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**KOSOVO  
CONCEPTUAL CHALLENGES, PRACTICAL PROBLEMS,  
POSSIBLE FUTURE LESSONS**

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Paper prepared for UNA-USA/IAI Conference on "Kosovo's Final Status"  
*Rome, 12-14 December 1999*

IAI9936

**ISTITUTO AFFARI INTERNAZIONALI**

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CONCEPTUAL CHALLENGES, PRACTICAL PROBLEMS,  
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The Kosovo Crisis is about the search for maximum autonomy and potential independence by a relative majority, the Kosovo-Albanians, in the Serbian province of Kosovo (called Metohia by Belgrade), within the sovereign territory of the (rump) Federal Republic of Yugoslavia (FRY) and its internationally recognized borders. The plight of the Kosovo Albanians has become a problem not solely within and for the FRY but for the entire South Central European sub-region, since similar ethnic communities live in Albania, Macedonia, Montenegro and even Bulgaria.

In light of the presence of restless minorities in other states, this case is relevant to the international crisis management of similar self-determination conflicts. Key dimensions of the problem include sovereignty, borders, security, education, freedom of association, and minority rights. Moreover, religious-cultural and socio-economic differences, leadership interests, outside power involvement, conflicts between urban and rural populations, the influence of émigrés (the diaspora), as well as interests of other states add to the complexity.

Kosovo represents a microcosm of a greater sub-regional security dilemma, and thus raises numerous issues: suppression by a central government; demographic imbalance; intra- and inter-ethnic tensions (within the Kosovo territory as well as in neighboring Albania and Macedonia); mushrooming power and the influence of organized criminality in every-day life; and an estrangement of values in the entire region from Europe and the West. Stability and peace are only attainable by making Kosovo part of a stable region that is introduced rapidly into the European integration process (*Europeanization*). This step is fundamental in order to restore economic and political stability, decrease the relative value of sovereign borders, effectively combat organized crime, and offer the population greater hope for a peaceful and prosperous future.

The Balkan region knows *multiple realities*, both geographically and hierarchically distributed. As the efforts to implement the Dayton Plan in Bosnia-Herzegovina have demonstrated, and as other conflicts at the turn of the last century in the Balkans have taught us, a lasting and effective solution must address them or its effective implementation is doomed. In a 'quasi-pyramidal' structure the following three realities are crucial: i.) the international-governmental interaction with the Balkan leaders; which does generally exclude contacts with middle-administrators and the people; ii.) the relationship between the

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\* The author is grateful to James Gow, LRPSD-Princeton University and King's College, London, for comments and to Melissa Magliana, LRPSD-Princeton University for assistance.

government and the population transferred downwards *via* administrators; and iii.) the everyday life of the population rather remote from government contact. Due to the catastrophic economic situation, the burden of daily life has encouraged also average citizens to go more and more also desperate and unlawful avenues in order to make means meet ends. Unfortunately, most of the negotiations and international involvement only touches upon the first two, thus increasing the dangers associated with trying to find a sophisticated solution for one particular problem – with much effort, time, and money – while neglecting crises evolving from other problems. Arguable the Milosevic leadership has successfully managed to quell popular unease or dissatisfaction until now. However, in the long run avoiding to deal with all three realities simultaneously explains also how unexpected and nationalistic developments, as results in elections, (as was the case in Bosnia and Herzegovina (despite hundreds of millions of dollars spent in the Dayton process) can happen, and why there is so rampant a feeling amongst much of the Serbian population still today, that the West does not really care for them. Geographically this relates to the critical juncture between solving the situation in Kosovo on the one hand, while having intra-ethnic problems in Albania and inter-ethnic tensions in Macedonia.

## **Background**

Five dimensions had a significant impact in the aggravation of the Kosovo Crisis: i.) the demographic development; ii.) the border between Kosovo and Albania became increasingly porous therewith allowing interaction between the two communities and also permitting illegal elements to infiltrate into Kosovo, and the diaspora to hold an ever tighter grip; iii.) the increasing repression post-1987 of the Kosovo Albanians by Slobodan Milosevic personally for domestic political purposes in order to ride on Serbian nationalism; iv.) domestic crisis in Albania 1997 which eventually affected the developments/radicalization of the Kosovo Albanians; v.) the fundamental misperception and misunderstanding both in Belgrade and Brussels/EU and Washington. The domestic affairs in the United States that engulfed the U.S. Presidency and contributed to misconceived judgment on the part of Belgrade regarding its own strategies available for solving the Kosovo crisis.

Ad i.) the demographic development of the Albanians increased exponentially with families frequently having up to 11 children – though also those Serbian families in Metohia had large amounts of children; this was of course used by Serbian propaganda. Radko Anjelkovic, the president of the government of Kosovo and Metohia argued that some 600,000 Kosovo Albanians would be an acceptable level.<sup>1</sup> According to the 1991 census, which was not too precise as many Kosovo Albanians did not participate, there were around 1.8 million in Kosovo.

The instability in Kosovo has less threatened other ethnic minorities living there like the Turks, the Catholic group, the Gypsies, and the Romanians. Reports claim that Belgrade has tried to play the various communities against each other. For instance Serb special police

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<sup>1</sup>. Interview with Anjelkovic in *The New York Times*, April 1999

units reportedly permitted Gypsies to ransack abandoned Albanian homes, once the security operation was terminated.

