

The follow-up of the Kosovo Report
Why conditional independence?

THE FOLLOW-UP OF THE KOSOVO REPORT

**WHY CONDITIONAL
INDEPENDENCE?**

INDEPENDENT INTERNATIONAL COMMISSION ON KOSOVO

Independent International Commission on Kosovo:
The follow-up of the Kosovo Report ★ Why conditional independence?

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PREFACE

The Independent International Commission on Kosovo was established as an initiative of the Prime Minister of Sweden, Mr Göran Persson, to provide an objective analysis of the events before, during, and after the war in Kosovo and to research the lessons to be learned. Prime Minister Persson asked us (Justice Richard Goldstone, South Africa, and Secretary General Carl Tham, Sweden) to serve as co-chairmen. We then appointed the remaining 11 members of the Commission, which began its work in September 1999.

The Commission is independent of the Government of Sweden and of any other government or institution, national or international. The views in the report are solely those of the members of the Commission.

The Commission published *The Kosovo Report: Conflict, International Response, Lessons Learned* (Oxford University Press), in October 2000. Since then members of the Commission have participated in a number of seminars, meetings and discussions concerning the Report and its conclusions. We would like to express our thanks for the generous support the Commission received and for the time given to us by so many qualified people who were directly involved with Kosovo. We have learnt much from them.

The Commission held its final meeting in Stockholm on 8–9 September 2001. With the publication of this Addendum to the Report, our task is now completed.

Stockholm September 2001

Richard Goldstone
Carl Tham

THE FOLLOW-UP

WHY CONDITIONAL INDEPENDENCE?

INTRODUCTION

This Addendum was written just prior to the terrifying events in the United States of 11 September 2001. The war against terrorism on a global scale has cast a heavy and dark shadow across virtually all other international issues. We are deeply concerned with the implications for the people of Kosovo. It would be a tragic sequel to the NATO War of 1999, if Kosovo is once more forgotten, or worse, if Belgrade is granted a free hand to obstruct the realization of the right of self-determination for the people of Kosovo. The most recent assertions of the FRY Government are not reassuring. This Commission feels obliged to remind the leaders of the world community that the status of Kosovo has not yet been decided, and that leaving this issue unresolved is both cruel to the Kosovars and dangerous for the stability of the Balkans.



The legitimacy of a humanitarian intervention depends not only on what happens during and immediately after the intervention, but also on the longer-term follow-up. Those who undertake humanitarian intervention have obligations to ensure that their actions contribute to a stable and productive outcome.

The Kosovo Report was published by the Independent Inter-

national Commission on Kosovo (henceforth “the Commission”) in October 2000. There were two main conclusions. One was that the NATO intervention in Kosovo was illegal but legitimate. It was illegal, because it did not receive prior approval from the United Nations Security Council. It was legitimate because the egregious human rights violations were taking place, all diplomatic avenues had been exhausted and Kosovo was liberated as a consequence of the intervention, the oppression of Kosovar Albanians was ended, and all those who had been expelled by Yugoslav forces during the war were able to return to their homes. The other conclusion was that Kosovo should be given the status of “conditional independence”. This means a self-governing Kosovo, outside the Federal Republic of Yugoslavia (FRY), but within a specific international framework in which the international community retains responsibility for the security of borders and for overseeing the protection of minorities.

The Report has generated a lot of interest and discussion. The most frequent question posed to members of the Commission has been whether its proposals are still relevant in the light of developments that have taken place since the Report was finalised. These developments include:

- the fall of Milosevic and the establishment of a new government committed to democracy in Belgrade;
- the spread of violence to Macedonia and southern Serbia;
- the promulgation of a new constitutional framework for Kosovo.

Critics of the Report have suggested that the continued violence and high levels of crime inside Kosovo, the revenge killings and expulsions of Serbs and other minorities, and the spread of violence in neighbouring regions calls into question the legitimacy of the NATO intervention. It is also argued that the case for “conditional independence” is no longer pressing as there is no longer a brutal dictatorship in Belgrade, and, moreover, that any discussion

of Kosovo's future status could disturb the fragile process of democratisation in Serbia. Indeed, these post-intervention developments have reversed the standard external perceptions of sympathy towards the Kosovar Albanians and antipathy towards Serbs.

