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### ***Kosovo: Prison Structure, Prisoners' Rights, and the Treatment of Prisoners***

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### **Abstract**

Prisoners<sup>1</sup> rights are a critical aspect of human rights. Special attention should be given to the protection of prisoner' rights, as these members of society have been deprived of one of the most basic freedoms, their personal liberty. To further complicate matters, many prisoners lack access to adequate legal support to ensure their rights are respected once they fall under the control of the criminal justice system. As the Republic of Kosovo is a relatively new sovereign state, the eyes of the international community will carefully monitor how the criminal justice system operates to ensure that it complies with all internationally accepted standards of care for prisoners. Accordingly, the treatment of prisoners confined within the various institutions in Kosovo may serve as a barometer to measure how well the country is conforming to international human rights standards. This paper will provide an overview of the organizational

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<sup>1</sup>"Prisoner" in the framework of this paper includes all persons deprived of their liberty, both pre-trial and post-conviction. This includes those detained in holding cells, detention centers, and correctional centers. In addition, the term "imprisoned" shall refer to any detention of any person against their will, in any of the previously mentioned facilities.

structure of the different types of correctional institutions in Kosovo, discuss the basis for prisoners' rights, and examine whether or not correctional institutions in Kosovo are conforming with the relevant protections guaranteed to inmates by international law. Identifying areas where Kosovo may be struggling to meet their legal obligations to prisoners is necessary in order to properly assess how Kosovo has progressed in their efforts to comply with both domestic and international law. Future efforts should be directed at not only identifying deficiencies, but in offering practical suggestions as to how these problems may be remedied. Continued partnership between government and the civil society organizations is the most likely avenue for Kosovo to achieve its aspirational goals, and additional efforts should be made to review these partnerships and assess their effectiveness.

## **Introduction**

Kosovo is small country that has long been subjected to domination and control by other, more powerful states. During the gradual, and bloody, dissolution of the Socialist Federal Republic of Yugoslavia, many Kosovar citizens were persecuted, tortured, and imprisoned by what was viewed as an occupying Serbian state. Arbitrary imprisonment, as well as blatant and widespread disregard for human rights, were hallmarks of Serbian oppression of the ethnic Albanian population in Kosovo for much of the 1990's. In response to this dire situation, NATO intervened in 1999, using airstrikes to force a Serb withdrawal from Kosovo, and inserting a NATO-led peacekeeping force, called Kosovo Force<sup>2</sup> (KFOR) to maintain order. In addition, the United Nations assumed administration over the region via the United Nations Interim Administration Mission in Kosovo<sup>3</sup> (UNMIK), until the independence proclamation of 2008.

While Kosovo has yet to receive universal recognition by the international community, to date 113 countries recognize their independence<sup>4</sup>. With international recognition comes state responsibilities, and international obligations to observe and respect international law, which includes, of course, human rights law, and the protection of the rights of prisoners. Given the long struggle for independence, and history of oppression in Kosovo, many view the strict adherence to international law as a patriotic duty of Kosovar citizens. Admittedly, this belief is not universal, and due to lack of resources, or lack of political will, there are still many issues that face Kosovar correctional institutions, as they relate to the protection of prisoners' rights.<sup>5</sup>

## **The Legal Basis for Inmate Rights**

All people, even those detained, imprisoned, or otherwise deprived of their right to freedom, are guaranteed certain protections by international treaties and conventions, and by the laws of their respective country. One of the most basic tenets of modern international human rights law is the prohibition against torture, or other forms of cruel, inhuman, or degrading treatment or punishment. International human rights conventions have proscribed these actions in absolute terms, and find no circumstance which would justify the violation of these universal norms. The International Covenant on Civil and Political Rights (ICCPR), states, in part, "All persons

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<sup>2</sup> For more information on the role of KFOR in Kosovo, see: [http://www.nato.int/cps/en/natolive/topics\\_48818.htm](http://www.nato.int/cps/en/natolive/topics_48818.htm).

<sup>3</sup> For more information on the role of UNMIK in Kosovo, see: <https://unmik.unmissions.org/>.