Ad ii.) the Serbian attitude against the Kosovo Albanians hardened considerably, therewith pushing the Albanian community in Kosovo de facto into establishment of a second society;

The above mentioned suppression of Kosovo Albanians by the Milosevic regime, their denial of regular school, even medical care and opportunity for professional advance within the regular workforce begun to take its toll on the Kosovo Albanian political scene. However, due to the increasingly intense border traffic with Albania, the influx and influence of non-Kosovo Albanians increased as well. Kosovo was still much better of than Albania.

Two developments took place locally: on the one hand Dr. Ibrahim Rugova, preached non-violent resistance to suppression and finding a solution to the satisfaction of the Kosovars, but free of the use of force. On the other hand, an increasing radicalization took place, particularly amongst the young and led to the formation of a paramilitary unit called UCK or Kosovo Liberation Army (KLA) in Switzerland and Germany Fall of 1997. Financial supply was provided through a special 3% tax payable by all Albanians living abroad. In addition a wide range international network of illegal trade and other profitable activities contributed to increasing availability of hard “DMs” for the interests of Albanians living in Kosovo.

The hardship for the Kosovo Albanians also contributed to a phenomenon already rampant in Serbia for years: a large “brain train”, not just of intellectuals and all those who could permit themselves to leave as they had family or friends abroad, but also a change in population as it concerns the moderates or sending women or children abroad to find better living conditions there or perhaps begin a new life or carrier. So it was not just the intelligencia, but also the more moderates who increasingly left as the situation got ever more exasperated. - and there was no real hope for serious international involvement.

Ad iii.) The situation changed dramatically in 1997 when following a change of government in Tirana with the voting out of President Berisha, Albania suffered a socio-economic collapse of its so called financial “pyramid-schemes” - an overbloated savings and loan disaster which reaped large parts of the population of all their savings and more, and threatened to break out in civil-war like clashes, causing the already depleting Albanian armed forces to disintegrate. As a consequence, arms caches and military supply depots were looted, and hundreds of thousands of light infantry weapons found their way into the streets—and over the mountains into Kosovo.

The Republic of Albania experiences a de facto division between its northern part under the control of the former President Berisha (a major supporter of Kosova independence), and the south controlled by the Tirana Government. This adds crisis potential to the whole issue.

During President Tito's leadership, it was the Kosovo Albanians who were the most elaborate amongst that ethnic community and even had their own university. So indeed it was them taking the lead in unifying all Albanians, if ever. Today, however, they feel more urge just

to become independent and to free themselves from Belgrade's independence. Further casualties in Kosovo and police brutality will intensify this drive and will induce incentive among the Albanian neighbors, particularly in Albania proper, to aid or liberate the suppressed Kosovo Albanians.<sup>2</sup>

Ad iv.) it became increasingly clear that Slobodan Milosevic uses the whip-up and exaggerated Serb nationalism against the Kosovo Albanians (“the Tuerks”) as a vehicle to get overall control of the Yugoslav political landscape.

#### *Yugoslavia - domestic*

Any outside observer may find considerable socio-cultural tensions in the relationship between Kosovo Albanians and the South Slavs -- today as in the past. A significant north-south “degradation” exists in Serbia – both economically and perceptively; thus making anything south of Kragujevac and Nis an issue of much less importance for Belgrade. Unfortunately the recent international focus and assistance for Kosovo have dramatize this, as it makes the inhabitants in that region better off than other Serbs. Jealousy is but one element now dominating the sentiments of Serbs in other areas of FRY with a Milosevic Regime having lost already much of the former Yugoslav terrain and an increasingly impoverished and depressed society.<sup>3</sup> Furthermore this socio-cultural tension includes widespread pejorative perception of Kosovo Albanians by other inhabitants – and is comparable to the Serb “*ober-mensch*” versus the Albanian “*unter-mensch*” dictum.<sup>4</sup> It is aggravated by a rather common Serb disregard of the Albanians in Kosovo and elsewhere as heirs of the former Ottoman oppressors, being impoverished and involved in illegal operations. That explains in part the dramatic and emotional brutality of security operations and crimes against humanity on both sides.<sup>5</sup>

Unfortunately both Yugoslavia’s politics and political culture suffer from de-Europeanization and increasing political apathy in the countryside. Western cultural-societal values were once quite strong here, but it is said that since the death of President Tito the country, its politics and economics have been in a downward spiral culminating in the war like situation since the breakup of Yugoslavia 1990/1991.

Today traditional western and European socio-political values in Serbia are completely suppressed by an authoritarian Milosevic regime. This turns any early hopes of democratization or rapid reconstruction of civil-society, i.e. the return to “normalcy” into an

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<sup>2</sup> Tim Judah, “Impass in Kosovo,” *The New York Review of Books*, October 8, 1998

<sup>3</sup> Timothy Garton Ash, “Cry, the Dismembered Country,” *the New York Review of Books*, January 14, 1999, p. 31.

<sup>4</sup> *Report on Human Rights in Serbia for 1997*, Helsinki Committee for Human Rights in Serbia, Belgrade, January 1998. *Radicalisation of the Serbian Society: Collection of Documents*, Helsinki Committee for Human Rights in Serbia, Belgrade, December 1997.

