
THE INFLUENCE OF INTERNATIONAL FACTORS ON CONSTITUTION- MAKING IN POST-CONFLICT COUNTRIES: THE CASE OF KOSOVO

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Abstract: This study analyzes the influence of international factors on the process of drafting and operating the constitutional order in the Republic of Kosovo, as a typical case of internationally supervised post-conflict state-building. Focusing on the period after 1999 and on the adoption of the 2008 Constitution as an independent state, the paper examines how international intervention shaped the institutional architecture, the separation of powers, and the mechanisms for protecting community rights.

The study argues that the internationalization of constitution-making in Kosovo produced a constitutional order of a hybrid character, combining elements of state sovereignty with external constraints imposed through international mechanisms. Through a qualitative and analytical approach, the paper identifies the tensions between institutional stability and democratic legitimacy, assessing the long-term implications of this model for the functionality of the state.

The findings suggest that, although international intervention contributed to building a stable and inclusive constitutional framework, it simultaneously limited the full development of sovereignty and decision-making autonomy. The study contributes to the literature on post-conflict constitution-making by offering a critical analysis of the role of international actors in transforming the constitutional order and the concept of sovereignty in contemporary state-building practice.

Keywords: Kosovo, constitution, international intervention, post-conflict states.

1. INTRODUCTION

State-building and constitution-drafting processes in post-conflict countries represent one of the most complex challenges in international and constitutional law. In these contexts, international actors often play a decisive role not only in ending conflict, but also in building institutions and shaping the constitutional order (Tansey, 2009; Weller, 2009). The case of Kosovo represents one of the most typical examples of deep international intervention that has directly influenced the formation of the state and its constitutional system.

Following the dissolution of Yugoslavia and the revocation of Kosovo's autonomy in 1989, political and ethnic tensions escalated into an armed conflict that culminated in NATO's military intervention in 1999. This intervention was justified primarily on humanitarian grounds, aiming to halt massive human rights violations and the ethnic cleansing of the Albanian population (Independent International Commission on Kosovo, 2000). Following the end of the conflict, an international administration was established in Kosovo through UN Security Council Resolution 1244, which created a new legal and political reality. This act formed the basis for establishing a temporary international administration and for beginning the institutional construction of Kosovo (United Nations, 1999). Within this framework, UNMIK and KFOR played a key role in ensuring stability and creating the first democratic institutions (Weller, 2009).

One of the most important characteristics of the state-formation process in Kosovo is that it took place under intensive international supervision. The political processes, including the Standards for Kosovo, progress reports, and the final-status negotiations, were led and mediated by international actors (Bieber, 2011). The culmination of this process was President Martti Ahtisaari's Comprehensive Proposal, which served as the basis for drafting the Constitution of the Republic of Kosovo (Ahtisaari, 2007).

In this context, a fundamental question arises: to what extent is Kosovo's constitutional order the result of internal will, and to what extent is it a product of international influence? This paper aims to analyze precisely this relationship, arguing that the case of Kosovo represents a hybrid model of constitution-making, in which state sovereignty was constructed in close interaction with the international community (Tansey, 2009; Weller, 2009; Akech, 2023).

2. METHODOLOGY

This study aims to analyze the constitution-making process in a state under construction, with particular focus on the case of the Republic of Kosovo as a post-conflict country. The approach followed is not limited to describing historical and institutional developments, but also seeks to identify the main challenges, determine the role of international factors, and assess the extent of their influence on the drafting of the constitutional order

and on the integration of international mechanisms into the domestic legal system (Tansey, 2009; Weller, 2009; Chilton, Eyzaguirre, Landau, & Versteeg, 2024).

Within this framework, the paper relies mainly on a qualitative research methodology, which involves the systematic collection, selection, and analysis of relevant legal and historical data. The sources used include primary documents, such as international and constitutional acts (including UN Security Council Resolution 1244, the Ahtisaari Package, and the Constitution of the Republic of Kosovo), as well as secondary scholarly literature from the field of constitutional and international law (United Nations, 1999; Ahtisaari, 2007; Bajrami, 2011; Saunders, 2023).

The research process unfolds in several stages, beginning with the collection of data and the identification of the historical and legal circumstances, followed by their analysis within the context of Kosovo's constitutional development. In this regard, the analytical method is used to examine the content and function of legal norms, together with the comparative method to assess the influence of international factors and identify the elements of internationalization within the constitutional order. The comparative method is particularly important in studies of post-conflict state-building, as it enables the analysis of models of international intervention and their impact in different contexts (Bieber, 2011; Tansey, 2009).

In conclusion, the combination of the analytical, comparative, and sociological methods enables a comprehensive analysis of the role of international factors in Kosovo's constitution-making process, offering a critical assessment of their impact on the functionality, legitimacy and sustainability of the constitutional order in a post-conflict state.

3. FINDINGS OF THE STUDY

3.1. The onset of international intervention in Kosovo

International intervention in Kosovo intensified during 1998–1999 as a result of the escalation of violence and the humanitarian crisis. The Rambouillet Conference represented an attempt at a peaceful settlement, but its failure led to NATO's military intervention.

