection of cultural and education rights need to be implemented in practice, including through the provision of sufficient financial resources for communities to take care of their own affairs. Utilizing Arabic as the language that allows all communities to speak with each other can be an important cornerstone of re-integration and can help to simplify day-to-day activities.
9. The complex and destructive relations between Kosovo and Serbia demonstrate the need for good neighborly relations. Serbia refuses to recognize Kosovo, and Kosovo authorities have started using the rights protection of the Serb community as a tool to pressure Serbia into formal recognition. This »tit for tat« approach harms specific communities and does not allow for the development of more constructive and positive inter-group relations. Peace agreements and processes often take a wider regional dimension. Taking into account the prominent role of some of Syria's neighbors in the current conflict, it will be important to get their buy-in to any peace process and support a transitional period. While specific groups in Syria might look for support to neighboring countries for their interests, it is essential to integrate and protect them so that they cannot be used as a tool in a regional conflict. Likewise, it is important to allow for cross-border cooperation between different groups (for example the Kurds, the Yezidis or the Druze) to ensure that they can cooperate and work together with their fellow group members in neighboring countries.
10. Reconciliation between communities within Kosovo, but also between Kosovo and Serbia remains a fundamental challenge. Its absence explains the continued tensions, the lack of a common narrative about what happened in the 1990s and joint initiatives to deal and overcome the legacies of the past, including increased ethnic distancing. Instead, separate curricula, group victimization and continued antagonism continue to undermine social and political integration. For Syria, it will be vital to connect any sustainable peace process to a reconciliation path which addresses the crimes of the path and gives victims a sense

of justice, truth and willingness to write a common history. Dealing with the past and the crimes committed in recent years will be painful, difficult and challenging – but as Kosovo demonstrates, not dealing with this is also not an issue.

11. In Kosovo, global power plays between the USA, Russia and the European Union continue to play out today and explain the country's inability to join the UN and other international organisations. While Kosovo's independence was possible because of its backing by major powers, its international sovereignty remains contested. Taking into account the prominent role of Russia and the USA in Syria, any peace deal needs to be embedded in a global agreement backed by UN approval and support to ensure that any peace transition has maximum international support.
12. Any peace agreement requires difficult compromises and may need some ambiguity before it is implemented. However, even in ambiguity, there needs to be some clarity on the big questions. Issues such as status, human rights, borders, international recognition, rights provisions and the framework for the future government should not be delayed and should be decided upon as part of a peace deal. As different peace initiatives for Syria have demonstrated, findings compromise on major issues about the nature and organization of the state is extremely complex, and requires good will of the actors involved.
13. Peace processes evolve. After 2008 nobody talked about Northern Kosovo – this only became an issue in 2013. Likewise, issues will come up in Syria, once a peace deal has been reached. Already today the situation in Syria has little in common with the situation in 2015, when resolution 2254 was adopted. A peace deal needs to be flexible so that new and emerging issues can be addressed. Otherwise, it is destined to fail.

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