<sup>4</sup> For an up to date list of countries that recognize Kosovo, see: <http://www.mfa-ks.net/?page=2,224>.

<sup>5</sup> Author Xhevdet Halili participated in the monitoring of prisoners' rights from 2009-2011. While working for NGO's that dealt with the protection and promotion of prisoners' rights, he personally interviewed approximately 140 prisoners to ascertain information relating to their treatment and living conditions while imprisoned.

deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”<sup>6</sup> In addition to the ICCPR, the United Nations Convention Against Torture (UNCAT) provides guidance on treatment of prisoners, relevant provisions include, “Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.”<sup>7</sup>

The United Nations’ Standard Minimum Rules for the Treatment of Prisoners provides aspirational guidelines for separation of prisoners based on “sex, age, criminal record, the legal reason for their detention, and the necessities of their treatment.”<sup>8</sup> It also provides guidance on establishing minimum standards for accommodation, personal hygiene, clothing and bedding, food, medical services, etc.

The United Nations is not the only international body to take a firm stance against mistreatment of prisoners, as the Council of Europe, through the European Convention on Human Rights (ECHR) also declared that, “No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”<sup>9</sup> Together, these conventions would seem to stress the importance of not only informing state institutions of their human rights obligations, but ensuring that those rights are being honored.

Recognizing that respect for human rights is a key element of any democracy, the Republic of Kosovo included a provision in its Constitution that effectively mirrored Article 3 of the ECHR. Accordingly, Article 27 of the Constitution of the Republic of Kosovo (CRK) declares that, “No one shall be subject to torture, cruel, inhuman or degrading treatment or punishment.”<sup>10</sup> To ensure that all laws and governmental institutions adhere to the provisions of the Constitution, Article 16(1) states that, “The Constitution is the highest legal act of the Republic of Kosovo. Laws and other legal acts shall be in accordance with this Constitution”.<sup>11</sup> In addition, the CRK asserts that, “The Republic of Kosovo shall respect international law.”<sup>12</sup>

While these legal instruments certainly provide a strong framework for the protection of human rights, international agreements and domestic laws are not always enough to ensure that rights are being respected. In order to ensure that the governmental institutions of Kosovo operate in accordance with the high standards of democracy, and with respect for the rule of law, it is essential for transparency and independent oversight to exist. This is especially true when dealing with the operation of correctional institutions with Kosovo.

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<sup>6</sup> International Covenant on Civil and Political Rights, art. 10, opened for signature December 19, 1966, 999 U.N.T.S. 171. Available: <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>

<sup>7</sup> Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 11, opened for signature, ratification, and accession by General Assembly resolution 39/46 of 10 December 1984, 1465 U.N.T.S. 85. Available: <https://treaties.un.org/doc/Publication/UNTS/Volume%201465/volume-1465-I-24841-English.pdf>

<sup>8</sup> Standard Minimum Rules for the Treatment of Prisoners, art. 8, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders 1955, and approved by the Economic and Social Council by its resolutions 663 C of 31 July 1957 and 2076 of 13 May 1977. Available: [https://www.unodc.org/pdf/criminal\\_justice/UN\\_Standard\\_Minimum\\_Rules\\_for\\_the\\_Treatment\\_of\\_Prisoners.pdf](https://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf)

<sup>9</sup> European Convention on Human Rights, art. 3, 4 November, 1950. Available: [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf)

<sup>10</sup> Constitution of the Republic of Kosovo, art. 27, 15 June 2008. Available: <http://www.assembly-kosova.org/common/docs/Constitution%20of%20the%20Republic%20of%20Kosovo.pdf>

<sup>11</sup> Id. at art. 16(1)

<sup>12</sup> Id. at art. 16(3)

Protecting the human rights of prisoners is such a vital task, that it should not be left to governmental institutions alone. Non-governmental organizations (NGOs) should, and have, played a critical role in providing a professional, and impartial assessment of the treatment of prisoners in Kosovo, and the continued involvement of NGOs is necessary in order to ascertain whether Kosovo is meeting its international obligations.<sup>13</sup>

