

Dialogue on the Eve of Rambouillet

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The Kosovo conflict is an ethno-political conflict that many observers expected to escalate already years before the outbreak of war in 1999. Such a prognosis was relatively safe, as the conflict bore many similarities to other ethno-political conflicts in the former Yugoslavia. The imposed abolition of Kosovo's constitutional autonomy by Slobodan Milošević's regime in 1989/1990 was closely linked to the efforts of Slovenian and Croatian political elites to leave the Yugoslav Federation. Kosovo Albanians resembled other non-Serb communities in socialist Yugoslavia: they lived in a geographically compact area, the status of this area had been territorially institutionalised by the creation of the autonomous province of Kosovo and Metohija in the Serbian and Yugoslav Constitutions of 1963 and 1974 respectively, and the Kosovo Albanian community was discriminated and oppressed for ethno-political reasons.

The political representatives of the Kosovo Albanians followed the example of the Croatian and Slovenian leaders after the Serbian parliament had imposed the state of emergency in June and July 1990. Kosovo Albanian politicians adopted their own Constitution in September 1990 and held a referendum on the independence of Kosovo in September 1991. Kosovo Albanian leaders also sought to achieve a decision on Kosovo's independence through the International Conference on the Former Yugoslavia that tried to negotiate a settlement for the dissolution of Yugoslavia.

Already in the early 1990s, observers had noted the socio-economic misery in Kosovo and the potential of violence associated with a growing young generation of deprived Kosovo Albanians. Diplomats and politicians of Western states also had acquired extensive experiences with Milošević, his semi-authoritarian regime, the instrumental use of Serb nationalism as a tool to preserve power and the co-operation between regular army units and paramilitaries in "ethnic cleansing" operations.

Given these familiarities, the available knowledge about the conflict and the general international commitment to conflict prevention, there is every reason to ask why conflict prevention failed in 1999.¹ Admittedly, NATO's determined and rapid air strikes successfully prevented the armed conflict between the Yugoslav Army and the Kosovo Liberation Army (UÇK) from turning into a series of ongoing small-scale, bloody military clashes similar to Bosnia and Herzegovina. How-

¹ Independent International Commission on Kosovo: The Kosovo Report. Oxford: Oxford University Press, 2000.

ever, this intervention clearly fell short of a full prevention that would have been desirable in the interest of avoiding casualties, costs and immaterial destruction resulting from warfare.

This chapter reflects upon the prospects of conflict prevention by tracing the development of a non-governmental initiative for a Kosovo-Albanian-Serb dialogue launched in 1996. While the initiative was organised by the Bertelsmann Foundation (BST) and the Center for Applied Policy Research (CAP), Franz-Lothar Altmann was in many ways the key personality at the centre of this endeavour. The initiative involved Kosovo Albanian and Serbian intellectuals in a process, exploring ways to improve life in Kosovo and potential scenarios for the future of the entity. Although the process collapsed with the escalation of violence in Kosovo in 1998, it set out many arguments and ideas underlying the Rambouillet Agreement of February 1999, the last international attempt to achieve a negotiated solution to the Kosovo crisis prior to the war.

A Window of Opportunity? December 1995 – September 1997

Several events and developments indicate that the Kosovo conflict evolved into a “mutually hurting stalemate” in the aftermath of the Dayton Agreement, a constellation that left both parties uncomfortable with the status quo and unable to change the situation unilaterally.² The Milošević government intended to comply with the Dayton Agreement, but knew that overcoming the international isolation of the Federal Republic of Yugoslavia (FRY) would require a solution for the Kosovo conflict. The United States had retained an “outer wall of sanctions” after Dayton, implying that international recognition of FRY and its re-admission to international organisations would depend on a substantial degree of autonomy for Kosovo.

