

Conflict Resolution in Tribal Communities: Case Study from Kosovo

I. Introduction

The violent riots that broke out across Kosovo in March 2004 served as a vivid reminder of the ethnic tensions that still plague Kosovo years after war. In particular the riots showed how important it is to institutionalize peaceful methods of resolving local disputes before they spiral into province-wide violence. Partners-Kosova's Mediation Program has supported the development of an effective justice system; a key goal set forth in the United Nations' *Standards for Kosovo*. At the local level, Partners-Kosova's mediation services have helped resolve hundreds of disputes related to family, property, business, and interethnic problems, positively affecting over 11,000 people. At the national level, the Center works to integrate mediation into Kosovo's court system. Judges and prosecutors who have worked with the Center report that referring certain cases to mediation has helped to reduce the backlog of cases, a significant contribution in the context of a court system in which cases can take as long as 10 years to come to court.

II. Background

For centuries, Kosovars and Albanians have engaged in their own form of third party dispute resolution, which involved community elders and more recently, local Reconciliation Councils. In the traditional process, which resembles arbitration, community elders (*pleqt*) or members of the Reconciliation Council visit each family several times to hear their stories before handing down a decision based on traditional law (*Kanuni i Lekë Dukagjinit*). Some of the traditional values used by Partners-Kosova in the mediation process (particularly in intake and outreach) are respect for elders and community leaders, physically visiting disputants at their homes, taking time to create a relationship by talking

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about other things before discussing the dispute, and often times visiting disputants numerous times to build trust. Partners-Kosova's unique mediation model combines these traditions with modern mediation practices, such as a facilitative third party who helps the parties to understand their shared interests and create a mutually acceptable solution, rather than imposing traditional community rules and expectations. Agreement and long-term compliance rates using this model are much higher than with traditional mediation or court decisions.

One case in particular highlights the success of Partners-Kosova's mediation model in dealing with "blood feuds," or revenge killings that have been a traditional part of Kosovar society and culture for centuries. Blood feuds usually consist of threats and even violent attacks on a family member in retaliation for a murder or other wrong-doing. Male members of a targeted tribe or extended family are often forced to remain at home out of fear, which hinders everyday life and can lead to economic hardship for the whole extended family.

In this case, cousins G.K. and H.K. from the Drenas region in central Kosovo got into a minor feud with one another over a morality issue in their family. The quarrel escalated, and G.K. shot H.K., killing him. The case went to local court, where G.K. was found guilty of murder and sentenced to ten years in prison. However, despite the verdict, H.K.'s family still found it necessary to avenge his death. Threats of violence from H.K.'s family severely hindered G.K.'s family's ability to work, socialize, and function normally in the village where they resided, affecting over 40 members of both families. The large number of people victimized by the conflict naturally attracted the attention of the local police, who intervened and unsuccessfully attempted to resolve the family feud. Mediation attempts were also made by the local Reconciliation Council, but H.K.'s family refused to reconcile.

III. The Role of Partners-Kosova

Enver Topilla, a respected member of the Reconciliation Council, realized that to successfully resolve the case the parties would have to receive additional assistance. He had recently attended a mediation training provided by Partners-Kosova, so he referred the case to the Director of the Center, Shukrie Gashi. The combination of a respected elder trained in modern mediation, alongside a neutral mediator, proved to be an essential element in convincing the parties to mediate their feud.

An important aspect of Partners-Kosova's role in this process was to introduce the advantages of using modern mediation over both the court system, which had not delivered justice in the eyes of the victim's family, and traditional mediation, which the parties regarded with suspicion because they thought the traditional elders might impose an unfair solution based on traditional morals and judgments about the case.

IV. Main Stakeholders

The key stakeholders were the extended families of the victim and offender, including parents, brothers, sisters, and grandchildren in both sides). Other interested stakeholders included community leaders, mediation committee representatives, reconciliation council representatives, parent-teacher council, community police, religious representatives, and human rights NGOs.

V. Convening the Stakeholders

After few discussions with Mr. Topilla, learning about this case I realized that the best way to begin was to caucus separately with each disputant, including their family members, following the traditional practice. This helped prevent future obstacles from either party, who might to tend block the process with the justification that not all options and relevant family members were considered.

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Partners-Kosova key tool to convince all relevant stakeholders to use mediation was patient explanation of the modern mediation process and its advantages. Parties had to be reassured that the process was cheaper, faster and truly impartial, ending with a balanced sustainable solution based on the best interests of the parties themselves. Previously in Kosovo, blood feuds had often been resolved under heavy pressure to display national (ethnic) unity, leaving disputants unsatisfied with the outcomes.