### **Organizational Structure and Classification of Correctional Institutions in Kosovo**

Persons deprived of their freedom in Kosovo are held in different correctional institutions based on what stage they are at in the criminal justice process, their sex, age, or length of sentence. The Law on Execution of Penal Sanctions (LESP) lays the framework for corrections in Kosovo, and Article 208 specifically delineates the six kinds of facilities in Kosovo. Specifically, “1) prisons, for the execution of imprisonment and life imprisonment; 2) detention centers, for the execution of detention on remand and the execution of sentences of imprisonment up to three (3) months; 3) prisons for women, for the execution of, imprisonment, long term imprisonment and juvenile imprisonment imposed on women; 4) prisons for minors, for the execution of juvenile imprisonment; 5) educational-correctional institutions, for the execution of the educational measure of committal of a minor offender to an educational-correctional institution; 6) prison hospitals, for the treatment of detainees on remand and convicted persons.”<sup>14</sup> Further, Article 209 identifies three types of facilities: confined, semi-confined, and open facilities.<sup>15</sup> It also describes the physical and material security features of each, and explains the classification of which types of prisoner should be housed in each facility.<sup>16</sup>

In addition to those imprisoned post-conviction, a large percentage of those deprived of their liberty fall into the category of pretrial detainees. As of January, 2014, the prison population of Kosovo was 1,816, of which 2.7% were female prisoners, and 2.5% were juveniles.<sup>17</sup> Of those detained 32.8% were classified as pretrial detainees.<sup>18</sup> The Criminal Procedure Code of Kosovo requires pretrial detainees, or those “on remand”, to be housed separately from those serving prison sentences.<sup>19</sup> As an overwhelming majority of prisoners in Kosovo are both male and adults, effectively, the three largest categories of detainees are as follows: 1) those convicted of a criminal offense and serving sentences up to three months; 2) those convicted of a criminal offense and serving sentences longer than three months; and 3) pretrial detainees. Each of these categories will be discussed in greater detail in the sections that follow.

#### *Pretrial Detention*

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<sup>13</sup> For more information on the role of NGO’s in protecting the human rights of prisoners, See Kosovo Rehabilitation Centre for Torture Victims, Human Rights in the Correctional Institutions in Kosovo (2014). Available: <https://drive.google.com/file/d/0BYeuRArgRkr7RzM2WjdadHM0RDA/view>; also, See Human Rights Standards in Police Stations in Kosovo (2013). Available: <https://drive.google.com/file/d/0BYeuRArgRkr7NkJkVmpGemItZWM/view>.

<sup>14</sup> Republic of Kosovo Law No. 04/L-149, On Execution of Penal Sanctions, art. 208, (2013). Available: <http://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20execution%20of%20penal%20sanctions.pdf>

<sup>15</sup> Id. at art. 209(1).

<sup>16</sup> See Id at art. 209

<sup>17</sup> Kosovo/Kosova World Prison Brief, prisonstudies.org, (2017). Available: <http://www.prisonstudies.org/country/kosovokosova>

<sup>18</sup> Id.

<sup>19</sup> Republic of Kosovo Law No. 04/L-123, Criminal Procedure Code, art. 197, (2012). Available: <http://www.kuvendikosoves.org/common/docs/ligjet/Criminal%20Procedure%20Code.pdf>

Those suspected of engaging in criminal activity are initially held at police stations by the Kosovo Police (KP).<sup>20</sup> The Constitution of the Republic of Kosovo provides that an individual may be deprived of their liberty, “for reasonable suspicion of having committed a criminal act, only when deprivation of liberty is reasonably considered necessary to prevent commission of another criminal act, and only for a limited time before trial as provided by law.”<sup>21</sup> The Constitution also governs the process for pre-trial detention, and states, in part, “Everyone who is deprived of liberty without a court order shall be brought within forty-eight (48) hours before a judge who decides on his/her detention or release not later than forty-eight (48) hours from the moment the detained person is brought before the court.”<sup>22</sup> After the appropriate judicial authority has made the determination to detain the accused pending further legal proceedings, they may be transferred to detention centers.