As the Kosovo issue had not been included in the Dayton negotiations, most Kosovo Albanian politicians realised that the United States did not back, and the international community even objected to, their independence project. The apparent lack of a determined and concerted international policy addressing the Kosovo conflict suggested that the strategy of linking civil disobedience with an internationalisation of the problem, advocated by Kosovar President Ibrahim Rugova, had failed. Rugova’s strategy of creating a parallel shadow state had, however, led to an unbearable socio-economic situation for most Kosovo Albanians. Violent alternatives such as a guerrilla strategy of repeated surprise attacks on selected Serbian targets were not considered acceptable or feasible by the Kosovo Albanian political leadership at that time, given the clear military predominance of the Yugoslav army and the vulnerability of Kosovo Albanian civilians to Serbian retaliation.

For Milošević and the reformist elite factions supporting him, an agreement with Kosovo Albanians promised to yield the full benefits of their peace strategy chosen with the Dayton Agreement, as well as to broaden their dwindling basis of

2 W.I. Zartman (ed.): *Elusive Peace. Negotiating an End to Civil Wars*. Washington DC: Brookings Institution, 1995.

popular support in Serbia. For Kosovo Albanian leaders, an agreement could ease the circumstances of life in Kosovo and bring recognition of their structures of political representation. To attain an agreement, each party needed to solve a strategic problem: Kosovo Albanian politicians had to save faces, they had to communicate to their constituency that re-integrating shadow-state institutions into official institutions and normalising the situation would not imply abandoning the aim of independence. The Serbian government had to convince the Serbian public that concessions to Kosovo Albanians would neither mean the loss of Kosovo as a symbol of nationhood, nor trigger the disintegration of Serbia.

The international community could have assisted both parties in coping with these problems, had it established a binding framework for negotiations similar to the setting of Dayton and had it guaranteed the territorial integrity of FRY for Belgrade and a right of internal self-determination for the Kosovo Albanians. However, the European Union, the USA and the international organisations dealing with the Yugoslav crisis did not have a determined and concerted policy to address the Kosovo conflict.

The International Conference on the Former Yugoslavia had essentially postponed the issue. Its Badinter Commission of legal experts, established to assess the independence claims of the Yugoslav republics, did not issue an opinion on Kosovo. The Commission referred to the principle of *uti possidetis*, according to which newly established international borders should coincide with existing administrative boundaries.³ This principle was used to justify the transformation of inter-republican boundaries into international borders, leading to newly independent states with sizeable ethnic Serb minorities. But the Commission did not explain why it did not consider the boundaries of Serbia's autonomous provinces as upgradeable boundaries in the sense of *uti possidetis*.

Lacking independent military capabilities, the EU was confined to diplomatic activities, aid and the incentives associated with closer contractual relations. In 1995, its Common Foreign and Security Policy also lacked the institutional underpinnings later achieved by the treaty reforms of Amsterdam (1996) and Nice (2000). Although the EU had previously made an international recognition of FRY contingent upon the protection of national minorities and a substantial degree of autonomy for Kosovo, EU member-states established diplomatic relations with FRY in April 1996, to reward FRY's recognition of the Former Yugoslav Republic of Macedonia. The EU's move eroded the outer wall of sanctions upheld by the USA after Dayton and thereby again showed the differences between European and USA approaches to the Balkans.

These differences and the wider gap between the Western countries and Russia also prevented the Contact Group from adopting a more pro-active approach to

3 P. Padan: The Badinter Arbitration Commission and the Partition of Yugoslavia. In: Nationalities Papers, 25 (1997) 3, 537–557; A. Pellet: The Opinions of the Badinter Arbitration Committee. A Second Breath for the Self-Determination of Peoples. In: European Journal of International Law, 3 (1992) 1, 178–185.

Kosovo. This informal group had been created to co-ordinate the international policy on Bosnia and consisted of France, Germany, Italy, Russia, the United Kingdom and the USA. Until July 1998, the Contact Group only called for negotiations between Belgrade and the Kosovo Albanians, but did not develop a robust framework based upon the above-mentioned guarantees, pressure and incentives.

