

# **Another Way For Kosovo?**

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Kosovo was an extremely ugly place last year. About 2000 people were killed according to NATO, mostly Albanians, in the course of a bitter struggle that began in February with Kosovo Liberation Army (KLA) actions that the United States denounced as “terrorism” and a brutal Serb response. By summer the KLA had taken over about 40% of the province, eliciting a vicious reaction by Serb security forces and paramilitaries, targeting the civilian population. According to Albanian Kosovar legal adviser Marc Weller, “within a few days [after the withdrawal of the monitors on 20 March 1999] the number of displaced had again risen to over 200,000,” figures that conform roughly to US intelligence reports<sup>1</sup>.

Suppose the monitors had not been withdrawn in preparation for the bombing and diplomatic efforts had been pursued. Were such options feasible? Would they have led to an even worse outcome, or perhaps a better one? Since NATO refused to entertain this possibility, we cannot know. But we can at least consider the known facts, and ask what they suggest.

Could the Kosovo Verification Mission (KVM) monitors of the Organisation for Security and Cooperation in Europe (OSCE) have been left in place, preferably strengthened? That seems possible, particularly in the light of the immediate condemnation of the withdrawal by the Serb National Assembly. No argument has been advanced to suggest that the reported increase in atrocities after their withdrawal would have taken place even had they remained, let alone the vast escalation that was the predicted consequence of the bombing signalled by the withdrawal. NATO also made little effort to pursue other peaceful means; even an oil embargo, the core of any serious sanctions regime, was not considered until after the bombing.

The most important question, however, has to do with the diplomatic options. Two proposals were on the table on the eve of the bombing. One was the Rambouillet accord, presented to Serbia as an ultimatum. The second was Serbia’s position, formulated in its 15 March 1999 “Revised Draft Agreement” and the Serb National Assembly Resolution of 23 March 1999<sup>2</sup>. A serious concern for protecting Kosovars might well have brought into consideration other options as well, including, perhaps, something like the 1992–93 proposal of the Serbian president of Yugoslavia, Dobrica Cosic, that Kosovo be partitioned, separating itself from Serbia apart from “a number of Serbian enclaves”<sup>3</sup>. At the time the proposal was rejected by Ibrahim Rugova’s Republic of Kosovo, which had declared independence and set up a parallel government; but it might have served as a basis for negotiation in the different circumstances of early 1999. Let us, however, keep to the two official positions of late March: the Rambouillet ultimatum and the Serb Resolution.

## Kept from the public eye

It is important and revealing that, with marginal exceptions, the essential contents of both positions were kept from the public eye, apart from dissident media that reach few people.

The Serb National Assembly Resolution, though reported at once on the wire services, has remained a virtual secret. There has been little indication even of its existence, let alone its contents. The Resolution condemned the withdrawal of the OSCE monitors and called on the

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<sup>1</sup> Marc Weller, “The Rambouillet Conference,” *International Affairs*, London, April 1999. See note 8.

<sup>2</sup> On the first text, see Marc Weller (ed), *International Documents & Analysis*, vol. 1, *The Crisis in Kosovo 1989–1999*, Cambridge University Press, 1999, from p. 480. On the second, *New Military Humanism*.

<sup>3</sup> Miranda Vickers, *Between Serb and Albanian: A History of Kosovo*, Columbia, 1998.

United Nations and OSCE to facilitate a diplomatic settlement through negotiations “toward the reaching of a political agreement on a wide-ranging autonomy for [Kosovo], with the securing of a full equality of all citizens and ethnic communities and with respect for the sovereignty and territorial integrity of the Republic of Serbia and the Federal Republic of Yugoslavia [FRY].” It raised the possibility of an “international presence” of a “size and character” to be determined to carry out the “political accord on the self-rule agreed and accepted by the representatives of all national communities living in [Kosovo].” FRY agreement “to discuss the scope and character of international presence in [Kosovo] to implement the agreement to be accepted in Rambouillet” had been formally conveyed to the negotiators on 23 February, and announced by the FRY at a press conference the same day<sup>4</sup>. Whether these proposals had any substance we cannot know, since they were never considered, and remain unknown.

Perhaps even more striking is that the Rambouillet ultimatum, though universally described as the peace proposal, was also kept from the public, particularly the provisions that were apparently introduced in the final moments of the Paris peace talks in March after Serbia had expressed agreement with the main political proposals, and that virtually guaranteed rejection. Of particular importance are the terms of the implementation Appendices that accorded to NATO the right of “free and unrestricted passage and unimpeded access throughout the FRY including associated airspace and territorial waters”, without limits or obligations or concern for the laws of the country or the jurisdiction of its authorities, who are, however, required to follow NATO orders “on a priority basis and with all appropriate means” (Appendix B).

The Annex was kept from journalists covering the Rambouillet and Paris talks, says Robert Fisk: “The Serbs say they denounced it at their last Paris press conference – an ill-attended gathering at the Yugoslav Embassy at 11pm on 18 March”. Serb dissidents who took part in the negotiations allege that they were given these conditions on the last day of the Paris talks and that the Russians did not know about them. These provisions were not made available to the British House of Commons until 1 April, the first day of the Parliamentary recess, a week after the bombing started<sup>5</sup>.