When addressing the issue of housing pretrial detainees, the Criminal Procedure Code requires, “Detention on remand shall be served in special detention facilities or in a separate part of a facility for serving prison sentences”.<sup>23</sup> Also, ... “persons serving a sentence shall not be accommodated in the same room as persons in detention on remand.”<sup>24</sup>

Clearly, those who drafted the Constitution were aware of the abuse of power associated with arbitrary detention and specifically crafted provisions to prevent this from happening in Kosovo. Great care was also taken to ensure that individuals were only deprived of their liberty when required, and for the shortest amount of time necessary. Likewise, those charged with drafting the LESP and Criminal Procedure Code foresaw the dangers of housing pretrial detainees with those serving prison sentences, and took the appropriate measures to protect the human rights of prisoners.

Despite the clear guidance provided by Constitution, LESP, and Criminal Procedure Code, the Kosovo Rehabilitation Centre for Torture Victims (KRCT) reports that violations of the law are commonplace. Specifically, pre-trial detainees are often housed with convicted persons, and those serving long-term sentences are housed with those convicted for minor criminal offenses.<sup>25</sup> In addition, pretrial detention is often quite lengthy, with the U.S. Department of State alleging, “Judges routinely granted pretrial detention without requiring evidentiary justification. Lengthy detention was also due in part to judicial inefficiency and corruption.”<sup>26</sup>

#### *Detention Centers*

Detention Centers in Kosovo are primarily used to house those serving prison sentences up to three months in duration and pretrial detainees. There are six detention centers in Kosovo,

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<sup>20</sup> Kosovo Police is divided into eight regional directorates, each with multiple police stations or sub-stations. The eight regional directorates are: Prishtina; Mitrovica South; Mitrovica North; Peja; Gjilan; Prizren; Ferizaj; and Gjakova. For more information on the regional directorates of the Kosovo Police, *See*: <http://www.kosvopolice.com/en/regional-directorates>

<sup>21</sup> *See* Constitution of the Republic of Kosovo at art. 29(1.2)

<sup>22</sup> *See* Id. art. 29(2).

<sup>23</sup> Criminal Procedure Code at art. 197(1)

<sup>24</sup> Id. at art 197(2)

<sup>25</sup> Kosovo Rehabilitation Centre for Torture Victims, Human Rights in the Correctional Institutions in Kosovo, pg. 31, (2014). Available:

[http://www.krct.org/web/images/Menu\\_Reports/monitoring\\_reports/Human%20Rights%20in%20the%20Correctional%20Institutions%20in%20Kosovo-2013KRCT.pdf](http://www.krct.org/web/images/Menu_Reports/monitoring_reports/Human%20Rights%20in%20the%20Correctional%20Institutions%20in%20Kosovo-2013KRCT.pdf)

<sup>26</sup> United States Department of State, Bureau of Democracy, Human Rights & Labor, Kosovo 2015 Human Rights Report, pg. 10 (2015). Available: <https://www.state.gov/documents/organization/253075.pdf>

one each in Prishtina, Gjilan, Prizren, Peja, Mitrovica, and Lipjan.<sup>27</sup> As previously noted, domestic law is clear that those serving minor sentences should be separated from those serving longer sentences, and that pretrial detainees should be separated from convicted prisoners. Unfortunately, the required segregation of prisoners is not always present in the detention centers. Examples of violations identified by KRCT include DC Gjilan where, “those convicted for minor criminal offenses are placed with detainees” and DC Lipjan, which houses “approximately 60 prisoners convicted for minor criminal offenses (up to 6 months)”, but is not an appropriate facility for that category of inmate.<sup>28</sup> Finally, some “high-risk” prisoners are transferred repeatedly between correctional centers to detention centers for security reasons.<sup>29</sup>

