

University of Technology, Sydney

THE KOSOVAR VOLCANO

A Study in Negotiation

Please Note: This paper was written before the Kosovo War and hence does not reflect the events of that conflict and its outcome. It is presented here purely as a hypothetical academic exercise based on the facts available at the time.

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And what rough beast, its hour come at last,
Slouches towards Bethlehem to be born?

W.B. Yeats: The Second Coming (1916)

From Hattin to Shatilla Camp, from Wexford to Armagh,
In Kosovo we heard the call that sundered Vukovar.

Paul Hemphill: The Battle Hymn of the New Republic (1995)

Once Vukovar has been digested, once we used become used to the destruction of Sarajevo, we are halfway down the road to peacefully continuing with our supper while someone from the neighbouring table is dragged off into the darkness.

Stojan Cerevic, Deputy Editor of “Vreme”.

Pristina, the crumbling capital of Kosovo, a Serbian province in what remains of the old Yugoslavia. Rival protests of Serbs and ethnic Albanians meet on the city streets and there is a flare of hatred. Serbian security forces clash with alleged Albanian separatists, leaving eighty men, women and children dead in the Drenica region. There are thousands of refugees and centuries' old wounds are reopened.

Report from **Geoff Kitney, Sydney Morning Herald**, 21 March 1998)

Fighting raged for a second day on Kosovo yesterday as a senior official from neighbouring Albania warned that full-scale war could erupt in the restive Serbian province. Serb officials said the guerillas were trying to establish a no-go zone along the border...The Democratic League of Kosovo which advocates independence by non-violent means, said the fighting...was an effort by Serbian police to clear ethnic Albanians from the border area.

The Age, 6 May 1998

Yugoslavia may be ready to accept foreign mediation...the Russian envoy, Mr Igor Ivanov, said after meeting President Slobodan Milosevic yesterday. Mr Milosevic was "seriously considering" withdrawing his rejection of outside mediation, Mr Ivanov said.

Sydney Morning Herald 7 May 1998

The G7 ministers imposed an investment ban on Serbia and froze its assets abroad as their concern grew about violence in...Kosovo.

Agence Presse 10 May 1998

The Kosovar volcano is about to erupt. Never quite dormant, it has been rumbling for years (some would say generations, others, centuries). The repercussions for the Balkans, for Europe, for the world are dire. As Thomas Paine, best known for his defence of the French revolution and "The Rights of Man", wrote, "These are times that try men's souls".

This paper examines the crisis and looks at the prospects for a peaceful and lasting negotiated settlement.

There are essentially two strategic approaches to negotiation¹:

- Competitive or positional negotiation, otherwise described as "distributive" or "win-lose".
- Integrative or problem-solving or interest-based negotiation, also described as collaborative or "win-win" bargaining: the essence of the Harvard Project approach to Principled Negotiation.

Competitive negotiation strategy is essentially a manipulative approach designed to intimidate the other party to lose confidence in their own case and to accept the other's demands. It is characterised by high opening demands, entrenched positions, threats, tension, and pressure, aims at outdoing and outmanoeuvring the other side, and aims for clear victory. One side's gain is therefore the other side's loss. "What's mine is mine. What's yours is negotiable".²

There are risks involved in adopting this strategy. Foremost are the damage to the negotiating relationship, and the lessens overall likelihood of reaching agreement. Confrontation leads to rigidity, impasses, stalemate, and worse. There is limited analysis of the merits of the dispute and relevant criteria for resolving issues. There is limited development of solution alternatives. Parties are generally blind to joint gains. And the future relationship is jeopardised.

The Integrative approach, often described as "enlightened self-interest", opts for joint-problem solving, maximising joint-outcomes. It assumes that some common interests exist between the parties. It requires full discussion of each party's perspectives and interests. It emphasises bargaining over interests, not predetermined positions. It attempts to depersonalise the problem (separate the person from the problem). It separates problem-definition from the search for solutions. It tries to generate alternative solutions, using objective criteria as much as possible. To quote the historian Basil Liddell Hart:

*"have unlimited patience. Never corner an opponent, and always assist the other person to save his face. put yourself in their shoes so as to see things through his eyes. Avoid self-righteousness like the devil - nothing is so self-blinding"*³.

Kosovo is a centre of crisis in the southern Balkans that threatens to spark a regional conflagration. A viable solution to the conflict has evaded both the protagonists and the international community for nearly a decade. To date, the emphasis has been upon competitive, positional negotiation. This has patently failed.

This paper proposes a strategy for integrative, principled negotiation, centring on a hypothetical of the "Seven Elements" which analyses the positions, interests, options, and alternatives available to the parties, and identifies directions which they could take⁴.

¹ Refer: James. C .Malamed: [Negotiation Theory and Skills](#), The Mediation Centre, Eugene, Oregon (www.to-agree.com) and Professor E. Wertheim: [Negotiations and Resolving Conflicts: An Overview](#), College of Business Administration, Northeastern university (www.cba.neu.edu/~ewertheim/)

² William Ury: [Getting Past No](#) (Bantam 1993) p9.

³ E. Wertheim. op.cit.

⁴ I have used as a framework the templates set out in: [Getting Ready to Negotiate: The Getting to Yes Workbook](#), Roger Fisher and Danny Ertel (Penguin Books 1995); and charts illustrating "Current Perceived Choices" and "Targeted Future Choices" as devised by Roger Fisher et al. in [Beyond Machiavelli: Tools for Coping with Conflict](#) (Penguin Books 1994).



In The Falling Dark

Holy Ground

Kosovo¹ is a province of Serbia, the dominant republic in what remains of the Federal Republic of Yugoslavia. Serbia is predominantly ethnically Slav and Serbian Orthodox. Kosovo, with a population of about 1.8 million, is however overwhelming ethnically Albanian and Muslim (the Albanians are descended from the ancient Illyrians who settled this part of the Balkans long before the arrival of Slav and Turk. No recent census has been taken but a reasonably accurate figure is in excess of 90%. The remainder are Serbians, ie. Slav/Serbian Orthodox. It was not always so. The Serbian proportion of the population has decreased markedly over the last few decades, largely due to migration of Serbs to other parts of Serbia, and also natural increase of the ethnic Albanians.

In this paper, the ethnic Albanians are referred to as Kosovars, and the ethnic Slavs, as Serbs. The names Serbia and Yugoslavia are used repeatedly and almost interchangeably. In reality, with the disintegration of the Federal Republic of Yugoslavia (FRY) and the secession of Slovenia, Croatia, Macedonia, and Bosnia-Hercegovina, the Federation consists now of only Serbia and Montenegro (also predominantly Slav and Serbian Orthodox). Serbia is the dominant partner and there are signs that Montenegro is becoming an increasingly restless and reluctant partner in the Greater Serbian dreams of Slobodan Milosevic, and uncomfortable with his autocratic and repressive behaviour.

Kosovo means "field of blackbirds". In 1389, just south of what is today Pristina, an army of Serbian knights was slaughtered by the Ottoman Turks who went on to rule the region for five centuries, converting most of the population from Orthodox Christianity to Islam.

In Kosovo in 1987, the ambitious Communist Party leader Slobodan Milosevic, stirred memories of this battle in a passionate appeal to Serbian nationalism that was to echo across the region. Three years later, Milosevic, by then president of Serbia, unilaterally terminated Kosovo's autonomy and shifted all administration to Belgrade, the Yugoslavian capital, 350 kilometres to the north. This was to have a high economic cost. Tens of thousands of skilled workers lost their jobs when they refused to sign a Serbian Government declaration that they pledge total loyalty to Serbia and Milosevic. The education of young Kosovars was disrupted when ethnic Albanians pulled their children out of schools that were ordered to teach only in Serbo-Croat, the official language of the Federation.

¹ Much of the following background information is drawn from The Sydney Morning Herald, The Australian, the Age and the World Wide Web. Special acknowledgment is due to: Janusz Bugajski: The Kosovar Volcano (Transitions, October 1997, Vol 4, No 5, Prague, Czech Republic)

In September 1991, the Kosovars formally declared their independence. Since then their leaders have seen state sovereignty as the ultimate goal. Their key strategy has involved the creation of a separate political and social structure, including a system of media channels, economic activities, educational institutions, justice organs, health-care facilities, and cultural activities. But this almost shadow government has few resources and facilities. Some activists have described Kosovo as one big non-governmental organisation in which the Serbian state controls only the instruments of repression¹. Kosovo remains a territory of de facto apartheid, as Serbs and Albanians rarely intermingle.

Kosovo is one of the poorest, least developed regions in Europe. In the villages outside Pristina, few people have electricity or running water. Infant mortality and illiteracy are at majority world levels. Pristina, which stands on what is held by many to be the Serbs' most sacred place, is dirty and crumbling. The roads leading to it are decaying. Its infrastructure is collapsing. Some of this is due to the economic sanctions imposed on Yugoslavia during the Bosnian war. But there has also been a breakdown in community pride and administration since Milosevic ended the province's autonomy.

Boycotting Serbian and Federal Yugoslav elections, Kosovars have held their own elections. In March, up to 80% of ethnic Albanians voted to elect a non-existent parliament and a non-existent president in an election declared illegal by the Serbian authorities, who chose merely to ignore it, and immoral by some separatist leaders who urged a boycott.

Rugova

Dr Ibrahim Rugova, a writer and literary critic, was the unopposed presidential candidate. A believer in Ghandi's philosophy of non-violence and passive resistance, he represents the moderate Kosovar goal of both independence and peace. Rugova and his colleagues believe that the "internationalisation" of the conflict is essential to give Kosovo high priority on the U.S. and European foreign-policy agendas.

Pristina has courted numerous international institutions and foreign governments to establish a presence in the province that would not only deter Serbian repression but also raise Kosovo's status as a distinct international entity. Rugova's strategies appeared to be paying some dividends. Bloodshed was minimised, the Kosovars won praise and support from various governments for their steadfast and peaceful approach, and the authorities in Pristina seemed poised to gain international recognition.

But as the stalemate continued, the benefits of pacifism and creating a parallel sociopolitical structure seemed to dwindle. Increasingly, Kosovars began to question both the wisdom and the direction of the Democratic League of Kosovo (LDK) policies. Independence was at a standstill and high initial expectations were turning to frustration and resentment. In the face of Serbian opposition to demands for independence, and increasing Serbian provocation and intimidation, many Kosovars are losing faith in his ability to deliver on the demands for a separate state.

Not surprisingly, more radical options have now emerged in Kosovo, represented primarily by the writer Redzep Cosja and the former political prisoner Adem Demaci, as well as by a clandestine organisation advocating armed resistance to Serbian policy. Cosja has opposed Rugova's Gandhian methods, which he believes have stifled the drive for independence. Cosja advocates more active opposition through mass rallies and demonstrations. His stance reflects the belief that the Kosovars may have missed the boat for independence when Yugoslavia disintegrated in 1991. Instead of opting for passive declarations, he argues, Kosovar leaders should have mobilised their people for active resistance even though there might have been casualties.