<sup>5</sup> *Albanian Terrorism in Kosovo and Metohija*, Federal Secretariat of Information, Belgrade, 1998. *Terrorism in Kosovo and Metohija and Albania: White Book*, Federal Ministry of Foreign Affairs, Republic of Yugoslavia Belgrade, September 1998. *Kosovo and Metohija*, Federal Ministry of Foreign Affairs, Republic of Yugoslavia Belgrade, May 1998.

illusion. In addition, any publicized efforts for that -- as propagated in the United States in December 1998 -- backfires as it puts democratic elements in FRY at risk and diminishes President Milosevic's readiness to cooperate if Western powers who apparently want to topple him. The Milosevic government controls the police, military, the judiciary and media, now even research and teaching, and thus contributes to a "bunker mentality" of entire Serbia. Under the influence of biting international sanctions this turns into a "pressure cooker syndrome" forcing large segments of the population to semi-legal or illegal (gray-market) economic activities, making them dependent on financial support from related *Gastarbeiters* (guestworker) abroad, and demanding more than one job. Obviously, that helps rampant nationalism both against the outside world, as well as increasing discrimination against other minorities in Serbia. This also explains the Serb historically based perception -- and inferiority complex -- to be once again the "unloved and indeed attacked appendix" of the West. The least this does assist the opposition in challenging the Milosevic leadership and its dependent clan-members, but rather helps 'nationalists-socialists' like Deputy Prime Minister Vojislav Seselj.

#### *Organized criminality*

The problem and influence of *organized criminality* in day-to-day life in the region is much more critical than generally accepted and the one with the potentially most destructive power.<sup>6</sup> As organized crime is partly a result of long-term economic sanctions, the south Balkans are alas a traditional harbinger for bands due to the geography and lack of governmental control. There is a criminal-geopolitical East-West and North-South cross-intersection from the Caucasus and Black Sea region to the Adriatic coastline and from Northern Greece into Hungary's Capital Budapest while spreading from there into Western Europe. It is only a question of time when the criminal network eventually crosses the Atlantic and reaches the United States -- hence the problem does directly concern U.S. national interest. But it really should mobilize EU crime-fighting capabilities and enhance related transatlantic collaboration. Criminality on an international scale increasingly influences all trades of daily life in the region, from law enforcement to governments, is much better organized, has more financial resources, and can draw on a sophisticated international support and communications network. Major European cities like Geneva and London report increasing influence of Albanian elements on organized criminality there.<sup>7</sup> In a related effect this does not help the European public opinion on aiding those Kosovo Albanians in the region.

Ad v.) the influence of the international community's attention - or lack thereof - was significant, the problems of perception were significant. Slobodan Milosevic cleverly exploited U.S. attention at the crisis with Iraq and the UN verifiers there to clear up repeatedly in Kosovo, so in February, March 1998 in Dekani. In spite of protests by the

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<sup>6</sup>. See Wolfgang Danspeckgruber, "EU and US have an important role to play in beating organised crime in the Balkans," Letter to the Editor, *Financial Times*, January 6, 1999, p. 12

<sup>7</sup>. Reportedly, Western Intelligence Services put the income of the UCK (Kosovo Liberation Army) at up to US\$ 900 million. At least 50% is supposed to come from international drug smuggling. Quoted from the *Berliner Zeitung* in "UCK Income 'from drug smuggling,'" B92 Open Yugoslavia, Belgrade, Daily News Service, March 4, 1999, 17:00 cet.

Kosovo Albanians, Kosovo was deliberately excluded from the Dayton negotiations - what many saw as a concession to Belgrade. However it has to be understood that powers like China, England, France, and Russia were significant proponents for the argument that Kosovo with all its problems represented an internal affairs of Serbia and Yugoslavia. This was strongly underscored by Belgrade's argumentation that Kosovo is the cradle of Serb religious-cultural heritage. Thus, the Christmas warning from President Bush, 1991, there was little direct attention by the outside world till indeed the Dekani massacre by Serb security forces, February 1998.

This abstention was compounded by varying degrees of tensions between the United States and Iraq, the enforcement of UNSCOM and the no-fly zone, the intensification of the EU integration process through the introduction of the Euro, and the coming to end of the Kohl-government in Germany. The real cause for misunderstanding and misperception however became the affair around Monica Lewinsky, the White House and the American Presidency, which took not only a large part of western media attention, but also increasingly the attention of the White House itself.<sup>8</sup> The perception abroad, and in Belgrade, that this would entail a lack of bipartisan support for any major U.S. operation, and hence free the back for significant security operations was as well understandable as it was dangerous, as the American public has proven repeatedly that it may react significantly different, i.e. unified and aggressive, to anything perceived as a challenge from abroad - even one to accepted fundamental human rights - than to public policy and party games at home.

Hence when on the onset after the failure of Rambouillet U.S. Secretary of State Albright together with her European allies wanted to use limited military force only to get the Serbs back to the negotiation table, Belgrade could not imagine that this would be more than a small and quick affair - in view of its evaluation of the situation in Washington. Inversely it begun to undertake what it had repeatedly warned - for instance German Foreign Minister Joschka Fischer - namely to clean out the Kosovo and reduce the Albanians there to roughly 600,000.<sup>9</sup> Inversely, the more Yugoslav security forces completed their brutal ethnic cleansing, the higher the determination on NATO's part to stop that humanitarian catastrophe.

### **Conceptual Considerations**

The Kosovo crisis raises several conceptual issues, at the heart of which lies the issue of sovereignty.<sup>10</sup> Traditionally sovereignty comprises the right of a national government to exclude outside influence from its national territory, and hence bestows upon the national government the right to wield legislative, executive, and judiciary powers within its

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<sup>8</sup>. For an excellent summary of the argument see *The New York Times*, Sunday, May, 1999

<sup>9</sup>. Information in interview with WFD.