The Organization for Security and Co-operation in Europe (OSCE) could have become an alternative international organisation, leading a concerted policy on Kosovo as it was principally capable, through its High Commissioner on National Minorities, of mediating negotiations between Belgrade and the Kosovo Albanians. However, the Milošević regime did not accept the High Commissioner and in 1993 refused to prolong the Missions of Long Duration established by the OSCE in Kosovo and Vojvodina. The regime argued that FRY's OSCE membership had been suspended before and that Kosovo constituted an internal affair of Serbia. In addition, Kosovo Albanian representatives rejected the High Commissioner as they did not want to be classified as a national minority.

Thus, in 1996 the Milošević regime and the Kosovo Albanian leaders limited their willingness for negotiations by posing intransigent preconditions for negotiation modalities. Whereas Milošević declared Kosovo an internal affair of Serbia, Kosovo Albanians insisted on internationally mediated negotiations, preferably led by the United States. Both parties, however, did not preclude negotiations mediated by an international NGO. It became clear that there was a window of opportunity left for NGOs and track-two negotiations, when Milošević and Rugova signed a Memorandum of Understanding on 1 September 1996. This provided for "the return of the Albanian students and teachers back to schools" which had been brokered by the Catholic Laymen Organisation, Comunità di Sant'Egidio. The agreement indicated that both parties shared an interest in changing the status quo.⁴

The opportunity was determined by internal power shifts in the Kosovo Albanian and Serb communities. Firstly, the Kosovo Albanian strategy of non-violent resistance was increasingly contested by Rugova's emerging political rivals. Adem Demaçi and his Parliamentary Party of Kosovo (PPK) criticised Rugova and his Democratic League of Kosovo (LDK) for their passivity and reliance on foreign support. The PPK promoted a more active strategy of civil disobedience and tried to reconvene the parliament of the Kosovo Albanian shadow state. Since this parliament had not met after the illegally held elections in May 1992, the LDK *de facto* controlled all shadow state institutions. To achieve the opening of official schools, an independent union of Kosovo Albanian students began demonstrations against the LDK's will. Moreover, in 1996 the principle of non-violence was challenged for the first time by a group calling itself "Kosovo Liberation Army," attacking ethnic Serb refugees in Kosovo, Serbian police and security staff, the ethnic Serbian dean of Prishtina University and Kosovo Albanians accused of "collaboration."

4 S. Troebst: Conflict in Kosovo: Failure of Prevention? An Analytical Documentation, 1992–1998. Flensburg: European Centre for Minority Issues, 1998, 81–82. <www.ecmi.de>, 04.04.2007.

Secondly, Milošević's power base began to erode in 1996. The opposition alliance Zajedno won the local elections in Serbia's larger cities on 17 November 1996. As Milošević tried to annul the elections, the opposition parties and an emerging student movement successfully organised a series of demonstrations pressing for the recognition of the results and challenging the political legitimacy of the regime. The campaign forced Milošević to acknowledge the opposition's victory. In Montenegro, Milo Djukanović, a critic of Milošević, was elected prime minister and subsequently president. Djukanović enforced a pro-Western policy and economic reforms that reduced Montenegro's dependence on the Belgrade regime and Serbia's channels of control. Montenegro's independent course challenged Milošević's power, particularly because he decided to become president of FRY in July 1997, after his two constitutionally permitted terms as president of Serbia had expired. As a federal president, he would depend more on Montenegrin political support than before.

A decisive shift in the power constellation, however, did not occur until the Serbian parliamentary and presidential elections of September 1997. The governing coalition of Milošević's Socialist Party of Serbia, his wife's Yugoslav Left and the small party New Democracy (ND), lost its parliamentary majority and Milošević was forced to co-opt the nationalist Serbian Radical Party of Vojislav Šešelj into government. Šešelj nearly defeated the socialist candidate in the presidential elections, which manifested the increasing popular support for radical nationalist policy alternatives and signalled the failure of Milošević's attempt to renew and enhance his electoral basis through a peace and reconciliation policy.