The extent of Kosovar frustration with the status quo has been evident even within the LDK leadership. Prime Minister Bujar Bukoshi recently claimed that the government's moderate tactics had "come to a dead end" and called for stronger forms of civil disobedience. Student leaders have also become more outspoken and have petitioned the LDK to lead public demonstrations against the Milosevic government.

¹ Bugajski, *ibid*

Dissatisfaction with the LDK is evident in another way: the emergence of a militant terrorist group, the Kosovo Liberation Army (UDK), the military arm of the National Movement for the Liberation of Kosovo. Organised anti-Serbian attacks began in the summer of 1995 and have become more regular during the past year. The terrorists have targeted Serbian policemen and officials as well as Albanian "collaborators." In May 1997, the group issued a proclamation to the citizens of Kosovo to "reject the peace-making policy of Rugova and accept the liberation struggle against the invader."

Although Serbian police have arrested, tried, and convicted several dozen people on charges of belonging to the army or its political wing, Kosovar leaders claim the arrests are merely part of a pattern of state-sponsored intimidation. Indeed, some believe the group is actually a creation of the Serbian secret service.

There is evidence of rising sympathy for the terrorist group among young people. Many jobless youths are frustrated with pacifism and incessant police and militia intimidation and are seeking alternative outlets for their anger. Even Bukoshi has admitted that many Kosovars sympathise with the army.

Rugova is presently in an invidious position. His leadership is under threat and would be jeopardised should he be perceived as weak and vacillating, capitulating too much and too soon to Serbia. Also his life is probably in danger, from both Kosovar and Serbian militants.

Diplomats are concerned that the UDK is beyond the control of the mainly pacifist LDK, and that radicals within the party will soon push for the ousting of Rugova. They feel that the sanctions soon to be imposed on Yugoslavia are almost meaningless, and are worried that the UDK's shadowy leadership will take matters into its own hands. Veton Surroi, editor of the largest Kosovar Albanian language daily newspaper, Koha Ditore, and a member of the LDK negotiating team: "*The dynamic of violence is a step ahead of what the international community has decided. There is a need for much greater force and pace from the international community*"¹

Milosevic

Despite the pressure upon him during the Bosnian war and the Dayton peace process, Slobodan Milosevic has gone from strength to strength. Constitutionally unable to stand again for the Serbian presidency, he was recently elected president of Yugoslavia. He controls the apparatus of state security and repression. His Serbian Nationalist credentials are impeccable. He is prepared to fight for Greater Serbia to the last Muslim and Croat. It is commonly perceived that he would pursue it to the last Kosovar too if it came to that.

That the ancient battle of Kosovo exerts such a hold makes the possibility of a moderate approach to the issue difficult, to say the least. It is part of the Serbian national psyche, and this has developed a collective persecution complex, a penchant for self-delusion that culminated recently in the national referendum, carried overwhelmingly, in which Serbs rejected any foreign mediation (read "interference") in the Kosovar question².

Milosevic knows how to press the nationalist buttons. He has developed this skill from the beginning of the end of Yugoslavian communism and through the disintegration of the federation. He played it with skill throughout the war with Croatia and the Bosnian civil war. He will play it again. He has reinforced the local Serbian militia with weapons, armour and helicopters. He has possibly set in train a little ethnic cleansing to get the ball rolling. So what if the Kosovars constitute over 90% of the population. A few well-placed massacres, an atrocity here and there, will balance the numbers somewhat, scaring the Kosovars into fleeing.¹

¹ The Australian 2 May 1998.

² Carol. J. Williams, Los Angeles Times, 23 March 1993: Magazine Makes Assault on Serbian Nationalism: Scrappy Vreme Has Emerged As Yugoslavia's Most Trusted Chronicle Of War. (www.cdsp.neu.edu/info/studentsd/marko/vreme)

¹ This is very similar to the Israel tactic during the war of independence (the state was declared twenty years ago this month) when the Haganah and the more extremist Irgun and Stern Gang cleared Arabs from the villages that bordered onto the road between Tel Aviv and Jerusalem. This was the latter's lifeline and extremely vulnerable to interdiction by Palestinian irregulars. It worked for Israel. It worked for the Serbs in Bosnia (with a little bit of genocide to kick it along).

Until recently, Belgrade's repressive policies in Kosovo have been low-key enough not to provoke any strong international reaction but sweeping enough to instil a sense of fear among the Kosovars. But this has now changed. Milosevic, who first used the issue of supposed threats to Serbdom in Kosovo when he was coming to power in Serbia in 1987, has continued to promote the image of himself as the stern defender of Serbia's territorial integrity.

In June 1997, Milosevic visited Pristina for a public rally in which he claimed Serbia would not "yield an inch of Kosovo". In August, the Serbian government held its first session in Pristina since the elimination of the region's autonomy in 1990. Officials made promises about investment and economic development in order to secure the votes of Kosovo Serbs in the upcoming ballot. Because Albanians consistently boycott Serbian elections, the small Serbian minority in Kosovo decides 42 of the Serbian parliament's 250 seats.

The Serbian opposition has claimed that Milosevic hopes to engineer a crisis in Kosovo as a pretext for imposing martial law and eliminating dissent and independent activism throughout the country. But Serbian opposition leaders have given no support to Kosovar aspirations. At best, they have avoided the Kosovar question for fear of being branded as national traitors. At worst, they have sought to undermine Milosevic's support among nationalists by outdoing his anti-Kosovar rhetoric. Vuk Draskovic, leader of the Serbian Renewal Movement and a candidate in the recent Serbian presidential election, declared during the campaign that Kosovo should be renamed "Old Serbia".

One essential ingredient of Milosevic's strategy is to weaken and divide the separatist movement by driving a wedge between the Kosovars and their leadership. Hence, he offers talks and illusory concessions in order to discredit any willing participants. Meanwhile, he makes no effort to deter heavy handedness on the part of the police and militia. Milosevic has generally rejected international mediation of the conflict, and when U.S. institutions have attempted to organise talks, Serbian officials have boycotted, and any Serbian opposition figures attending have been branded by the state media as traitors to the Serbian cause.

Waiting for a miracle to come

The international community, as represented by the Contact Group of The United States, Britain, France, Germany, Italy, and Russia, has demanded that Milosevic begin a genuine process of reconciliation. They are genuinely concerned that there is a serious danger of a conflagration which once started, will not be stopped. The end-game in a rising level of violence could well be that the Serbs will attempt to ethnically cleanse the province, and that this would lead to a war that would dwarf those in Bosnia and Croatia, as it sucked in the neighbouring states of Albania and Macedonia. Should these become embroiled in conflict with Serbia, the odds of other Balkan states becoming involved, particularly Bulgaria and Greece (both with designs on Macedonia) are pretty high. Further, Bosnia and Croatia, rearmed and revanchist, would no doubt take advantage of Serbia's preoccupation with Kosovo to rekindle the sparks of the Bosnian war.

Western governments have been looking for signs of compromise in Belgrade and Pristina. In order to deflect Western criticism and improve the prospects for lifting economic sanctions, Milosevic made some gestures toward easing repression in Kosovo. In September 1995, he signed an agreement with Rugova to reintegrate Albanian pupils into the state school system they had boycotted for six years. Two years later, the accord has still not been implemented, and attempts to do so in April met fierce resistance and protest from Serbian students.

Washington is the prime mover of the Contact Group. At no time has it supported independence for Kosovo. It has even appealed to Kosovo to abandon the idea of independence and take part in Serbian elections. Rather, it has focused on two strategies: containment of the conflict and the "restoration of human and political rights" (as if such rights had ever been a feature of either Tito's or Milosevic's Yugoslavia).

George Bush and Bill Clinton have both publicly affirmed that in case of armed conflict in Kosovo, the U.S. would unilaterally intervene to protect the Albanians. However, the precise threshold for

intervention was not specified. That deliberate ambiguity was designed to keep both sides in check: the policy may have deterred massive Serbian repression (so far) and has not encouraged an Kosovar revolt (yet).

Despite Kosovar fears, Washington has not abandoned Kosovo completely. Following Dayton, an "outer wall" of sanctions was maintained against Yugoslavia, which denied Belgrade access to international financial institutions. One of the conditions for lifting the sanctions is "substantial progress in Kosovo." Indeed, the United States has been consistently more supportive than the European countries, which granted significant trading privileges to Belgrade in April last year despite appeals from Pristina. However, mindful of international criticism, particularly from the United States, that Europe was ineffectual during the Bosnian war, European Union foreign ministers have now agreed to bans on investment in Serbia and on visas for senior Serbian ministers. The United Nations has established an arms embargo, and the US has warned that further sanctions ought to be considered. Britain's Foreign Secretary, Robin Cook, has said: "*The EU is determined that we are going to make sure that ethnic confrontation is not allowed to continue in any part of Europe*".¹

The Clinton administration has realised that an official and continuous U.S. presence in Kosovo is essential to demonstrate support for Rugova's peaceful strategy, even if Washington disagrees with his objectives (ie. independence). But questions remain whether Washington can maintain the balance between Belgrade and Pristina. The U.S. State Department has been relying on Serbian democratisation to help resolve its policy challenges in Kosovo. As prospects for an opposition takeover have receded (and indeed as opposition parties in Serbia try to out do each other in Greater Serbia rhetoric) and talks between Kosovar and Serbian leaders remain stalemated, Washington has been looking for fresh initiatives in Kosovo. For example, the notion of appointing a special envoy for Kosovo, with a mandate similar to that of Richard Holbrooke's in Bosnia-Herzegovina, is being taken seriously in policy circles².

Hence the Contact Group, within which the United States has led moves to launch an urgent dialogue with foreign mediation. But the Kosovars have been told quite clearly that secession and independence is not an option.

Whilst the moderate Kosovars welcome this process, the Serbs regard outside mediation as meddling in their internal affairs. Milosevic has lost no time in galvanising Serbian nationalism to oppose this. In April this year, Kosovar Serbs voted in their thousands in a referendum called by Milosevic to oppose what Serbs see as western interference in support of ethnic Albanian separatists. He called the vote when the US threatened military intervention after the crackdown by local Serbian police. He sought a massive "no" vote against foreign mediation, and also to bolster his own position in the Serbian community. And predictable, he got it. Serbian nationalism is a potent and intoxicating brew that seduces hardliners and moderates, left wingers and right wingers alike.