<sup>10</sup>. James Gow, "Shared Sovereignty, Enhanced Security—Lessons from the Yugoslav War," in Sohail H. Hashmi, ed., *State Sovereignty—Change and Persistence in International Relations*, The Pennsylvania State University Press, 1997, pp. 151-179

sovereign boundaries.<sup>11</sup> On the international level sovereignty offers the sovereign government the ability to participate as an equal in international discourse with other sovereign members of the international community—though this depends on recognition of the state as a *conditio sine qua non*. In times of increasing education on the basic human rights, global real-time (CNN) information, and in an increasingly interdependent world, sovereignty has experienced mounting challenges. Particularly the right of a government to exert its power at home in *n'apote quelconque* fashion is more and more under scrutiny. Recently for the first time even UN Secretary General Kofi Annan questions the possibility for a state to hide behind sovereignty while committing flagrant violations of human rights. He invokes “individual sovereignty” – namely the human rights and fundamental freedoms of each and every individual as enshrined in the UN Charter.<sup>12</sup> Kofi Anan also argues that “the state is now widely understood to be the servant of its people – and not vice versa.”<sup>13</sup> Interestingly, Prince Hans Adam II. of Liechtenstein has argued 1997 in similar kind in an exposee on “Democracy and Self-determination.” The state should principally offer services to its citizens, and they in turn should have the right to “choose their states and citizenships freely – in self-determination.”<sup>14</sup> An accompanying problem concerns borders and boundaries. In effect any issue concerned with sovereignty is a problem relating to hard, external, sovereign boundaries. Kosovo has traditionally been considered a region within the FRY’s sovereignty and within its external boundaries. On the other hand, the constitution of 1974/79 offered Prishtina originally far-ranging rights and opportunities and hence introduced a soft internal administrative boundary between Kosovo and the rest of Serbia and the FRY. After the NATO operation against Yugoslav military and security forces in Kosovo, the critical question is once again the border. Will Kosovo in its entirety - or in part, south of Kosovoska-Mitroviza - obtain hard external boundaries, or not. The fallacy with each and any redrawing of boundaries rests in the historical truth: any redrawing of hard external boundaries will unavoidably create winners and losers.

The next problem lies in the scope and extent of rights of minorities within a sovereign territory.<sup>15</sup> – In our case the situation of the community in questions – the Kosovo Albanians – changed suddenly dramatically once Slobodan Milosevic and the central authorities decided to nullify the bestowed level of autonomy and basically to introduce large scale repression.<sup>16</sup> Finally, self-governance and self-determination are at the center of the problem. Self-Determination is defined as the ability to determine one's internal and external policy,

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<sup>11</sup>. Hurst Hannum, *Autonomy, Sovereignty, and Self-Determination*, University of Pennsylvania Press, 1996; Ruth Lapidot, "Sovereignty in Transition," *Journal of International Affairs*, Winter 1992, pp. 325-346

<sup>12</sup>. *The Secretary General*, “Address to the United Nations General Assembly” New York, 20 September 1999.

<sup>13</sup>. *Ibid.*

<sup>14</sup>. H.S.H. Prince Hans Adam II. of Liechtenstein, “Democracy and Self-Determination,” Schloß Vaduz 1997.

<sup>15</sup>. For excellent treatment see Thomas D. Musgrave, *Self-Determination and National Minorities*, Oxford Clarendon Press, 1997

<sup>16</sup>. Misha Glenny, *Fall of Yugoslavia--The third Balkan War*, Third Revised Edition, Penguin Books, 1996; Laura Silber, and Allan Little, *Yugoslavia--Death of A Nation*, Penguin 1996



and thus has an internal and external dimension:<sup>17</sup> the existence of legitimate government and institutions at home, and the freedom of action in international affairs.

For the relevant international agreements see the UN Framework as well as those agreed upon within the Helsinki Process, i.e. the Helsinki Declarations and the Charter of Paris.<sup>18</sup> The latter dimension raises the classical understanding of self-determination, namely the situation in which a given community strives for a maximization of autonomy within the existing national borders, with the clear implication that should this prove unsuccessful, an attempt at secession will be made.<sup>19</sup> This begs the definition of “minority” and its relationship with other ethnic communities within the sovereign territory. On the other hand, as Antonio Cassese supports as well, certain legitimacy exists for an oppressed community to struggle and even fight for its independence.<sup>20</sup> Obviously the central government concerned will resist any outside pressure in favor of this community with the argument that this is interference into sovereign agenda, and indeed comes close to support of terrorism.<sup>21</sup>

The notion of self-determination as a potential forerunner of independence raises yet another set of complications, this time on a regional level. The three primary states concerned - Albania, Macedonia and Serbia/Yugoslavia - are all inhabited by substantial ethnic-Albanian populations; the future of Kosovo, with its 90% ethnic Albanian population, is extremely significant both for Albania as well as Macedonia, where ethnic Albanians compose one quarter of the population. Due to the potential regional repercussions for the struggle for greater autonomy – or even independence – the international community is also highly sensitive to its developments. Making the Kosovo province a new sovereign entity could potentially cause the break up of Macedonia, the unification of Kosovo with Albania hence the formation of a “greater Albania”, or even both. Any of these options could upset the regional balance.