VI. Processes Used

Throughout this extended mediation process, traditional values and laws were combined with modern mediation techniques to produce a uniquely Kosovar process. For example, in the first joint mediation session, a member of the family of the victim said, “I will not accept any of the local traditional mediators to facilitate our case, because I know that my opponent is in good relationship with majority of the traditional mediators (elders).” The other party stood up and tried to slap him, so I jumped up and stood between them, reminding them of the traditional law that requires men to stop fighting if a woman stands between them. In the mediation chapter of the Code of Lekë Dukagjini it says, “While two men are fighting if a woman enters in between they must lay down their guns immediately to show respect to the woman, who is considered as Saint Mary, a mother, sister and a wife.”

This tactic was successful, and both parties apologized and asked me to forgive them for their bad behavior. After a short coffee break, I together with Mr. Topilla, managed to calm them down and turn face-to face to each other, telling them a funny mediation story about some goats that damaged a fruit garden and the man who broke his leg trying to bite them.

VII. The Driver of Change (What made the difference?)

In this case, the co-mediation team was able to change the dynamics of the conflict by introducing Partners-Kosova’s hybrid mediation process that

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combines important cultural elements of traditional mediation with the disputant-centered values of modern mediation. In a case where neither Kosovo's war damaged justice system or traditional structures were able to resolve the issue, mediation filled an important gap and helped preserve and promote the rule of law.

Having a woman and a man work together as co-mediators was also important, as both were well-respected and considered professional and impartial in regard to the dispute. The disputants felt obliged to approach the process seriously out of traditional respect for women, and in respect for the fact that the mediators had come from long distance after working hours in order to help them two men to find a solution for their families' better future, and were not going to impose a solution.

VIII. Outcomes

The mediation resulted in H.K.'s family agreeing not to pursue revenge, and the two families reconciling without the need for compensation for the death. One of the victim's uncles summed up his relief at the success of Partners-Kosova by declaring that "animosity [has been] replaced with brotherhood." This case highlights the ways in which the Center's mediation services have had a positive impact on the disputing parties, and on the development of Kosovo's overall capacity for dealing with conflict. First, the victims of this particular dispute were once again able to lead normal lives without fear of retaliation. After the dispute was settled the two families appeared on local television to demonstrate that blood feuds can be resolved peacefully. Second, the Center's efforts to promote mediation contribute to the development of a more effective and modern justice system.

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The innovative combination of modern and traditional mediation used in this case increased the interest of more parties to file their cases with Partners-Kosova Mediation Service, and also raised the interest of the NGO community and government to get trained in mediation.

IX. Obstacles

- Logistics: choosing to meet in disputants houses meant long trips, often after working hours.
- The nature of the case, involving violence, made it extremely sensitive.
- Both parties tended to include many family members in mediation sessions, a traditional practice that increased the complexity of the process and increased the amount of time required by the mediators to make parties talk openly about their issues and interests
- After the mediation started, some villagers including the traditional mediators who had not been given permission to mediate, tried to pressure the parties not to participate, arguing that tradition was not being respected.

X. Ongoing Impact of this Case

- It has provided a good successful practical example that Partners-Kosova's mediators use during outreach and education activities, training role plays.
- From time to time, Partners-Kosova brings new mediators to meet the parties and hear their story (with their consent). This is a source of pride for the families involved, as they realized that their successful resolution was an investment in the future for their family that they should pass along to others in their community and future generations. These visits are also beneficial for new mediators to understand how mediation works in practice.

- The fact that the families were willing to appear on local television raised awareness about mediation as a process and helped mobilize some support for the (at the time) draft Mediation statute.

XI. Policy Recommendations

In Kosovo, as in the rest of Europe, law enforcement and courts can only resolve a small fraction of the disputes that arise between families, neighbors, business associates and others. Mediation is an essential component of a comprehensive rule-of-law system, a fact that should be recognized by the international community as they seek to rebuild the country in line with European and global standards. Too often, international development assistance for justice system reform concentrates on narrowly technocratic projects like new facilities or communication infrastructure for courts rather than supporting community-level, volunteer-driven resources like mediation centers. Partners-Kosova is building a modern mediation service on the foundation of traditional cultural practices, thus ensuring that disputants understand and respect the process, and helping to advance Kosovo's democratic development.

Since its inception in 2001, Partners-Kosova has resolved over 300 cases and trained over 400 different stakeholders from all communities, including both government and NGO representatives. The Center has been a driving force behind the new Mediation Law, which has been approved but is waiting to be implemented, and has trained a cadre of well-skilled mediators who are essentially "on call" waiting for crucial donor support to start using mediation in order to reduce the courts backlog of pending cases.

Please check Partners-Kosova website: www.partnerskosova.org