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Post-War Cultural Heritage Preservation in Kosovo: Rethinking the Implementation of Ahtisaari Plan Annex V

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Abstract: Current works have focused on the role of urban heritage to sustainable development in postwar cities and have highlighted the significance of participatory and inclusive approaches that involve citizens and key stakeholders in the conservation and regeneration of heritage areas. However, this task is rather complex and challenging, especially in areas inhabited by multiple ethnic groups. Skills in negotiation and building trust are as important as skills in restoration and conservation of the physical fabric. However, the current literature lacks in-depth understandings of how negotiations in these contexts work and what we can learn from the past. The aim of this paper is to explore this issue by using a case study analysis, in particular, that of Kosovo. This paper looks at how the process developed during the implementation period of Annex V of the Comprehensive Proposal for the Kosovo Status Settlement (CSP) related to cultural heritage preservation. We analyze the sociocultural and political dynamics on the ground by focusing on Article 4 that deals with protective zones. With a critical examination of the approaches taken by stakeholders, including the public discourse and the example of the historic centre of Prizren, we suggest rethinking the implementation of Annex V as a sustainable option, rather than looking at other (beyond Annex V) alternatives that could potentially undermine the inter-community rebuilding efforts, and instead of creating the basis for sustainable cultural heritage preservation and reconciliation would eventually contribute to escalation and deepening of the conflict.

Keywords: Kosovo; Serbian Orthodox Church; Ahtisaari Plan Annex V; protective zones; urban heritage; implementation; reconciliation; politics; local context; communities

1. Introduction

Most of the literature on urban heritage and its role in post-war recovery and resilience highlight the huge potential of heritage in providing sustainable economic and social futures. The significance of utilizing local knowledge and skills in traditional construction [1], enabling local communities to negotiate among themselves their recovery priorities [2], while providing training on traditional building conservation and maintenance [3], has been stressed as key elements for the future sustainability of the physical and social fabric of post-war cities. However, what is lacking in the current literature is more knowledge about the role of urban heritage as a negotiation and reconciliation medium [4,5]. It is worthwhile to point out here, that we use the term “urban heritage” to encompass material and immaterial forms of heritage in an urban environment. Indeed, heritage is no longer defined on the basis of its material aspects but on the basis of its intangible meanings and values [6]. While participatory and integrated approaches to post-war heritage conservation and reconstruction

have been highlighted as the way forward for sustainable recovery and resilience [7–9], very few studies have acknowledged the real challenges in implementing such an approach which is fundamentally political [10] and often dividing [11]. The aim of this article is to present the argument that scholars and practitioners who are working on the role of heritage as a means of reconciliation and peace building in post-war contexts should collaborate with experts in negotiation who adopt the so-called integrative approach to negotiations, that is, negotiations that aim to provide a win-win situation for involved parties [12]. An integrated approach to negotiations aims to lead reconciliation between conflicting parties, and therefore is a “multifaceted and intergenerational process that the international community can support by acknowledging past wrongs and providing post-conflict justice “through, for example, property restitution or compensation” [13]. The notion of justice here is critical. Assessing feelings of injustice from all sides and the degree to which heritage contributes by providing justice in a post-war context is, therefore, essential. However, it is a challenging task, especially when international bodies are involved. Subotić demonstrates how domestic understandings of international justice norms produce new meanings and practices [14]. She explores this matter in the context of Western Balkans where she argues that “the international norms of transitional justice and its constitutive elements — pursuit of truth, justice, and reconciliation — have diverged deeply on the ground” in the Western Balkans over the past 20 years [14]. She shows how truth, justice, and reconciliation mean very different things to “victims”, “perpetrators”, “states”, not only in the Western Balkans but also in Kenya, Cambodia, Colombia, among other countries (ibid). Subotić thus, calls for a deep normative transformation that will allow building the “rule of law and democratic institutions that could serve as bulwarks against repetition of violent crimes” [14]. Similarly, Loizides et al. argue that addressing issues of justice and reconciliation in the aftermath of conflict is pivotal to the establishment of successful institutional mechanisms [15]. They emphasize the role of grassroots reconciliation as a prerequisite of consolidating power-sharing arrangements among elites particularly in the form of federal agreements. Could heritage have a role in the democratization and peace-building process? It is indeed a complex task. In war times, heritage has often been the target due to its symbolic connotations both physically [16] and virtually through the use of social media [17]. Currently, in post-war contexts, heritage is being used as a means for reconciliation. The contradictory nature of heritage is an aspect that all heritage professionals should take into account, especially when planning strategies in sensitive contexts. Meskell, for example, has discussed this contradictory paradox by critiquing how UNESCO’s aim of preventing war sits rather oddly with projects commemorating sites linked with violence [18]. Heritage is certainly not neutral and as such, any attempt to utilize heritage during reconciliation processes in post-war environments is a challenging task.

Because of the sensitivities and the highly symbolic nature of heritage, an integrated approach to negotiation and reconciliation requires an in-depth understanding of the values, and more importantly, the needs of the involved parties [4]. The approach also requires lengthy time spans in order to build trust and mutual dialogue [19]. While post-war processes are usually focused on physical reconstruction [20], it is important to shift the attention to “social” reconstruction which presupposes all-sided, rather than monolithic approaches to a matter. It is also important to consider how “perceptions of the future” can inform heritage practices [21], especially heritage practices associated with the reconciliation of ethnic groups that have gone through conflict. Thus, by understanding the values and needs of the involved communities in the present, it is also important to develop methods to gain, as much as possible, an understanding of future values and needs. In this paper, we argue that unveiling the multiple layers of history and the associated remains in a specific area could be one step forward to reconciliation. However, we also acknowledge that this process is complex, sensitive and possibly not always feasible. It could also lead to covering or erasing parts of that history as part of the process. However, as Fibiger has argued, heritage erasure is a form of heritage transformation, because erasure of a site is “not necessarily erasure of its significance as heritage in the present and future” [22]. In a way, heritage erasure enables heritage transformation of present society, contemporary affairs, and ideas for future change (ibid).