It is thus clear that the secession of territory such as Kosovo from Yugoslavia may cause problems both for neighboring states as well as for outside powers.<sup>22</sup> In effect – and as was the case in Kosovo – when the strategic interests of outside powers are challenged, directly

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<sup>17</sup>. See Richard Falk, “The Right of Self-Determination under international law,” in Wolfgang Danspeckgruber, ed., *Self-Determination of Peoples: Communities, Nations and States in Global Interdependence*, Lynne Rienner Publishers, 2000.

<sup>18</sup>. International Covenant on Economic, Social and Cultural Rights (ICESCR); and The International Covenant on Civil and Political Rights (ICCPR) December 16th, 1966; Common Article 1; The Vienna Declaration and Program of Action 1993; for the Charta of Paris see Wolfgang Danspeckgruber with Arthur Watts, eds., *Self-Determination and Self-Administration--A Sourcebook*, Lynne Rienner Publishers, 1997.

<sup>19</sup>. See the definition of self-determination in Richard A. Falk, “The Right of Self-Determination Under International Law: The Coherence of Doctrine Versus the Incoherence of Experience,” in Wolfgang Danspeckgruber with Arthur Watts, eds., op.cit.

<sup>20</sup>. Antonio Cassese, *Self-Determination of peoples—A legal appraisal*, Cambridge University Press, 1995.

<sup>21</sup>. See the statements by Milan Milutinovic, President, Republic of Serbia, Press Release, 24/02. February 1999, and other such Press Releases by the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations.

<sup>22</sup>. See Metta Spencer, ed., *Separatism—Democracy and Disintegration*, Rowman & Littlefield Publishers, Inc., 1998

or indirectly via allies (e.g. Greece) intervention into the (domestic) affairs of the perpetrating sovereign state is a likely consequence. Large-scale destruction and humanitarian crisis - refugees - are triggers. This is particularly probable if it was the government's policy of suppression that caused the minority problem in the first place.<sup>23</sup> Intervention, especially humanitarian intervention or “the *droit d'ingérence*”<sup>24</sup> challenges state-sovereignty not because of strategic interests of outside powers, but due to excesses in human rights violations by the targeted government and the effects of these violations upon the immediate neighborhood. Justifications for intervention include cost cutting - humanitarian, industrial, and reconstruction – as well as preemptive strategy to counteract further widening and intensification of the conflict at hand. A major argument of justification for the international community regarding costs relates to assistance in order to establish the situation as such that it corresponds with the *status quo ante* which poses a significant financial challenge.

Finally, another issue raised by the Kosovo crisis addressed the presence of other minorities within the territory; these are typically smaller communities, concerned about their own rights and possibilities. Such situations become of particular interest when the minority within the Province is representative of the majority in the State; such is the case in Kosovo, where the Serbs are represented by a relative. Minorities within the territory of an autonomy-searching community can become disadvantaged or mistreated,<sup>25</sup> particularly if they are perceived as representatives of the adversary.

### **Possible Solutions and a ‘final status’ for Kosovo: The Case for Self-Governance plus effective Regional Integration** <sup>26</sup>

Principally seven / eight possibilities:

Either for the Region of Kosovo in its entirety or for the major (southern) part.

- ◆ (i.) Return to *status quo ante*, i.e. no change - the one end of the spectrum
- ◆ (ii.) Secession plus independence, i.e. *classical sovereignty* “19<sup>th</sup> cent. option” - the other end of the spectrum, with new external boundaries.
  
- ◆ (ii.a.) Secession of a part of the Kosovo territory, with new external boundaries
- ◆ (iii.) Secession plus unification (with Albania, and/or with Western-Albanian- part of Macedonia), i.e. redrawing the map and strategic balance of much of the Southern Balkans.

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<sup>23</sup>. Stanley Hoffmann, “The politics and ethics of military intervention,” in Stanley Hoffmann, *World Disorders—Troubled Peace in the Post-Cold War Era*, Lanham, Boulder: Rowman&Littlefield Publishers, Inc., pp. 152-176. Richard Haass, *Intervention: The Use of American Military Force in the Post-Cold War World*, Washington, D.C. Carnegie Endowment of International Peace, 1999.

<sup>24</sup>. Bernard Kouchner has called a right to intervention for humanitarian reasons “droit d’ingérence” as quoted in Stanley Hoffmann, “The politics and ethics of military intervention,” p. 156

<sup>25</sup>. “Good fences—Borders are arbitrary abstractions,” *The Economist*, December 19<sup>th</sup>, 1998, pp. 19-22.

<sup>26</sup>. See Wolfgang Danspeckgruber, “Self-governance: A futuristic concept for traditional European problems,” Helsinki Group, Belgrade, November 1998.

- ◆ (iv.) International *mandate* / a la High Representative and UNMIK civil authority - with an as yet undefined ‘final status’ of Kosovo.
- ◆ (v.) *Lebanonization*, i.e. de facto outside control by one or more regional powers - avoiding a final status for Kosovo but indirectly continuing strategic change in the Southern Balkans.
- ◆ (vi.) *Maximum autonomy* but remaining inside sovereign territory of FRY - though outside Serbia; perhaps as a third republic like Montenegro
- ◆ (vii.) New form of *self-governance*, i.e. maximum autonomy *plus* concrete programs/initiatives by the EU and OSCE and NATO for participation in regional integration specifically tailored to the needs of the SEE region

In detail, the return to *status quo ante* (ad i.) seems certainly out of question for reasons including the many casualties and extensive suffering of Kosovo Albanians on the hand of the Serbs, and to a certain degree now also because of resistance by many Serbs who have increasingly to suffer on the hands of the Kosovo Albanians in retribution and revenge attacks against them and their elders.