The Commission decided to produce an Addendum to the Report in the light of these criticisms and developments. The aim is to assess the relevance of the original proposals in the light of these developments and the changed situation in the Balkans, and to ask whether the NATO intervention can still be considered legitimate in the light of the follow-up to the intervention, and whether the proposal for "conditional independence" is still appropriate. We start by describing the positive and negative developments in the region since the Report was published. We then consider the situation in Kosovo itself, in particular, the implications of the new constitutional framework. The third section re-examines and elaborates the proposal for conditional independence, while the fourth discusses the mechanisms for process—how conditional independence might be reached, and the need for a regional framework.

THE CONTEXT: POSITIVE AND NEGATIVE DEVELOPMENTS IN THE BALKAN REGION

The positive development is the removal from power of expansionary and militaristic nationalism. After a decade in which Balkan political agendas were dominated by radical ethno-nationalists, the fall of Milosevic coincides with the coming to power throughout the region of non-nationalists and/or moderate nationalists favouring democratic change and looking to the West, particularly the European Union (EU), for support and political inspiration. In Belgrade, Vojislav Kostunica presides over an ambiguous transition: democracy, the rule of law, and the inde-

pendent media have made substantial progress, but the structure (and personnel) of the military and police apparatus of the old regime remain largely in place. Moreover, the attachment to Kosovo as a symbol of Serb national aspirations persists among the population and in government. The transfer of Milosevic to the Hague for trial by the International Criminal Tribunal for the former Yugoslavia (ICTY) was primarily undertaken for economic reasons (to be eligible for Western aid) and it has of course, meant avoiding a domestic trial. All the same, the resulting discovery of mass graves has, nevertheless, initiated a questioning about the past in Serbia that may contribute in important ways to the process of democratisation, although it is still some danger of a nationalist backlash. The constitutional future of Yugoslavia is still in limbo, especially after the election of pro-independence governing coalition in Montenegro albeit by a narrow margin.

Croatia has broken even more clearly with the late President Franjo Tudjman's legacy of authoritarian rule and extreme nationalist policies. President Stipe Mesic clearly committed himself to greater cooperation with the International War Crimes Tribunal. The arrest of General Mirko Norac, despite mass demonstrations in Split, was an act of political courage hardly acknowledged in Western capitals. So was the break with the ultra-nationalist hard-liners in Herzegovina, who had been (with the support of the then ruling Croatian Democratic Union, or HDZ, in Zagreb) torpedoing the implementation of the Dayton Accords. Finally, under Mesic, Croatia committed itself to allowing the return of the Serbs expelled from the Krajina in the summer of 1995.

In Bosnia Herzegovina too, there have been encouraging developments. A coalition of non-nationalists and moderate nationalists, the Alliance for Change, has come to power in the aftermath of the elections of November 2000. The Social Democrats are now the largest party in the Federation, supplanting the Muslim nationalist party of former President Alija Izetbegovic, the Party of Democratic Action (SDA). And in Republika Srbska,

the government of Milan Ivanovic appears to be committed to democratic reform, transparency, and justice. The return of refugees has accelerated, including to areas where their ethnic group is not in control. Even so, the profession of cooperation with the ICTY is still not matched by actions.

Added to this is Bulgaria's consistent moderation, although the consequences of the election of the former king and the war in neighbouring Macedonia remain to be seen. Greece's policy towards the whole region and especially Macedonia is increasingly constructive—a change much influenced by Foreign Minister George Papandreou, and a welcome departure from the nationalist mobilisations of previous governments. In addition, the Socialist government in Albania has welcomed the changes in Belgrade and has reiterated its support for the integrity of borders and its opposition to the use of violence. Thus, the landscape after the Balkan battles appears more promising than when the Report was written: overall, the region seems ready for democratic change, regional stability, and integration.

But if the project of expansionary nationalism, the cause of the wars in the Balkans, appears to have been defeated at governmental level, the consequence of the wars has been a legacy of extremist sentiments at a grass-roots level. The trauma of the wars has left a trail of fear and insecurity, guilt and mistrust—emotions that cannot be easily allayed but which seek reassurance in the apparent certainties of ethnic identification. Moreover, the ex-Yugoslav economy was destroyed as a consequence of the disintegration of Yugoslavia and the war. Gross domestic product (GDP) fell dramatically, and unemployment rose to unprecedented levels—in many areas, unemployment is as high as 40%–50%. An illegal informal economy linked to criminal networks and para-military groups across the region became established during the wars, and many people remain dependent on a variety of illegal or informal activities which, up to now, have received “protection” from the nationalist parties. And finally, civil society and non-nationalist

political forces were weakened by war. A form of democratic politics was beginning to develop in Yugoslavia during the period 1990–2, especially in towns. However, it was the urban, educated, secular people, who provided the bedrock of potential democratic politics, who left or in some cases were killed; this was especially true in Bosnia Herzegovina, Croatia and Serbia.