Aljus Gasi, an executive member of the biggest Kosovar party, the Kosovo Democratic League (LDK), said: "*This referendum is damaging to Serbia and could destabilise the whole region. This situation can be resolved only through dialogue with the participation of a third party which will also guarantee the implementation of whatever would be agreed*".¹

Veton Surroi again: "*The referendum is one more step in Milosevic's confrontation with the world. He is also trying to legitimise his position with the Serbian people*".² And on the Serbian side, Vesna Petic of the opposition Civic Alliance: "*This referendum is useless because the Kosovo problem has already been internationalised*".³

Moderates on both sides fear that Kosovo is now on the brink of a bloody social implosion reminiscent of the darkest days of the Bosnian civil war.

¹ The Guardian, 28 April 1998

² This very week, Holbrooke actually *did* organise a meeting in Belgrade between Milosevic and Rugova. Sydney Morning Herald, 14 May 1998.

¹ Sydney Morning Herald, 24 April 1998

² *ibid.*

³ Sydney Morning Herald, 23 April 1998

There is no decent place to stand in a massacre

(Leonard Cohen)

What was an inherently unstable stalemate has now escalated into a potentially bloody conflict between two diametrically opposed parties:

- The government in Belgrade: which is adamant that the territorial integrity of Serbia be maintained. In the hypothetical, this is represented by, and indeed personified by, Slobodan Milosevic.
- The Kosovars' internationally unrecognised government in Pristina, which is unwilling to back down on its demand of complete independence. In the hypothetical, this is represented by Ibrahim Rugova. His authority and hold on the presidency is by no means secure. He does not have the same freedom to make an agreement as that enjoyed by the more autocratic Milosevic.

Both have their respective constituencies to consider. Rugova is under threat from a host of opponents, ranging from the more moderate to the extremist elements of the UDK. Milosevic has his own opposition to contend with. Whilst these opposition parties endeavour to be more Serb than each other, there are nevertheless those who would like to see a peaceful solution and an easing of the sanctions.

On the wings are a number of "significant others" with varying degrees of interest in the outcome of the crisis who could become involved either as peacemakers or as opportunists:

- Kosovo's' immediate neighbours, Albania, and Macedonia.
- Serbia' immediate neighbours and erstwhile enemies, Croatia and Bosnia.
- Other Balkan states, notably Bulgaria and Greece, which have a stake in the future of Macedonia.
- The nations comprising the Contact Group: The United Sates, Britain, France, S Germany, Italy and Russia. Russia, traditionally an ally of its fellow Slavs, is the least enthusiastic and could quite easily become the "spoiler" in any initiative initiated by the group.
- The Muslim world. Iran and Afghanistan sent Mujaheddin fighters to Bosnia during the civil war, and probably still have irregular troops there.
- The United Nations, desperate to bolster its credentials as a peace keeper after the debacle of Somalia, the ignominy of Srebrenica, and recent accusations of inaction in the run-up to the Rwandan genocide.
- The European Union, anxious lest another Balkan war creates instability on its southern marches, unleashing further waves of refugees onto a Europe already racked by recession, unemployment, and rising right wing extremism.¹
- NATO, presently enmeshed in Bosnia, and facing the prospect of members Turkey and Greece in conflict over Macedonia.

The crisis has entered a new, unpredictable phase as a consequence of a series of destabilising factors:

- Growing sectors of the Kosovar population are becoming disenchanted with the peaceful approach of their leaders and may turn to radicalism as social and economic conditions deteriorate.

¹ The last thing the EU wants is another conflagration on its southern borders with the prospect of a flood of refugees surging north, south, and west, across the Aegean to Italy (as happened during the Albanian crisis last year).

- The Serbian authorities continue to pacify the territory through the use of forceful methods that threaten to provoke wide-scale violence. This has escalated in recent months with the active intervention of the Yugoslav Army (JLA) and a series of atrocities committed against Kosovar civilians by Serbian security forces.
- The Kosovo Liberation Army (UDK) and Serbian forces now locked into a cycle of violence, of atrocity and counter-atrocity, reprisal and counter reprisal, as extremist separatists adopting military means to resist Serbian repression.
- Kosovars are increasingly losing faith in the international community as a force that is able or willing to promote their interests. The omission of Kosovo from the ongoing Dayton peace process and the persistent opposition to Kosovo's independence among Western governments has disillusioned many people who were banking on international intervention.

The choice the Kosovars must make is stark.

- Fight a war with Serbia to win their independence (impossible without outside assistance, and which the international community will do all it can to prevent); or
- Negotiate for a form of autonomy.

All this against a backdrop of tension that increases exponentially day by day. The possible consequences are dire. At the least, a continuation of the current repression, and at the worst, outright ethnic cleansing.

If the Kosovars went to war, who would assist them? Certainly not the members of the Contact Group. Intervene to hold the peace, yes. But partisan intervention in support of Kosovar independence? No. The Bosnian Muslims? Having only recently emerged from the nightmare of recent years, they have been building up their army since the Dayton accord. But their aim is no doubt to have another go at reclaiming terra irridente in Bosnia-Hercegovina rather than to provoke Serbia into another war on behalf of their co-religionists. They already have their hands full with the uneasy post-Dayton status quo in which they can trust neither of their so-called partners, the Bosnian Croats and the Bosnian Serbs². Albania? The country has just emerged from the chaos of the previous year. Apart from exhortation from the sidelines, and the provision of weapons (much of these being unaccounted for after last year's upheavals), there is probably very little that the Albanians can do. Many of the recent clashes between Kosovar and Serbian troops have been on the border with Albania.

Rugova and the moderates are pinning their hopes on international intervention and mediation although many Kosovars doubt that the international community will do enough to stop Milosevic tightening his grip on Kosovo. Given that the Contact Group does not countenance independence, the moderate's best hope lies in a form of autonomy within the Yugoslav Federation.¹

The "federalist" camp would face three daunting tasks in securing this outcome:

- Obtaining a firm commitment from the Contact Group that it will back them diplomatically, economically and militarily in negotiating such an outcome.
- Keeping the Kosovars opposition parties and more importantly, the extremists elements, including the UDK, in check to prevent an overwhelming Serbian backlash.

² The former owe allegiance firstly to the Croatian Republic and the avowedly Croat nationalist, anti-Muslim and anti-Serb President Franjo Tudjman. The latter, divided between the hardliners who still owe fealty to Radovan Karadzic and General Ratko Mladic, and the less-hardliners, President Balina Plavsic and Prime Minister Milorad Dodik, who back the Milosevic and still dream of belonging to Greater Serbia.

¹ Demaci, leader of the opposition Parliamentary Party of Kosovo, whilst critical of Rugova and the LDK, and proposing more active measures against "Serbian occupation," including demonstrations, strikes, and other protests, with the aim of making Kosovo ungovernable while intensifying international attention, his ultimate objective is more moderate than that of the LDK: he proposes confederation with Serbia once Kosovo attains independence.

- Bring the Serbs to the negotiating table with a willingness to reach an agreement that both parties can live with.

The Serbs have the whip hand in Kosovo even though they are a tiny minority. Despite the constraints of economic sanctions and international pressure, they have to a large degree the power of life and death over Kosovo.

But given the prospect of continuous turmoil and instability in Kosovo, and the possibility of all out war, the Serbian government may eventually decide that their position is either too costly or untenable. It could then face at least four options: homogenisation, division, disassociation, or federalisation.

- Belgrade may decide to forcefully Serbianise the region in a Bosnian-type scenario of ethnic cleansing. This option would probably precipitate a bloodbath and a Kosovar revolt, provoke American intervention, and destabilise the entire southern Balkans. It would also help seal Serbia's international isolation and further destroy the Yugoslav economy.
- Belgrade could territorially divide Kosovo and allow the region next to the Albanian border to secede². But such a scenario would also entail the large-scale "cleansings" of areas designated for Serbian habitation and thus follow the pattern outlined in the first option.
- Belgrade could simply disassociate itself from Kosovo and allow the region to gain de facto independence. Although such a move would probably earn Belgrade international credit, it could lead to a Serbian nationalist revolt and the attempted secession of an increasingly restless Montenegro.
- The most viable solution, the only viable compromise between the two diametrically opposed positions of Serbs and Kosovars, is federalisation. Kosovo would obtain the status of a republic in a three-way federation alongside Serbia and Montenegro. Even LDK leaders privately concede that such a scenario may be the only way of defusing tensions in the absence of international support for outright independence.

Clearly, both sides would have to concede ground for federalisation to work, but the institutional underpinnings of such an arrangement already exist. The constitution of the Federal Republic of Yugoslavia contains provisions for taking in other federal units, while the independence resolution of the Republic of Kosovo affirms that the state has the "right of constitutive participation in the alliance of states-sovereign republics (in Yugoslavia) based on full freedom and equality." A three-way federation would require prolonged negotiations. But the process would allow the international community to engage itself fully in the solution.

The Hypotheticals

From the perspective of an outsider immune to the passions of soil and blood, the conflict and its resolution seems so simple and clear cut.

- Serbia will not let Kosovo go without a fight.
- Kosovar unity is rent by factions who swing between war and peace.
- Kosovo cannot fight a regular war (as opposed to low intensity guerilla actions).
- The international community will not permit another war, and it does not look favourably on any further "balkanisation" of the region (yes, the term did originate in the fragmentation the Balkans in the early Nineteenth Century).

² A proposal once discussed by Serbian writer and former Yugoslav President Dobrica Cosic.

- Serbia will be smitten by stricter sanctions if it goes to war. And a peacekeeping force will be put into Kosovo.
- Therefore, Autonomy within the Federation is the solution. QED.

But it is dangerous to assume that all parties see things the same way, let alone the same way as we outsiders view it. As Fisher writes, “*Serb militants fighting in Bosnia were said to be beyond reason, driven by anger and revenge. Maybe. Name-calling encouraged the perception that the other side is stupid, deranged, or malevolent. While ill will (on either side) is often a plausible explanation, stupidity or insanity is rarely what is causing a conflict*”.¹ And William Ury: “*Certainly, their behaviour may be irrational from our perspective, but it may make perfect sense from theirs. As long as there is a logical connection in their eyes between their interests and their actions, then we can influence them*”.²

There will be extremists on both sides.

There will be Kosovars who want their own state and will brook no compromise. Others want unity with Albania. But many realise that such aims will invite death and destruction. Ibrahim Rugova’s Ghandian principles are being tested to the extreme.

There are Serbs in Kosovo who will fight to the last drop of Kosovar and Serbian blood to keep Kosovo Serbian. And there are Serbs in Serbia who will help them, Warlords like Arkan, the storm-troopers of Greater Serbia³. But there are many who ache for a return to normalcy after nearly a decade of war, of sanctions, of instability and privation, and an end to Serbia’s status as a pariah state. But there is the irrational element of Serbian nationalism, the victim complex, the collective persecution complex that drives Serbia nationalists see threats where there may be none, and to take on all comers regardless of the consequences.