Inversely, the secession of Kosovo, or even a certain part of it (ad ii., ii.b) depends immediately on several critical issues - besides redrawing boundaries and creating a sovereign government and territory. Such issues comprise certainly international recognition, legitimization, minority rights, and political culture.<sup>27</sup> Already the question of international recognition will introduce a gambit of problems and is far from being set. The P5 China and Russia will draw many an argument against recognition, hence an independent Kosova will be up for a very rocky start indeed on the plane of international recognition. - The adherence to international organizations, an important consequence of being a sovereign state, may hence become one of the first problem sets, if not casualty. A large target for criticism will be the problems of minority rights and protection of Serbs, Gypsies, and other minorities who have left in the thousands after they were aggressed and severely mistreated by returning Kosovo Albanians.

Many observers believe today, that behind these human rights violations seems to be systematic making it even less likely that important members in the international community may just glance over that problem in the case for recognition of an independent Kosova. It highlights the question of legitimacy (even if all Kosovars support a new Pristina government) as well as the issue of true democratization and equal rights for its citizens, independent of ethnicity and religion. It also begs the question of effective governmental control and enforcement of law and order within the sovereign boundaries of Kosova. This

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<sup>27</sup>. For a good discussion of internal stability and recognition see James Gow, “Shared Sovereignty, Enhanced Security—Lessons from the Yugoslav War”

may also play to the disadvantage regarding international assistance as much as for further establishing regional peace and stability. Independence of Kosovo may influence the continuation of the Dayton Peace Implementations - in so far as Republika Srpska and Herceg Bosna may take similar arguments to try to opt out from Bosnia-Herzegovina. - Still, it ought to be argued, that in case the entire process of secession, particularly internally can be conducted according to accepted OSCE criteria, i.e. peaceful and under observance of democracy, protection of human rights, and in accordance with the Charter of Europe<sup>28</sup> then there should be no reason why the Kosovars should not exercise their right of classical self-determination. Questions of economic viability and participation in regional cooperation, and organized crime, ought still to be given particular prominence.

Secession plus unification - as indicated during the process - (ad iii.) represents perhaps the most dramatic solution for the Kosovo. On the one hand, it entails the future status and geostrategic situation of at least three states: the FRY, Albania, and/or potentially Macedonia; namely if considering a joining with the Western-Albanian- part of Macedonia; thus implies secession of that part of Macedonia. Thus it contributes to a redrawing of the map and alteration of the strategic balance of much of the Southern Balkans. It may again influence the continuation of the Dayton Implementation. On the other hand, the ramifications for the future of the Southern Balkans as well as the symbolic importance for comparable crises elsewhere (Chechnya) will be considerable. Reaction and resistance by important members of the international community can be expected to be appropriate. However, it is to be restated, that in case a mechanism could be elaborated which were to guarantee a free and fair decision making process in all states concerned about the eventual decisions and their implementations, and as long as this process were to be verified by OSCE mandate, once again, in the spirit of the European Charter, little could be held against. In case however such process were to lead to suffering, repression, bloodshed, and human rights violations, combined with again a heightened sense of injustice and instability - and personal insecurity; not even to speak about freedom and Council of Europe propagated democratic and human values, it ought to be rejected.

Secession plus unification implies - besides all the issues raised above regarding classical sovereignty - also the fate of at least Albania and Macedonia, and the respective populations. It may be assumed that less resistance can be expected from Albania, who shares same ethnicity and religion, though during the in tact Yugoslavia little love was lost from the side of the Kosovo Albanians vis-a-vis their then considered backward western brothers and sisters of a hermetically closed Albanian society under the rule of Envar Hodgar. So it is not predictable how the southern Part of Albania, compared to the northern will react. What is predictable is a potentially hostile reaction of Macedonia's Slav population who - not just in light of sometimes closer relations between Skopje and Belgrade - will certainly not welcome a splitting off of the area around Tettovo and may take up arms against such a process, without due preparation and education and seeing potential benefits. It is not even certain to which degree the relationship between Macedonia and Bulgaria will be influenced as well. What can be predicted with certainty is the impact an enlarged Albania, or Kosova plus parts

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<sup>28</sup>. For the latest version see [www.OSCE.org](http://www.OSCE.org).

of Macedonia, or worse both, would have on the strategic perspectives and perceptions of Greece. With or without bilateral defense agreements with NATO member Turkey, as the one of the early 1990s between Tirana and Ankara, Greece will certainly develop a perspective of instability and worry about its own northern part - as much as about the future of Cyprus. Athen's resistance on the international plane will henceforth be vociferous and accordingly. Some observers have even indicated such a development to be a potential *casus belli*.<sup>29</sup>

On the conceptual plane secession plus unification is certainly of most complex character, raising issues such as legitimacy, identity, majority versus minority rights and interests, as much as problems of secession as a consequence in neighboring states (such as Macedonia) and, as a potential longer term effect, in Bosnia Herzegovina. Clearly that would be of critical influence upon the international recognition process for any new emerging entity. Such a combined solution also introduces again the concept of "greater" into emerging Balkan politics, hence raising a spectre in Croatia, Serbia, and potentially Bulgaria. Much will have to be done to alleviate doubts about actual legitimacy of the emerging central government in the emerging unit searching for state sovereignty and international recognition. Similarly huge will be the task to introduce democracy, assurances of human rights and minority protection in a territory which has suffered from precisely the inverse. - Dealing with fundamental issues regarding organized crime and corruption would be another Herculean task (see below). Without extensive and prolonged international assistance non of these tasks could be solved, let alone be addressed in their extraterritorial dimensions. This addresses a fundamental dilemma—the ' Gordian knot': international cooperation and support is key in order to ascertain international assistance, which in turn again is required to tackle many of those challenges which are seen by the international community as a *condition qua non* whether or not to accept the outcome of such a complex and major final status in the first place.