This legacy of grass-roots nationalism is reflected in the continuing strength of nationalist parties in some areas. The parties in power in Belgrade campaigned on a largely nationalist, though democratic, platform. In Croatia the HDZ did well in recent local elections. In Bosnia Herzegovina, despite the success of the Social Democrats, outside observers were disappointed by the percentages still garnered by the nationalist parties. In Montenegro pro-independence parties just gained a majority in elections in April 2001. Meanwhile, in Macedonia the victory of the Macedonian nationalist party VMRO and the radical Albanian party DPA in November 1998, after years of Social Democratic, albeit nationalist, government is an important part of the story of unfolding conflict in Macedonia.

More importantly, however, are continuing nationalist incidents, protests, and even violence. The demonstrations in Split have been mentioned. In Bosnia, there have been violent demonstrations both in western Herzegovina, against international attempts to dismantle the nationalist power structures, and in Republika Srpska, when the Islamic community attempted to lay the foundation stones to rebuild mosques destroyed during the war. There have also been many incidents directed against returning refugees and displaced persons, and the reconstruction of religious or cultural symbols.

Above all, the violence in southern Serbia and Macedonia suggest that the “Albanian Question” is far from solved. In Southern Serbia, the Liberation Army of Presevo, Medvedja, and Bujanovac (УСРМВ) made its appearance in early 2000. These three districts were removed from Kosovo after the Second World War,

while some mainly Serb areas of southern Serbia were added to Kosovo. The ostensible reason for this had to do with communication lines to Greece, Albania, and Turkey; however, the consequence was to diminish the Albanian proportion of the Kosovar population. The UCPMB grew up, along with other armed groups in the ground safety zone (GSZ) established after NATO entered Kosovo in June 1999. This zone was supposed to separate NATO forces from Yugoslav forces, and only lightly armed Serbian and Montenegrin police were allowed to enter. After 5 October 2000, the new Serbian government entered into negotiations with both the UCPMB and NATO; an agreement was reached, which gave local Albanians greater rights, provided for the demobilisation, disarmament, and integration of the former fighters into local security forces, and allowed Yugoslav forces back into the GSZ.

The Presevo agreement represents a model of how this type of negotiation can be carried out. The key ingredients of success were the political will on the part of the Serbian government to reach agreement, pressure by NATO on the Albanian side, the involvement of both the leaders of the armed groups and local Albanians in the agreement, and trust among the various parties to the agreement. Especially important were the efforts of the Serbian government to consult and talk to a wide range of people living in the area: the bottom-up process leading up to the agreement represented a crucially important innovation of great relevance to peace agreements elsewhere.¹ In the long run, the success of the agreement, however, will depend on whether it is effectively implemented.

The situation in Macedonia is quite different. The National Liberation Army (NLA), like the UCPMB, developed in the GSZ, and, like the UCPMB, many were veterans of the Kosovo Liberation Army (KLA). In particular, a number of Macedonian Albanians were members of the Levizja Popullare e Kosoves (LPK), the leftist political party, which originally created the KLA and which had access to the Diaspora funding through the

Homeland Calling Fund (see Chapter 1 of *the Kosovo Report*). As is the case for the UCPMB, serious questions have to be raised as to why Albanian guerrilla groups were able to develop inside the Ground Safety Zone and why supplies were not choked off by KFOR. It has been suggested that this was deliberate; the Americans wanted to destabilise southern Serbia prior to 5 October 2000. This is an explanation favoured in both Serbian and Albanian circles; among Albanians, it contributes to the feeling that the Americans are “on our side” and that it is possible to act with impunity. A much more realistic explanation, however, is the reluctance to allow peacekeeping forces to take risks. Such a large proportion of KFOR manpower consists of “force protection” that there are insufficient resources for public security tasks.

