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OPTIONS FOR KOSOVO'S FINAL STATUS: *QUO VADIS* UNMIK?

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Introduction

For two days, a group of official and expert personalities, convened by the United Nations Association of the United States of America and the Istituto Affari Internazionali, considered the problems facing the United Nations Interim Administration in Kosovo (UNMIK) and the international community in preparing for decisions on Kosovo's final status. The eight commissioned papers and the discussions that ensued ranged from the political constraints on choices for the territory's final status to the spectrum of imaginable constitutional arrangements; from the relevance of economic viability to the institution-building needed to enhance public security. Most of the discussion highlighted the unique nature of the mission, in which UNMIK has effectively taken over the administration of the province and begun carrying out various sovereign prerogatives under a mandate that continues to recognize a lingering sovereignty of the remnant Yugoslav federation—a political link manifestly distasteful to many of the territory's inhabitants.

Many participants seemed to concur that the prospects for a satisfactory solution in Kosovo were somewhat bleak, but that the territory—and U.N. mission—were not necessarily doomed. There was considerable agreement that a solution for Kosovo must be a regional one, in two senses: any solution must involve the wider Balkans, and any solution must entail some greater degree of integration with Europe. Participants were far more divided as to the appropriate course that Kosovar "self-governance" ought to take, and to the practical constraints on status options implicit in Resolution 1244 of the United Nations Security Council and the principles that had earlier been agreed to by the parties in the negotiations in Rambouillet. There was disagreement as to whether a decision on final status was a necessary prerequisite to reconstruction, or whether reconstruction could proceed in its absence.

Session 1: Kosovo and the region: Warring aspirations.

Paper and presentation: Susan Woodward, *Kosovo and the Region: Consequences of the Waiting Game*

Woodward's central claims are that there has already been a *de facto* decision to delay any decision on the final status of Kosovo--and that this choice is a poor policy. She argues that the ambiguity of leaving decisions regarding final status until later may be deadly, as past crises in the province have tended to have wider regional effects.

The international community has made several contradictory moves with regard to Kosovo: while U.N. Security Council Resolution 1244 articulates a commitment to Yugoslav sovereignty, UNMIK had gone about setting up a transitional administration that exercises

many powers that are usually sovereign prerogatives. At the same time, rhetoric surrounding the province has changed. While the term "Kosovar" once referred to any resident of the province, it has increasingly been used to refer only to Kosovar Albanians. At the same time, the language of human rights that was heard during the bombing has changed, with claims about sovereignty and self-determination increasingly common. These shifts have made the possibility of independence an increasingly likely one, such that the debate has largely shifted to one about timing rather than policy options for final status. Delaying a decision on final status may be a wise move because it provides time for the creation of infrastructure, prevents a chain of similar claims from emerging, encourages the Serbian opposition to overthrow Milosevic, and helps maintain the tenuous unity of the five permanent members of the Security Council. Alternatively, delay may well only hinder attempts to build a polity in Kosovo because uncertainty makes the people unclear where to direct their political loyalties and unsure what their rights are, and makes it difficult if not impossible to attract foreign investment or aid from international financial institutions.

Regardless of the merits of each of these arguments for and against delay in proceeding to decide on final status, the choice has effectively already been made for ambiguity and delay—delay even on discussions of how to discuss it—because of international disagreement and great power politics. No state is ready to declare Yugoslav sovereignty annulled, and the tacit decision to delay helps to maintain an international coalition.

However, this approach is a mistake, particularly for the region. Since at least 1981, strife over Kosovo has been about the external consequences of its status, not its internal order. "In a political context in which identities and states are being reformed, redefined, and reconstituted, including changes in borders, the case of Kosovo has been a catalyst or instrument of these reformulations throughout former Yugoslavia and the wider region."
The past year has seen the continuation of this trend. The West relied heavily on Albania to aid in the negotiations, making the Kosovo issue an even greater domestic *Albanian* issue. At the same time, Macedonia was heavily burdened by the influx of Kosovar Albanian refugees, perhaps distorting its attempts at economic and political development. In Serbia itself, the bombing took its toll on the opposition. Montenegro's increasingly confrontational relationship with Serbia was also exacerbated. Finally, the crisis diverted donor attention away from Bosnia and Herzegovina at an inopportune moment.
For such a regional problem a regional approach is needed, within the parameters of the Stability Pact. What is needed are a preventive deployment along the borders between Kosovo and both Macedonia and Albania, the creation of procedures to negotiate conflicts over self-determination and borders, and steps to avert incipient self-determination claims in neighboring areas through aid and the revival of negotiations. In addition, there ought to be an end to the sanctions against Serbia, a region-wide security regime, and aid policies that emphasize demilitarization, arms control, and security forces reform.

Discussion

The discussion that followed revolved around two of Woodward's central claims: that the problem of Kosovo is as much a regional problem as it is a provincial one, and that the policy of delay and ambiguity that appears to have been chosen by the international

community is a dangerous one. One policy proposal—that of lifting sanctions on Serbia—also provoked debate.

The regional nature of the problem

A number of participants concurred that the Kosovo problem was a regional one, arguing that there could not be different solutions for different parts of the former Yugoslavia. A decision about the status of Kosovo might raise issues regarding Albanians in other states in the region and minorities in Kosovo itself. What is needed is a gradual development of civil society institutions, not just in Kosovo but everywhere. This would, by way of comparison with the costs of letting Kosovo take its own course, be cheaper and more effective than bombing in another round of conflict: more money is required for conflict intervention than for prevention. Another plausible approach that would aid stability is integration into European institutions.

Conversely, participants said, events in Yugoslavia might profoundly affect the final status of Kosovo. For example, Kosovar Albanians have a perverse interest in Slobodan Milosevic's clinging to power in Belgrade. If democratization took place in Serbia and Milosevic were ousted, ethnic Albanians would quickly lose European sympathy and support for their claims to independence.

However, other participants questioned an excessive emphasis on regional approaches, pointing out that in the absence of bilateral agreements between the warring parties wars could not be prevented. Some adherents to this view also took issue with the proposal for U.N. deployments at various borders, arguing that insecurity derived not from the new entities, but from a failure of communication and "interactivity" between them. Woodward agreed that regional approaches *alone* were insufficient, but insisted that there must be bilateral actions in a regional context.

Delay, ambiguity, and shortcomings of international policy

There was substantial agreement with Woodward that delay and ambiguity can be dangerous; after all, many international approaches to the Balkans over the past decade had tended to stop the killing momentarily but postponed decisions on solutions, with the situation worsening in the longer term. Further, such ambiguity tended to introduce confusion and problems of perception. It would also make it very difficult to induce foreign investment. Such ambiguity was, of course, built into SC Resolution 1244 (and, indeed, the Rambouillet text, which declared self-government "grounded in respect for the territorial integrity and sovereignty of the Federal Republic of Yugoslavia" but ostensibly left all options with respect to final status on the table). In particular, Article 11e of SC Resolution 1244 referred to the goal of "facilitating a political process designed to determine Kosovo's future status, taking into account the Rambouillet accords," but participants did not all agree on its implications for self-determination.

Lifting of sanctions: Is Serbia a security threat?