And there is the personality of Milosevic himself. As cunning as a fox, as ruthless as Ghengis Khan? Or simply a clever politician who will push the boundaries of the feasible, just as Saddam Hussein has done on many occasions. A man who knows how to push the buttons, knows when to push them and when not to. Who knows his people, who knows also the divisions that rack the western alliance, and is adept at driving wedges through it. Just as Saddam exploits Security Council divisions, France, Russia and China on one side, the U.S. and Britain on the other. So can Milosevic test the resolve of the members of the Contact Group.

With this in mind, it is opportune to review the hypotheticals of the “Seven Elements” of Principled Negotiation.

Interests

Fisher has written: “*For a wise decision, reconcile interests not positions*”.¹ Considering in detail the parties’ interests, I endeavour to examine the conflict from each side’s perspective, and also from the perspective of third parties who are affected by the conflict. Looking behind their positions, I have tried to get at the underlying concerns, each side’s needs, desires, concerns and fears². This exercise demonstrates just how much parties in conflict see the world from their own vantage point.

Perceptions are important even if they are frequently confused with reality. Fisher again: “*Ultimately, conflict lies not in objective reality but in peoples heads. Truth is simply one more argument – perhaps a good one, perhaps not – for dealing with the difference. The difference itself exists because it exists in their thinking, Fears, even if unfounded, are real fears and need to be dealt with. Hopes, even if*

¹ Beyond Machiavelli, op.cit. p64.

² Op.cit. p116.

³ Zeljko Raznatovic, nomme de guerre “Arkan” indicted war criminal for his part in Bosnian ethnic cleansing, and leader of the ultranationalist Party of Serbian Unity, held a parade of his private army, “the Tigers”, in Pristina in August 1996. He was sent here by Milosevic as a warning to the separatists. (www.uic.edu/~smaris1/kosova/articles)

¹ Fisher, R. and Uri, W. Getting to Yes, Arrow Books 1997. p41.

² ibid. p42.

*unrealistic, may cause a war. Facts, even if established, may do nothing to solve the problem*³. Objective reality is unlikely to be either the cause of the problem or the source of a solution⁴.

In a conflict situation, like this one, particularly if it involves violence, feelings are likely to be more important than thoughts⁵ and when armed conflict is involved, obstacles to joint-problem solving are all but insurmountable, disputants seldom being offered the opportunity to explore each others' interests or jointly to explore options⁶.

Through exploring the emotions and motivations leading to a conflict, we increase our understanding of where the perceptions are coming from, and appreciate the basis for the parties' positions and judgements. Becoming aware of the interests that lie behind their positions can focus our attention on the possibility of meeting some of those interests and give us insight into where they may be room for accord'.

Options

From clarifying the interests, I seek out the underlying interests that have fuelled the conflict. This enables us to examine opportunities for mutual gain, to identify shared interests, and to develop possible solutions that will leave both sides satisfied⁸. Already at this stage, options for a solution present themselves, options that go a long way to meeting the interests of both parties.

Furthermore, the hypotheticals provide an opportunity to examine options from the other side's point of view, considering how they might be criticised if they adopted it, and appreciating the priorities which drive them, and the constraints within which they are operating.

A negotiation does not take place in a social vacuum¹. This is particularly highlighted in the "Currently Perceived Choice" and the "Consequences Likely to be Important" tables².

Alternatives

The alternatives available to both sides are then considered. These range from acceptance of the status quo to all out war with all the consequences that this would have for the parties and the international community. We then endeavour to identify each side's Best Alternative to a Negotiated Settlement (BATNA).

The conclusion reached is that the Kosovars have a very weak BATNA insofar as they do not have the power to act upon it by themselves. Footnote: for a BATNA to be effective, it must be something you can achieve on your own³. Militarily, they can not hope to resist a full on Serbian attack, and most certainly they could not defeat the Serbs in the field. Their only hope is that outsiders intervene and separate the two sides, a peacekeeping force that would at once separate the warring parties and protect the Kosovar populace. Their BATNA is therefore a peacekeeping force. But they cannot bring this force into being on their own. They need the support and sympathy of the outside world to enable this to happen. Their BATNA is in effect no BATNA at all. They have in reality no alternative but to negotiate solution.

The Serbs have a variety of alternatives. Moreover, they have the power to act upon them should they chose to do so. At one extreme, Milosevic can send in his troops and get the matter over with once and for all. This would however precipitate foreign intervention, the very thing he is determined to avoid (and indeed, trigger the Kosovars' BATNA). On the other, he could declare his interest in a negotiated settlement.

³ ibid,p23.

⁴ Beyond Machiavelli, op.cit., p20.

⁵ ibid., p24.

⁶ ibid.,p139.

⁷ ibid.,p41.Fisher cites the example of Israel and Egypt in the negation s over the former's withdrawal for Sinai: Israel's interest lay in security, Egypt's in sovereignty. In between lay the solution. Getting to Yes, pp2-43.

⁸ Getting to Yes, p75.

¹ William Ury: Getting Past No.(Bantam Books 1993) p119.

² "Current Perceived Choices" and "Targeted Future Choices" as devised by Roger Fisher et al. in Beyond Machiavelli: Tools for Coping with Conflict.

³ Refer: Beyond Machiavelli, op.cit., p16.

When the threat of intervention and tightened sanctions are considered, Milosevic's BATNA may not be as strong as he would like. Whether he appreciates this is another matter. Governments often make the mistake of assuming that they have a better BATNA than they do⁴, and this conflict is a case in point. There is danger in overestimating your BATNA⁵. A third party could try to convince Milosevic of this and persuade him to lower his expectations.

In examining both side's alternatives to a negotiated settlement, the following observations are pertinent:

- History tells us that the extrication of an ethnic minority within a state is difficult and often bloody. Success is generally the exception rather than the rule.
- Some form of autonomy and co-existence is possible provided adequate safeguards exist. This more over is preferable to a conflict that could possibly escalate into a genocidal civil war.
- The Kosovars do not have the military muscle to expel the Serbian military by themselves. Nor is the International community too keen to help them do so.
- People who play hardball are usually good at it⁶. The Serbs have demonstrated that if they want to take a military option they will. The Kosovars wouldn't stand a chance. But this would no doubt precipitate foreign military intervention.
- An imposed outcome is an unstable one, a recipe for resentment, sullen resignation, passive obedience, guerilla warfare, and repressive reactions.
- The BATNAs of both parties are arguably flawed insofar as (a) the Kosovars have no ability to act upon this on their own, and (b) the Serbs would no doubt be stopped by outside intervention.

The negative consequences of not reaching a negotiated settlement can therefore be used to bring the parties together¹. Therefore, if hotter heads do not prevail, there will be a negotiated settlement, and this will take centre a form of federalisation. Here of course, the choice lies primarily with Milosevic: the Kosovars really have no choice but to talk.

Targeted Future Choice

This then is the Targeted Future Choice of both Rugova and Milosevic². Is the proposal "yessable"? As with many things, the devil is in the detail.

Legitimacy

An agreement consistent with precedent is of course less vulnerable to attack. Accordingly, the hypotheticals endeavour to offer a solution based upon principle rather than pressure, to move both sides away from options that depend upon coercion for their implementation. We seek out principles and standards that could be persuasive to each side.

As with most conflicts, legitimacy differs according to perspective. Where you stand depends on where you sit³. What is self-determination for one side is a challenge to sovereignty and national integrity by the other. What are freedom fighters to separatists are terrorists to others. What is a neutral third party to one side is a meddler in internal matters to the other. Moreover, each party can point to numerous international and historical precedents and standards to justify their positions.

⁴ Fisher: "For example, when they imply that if 'political' and 'economic' means fail in a given situation, then there is always a viable military option. There is not always a military option". ibid.,p172.

⁵ Getting to Yes, op.cit.,p110.

⁶ William Ury, op.cit.,p34.

¹ Beyond Machiavelli, op.cit.,p75.

² Fisher et al write: "Creating a future choice that is more palatable to the decisionmaker will often be easier than trying to alter the consequences of the current choice or choices. When we know the kind of consequences we want to flow from the new choice, we can work our way back toward inventing a choice that could produce those consequences". ibid.,p57.

³ Quoted in :Getting to Yes, op.cit.,p23.

The arguments presented in the Legitimacy hypothetical, including a section on offering each other an attractive way to present to explain their decision to their constituents, push both parties towards the idea of federalisation, the Targeted Future Choice. We look at ways whereby an agreement can be reconciled with the principles upheld by the respective parties and with their self-image.

The idea of bringing a third party to mediate has been canvassed for a long time in the Kosovo problem. Third party interventions can contribute to problem-solving by making sure that disputants attack the problem rather than each other, and by keeping the focus on interests rather than on positions. If the parties have unrealistic assessments of their situation should the negotiations fail, a neutral evaluation of the walk-away alternatives may be indicated⁴.

Relationships

Whatever the outcome, there will remain a need to maintain an ongoing relationship between Kosovars and Serbs.

Even if, a big if at that, Kosovo wrested independence from Serbia, this land locked, impoverished, economically under-developed province would still be dependent upon its more powerful neighbour. With an unstable and similarly impoverished Albania on one side, Serbia suffering from economic sanctions to the north and east, and Macedonia, likewise impecunious on the south, Kosovo will require both Serbian economic support and international investment and aid. It won't get this if it defies the wishes of the international community, and is politically unstable. The idea of Kosovar existing as some kind of "hermit kingdom" like Tibet of old, like Albania until the 'eighties, is untenable in this day and age.

Serbia, of course, wishes to retain the Kosovo connection insofar as this is the nationalist- mythical equivalent of Gallipoli, the Gettysburg battlefield, the Wallace Monument.

The relationship between Kosovars and Serbs is presently completely entangled in the problem¹. Separating the people from the problem, I develop hypotheticals that draw both sides back from the edge of the cliff. The focus here is on future concerns and not past grievances².

Communication

Without communication, there is no negotiation; and if the parties are not hearing what the other side is saying, there is no communication³. Angry people often fail to hear what others have to say⁴). The Kosovars perceive that they have to do what Belgrade demands because Belgrade says so. They perceive that Belgrade makes such demands and such threats simply because Belgrade can! The way the parties currently communicate with each other is interfering with their ability to deal constructively with the conflict. The cost of poor communication is measured in lives and misery.

The hypotheticals have each party trying to understand the message as the other side it. Assumptions are questioned and perspectives reframed to enable the other side to understand.

Commitment

An important consideration in any discussion of relationship, communication, and commitment is the level of confidence and trust between the parties. In the Kosovar case, there is very little of either, particular from the Kosovar perspective.

If Milosevic does decide that discretion is the better part of valour, can he be trusted to keep his part of the deal? Many foreign observers believe that there can be no lasting solution in Kosovo until goes.

⁴ Beyond Machiavelli, op.cit., p125. Fisher et al. Also advocate the use of the One-Text and Two-Text Process whereby a third party may seek to meet as well as possible the interests of both parties (p129), directing their attention towards practical questions (and consequences), matters that are obscured in debate over broad propositions like "independence" (p132).