Various reasons have been given as to why the violence began in Macedonia in February 2001: it was intended to protect cigarette smuggling routes or an arms cache cut off by a Serbian–Macedonian agreement to finalise the border; or it was provocation by former Serbian paramilitaries in the region; alternatively, now that Kosovo was on its way towards a solution it was time to deal with the problems of Albanian rights in Macedonia, and violence has been shown to be much more effective than peaceful methods in drawing attention to problems. But whatever the cause of the initial outbreak, the violence has spread much more rapidly than anyone expected. The current government is a coalition between VMRO and DPA. Before the elections of November 1998, both parties had espoused extreme positions. VMRO, on occasion, favoured an ethnically pure state; while the DPA had favoured the federalisation of Macedonia, with a separate Western part, “Ilirida”, under Albanian control. Both toned down their rhetoric after they formed a coalition government. The situation in Macedonia was nothing like the situation in Kosovo during the Milosevic rule and before the NATO intervention. It was a democratic polity, although Albanians, who account for up to one-third of the population, felt themselves to be second-class citizens. They had some

good reasons: the constitution declares Macedonia to be the state of the Macedonian (i.e. Slav) people; the official language is Macedonian, and there is almost no Albanian-language secondary or higher education; and there are very few Albanians in the public administration, particularly the Army and the police.

Nor is the situation in Macedonia similar to the situation in Presevo Valley. In contrast to Serbia, the Macedonian government responded to the violence, with the support of Western governments, with a classic counter-insurgency strategy—the bombing and shelling of villages, where the NLA was thought to reside, combined with the arrest and alleged torture of Albanian civilians in order to identify members of the NLA.² The consequence has been a rallying of the Albanian population and, indeed, the Albanian political parties, who had been pursuing Albanian demands (not very successfully) through peaceful methods, to the NLA cause. There has been deliberate population displacement on both sides, and some 120,000 people were displaced from their homes. Around 80,000 refugees fled to Kosovo; about 50,000 of these are now returned to Macedonia. In August 2001 a peace agreement was brokered by the international community, and this was approved by the Macedonian parliament in early September under international pressure; a NATO force was sent to Macedonia to collect weapons voluntarily handed over to NATO by the NLA. Since then some 50,000 refugees have returned to Macedonia. While the agreement meets most of the Albanian demands, the means through which these demands were fulfilled does not augur well for future trust and cooperation between the two communities. The violent means used by the Albanian guerrilla, and the counter-violence, have undermined the basic elements of trust needed, precisely for the viability of a state based on the coexistence of two separate communities.

Nor can we feel sanguine about the containment of the violence. As we have learned from the last decade, violence in this part of the world is contagious. It spreads through uncertainty

about borders and status, through criminal and paramilitary networks, through refugees and displaced persons, and through the predatory behaviour both of neighbouring states and of a range of “conflict entrepreneurs”.³ Many of the conditions that led to violence in Macedonia—high unemployment, smuggling and other illegal activities, uncertainty, ethnic grievance—exist elsewhere in the region, for example in Montenegro.

THE SITUATION IN KOSOVO AND THE ILLUSION OF SELF-RULE

The situation in Kosovo is similarly characterised by positive and negative developments. The first free municipal elections were held in October 2000 and passed off remarkably peacefully. The moderates LDK, led by Ibrahim Rugova, won a clear victory, mainly because the electorate rejected the successors of the KLA led by Hashim Thaci, who remains associated with the territory’s high level of violence and crime. The new Special Representative of the Secretary General (SRSG), Hans Haekkerup, has promulgated a constitutional framework, which will allow general elections to be held in November 2001. The new Serbian government is cooperating with the United Nations Interim Administration Mission in Kosovo (UNMIK); a UNMIK office has been established in Belgrade and a Committee for Yugoslav Cooperation with Kosovo has been established in Prishtina. The more extreme Serb nationalists have consequently been marginalized (funds for Serb paramilitaries in Mitrovica, for example, have been withdrawn), and Serbs have received greater encouragement to participate in Kosovo political life. Both international and local police forces have now been established, and a judicial system is being created. The economy is recovering; domestic revenue accounted for about 70% of the consolidated budget in 2001, and Diaspora support for reconstruction has been around twice the size of official donations.

On the negative side, however, crime and violence are still

unacceptably high, even though levels have stabilised. Ethnic violence has declined, mainly because almost all Serbs now live in enclaves and their freedom of movement is thus restricted. Mitrovica is now divided both economically and politically. KFOR has proved itself both unable and unwilling to stop continuing violence against ethnic minorities. This is the greatest single failure since the NATO intervention and should be regarded as a moral disgrace, despite the evident difficulties. There are still outbursts of nationalist protest and violence, especially in Mitrovica, where “bridge watchers” on the Serbian side preserve the division of the city. Kosovar Albanian political leaders play lip service to non-violence, but there are no real efforts to bring the violence under control, for example by putting pressure on party rank-and-file members, initiating a genuine dialogue and cooperation with Serbs, or, more generally, trying to create a different atmosphere. Above all, Kosovar Albanian political leaders appear to be ambivalent about the violence in Macedonia and southern Serbia, unwilling publicly to condemn the UCPMB or the NLA. Finally, formal unemployment remains high, at around 50%, and illegal economy activity is also high, ranging from unplanned building to protection rackets, smuggling, and trafficking. These illegal activities provide a disincentive to both domestic and international investment.