This paper aims to unfold its main argument through the analysis of the case of Kosovo.

In 2008, Kosovo declared independence on the basis of a Comprehensive Proposal for the Kosovo Status Settlement (CSP) known as the Ahtisaari Plan. The momentum to resolve Kosovo's final status was critical. For more than a year (2006 to 2007) Martti Ahtisaari, a Special Envoy of the UN Secretary-General for the future status of Kosovo, and his team, had intensive negotiations with the leadership of Serbia and Kosovo (known as Vienna negotiations) which have been stated to have exhausted "the negotiations" potential to produce any mutually agreeable outcome on Kosovo's status with opposing views also related to cultural heritage [23].

However, at the same time, eight years of Kosovo's status quo under the Security Council resolution 1244 and the United Nations mission were seen as a factor of political and economic instability which could affect its democratic development and inter-ethnic reconciliation. This could then lead to "further stagnation, polarizing its communities and resulting in social and political unrest" [23]. Due to the diametrically opposing stances and the lack of mutual agreement, Martti Ahtisaari recommended "independence as the only viable option" concluding that the reintegration of Kosovo into Serbia is not a viable option and that the continued international administration is not sustainable [23]. The independence was recommended to be supervised by the international community for an initial period of time.

After the declaration of the independence and the initiation of the implementation of CSP, the provisions of the comprehensive proposal "reached out" to Kosovo institutions entitled to ensure the implementation of CSP, as well as to wider public, civil society, experts, communities, and ordinary citizens. In this paper, we focus on Annex V of the CSP, i.e., the Religious and Cultural Heritage focusing on Article 4, Protective Zones. First, we critically present the core intention of this CSP chapter from the perspective of sustainable cultural heritage preservation in a situation of conflict. On the basis of a critical review of the legal documents and the personal experience of the lead author on the ground in relation to the implementation of the Annex, we analyse the sociocultural and political dynamics that could have negatively influenced its implementation, especially in relation to cultural heritage preservation in Kosovo. Furthermore, we look at the case of the historic centre of Prizren and the adoption process of the law derived from the CSP Annex V for the preservation of this historic area as an urban heritage.

In this paper, we argue that the approach adopted for the implementation of Annex V was rather unbalanced and one-sided in both technical and political terms as compared with its core intention. We argue that the adopted approach accelerated radical and nationalistic tones by opening a path for new alternatives for conflict resolution in cultural heritage preservation that go beyond the CSP Annex V. We conclude by advocating, to rethink the implementation of Annex V in order to avoid the potential risk of deepened new rounds of conflict that any alternative beyond Annex V could cause.

2. Materials and Methods

In order to address the complex issue related to the role of heritage in post-war reconciliation processes, we used "critical instance case study analysis", which is a case study analysis that involves the exploration of one or more phenomena in an attempt to understand in-depth a single event instead of making a generalization about the situation [24]. Although we do not intend to make generalizations as we prioritize focusing on the peculiarities of the Kosovo case, we do review this, particularly, in the wider research context and the ongoing discourse on the post-war heritage as a means for reconciliation and recovery. The discussions and analyses in a situation of conflict are of a sensitive nature and, especially, require understanding by wider audiences. Therefore, the intention of this paper is to add to the understanding, by approximating through the words and illustrations, a more effective means in order to create a relationship among experience, expression and understanding [25].

The case study approach makes use of multiple methods [26] because the materials collected for the case study are diverse. Therefore, diverse tools for data collection and analysis need to be utilized. In our case, we used a diverse set of data which include personal observations gathered during

participant observation [27] by the corresponding author who was involved in the implementation of the project under examination, as well as textual analysis of policy and legal documents for cultural heritage protection and preservation. However, these documents only provide a limited overview of a much broader subject in a political and conflict resolution context. Complementary to the documents, the socio-political dynamics and the ongoing public debate were also observed. This approach was taken in order to demonstrate, what was called, the causes [25] that could potentially occur due to the illustrated observations. In order to obtain a better understanding of the socio-political dynamics, we reviewed and synthesized the diverse sources focusing on the temporal dimension in which the phenomena occurred. By doing so, we were able to unfold the narrative [28] formulating “the statement of a sequence in which is prefigured the end result” [25]. Ultimately, the “temporal, narrative” analysis of the material unveiled the public discourses and their potential for conflict resolution or conflict escalation. This point is discussed in this paper, because it is considered to be vital in the cases of post-war heritage, sustainable preservation, and recovery and reconciliation.

3. Results

3.1. *The Legal Status of Protective Zones: CSP Annex V and Law on Cultural Heritage*

After the declaration of independence, in 2008, twenty-five states that recognized the Republic of Kosovo (hereafter Kosovo) as an independent state, established the International Civilian Office (ICO), with the mandate to ensure the full implementation of the CSP, i.e., the Ahtisaari Plan.

Pieter Feith, a Dutch diplomat, then, was appointed as the International Civilian Representative (ICR) to lead ICO’s mission, having stated that the ICO was “an extraordinary international creation: a unique mission for a unique context in a young European state” [29]. The uniqueness of a case, among others, was also that the ICR was also appointed as a European Union Special Representative (EUSR), in order to support Kosovo on its European Union path [29].