Woodward's proposal that sanctions against Serbia be lifted, with economic assistance tied to demilitarization, was based partly on the contention that Serbia does not currently pose a security threat. Some took issue with Woodward's underlying assumption, arguing that even if Serbia does not currently pose a security threat to its neighbors and to Kosovar Albanians, that could change in the near term. Others argued that sanctions should not be lifted, though many proposed they be "sharpened" and more narrowly "targeted"; in

particular, these said, sanctions should be targeted to signal that only the Milosevic regime, and not the Serb populace, was being punished. In fact, these argued, it might well be the case that the Serb opposition should not want the lifting of sanctions until it came to power. Another participant argued that Western policy towards Yugoslavia was essentially held hostage to Milosevic, that delay was inevitable, and that a permanent solution could not be developed until someone the international community could truly talk to was in power in Belgrade.

Session 2: Kosovo political life: Past as prologue?

Paper and presentation*:* Veton Surroi's *Kosova Political Life: Past as Prologue?*

Surroi argues that Kosovo has recently experienced two historical processes. The first was Kosovars' attempt at state building under communist rule through close alliance with Tito, and the second was their resistance to the dismantling of Kosovo as a self-governing state following Tito's death. He argues that though Kosovo only had autonomy for a relatively short period of time, Kosovar Albanians have never abandoned the idea of statehood, least of all during the 1989-1999 period. However, while state-building has been attempted, it was conducted under historically specific conditions, constrained by two conceptions of communism. The repression of aspirations to sovereignty even by the relatively liberal communist Yugoslav regime radicalized some Kosovar Albanians, pushing them to seek support from Enver Hoxha's hard-line Albania. As a result, those seeking to create a Kosovar state were inclined towards autocracy more than democracy.

Following the fall of communist regimes in the region and Serb repression of Kosovo autonomy, Kosovar Albanians went a step further, creating alongside Belgrade's administrators a parallel government under Ibrahim Rugova with parallel "public" institutions such as educational and taxation systems. At the same time, statehood began to be conceptualized in terms of the ideals of Western societies--countries that increasingly came to support the Kosovars. Indeed, since the creation of the collective "self-illusion" of the state was not the same as actually achieving statehood, they came to realize their aaspirations could only be accomplished with the aid of the West.

Kosovo is now in flux, but it may be moving towards both statehood and democracy. However, to become both democratic and viable, it will have to pass successfully through three stages of transition: stabilization, democratic institution-building, and decision-making regarding permanent status. To build these institutions, however, Kosovo will need help from the international community. There remain a series of questions that Kosovo and the international community must seek to answer, dealing with mechanisms of inclusion of (Albanian and minority) Kosovar society, legal and economic reform, protection of minorities, and stable relationships with neighboring countries.

Discussion

Discussion centered around the shift in the nature of state-building in the former Yugoslavia, the need for building new institutions and political culture, and the impact of any resolution in Kosovo for its neighbors.

State-building and the Yugoslav experience

Some discussion emphasized the shift in political culture that states and territories emerging from the former Yugoslavia now have to make. While the former Yugoslavia may have been relatively liberal by communist standards, it was still authoritarian. Its various parts are now passing through a period of political experimentation. However, to borrow Surroi's metaphor, the country had spent 70 years building a roof, and must now turn to the business of building the walls.

Institution building

There was concurrence on the need to build the democratic "walls" in Kosovo, and the need for UNMIK to aid this process. Particular concerns included the creation of a tolerant political culture and numerous institutions. However, obstacles persist with regard to institutions, which may well be hamstrung by the continued ambiguity with regard to status. Certainly law and order must be rebuilt, but what law applies? Several participants insisted that a political culture could not be built in the absence of such institutions of law and order. A legal system depends on a starting point; thus, whether Kosovo is independent or autonomous matters to the legitimacy of law and legal processes. Should Kosovo become independent, any resultant constitution must be the product of an endogenous political process, not handed down by UNMIK.

It is not only the 1244/Rambouillet formulation that is built on ambiguities, other participants argued. There was discussion of the international legal status of the FRY and whether there even was a Yugoslavia; after all, some remarked, U.N. General Assembly resolutions have rejected the FRY's claim to be the successor state of the former Yugoslavia and called on the FRY to apply for U.N. membership. Others contended that the FRY was simply a *dysfunctional* state, and yet others that the whole question was beside the point, as Resolution 1244 reaffirmed a commitment of all parties to the territorial integrity of "the Federal Republic of Yugoslavia," meaning that regardless of its voting status in the U.N., such a political entity does exist, has "sovereignty" and possesses "territorial integrity"—evidently the operating assumptions of the United Nations Secretariat. Skeptics retorted that such references in Resolution 1244 do not in themselves demonstrate the existence of a state, and that Yugoslavia was indisputably a collapsed state that had already lost control over large parts of its territory. The world had already recognized that there was "something wrong with it" and that the FRY should not necessarily be treated like a normal state.

There was some agreement that Resolution 1244, while ambiguous, did provide some shelter for Kosovar Albanians to begin to live their lives again. However, there would still have to be a process that would in the *end* deal with final status issues or there would be no movement on other, practical issues. The lack of a final status decision should not impede the resolution of short-term problems. Quite the reverse: Kosovo's future status would be shaped by what Kosovar Albanians defined for themselves through institution-building in this transition period.

There was also the question of timing: should elections or institution building come first? While one argument was that institutions could not be built first, but must grow from the bottom up, early elections were deemed impossible by many, with numerous steps yet to be taken. For example, elections cannot take place until it is ascertained who "the people" are; this could necessitate a census. It might also be the case that institution-building could not

take place until some institution-*demolishing* took place: parallel structures run by warriors rather than administrators would have to be eliminated.

Regional effects

One concern was that an independent Kosovo would lead to greater demands from Montenegro for autonomy or even independence. The Serbs might well not accept the loss of their final partner in the rump Yugoslavia, and war would thus result from a Montenegrin bid for independence. Certainly there was agreement among the participants that any shift in Kosovo's status would have consequences for Montenegro. For many, the breakdown of the bond between Serbia and Montenegro is inevitable anyway, as they are held together only by the army. Montenegro for the moment has adopted a politics of ambiguity with respect to its aspirations: while a (perhaps narrow) majority of Montenegrins might want independence, they are not clamoring but waiting for their leader to call for it. Should that happen, in this view, the West should be prepared to offer security guarantees to Montenegro to protect it from Serbian reprisals. Others suggested, by contrast, that efforts to keep Kosovo *in* the federation—particularly if the prices is to elevate it to co-equal status as a full-fledged republic—would lead Montenegro to bolt.

Intersession: Kosovo and the "Albanian Question"

Paper and presentation: Arben Xhaferi, *Kosova Crisis*

Xhaferi presented an impromptu paper that underscored the tension between the internationally recognized legal right of peoples to self-determination and the recognition by international law of states' sovereignty and territorial integrity. The issues have been further clouded by self-serving ethnic propaganda. What is occurring in the Balkans, in Xhaferi's analysis, is a replacement of totalitarianism built on a pan-ethnic communist ideology with ethnically exclusive entities that are likewise totalitarian. These entities, which affirm the rights of their ethnic group's members while denying rights to outsiders, are anachronistic. In particular, Milosevic's regime has resorted to outlandish claims to justify its "anachronistic" project of greater Serbia.

These ethnically-based totalitarian entities arise in the post-communist world because of the failure of the communist conception of state-building, which artificially consolidated territories and claimed that they belonged to none because they belonged to all. This artificial construct was bound to be broken down, and in the post-communist context the principle of self-determination should take precedence over that of territorial integrity. However, self-determination must guarantee certain "human values" like freedom and equality, rather than invoke exclusivist principles.