From the beginning of UNMIK and KFOR in June 1999, uncertainty over the final status of Kosovo has created tension between local political actors and the representatives of the international community, and within the international community itself, as we pointed out in the original Report. UN Resolution 1244 committed UNMIK to prepare Kosovo for substantial autonomy and self-government within the FRY, even envisioning a continuing FRY police presence within Kosovo. However, given what the Kosovar population had experienced at the hands of Serbian and Yugoslav authorities—denial of civil rights, attacks on villages, massacres, and finally wholesale expulsion—it was never realistic to expect any exercise of FRY sovereignty over Kosovo after the entry of

NATO troops in June 1999. Equally, substantial autonomy and self-government was acceptable to the Albanian population only as a way-station towards some kind of independence. Within the UNMIK administration itself, and the international community more generally, there was a division between those who believed that UN administration was a transitional instrument to prepare Kosovars for self-rule, and those who treated UNMIK as a long-term protectorate. The Commission was struck, on its many visits to Kosovo, by lingering attitudes of imperial condescension, on the part of at least some elements of the international administration, towards the Kosovars' capacity for self-rule.

The Constitutional Framework for Provisional Self-Government, promulgated by the SRSG, Hans Haekkerup, in May 2001, after limited consultation with local political actors,⁴ sets out the rules of the road for Kosovo in the run-up to the Kosovo-wide elections in November 2001 and thereafter. It calls for the creation of an assembly, with guaranteed representation for ethnic minorities; a president, elected by the assembly; and a prime minister and government chosen by the president. The government of Kosovo is entrusted with authority over domestic affairs—economy, education, transport, local administration, judiciary, prisons, and media—but this authority is circumscribed by the SRSG's wide range of reserved powers. He is empowered to dissolve the assembly and call new elections, to set the "financial and policy parameters" for the budget, to appoint and remove judges and prosecutors, to control the Kosovo Protection Force, the Customs Directorate, and the Housing and Property Directorate, to appoint all senior economic officials, to oversee all external relations, and to liaise with KFOR in relation to internal and border security.

The extensive powers accorded the SRSG mean that, instead of the substantial self-government promised the Kosovars under Resolution 1244, they will instead get very limited autonomy. They will have the illusion of self-rule rather than the reality. A pervasive distrust of the administrative and political capacity of the

population appears to underlie the constitutional provisions. If the population is distrusted, it is likely to repay like with like. The Commission believes that people will not behave responsibly unless they are given responsibility. There are reasons to fear that, once the president, prime minister, and government of Kosovo are chosen, following the elections in November 2001, the stage will be set for a growing conflict over the SRSG's reserved powers, and more generally between a local political elite, ratified by their electorate, bent on securing ever greater powers of self-government and an international administration, bent on maintaining its prerogatives. The long-simmering conflict between Kosovar and international visions of self-rule may well be heading towards a constitutional crisis, which will thwart Kosovo's long-term economic and social development.

The unresolved situation in Kosovo has external consequences as well. The so-called "Albanian question" refers to the fact that the majority of the Albanian population found themselves outside Albania after the Second World War, mainly in what was then Yugoslavia. Today there are some 400,000 Albanians in Serbia, nearly 2 million (90% of the population) in Kosovo, around 600,000–700,000 in Macedonia (out of a population of around 2 million), and 40,000 Albanians in Montenegro. In Albania itself, 95% of the 3.5 million population are Albanian. While there may have been dreams of a Greater Albania during the Communist period, those dreams were shattered once the reality was experienced, especially after the war in 1999, when many Kosovar Albanians spent the war as refugees in Albania. The experience of Albanians who lived in the former Yugoslavia, which was relatively liberal, and who were often *gastarbeiter* in western Europe, is radically different from the experience of Albanians in Albania, who lived in the most Stalinist/Maoist closed society anywhere in Europe. Although many Serbs and Macedonians believe that the Albanian goal is a Greater Albania, most Albanians, including guerrilla fighters, claim that their aim is an independent Kosovo,

Albanian rights in Serbia, Macedonia, and Montenegro, and relativised borders so that Albanians can move freely and meet their relatives who are now in different countries. They often cite the example of Germany, Switzerland and Austria where many of them have lived.