The CSP was the basis for the constitution and the legislation framework of a new state of Kosovo and ICO was there to support the Government of Kosovo to implement the latter. The CSP was developed in 12 chapters (annexes) around several state building pillars related, among others, to the justice system, economy, decentralization, security sector, to name a few. Its fifth chapter, Annex V, was about “Religious and Cultural Heritage”. The core intention of the chapter was to ensure that the orthodox churches, monasteries, and other heritage sites of special significance to the Kosovo Serb community were protected and preserved in an independent state of Kosovo.

Six (6) articles included in Annex V provided provisions for the rights, privileges, and immunities for the well-functioning of orthodox churches and monasteries in Kosovo [30], ensuring their security, property rights, and respect for the traditional monastic life, granting financial privileges, recognizing that the name and hierarchy was “an integral part of the Serbian Orthodox Church seated in Belgrade” [30]. Annex V also required the Serbian Orthodox Church, in Kosovo, “to act in accordance with the Kosovo law” [30] with respect to the right of others, and return archaeological and ethnological exhibits taken on loan from the museums of Kosovo from 1998 to 1999 [30]. The latter has attracted the least attention by political circles at the national and international level under the assumption that this could be a subject of discussion during the Kosovo and Serbia ongoing dialogue [31–33].

Therefore, Annex V, at its core, is seen as a compromising solution for a sustainable co-existence, in a specific post-war context, with the following two key elements: (I) Recognition of the importance of the protection and preservation of SOC monuments and sites in Kosovo and (II) recognition of the importance that this is done within the Kosovo jurisdiction, thus, encouraging communication and cooperation between SOC and Kosovo. The communication and cooperation were also required for practical matters such as sustainable planning and development in the surrounding areas of heritage monuments, that is, in their protective zones [30].

The implementation of the CSP Annex V started with the adoption of a specific law in 2008, the Law on Special Protective Zones deriving from Annex V, Article 4. The law requires the establishment

of protective zones as spatial planning tools for controlled development in the surrounding areas of 44 heritage sites, mainly orthodox churches and monasteries, including the historic centre of Prizren and the village of Velika Hoča/Hoçë e Madhe. As stated in Article 4 of Annex V, the protective zones are to be established in order to,

“provide for the peaceful existence and functioning of the sites to be protected; preserve their historical, cultural and natural environment, including the monastic way of life of the clergy; and prevent adverse development around them, while ensuring the best possible conditions for harmonious and sustainable development of the communities inhabiting the areas surrounding such sites” [30].

However, the compromise agreed to, at a high political level, faced hesitation and rejection for the implementation of (special) protective zones at the local level that reflected with little effort to understand it with the complexity it entailed. The word “special”, which is not explicitly described in the CSP Annex V, triggered a debate among civil and local institutional circles in Kosovo, as it differentiated these sites from “other” cultural heritage sites in the country. The ICO Progress Report on Implementation of Special Protective Zones (2011), however, states that “the ‘special’ character of these (special) protective zones is to ensure that the local representatives of the Serbian Orthodox Church and other actors are linked to the municipalities to decide to what extent constructions and activities should be allowed to develop” [34].

Paradoxically, a separate Law on Cultural Heritage (2006), that generally covers the cultural heritage of Kosovo, also requires the establishment of protective zones around architectural and archaeological sites [35] with the same purpose as of the CSP Annex V protective zones, that is, a controlled and harmonious development around the heritage sites.

Technically speaking, all prohibited and restricted activities attributed to (special) protective zones of CSP Annex V [30] that reasonably could present a threat to a heritage site and affect its sustainable preservation, could also apply to all other protective zones, as implied in the 2006 Law. What differentiates the two laws is the consultation procedure. In the case of Annex V, an agreement needs to be sought, first, from SOC and, if no agreement is reached, refer the case to an international body, the International Monitoring Council [30]. On the other hand, the protective zones derived from the Law on Cultural Heritage can also apply the principle of communication and agreement among all stakeholders for developments in the surrounding areas of the heritage sites following the spirit of an all-inclusive participatory planning.

Interestingly, the protective zones deriving from the Law on Cultural Heritage have not yet been set in place. There are possible reasons to explain this. First, there is a gap in the law that does not define the “Competent Institution” [35]. This combined with the lack of a political will and inactive role of the Ministry of Culture Youth and Sports and the Ministry of Environment and Spatial Planning who are responsible to set criteria and respond to uncontrolled developments of mainly “speculative profits” [36] has led to the current situation. As a result, the ordinary citizens, landowners, and developers are not informed about what a protective zone entails for new developments and activities. The consequences of an imbalance between non-existent protective zones and the international (CSP Annex V) requirement for the establishment of special protective zones have affected the understanding of the special protective zones from the planning perspective, with consequences for their misperception and the rejection for implementation.

3.2. Public Discourse: A One-Sided Approach and Radical Views

The start of the implementation of Annex V, considered as one of the politically sensitive topics of the CSP, opened up to the wider public a decision that was made top-down. Article 4 of Annex V, (Special) Protective Zones, triggered a strong public debate opening further alternatives that were rather radical and which extended beyond the CSP with the risk to undermine what had been set forward in 2007 by the UN Special Envoy Martti Ahtisaari, as a path for sustainable peace and prosperity.

A “one-sided” approach is to be noted in the discourse influenced by nationalistic views, focusing on “historic right of a territory” and the matter of “ownership” rather than the sustainable preservation of cultural heritage and the life of communities.