3.2. The beginnings of international intervention in Kosovo

The beginnings of international intervention in Kosovo are closely linked to the escalation of the political and humanitarian crisis during the 1990s, in the context of the dissolution of the former Yugoslavia. The revocation of Kosovo's autonomy in 1989 and the imposition of a repressive regime against the Albanian population created a tense situation, which gradually evolved from peaceful resistance into armed conflict by the end of the decade (Weller, 2009).

During this period, the international community's initial efforts to address the crisis in Kosovo were mainly diplomatic. One key moment in this regard was the Rambouillet Conference in 1999, which sought to reach a political agreement between the parties. However, the failure of these negotiations led to a further escalation of the conflict and created the conditions for international military intervention (Independent International Commission on Kosovo, 2000).

Following the end of NATO's air campaign and the conclusion of the Kumanovo Agreement in June 1999, an international military and civilian presence was established in Kosovo. Within this framework, the adoption of Resolution 1244 by the UN Security Council laid the legal basis for the international administration of the territory (United Nations, 1999). This resolution provided for the establishment of the United Nations Interim Administration Mission in Kosovo (UNMIK) and the deployment of international peacekeeping forces (KFOR). These developments marked the beginning of a deep process of internationalization in Kosovo, in which international actors not only intervened to stop the conflict but also took an active role in building institutions and shaping the country's legal and constitutional order. As such, this process laid the foundations for a distinctive model of post-conflict state-building, characterized by a powerful interweaving of domestic and international factors (Weller, 2009; Bieber, 2011).

To summarize the main phases of international intervention and their impact on Kosovo's constitution-making process, Table 1 below presents an overview.

Table 1: Phases of international intervention and their impact on Kosovo's constitution-making

Phase	Period	International actors	Key instruments	Impact on constitution-making
Humanitarian intervention	1999	NATO	Air campaign	Ending the conflict and creating the conditions for international administration
International administration	1999–2008	UN (UNMIK), KFOR	UNSC Resolution 1244	Establishment of the initial legal and institutional order

Institution-building	2001–2007	UNMIK, EU, OSCE	2001 Constitutional Framework	Establishment of provisional self-government institutions
Final-status process	2006–2007	UN, Contact Group	Vienna negotiations	Defining the fundamental elements of the constitutional order
Ahtisaari Package	2007	UN	Comprehensive Proposal	Basis for the constitutional structure and minority protection
Kosovo Constitution	2008	Domestic institutions + international supervision	Constitution of the Republic of Kosovo	Formalization of the constitutional order with pronounced international influence

Source: Author's own compilation based on United Nations (1999), Ahtisaari (2007), Tansey (2009), Weller (2009), Bieber (2011) and the Constitution of the Republic of Kosovo (2008).

3.3. The road toward the Ahtisaari Package

Following the establishment of international administration in Kosovo in 1999, through UN Security Council Resolution 1244, a long period of political and institutional transition began, characterized by a dominant role of international factors in guiding decision-making processes (United Nations, 1999; Tansey, 2009). At this stage, the main goal was to stabilize the security situation, build provisional institutions, and create the conditions for determining Kosovo's final status.

Initially, the international community pursued a gradual approach known as "standards before status," which aimed to fulfill a series of political and institutional criteria before opening the final-status negotiations. These standards included the democratic functioning of institutions, the rule of law, the return of displaced persons, and respect for community rights (Bieber, 2011). However, this approach was criticized for prolonging the political process and for the lack of a clear perspective on Kosovo's future.

In 2005, following an assessment by the UN Secretary-General's special envoy, Kai Eide, it was concluded that, despite shortcomings, the time had come to begin negotiations on Kosovo's final status. As a result, the UN Secretary-General appointed former Finnish President Martti Ahtisaari as special envoy to lead this process (Weller, 2009).

The final-status negotiations took place during 2006–2007, mainly in Vienna, under Ahtisaari's mediation. These talks covered key issues such as Kosovo's constitutional organization, the decentralization of local power, the protection of cultural and religious heritage, and the guarantee of the rights of non-majority communities. However, the parties failed to reach a joint agreement, mainly due to opposing positions on Kosovo's status (Tansey, 2009).

As a result of this deadlock, in 2007 Martti Ahtisaari presented the Comprehensive Proposal for the Kosovo Status Settlement, known as the Ahtisaari Package. This document represented a balanced compromise between the demand for independence and the need to protect communities, providing for a form of internationally supervised independence (Ahtisaari, 2007).

In this way, the road toward the Ahtisaari Package represents a long and complex process, in which international intervention evolved from direct administration into political mediation and constitutional design (International IDEA, 2025). This process marks a key phase in Kosovo's transformation from a territory under international administration into an entity with clear state aspirations and a constitutional framework defined by international standards.