Uncertainty about the future status of Kosovo implies that the Albanian question is not solved and that therefore the issue of borders is still open. Far from Kosovar independence acting as a domino, as some have suggested, encouraging the claim for territorial autonomy elsewhere, the uncertainty about the future means that there is still everything to play for and that southern Serbia and parts of Macedonia could still enter the equation through changing the facts on the ground. In other words, the recent conflicts could be treated as a consequence of uncertainty, which provides an incentive to try to change the facts on the ground before a final settlement is reached. Uncertainty and instability act as what might be described as “contagion mechanisms”.

REVISITING CONDITIONAL INDEPENDENCE

UN Security Council Resolution 1244 did not lay down a long-term future for Kosovo. The argument for conditional independence is based on a normative foundation: namely, the case for self-determination arises from the systematic abuse of the human rights of Kosovo Albanians over a long period and the consequent withdrawal of the consent of Kosovar Albanians to Serbian rule. In the Report, the Commission also considered four other options: partition, indefinite protectorate, full independence, and autonomy within a democratic FRY. It has been suggested that the internal and external developments described above and the changed political climate make these other options more desirable as a possible future for Kosovo. It is our view, however, that this changed context does not affect the normative foundation of the case for conditional independence. Moreover, quite apart from the

fact that the context is not stable and could change again, the Commission has concluded that the reasons for rejecting the alternative four options remain valid and, indeed, may have even more justification in the light of recent developments. It is worth briefly summarising those reasons

PARTITION * This option has been raised again recently, in particular, by Vice President Covic of Serbia. He has suggested that Kosovo might be divided and that northern Kosovo might become an entity like Republika Srpska. In the Report, we emphasised the principled objection to partition: such an option would violate “the normative commitment of the international community to avoid population displacement, and to sustain the multi-ethnic and mixed fabric of Balkan societies” (p. 267). But there are also practical objections: it would never be accepted by the majority Albanian population, who regard, rightly or wrongly, the Trepca Mine complex in northern Kosovo as part of Kosovo’s basic endowment, and it could easily lead to renewed violence in the Presevo Valley with the aim of swapping Mitrovica for Presevo.

INDEFINITE PROTECTORATE * This is the option implied by the new constitutional framework. Such an option is unacceptable for all the reasons given above. While it might allay uncertainty if independence were clearly ruled out, the tension between the international administration and Kosovar demands for self-determination could easily reach breaking point.

FULL INDEPENDENCE * As long as political violence continues, both within Kosovo and in neighbouring regions, the prospects for full independence are ruled out. Put simply, full independence in the current context would be unacceptable to both the minority population and the neighbouring states and would have little chance of being approved by the United Nations Security Council, on whose authority the current ambiguous status rests.

AUTONOMY WITHIN A DEMOCRATIC FRY * The overthrow of Milosevic does make the fourth option more attractive to both Belgrade and the international community. One suggestion that is being currently touted is the “three republic” option, whereby Kosovo becomes a republic with equal status to Montenegro and Serbia within a reconstituted Yugoslavia; Resolution 1244 refers to the sovereignty of Yugoslavia, not Serbia, thus opening the possibility of a separation from Serbia but not Yugoslavia. Of course, this option does depend on what happens in Montenegro. After the narrow victory of pro-independence parties in Montenegro in April 2001, there is a real possibility of Montenegrin independence, in which case the issue of Kosovar independence will be raised even more starkly. There is also a possibility that, given the deep divisions within Montenegrin society over the issue of independence, a temporary compromise will be reached with Serbia for a loose confederation for at least a specified time period. Whatever happens, there will have to be cooperation within the former Yugoslavia and between Prishtina and Belgrade. However, the issue of Kosovar’s future status cannot be held hostage to developments within the rest of Yugoslavia. This is one of the lessons of the past decade; Kosovar Albanians were asked to suspend their demands while problems in Croatia and Bosnia were dealt with, allowing discontent to fester. In the Report, the Commission argued that, in the event of democratisation elsewhere in Yugoslavia, it would still be necessary to reject this option because, after all that the Kosovar Albanians experienced at the hands of the FRY authorities for more than a decade, it is unreasonable to expect them to submit to any form of FRY sovereignty, however notional. This argument remains valid. Indeed, now that Kosovo has been, to all practical purposes, removed from the control of the Serbian administrative and legal system, it is even more unrealistic to imagine that Kosovar Albanians could be willing again to accept the presence of Serb officials, to pay taxes to Belgrade or to seek passports from a state that has expelled half of them, destroy-

ing their identity papers to make sure the bond was permanently severed, even if different people, are, at least for the time being, in charge.