Compared to these so complex options which all do entail a change of external boundaries, options iv - vii. do not seem to change the Southbalkans' strategic landscape to the same degree, though in the long run they may prove troublesome as well. - Though, admittedly, they may be much harder to accept for the Kosovo Albanians after all the drama, suffering, commotion, and repression of the not so distant past.

The existence of an international *mandate* / a la the High Representative of the International and UNMIK civil authority - with an as yet undefined 'final status' of Kosovo. (iv.) Much can be said for such a transitional solution which would enable to prepare the grounds for fundamental reform and restructuring in Kosovo, leading eventually to fair and just elections, and hence to the creation of a secure environment. But reality so far has taught many stories, and reality in Bosnia, which finds itself under a comparable international mandate right now, has demonstrated that in spite of significant financial support from the outside, and much international good will, the (former ethnic) antagonists do not necessarily make the step towards peaceful cooperation and establishment of a working economy and infrastructure –

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<sup>29</sup> . See Dusan Sidjanski, "The War Against Yugoslavia," manuscript, Geneva, 1999.

above and beyond what serves their own very personal (and limited) interests. A most recent example of a concerted action by the OHR in order to remove obstructionist officials from their positions – to offer the implementation process a “kick-start” – has however demonstrated that a determined and engaging approach by the international community may indeed have the desired effects.<sup>30</sup>

Remaining within the FRY but changing its status towards becoming a third republic like Montenegro and Serbia (vi.) does not imply a change of boundaries. Arguably this could be considered the ‘second worse’ solution close to a return to *status quo ante*, though it is not. Giving Kosovo considerably more in rights and responsibilities than even as it was offered by the 1974 and 1979 Federal Constitution would be a great atout. It is questionable to which degree not only the Kosovo Albanians would find it appealing to remain within Belgrade’s sovereign reach, and to what extent the Serbs themselves could befriend a situation within which they continue not only having Kosovo et Metohia within Federal FRY boundaries, but also having at least the same amount of Kosovo Albanian population there as in fall, 1998. Still somehow a reordering of the Federal System of the FRY could at once attempt to solve *both* the issues regarding Kosovo and Montenegro, and hence perhaps anticipate further aggravation of problems in the Sanjak. If this were to be combined with concrete measures which would offer the Kosovo Albanians ample advantages due to participation in regional integration, and could bring about the so highly lamented lack of Europeanization, then, this would be a further reason for appeal.

For completeness sake the option (v.) *Lebanonization*, i.e. de facto outside control by one or more regional powers - avoiding a final status for Kosovo but indirectly continuing strategic change in the Southern Balkans.

Finally, the presentation of a different kind of autonomy, both internally and externally through option (vii.) *self-governance*, i.e. maximum autonomy *plus* concrete programs/initiatives by the EU and OSCE and NATO for participation in regional integration specifically tailored to the needs of the SEE region.<sup>31</sup>

“Self-governance” is defined as ‘maximum’ autonomy including the rights to self-administration in dimensions of culture, education, language, religion, financial, judicial administration and public safety, even certain industrial, energy, or infrastructure projects. It should allow administration of daily communal or regional affairs, while offering more freedom for creativity to adapt the administering institutions, organs, laws and regulations tuned to its specific needs. This exceeds self-administration on the local level which is basically the right to execute and administer according to predetermined rules. In turn, such enhanced rights however also oblige the community to recognize and respect the rights of

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<sup>30</sup>. Janez Kovaz described in interesting detail the sacking of 22 (hard line nationalist) Bosnian officials in a joint operation by OHR and OSCE. Interestingly, no public reaction followed. See *IWPR's Balkan Crisis Report, No. 98*: Janez Kovaz, “Mass sackings hope to kick-start Bosnian Peace Process”.

<sup>31</sup>. see Wolfgang Danspeckgruber Samoopedeljenje: Futuristicki Koncept za tradicionalne (Evropske) Problem,” - “Self-governance: A Futuristic Concept for Traditional (European) Problems,” Helsinki Committee for Human Rights in Serbia, Belgrade, November, 1998

minorities within its territory. It increases the value of internal/administrative borders with the remaining state, but does not make a new international entity.

The term “self-governance” introduces a concept more positive, humane, future oriented and less loaded with historical and legal-political package. The “self” is to address the community, very much in line with the traditional “self” as in “self-determination.” In contrast to self-determination “self-governance” — ought not necessarily lead down the slippery slope to state shattering and not result in immediate state-formation. Over some period of time however, borders, both internal and external can be altered by regional integration (automatically reducing their force) and a process according to accepted international norms, OSCE standards, and agreed upon by all parties concerned.

Self-governance may be seen distinct to “self-administration.” The difference includes a linguistic interpretation separate from the notion of pure administration (*Verwaltung*) according to predetermined rules and procedures. Thus self-governance is of a more flexible character which obviously includes administrative duties, but also tasks immanent to “self-government” with the appropriate organs and as agreed by all parties involved. Self-governance includes a hint of post-modern leadership considering increasingly accepted international standards such as rights for women, aspects of political correctness, non-discriminatory politics (religion, race, language), environmental concerns, and cultural flexibility.