There are a number of reasons for this failure to comply with relevant domestic and international law, among which are a general lack of resources, security concerns, and institutional corruption. Overcrowding is common in detention centers, and was reported in DC Gjilan, DC Lipjan, DC Peja, and DC Prishtina.<sup>30</sup> Substandard living conditions also persist in many detention centers due to a lack of available resources or insufficient maintenance. For example, “in DC Peja, joint bathrooms are constructed in a way which breaches completely intimacy of detainees”, and prisoners complained of bedding which irritates the skin, and which was not properly washed.<sup>31</sup> Hygiene was also a concern, as hygiene products are either of a poor quality, or not available in sufficient quantities.<sup>32</sup> Prisoners in DC Gjilan often have to resort to having family members provide the necessary products.<sup>33</sup>

Security concerns are also partly responsible for some of the issues in the detention centers, as staff are required to routinely move some “high risk” prisoners for their own safety. This means that some prisoners from CC Dubrava may be housed in detention centers<sup>34</sup>, which is a violation of both domestic and international law. Also of concern is the issue of institutional corruption, which would seem to be endemic in the Kosovo Correctional Service. While claims of special treatment of favored prisoners and staff smuggling contraband in to prisons is not unique to Kosovo, the resignation of DC Prizren Director Ilir Gutaj, and subsequent suspension of seven other correctional officers for “allegations of corruption and aiding in the escape of a prisoner accused of murder”<sup>35</sup> is alarming.

#### *Correctional Centers*

Correctional centers are reserved for those serving life sentences, or any sentence exceeding three months.<sup>36</sup> The KCS operates three correctional centers, CC Dubrava, CC Lipjan, and CC Smrekonica, as well as one High Security Prison, located in Pudojeva.<sup>37</sup> CC Dubrava is the largest correctional center in Kosovo and consists of seven residential wards as well as the

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<sup>27</sup> Kosovo Correctional Service, Detention Centers, (2017). Available: <http://shkk.rks.gov.net/faqe.aspx?id=zKiRYk9XL5YeFQK+uAot2w==&l=BOII5FUynjpl5RZJJ8nW1g==>

<sup>28</sup> KRCT at pg. 32.

<sup>29</sup> Id at 33.

<sup>30</sup> Id. at 27.

<sup>31</sup> Id. at 26.

<sup>32</sup> Id. at 30.

<sup>33</sup> Id.

<sup>34</sup> Id. at 33.

<sup>35</sup> US Dept. of State at 6.

<sup>36</sup> LESP art. 12.

<sup>37</sup> Kosovo Correctional Service, Correctional Centers, (2017). Available: <http://shkk.rks.gov.net/faqe.aspx?id=aSUMVrRDwOqchfyzaRLv1w==&l=BOII5FUynjpl5RZJJ8nW1g==>

only prison hospital ward in Kosovo.<sup>38</sup> Construction of the High Security Prison, a 390 bed facility, was completed in December, 2013, and in May, 2014 received its first high-risk prisoners.<sup>39</sup> CC Smrekonica houses 200 prisoners, and is reserved for those serving sentences of less than two years.<sup>40</sup> CC Lipjan exclusively houses juveniles and females and is a relatively small facility, with a 138 beds, and 6 additional beds reserved in a “special area”.<sup>41</sup>

Correctional centers face many of the same problems as detention centers in Kosovo, including overcrowding, lack of resources, and issues relating to institutional corruption. The Committee for the Prevention of Torture (CPT) of the Council of Europe notes that overcrowding is often a root cause of other issues within correctional institutions, including violence between prisoners and staff and may result in inhuman and degrading conditions of detention.<sup>42</sup> The KRCT has identified overcrowding as an issue in CC Dubrava and CC Lipjan.<sup>43</sup> Consequences of overcrowding identified by KRCT include, “lack of privacy in daily life for convicted and detained persons; potential risk of intimidation and violence; possibility of developing criminal sub-cultures and maintaining connection to criminal organizations; personnel difficulties with effective control; incidents or different nuisances; hygiene and quality of services is questionable, etc.”<sup>44</sup> Given the potential issues that arise as a result of overcrowding, alleviating this problem should be a top priority.