CONDITIONAL INDEPENDENCE * The proposal for conditional independence continues to be, in the Commission's view, the preferred option. Since some international actors appear to believe that the self-government provided by the May 2001 constitutional principles amounts to conditional independence, in fact if not in name, it is important to distinguish between self-government under UNMIK and conditional independence. Under the former, the UN administration retains detailed oversight over domestic policy, police and judiciary, as well as the entire gamut of international relations. These amount to vice-regal powers, appropriate to a colonial dependency, rather than to a self-governing people. Under the Commission's idea of conditional independence, the domestic powers currently reserved to the SRSG would be progressively transferred to the Kosovo government; at the end Kosovo will be independent, however conditional, outside FRY. There seems no coherent reason why Kosovars themselves should not have control over the financial and policy parameters of their own budget, especially since over 70% of administrative revenue in the province is raised internally, rather than coming from international sources. Equally, the Commission can see no convincing reason why the Kosovo government should not have control over such matters as customs, judiciary, the police, public, state and socially owned property, railways and transport, civil aviation, the housing and property directorate, commercial property, municipal boundaries, the regulation of firearms—indeed, the whole range of powers reserved to the SRSG under Chapter 8.1, sections a–z, and 8.2, as well as the undefined residual powers allocated to the SRSG under Chapter 12. If there is no good reason why these powers should not be exercised by the Kosovo government, the Commission predicts that a struggle will ensue to acquire them.

In addition to the domestic powers, described above, the Commission believes that the Kosovo government should have the power to negotiate with and make representations to the international security presence, KFOR, and also to enter into negotiations with international agencies and foreign governments. It is especially important that the new Kosovo government develop peaceful relations with all of its neighbours, especially Macedonia and Serbia. If the international relations of the new entity remain solely in the hands of the SRSG, the Kosovars will cease to have any incentive to behave responsibly towards their neighbours.

What, then would be the limits imposed on self-rule? The exact nature of the conditions for independence would be the outcome of a process of deliberation both within Kosovo and with Kosovo's neighbours. The Commission proposes, as a starting point, the following four conditions.

1. *Explicit renunciation of any change of borders, i.e. explicit renunciation of any project of Greater Albania or, indeed, Greater Kosovo (including, for example, Presevo Valley or western Macedonia).* In other words, Kosovar political leaders must repudiate the nationalist logic that ethnic groups have to be contiguous with borders. While they may support Albanian rights in other countries and cooperation with their neighbours, they must make clear their commitment to non-interference and to territorial integrity.
2. *A constitutional guarantee of human rights for all citizens of Kosovo.* This means that the minorities would enjoy equal access to and participation in the institutions of Kosovo, including the judiciary, the police, and elected office, as well as internationally protected rights to government services and education in their own language. Such a constitutional guarantee has to be much more than a paper commitment: it must be assimilated into the thinking and behaviour of Kosovo political life. There have to be real efforts at coopera-

tion, dialogue and reconciliation among the various groups in Kosovo. In particular, the aim must be to create conditions in which Serbs who have left Kosovo feel able to return should they choose to do so, and to give those minorities who remain in Kosovo a stake in their society.

3. *The renunciation of the use of violence in settling internal or external disputes.* There must be real efforts, both by Kosovar political leaders and by civil society, to build a culture of non-violence within Kosovo. It is not enough to pay lip service to non-violence: there must be seen to be meaningful measures to condemn and prevent violence both within Kosovo and outside. Kosovar political leaders must clearly renounce any attempts to use force to secure Albanian demands and must distance themselves clearly from groups such as the UCPMB or the NLA.
4. *A commitment to regional cooperation, regional governance, and enduring regional institutions.*

Effective supervision of these conditions would require a continuing international presence in Kosovo, with special responsibility for the protection of borders and of minorities. Kosovo is a divided society, and it will require both an international security presence and international assistance for some time to come. There will have to be some institutional mechanism whereby the international community can act when inter-communal violence or violations of the rights of minorities threaten the stability of the province, and/or when the Kosovo government proves unwilling or unable to act, or to prevent any armed interference in neighbouring states. The powers of the international community, which might or might not continue to be vested in the SRSG, therefore should be restricted to the protection of minorities, the guarantee of individual human rights, and the guarantee of the integrity of the borders; and these powers should be exercised only when locally elected authorities manifestly fail to discharge their duties

under the constitution. Over the longer term, as the Kosovo government builds up its administrative and political capacity, and as the situation in the region grows more conducive to peace, it should be possible for the role of the international community to diminish further and for the people of Kosovo to assume ever-greater responsibilities. This is the future envisaged by the idea of conditional independence. It is quite distinct from limited self-rule under UNMIK.