¹ "Separate the people from the problem. Refer to Getting to Yes, op.cit.,p20.

² ibid.,p51

³ ibid.,pp33-34.

⁴ Beyond Machiavelli, op.cit.,p24.

But they are becoming increasingly despondent insofar as his hold on power is to all ostensible purposes still pretty strong. He toughed out months of opposition strikes and demonstrations. He has firmly consolidated his support base in regional Serbia, and it is here that the true heart of Serbian nationalism beats, not in cosmopolitan Belgrade. Could he be trusted to keep his part of the bargain? Who can predict whether in a confederation, Milosevic would exploit any Kosovar unrest to declare a state of emergency in the new republic to send in Federal troops and conduct a sweeping crackdown.

But trust cuts both ways. On the Kosovar side, Rugova would have to restrain the more extreme separatists who see anything less than total independence as surrender. Would he be able to prevent the UDK from undermining any settlement with terrorist actions against Serbian residents of Kosovo and against the Serbian police and Military? The UDK will certainly have to brought into any negotiations. They have said that they would not recognise any agreement to which they were not a party⁵.

Strong commitments would there for have to be written into any agreement, strong guarantees underwritten by resolute outside pressure from the Contact Group. Sanctions, observers on the ground, the works. William Ury advises that is such situations, you don't need to act distrustful: act independently of trust. Build guarantees into the agreement to protect yourself¹. If necessary, involve others in implementation, enforcement. And if possible, build in a dispute resolution procedure. This then could be the key to a lasting solution.

Conclusion: Endgame

As I conclude this paper, clashes between Kosovar extremists and Serbian forces are increasing. Civilian deaths, either "collateral damage" or "pour decourager les autres" are rising. Kosovar and Serb demonstrations in Pristina are kept apart more by good fortune than intent. Last week, tensions were ratcheted up a notch with the attempted assassination of an LDK leader by alleged Serbian assailants. Clashes occur daily on the Albanian border between the UDK and the Serbian military. As more moderate Kosovars are probably losing hope of a peaceful solution, the international community is becoming more vocal in its warnings to Milosevic. He appears to be shifting his position and relaxing his opposition to international mediation as the G7, the economic grouping of major powers, meeting in London, declare a ban of investment in Serbia and a freezing of Serbian assets. And after four days of shuttle diplomacy, U.S. envoy Richard Holbrooke has persuaded Milosevic to invite Rugova to Belgrade for talks. Negotiators from each side are to hold weekly meetings in Pristina, with a Serbian offer of autonomy *within Serbia* on the agenda.

Kosovo is at the crossroads.

⁵ Sydney Morning Herald, 14 May 1998.
¹ op.cit., p153

THE KOSOVAR VOLCANO

A Hypothetical of the Seven Elements

Part One

The Kosovars

as represented by President Ibrahim Rugova

Interests 1: Identifying the Relevant Parties

People on *our* side who may care about the outcome

The Albanians of Kosovo Province
Albania
Bosnia
Muslim Countries generally

***Third Parties* who may care about the outcome: the Contact Group**

USA, Russia, UK, Germany, France, Italy

People on *the other* side who may care about the outcome

Serbian
Montenegro
Croatia
Russia (Contact Group but traditionally pro-Serbian)

***Third Parties* who may care about the outcome: others**

United Nations, European Union, NATO, Macedonia, Bulgaria, Greece, Turkey

Interests 2: Clarifying the Interests

Mine: What do I care about?	Theirs: If I were in their shoes, what would I care or worry about?	Others: What are the concerns of others who may be significantly affected?
<p>Kosovo:</p> <ul style="list-style-type: none"> • Independence • Cultural autonomy • Self-rule • Freedom to use Albanian language • Open acceptance of Kosovar culture • Education: schools & unis • Albanian taught in schools • Local government • Own police force • Freedom for persecution • Freedom of Worship • Economic independence • Oppose Serbian chauvinism • Self-defence against Serbian militias • Prevent bloodshed • Prevent ethnic cleansing by Serbs • Support from Albania <p>Ibrahim Rugova:</p> <ul style="list-style-type: none"> • As above • Own position • Self respect • Respect of fellow Kosovars • Restrain militants • Resist Kosovar opposition demands • Keep KLA on the sidelines • Application of Dayton Accord to Kosovo • Encourage foreign intervention, particularly mediation by the contact group • Protection of Kosovars by foreign troops (US? UN? NATO?) • Maintenance and tightening of foreign sanctions against Serbia 	<p>Serbia:</p> <ul style="list-style-type: none"> • The integrity of the Yugoslavian/Serbian state • Serbian nationalism: the Kosovo legacy • Greater Serbia • Supporting the Serbian minority • Uphold political ascendancy of Kosovo Serbs • Economic control • Control over security • Religious paramountcy • Protecting Serbs from KLA • Holding on to gains from the Bosnian civil war • Prevent ethnic cleansing by Kosovars <p>Slobodan Milosevic:</p> <ul style="list-style-type: none"> • As above • Preserve and strengthen own position • Self respect • Respect of fellow Serbs • Prevent foreign intervention • Lifting of existing sanctions • Prevent tightening of sanctions 	<p>Albania:</p> <ul style="list-style-type: none"> • Prevent instability spreading over border • Support for fellow ethnic Albanians • Support for co-religionists • Albania's parlous economic position • Internal political situation (we don't want dissidents exploiting Kosovar Crisis for own ends) • Oppose Serbian chauvinism and repression • Montenegro: restless partner in Federation, looking at its own option for secession • Macedonia (former Yugoslavian province): possibility of Serbian encroachment and attempt to recover terra irridente • Bulgaria: interest in the Macedonian question: territorial claims on Macedonia • Greece: ditto and beef about the very existence of Macedonia • The Contact Group: Instability in the Balkans • United Nations: credibility as a peace keeper • European Union: instability on southern border • NATO: instability on southern border and possible involvement of allies Greece and Turkey (on opposing sides) • Common to UN, EU and NATO: holding together the Dayton Accord • Ditto: maintenance of sanctions against Serbia to ensure compliance with Dayton accord • oppose Serbian chauvinism

Interests 3: Probe for Underlying Interests

Important Interests (from Interests 2)	Basic or Underlying Interest (Why? For what Purpose?)	Relative Importance (allocate 100 points)
OURS		
<ul style="list-style-type: none"> • Autonomy/independence • Preserve lives • Peaceful change • Self respect • Freedom of religion • Freedom to speak Albanian • Freedom of education • Local Government • Domestic political interests: the internal politics of the Kosovars 	<ul style="list-style-type: none"> • Ethnic identity • Religious identity • Cultural identity • Self-determination • Kosovar sovereignty <p>and:</p> <ul style="list-style-type: none"> • Rugova's political survival 	20 20 20 20 20
THEIRS		
<ul style="list-style-type: none"> • Integrity of Yugoslav State • Greater Serbia • The Kosovo Legend • Remove Albanians • Prevent Foreign intervention • End sanctions • Domestic political interests: Serbian politics and Milosevic's status 	<ul style="list-style-type: none"> • Ethnic identity • Religious identity • Cultural identity • Serbian sovereignty • Greater Serbia <p>And:</p> <ul style="list-style-type: none"> • Milosevic's continued political ascendancy 	20 20 20 20 20

Options : Create Options to Meet Interests

My Interests	Possible Options	Their Interests
<ul style="list-style-type: none"> • Autonomy/independence • Cultural freedom • Preserve lives • Peaceful change • Self respect of Kosovars 	<ul style="list-style-type: none"> • Secession and independence • Autonomy within Yugoslavian Federation • Application of Dayton Accord to Kosovo • International mediation • Foreign peace-keepers • Safeguards for Serbian Kosovars 	<ul style="list-style-type: none"> • Integrity of Yugoslavia • Greater Serbia • The Kosovo Legend • Prevent Foreign intervention • End sanctions

Alternatives 1: My Alternatives to a Negotiated Agreement

My Key Interests:

- Autonomy or independence
- Cultural freedom (language, culture, education etc.)
- Preserve lives
- Peaceful change
- Self respect of Kosovars

What could I do to satisfy my interests if we do not reach an agreement?

Possible Alternatives	Pro's	Cons
1. Secession	1. Create independent state	1. Provoke Serbian backlash
2. Guerilla warfare	2. Challenge Serbs	2. Provoke backlash and massive military response
3. Terrorism	3. Ditto	3. Ditto
4. Ethnic cleansing	4. Ditto	4. Ditto
5. Peaceful resistance	5. Ditto but less damaging	5. The same could occur
6. Shadow government	6. Already in place	6. The Serbs control the levers of government
7. Government in exile	7. Public relations exercise	7. Powerlessness
8. Foreign peacekeeping force	8. Holding the line and protecting populace	8. Perpetuates Serb enmity
9. Foreign mediation	9. Keeps negotiations open	9. ditto

Alternatives 2: Select and Improve My BATNA

Of my alternatives, what will I really do if no agreement is reached? Why?

The power imbalance between the Kosovars and the Serbs is such that Milosevic and his government, and their local allies have the whip hand. At this stage, with the Kosovo Serbs supported by the Belgrade Government, including considerable military hardware and most recently, elements of the JLA, with militants of the KLA coming in from Albania and engaging Serbian forces, and with the temperature therefore rising daily, our alternatives are limited. There is no way we can withstand an onslaught by the Serbian forces nor prevent a campaign of ethnic cleansing similar to that carried out in Bosnia during the civil war. The BATNA under these circumstances is a foreign peacekeeping force to hold the line between the Serbian forces and the KLA, and to protect the civilian population from the JLA and the Serbian police and militia. However, the BATNA of a peace-keeping force is qualified insofar as we are not in control of such an alternative: the decision to send in a force would not be ours.

In effect then, our BATNA is not a very strong one, and indeed may be no BATNA at all. We must therefore continue to try and engage the Belgrade Government in serious negotiations for a peaceful solution. We have balked at negotiating until now because we do not believe that the Serbs are taking such talks seriously. Mediation by a neutral third party would be useful, bring the Serbs to the negotiating table. The Contact group is keen, but Milosevic has until now rejected such intervention.

Alternatives 3: Identify Alternatives Open to the Other Side Their Key Interests

- Integrity of Yugoslav Federal Republic
- Greater Serbia
- The Kosovo Legend
- Remove Albanians from Kosovo
- Prevent Foreign intervention
- End sanctions

What could they do to satisfy their interests if we do not reach an agreement?