As previously noted, overcrowding is often a result of a lack of institutional resources, and a need to move prisoners between facilities for security reasons. As with detention centers, proper classification of prisoners, and placing them in the appropriate facility, or section within the facility is a persistent problem in Kosovo. Notably, CC Lipjan houses pretrial detainees together with convicted persons, and juvenile detainees with adult convicted persons.<sup>45</sup> In CC Dubrava, prisoners are housed without any respect for the length of sentence, or seriousness of offense.<sup>46</sup> The KRCT has found convicted prisoners housed with pretrial detainees in CC Dubrava, which is, of course, a violation of both domestic and international law.<sup>47</sup>

In general, a shortage of trained and qualified staff have made treatment of prisoners with drug addiction difficult.<sup>48</sup> Similarly, adequate access to medical care professionals, including those who provide psychiatric care, is a grave concern. KRCT reported that at CC Lipjan, a “general practitioner and psychiatrist work only part time” and “there is no doctor in service or on-call doctor after 16:00”.<sup>49</sup> This is a clear violation of the CPT Norms<sup>50</sup> and must be improved upon in the future if Kosovo hopes to be in line with relevant international human rights law.

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<sup>38</sup> Kosovo Correctional Service, The Correctional Center in Dubrava, (2017). Available: <http://shkk.rks-gov.net/faqe.aspx?id=+5PqYGaI9/gsbYnBjwBWAQ==&l=BOII5FUynjpl5RZJJ8nW1g==>

<sup>39</sup> Kosovo Correctional Service, High Security Prison, (2017). Available: <http://shkk.rks-gov.net/faqe.aspx?id=t2vJaO/vNBeeQTGZyDcp/Q==&l=BOII5FUynjpl5RZJJ8nW1g==>

<sup>40</sup> Kosovo Correctional Service, Correctional Center Smrekonica, (2017). Available: <http://shkk.rks-gov.net/faqe.aspx?id=sYYVE9P/KUqTJmvoOt/lvQ==&l=BOII5FUynjpl5RZJJ8nW1g==>

<sup>41</sup> Kosovo Correctional Service, Lipjan Correctional Facility for Females and Juveniles. (2017). Available: <http://shkk.rks-gov.net/faqe.aspx?id=nSC4/LH2tPDiOJsMiPTpSA==&l=BOII5FUynjpl5RZJJ8nW1g==>

<sup>42</sup> Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), CPT Standards pg. 21 (2015). Available: <http://www.cpt.coe.int/en/documents/eng-standards.pdf>

<sup>43</sup> KRCT at pg. 27.

<sup>44</sup> Id. at 28.

<sup>45</sup> Id. at 31-32.

<sup>46</sup> Id. at 32.

<sup>47</sup> Id.

<sup>48</sup> Id. at 32.

<sup>49</sup> Id. at 35.

The physical condition of CC Dubrava have also raised concerns. Deficiencies observed at the facility include, “poor lighting and ventilation in some cells, dilapidated kitchens and toilets, lack of hot water, and inadequate or no bedding.”<sup>51</sup> Notably, “inmates from Pavilions 1 and 4 use buckets to wash themselves due to malfunction of showers. Furthermore, inmates at CC Dubrava in some cases use electric wires to heat water used for personal hygiene, which poses a potential threat for their lives.”<sup>52</sup>

Institutional corruption is also present in correctional centers, where allegations of preferential treatment, in the form of additional yard time, or unlawful furloughs, were made by prisoners against staff at CC Dubrava and CC Smrekonica.<sup>53</sup> Smuggling contraband, including cell phones and drugs, was also common in correctional centers, and the KRCT reports that approximately 30% of prisoners are addicted to illegal drugs.<sup>54</sup>

### **Conclusions**

As a new state, the Republic of Kosovo has been tasked with the arduous duty of crafting a fully functioning criminal justice system that operates effectively, efficiently, and with respect for both domestic and international law. It has been asked to do this in relatively short period of time while the world watches with anxious anticipation to view the results. With the assistance of the international community, the fledgling republic has adopted legislation that, if followed, effectively provides protections for the human rights of those deprived of their liberty, both pre-trial and post-conviction. In addition, Kosovo has pledged to adhere to the lofty standards afforded prisoners by the myriad of international treaties and conventions that are in place to ensure that one of the most vulnerable populations, those who have had their freedom taken away, are still treated with dignity and respect. As such, Kosovo has a firm legal foundation from which to build a criminal justice system that is dedicated to protecting the human rights of all members of society.

