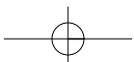
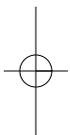


PART X

New Concepts for the Peaceful  
Resolution of Two Territorial Disputes



## CHAPTER 27

## Yugoslavia: The Renting of Kosovo

*In an effort to make a contribution to resolving the conflict in Yugoslavia, two visits are made to Kosovo. A “realtor” type of interim solution is designed, which, having a certain logic to it, seems a possible part of a future solution. It constitutes a new approach, competing with three existing approaches: redrawing borders, partition, and UN trusteeship.*

On December 5, 1992, at our FAS annual council meeting, I was authorized to look into the issue of war and peace in Yugoslavia. I found and photocopied a clipping file on the issue and began reading two back years of news analysis from *The New York Times* and *The Washington Post*. Subsequently, I lunched with Robert Adams and Paul Warnke to explore their views, gained their support for a “lift of the siege of Sarajevo” idea, and petitioned William Colby for support.

Bill and I began collaborating on an op-ed piece. Like some others, we believed that “unless the siege of Sarajevo is broken by outside force, the Serbs will complete the seizure of most of Bosnia and then move on to the ‘cleansing’ of the autonomous province of Kosovo.”<sup>474</sup> Bill felt that a failure to “face down Serbs engaged in such obvious war crimes would demoralize the West” and be reminiscent of the failure of the League of Nations to meet the challenges of Germany and Japan. We inveighed against “closet Chamberlains” hiding behind “worst-case analyses.” *The Washington Post* printed our article one week before the inauguration of Bill Clinton, and the issue became, we later heard, the number-one issue on the agenda of the National Security Council. The timing could not have been better.

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I decided to make a trip to the region. As with all important projects, I did not wait for funding. But so many people were working on Sarajevo and Bosnia that I decided to look into the problems of a war spilling over into Macedonia and Kosovo.

Under their World War II hero Josip Broz Tito, Yugoslavia developed the world's most complicated constitution. It was a federal system with six subordinate "republics"—Serbia, Slovenia, Croatia, Macedonia, Montenegro, and Bosnia. And Serbia itself had two autonomous provinces, one of which was Kosovo, with a population almost 95 percent ethnic Albanian rather than Serb.

In fact, the constitution was so complicated that it worked only because Tito was able to settle any conflicts by personal fiat. After his death the whole tangled fabric began to unravel. Slovenia, Croatia, and Macedonia seceded in quick succession. Full-scale war broke out over the secession of Bosnia. Yugoslavia was reduced to Serbia and the tiny republic of Montenegro.

Ethnic Albanians inhabited not only Albania but also the western parts of Macedonia and Serbia. As the Jews in Israel have expressed fears about the population growth rate of the Palestinians, so did the Serbs fear that the Albanians were "making love, not war." Also mirroring the attitudes of the Jews in the Middle East was the Serbs' view of land in Kosovo as having great historical significance—in this case as the site of their greatest battlefields against the Ottoman Turks. In Kosovo, 200,000 Serbs were repressing 2,000,000 Albanians, who had declared, a few years earlier, that they had formed an independent state. Only Albania came close to recognizing them.

Because of international sanctions, international flights were forbidden from entering Yugoslavia. So I traveled to Kosovo via Skopje, the capital of Macedonia. There I met with Macedonia's president, Koro Gligorov.<sup>[475]</sup> He was statesmanlike and thoughtful, grappling with his own problems: Greece was blockading the landlocked Macedonia for its temerity in using a name that Greece claimed. And he also had problems like those the Serbs had in

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Kosovo with a rapidly growing ethnic Albanian population that had separatist tendencies. Without Gligorov, I thought, Macedonia might now be engaged in a civil war; he seemed almost forty years older than those who would replace him and, as many other Yugoslav-trained diplomats of the Tito era, far more civilized and constructive. But the whole country still seemed to be walking on eggs.

In Skopje, I was advised that it was too dangerous to go to Pristina, the capital of Kosovo—another visitor there had been arrested, detained, and told to get out of town because “something” was about to happen. I decided to persist. The drive from Skopje to Pristina takes about ninety minutes; at the border the Serb guard studied my papers and, to my relief, waved me through. My main fear was coming home empty-handed.