Due to the mandate of the ICO to supervise the implementation of the CSP [29], it clearly focused on the implementation of its Annex V (Special) Protective Zones. In Kosovo, this was perceived as an imbalanced and a “one-sided approach” in the diverse cultural heritage environment of Kosovo. On the one hand, these protective zones were seen to have been “turned into a pure political instrument that fortified the ethnic dimension within cultural heritage”, “providing extraterritoriality to the Serb Orthodox Church and Serbia within the territory of Kosovo” [37]. On the other hand, they were also seen to be an obstruction for investments and development, such as the case of the attractive touristic area of *Mirusha* waterfalls that is also a (special) protective zone [38].

Although special protective zones were part of an observation study of Cultural Heritage without Borders (CHwB) Kosovo Office, looking at cultural heritage integration in the spatial plans in Kosovo, the study reported observing “cultural discrimination” towards these zones [39]. In other words, they referred to the formation of a general public perception that other heritage sites are “less valuable”, where developments can take place with no criteria and procedures [39].

However, the ICO progress report (2011) confirms that statements for special protective zones are often misperceived as protective zones and special protective zones do not restrict public access; the land within the zones is not expropriated, and they are not extra-territorial zones where Kosovo’s institutions do not exercise their legitimate authority. While owners keep the right to build and develop activities, this must be done in a controlled manner, with respect to a number of limitations such as the size and character of the buildings and commercial activities [34].

A decisive line cannot be drawn, as such, between the pre and post-independence period of Kosovo. The 1998/99 war that ended with NATO intervention towards the Serbian military and pre-military forces, with all the destructions and consequences widely reported and proven, is deeply embedded in the memory of the majority of the Albanian population. “Damaging, vandalism, and looting of Kosovo’s cultural heritage property during the 1998/99 by the Serb forces” is seen to have been completely forgotten [37], an argument with strong reflection in a perceived unbalanced and a one-sided approach for the “international pressure” to implement the CSP Annex V.

The discourse on Serbian Orthodox Church heritage sites in Kosovo inevitably draws on history and historical claims. Drançolli speaks about the historical dimension of the development of religion in Kosovo [40]. He suggests a chronological boundary of catholic and orthodox sacral buildings in Kosovo that could be divided into pre-Serbs (buildings) (*iliro-arberore* and byzantine) and Serb (buildings) during the XIII-XIV century [40]. Surlić [41] states that this perspective can challenge “the existence of the rich cultural and historical heritage of the Serbs in Kosovo, with frequent new historical interpretations that the monasteries were built on the foundations of Illyrian temples . . .” [41] despite the fact that he confirms for some of them to be built on the foundations of old temples but that “those were the remains of Byzantine-era churches, which is a phenomenon typical of the ‘Byzantine Commonwealth’” [41].

Therefore, “while Serbs claim that Orthodox sites in Kosovo represent markers of the Serbian state and national identity, Albanians claim to be direct descendants of the Illyrians”, suggesting thereby that they have a longer history in Kosovo than Serbs [42]. As this discourse strongly influences the dynamics of cultural heritage preservation in the area, it is of crucial importance for its implications to be addressed in future research.

Another element that fuels confusion and discourse radicalization is the use of a name for Serbian Orthodox Church sites in Kosovo. At this point it is important to make a distinction between the “Serbian Orthodox Church” heritage sites and “Serbian” heritage sites. As the first refers to a religious institution (the Serbian Orthodox Church is an autocephalous church that means “self-headed” or independent as explained by *Britannica* [43] and also according to the Article 6 of the Constitution of the Serbian Orthodox Church [44]), the second refers to a state (which according to Article 11 of

its Constitution is separated from churches and religious communities [45]). As most modern autocephalous Orthodox churches are national churches (such as the Serbian Orthodox Church), some are limited only geographically and include the territories of several states [43]. Annex V of the CSP has recognized the Serbian Orthodox Church in Kosovo to be “an integral part of the Serbian Orthodox Church seated in Belgrade” [30], and therefore is part of the religious institution and not the state.

We argue that it is this particular discourse that presents an obstruction and deepens the conflict and not the “absence of negotiations” as suggested by Surlić [41]. We, thus, argue that further negotiations are needed on the issue as it is exactly on the basis of the exhaustive negotiations during the Vienna talks between Kosovo and Serbia [23] that the UN Special Envoy, Martti Ahtisaari, proposed a CSP and Annex V that deals with cultural heritage and provides the modalities for protection and preservation of the SOC sites in Kosovo.

A different point of view is stated by Marković [46]. She calls the (special) protective zones of the CSP as “factors of sustainability” [46]. Without recognizing the state of Kosovo by naming it a “province”, Marković paradoxically refers to the process of Vienna negotiations for the final status of Kosovo when discussing the protective zones, stating that “during Vienna negotiations, all parties (referring to a Serbian and a Kosovar part including the Special Envoy of the UN Secretary General) have expressed readiness to establish protective zones around the most important orthodox churches and monasteries . . . ” to ensure all what is required by the provisions of the CSP Annex V [46]. Furthermore, the author states that the cultural heritage sites that were subject to Vienna negotiations were designated by the representatives of the Serbian Orthodox Church [46]. This indicates that the Serbian Orthodox Church was part of the negotiations for the final status of Kosovo.

As reported by the media, Kosovo was also represented by a team of cultural heritage experts during the Vienna negotiations. Reportedly, the negotiating team of Kosovo adopted a document that was drafted by Kosovar and international cultural heritage experts and, according to international conventions, guaranteed full protection of cultural heritage, especially the Serbian Orthodox Church religious buildings in Kosovo [47–49].