Thus, endogenous developments in the fall of 1997 shifted the balance of power towards the advocates of a violent approach to overcome the Kosovo stalemate, closing the window of opportunity for a negotiated solution between Belgrade and Prishtina.

The Dynamics of Negotiations

During the 1995–1997 period, Sant'Egidio, the USA-based Project on Ethnic Relations (PER) and the BST/CAP project sought to mediate between Belgrade and Prishtina. The BST/CAP project differed from Sant'Egidio as it developed a more encompassing approach to the conflict, viewing sectoral issues like schooling as linked to the question of Kosovo's final status and thus requiring a dual approach to institution building. In contrast with PER, the BST/CAP initiative tried to unfold a deliberative process of arguing in order to eschew the ritualised patterns of positional bargaining that were likely to dominate negotiations, given the opposed and ossified positions of both parties. These differences led BST/CAP to work with intellectuals and advisors rather than with the political representatives directly.

BST/CAP invited Kosovo Albanian and Serbian "intellectuals" – persons not holding a political office, who were publicly known and acknowledged, represented a range of different political opinions and could be considered open to argumentative-deliberative methods. The Kosovo Albanian participants were Gazmend Pula,

President of the Helsinki Committee for Kosovo, Veton Surroi, editor of the Prishtina daily *Koha*, and Isa Zymberi, Head of the Kosova Information Centre in London. The Serbian participants included Dušan T. Bataković, a historian at the Serbian Academy of Sciences, Milan Protić, Director of the Institute of Serbian Studies, Predrag Simić, Head of the Institute for International Politics and Economics, and Ratomir Tanić, advisor to the President of ND. Tanić and Zymberi were most closely linked to the Milošević regime and the LDK-led Kosovo Albanian government respectively.⁵ While Bataković and Protić were affiliated with the democratic opposition circles in Belgrade, Pula and Surroi represented different non-LDK strands of Kosovo-Albanian thinking. Surroi and Simić later participated in the Kosovo Albanian and Serb delegations negotiating the Rambouillet Agreement.

The initiative started in September 1996, with a stock-taking conference on the “Albanian question” in the Balkans that benefited from a previous research and policy-oriented project conducted by ELIAMEP, the Hellenic Foundation for Foreign Policy.⁶ As a follow-up to the conference, Josef Janning, Deputy Director of CAP, suggested three scenarios, each of which was to be elaborated by a Kosovo Albanian and a Serbian intellectual jointly, as hypothetical option irrespective of its political desirability: How are improvements of the actual situation in Kosovo possible, assumed that Kosovo’s legal status does not change in the future (Bataković/Surroi)? How could a state of autonomy be reached within the framework of FRY (Simić/Pula)? How could an independent Republic of Kosova outside FRY be reached in a peaceful and consensual way (Tanić/Zymberi)?

The underlying idea was that a discursive clarification, contestation and justification of possible future states would overcome the unproductive confrontation of rigid and intransigent positions that had hitherto dominated the Kosovo dispute. Scenario building was assumed to enable Kosovo Albanians and Serbs to find a way out of their stalemate by “backward induction,” that is, starting from possible future states, identifying the preconditions to attain these states and specifying the sequence of mutually acceptable moves to fulfil these preconditions.

While the Kosovo Albanian and Serbian participants agreed to the proposed approach and the division of labour suggested by BST/CAP, not all of them developed the requested scenarios in a written format.⁷ Surroi in his paper noted that political

5 Due to his connections with Milošević, Tanić was invited by the prosecutor of the International Criminal Tribunal for the Former Yugoslavia (ICTY) as a key witness able to clarify Milošević’s intentions behind the war against the Kosovo Albanians. In his ICTY statements on 14 and 17 May 2002, he confirmed that Milošević wanted to start ethnic cleansing in Kosovo and he also stressed the linkages he perceived between the BST/CAP project, the German government and the diplomatic initiative taken by the German and French Foreign Ministers during their visits in Belgrade, March 1997 <un.org/icty/cases-e/index-e.htm>, 04.04.2007. The president of ND, who had become Minister of Interior in the opposition government replacing the Milošević regime, reacted to these statements by contesting the importance and credibility of Tanić (See: *Vreme* 593 and 594, 16 and 23 May 2002).