In Pristina I met with the leader of the Albanians, Ibrahim Rugova. Rugova was a French-trained intellectual and poet and a “realistic pacifist.” The Albanians considered it characteristic of the 1,500-year struggle between the incoming Slavs and the earlier-arriving Albanians (Illyrians) that the Albanians were led by a poet and the Serbs by men of far more brutal temperament. The Albanians advised me that when the Slavs arrived in the sixth century, they were “killing machines” and without culture.

While talking to Rugova, I thought of an approach, which, I told him, would combine my subject—mathematics—with his—poetry. In olden days in the region of China, for example, an ethnic group like the Albanians would have conceded the ultimate authority of a state too powerful to resist. But to preserve their autonomy, they would have paid tribute. Had there been any consideration given to “renting” Kosovo from the Serbs? The “rent” would have the effect of an interim concession that the area was Serbian and could replace the taxes now



*The author with Ibrahim Rugova*

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being paid—this would, in theory at least, look good to the Serbs. And the resulting full autonomy would give the Albanians a long-term reprieve from present repression. After a fifty- or hundred-year lease expired, the whole situation might look very different.

He seemed interested—or perhaps he was the sort who treats everyone's ideas with great courtesy. I then went on by bus to Belgrade, where, by prearrangement, I met with an interesting former dissident under Tito, Mihailo Markovic. Markovic had struggled for an open-minded Marxism under Tito and an FAS member had tried to defend him from the repression he suffered at the hands of that regime. Markovic explained how Tito had tried to give Kosovo to Albania to prevent just such future troubles, but the most he had been able to do—because of Stalin, I think—was to make it a wholly autonomous part of Serbia. (This autonomy was annulled by Serbia when Kosovo began to demand the status of a republic inside Yugoslavia, presumably as a step toward outright independence.)

The current Serbian president, Slobodan Milosevic, once asked Markovic to be the largely ceremonial president of residual Yugoslavia (i.e., of the remaining federal union of Montenegro and Serbia). Although he rebuffed this offer, Markovic seemed to me to have the standing and basic attitudes that might make it possible for him to be a player in resolving the Kosovo problem.

On my return home, on March 21, I prepared the trip report for FAS members.<sup>476</sup> I wrote President Ibrahim Rugova a letter asking whether he would be prepared to meet with Professor Markovic for a "preliminary exploration of the possibility of [Markovic's] pursuing an investigation of the human rights complaints of ethnic Albanians in Kosovo," which Markovic said he would be willing to do if I convened the meeting.<sup>477</sup>

At the same time, with the help of a young lawyer hired for these purposes, Steven Rosenkrantz, we began working on a loophole in the U.S. law that denied entry to the United States for Nazi war criminals but said nothing about persons guilty of other war crimes and/or crimes against humanity. It would also facilitate deportation

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of war criminals. Such laws, if adopted by all the industrialized states, would be a powerful threat to the freedom of travel and movement of war criminals like the leaders of the Bosnian Serbs.<sup>478</sup>

We also began investigating what could be done to help Radio Sarajevo broadcast beyond its city limits to Bosnia, perhaps through a rebroadcast from some offshore ship.<sup>479</sup> More generally, we designed and sought funding for a study of the following question: “Can modern communications and surrogate broadcasting be used to mitigate the pressures for ethnic cleansing?”<sup>480</sup>

On May 18 we hosted one of Rugova’s advisers in Washington at a lunch for some Senate aides and, at this lunch, invited also an American scholar of Serb origins, who was an expert on the region. To my horror, the Albanian adviser was deeply offended that he had been maneuvered into a lunch with a “Serb”—even though this had been telegraphed earlier and the Serb was an American. It was a useful reminder of how difficult the situation was.