The radical discourse of nationalistic nuances deflect rather than contribute to what the main intention should be, the sustainable preservation of cultural heritage. Its broader impacts on sustainable peace and development are clearly stated by Martti Ahtisaari in his report as a Special Envoy of the UN Secretary General “that concluding this last episode in the dissolution of the former Yugoslavia will allow the region to begin a new chapter in its history—one that is based upon peace, stability and prosperity for all” [23].

The practice has shown that there can be effective communication and cooperation between Kosovo institutions, civil society and the authorities of the Serbian Orthodox Church in Kosovo, especially during the implementation of projects, where people see tangible results that respond to their needs and enhance their living conditions [50].

Civil society organizations that are active in the field of cultural heritage continue, however, to be critical, addressing a number of issues about the preservation of the overall cultural heritage in Kosovo. In the reports from the conveyed studies and field research with various stakeholders, they “ring the alarm” stating that “cultural heritage in Kosovo is in danger” [39]. They critically address the issues of why cultural heritage in Kosovo is being destroyed [51] and issues related to the integration of heritage sites in the spatial and urban plans [39]. This situation affects all monuments and sites of diverse cultural heritage in Kosovo, going beyond the SOC sites and the (special) protective zones. EC Ma Ndryshe, a civil society organization, continues to be critical towards Kosovo institutions due to the lack of effective cultural heritage preservation and uncontrolled and illegal developments in historic areas [37].

Within the context where the overall cultural heritage in Kosovo is “in danger” due to the lack of the implementing laws and policy documents, the interpretation for preservation or non-preservation and the valuable and less valuable sites on ethnical basis, can easily prevail. As a consequence,

this could attract other alternatives that go beyond what has been proposed by Martti Ahtisaari in the CSP Annex V. If the practice demonstrates great challenges for the implementation of Annex V due to a “one-sided” approach and nationalistic stances, the solutions beyond Annex V could increase radicalization and cause the opening of “Pandora’s Box” as an alarm of potential risk to accelerate in new rounds of conflict.

4. (Special) Protective Zone for the Historic Centre of Prizren – From a Fear to an Important Preservation Law

4.1. Approach to the Law and the Drafting Process

Recognizing its unique context, Annex V distinguishes the historic centre of Prizren from other (special) protective zones, by stating that its protective zone shall include: “Serbian Orthodox, Ottoman, Catholic, vernacular and other sites of historic and cultural significance” [30]. Given its political implications and its main intention to ensure that the orthodox churches and monasteries and other heritage sites of special significance to Kosovo Serb community are protected and preserved in an independent state of Kosovo, it specifically required that the following heritage sites are included in the protective zone: the Church of the Holy Virgin of Levisha; the old “Maras Mahala”; the Church of the Holy Savior; the Orthodox Seminary of Saints Cyril and Methodius; and the Episcopal Residence Complex (including the Bishop’s Residence, St. George Cathedral, Churches of St. George (Runovic) and St. Nicholas (Tutic) [30,52].

The modality of how the protective zone of the historic centre of Prizren is to be established is stated in Article 4.1.7 of Annex V [30] that this shall be done by the Municipality of Prizren in cooperation with the International Monitoring Council (IMC), an international body mandated to monitor and facilitate the implementation of the provisions of Annex V [30]. However, the Law on Special Protective Zones derived from Annex V, required that any new activity in the protective zone of the historic centre shall be regulated by a law [52].

Prizren is traditionally home to diverse cultures, religions, and heritage. The old centre of the town is located in an area with specific natural terrain configurations and the urban fabric, its values not only being associated with single buildings (culturally diverse and mostly concentrated in this zone) but also as a living urban heritage (Figures 1 and 2) [53,54]. These elements and their strong implications to a collective memory of the citizens presented an extraordinary challenge for drafting of a law that ensures the preservation by a controlled planning and development without affecting the spirit of a harmonious coexistence between different religions and communities.



Figure 1. Historic centre of Prizren as urban heritage. Photo: Lorika Hisari (2018).



Figure 2. Historic centre of Prizren, *Shadërvan* square. Photo: Lorika Hisari (2012).

As the IMC was not set in place, the drafting process was in the hands of the Kosovo government. In January 2010, an inter-ministerial working group was established for initial drafting of the law on the historic centre. According to the government decision [55], members of the working group were representatives of the Ministry of Environment and Spatial Planning, the Ministry of Culture, Youth and Sports, the Municipality of Prizren, Kosovo Institute for Protection of Monuments at the national level, the Prizren Institute for Protection of Monuments at local level (now Regional Cultural Heritage Centre of Prizren), and the Ministry of Local Governance Administration. During the drafting process, the group expanded not only through formal participation of local and international experts but also through consultations and close cooperation such as with CHwB Kosovo Office, including with the UN Habitat Kosovo Office. The drafting process was supported by the ICO's Community Affairs Unit, the Office for Religious and Cultural Heritage.

Other (special) protective zones of Annex V (44 sites) have been delineated with a 50 m and 100 m radius around the heritage site (22 sites) and defined by maps attached to the CSP [30] (22 sites). Almost all of these sites are located either in rural areas or open natural environments. For the members of the drafting working group it was clear that the same principle of delineation could not apply for a site located at the heart of an urban area. In an already naturally set zone, due to its topography and the relations between existing culturally diverse buildings, a 50 m or 100 m of radius around single heritage buildings would not only affect the historic centre visually, but it would have impacts on the area's *genius loci*. The consequences would have been inevitable for social segregation and potential inter-ethnic conflict.