6 T. Veremis/E. Kofos (eds.): *Kosovo: Avoiding another Balkan War*. Athens: ELIAMEP, 1998.

7 J. Janning/M. Brusis: *Exploring Futures for Kosovo. Kosovo Albanians and Serbs in Dialogue* (Working Paper). Munich: Center for Applied Policy Research, April 1997.

representatives of both parties were restrained by the conflicting “legality concepts” derived from the Kosovo Albanian state project and the Serbian sovereignty claim. The school agreement became possible because the Kosovo Albanian leaders could perceive and interpret it as a restitution of their schools and the Milošević regime could interpret it as a return to established standards of Serbian minority education. As long as both parties were able to reconcile an action with their own legality concept, moves to improve the situation seemed possible.

Bataković went beyond suggestions for improvements of the given situation and outlined a form of autonomy for Kosovo as part of an administrative regionalisation of Serbia. His proposal drew on ideas developed by Vojislav Koštunica’s Democratic Party of Serbia and the influential Serbian legal expert Pavle Nikolić.⁸ Simić argued for an autonomy status similar to the model of South Tyrol, because the conditions of this model resembled Kosovo insofar as it emerged from a history of violence and a democratisation process and as its negotiation was linked to economic development and EU integration.⁹ Pula elaborated a scenario of Kosovo as a constituent republic of FRY that was inspired by a proposal made by Kosovo Albanian political leader Demaçi in 1996.¹⁰ Zymberi set out the principles on which a sovereign state of Kosovo could be founded, but he did not explain how to achieve such a state in a consensual and peaceful way. Tanić contributed a paper on the importance of good neighbourly co-operation, and Protić submitted an unsolicited paper discussing the rights of national minorities in a democratic Serbia.¹¹

Despite the reluctance evident from these contributions, in January 1997, the participants met in Munich to discuss the scenarios. The discussions suggested several elements of a common understanding. Kosovo Albanians and Serbs tended to agree that a comprehensive democratisation of Serbia would constitute a necessary, but not a sufficient, precondition for reconciliation. This insight implied that developments in Kosovo could not be simply disconnected from the political process in Serbia and the creation of an ethnically blind liberal democracy in Serbia, envisioned by parts of Serbia’s liberal opposition, would not be an appropriate solution for the Kosovo conflict. Participants also acknowledged that a solution to the conflict would require each party to respect the other party’s concept of legitimate order and both parties to take a gradual, pragmatic approach to improve the *modus vivendi* in Kosovo.

Lacking popular democratic legitimacy, the participants of the group were obviously not entitled to conduct official negotiations, but they could potentially shape and structure a framework, objectives and a range of outcomes of such negotiations. To start a process of negotiations, it was, however, necessary to prevent Belgrade

8 M. Jovičić: *Regionalna država*. Belgrade: Vajat, 1995.

9 P. Simić: *Put u Rambuje*. *Kosovska kriza 1995–2000*. Belgrade: Nea, 2000, 175–179.

10 G. Pula: *Kosova – Republic in a New (Con-)Federation via Re-Federalization of Yugoslavia*. In: *Südosteuropa* 46 (1997) 3–4, 184–196.

11 M. Protić: *Nationale Minderheiten und ihre Rechte: Serbien und der Kosovo*. In: *Europäische Rundschau* 24 (1996) 4, 125–132.

from abusing practical improvements to impose the Serbian version of legality and Prishtina from trying to redefine the status before negotiating any detailed improvements. Being aware of this mutual blockade problem, BST/CAP tried to uncouple practical improvements from status-related decisions by launching simultaneous but separate negotiations. Simultaneous negotiations should not be paralysed by both parties' attempts to link practical issues with status implications. It was also clear that negotiations were jeopardised by violent acts from both parties and such incidents were evidently increasing during the first half of 1997. To address this risk, a third process of negotiations was considered necessary, seeking to reinforce the rejection of violence and to build mutual confidence.