Alternatives	Pros	Cons
1. Military force: local militias and police	1. Protects the Serbian minority and upholds Serbian nationalism	1. Invites Albanian militants' response (including possibly increasing terrorism) and international outrage. Sanctions would be tightened
2. Military force: JLA and the full force of the state	2. Ditto	2. Ditto. Distraction could encourage Croats and Bosnians to have another go at Serbska. Would probably involve ethnic cleansing: bad press! The danger of the conflict spilling over into other Balkan states is quite real.
3. Serbianization: ethnic cleansing a la Bosnia	3. Solves the problem of the Albanian majority and promotes Serbian nationalism and the Serbian nation state	3. Ditto
4. Territorial division allowing a the region on Albanian border to secede	4. ditto	4. Ditto
5. Separation of populations	5. Protects Serbs	5. Serbs still a vulnerable minority
6. Foreign mediation	6. Shows good will: may help end sanctions	6. Foreign interference: it may not go Serbs' way
7. Foreign peacekeeping force	7. Ditto and controls KLA	7. Ditto. Surrender of Serbian sovereignty
8. Grant limited autonomy	8. Good will, helps end sanctions & international respectability	8. Surrenders sovereignty and Serbs still vulnerable
9. Federalisation within a three-way republic	9. ditto	9. Ditto. Surrenders holy soil.
10. Grant independence		10. Ditto. Could lead to revolt of Serbian nationalists and may lead to attempted secession by Montenegro

Alternatives 4: Estimate their *BATNA*

What would I do in their shoes? (which of their alternatives looks best for them?)

Knowing the Serbs with their historical persecution complex and nationalist delusion, they are very likely to opt for a very strong military response and damn the consequences with respect to international opinion and the economic sanctions.

On the other hand, outside pressure could persuade them to negotiate with us.

Legitimacy 1: Use external Standards as a Sword and as a Shield.

What specific substantive question has to be answered in this negotiation?

Should Kosovo be independent of Yugoslavia, or autonomous within the federation, and on what terms?

Possible Standards (precedents, benchmarks, prior practice. Accepted principles etc)

Least Favourable	Most Favourable			
Standards:	Economic viability as per IMF, World Bank	Plebiscite or Referendum	Self - Determination	Population Percentage Albanians 90% of pop
Application of Standard to this Case :	Would the state be economically viable re. resources, etc	Free and fair elections, but in Kosovo only: not in Serbia as a whole	United Nations Charter and standing principles of international	Proper census required

Things to consider:

- The argument for self-determination is laid down in the United Nations Charter.
- The fact that the population of the province is over 90% ethnic Albanian.
- The fact local government, police (and militia), health and education are in Serbian hands.
- The fact that the Kosovars, having opted out of the Serbian-controlled administrative framework, have established a virtual 'shadow state' that has been called "the largest NGO in the world".
- The fact that Albanians do not enjoy cultural freedom, including the right to use own language and freedom of religion.

Other standards that may be relevant or that require research:

Comparisons with other minorities seeking independence from or autonomy within a larger political entity.

For example:

The relatively peaceful: Scotland and Wales, Quebec.

The messy: Northern Ireland, Palatine, Southern Sudan, East Timor, Kurdistan, Mindenao (Philippines), the Basques, Western Sahara, Chechnya.

The proven successes: Eritrea, Bangladesh, Croatia and Slovenia, and most of the former republics of the Soviet Union.

The jury still out on: Serbska, Bosnia, and Macedonia, ironically all once part of the Yugoslavian Federation, and elsewhere, Turkish Cyprus.

The hidden: Tibet, Irian Jaya, Bougainville

The heroic failures: The Confederate State of America, Biafra, History tells us that extrication is often very difficult and invariably bloody.

Legitimacy 2: Use the Fairness of the Process to Persuade.

Persuasive processes

If you cannot agree on an answer you might agree on the process to find an agreeable answer. If one of the following looks interesting, how might you apply it to this case?

- Invite a third party to mediate eg. the United nations (Kofi Annan?)
- appointing a special envoy for Kosovo, with a mandate similar to that of Richard Holbrooke's in Bosnia-Herzegovina
- Let the Contact Group (USA, France, Germany, Italy and Russia) mediate

The test of reciprocity

In some cases reciprocity can be very persuasive. Are there some negotiations in which your counterpart is in a position similar to yours?

Yes. In the Serbian majority areas of Bosnia (the Republic of Serbska) where Muslims and Croats outnumber the Serbs and are becoming increasingly more powerful militarily in the wake of the Dayton agreement.

If so, what standards or arguments would he use in the situation?

- The argument for self-determination is laid down in the United Nations Charter.
- The fact that the population of Serbska is ethnically Serbian and Serbian orthodox by religion (thanks, of course to effective ethnic cleansing during the civil war).
- The Serbs of Serbska have their own political and administrative structure within the so-called Bosnian state.
- The Serbs fear reprisals and discrimination in a Muslim and Croat dominated state

How could you apply those standards or arguments here?

Perfectly!

Legitimacy 3: Offer Them an Attractive Way to Explain Their Decision.

If they had to explain the result of this negotiation to someone important to them, they could convince their constituents with the following few points:

- Cooperation is preferable to confrontation.
- All this would create a climate conducive to fruitful negotiations now and in the future.
- It would foster international goodwill and lead to an easing of economic sanctions.
- Serbia would no longer be a pariah state.
- Lives and livelihoods would be preserved, Serb and Kosovar alike.
- A mutually acceptable solution would include guarantees to Serbs in Kosovar with respect to their rights and freedoms.
- Serbian heritage sites will be preserved and Serbs' access will not be impeded.
- It would prevent the internationalisation of the issue, which at its most extreme, could mean the introduction of foreign troops.
- We could find a way to preserve the Yugoslav Federation and Serbian dominance within .

Relationship 1: Separate People Issues from Substantive Issues.

Describe your relationship.

Fearful (of physical violence)...hostile...suspicious
 Stems from a long history of "Us and Them" attitude
 Focused on differences and positions rather than common interests

We fear that any talk is a smokescreen for more sinister moves. Hence, any concession on our part will be viewed as weakness and will only encourage them to stick to their position that Kosovo will remain a part of Serbia.

Separate the relationship from the substance

Substantive Issues and Problems (money, terms, dates and conditions)

Political power and influence

Education

Local government

Security apparatus

Language

Economic investment

Funding from Belgrade

Demographics

Relationship Issues and Problems (reliability, mutual acceptance, emotions, etc)

Serbian nationalism

Kosovo in the Serbian national psyche

Serbian minority with direct links to Belgrade

Recent deaths and atrocities have taken us one more step closer to the edge

Kosovar nationalism

The Albanian connection

Substantive Options & Remedies (consider referring to Interests & Options)

- Secession and independence
- Autonomy within Yugoslavian Federation
- Application of Dayton Accord to Kosovo
- International mediation
- Foreign peace-keepers
- Safeguards for Serbian Kosovars

Ways to improve the relationship (make sure these are not substantive concessions)

- Restrain more militant Kosovars
- Restrain calls for unilateral declarations of secession
- Offer safeguards for Serbian Kosovars
- Come back into the existing political and administrative system

Relationship 2: Prepare to Build a Good Working Relationship.

What might be wrong now?	What can I do...
What might be causing any present misunderstanding? We want independence but the Serbs want a Serbian Kosovo	To try to understand them better? Acknowledge the importance of Kosovo in the Serbs' cultural heritage
What might be causing a lack of trust? Serbian's reluctance to concede any autonomy and the stridency of Serbian nationalist rhetoric and intimidation	To demonstrate my reliability? Offer to restrain our militants and avoid intimidation of Serbian residents
What might be causing one or both of us to feel coerced? Serbian police and militia intimidation, and lately, the intervention of the JLA	To put the focus on persuasion instead of coercion? Talk up the possibility of foreign mediation and military intervention
What might be causing one or both of us to feel disrespected? We are not permitted to use our own language and follow our own culture	To show acceptance and respect? Acknowledge the Serbs' cultural heritage and also their insecurity as a minority
What might be causing one or both of us to get upset? All of the above	To balance emotion and reason? Go to the balcony...calm, calm; patience and restraint in the face of adversity and provocation

Communication 1: Question My Assumptions and Identify Things to Listen For

The first step in dealing with your blind spots is to become aware of them. In the Left column, list your assumptions about their intentions and perceptions. In the right column, write down key phrases your counterpart might say that should lead you to question your assumptions.

My Assumptions (I assume that...)	Things to listen for
<ul style="list-style-type: none"> • The Serbs are anti-Albanian • The Serbs are anti-Muslim • The Serbs wish to clear Kosovo of Albanians • The Serbian nationalists are keen to indulge in rape and pillage • The Serbs idea of the FRY is that of a Serbian Republic • The Serbs consider the problem Kosovo a purely internal affair to be handled as they see fit 	<ul style="list-style-type: none"> • “We resect all cultural and ethnic differences in the FRY” • “We respect the right of all Yugoslavs to freedom of religion • “We believe that Serb and Kosovar can live amicably side by side” • “These extremists are rogue elements and do not represent Serbians as a whole” • “All ethnic communities enjoy equal status within the FRY” • “If it would solve the problem without bloodshed, we would be willing to accept international mediation”

Communication 2: Reframe to Help Them Understand

My Perspective (List 3-5 statements you might make to clearly put forth your interests.)	How Might They Hear It? For each statement, list your counterparts possible response, eg “Yes but...”	Reframing (Restate your interests so that they will understand them better) ie. look at it from their side
We want independence from Serbia	Yes, but Kosovo is important to all Serbs	We could be independence within the Yugoslav Federation, and Serbs would still have full access
We want cultural freedom: language, education, religion	But you'd have it if you didn't kick up against us	Just as Serbs value their culture, so do we Kosovars
We want to preserve the lives and livelihoods of Kosovars	So do we. Don't you think the Serbs hurt too?	We should work together for the betterment of all residents of Kosovo
We want economic improvement	So do we. All residents of Kosovo are suffering	
We want to achieve all this by peaceful means	But you can't restrain the terrorists	The violence hurts us all
We want international mediation if you won't talk to	But that is unwarranted interference in our internal	A neutral third party mediator might find ways we could

us	affairs	work this out before things get any worse
We want an international peace-keeping force to protect Kosovars against Serb terror tactics	You don't trust our forces?	If neither of us can't restrain our extreme elements, maybe a neutral third party can

Commitment 1: Identify the Issues to be Included in the Agreement

Overall Purpose of the Negotiation

To achieve independence or autonomy for Kosovo by peaceful means

Expected Product of the Negotiation

(Draft a table of contents for a final agreement that would be operational and durable.)

At this stage, we do not know. We have not got beyond positions and interests. We have not got to the option generating stage. And with the present political climate, time is running out! But if all goes well, we may come up with a framework for autonomy within the Federation that satisfies most of our interests and those of the Serbs.

Specific Purpose of Next Meeting

- May be we can find common ground and get looking at some trade offs.
- We could commit to discussing and reality testing all reasonable ways and means of achieving the above purpose, eg looking at possible political and administrative structures.
- We could agree to moderate our respective language and public posturing and take all possible measure to restrain the militants and extremists on both sides.
- We will not take any provocative action eg. unilateral declarations or whatever whilst negotiations are progressing, but the Serbs must reciprocate by eg. not taking any action likely to inflame the situation.
- We will agree to accept the recommendations of an independent third party based upon the standards outlined above.