An authentic fact for the historic centre is that the following three religious heritage buildings, which are listed by the Ministry of Culture, Youth and Sports (2018) [56], and belong to three different confessions (Muslim, Orthodox, and Catholic) are located at a distance of up to 100 m between each other: the Sinan Pasha Mosque, the Saint George Orthodox Cathedral, and Our Lady of Perpetual Succour Catholic Cathedral (Figure 3) [57]. Moreover, in this urban residential area, these sacral monuments are open and functional for services by communities, including for visits by tourists.



Figure 3. Prizren historic area according to the Prizren Historic Area Conservation and Development Plan (2008). Source: CHwB Kosovo (2011).

Therefore, the key principle of the law was to ensure development in a controlled manner that would contribute to the preservation of the unique character of the area. This is also an essential requirement of the CSP Annex V and the Law on Special Protective Zones. Following the local urban, social, and cultural characteristics, the working group decided that the protective zone of the historic centre of Prizren would be a wider zone based on the following two main principles: (I) To provide technical criteria for its controlled planning and development in order to preserve the urban heritage and the spirit of the place and (II) to ensure that all communities attached to it are included in the process of planning and development.

The delineation (the map) of the protective zone and the planning and development technical criteria in the law are based on a Prizren Historic Area Conservation and Development Plan (2008) [58] (see Figure 3 for the map). With the agreement of the members of the working group, the protective zone in the new law incorporated additionally the Fortress Area (Figure 4) [59], which was left out of a historic zone in the Conservation and Development Plan (2008).

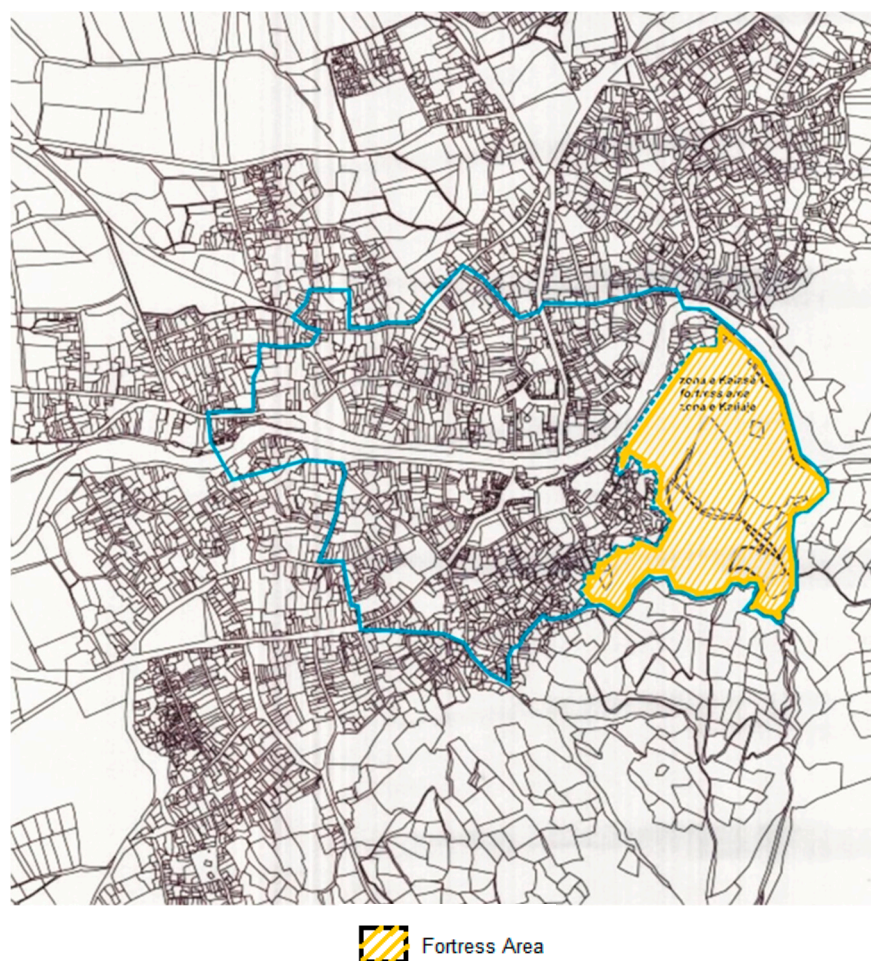


Figure 4. Historic centre of Prizren according to the Law on Historic Centre of Prizren. Source: Law on Historic Centre of Prizren (2012), Appendix I.

Regarding the second pillar, that is, participation of communities in the planning and development process, the working group decided to establish a Council for Cultural Heritage of Prizren [60]. The Council consisted of seven members and provided a mechanism that would bring together representatives of civil society, local experts, a representative of a municipal office for communities and return, and the religious communities. This body was established to ensure the consultation and the inclusive process. The Prizren Institute for Protection of Monuments (now Regional Cultural Heritage Centre) would be part of a decision-making for new developments and the final decision for issuing the project permit would be taken by the Directorate of Urbanism of the Municipality of Prizren [60].

4.2. Socio-Political Dynamics

In the period from 2009 to 2012, the public discourse was strong during the drafting process of the Law on Historic Centre of Prizren due to the complexity it entailed. At the initial phase of the drafting process in 2009, a fear was expressed that the citizens of Prizren “might not have an opportunity anymore to mark the Kosovo independence day or have other festive and cultural gatherings in the ‘heart’ of this old town, in *Shadërvan* (an old public square in the historic centre), at least not without a permission from an Orthodox Church and a Mosque nearby” [61]. The town of Prizren was seen as becoming a “municipality” within a municipality [62], referring to the possibility of the creation of a new administrative unit within the already existing municipality of Prizren.