For the next project meeting, held in Athens in June 1997, BST/CAP therefore proposed a three-fold negotiation process on three distinct areas: confidence building, practical improvements and status options. The envisaged confidence-building measures included the involvement of an international NGO monitoring and investigating human rights violations, a co-ordinating council of Serbian police and Kosovo Albanian shadow-state representatives taking responsibility for internal security in Kosovo and a commission of Kosovo Albanian, Serbian and international representatives evaluating the work of courts. The proposed practical improvements referred to the implementation of the School Agreement based upon a mutual recognition of the Kosovo Albanian and Serbian education systems, the return of Kosovo Albanian medical staff into public healthcare institutions, bilingual public administration, economic reforms, Kosovo Albanian participation in local self-government and the annulment of the Serbian laws imposing the state of emergency. Concerning the status issue, the BST/CAP proposal contained the options previously elaborated by the Kosovo Albanian and Serb participants and, in trying to define a common denominator, postulated a form of internal self-determination with a territorial component and international involvement.

These issues should be debated simultaneously and receive equal importance, based upon two meta-norms both parties were expected to accept: "The Serbian side should understand that practical improvements do not render the Kosova state project obsolete and that any attempt at using such improvements as a vehicle to impose the Serbian concept of legitimate order would block a rapprochement. The Kosovo Albanian side should understand that practical improvements do not undermine the credibility of the Kosova state project and thus do not depend on a prior change of status."¹²

The underlying assumption of this proposal was that both parties were willing to negotiate seriously and only had to find ways to overcome barriers hindering them. The mediation strategy chosen by the BST/CAP initiative thus subordinated the conditions and incentives provided by the international community to the roles of Belgrade and Prishtina. Some of the international experts involved in the BST/CAP

12 Policy Recommendations on the Kosovo Conflict. Unpublished paper. CAP 1998.

project,¹³ however, assumed that the mutual blockade problem was not as important as the lack of a Serbian willingness to negotiate with the Kosovo Albanians at all. This assumption implied that more emphasis was to be given to the international conditionality and the actions required from Serbia to meet the conditions and achieve the lifting of the post-Dayton outer wall of sanctions.

In the course of the Athens meeting, the group decided to focus more on conditionality, which led to a debate on how to remove the state of emergency imposed by Serbia over Kosovo in 1990. While this debate did not suggest any compelling arguments changing the already existing incentive constellation for the Milošević regime, it demonstrated how difficult it would be to replace the state of emergency with an acceptable provisional institutional arrangement. Pula opted for a restitution of the legal *status quo ante* while Surroi preferred to create a new political institution by transferring legislative competencies to an interim tripartite commission consisting of Kosovo Albanians, Serbs and the international community. Protić criticised that a return to the *status quo ante* would imply either re-establishing elements of the illegitimate Titoist order or creating legal uncertainty in many areas.

Solutions to this problem could not be elaborated in Athens. The organisers and the group therefore decided to reconvene in September 1997, on the Greek island of Halki, a location that had become famous for its casual but substantive meetings, bringing together protagonists and scholars of European and international politics.¹⁴

In Halki, the Kosovo Albanian participants insisted that confidence-building measures and practical improvements would only work, if they were embedded in an “interim political framework.” Such a framework would protect confidence building against the attempt to impose the Serbian concept of legitimate political order and it would facilitate a separation of status issues from confidence building and practical improvements. They considered the creation of an interim political framework a precondition for confidence building and practical measures. Simić and Tanić, however, rejected the idea of a political framework and claimed that confidence building should precede an agreement on the status.