On Xhaferi's account, Yugoslavia under Milosevic fails the test of legitimacy, as it is based on asserting Serb hegemony. Serb nationalism and Milosevic's exclusivist policies are the source of the destruction of Yugoslavia; under the circumstances, no legal, moral, or geo-strategic argument can be adduced to force Kosovar Albanians to remain under Yugoslavia's control. Not only does Kosovo possess a legal and a moral right to independence, but its independence would contribute to peace and stability in the region.

Finally, Kosovo does not pose a threat to Macedonia, with its own substantial population of Albanians.

Discussion

Discussion centered on the aspirations of ethnic Albanians in the region, specifically in Albania, Macedonia, Kosovo, Montenegro, and southern Serbia. What would happen should Kosovo gain independence? A number of participants held that Pristina's independence would inspire Macedonian Albanians to seek a similar separation. While historically there was relatively little common social ground between Kosovar and Macedonian Albanians, the latter were becoming increasingly disillusioned with Macedonia and coming to identify with the former. At the same time, Macedonians were bound to see the threat of dissolution in any attempts at decentralization.

Session 3: Kosovo Economicus: Does viability matter?

Paper and presentation: Vladimir Gligorov, *Kosovo Economicus: Does Viability Matter?*

Gligorov argues that in today's world economy, economic "viability" doesn't really matter for a state assuming it participates in the international trade regime; effective domestic public governance is more of an issue for "viability". But participation in the international trading system is problematic in Kosovo and the effectiveness of Kosovo's public finance and administration is even more so. Reaching a decision on final status may not change this situation, and regional economic problems exacerbate it.

The size of a state matters little in an era of trade liberalization and increased democracy, although small states without diversified economies may be somewhat economically vulnerable because they do not generate economies of scale and are more susceptible to external shocks and influence by multinational corporations. Nonetheless, for the most part the size of a state is not crucial for its prosperity as long as the state has an open economy. To be viable, small states should be open, relatively homogenous, democratic, have good governance, and provide opportunities—i.e. employment—to all inhabitants.

But while a state need not have "balanced" trade, it needs to cover its public finances. By this measure, Kosovo is not economically viable. It lacks instruments needed for self-government, it always depended on federal transfers in the Tito period, and it is currently dependent upon international aid to finance its own reconstruction. Indeed it lacks even the infrastructure to help it effectively absorb international assistance. Uncertainty about its final status only compounds the barriers to viability.

This does not necessarily mean that there is no hope for Kosovo. Kosovo inherited a non-viable economic system as a result of its dependent position in the former Yugoslavia. Kosovo may yet be able to become viable, but to do so it will have to be integrated economically with other states in the region. Politically, it must become a democracy. The first condition cannot be satisfied as long as the conflict between Kosovo and Serbia is not resolved; the second cannot be satisfied unless Kosovo is a state or a recognized part of a state.

Possible political routes that the province might take include integration with Albania, continuance as a *de facto* international protectorate, integration into the EU, and independence. Yet the odds are that none of the possible options will succeed in making Kosovo economically viable. An agreement on final status is probably not in the offing; the second-best outcome is simply to allow nation-building to go forward and attempt to push it in the right direction.

***Discussant Paper**:* Muhamet Mustafa, *Kosova Economicus: A Background Paper*

Mustafa examines arguments on the development of open markets in the region and potential integration of Kosovo in regional and European economic arrangements. Despite the poor economic resources they command, Kosovar Albanians are determined to rebuild homes and businesses. The main concern is how to convert this energy and optimism in the populace into a capacity to reconstruct effectively. This will require better absorption of reconstruction assistance; better coordination of various reconstruction activities; and, of course, that reconstruction costs be held down and covered by available resources.

The prospects for economic viability, while mixed, are not unpromising. While the youth, entrepreneurial spirit, and educational levels of the population are strengths, as well as international commitment and the territory's natural resources, there are weaknesses. These are the low levels of economic and social development, current legal and institutional structures, and the current political and security situation. To develop a competitive economy, Kosovo will need an open market, but will first have to address imbalances in the budget and the balance of payments. Economic prospects have been severely harmed by the dependent position of Kosovo in the former Yugoslavia, and particularly by the destruction of institutions after 1989. Nonetheless there remains hope, bolstered by evidence of the significant success of parallel Kosovar Albanian institutions after 1989. Economic viability will not be possible within the confines of the FRY or Serbia, but rather in a regional or European context, perhaps under the auspices of the Stability Pact.

Discussion

Discussion centered around steps the international community could take to improve the economic viability of Kosovo, including appropriate options regarding final status, and regional and European integration as solutions.

Kosovo's economic viability and the role of the international community

One positive economic factor was said to be human capital: Kosovo's population is relatively well trained and young. UNMIK is beginning to create an institutional and legal environment for economic interactions to occur, and at least some elements of the private sector have returned to work. Serious obstacles remain, however: the rule of law is virtually absent, the market is inadequate in size and is not free, and the territory is dependent on external subsidies. Human resources have potential, but need assistance through aid to child-rearing, education, and enterprise. Also necessary are institutions that help people help themselves: the rule of law, a financial system that supports small-scale business operations, and security guarantees. International organizations should help through supporting the private sector in rural areas and locally owned private enterprises, including micro-enterprises.

Some participants suggested that the military would have been better equipped to administer Kosovo than civilians because they are generally prepared to act sooner and make decisions, and their ignorance of economics and administration could be rectified by training in these roles. Others, however, took vehement issue with this notion, pointing out that the military's reputation for achieving its goals precisely rests on their success in carefully circumscribing their mandate to manageable questions of security. Public administration involves the far more difficult tasks of education, law, economic stimulus and regulation, and public health, few of which are susceptible to military commands. Where the military has a comparative advantage is in demilitarization—a task the civilians would gladly entrust to them.

Finally, there were questions regarding the long-term financing of the administration of Kosovo. European and U.S. support could not necessarily be counted on for much longer, participants said. After that, where could money to support public services be found? Some revenues may come from remittances from Albanians abroad, or could be found through taxation, but would those suffice?

The dangers of ambiguity were raised again, with some suggesting that it would be necessary to end the uncertainty and ambiguity in order to facilitate economic development, and also because stagnating conditions might force political choices. However, this did not necessarily mean that independence was the best outcome, in these discussants' view. If anything, integration with Albania was the logical economic outcome.

Economic integration, regional and European

Some argued that regional economic integration was necessary, but that European integration would take place too far down the road to provide serious incentives for policy-makers. However, though European integration may be some time away, a supranational framework for cooperation is still necessary. Many internationally recognized states in the region are not viable as separate societies, but would be when joined together. In particular, Kosovo would not prosper unless the entire region did. Regional integration would, however, be hampered by the difficulty of including the Serbs, particularly if the current regime continues in Belgrade.

A customs union to allow free movement of goods across borders would be a key measure, said some participants. Lenders and recipients of aid and investment need to move from a bilateral to a regional approach to investment. However, opening borders among states in the region would not suffice: the West must also open its borders to goods from the region.