3.4. The Constitution of the Republic of Kosovo and its hybrid character

The declaration of Kosovo's independence on 17 February 2008 and the adoption of the Constitution of the Republic of Kosovo in June of the same year represent the culmination of the long process of internationalizing the Kosovo issue and its state-building. The Constitution of Kosovo is not merely a domestic legal act, but a document that directly reflects the influence of international factors on the drafting of the constitutional order (Weller, 2009).

One of the main characteristics of the Kosovo Constitution is that it is broadly based on the Ahtisaari Package, which constituted a binding framework for structuring the institutions and guaranteeing community rights (Ahtisaari, 2007). This means that a considerable part of the constitutional content was not the exclusive result of an internal political process, but of an agreement mediated and designed by the international community.

In normative terms, the Kosovo Constitution directly incorporates international human rights instruments, granting them applicable status and precedence over domestic legislation (Kullaj & Hajredini, 2026). Therefore, the analysis of the Kosovo Constitution shows that the constitution-making process in this case cannot be understood outside the context of deep political and legal internationalization, making Kosovo a distinctive example in the study of constitutional law and post-conflict state-building.

4. DISCUSSION AND CONCLUSION

The constitution-making process in post-conflict countries represents a complex interweaving of domestic and international factors, in which the latter often play a decisive role in shaping the legal and institutional order (Saunders, 2023). As analyzed in this paper, the case of Kosovo presents a typical example of an internationalized state-building process, in which international intervention has been present at every stage, from the ending of the conflict to the drafting of the Constitution (Tansey, 2009; Weller, 2009).

International intervention in Kosovo was initially manifested through NATO's military intervention and later through the establishment of international administration under UN Security Council Resolution 1244. This administration created a new legal reality, in which de facto sovereignty was exercised by international actors, turning Kosovo into a unique case of international administration in modern international law practice (United Nations, 1999; Saunders, 2023).

The road toward determining the final status and drafting the constitutional order was characterized by a long process of international negotiation and mediation, culminating in the Ahtisaari Package. The latter laid the foundations of Kosovo's constitutional order, reflecting a compromise between the demand for sovereignty and the need for stability and community protection (Ahtisaari, 2007; Bieber, 2011; Chilton, Eyzaguirre, Landau, & Versteeg, 2024).

The analysis of the Constitution of the Republic of Kosovo shows that it represents a hybrid model of constitution-making. On one hand, it affirms the principles of sovereignty and the rule of law; on the other, it deeply integrates international standards and mechanisms, reflecting the direct influence of international factors on its content and structure (Weller, 2009).

In this context, the hypothesis raised in this paper is confirmed: the influence of international factors on Kosovo's constitution-making process has contributed to creating a functional and relatively stable constitutional order, but has simultaneously limited the full development of internal sovereignty and democratic legitimacy. This tension between stability and sovereignty constitutes one of the fundamental characteristics of post-conflict state-building models.

In conclusion, it can be stated that the constitution-making process in Kosovo cannot be understood outside the context of deep political and legal internationalization (Lerner, Pereira, & Schlager, 2024). As such, it offers a significant contribution to the literature on post-conflict state-building, demonstrating that hybrid models of constitution-making are an unavoidable reality in contexts where international intervention plays a decisive role in creating the constitutional order.

REFERENCES

- Ahtisaari, M. (2007). *Comprehensive Proposal for the Kosovo Status Settlement*. United Nations.
- Akech, J. G. (2023). *Foreign influence and the legitimacy of constitution building in South Sudan*. Journal of African Law.
- Assembly of the Republic of Kosovo. (2008). *Constitution of the Republic of Kosovo*. Pristina.
- Bajrami, A. (2011). *Sistemi kushtetues i Republikës së Kosovës* [The constitutional system of the Republic of Kosovo]. Prishtina: University of Prishtina.
- Bieber, F. (2011). Building impossible states? State-building strategies and EU membership in the Western Balkans. *Europe-Asia Studies*, 63(10), 1783–1802.
- Chilton, A., Eyzaguirre, C., Landau, D., & Versteeg, M. (2024). *Constraining constitution-making*. Journal of Law & Empirical Analysis.
- Independent International Commission on Kosovo. (2000). *The Kosovo report: Conflict, international response, lessons learned*. Oxford University Press.
- International IDEA. (2025). *The impact of guiding principles on constitution making (Kosovo case)*.
- Kullaj, M., & Hajredini, H. (2026). *Beyond ratification: Kosovo's unique path to safeguarding human dignity and fundamental rights*.
- Lerner, H., Pereira, D. F., & Schlager, N. (2024). *International constitutional advising: Introducing a new dataset*. The Review of International Organizations.
- Saunders, A. (2023). *Constitution-making as a technique of international law: Reconsidering the post-war inheritance*. American Journal of International Law, 117(2), 251–308.
- Tansey, O. (2009). *Regime-building: Democratization and international administration*. Oxford University Press.
- United Nations. (1999). *UN Security Council Resolution 1244 (1999)*.
- Weller, M. (2009). *Contested statehood: Kosovo's struggle for independence*. Oxford University Press.