According to Demi, there was a need to preserve the historic centre of Prizren from illegal construction and activities, but, there were other laws that, if implemented, there would be no need for

an additional law for the preservation of cultural and historic heritage [63]. The fear was created that “a church and a mosque will decide about the gatherings in *Shadërvan*” [61] and that religious and ethnic communities would control the movements in this public square [63].

In September 2011, a coalition of nongovernmental organizations in Prizren submitted a petition of over ten thousand signatures to the Kosovo Assembly expressing their opposition to the content of the law that had proceeded, at that time, to the assembly for approval. A few months later, in January 2012, a protest was organized at the historic centre of Prizren to oppose the law. As reported in the media, it was stated in the press conference that “Prizren does not need a discriminating law, which creates special favours to a particular religious group” [64].

ICO, on the other side, during 2011, organized two public discussions for the preservation of cultural heritage and the historic centre of Prizren with civil society and citizens, including a regional conference on the preservation of historic districts in Kosovo. During the review of the draft law in the Kosovo assembly, the relevant comments of the civil society were incorporated into the final draft and the Kosovo Assembly adopted the law in April 2012.

Years later, from the observations of EC Ma Ndryshe [65,66] about uncontrolled developments or activities that might negatively affect the historic area, paradoxically, a reference is made to the provisions of the Law on Historic Centre, for what strong opposition and rejection was expressed during the drafting period.

Dynamics have changed over time. Time, as a critical factor for the implementation of sensitive laws, will still show how the Law on Historic Centre of Prizren will be implemented in practice. What can be noted, for now, is that the requirements deriving from the law, such as the Council of Historic Centre of Prizren, is set and is functional; its recently drafted Management Plan incorporates the provisions of the law and as stated in the research report of CHwB Kosovo Office (2018), EC Ma Ndryshe has become one of the members of the International Monitoring Council (IMC) [51], a body derived from Annex V and the Law on Special Protective Zones.

Almost a decade after the Law on Historic Centre of Prizren was drafted and adopted, a number of cultural activities and events have taken place in the authentic square of *Shadërvan*. During the DokuFest, an annual International Documentary and Short Film Festival [67], the historic centre transforms into a “convivial space”, as Shaftoe calls festive, sociable, and jovial places [68], welcoming visitors from around the world including from neighbouring countries. Up to now, time has proved for an ungrounded reluctance towards the law.

5. Discussion

The analysis of the urban heritage laws and frameworks in post-war Kosovo unveiled the complexities with which the UNESCO Recommendation on Historic Urban Landscapes (HUL) [69] is imbued. The HUL approach advocated by this recommendation views the city as a continuum in time and space. It argues that the historic urban landscape is the result of layering and intertwining of cultural and natural values over time [70]. In post-war cities inhabited by different ethnic groups, distinct “layers” of the multi-layered continuum of the historic urban landscape are chosen to fulfil political aims and, ideally, to contribute to harmony and peace building. The HUL approach advocates for a multi-sided rather than a one-sided approach to heritage and identity which indeed can be more fruitful for post-war recovery and peace. However, it is a complex process which requires time and skills in negotiation that fully understand the needs of all sides. It is critical to also involve the citizens unveiling the multiple layers.

Forbes et al. have suggested that “the significance and value placed on landscapes of war and conflict is related to education and knowledge” and that “the intention must be to develop accurate histories of sites based on scientific investigation, thorough research, and a careful analysis of the documentary record” [71]. It is something that Dastgerdi and De Luca have called “historical research” or “the application of history in heritage planning” [72]. Among other branches of history, they include “chronology” as “the history without the interpretive part ... useful to obtain a basic understanding of

the evolution of a historic place" [72]. Furthermore, Kosovo's final status was recommended by Martti Ahtisaari taking into account "Kosovo's recent history, the realities of Kosovo (*at the time of writing of the report*) and the need for political and economic stability" [23]. Therefore, it is also of crucial importance to understand the reality on the ground in the context as Dastgerdi and De Luca discuss, of the entire human environment through the understanding of the values and significance of a historic fabric along with local community values [72].

The discourse of both sides, however, reveals a reluctance to recognize the *accurate histories of sites* and the *reality on the ground*. The accurate history of a site, as Forbes et al. [71] suggest reveals a typology of a building related to a specific (non-orthodox) religion or a nation, which in this case might be Albanian, and the reality on the ground inform that orthodox churches and monasteries in *de facto* independent Kosovo are of a Serbian Orthodox Church as a religious institution. To better understand the complexity of recognizing accurate histories, it is also important to better understand the process of ethnic or national identity building. Religion, for certain groups such as Serbs, is a catalyst in the formulation of a distinct ethnic identity, whereas, for other groups, language and culture are more determinant factors [73]. Having said that, scholars have argued that actually religious undertones can also underpin heritage and history narratives [74]. A deeper and mutual understanding of what contributes to the formation of ethnic identity is pivotal in developing and implementing a negotiation process that has heritage as a central component. Moreover, "religious heritage" by itself is rather complex as the values assigned by the managers of religious objects and the pilgrims can be entirely different and often contradicting to those ascribed by heritage professionals [75,76]. To this end, the idea of a participatory discovery of the multi-layered histories by citizens and historians/archaeologists inhabiting a contested urban area is potentially the way forward to create a sustainable, peaceful future.