Session 4: Internal Order, External Security: Looking beyond KFOR

***Paper and presentation**:* Espen Barth Eide, *The Internal Security Challenge in Kosovo*

Eide's paper addresses the internal security situation in Kosovo and the steps that must be taken to improve it both in the short and medium-term and in the long term. He argues that in the long term the goal must be to create a local police, judiciary, and penal system based on internationally recognized standards. In the short to medium term the international community's military and police components must ensure basic law and order. A unique

step taken in Kosovo has been the U.N.'s attempt to perform the role of executive policing itself with international personnel, in contrast to the usual functions of U.N. civilian policing operations (CIVPOL)--monitoring, assisting, and training *local* police. The current security situation is rather bleak, and the present approach to public security must be reconsidered. A prerequisite for long-term security is a political settlement.

More than half a year after the arrival of KFOR and UNMIK in Kosovo, the internal security situation remains dire. There is continued violence motivated by revenge, economic incentives, and a desire among armed Albanians to purge the territory of its remaining minorities. This situation prevails due to the absence of both a final political settlement and an effective occupation government, so Kosovo is in essence "in the waiting lounge." This is the case because the international community is reluctant to abandon its commitment to the recognition given to the integrity of Yugoslavia's borders in SC Resolution 1244. As a result, it is now not Serbs but the same international community that liberated Kosovo from Serb oppression that stands in the way of Kosovo's independence. This will likely lead to heightened tensions between Kosovar Albanians and UNMIK.

In addition, the approach to policing in Kosovo has been poor. Providing for public security goes well beyond more police and extends to providing a competent judiciary and penal system. While UNMIK has taken up the task of policing (albeit with inadequate numbers and effectiveness of personnel), it occupies a dangerous middle ground between the U.N.'s traditional "CIVPOL" approach, emphasizing training, and a more comprehensive approach that would effectively constitute a trusteeship. As a result, UNMIK's police component too often finds itself in the morally risky position of arresting persons without being able to provide for their subsequent fair trial and treatment. Hence there is a need to look beyond policing to other aspects of security sector reform such as the reform of the judiciary and the penal system. Attempts at reform of the security sector in other parts of the former Yugoslavia illustrate the ineffectiveness of the "middle" path in the international community's approach to security, particularly where the core political issues are unresolved or the agreed political arrangements are sloppy.

Kosovo's perilous security situation is exacerbated by the fact that, despite (or perhaps because of) the intense security apparatus of visible Serb occupation, there were no legitimate internal security structures from the prior decade on which KFOR and UNMIK could build. With Serb forces' withdrawal, there has been a rush for control of the security situation between the Kosovo Liberation Army (UÇK) and the NATO/U.N. international presence. In the post-conflict vacuum, organized crime has established a foothold with connections to many international networks, and is becoming increasingly difficult to combat.

At present, then, Kosovo is in military terms *de facto* occupied by a large KFOR, while most public order and police functions have fallen to UNMIK and its undermanned civilian police. The police operation has encountered the usual obstacles faced by CIVPOL: difficulties in recruiting adequate numbers and needed abilities, the difficulties posed by policing someone else's country, and on top of this much trouble confronting organized crime. While it might have made more sense to entrust most public security functions to KFOR, NATO commanders' fears of "mission creep" made this impossible.

For the long term, the security sector must be built up virtually from scratch. There is no extant core of local police officers, although the OSCE police academy should begin turning out recruits shortly. However, it is less clear what is to become of the Kosovo Protection

Force, which incorporates former members of the UÇK. The weakness of the judiciary further harms public security. And in the absence of a final status agreement, it is problematic to build up the security sector when there is ambiguity as what the relevant government or laws are. The tenuous security situation in the region will make it even more difficult to combat organized international crime in the absence of inter-governmental cooperation.
A radical or, at the very least, a moderate policy overhaul is needed to mitigate the security problems in Kosovo. Under the radical variant, KFOR should become a true occupation force and take over policing tasks, something that has only been done in a few of the occupation zones. The moderate version would require closer cooperation between KFOR and UNMIK police.

Discussion

Discussion addressed the current security situation and its pitfalls, the new role of the U.N. in internal security matters, and the mission's prospects and political pitfalls.

Internal security in Kosovo

While there was some concern that UNMIK's policing job would be complicated if Kosovar Albanian frustration at continued ambiguity with regard to final status mounts, several participants suggested this might not be quite the problem imagined, since most Kosovar Albanians are glad just to be out from under Serb control and are too busy putting their lives back together to want to challenge their protectors. They have little reason to prefer the UÇK or any other political contender to UNMIK, and any contender would still need international legitimation.

Another, more immediate security concern, some warned, was Milosevic's continued exercise of substantial power in northern fragments of Kosovo, which could serve as a base for future attacks or provoke the Kosovar Albanians to do battle to gain control of it. At the same time, problems with the judiciary and in the building of a new police force were seen as evidence that only UNMIK and KFOR are currently capable of exercising "sovereign" authority in the province. The absence of a plausible replacement for these international actors as legitimate governors of the territory makes the prospects for early elections rather slim.

The Role of the United Nations in internal security

Practical problems remain with respect to both running the U.N.'s security operation and building a domestic police force. CIVPOL has a personnel problem due to continued difficulties in recruiting, and it still isn't clear where the funds to finance the indigenous civilian police force will come from. Some observed that governments that had marshaled vast resources to win the war have been less willing to fund peace-building initiatives. Further, some governments (with the exception of the U.S., Germany, and the U.K.) are reluctant to put money into the new police force out of the fear of essentially subsidizing the UÇK. Clearly, it will be difficult to retain police recruits if they cannot be paid, or if their wages are not competitive.
The police, too, do not stand alone. They need a judicial counterpart, preferably one that is functioning even before the local police are working. This, however, begs the question already discussed: which law ought to be applied? For UNMIK policing, it was noted,

Bernard Kouchner decreed that the applicable law is the law that obtained at the start of NATO operations, which was Serbian; however the Albanian judges installed to date have ignored this directive and applied the law in place in 1989. Kouchner is now, said participants, considering amending the regulations to utilize Yugoslav law and Serbian law only where the pre-1989 code does not apply. He has already barred legislation that contravenes international standards.

One suggestion was that responsibility for public order could be divided differently between KFOR and UNMIK—something that is happening *de facto* in some sectors anyway. Soldiers are good at keeping order and should perform that function more extensively than they do in a strictly limited role as peacekeepers. Soldiers, however, are not policemen, and can not be expected to perform police investigative functions. Advocates of this approach added that U.N. CIVPOL's core responsibility ought to be to carry out the functions they traditionally have had (monitoring and the like), and that it should share the tasks of maintenance of order more evenly with the military. Another benefit of closer cooperation and a division of labor that involves KFOR more intensely in matters of public security would be civilians' access to information from military intelligence.

Session 5: Constitutional options for self-determination: What works?

***Paper and presentation**:* Markku Suksi, *Constitutional Options for Self-Determination: What Works*

Suksi's paper looks at how divided polities have addressed the claims of minorities for self-determination short of partition and separate statehood. In looking at the international experience, there might be precedents to guide policymakers in steering the political process on Kosovo's self-government per SC Resolution 1244.

The term "self-determination" never appears in SC Resolution 1244, but "substantial self-government" does—an important distinction. Nonetheless "self-determination" is frequently invoked in discussions of Kosovo.