On June 2 we released a letter addressed jointly to President Slobodan Milosevic and President Ibrahim Rugova; in it we sketched the “rent” idea and offered to host a dialogue or proximity talks or to find an acceptable convener for such talks.<sup>481</sup> One day later, worried by rumors that incidents might be created in Kosovo by Serb forces more radical than Milosevic—and to his disadvantage—we faxed President Milosevic a letter suggesting that a UN peace force in Kosovo, “if invited by the Serbian government,” would not prejudice Serbian claims and rights in Kosovo but might keep the lid on. (No doubt this got nowhere.)

As regards Kosovo, there seemed to be four possibilities for a peaceful solution. There was redrawing Yugoslavian borders, perhaps in the context of border changes in Bosnia and/or Croatia. (But this seemed unlikely because of the widespread antipathy of the international community to countenancing border changes. The international community is composed of states, all of which have borders. So all entities that vote on questions like these are biased against what they see as the threatening precedent of border changes.)

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There was the possibility of a UN protectorate thrown over Kosovo. This was advocated by a group of Minnesota lawyers and was akin to what I had been thinking of in the context of Peru's decline.<sup>482</sup> It was wholly consistent with what the Kosovo Albanians wanted; indeed, on June 15 their prime minister, Bujar Bukoshi, called for establishment of a "United Nations Trust Territory of Kosovo."<sup>483</sup> (But there was considerable state resistance to the UN getting involved in such a thing, and it was considered by Serbia to be a first step toward independence for Kosovo.)

There was the possibility of partition. Various maps were circulating from different sides with different percentages of land allotted to the two sides and with the battlefields and monasteries mostly assigned to the Serb side. (The smart money assumed that this would be the solution.)

And there was the FAS idea of rent. On June 17 my wife and I were celebrating our wedding anniversary with our best man (of 1957), Sidney G. Winter, and his wife, the distinguished economist Alice Rivlin. I explained what I was up to and asked Alice how economists would organize such a "rent" idea, considering such matters as the value of resources mined and so on. She said, "Jeremy, you don't need an economist, you need a realtor." 

She was absolutely right. I went home and took out a realtor's lease and, transposing the ideas of home and hearth to the problem of Kosovo, found it rather easy to design an agreement. It would begin as follows:

Whereas the Albanian citizens of Kosovo have not been able to resolve a dispute with the government of the Republic of Serbia over the governance of Kosovo and other related issues, the parties below, solely as an interim method of conflict resolution and without prejudice to their various underlying claims, do agree to moderate the dispute through the following agreement.

What would be leased would be "the right of full autonomy" in an area, which could be (a) Kosovo; (b) Kosovo minus key battle-

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fields, monuments, and religious sites; or (c) Kosovo plus other Serb areas with majority Albanians but without specific parts of Kosovo that have Serb majorities. The term of the lease would be twenty-five, fifty, or one hundred years. The rent would be cost-of-living adjusted, and a realtor-analogy clause on the right of quiet enjoyment would here mean “full autonomy in organization and management of the demised area as if it were the government of a state within this area.” Kosovo would agree not to “develop or maintain” armed forces capable of securing secession by force.

No laws would be passed that would discriminate against non-Albanian groups. The demised area would be “delivered” without deliberate acts of destruction. It could not be “encumbered,” which meant that the Serbs would not be responsible for debts incurred by the Albanians. The parks, monuments, monasteries, religious memorials, and battlefields within the area would be kept in good condition, and free entry would be permitted to all wishing to visit them.

The “lessee” could not “commit waste” on the property (i.e., permanently impair the value of the land) but could harvest the resources. Full human rights would be guaranteed. And eminent domain would not be used to encourage minorities to relocate. Security would be maintained by the Albanians, but the Serbs would have the right to have guards on the borders, along with those of the Albanians, but persons and objects could enter subject to the conditions specified by the Albanians. There would be no discriminatory tariffs. Non-Yugoslavs (e.g., Albanians from Albania) could not become permanent residents. Kosovo could not represent itself as a sovereign state but could become an observer in international bodies where this was appropriate.

I also included clauses on “nonprejudice of claims” on arbitration and on “friendly guarantors.” The latter two provided the possibility of having specific states nominated by the two sides, whose good offices and representation “should be sought in the event that subsequently necessary subsidiary agreements, necessary to maintain this leasehold, cannot otherwise be achieved.”