A discussion by Lončar brings the discourse to another level. She focuses on the "participation of local citizens in Kosovo in the process of state building" while discussing the adoption process of the Law on Historic Centre of Prizren and the Law on the Village of Velika Hoča/Hoçëe Madhe [42]. However, by pointing out that "recognition and inclusion of Serbs in the protection of these sites would for many Albanians represent recognition of a Serb claim about the historic right over territory" Lončar [42] develops a narrative that goes beyond the local context and, instead, contradicts the discussed argument. Albanians and Serbs might not necessarily refer to the local communities within Kosovo, Kosovo Albanians and Kosovo Serbs. This discourse provides room for misperception of a "Serb claim" whether it is of Kosovo Serbs or of Serbia as a state. The clear or right use of the names would, first of all, help shape a narrative by avoiding looking at the topic with an Albanian and Serbian division.

Surlić provides an alternative view of the matter by examining the issue through the lenses of "the right to the territory" and "the battle for ownership of cultural heritage" when discussing the cultural heritage sites of the Serbian Orthodox Church in Kosovo [41]. He urges for the cultural heritage topic to be on the table of Kosovo with Serbia negotiations in order to reach a "compromising solution" that would forever remove a political dimension from cultural heritage [41]. He suggests that the compromise "might include a guarantee that the cultural heritage will remain Serbian and at the disposal of the Serbian Orthodox Church" [41]. With emphasis on "separate cultural identity of the Serbs" and the use of interpretations such as "...Albanianess' of the new Kosovo state", and the "Albanization" of the territory of Kosovo and changing of its "religious and civilizational character" [41], the paper demonstrates yet another attempt of a "one-sided" radical approach to tackle a sensitive topic of a post-war cultural heritage.

This could be a critical point with the potential to affect what the reality on the ground informs, at the grassroots. Despite all the challenges, the Council for Cultural Heritage of Prizren, a body required by the Law on Historic Centre of Prizren, is now established and is functional regardless of logistical and sources' difficulties; the Saint George Orthodox Cathedral, a heritage site of Annex V, located in the historic centre of Prizren is open and accessible and the Orthodox Seminary of Saints

Cyril and Methodius, also a heritage site of Annex V, in the historic centre of Prizren restarted its activities in 2011 [77] and continues functioning.

Russell [78] in his discussion on the limitations of identity building based on "arborescent models of human knowledge" that "can seek to reify contemporary ethno-national entitlements", proposes a "mycelial understanding of identity and heritage" that seeks to develop "a more democratic conception of heritage value", that allows for the choices of "both/and" instead of "either/or" [78]. This eventually better justifies Surlić's conclusion for "removing of cultural heritage from the exclusive control of national sovereignty" and for "cultural sites being a property of all humankind" [41], than Surlić's own observation.

6. Conclusions

Extraordinary and unique cases need extraordinary and unique approaches of novel methods to deal with cultural heritage preservation in the context of conflict especially when it comes to the implementation on the ground. An understanding of the complexity entailed is crucial rather than looking at it from a narrow one-sided perspective.

The CSP is a political document and political implications for Annex V are inevitable, due to the critical momentum to resolve the final status of Kosovo and find a compromise that would provide the basis for sustainable peace and prosperity. The local context is key when it comes to the preservation of cultural heritage sites in practice, especially in places of conflict. Annex V provides a solid basis for the preservation of Serbian Orthodox Church sites in Kosovo, recognizing its name and institutional hierarchy, while including the mechanisms to internationally address any matter of concern related to the developments and activities in their surrounding areas.

It is, however, the approach taken and the overall situation in cultural heritage preservation in Kosovo that played a crucial role during the implementation period. Protective zones were rather an unknown concept for the Kosovo wide audience as no protective zone has been established so far, as required by the Law on Cultural Heritage. Therefore, during the period of "international pressure" to implement Annex V, the idea of (special) protective zones created a perception for these sites to be "more valuable" than other cultural heritage sites without efforts to understand their core intention.

The domination of a one-sided approach whether from local institutions, organizations, or from professionals and opinion makers from both sides, only fed into the anyway fragile inter-community and a political situation. The discourse shows reluctance to recognize the *reality on the ground* and to recognize the *accurate histories of sites*. This might not necessarily mean that the reality on the ground and the history could be reconciled; however, what it might mean or demonstrate is that "one side" does not repudiate the existence of the identity and culture of "the other" at a specific period of time, in the past and now. This is what we acknowledge is of critical importance for the process of mutual acceptance towards the reconciliation. However, we also do acknowledge that this process requires time which allows consideration of its sensitivities. Nevertheless, if the communication is established through a participatory planning process, it could already be a step forward. On the contrary, according to the ongoing discourse, intolerance will accelerate, and the dialogue will be obstructed, which might potentially lead to other solutions beyond the CSP Annex V that might undermine the peace and stability not only in Kosovo but also in the region and wider.

Therefore, while it is essential to provide post-war justice, it is critical to rethink the implementation of CSP Annex V, specifically the implementation of (special) protective zones from a perspective of sustainable heritage preservation; by utilizing a (special) protective zone as a planning instrument, by adopting an integrative approach to negotiation, and, accordingly, by establishing appropriate mechanisms. Further in-depth research is required that looks at similar cases in Europe and beyond with negotiation mechanisms and examples where all-inclusive, and down-top implementation processes for cultural heritage preservation and management primarily involve all local communities in the living heritage site, including users of the sites and those living in the vicinity of the heritage sites, in their protective zones.

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