In international law the right of self-determination connotes the right to political participation and the free exercise of the will of the people to exercise sovereignty in a state of their choosing—a right very rarely enshrined explicitly in domestic law. Self-determination has internal and external components: the former is the degree to which the populace determines the composition of the government, while the latter refers to the place of a state as a sovereign subject in international law. The right to self determination has ramifications for both domestic and international law, providing both for the continued rights of people in an extant state to be free of subjugation and the right of a subjugated people to be independent or to choose the state to which they belong. Such rights can be realized through the establishment of a sovereign state, free association or integration with an existing, more extensive state, or some other political status freely chosen by a people. Self-determination is not contrary to sovereignty, but parallel to it; the culmination of self-determination is the creation or selection of a state sovereign and the exercise of territorial control. The exercise of self-determination need not result in the carving out of a separate state, but may come in the form of autonomy of a sub-state entity. However, in the

international community there is concern that the exercise of self-determination not casually disrupt the territorial integrity of existing states.

While international law recognizes the right of self-determination, it says little about what this means institutionally: In particular, what does the right to free association or integration with another existing state mean? This right may potentially be exercised in two ways: through closer integration and even the creation of a unitary state, or through a looser confederal association with a right to secede. International law also recognizes certain universal political rights that must be protected for individuals in any polity: those articulated in the International Covenant on Civil and Political Rights, such as freedom of expression, association, and assembly, non-discrimination, "effective participation" in politics, and equality. In essence, any exercise of self-determination is acceptable so long as it is chosen by a people in a free process.

Historically, the Kosovar Albanians were denied effective representation in government after 1989. SC resolution 1244 and the autonomy principles that were agreed to at Rambouillet seek to re-establish the guarantees of effective self-government. At the same time, such self-governance is not to come at the expense of the sovereignty or territorial integrity of Yugoslavia or other countries in the region. While Resolution 1244 nowhere rules out eventual self-determination (with the possibility of secession) in a final settlement, it also nowhere affirms it.

There are several institutional and constitutional options now open to the people of a territory in a situation of ethnic differentiation comparable to Kosovo's vis-à-vis Yugoslavia. A resulting state could be a multi-ethnic unitary one, although those are rare, usually tempered with some degree of federalism or other delegation of powers to regions. Autonomy and devolution are hybrid situations in which the people of a region have their own sub-state level bodies for self-government but also participate in national elections on an equal basis. It is this conception of self-governance that was enshrined in the Rambouillet accords and was one of the sections to which both the Serbs and the Kosovar Albanians agreed (in the case of the latter, for an interim period only). The accords, in accordance with the 1974 Yugoslav constitution, enumerate legislative powers for Kosovo and for the Federal Republic of Yugoslavia and the Republic of Serbia. Kosovo becomes in this analysis, as it has been in the Yugoslav and Serb constitutions, a sub-sub state entity, falling under the authority of the Serb republic and its constitution, which in turn falls under the authority of the Yugoslav constitution. The approach to self-government enshrined in Rambouillet has analogues in several European countries and conforms to European understandings of self-government. Two cases in which the issues of autonomy and self-determination have been raised in a European context—discussed here in considerable detail—are the Åland Islands (of Finland) and Tatarstan (in the Russian Federation).

While there is little empirical research on reasons for success and failure of such arrangements, international involvement in their creation is of some utility. The most important factors are internal: the institutional arrangements for governance, and notes that autonomies within democratic states are likely to be more durable.

Discussion

Discussion centered around several thorny issues: Is the starting point to this discussion a presumption that independence for Kosovo eventually is inevitable, or may some

form of autonomy with links to Yugoslavia remain possibilities? What will future relations with Serbia look like? Does the populace of Kosovo comprise a distinct people, and if so, what does that imply? What does the reference in SC Resolution 1244 to autonomy and "taking account of Rambouillet" mean?

Independence or autonomy?

On the one hand, it is difficult to accept the notion of autonomy if one seeks independence, meaning as it does that one relinquishes at least some degree of sovereignty and territorial integrity. On the other hand, legal approaches aside, the international community and Kosovar Albanians might be forced to compromise and accept far less than full legal independence, given a number of obstacles. While many participants had to this point of the discussion seemed to have assumed that independence was inevitable, discussion now turned to various scenarios that might lead to other outcomes: intense Russian objections, forcing Western countries to choose between minimal cooperation with Russia on all issues or the maximal aspirations of Kosovars on one; a change of administration in the United States, with President Clinton's succeeded by one with little attachment to continued engagement in Kosovo; European attempts to integrate the entire region through the Stability Pact; and the possible consolidation of power by nationalist extremists inside Kosovo.

At the same time, even an arms-length loose confederation might be unstable and difficult to maintain where there is great animosity among the constituent parts—particularly if the larger party has the power to revoke the rights and status held by the smaller party. Even though Kosovo might not become a formally independent state with diplomatic relations with other states, its people would almost certainly never again be ruled from Belgrade, participants acknowledged. Nonetheless, Kosovo would require good relations with Serbia to function. Further, the dilemma between autonomy and independence might well be a false one; perhaps the concern ought to be what relations among states, independent or otherwise, are to be. Significant modifications of traditional notions of sovereignty were advanced: a state should be defined not in terms of international treaty-making powers but in terms of its capacity to participate in the global marketplace; the international community should move away from defining a state in terms of its *de jure* existence.

The matter of the status of Kosovo may be further complicated by its constitutional history, some participants averred, if that is seen as any guide to its future status. Kosovo was recognized as a province of Serbia under the 1974 Yugoslav constitution, albeit an autonomous one; it was not a republic. Montenegro, by contrast, has had the status of a republic, implying the right of self-determination. Under those structures, Kosovo is part of Serbia, not even part of the Federal Republic, meaning that it is a sub-sub-state structure, not a sub-state structure. Even the secession of Montenegro would not formally change Kosovo's status—though it might make continued links between Kosovo and Serbia far more problematical.

Relations with Serbia

Quite apart from constitutional history, there may be formidable pragmatic limitations to the distance Kosovo can gain from Serbia. As a matter of simple geography, it will be better off having working relations with Serbia—and may even need them to

survive—whether it is independent or not. But Serbia's internal politics may also have ramifications for Kosovar aspirations. Even should the "democratic" opposition win, it would likely object to Kosovar independence, although it would be more amenable to discussions about revision of constitutional status. A democratic government in Belgrade would also deprive Kosovar nationalists of much outside sympathy. In the interim, the emotional importance of the Kosovo issue to Milosevic ought not be underestimated; he might respond irrationally to any final status resolution involving anything close to the independence of Kosovo. As one observer concluded, any durable solution must take place in the context of the region, and Serbia will have to be heard as part of that region.

Are the Kosovars a "people"? Resolution 1244 and Rambouillet

Some participants held that Resolution 1244 treated the Kosovar Albanians as a people (although the word never appears in the resolution) which would necessarily mean that they were entitled to self-determination. However, the language in the resolution, referring circumspectly to self-government and autonomy, leaves this interpretation in doubt. Others held that they were a people entitled to self-determination as a matter of international law regardless of what Resolution 1244 might or might not say, since they possess the prerequisites under international law for such status: a territory, a people, and a government to which they are subject.

The meaning of Resolution 1244's reference to Rambouillet was also a point of contention. Should it be interpreted to refer to the points in the proposed agreement that the Serbs tacitly or explicitly agreed to—or does it include the provisions the Serbs had explicitly rejected as well? Or might it merely have been meant to help the U.N. organize its own administration in Kosovo, and not have any wider implications? Resolution 1244 could not replace a peace agreement in any event—and, as the chairman reminded participants, the Rambouillet negotiations had, after all, failed, so undue attention should not be paid to exegesis of every aspect of principles discussed there.