Tangible Product of Next Meeting

(If you could imagine the piece of paper you would produce during *this* meeting, what would it contain?)

See above

A list of options for further consideration?

An action plan for further work necessary before an agreement would be possible?

A joint recommendation to your respective governments?

An agreement in principle?

A signed agreement?

Commitments toward the next steps?

Other _____

Commitment 2: Plan the Steps to Agreement

Decisionmakers: who will “sign” the agreement?

Ibrahim Rugova and Slobodan Milosevic

Implementation: information that the agreement should include about what happens next.

Implementors who should perhaps be consulted before agreement is final:

Kosovar opposition parties
Serbian opposition parties
The military and paramilitary commanders on each side?
Members of the Contact Group
Albania

Possible obstacles to implementation:

- Serbian nationalism and Kosovo's hold on the Serbian psyche
- Controlling Serbian extremists in Kosovo
- Restraining local Serbian paramilitary forces
- Kosovar opposition to anything short of total independence
- Restraining the UDK
- Reluctance by Contact Group to commit resolutely to underwriting the agreement and protecting the Kosovars

Ways to deal with obstacles

Steps necessary to get to a binding agreement	Target Date
1. Tentative agreement on issues to be included:	-----
2. Clarification of interests in each issue:	-----
3. Discussion of options for handling each issue:	-----
4. Draft for a framework agreement:	-----
5. Joint working draft of possible agreement:	-----
6. Final text ready for signature:	-----

THE KOSOVAR VOLCANO

A Hypothetical of the Seven Elements

Part Two

**The Federal Republic of Yugoslavia as represented by President
Slobodan Milosevic**

Interests 1: Identifying the Relevant Parties

People on *the other* side who may care about the outcome

The Albanians of Kosovo Province
Albania
Bosnia
Muslim Countries generally

***Third Parties* who may care about the outcome: the Contact Group**

USA, Russia, UK, Germany, France, Italy

People on *our* side who may care about the outcome

Serbia
Montenegro
Croatia
Russia (Contact Group but traditionally pro-Serbian)

***Third Parties* who may care about the outcome: others**

United Nations, European Union, Macedonia, Bulgaria, Greece, Turkey

Interests 2: Clarifying the Interests

Mine: What do I care about?	Theirs: If I were in their shoes, what would I care or worry about?	Others: What are the concerns of others who may be significantly affected?
<p>Serbia:</p> <ul style="list-style-type: none"> • The integrity of the Yugoslavian/Serbian state • Serbian nationalism: the Kosovo legacy • Greater Serbia • Supporting the Serbian minority • Uphold political ascendancy of Kosovo Serbs • Economic control • Control over security • Religious paramountcy • Protecting Serbs from KLA • Holding on to gains from the Bosnian civil war • Prevent ethnic cleansing by Kosovars 	<p>Kosovo:</p> <ul style="list-style-type: none"> • Independence • Cultural autonomy • Self-rule • Freedom to use Albanian language • Open acceptance of Kosovar culture • Education: schools & unis • Albanian taught in schools • Local government • Own police force • Freedom for persecution • Freedom of Worship • Economic independence • Oppose Serbian chauvinism • Self-defence against Serbian militias • Prevent bloodshed • Prevent ethnic cleansing by Serbs • Support from Albania 	<p>Albania:</p> <ul style="list-style-type: none"> • Prevent instability spreading over border • Support for fellow ethnic Albanians • Support for co-religionists • Albania's parlous economic position • Internal political situation (we don't want dissidents exploiting Kosovar Crisis for own ends) • Oppose Serbian chauvinism and repression • Montenegro: restless partner in Federation, looking at its own option for secession • Macedonia (former Yugoslavian province): possibility of Serbian encroachment and attempt to recover terra irridente • Bulgaria: interest in the Macedonian question: territorial claims on Macedonia • Greece: ditto and beef about the very existence of Macedonia • The Contact Group: Instability in the Balkans • United Nations: credibility as a peace keeper • European Union: instability on southern border • NATO: instability on southern border and possible involvement of allies Greece and Turkey (on opposing sides) • Common to UN, EU and NATO: holding together the Dayton accord • Ditto: maintenance of sanctions against Serbia to ensure compliance with Dayton accord • Oppose Serbian chauvinism
<p>Slobodan Milosevic:</p> <ul style="list-style-type: none"> • As above • Preserve and strengthen own position • Self respect • Respect of fellow Serbs • Prevent foreign intervention • Lifting of existing sanctions • Prevent tightening of sanctions 	<p>Ibrahim Rugova:</p> <ul style="list-style-type: none"> • As above • Own position • Self respect • Respect of fellow Kosovars • Restrain militants • Resist Kosovar opposition demands • Keep KLA on the sidelines • Application of Dayton Accord to Kosovo • Encourage foreign intervention, particularly mediation by the contact group • Protection of Kosovars by foreign troops (US? UN? NATO?) • Maintenance and tightening of foreign sanctions against Serbia 	

Interests 3: Probe for Underlying Interests

Important Interests (from Interests 2)	Basic or Underlying Interest (Why? For what Purpose?)	Relative Importance (allocate 100 points)
OURS		
<ul style="list-style-type: none"> • Integrity of Yugoslav State • Greater Serbia • The Kosovo Legend • Remove Albanians • Prevent Foreign intervention • End sanctions • Domestic political interests: internal Serbian politics 	<ul style="list-style-type: none"> • Ethnic identity 20 • Religious identity 20 • Cultural identity 20 • Serbian sovereignty 20 • Greater Serbia 20 	
and:		
	<ul style="list-style-type: none"> • Milosevic's continued political ascendancy 	
THEIRS		
<ul style="list-style-type: none"> • Autonomy/independence • Preserve lives • Peaceful change • Self respect • Freedom of religion • Freedom to speak Albanian • Freedom of education • Local Government • Domestic political interests: internal Kosovar politics 	<ul style="list-style-type: none"> • Ethnic identity 20 • Religious identity 20 • Cultural identity 20 • Self-determination 20 • Kosovar sovereignty 20 	
and:		
	<ul style="list-style-type: none"> • Rugova's political survival 	

Options : Create Options to Meet Interests

My Interests	Possible Options	Their Interests
<ul style="list-style-type: none"> • Integrity of Yugoslavia • Serbian sovereignty • Greater Serbia • The Kosovo Legend • Prevent Foreign intervention • End sanctions 	<ul style="list-style-type: none"> • Secession and independence • Regionalisation • Autonomy within Yugoslavian Federation • Serbianization • Separation of populations • Application of Dayton Accord to Kosovo • International mediation • Foreign peace-keepers • Safeguards for Serbian Kosovars 	<ul style="list-style-type: none"> • Autonomy/independence • Cultural freedom • Preserve lives • Peaceful change • Self respect of Kosovars

Alternatives 1: My Alternatives to a Negotiated Agreement

My Key Interests:

- Integrity of Yugoslav Federal Republic
- Greater Serbia
- The Kosovo Legend
- Remove Albanians from Kosovo
- Prevent Foreign intervention
- End sanctions

What could I do to satisfy my interests if we do not reach an agreement?

Possible Alternatives	Pro's	Cons
1. Military force: local militias and police	1. Protects the Serbian minority and upholds Serbian nationalism	1. Invites Albanian militants' response and increased terrorism, and international outrage. Sanctions would be tightened
2. Military force: JLA and the full force of the state	2. Ditto	2. Ditto. Distraction could encourage Croats and Bosnians to have another go at Serbska. Would probably involve ethnic cleansing: bad press! The danger of the conflict spilling over into other Balkan states is quite real.
3. Serbianization: ethnic cleansing a la Bosnia	3. Solves the problem of the Albanian majority and promotes Serbian nationalism and the Serbian nation state	3. Ditto
4. Territorial division allowing a the region on Albanian border to secede	4. ditto	4. Ditto
5. Separation of populations	5. Protects Serbs	5. Serbs still a vulnerable minority
6. Foreign mediation	6. Shows good will: may help end sanctions	6. Foreign interference: it may not go Serbs' way
7. Foreign peacekeeping force	7. Ditto and controls KLA	7. Ditto. Surrender of Serbian sovereignty
8. Grant limited autonomy	8. Good will, helps end sanctions & international respectability	8. Surrenders sovereignty and Serbs still vulnerable
9. Federalisation within a three-way republic	9. ditto	9. Ditto. Surrenders holy soil.
10. Grant independence		10. Ditto. Could lead to revolt of Serbian nationalists and may lead to attempted secession by Montenegro

Alternatives 2: Select and Improve My *BATNA*

Of my alternatives, what will I really do if no agreement is reached? Why?

Slobodan Milosevic is very aware of and dependent upon his status as a Serbian Nationalist hero. He will not wish to be giving ground, particularly holy ground, for that is how nationalist Serbs see Kosovo. Hence if no agreement is reached, he could quite easily go for a military settlement.

We, the Serbs have the whip hand in this situation. Milosevic can do almost anything provided he can carry the nationalists with him. The initiative will probably have to come from us, possibly with some foreign prodding (although right now, this option has been overwhelmingly rejected by the Serbian population in April's referendum). If international favour and an easing or lifting of economic sanctions are of importance to Milosevic, then a federalist solution is probably the best alternative.

Alternatives 3: Identify Alternatives Open to the Other Side

Their Key Interests

- Autonomy or independence
- Cultural freedom (language, culture, education etc.)
- Preserve lives
- Peaceful change
- Self respect of Kosovars

What could they do to satisfy their interests if we do not reach an agreement?

Alternatives	Pros	Cons
1. Secession	1. Create independent state	1. Provoke Serbian backlash
2. Guerilla warfare	2. Challenge Serbs	2. Provoke backlash and massive military response
3. Terrorism	3. Ditto	3. Ditto
4. Ethnic cleansing	4. Ditto	4. Ditto
5. Peaceful resistance	5. Ditto but less damaging	5. The same could occur
6. Shadow government	6. Already in place	6. The Serbs control the levers of government
7. Government in exile	7. Public relations exercise	7. Powerlessness
8. Foreign peacekeeping force	8. Holding the line and protecting populace	8. Perpetuates Serb enmity
9. Foreign mediation	9. Keeps negotiations open	9. ditto

Alternatives 4: Estimate their BATNA

What would I do in their shoes? (which of their alternatives looks best for them?)