I decided to return to the area, this time to visit Albania, where I

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thought help might be available to influence the Albanians in Kosovo. In a faxed letter of June 21, I sent the draft "lease" agreement on ahead to Rugova so that he could translate it and study it. I wrote, "My purpose is to advance this idea to the point where it may serve as a backup possibility for settlement if conditions warrant."

Albania, with its zillions of toadstool-like cement pillboxes, is an unearthly looking place, just recovering from unprecedented isolation from NATO, the Soviet Bloc, and even the Chinese. I had a meeting at the Foreign Ministry on July 2 and conferred with a parliamentarian on July 3. On July 4, I discovered, by chance, that Bujar Bukoshi, the prime minister of President Rugova's Republic of Kosovo, was in a guest house in Tirana. We had a long and fruitful discussion.

After a ten-hour bus ride from Albania to Macedonia, where I participated in several meetings, I spent two days in Pristina. The Albanians had translated everything, and we had a good discussion. The one portion of my lease they were unhappy with was one that I thought they would like: a clause that said part of the rent could be used for a "relocation" fund for persons who wanted to leave. This, they felt, would provoke Serb fears that they were being encouraged and funded to leave.

After some later discussions in Belgrade, I returned home to await a signal that there was sufficient interest on one side or the other to pursue something like this. A year or so later, I advised a representative of Kosovo that it would be easy to get the most senior interlocutors to help broker a settlement if there was any interest in trying. But the idea just waited for some kind of crisis or breakthrough.

In October 1994 Steve Rosenkrantz surprised me with a memo showing that Israel was applying similar concepts. Israel had signed a "sovereignty and lease-back agreement" with Jordan in which Israel returned 150 square miles of land seized in the 1948 war with a provision permitting Israel families to stay through a lease.<sup>484</sup> It had a number of terms similar to our own draft lease.<sup>[485]</sup>

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He concluded that it showed the Kosovo lease concept was “on the cutting edge of conflict-resolution concepts and that such innovative concepts have real utility and relevance where both sides are seeking variable-sum, as opposed to zero-sum, solutions.”

If ever agreed to, the rent would be taken by Serbs as a kind of tribute that they would accept as proof of their “ownership.” But the Albanians would understand the same thing as a purchase of temporary autonomy. Of course, logic only takes one so far in the Balkans. The antagonisms between Serbs and Albanians are of such a nature that the very idea of a peaceful settlement seemed hilarious to some. And in 1998 the antagonism deepened with the emergence of an armed Albanian guerrilla force that strikes at Serbs and suffers massive retaliation on Albanian villages.

Withal, conditions change and leaders change, and the intractable might someday become tractable. In matters like these, there are only a few possible theoretical solutions. Every new theoretical possibility is of potential importance. And so, when the stakes are high, even the most outlandish ideas—so long as they are logical—ought to be given thoughtful attention. There is always the possibility that “logic will out.”<sup>[486]</sup>

In 1998, as the fighting in Kosovo raged between the Kosovo Liberation Army (KLA) and the Serbian forces, I reached Richard Holbrooke, Ambassador-Designate to the United Nations, who had authority to handle Kosovo, by phone. I told him of my “rent” plan, which was, in fact, a plan for autonomy for a limited period after which the problem would be discussed again. When he expressed skepticism about the plan (“Maybe too late for this”), I responded that our government was urging “autonomy plus” but had no idea what this phrase meant—and my idea was one such way. He promptly agreed and said, in fact, that he had a committee considering creative ideas for Kosovo and that I should fax it to him right away, which I did.<sup>487</sup>

On July 28, three weeks later, R. Jeffrey Smith reported in *The*

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*Washington Post*, “Sources said Washington has already secretly conveyed to both sides the rough outlines of a deal to grant Kosovo provisional autonomy and decide years later whether the province will be granted outright independence.” So in what may well be just a confluence of logic, the eventual outcome could turn out to follow some of the lines I was urging. (But by January 1999, the fighting had intensified and a peaceful solution of any kind was hard to envisage.)