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HIGHEST PRINCIPLES

Constitution Guarantees Rights to All of Kosovo's Citizens

WILLIAMSBURG

The 21 members of Kosovo's Constitutional Drafting Commission gather today to sign the blueprint for the world's newest democracy. The ceremony promises to be remarkable for a number of reasons.

Drafted by a gender-balanced and representative group of the country's most respected government officials, academics, and civil society members — including the relatives of victims of some of the worst acts of ethnic violence in Kosovo's history — the

new constitution is a proud example of the highest constitutional principles in today's world.

Avoiding any temptation to dwell in the past, it levels responsibility for the country's recent violent history at no one. This is a modern constitution for a modern era, rising above sectarian and ethnic divisions to provide plenary protections and guarantees for all of Kosovo's citizens: the ethnic Albanian majority as well as minority Serbian, Turkish, Bosnian, and Roma communities.

Drafting an initial constitution in the 21st century has its advantages. Before

putting pen to paper, the Drafting Commission studied lessons learned and mistakes made during constitution-drafting processes in other countries. The new constitutional order of Kosovo is based on a menu of modern principles that include freedom, peace, democracy, equality, social justice, respect for human rights and the rule of law, non-discrimination, free ownership of property, pluralism, separation of state powers, and an open market economy. The judiciary is independent, and those in need have the right to free legal counsel. Every person has the right to marry and have a family, and the death penalty and trafficking of persons are prohibited. Protection of nature is the responsibility of every citizen, and impact on the environment must be considered by public institutions during their decision-making processes.

EIGHT INTERNATIONAL conventions enshrining the highest levels of protections are directly applicable and have superiority over all domestic laws, ensuring that human rights and fundamental freedoms are guaranteed to all citizens of Kosovo regardless of race, gender, language, religion, relation to any community, economic status, sexual orientation, or national origin. In the event that any constitutional right

is violated, citizens have direct access to a newly created Constitutional Court to seek redress. An independent Office of the Ombudsperson is established to monitor, protect, and defend individual rights and freedoms.

In some areas, the drafters have shown deep wisdom. Remarkable for a state in which ethnic and religious strife have so recently played prominent roles, the new constitution provides that Kosovo is a secular state, neutral in all matters pertaining to religion. Every citizen is granted freedom of belief, conscience, and religion. Religious monuments, including those belonging to the Serbian Orthodox Church, enjoy constitutional protection. Gender equality and ethnic diversity are required at all levels of the new government, including in the National Assembly and judiciary, security and police forces, the national intelligence agency, and the Office of the State Prosecutor.

This is a constitution of and for the people of Kosovo. At the conclusion of the drafting process, the drafters themselves took to the roads and engaged in a period of sustained consultation with members of the general public. In a series of town hall meetings held throughout the country and by way of an interactive public Internet site, ordinary citizens discussed, debated,



asked questions, and voiced their opinions about the content of the document that provides the foundation for their new republic. In this context, it is worth remembering that our own Constitution was drafted over a period of months by a collection of wealthy land-owning men who sequestered themselves in isolation, away from any public interaction whatsoever.

TO BE SURE, the world's youngest nation is not yet out of the woods. The people of Kosovo have faced more than their fair share of challenges in recent years, and those challenges are not likely to end any time soon. Violent skirmishes still occur in the north, where most members of the Serbian

community live. No one can predict what will happen when peacekeeping forces withdraw. Even the economic viability of the new country remains uncertain.

Challenges of this kind would not have sounded unfamiliar to the drafters of our own Constitution many years ago. Perhaps it is therefore fitting that we offer words of hope and inspiration to those who will gather this week to celebrate the birth of the new Kosovo Constitution. More than 150 years ago, at a time of turmoil in our country, Sen. Daniel Webster reflected on the importance of our Constitution: "We may be tossed upon an ocean where we can see no land — nor, perhaps, the sun or stars. But there is a chart and a compass for us to study, to consult, and to obey. That chart is the Constitution."

Let us then join from afar with the citizens of Kosovo as they celebrate the birth of their constitution, and offer them hope that the blueprint they have created for their new country will withstand the test of time and command the same level of respect and reverence enjoyed by our own Constitution more than 200 years after its birth.

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