Continue to operate under existing conditions

The power imbalance between the Kosovars and the Serbs is such that Milosevic and his government, and their local allies have the whip hand. At this stage, with the Kosovo Serbs supported by the Belgrade Government, including considerable military hardware and most recently, elements of the JLA, with militants of the KLA coming in from Albania and engaging Serbian forces, and with the temperature therefore rising daily, Kosovar alternatives are limited. There is no way they can withstand an onslaught by the Serbian forces nor prevent a campaign of ethnic cleansing similar to that carried out in Bosnia during the civil war. The BATNA under these circumstances is a foreign peacekeeping force to hold the line between the Serbian forces and the KLA, and to protect the civilian population from the JLA and the Serbian police and militia. Meanwhile they should continue to attempt to engage the Belgrade Government in negotiations for a peaceful solution, ideally with mediation by a neutral third party.

Legitimacy 1: Use external Standards as a Sword and as a Shield.

What specific substantive question has to be answered in this negotiation?

Should Kosovo be independent of Yugoslavia, or autonomous within the federation, and on what terms?

Possible Standards (precedents, benchmarks, prior practice. Accepted principles etc)

Least Favourable

Standards:	Percentage of population: 90% Albanian	Economic viability per IMF, World Bank etc.	Convention of non-interference in internal affairs	Most Favourable
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Application of Standard to this Case :

Proper census required	Would the state be economically viable re. resources, etc	Kosovo is a province of Serbia and as such, an internal matter	Free and fair elections, but in whole federation
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Points to consider;

- Kosovo is a province of the Federal republic of Yugoslavia
- Kosovars are citizens of the federal republic of Yugoslavia and have the right to vote in elections and elect their own representatives to the parliament and other representative bodies.
- The fact that the Kosovars have chosen to boycott elections and withdraw from public bodies and institutions, choosing instead to establish their own (illegitimate) organisations and services is not our fault.

Other standards that may be relevant or that require research:

Kosovo could not possibly be a viable state. It is land locked and has limited economic resources. It would end up as an unstable, economic basket case that could affect the stability of the neighbouring states and the whole Balkan region.

There are however precedents for peaceful autonomy and integration provided the Kosovars were willing to regard themselves as Yugoslavian citizens.

Legitimacy 2: Use the Fairness of the Process to Persuade.

Persuasive processes

If you cannot agree on an answer you might agree on the process to find an agreeable answer. If one of the following looks interesting, how might you apply it to this case?

- Invite a third party to mediate eg. the United nations (Kofi Annan?)
- appointing a special envoy for Kosovo, with a mandate similar to that of Richard Holbrooke's in Bosnia-Herzegovina
- Let the Contact Group (USA, France, Germany, Italy and Russia) mediate

The test of reciprocity

In some cases reciprocity can be very persuasive. Are there some negotiations in which your counterpart is in a position similar to yours?

No.

If so, what standards or arguments does he use in the situation?

The argument of non-interference in a country's internal affairs. This is a standard plea in International politics, particularly from nations whose human rights record is not up to the standards proclaimed (though not universally upheld) by the major powers. Eg. Indonesia and China.

How could you apply those standards or arguments here?

Not relevant!

Legitimacy 3: Offer Them an Attractive Way to Explain Their Decision.

If they had to explain the result of this negotiation to someone important to them, they could convince their constituents with the following few points:

- Cooperation is preferable to confrontation.
- All this would create a climate conducive to fruitful negotiations now and in the future
- It would foster international goodwill towards Kosovo
- Easing of sanctions against the Federation would be to the economic benefit of all citizens
- Lives and livelihoods would be preserved, Serb and Kosovar alike.
- Within the proposed federation, Kosovars would have full control over internal affairs and cultural matters.
- Serbian troops and militias would be withdrawn

Relationship 1: Separate People Issues from Substantive Issues.

Describe your relationship.

Hostile...suspicious
Stems from a long history of "Us and Them" attitude

Focused on differences and positions rather than common interests

We fear that any talk is a smokescreen for more sinister moves eg. unilateral secession, leaving the Serbian minority at the mercy of the Kosovar majority. Hence, any concession on our part will be viewed as weakness and will only encourage them to raise their demands.

Separate the relationship from the substance

Substantive Issues and Problems (money, terms, dates and conditions)	Relationship Issues and Problems (reliability, mutual acceptance, emotions, etc)
Political power and influence	Serbian nationalism
Education	Kosovo in the Serbian national psyche
Local government	Serbian minority with direct links to Belgrade
Security apparatus	Recent deaths and atrocities have taken us one more step closer to the edge
Language	Kosovar nationalism
Economic investment	The Albanian connection
Funding from Belgrade	
Demographics	

Substantive Options & Remedies (consider referring to Interests & Options)

- Secession and independence
- Autonomy within Yugoslavian Federation
- Application of Dayton Accord to Kosovo
- International mediation
- Foreign peace-keepers
- Safeguards for Serbians of Kosovo

Ways to improve the relationship (make sure these are not substantive concessions)

- Restrain more militant Serbs
- Restrain calls for annexation and Serbianisation of Kosovo
- Offer safeguards for Kosovars
- Offer to bring Kosovars back into the existing political and administrative system without prejudice or payback

Relationship 2: Prepare to Build a Good Working Relationship.

What might be wrong now?	What can I do...
What might be causing any present misunderstanding? The Kosovars want independence in a province sacred to Serbia	To try to understand them better? Acknowledge that the Kosovars do have rights as a minority
What might be causing a lack of trust? Our reluctance to concede any ground and the demands of Serbian nationalists. The involvement of FRY troops	To demonstrate my reliability? Pull out the troops and restrain the police and militias and extremist Serbs.
What might be causing one or both of us to feel coerced? We feel we are being pushed into a corner by the constant appeals to the international community to interfere in our internal affairs. The use of troops, police and militia.	To put the focus on persuasion instead of coercion? Agree to the idea of foreign mediation
What might be causing one or both of us to feel disrespected? They feel that we do not respect their culture. We feel that outsiders should not be involved: it is degrading and a threat to our sovereignty.	To show acceptance and respect? Acknowledge the Kosovars' cultural heritage and their insecurity within the Serbian state.
What might be causing one or both of us to get upset? All of the above	To balance emotion and reason? Go to the balcony...calm, calm; patience and restrain in the face of provocation and calls for secession.

Communication 1: Question My Assumptions and Identify Things to Listen For

The first step in dealing with your blind spots is to become aware of them. In the Left column, list your assumptions about their intentions and perceptions. In the right column, write down key phrases your counterpart might say that should lead you to question your assumptions.

My Assumptions (I assume that...)	Things to listen for
• The Kosovars are anti-Serb	• “We respect all cultural and ethnic differences”
• The Kosovars are anti-Christian	• “We will ensure tolerance to all minorities in Kosovo”
• The Kosovars will clear out the Serbs if they have independence	• “We believe that Kosovar and Serb can live amicably together”
• Kosovars will take it out on the Serbs of Kosovo if they can	• “The extremists are rogue elements and do not represent mainstream Kosovar opinion”
• The Kosovars will appeal to the Albanians for help and may even want to merge with Albania	• “ We want our state, not accession to Albania”
• The Kosovars want to get foreigners involved to weaken Serbia	• “If it would solve the problem without bloodshed, we will accept any reasonable mediator”

Communication 2: Reframe to Help Them Understand

My Perspective (List 3-5 statements you might make to clearly put forth your interests.)	How Might They Hear It? For each statement, list your counterparts possible response, eg “Yes but...”	Reframing (Restate your interests so that they will understand them better) ie. look at it from their side
Kosovo is of great symbolic and historical value to all Serbs	Yes, but you Serbs have a bad track record when defending your so-called “rights”	You could be independent within the Yugoslav Federation, and Serbs would have full access
We want to preserve the rights and freedoms of Serbs living in Kosovo	But its the Kosovars who are discriminated against, not the Serbs.	Just as Serbs value their culture, so do we Kosovars
We must defend them against terrorists	They are not terrorists to us	We should work together for the betterment of all residents of Kosovo
We want to preserve the sovereignty and integrity of Serbia	Greater Serbia, you mean.	(this is a hard one to reframe in the light of events of the last five years)
We want to preserve the sovereignty and integrity of the Federal Republic	But you'd have this if you didn't discriminate against us.	We could seek a solution within the framework of a revitalised federation

We oppose any foreign meddling in our internal affairs	So you can put us down out of sight of the rest of the world?	Outsiders do not understand the interests of Serbs and Kosovars. They only care for their own interests. They don't really care about us.
We want the sanctions lifted and economic conditions improved	To keep your (Serbian) people happy and lift the arms embargo so you can hit at us.	If sanctions were lifted, all of us would benefit

Commitment 1: Identify the Issues to be Included in the Agreement

Overall Purpose of the Negotiation

To preserve the integrity of the Serbian nation and the Federal republic of Yugoslavia
To preserve for Serbians the site of the battle of Kosovo

Expected Product of the Negotiation

(Draft a table of contents for a final agreement that would be operational and durable.)

A framework for Kosovo's autonomy within the Federation that would satisfy most of our national interests.

Specific Purpose of Next Meeting

- May be we can find common ground and get looking at some trade offs.
- We could commit to discussing and reality testing all reasonable ways and means of achieving the above purpose, eg looking at possible political and administrative structures.
- We could agree to moderate our respective language and public posturing and take all possible measure to restrain the militants and extremists on both sides.
- We will not take any provocative action eg. unilateral declarations or whatever, whilst negotiations are progressing, but the Kosovars must reciprocate by eg. not taking any action likely to inflame the situation.
- We will agree to accept the recommendations of an independent third party based upon the standards outlined above.

Tangible Product of Next Meeting

(If you could imagine the piece of paper you would produce during *this* meeting, what would it contain?)

See above

See above

- A list of options for further consideration?
- An action plan for further work necessary before an agreement would be possible?
- A joint recommendation to your respective governments?
- An agreement in principle?
- A signed agreement ?
- Commitments toward the next steps?
- Other _____

Commitment 2: Plan the Steps to Agreement

Decisionmakers: who will “sign” the agreement?

Slobodan Milosevic and Ibrahim Rugova

Implementation: information that the agreement should include about what happens next.

Implementors who should perhaps be consulted before agreement is final:

Serbian opposition parties

Kosovar opposition parties

The military and paramilitary commanders on each side?

Members of the Contact Group

Possible obstacles to implementation:

Possible obstacles to implementation:

- Kosovar opposition to anything short of total independence
- Restraining the UDK
- Serbian nationalism and Kosovo's hold on the Serbian psyche
- Controlling Serbian extremists in Kosovo
- Restraining local Serbian paramilitary forces
- Reluctance by Contact Group to commit resolutely to underwriting the agreement and protecting the Kosovars

Ways to deal with obstacles:

Steps necessary to get to a binding agreement	Target Date
1. Tentative agreement on issues to be included:	-----
2. Clarification of interests in each issue:	-----
3. Discussion of options for handling each issue:	-----
4. Draft for a framework agreement:	-----
5. Joint working draft of possible agreement:	-----
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