Session 6: Constitutional options for Kosovo: What fits?

***Paper and presentation**:* Wolfgang Danspeckgruber*, Kosovo: Conceptual Challenges, Practical Problems, Possible Future Lessons*

Danspeckgruber views the Kosovo question as not merely a provincial or even Yugoslav problem, but as a problem for the entire South Central European sub-region, with implications for Albanians in Albania, Macedonia, and Montenegro, and for the durability of the Dayton settlement in Bosnia. He argues that stability and peace will only be achieved in Kosovo through a regional approach, in particular by incorporating the region into the European integration process as quickly as possible.

Several factors aggravated the Kosovo crisis. First, demographic shifts, particularly the steep growth in the Albanian population, heightened the ethnic tensions in Kosovo. Second, Serbs took an increasingly hard line towards the Albanians with revocation of autonomy, pushing them to establish a parallel government and society—but also eventually radicalizing elements that would become the UÇK. Third, the instability in Albania in 1997 that threw

open the country's arsenals produced an unstoppable flow of weapons into insurgents' hands in Kosovo. Fourth, Milosevic has used Kosovo as a tool to entrench his own domestic power. Finally, the situation was exacerbated by misperceptions and miscalculations on the part of both the West and Milosevic.

Kosovo raises serious conceptual and political problems. Sovereignty precludes most interference in domestic affairs, but international rhetoric and action, particularly surrounding Kosovo, has highlighted the development that flagrant violation of human rights can severely limit the presumption of non-interference—a limitation formally ratified in international law a half-century ago in the genocide convention. However, self-determination as a precursor to independence remains problematic, particularly as significant Albanian populations reside in surrounding states, raising the specter of further state disintegration. Finally, any political arrangement must take account of minorities still residing in Kosovo.

There are many potential solutions for the final status of Kosovo—some almost impossible, some just unlikely, and the others problematic. They range from reversion to a unitary Serbia to secession and independence (or secession and unification with Albania), with a return to the *status quo ante* of 1989, a heightened autonomy, and a continuing international mandate among the intermediate options. Also on the spectrum is an assertedly more novel approach to the sovereignty dilemma: a new form of self-governance in tandem with E.U. programs for participation in European integration that would serve the countries of the South Eastern European region. Maximal self-rule in this circumstance would not necessarily require moving formally towards state dissolution and formation. The key to this approach is regional integration, a process that softens borders and encourages economic and socio-cultural exchange; such integration could take place through the E.U., as Yugoslavia is surrounded by E.U. members and applicants for membership. To be durable, final status policies must include democratization and demilitarization, the acceptance of multiple identities, flexibility regarding geography and governance, internationalization (specifically Europeanization)--and the reconsideration of economic sanctions.

Discussion

The debate returned to issues raised in the paper and in previous sessions: Is the Kosovo crisis about Kosovo or about the Balkans? Does Resolution 1244 permit independence or only autonomy? What will future interactions with Serbia look like? What are the implications of the situation for Europe and the United States?

Is the Kosovo crisis about Kosovo?

A recurrent theme of some discussants was that the Kosovo problem is less about what Kosovars want for Kosovo and more about regional implications and stability. Others challenged this preoccupation with the region, arguing that policymakers must take account, not only of the interests of everyone else, but those of the Kosovar Albanians themselves whose victimization had provoked the NATO intervention. Their future cannot be left to the whim of distant powers convened in ornate conference rooms to decide the fate of nations about whom they know little and for whom they care nothing. Even for moderate Kosovar Albanians, autonomy is no longer an option; only independence is. The debate between autonomy and independence is a trap, said these partisans; we must ask what ordinary

Kosovar Albanians feel. Others retorted that, for all its preening, it was not the UÇK that liberated Kosovo from Milosevic's yoke, but Western military power, and the same outside powers now had every reason to try to reconcile other concerns. Certainly for Kosovar Albanians, however, the crisis is clearly about the province, and where there are international dimensions, discussants agreed, Kosovar Albanian involvement in the process of addressing them is essential.

What does Resolution 1244 permit?

Some argued that Resolution 1244 is a malleable instrument that allows a pragmatic convergence of many interests, permitting Kosovo to enjoy *de facto* independence with wider integration in the region, though it might lack some *de jure* aspects of sovereignty.

While the issue of final status is left open by Resolution 1244, it did set up a multi-tiered process, including interim administration, elections for territorial self-rule, and a political process to negotiate a final status. Kosovar Albanians must themselves have a sense of participation and a stake in the process, even as UNMIK conducts its mission. UNMIK will continue to be involved for as long as needed; its initial one-year mandate will automatically be renewed absent any Security Council vote to terminate it.

As institutions are built in Kosovo, there is the risk that at some point they may become the vehicle for a formal declaration of secession. Such a move to pre-empt the Resolution 1244/Rambouillet formula and present the international community with a *fait acompli* could unleash equally unilateral actions in other quarters

What will relations with Serbia be?

It is not clear what Serbia's reaction might be to a Kosovo declaration of independence or merger with Albania. Even a democratic Serbia might react strongly to the total loss of territory once seen as central to Serbian identity.

Although legally Kosovo's status would not necessarily change if Montenegro split from Serbia, the terrain could be considerably altered. It might be the case, suggested a participant, that Kosovo finds it needs Serbia more than a *democratic* Serbia would need Kosovo, because economically Kosovo would need Serbian markets. On the other hand, if Kosovo does not have very many links to Serbia, including in trade, Kosovo enterprises and producers could simply trade to the south and west instead. In a few years, Kosovo might not need Serbia as a trading partner; perhaps instead the region needs greater access to the E.U. Nonetheless, Serbia might still be needed for investment, and it would be quite difficult to procure investment for small isolated enclaves.

There are, one participant asserted, two alternative routes in which political links might develop. One is a reconstituted "PPB" framework, linking Pristina, Podgorica, and Belgrade—a reconstituted federation or confederation to succeed the FRY. The other is a "PTT" axis linking Pristina, Tirana and Tetovo (the most heavily Albanian sector of the current Macedonia), in a tighter or looser fashion bringing together the elements of a "greater Albania."

Other problems involving both parties that would have to be taken seriously include the treatment of the remaining Serbs in Kosovo (many of whom are concentrated in a sliver of northern Kosovo that is theoretically severable) and the eventual status of the Albania-populated sliver of south-eastern Serbia adjacent to Kosovo. While peace needs to be

achieved among the warring parties—Albanians and Serbs, broadly speaking—the likelihood remains that the conflict will reignite, perhaps along these flashpoints.

Implications for Europe and the U.S.

Many expect to see tighter economic connections between the region and the E.U. States emerging from the former Yugoslavia like Slovenia have already set the trend for tighter integration with Europe. Such a move is economically prudent: While Serbia was once the key supplier of foodstuffs throughout the Yugoslav federation, it is actually now cheaper to purchase them from the E.U.

The relations of the region with Europe and the wider world matter in another sense: Europe and the U.S. need to decide their degree of engagement. In particular, said some participants, Europe has to decide if it is willing to take the lead in problems in the region. Alternatively, they suggested, the U.S. as "sole surviving superpower" in military terms may take the lead. In this view, however, if the U.S. instead decides to limit its investment of resources in the Balkans and leave the heavy lifting to Europe, it has the obligation act the part of loyal ally it has so often expected of the Europeans, and to support E.U. policies. If participation in the E.U. emerges a central goal of the province—as it is of others in the region—this too becomes leverage for Europe to influence the direction of events.