In the negotiations that began after the bombing, NATO abandoned these demands entirely, along with others to which Serbia had been opposed, and there is no mention of them in the final peace agreement. Reasonably, Fisk asks: “What was the real purpose of NATO’s last minute demand? Was it a Trojan horse? To save the peace? Or to sabotage it?” Whatever the answer, if the NATO negotiators had been concerned with the fate of the Kosovar Albanians, they would have sought to determine whether diplomacy could succeed if NATO’s most provocative, and evidently irrelevant, demands had been withdrawn; the monitoring enhanced, not terminated; and significant sanctions threatened.

## **Take it or leave it**

When such questions have been raised, leaders of the US and British negotiating teams have claimed that they were willing to drop the exorbitant demands that they later withdrew, but that the Serbs refused. The claim is hardly credible. There would have been every reason for them to

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<sup>4</sup> See New Military Humanism for details; International Documents, 470; Mark Littman, Kosovo: Law and Diplomacy, Centre for Policy Studies, London, November 1999.

<sup>5</sup> Robert Fisk, The Independent, London, 26 November 1999; Littman, op. cit.

have made such facts public at once. It is interesting that they are not called to account for this startling performance.

Prominent advocates of the bombing have made similar claims. An important example is the commentary on Rambouillet by Marc Weller<sup>6</sup>. Weller ridicules the “extravagant claims” about the implementation Appendices, which he claims were “published along with the agreement,” meaning the Draft Agreement dated 23 February. Where they were published he does not say, nor does he explain why reporters covering the Rambouillet and Paris talks were unaware of them. As was, it appears, the British parliament. The “famous Appendix B,” he states, established “the standard terms of a status of forces agreement for KFOR [the planned NATO occupying forces]”. He does not explain why the demand was dropped by NATO after the bombing began, and is evidently not required by the forces that entered Kosovo under NATO command in June, which are far larger than what was contemplated at Rambouillet and therefore should be even more dependent on the status of forces’ agreement. Also unexplained is the 15 March FRY response to the 23 February Draft Agreement.

This response goes through the Draft Agreement in close detail, section by section, proposing extensive changes and deletions throughout, but includes no mention at all of the appendices – the implementation agreements which, as Weller points out, were by far the most important part and were the subject of the Paris negotiations then underway. One can only view his account with some scepticism, even apart from his casual attitude toward crucial fact, already noted, and his clear commitments. For the moment, these important matters remain buried in obscurity.

Despite official efforts to prevent public awareness of what was happening, the documents were available to any news media that chose to pursue the matter. In the US the extreme (and plainly irrelevant) demand for virtual NATO occupation of the FRY received its first mention at a NATO briefing of 26 April, when a question was raised about it but was quickly dismissed and not pursued. The facts were reported as soon as the demands had been formally withdrawn and had become irrelevant to democratic choice. Immediately after the announcement of the peace accords of 3 June the press quoted the crucial passages of the “take it or leave it” Rambouillet ultimatum, noting that they required that “a purely NATO force was to be given full permission to go anywhere it wanted in Yugoslavia, immune from any legal process,” and that “NATO-led troops would have had virtually free access across Yugoslavia, not just Kosovo”<sup>7</sup>.

Through the 78 days of bombing negotiations continued, each side making compromises – described in the US as Serb deceit, or capitulation under the bombs. The peace agreement of 3 June was a compromise between the two positions on the table in late March. NATO abandoned its most extreme demands, including those that had apparently undermined the negotiations at the last minute and the wording that had been interpreted as calling for a referendum on independence. Serbia agreed to an “international security presence with substantial NATO participation” – the sole mention of NATO in the peace agreement or Security Council Resolution 1244 affirming it.

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<sup>6</sup> Marc Weller, *International Documents*, p. 411. As noted, the commentaries are barely-concealed advocacy of the bombings.

<sup>7</sup> Steven Erlanger, *New York Times*, 5 June 1999; Blaine Harden, *ibid.*, oblique reference; Guy Dinmore, *Financial Times*, London, 6 June 1999. See *New Military Humanism* for further details.

## Scraps of paper

NATO had no intention of living up to the scraps of paper it had signed, and moved at once to violate them, implementing a military occupation of Kosovo under NATO command. When Serbia and Russia insisted on the terms of the formal agreements, they were castigated for their deceit, and bombing was renewed to bring them to heel. On 7 June NATO planes again bombed the oil refineries in Novi Sad and Pancevo, both centres of opposition to Milosevic. The Pancevo refinery burst into flames, releasing a huge cloud of toxic fumes, shown in a photo accompanying a New York Times story of 14 July that discussed the severe economic and health effects. The bombing itself was not reported, though it was covered by wire services<sup>8</sup>.

It has been argued that Milosevic would have tried to evade the terms of an agreement, had one been reached in March. The record strongly supports that conclusion, just as it supports the same conclusion about NATO – not only in this case, incidentally; forceful dismantling of formal agreements is the norm on the part of the great powers<sup>9</sup>. As now belatedly recognised, the record also suggests that “it might have been possible [in March] to initiate a genuine set of negotiations – not the disastrous American diktat presented to Milosevic at the Rambouillet conference – and to insert a large contingent of outside monitors capable of protecting Albanian and Serb civilians alike”<sup>10</sup>.

At least this much seems clear. NATO chose to reject diplomatic options that were not exhausted and to launch a military campaign that had terrible consequences for Kosovar Albanians, as anticipated.

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<sup>8</sup> Wire services, 7 and 8 June 1999; Chris Hedges, New York Times, 14 July 1999.

See also Los Angeles Times, 6 July 1999.

<sup>9</sup> On the recent US record, see New Military Humanism and sources cited.

<sup>10</sup> Editorial, Boston Globe, 9 December 1999.

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