The problem is, to paraphrase the great Scottish poet Robert Burns, that the best laid plans of mice and men, often go awry.<sup>55</sup> Despite collaborating with international experts to identify best practices for corrections, there are still issues with implementation. The root cause of these implementation problems seems to primarily fall into one of two categories, lack of resources, or lack of political will.

Obviously a lack of financial resources is a concern for any criminal justice system, let alone one in a country where nearly thirty percent of the population lives below the national poverty line.<sup>56</sup> As such, Kosovo may struggle to find the necessary resources to maintain or improve the physical conditions of their facilities, without financial support from other states or international organizations. Of further concern is the lack of trained, qualified professionals available to work with prisoners. As overcrowding was also addressed as a pressing concern, additional facilities may need to be constructed in the near future, which will cost additional

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<sup>50</sup> CPT at 41.

<sup>51</sup> US Dept. of State at 6.

<sup>52</sup> KRCT at 31.

<sup>53</sup> US Dept. of State at 6.

<sup>54</sup> Id.

<sup>55</sup> Robert Burns, *To a Mouse*, Poems, Chiefly in the Scottish Dialect (1 ed. 1870). Available: <https://www.poetryfoundation.org/poems-and-poets/poems/detail/43816>

<sup>56</sup> The World Bank, Kosovo, Poverty headcount ratio at national poverty lines (% of population), Available: <http://data.worldbank.org/country/kosovo>. National poverty headcount ratio is the percentage of the population living below the national poverty lines. National estimates are based on population-weighted subgroup estimates from household surveys. For 2011, the percentage for Kosovo was 29.7%, but was as high as 45.1% in 2006.



funds. To effectively meet the needs of prisoners, correctional institutions should have access to full-time medical doctors, nurses, psychologists, and psychiatrists. As retaining the appropriate staff may be quite costly, this may prove difficult to remedy.

The second major obstacle to implementing the law, and ensuring human rights are respected in correctional institutions, is lack of political will. If laws and policies exist that should result in treatment of prisoners that is in compliance with international standards, that failure to properly follow through on the intent of the laws or policies may be an issue. It would appear that there is some level of institutional corruption present in correctional facilities in Kosovo, as is evidenced by the prevalence of contraband, and the various scandals associated with members of the KCS, namely nepotism and bribery.

In addition, there seems to be some level of apathy on the part of many within the justice system when it comes to following procedures and ensuring that inmates are properly categorized, housed, and provided for. While individuals are aware of what is expected of them, and what is required by law, there still seems to be a disconnect between expectations and reality. This is something that must be addressed if Kosovo ever hopes to truly comply with international human rights standards.

While the issues associated with lack of financial resources may be difficult to resolve without increased, and continued, financial support from the international community, issues relating to lack of political will can, and must be resolved. The various institutions that make up the criminal justice system in Kosovo must undertake concrete steps to prevent violations of human rights. Transparency and accountability must be terms that have real meaning, and not simply buzz words thrown around by politicians and administrators. To this end, penalties for those who fail to meet the expectations of their position must be severe enough that they compel compliance. In addition, criminal sanctions for those that engage in corruption, or abuse of force, must be pursued when appropriate. Additional training of staff may be necessary to ensure that they are aware of their responsibilities under domestic and international law, and continuing education should be made available to keep staff informed of industry best practices and any legal changes that may impact their position. In short, the framework exists for a correctional system that respects human rights and is in step with both domestic and international law in Kosovo. The key challenge will be to see if Kosovo can meet the financial challenges associated with operating and maintaining facilities that meet prisoners' needs and are in line with expectations, and whether or not those in leadership positions will demand accountability from those tasked with implementing the law, or whether corruption, ineffectiveness, and apathy will continue to rule the day.