However, Kosovo's final status cannot be managed just by Europe, the U.S., or even by both in NATO. Russia and China retain leverage in the Security Council over any international recognition.

Participants suggested that the spectrum of constitutional options has a parallel in terms of internationally recognized status. One offered a three-tier scale, regardless of Kosovo's *de facto* self rule: it could be a non-internationally recognized state-like entity (a "NIRSLE" for purposes of this discussion)—i.e. treated diplomatically as part of a larger state (presumably the FRY); or a partially internationally recognized state-like entity (imaginatively dubbed a "PIRSLE"), capable of self-representation in certain very specialized international activities (like Taiwan in the GATT and World Trade Organization). Or it could become a wholly internationally recognized state-like entity (a "WIRSLE" that sits in the United Nations and other international organizations with other WIRSLEs).

Session 7: A political process toward final status

***Paper and presentation**:* W. Michael Reisman (with Monica Hakimi and Robert Sloane), *Procedures for Resolving the Kosovo Problems*

Reisman's paper culls from principles enunciated over the years in Security Council resolutions and in international law and practice a series of suggestions for procedures by which a future status of Kosovo can be settled. Indeed, he suggests that simply building any procedures at all, even those not likely to produce results, is necessary. He examines a number of approaches taken in analogous cases ranging from the Åland Islands to Bosnia to Vietnam.

A series of issues and criteria must be addressed in Kosovo. Some internal conflicts are inseparable from their inter-state dimensions: governments in the region must be involved

in the negotiations, as well as outside major powers. A culture of negotiation must also be instilled. In addition, steps must be taken to legitimate the U.N. presence in the eyes of both the Yugoslavs and the Kosovar Albanians. Infrastructure and services must also be restored, and foreign assistance flow, though such steps may serve to strengthen a UÇK that has sympathizers in the international community. And while Milosevic and his government have been gross delinquents, the international community must recognize that he (so long as he remains in power) and what remains of Yugoslavia will still weigh heavily on the future of Kosovo, particularly its economic future. This fact is admittedly problematic for any inclusive political process intended to lead to final status decisions, given the indictment of Milosevic and his associates by the International Criminal Tribunal for the former Yugoslavia and reluctance by many in the international community to legitimize his grip on power. Unless he is replaced, however, negotiation with the political institutions controlled by Milosevic will become necessary—even though, in the near term (if not longer), he and perhaps his successor are likely to be obstructionist on Kosovo.

Thus, for the near term, the less formal approach of "consultations" is preferable to formal negotiations. Such an approach can help build the culture of negotiation and enable the exchange of views without resulting in political deadlock. Through multiple simultaneous consultations with different actors and agendas, questions of status and relations with neighbors can be addressed in some consultations while others address daily administration and reconstruction; these could be broken down into different working groups with different levels of participants. Consultative committees and working groups could be created to address: Interstate Matters (eventually including future status), Provisional Internal Administration (from customs and the postal system to infrastructure and the judicial system); the establishment of the rule of law; International Development; communication among religious leaders; and the role of non-governmental organizations. While political realities may necessitate the selection of second-best solutions, because these may have undesired effects, there is a need to plan and act procedurally.

Discussion

The discussion addressed the preference in the paper to give priority to process over end status. It also continued the discussion of the commitment of the U.S. to Kosovo and the appropriate roles to be played by the U.S. and Europe, respectively. Finally, there was some discussion of the failings of and prospects for an effective KFOR/UNMIK presence in Kosovo.

Procedures vs. objectives

Some objections were made to the emphasis placed in the paper of procedures over end objectives. The concern was that emphasizing procedure meant it would not be clear that the end goal was, and that once procedures became entrenched they could be quite difficult to change. Final goals ought to be addressed sooner because there were many viable procedures to choose from, said the critics; furthermore, developing interim procedures without stating long-term goals might be perceived as a sign of weakness.

The U.S., Europe, and Kosovo

Returning to a subject raised in the previous sessions, the commitment of the U.S. to the Balkans, some persons challenged the sometime European perception that the U.S. was insufficiently committed. The U.S., they argued, has committed substantial forces and funds to the region. Nonetheless, there continue to be debates in the U.S. about its role, goals, and stake in the region. While the U.S. has committed serious resources, there remains the possibility that the U.S. will disengage and if it does, it is likely that others will bail out as well. The U.S. has the single largest presence on the ground—over a fifth of the UNMIK police force, and a significant diplomatic presence, as well as an important presence in the aid community. In this view, with the U.S. having largely paid for the war, Europe now ought to pay for the peace. However, even if the Americans were to leave Kosovo to the Europeans, the U.S. would have an interest for humanitarian reasons in seeing Europe succeed in the area. In the long run the U.S. even has an interest in building up the Europeans' defense capacity, for if Europe gets involved on its own in another regional crisis and fails, the U.S. would almost certainly have to bail it out.

KFOR and UNMIK

Discussion returned to the earlier suggestion that KFOR and UNMIK, or more generally military and civilian components of a mission, ought to be locked together in an integrated command structure. Some argued that the international community failed in Bosnia by setting up two separate operations, and was now failing in Kosovo by doing the same thing. There was some concern that UNMIK and civil society had as yet failed to fill the power vacuum in Kosovo, and that eventually the Kosovar Albanians would turn against both UNMIK and KFOR. Others observed, however, that the parallel operations maintained close ties, despite their formal separation, thanks to the efforts of their (European) leaders—in marked contrast to the experience in Bosnia, where the (U.S.-led) IFOR kept the civilian mission at arms length. Nonetheless, the real problem may be the mismatch in resources between the military and civilian components: one observer suggested that UNMIK was being set up for failure by being handed herculean tasks like establishing internal security with a couple thousand policement from dozens of countries. So perhaps it would be of utility if part of the military force were dedicated to more expansive tasks of public order.

Session 8: Guaranteeing a settlement

Paper and presentation: Chris Bennett, *Guaranteeing the Settlement*

Bennett discusses current problems of administration under UNMIK and forecasts future ones, building on lessons from Bosnia. He also argues that Kosovo cannot be analyzed in isolation; it must be viewed in relation to the Balkans and the evolution of Europe. The international response to crises in the Balkans has evolved over time, with increasing levels of commitment and preparation since 1991.

This increased engagement has come with a high price tag, but one the international community seems resigned to paying. However, there remain constraints to international involvement in terms of funding, manpower, and expertise. There is no real shortage of funding pledged or provided for reconstruction, as for emergency relief; the real problem is

bureaucratic bottlenecks, particularly those in the EU. With respect to manpower, the deployment in the region is massive, but the U.S. seems determined that its European allies bear the brunt of the effort, and the U.S. commitment in KFOR is notably limited. To that end a common European defense capability sees more and more necessary. Finally, extensive expertise will be needed for reconstruction, both in the general matter of the reconstruction of transitional societies but also in specific Kosovar Albanian needs. On this front, the recruitment and retention of talented individuals has been difficult.

Thus what is needed is a regional approach that incorporates other countries in the region and lays the foundations for European integration. The Stability Pact is an attempt to take a regional approach, but one that is limited in its potential at present; instead there ought to be a permanent international conference on the Balkans that is actually based in the Balkans. However, as Kosovo formally remains part of Serbia, Milosevic's continuation in office poses a serious obstacle to convening such a conference any time soon.

