

09 April 2014

Dear Alaska International Law Section Members:

This “handout” has Internet links to some of the documents that will likely be mentioned during today’s lunch discussion on Rule of Law and Access to Justice work in Kosovo.

It is an experiment to deliver this “handout” to guide you on where today’s discussion is going or - depending on the discussion - was planned to go.

With a PowerPoint or a Prezi it is easy to see the documents that are mentioned, but that kind of presentation is too risky because my Internet can be unstable at times. With this method you can have access to documents you may want to read later, or to look at briefly in case my phone gets cut off and I have to call back!

I’ve been working in Kosovo for over five years so there is a tendency to have a discussion go straight to part three, “Why I Am Here, and What I Do”. But this is Europe, it can difficult to get to the here and now of anything without a bit of history first. So the purpose of parts one and two is to provide that history.

Warm regards,

Patrick Reilly
Kosovo

(1) Introduction: What is Rule of Law?

1. The Rule-of-Law Revival - Thomas Carothers
<http://carnegieendowment.org/files/CarothersChapter11.pdf>

“The rule of law can be defined as a system in which the laws are public knowledge, are clear in meaning, *and apply equally to everyone*....Perhaps most important, the government is embedded in a comprehensive legal framework, its officials accept that the law will be applied to their own conduct, and the government seeks to be law-abiding.” (Quote from page 4 of Carothers “The Rule of Law Revival Article, emphasis added.)

2. The End of the Transition Paradigm - Thomas Carothers
http://carnegieendowment.org/files/carothers_jod_2002.pdf

3. Imagined Communities - Benedict Anderson
<https://www2.bc.edu/marian-simion/th406/readings/0420anderson.pdf>

4. A Short History: Back in the Middle Ages...before there were nation-states, but not before religion or community.

5. Imagine Alaska

(2) Kosovo: An Example of The International Community Implementing the Rule of Law

1. United Nations Security Council Resolution 1244
<http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/kos%20SRES%201244.pdf>
2. Organization for Security and Cooperation in Europe Permanent Council Decision 305
<http://www.osce.org/pc/28795?download=true>
3. Organization for Security and Cooperation in Europe (OSCE)
<http://www.osce.org>
4. The OSCE Mission in Kosovo
<http://www.osce.org/kosovo>
5. United States Department of State and PAE React Employment Relationship
<https://www.pae.com/career-react>
6. European Union Rule of Law Mission (EULEX)
<http://www.eulex-kosovo.eu/en/front/>
7. European Union proposes establishment of a war crimes tribunal
http://www.washingtonpost.com/national/eu-to-fund-court-for-kosovo-organ-harvesting-probe/2014/04/04/c67a467a-bbdf-11e3-80de-2ff8801f27af_story.html
8. A Short History Continued: Back in the 1980s...as the law changed again...

Imagined Communities
Imagine Serbia: Taking Control
Imagine Alaska: Taking Control
Imagine Ukraine? OSCE setting up on location now

(3) Why I am Here, and What I Do

1. Kosovo Criminal Procedure Code Introduces the Adversarial System in January 2013.
2. Sure, I *heard* of “cross examination”? I just *never seen* a cross examination before. *What is* a cross examination anyway? The dialogue works the same by inserting “opening statements”, “plea bargaining”, or “prosecutor led investigation” equally well with most Europeans trying to implement these laws. [For more, see *My Cousin Vinny* “what is a grit” scene <https://www.youtube.com/watch?v=uYoYPJ5uwFg>]
3. The Kosovo Teams of Internationals: Alphabet soup

4. A Short History Continued: The Now of this Historical Moment. Whose law is it anyway? How does the International Community say good-bye? [Also known as the “hand-over” documents.]
5. International Court of Justice Advisory Opinion on Kosovo’s Declaration of Independence in 2008 - <http://www.icj-cij.org/docket/index.php?p1=3&p2=4&case=141&p3=4>
6. Imagined Communities

Elections -

Round 1: Masked Men, tear gas, and broken ballot boxes

Round 2: I won’t sign

Round 3: Candidates: Not tough enough? And a Little too tough?

Clinton, Putin...and their friends from the past and present

Imagine a future: Back in the middle ages...before there were nation-states, but not before there were communities.

7. Imagine Alaska’s future
8. One example of a current Kosovo issue:

When is a defense counsel really yours: The “*ex-officio*” appointment system