The form and scope of the framework could not be clarified in the discussion. Surroi suggested that an interim authority should organise democratic elections and build interim democratic institutions based on the Kosovars’ acquired collective rights and internationally recognised individual human rights. He believed that equivalent provisions in the Kosova State Constitution from 1990 and the Serbian Constitution could be taken as elements to create an interim state of legality. In

13 Apart from Franz-Lothar Altmann, the group of experts included Shlomo Avineri (Hebrew University, Jerusalem), the late Georg Brunner (University of Cologne), Wim van Eekelen (Centre for European Policy Studies, Brussels), Curt Gasteyger (Institute Universitaire d’Hautes Études Internationales, Genève), Ferenc Glatz (President of the Hungarian Academy of Sciences, Budapest), Dušan Kováč (Slovak Academy of Sciences, Bratislava) and Paul Lendvai (Director of the Austrian TV, Vienna).

14 ELIAMEP has held annual international seminars in Halki since 1990, linking young political and economic decision-makers, researchers, academics, journalists and other professionals interested in international affairs.

Pula's opinion, the re-establishment of Kosovo's pre-1990 provincial institutions appeared to be an equally viable interim arrangement.

An approach that emerged from the discussions was to combine the legal restitution of the *status quo ante* in technical and administrative areas with an interim political commission ensuring a new political legitimacy and power sharing. In the strict legal sense the "special circumstances" imposed by the act on special circumstances and the decree of 26 June 1990, did not exist anymore in 1997 and had been superseded by other acts. It was therefore important to include these acts into a measure aiming at the removal of the state of emergency. This new law needed to specify whether the acts were to be removed entirely or whether only certain discriminatory provisions had to be abolished and which former legal acts and provisions had to be restituted.

An interim political framework seemed to offer a way out of the above-mentioned strategic dilemmas both parties faced: It would have allowed the Serbian government to normalise the situation in Kosovo without abandoning its claim to rule the province. It would also have allowed those Kosovo Albanian elites, who were committed to a peaceful and pragmatic settlement, to legitimise confidence building and practical improvements without abandoning their vision of an independent Kosovo.

The participants finally agreed to include the following sentence into the joint recommendations adopted in Halki: "To facilitate this process of confidence building and practical improvements, an interim political framework is required for a mutually agreed period."¹⁵ This formulation shifted the focus from a framework as precondition to a framework as support. While the participants were confident to operationalise the framework at a subsequent meeting, the political circumstances in Serbia and Kosovo deteriorated significantly. The dramatic increase of violence preoccupied the agenda of the last group meeting in April 1998, indicating that the time of negotiations and intellectual preparation had passed.

Lessons

If the analysis of the conflict constellation in this chapter was correct in identifying a window of opportunity for a negotiated settlement, why did the BST/CAP initiative and other NGO mediation initiatives fail to use it? An international commission established by the Swedish government to investigate the causes of the Kosovo conflict stated that "It is impossible to conclude (...) that a diplomatic solution could have ended the internal struggle over the future of Kosovo. The minimal goals of the Kosovar Albanians and of Belgrade were irreconcilable."¹⁶ The experience of the dialogue process initiated by the BST/CAP project does not support this conclusion. Rather, the dialogue has shown that the declared goals of both parties were

15 Joint recommendations on the Kosovo conflict, Bertelsmann Stiftung and Center for Applied Policy Research, Halki 1997, mimeo.

16 Independent International Commission on Kosovo: The Kosovo Report, 4.

constructs of elite strategies aimed at representing and articulating perceived key interests of the respective community.¹⁷ As such constructs, these goals reflected the history of the conflict and were, as the BST/CAP project documented, amenable to interpretation and reframing. In particular terms like independence, sovereignty and autonomy constituted labels or platforms open to varying operationalisations and institutionalisations.