It should enable the classical concept of self-determination to advance from the traditional orientation of state-shattering towards a more benign, stable, and hence mutually satisfying notion of increased, indeed maximized autonomy within existing international boundaries while permitting rewarding participation in global economic integration.

Self-governance requires stability, predictability, and most important, communal security. This may thus demand an elimination of arms and armed forces or armed elements within the larger region. It also addresses the influence of criminal elements, organized locally or internationally. *Demilitarization and decriminalization* of the region are hence a requirement for the successful introduction of self-governance. Self-governance may even include *neutralization*, thus denying foreign actors the right to use the territory as a staging ground for military operations, as well, as reducing the danger of armed clashes. The guarantee of the inviolability of the rights of the community in question and its territory may have to be offered by regional powers or a regional organization. Self-governance should not include diplomatic representation abroad, the protection of sovereign borders, nor customs and national defense. These agenda should be left to the central government.

In many cases the community in question within the territory of a sovereign entity inhabits a region which represents a micro-cosmos of a *sub-region*. If the community inhabits a region divided by an external boundary resulting in the fact that members of the same community live in two or more different, neighboring, sovereign states, then this concerns borders: internal, soft administrative borders versus external, hard borders. The *process of integration* assists the increase of interaction between all the inhabitants of a region: trade, economic

development, and socio-cultural exchange. This may potentially soften borders among the members of the region – hence change them from international to softer administrative borders and reduce their relevance, as the primary objective remains participation in the economic development and global market – ideally with the four (EEA) freedoms of movement of goods, services, capital, and citizens.<sup>32</sup> Since the territory of the former Yugoslavia is surrounded by EU members and applicants for membership—the former being Austria and Greece, the latter being Hungary, Slovenia, Romania, Bulgaria—it would make tremendous sense if Brussels pushes through various incentives economic and technological cooperation.

Carl Bildt detailed the institutional forging of closer links between the EU and the Balkan states. He suggested that “the EU should provide clear blueprints for reforms that would pave the way” for closer cooperation and integration, “if not full-blown [EU] membership, ... [including] the possibility of making them part of a broader Euro-zone.”<sup>33</sup>

Examples of successful self-governance in Europe such as *Südtirol and Catalunya* demonstrate the importance of restrained on the part of outside powers—i.e. the absence of negative outside interference in the specter between central government and ethnic group that looks for autonomy. The more the central government shows flexibility, the greater the chance of peaceful solution; this all encouraged by international organizations (EU, UN). The interest of both Austria and Italy (in the case of Südtirol) in European integration and enhanced regional cooperation reduced the relative importance of the sovereign boundaries and increased trans-border trade and other direct contact between the communities.<sup>34</sup>

Some fundamental aspects for successful negotiations include clarity of terms and mutual understanding; distinguishing between self-determination as a process and clear the objective, mutual trust, joint will and clear determination, and most importantly, the readiness to compromise.

Critical accompanying measures for the successful implementation of any solution

- democratization
- demilitarization
- demobilization and re-integration into ‘regular and orderly’ life
- depolitization of municipal administration
- decriminalization
- de-traumatization/re-education - combat “oral history”

Any ‘final status’ ought to comprise as well :

- The introduction and acceptance of *multiple identity* hence an increasing flexibility in defining the relationship between geographical living space and local/state/ regional

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<sup>32</sup>. Stanley Hoffmann, “Yugoslavia: Implications for Europe and the European Institutions,” in Richard H. Ullman, ed., *The World and Yugoslavia's Wars*, A Council on Foreign Relations Book, 1996, pp. 97-121.

<sup>33</sup>. Carl Bildt, “Embracing the Balkans,” *Financial Times*, February 19, 1999, p. 14.

<sup>34</sup>. See Wolfgang Danspeckgruber, “Self-Determination, Subsidiarity and Regionalization in Contemporary Western Europe,” in *Sourcebook*.



hierarchies. Once multiple identities are accepted this eliminates influence of (militant) nationalism; e.g. one person can be proud to be a Catalan as well as a Spaniard, while being also a Mediterranean and a European. It is a question of understanding, education, and, perhaps, cultural inclination - and time.

- **The introduction of a flexible *political culture* ideally based** upon democratic values – introducing notions like tolerance, flexibility, forgiveness, compromise - allowing the role and contribution of minorities even within the community which searches for greater independence from the center. A positive and benign political culture however also demands the elimination of influences hostile to the establishment of a peaceful and just society. This requires the banning of illegal operations and organized local or international criminality.
- The degree of internationalization/Europeanization and hence consistent influence of European or Western values can be increased – parallel to reduced nationalization and opening of societal intransigence – by the establishment of a *standing commission* including all antagonistic parties involved and members of the international community. This commission should assist in creating – and helping to implement – fundamental legal and administrative regulations; in many ways it ought to ascertain the continuation of a peaceful process and to limit foreign interference. There should also be put in place a mechanism of sanctions in case of non-compliance.
- Urgent reconsideration of continued imposition of the economic sanctions against FRY and a revitalized EU integrative approach (see Susan Woodward *Foreign Affairs*) to the economic and industrial future of the region. This may entail the creation of a special international body (or sub section of OSCE and/or NATO) dealing in the future with crises in the Balkans.