Discussion

The discussion returned again to the relative commitments of Europe and the U.S. to the region, the economic problems posed by Kosovo's uncertain legal status, a variety of administrative issues, the prospects for European integration, and the role of non-governmental organizations and civil society.

Europe and the U.S. in the Balkans

Resuming the discussion of E.U. and U.S. commitments to the Balkans, some argued that whether or not the U.S. was suffering "Balkan fatigue," Europe was finally committed. The U.S. now has relatively few troops committed to the Balkans in comparison to the Europeans (the U.S. has 12,500 of a total 80,000 in SFOR and KFOR) and Washington's commitment of reconstruction funding is also comparatively small (15 percent of the total).

Kosovo's legal and economic status

Legal mechanisms matter for several reasons, said participants. As Kosovo is not a member of various international institutions, all transactions on its behalf are carried out through intermediaries. In particular, the lack of progress on its legal status (or a drift into an internationally contested "final" status) would eventually harm the territory's economic progress. New startups are needed to create jobs, but small businesses in particular would be wary of such an unstable legal situation. Final status aside (if indeed agreement on final status is even possible), legal security for economic transitions must be ensured through the reformation of law pertaining to publicly-owned property, the creation of civilian courts, and some provision of insurance for those companies that venture to conduct business in Kosovo. However, which of these measures the interim administration may take is still an open question.

Administrative issues

A variety of administrative issues were touched on briefly during this discussion. Some argued that there was a need to have a unified command of UNMIK and KFOR, even if it meant the Secretaries-General of the U.N. and NATO had to agree to name the same person as UNMIK administrator and KFOR commander. The fact that the heads of the two

operations may have good relations does not suffice, they said; UNMIK administrators are unable to stand up to belligerent local factions because they can never be sure that KFOR will back them up in a confrontation. With regard to funding, while the U.S. has been funding the Kosovo Protection Force, a half-way house for the UÇK, funding for the public administration and new civilian police remains in doubt. The lengthy delays in payment of UNMIK assessments by many major contributors--exacerbated by the utter failure of many small U.N. member states to pay even their tiny assessments at all—have kept UNMIK chronically on the ropes. Moreover, the fact that UNMIK's assessed budget does not cover the salaries of Kosovar civil servants, while pledged (voluntary) funds that could cover these costs have just not materialized, weakens Western leverage.

Concern was also expressed that UNMIK might repeat mistakes made by the European administration in Mostar—that they might build up infrastructure without building up civil society simultaneously. The provision through relief networks of humanitarian aid is not the same thing as nurturing the autonomous networks of a civil society. To aid in the development of a civil society capable of focusing political and social debate independently of the state, coordination among the burgeoning number of NGOs is needed—and UNMIK can help in the nurturing by inclusive policies of consultation and financial support.

Wrap-up Discussion

The conference closed with a number of wrap-up remarks reconsidering some of the issues central to the conference discussion. These included the prospects for independence, timing of elections, the roles of NATO and UNMIK, prospects for the lifting of sanctions, the future of Milosevic and the Serbian opposition, and regional approaches.

A lead commentator concluded that the people of Kosovo would achieve statehood, though whether *de facto* or *de jure* is still an open question. It is in the Kosovars' interest to gain this status—even if slightly compromised—under the aegis of the U.N. Security Council, with the international guarantees that this entails. Nonetheless, there will undoubtedly be people who become impatient with the pace and compromises of a peaceful approach and attempt to derail it.

Some elections ought to be held relatively soon, although the timing is not so important as the certainty that a date should be fixed and elections carried out on schedule. NATO's Secretary-General ought to be more actively involved in the process to aid UNMIK in meeting its timetable. Where possible, military contingents accustomed to doing police work ought to be deployed to help fill the police gap.

Discussion of an end to the sanctions on Serbia, in this view, is not very productive. The sanctions against Belgrade will almost certainly not be lifted, nor should they be. That said, there is a case for reassessing the comprehensiveness of the sanctions; still, it must be recognized that Milosevic does respond to certain types of pressure, so sanctions that penalize his powerful backers and constrain their access to funds may be of particular utility. Hopes for democratization in Belgrade should be realistic too. It is not at all obvious that Milosevic will be replaced by democratic politicians; if anything it is far more likely that he may be replaced by a nationalist politician such as Vuk Draskovic. Should Milosevic remain in power, the West could not continue to avoid all dealing with him—but it could play on his poor relationship with the military. As a result, the targeting of officers by the Hague war crimes tribunal may prove fruitful. However, should the democratic opposition confound us

all by gaining office, the international community should not push the fragile new regime to pursue war criminals relentlessly. Indictments ought to stand, but the West may have to accept that removing Milosevic from office might make it even harder, not easier, to pursue and punish at least some of his henchmen.

Finally, a structure ought to be formed in the Balkans to facilitate a Balkan-wide solution. In that context, the flaws of the Dayton agreement will probably need to be revisited at some juncture.

Discussion and policy recommendations

Numerous policy prescriptions emerged from conference discussions, but some of the most important policy recommendations centered around the following clusters of issues: the appropriate and/or feasible options for the "final status" of Kosovo; costs and benefits of delay and ambiguity with regard to that status; the security situation in the territory and the appropriate actors to ensure interim security; the importance of regional approaches, bot economic and political; and the appropriate way to deal with Milosevic and the government of Serbia more generally.

Final status

There has been a *de facto* decision to delay any decision regarding the final status of Kosovo. The benefit of this move is that ambiguity provides the international community and inhabitants of the province time to create infrastructure. It may also help to forestall the development of similar demands for autonomy or independence by other groups/territories in the region and encourage the Serbian opposition. Finally, it may help to maintain the rather tenuous unity of the permanent five members of the U.N. Security Council.

However, this ambiguous status should not be maintained indefinitely, as such uncertainty makes the development of political institutions and loyalties more difficult. Furthermore, the lack of a final status hampers the normalization of legal relationships and thus harms economic development.

The security situation and appropriate interim administrators

The internal security situation in Kosovo is in need of serious improvement on several fronts. This will require work on all three legs of the security triad: police, the judiciary, and the prison system. In the short term, policing under UNMIK needs to be improved, either through better resources from the U.N or through closer ties with KFOR. The U.N. CIVPOL section is perpetually understaffed; states must contribute more trained personnel to ensure that the policing aspects of U.N. missions are successful. Alternatively, KFOR might be able to shoulder part or all of the policing burden. Overall, KFOR and UNMIK need at the very least to coordinate their activities more closely and political decision-makers should seek to fuse them more tightly together.

Regional approaches

Kosovo poses a regional problem, and thus regional solutions are needed. Any resolution of Kosovo's status runs the risk of destabilizing the region, implicating as it does the fate of Albanian minorities in neighboring states and Serb and other minorities in Kosovo itself. Regional security might be furthered with the deployment if UNPREDEP-type forces along the borders between Kosovo and Albania and Macedonia. More generally, there is a

need to develop a regional security regime, demilitarization plicies, and procedures to negotiate self-determination claims. Regional prosperity and political stability would be furthered by the development of regional economic arrangements in the Balkans and eventual integration into the E.U. However, the place of Serbia in such regional arrangements remains unclear, at least so long as Milosevic remains in office.