Exploring the implications of these terms, the participants of the BST/CAP project developed not only a remarkably detailed catalogue of individual measures, but also a strategic approach to start and sustain negotiations. The uncoupling of talks on confidence building, practical improvements and status issues as well as the creation of an underpinning interim political framework showed a way to overcome the mutual distrust that had prevented both sides from implementing the School Agreement. Ideas suggested by the group influenced a Franco-German diplomatic initiative submitted by their foreign ministers visiting Milošević in March 1998, and even the Rambouillet Agreement. For example, the role of an OSCE-led “Implementation Mission” in guiding the communal police to be established in Kosovo, the joint Kosovo-Albanian-Serb commissions monitoring the judiciary in Kosovo and the police-training academy envisaged by the Rambouillet Agreement were inspired by measures proposed by the BST/CAP initiative.¹⁸

An explorative dialogue between selected representatives of the two communities’ elites was structurally unable to provide authoritative interpretations and frames, since all participants continued to be situated in their respective public roles in relation to given constituencies, being subject to forms of public accountability and discursive conventions. While these conditions also constrained the Kosovo Albanian and Serbian intellectuals involved in the BST/CAP project, the project meetings at times created a group spirit and a shared understanding, which transcended the ritualised antagonism of public encounters. In such rare moments, the international participants noticed that the Kosovo Albanian and Serbian participants also shared the experience of a generation socialised in the relative liberalism, interethnic tolerance and openness of pre-Milošević Yugoslavia – something not experienced by the younger generation of Kosovo Albanian leaders whose political identities were shaped by the emergency regime and the UÇK.

A key weakness of the project was probably that it did not make full use of the group dynamics by involving the participants in a workshop lasting more than three days. Such a format, professionally supported by different sources of outside expertise, could have produced more tangible results at an earlier stage within the period described above as the “window of opportunity.” An ideal mediation strategy would have consisted of a conclave-type workshop of a duration determined by the problems to be solved, followed by a broad public campaign serving to jointly commu-

17 R. Brubaker: *Nationalism Reframed. Nationhood and the National Question in Europe*. Cambridge: Cambridge University Press, 1996.

18 Simić: *Put u Rambuje*, 214.

nicate the results to both communities, co-ordinated by additional and more attractive incentives provided by the international community.

The BST/CAP project, but also the other two mediation initiatives run by Sant'Egidio and PER, showed that NGOs were constrained in their capacity to realise such a strategy. All NGOs acted under pressure to publicly disclose their work results and had only limited influence on the choice and timing of international community initiatives. While re-admission to the OSCE was probably an insufficient incentive, the EU and the USA were not ready to provide more powerful incentives at an early stage of the conflict. Co-ordination among the three NGO initiatives was undermined by perceived rivalries and remained limited to informing each other *ex post*.

Addressing these weaknesses could improve the impact of NGO mediation in ethnopolitical conflicts, although it does, of course, not guarantee the success of NGO-led mediation. NGO mediation is often only a second-best to mediation by international organisations such as the EU, OSCE or UN. Javier Solana's largely successful involvements in mediating the Belgrade and Ohrid Agreements or the constitutional changes following the Orange Revolution in Ukraine have demonstrated that particularly the EU has meanwhile developed much more effective instruments of conflict prevention.

With the closure of a window of opportunity may be determined relatively precisely with hindsight, but was much less clearly definable during the negotiation process. The more UÇK succeeded in conveying its approach as a viable alternative to negotiations, the more the space for Kosovo Albanian leaders to compromise on the independence goal narrowed. As the looming threat of armed insurgency was also used strategically by Kosovo Albanian politicians to reinforce their positions, it was nearly impossible to assess its true likelihood. The Milošević regime was less restricted by the emergence of rival actors and, given this greater margin of discretion, it could be considered fully responsible for missing the last chance to retain Kosovo within Serbia.

Thus, the answer to the question posed in this section is that the NGO initiatives in the Kosovo conflict failed to make full use of their potential, but they were also faced with a Milošević regime that acted unpredictably by ignoring or postponing its publicly declared aims in favour of short-term positional advantages in its struggle for the preservation of power. Ultimately, the regime was ready to prefer a strategy of brutal counter-insurgency measures, ethnic cleansing and deportation over an internationally mediated settlement that would have kept Kosovo within FRY. Its deliberate choice for war set Kosovo on the path to independence.