Conditional independence is both a goal and a process. The goal is sovereignty and independence for the people of Kosovo, within limits prescribed by the international community—that is, provided Kosovo respects the territorial integrity of its neighbours, maintains internal peace and respect for human rights, and provides protection for the traditions and institutions of the minority community. Conditional independence does not preclude (indeed, it probably requires) developing close relations with Kosovo's neighbours, especially those in whatever entity is developed to replace the FRY. But these new relations are best developed on a voluntary basis from the starting condition of sovereign independence, and it is up to the people of Kosovo, in free negotiations with their neighbours, to decide what these should be. Conditional independence is also a process of progressive devolution, under which powers currently held by the international community, through the SRSG, are progressively transferred to locally elected officials. The goal of conditional independence is not to keep political responsibility in the hands of the international community, but to devolve it back where it belongs, to the people of Kosovo.

There are three main arguments that are put forward against this proposal. The first concerns democracy in Serbia. Both among Serbian officials and among the international commentators, it is often argued that this is not the moment to raise the issue of Kosovo's future status for fear it might undermine the progress towards democracy—the issue could be exploited by extremist

politicians and might divert attention from urgent everyday tasks. Undoubtedly, an independent Kosovo, however conditional, formally outside FRY, is a bitter pill for many Serbs to swallow. It is all the more important that Kosovar Albanian leaders reach out to Belgrade and begin discussion now about how to build a new relationship. Such a discussion should include the creation of conditions for the return of refugees, the preservation of Serbian historic sites in Kosovo, the search for missing persons, and the exchange of prisoners, as well as economic cooperation.

There are still 3–4000 missing persons from the war, most of the Kosovo Albanians. It is a legitimate demand from both Serbs and Kosovo Albanians that UNMIK and other relevant authorities spend more resources and energy to find out what has happened to them. Most of them are probably dead. And so far the exhumation work in Kosovo and Serbia has been too slow.

There are still some 2–300 Kosovo Albanians being held as political prisoners in Serbian prisons. The Government in Belgrade must release these persons as soon as possible. This is an important step towards reconciliation.

It is the Commission's view that postponement of the issue could make it harder to deal with, not just in Kosovo, as argued above, but also in Serbia itself. Just as in the case of cooperation with the War Crimes Tribunal, it is easier to take difficult decisions now, when the popularity of the post-Milosevic regime is high, than later, when the euphoria has died away. Kosovo's conditional independence could be viewed as the price for liberating Serbian democracy from nationalist delusions, opening the way for reconciliation with its neighbours and the prospects of a "return to Europe". After a decade of wars, Serbian society is exhausted and needs "normality". Kostunica could put his nationalist credentials and his democratic mandate to good use by making a clear break with the Milosevic era and the myth of Serbian "reconquest of Kosovo". There is a tendency in Serbia to treat 5 October 2000 as Day Zero; yet Serbia needs to come to terms

with its past as a basis both for a return to “normality” and democratisation within Serbia, and for regional cooperation.

The second argument against conditional independence is the domino argument. Conditional independence, it is said, could encourage demands for the independence of Montenegro and the partition of Bosnia or Macedonia, not to mention demands inside Serbia in Vojvodina, for example, or Sandzak. There are four reasons for rejecting this argument. First of all, the conditions for independence rule out any direct spill over from Kosovo; the renunciation of nationalist logic, the repudiation of violence and the commitment to non-intervention means there could be no direct consequences for Kosovo’s neighbours, and moreover, the continuing presence of the international community will guarantee those conditions. Secondly, the independence of Kosovo will remove the uncertainty generated by the provisional character of Kosovo’s current status and reduce the incentive to change the facts on the ground, as argued above. Thirdly, it is important to emphasise the normative case for Kosovo’s independence. In legal terms, the case for self-determination of Kosovar Albanians arises from systematic abuse of human rights over a long period. The same claim cannot be made by Serbs in Bosnia or by Albanians in Macedonia. Indeed, any group that has the temerity to claim that its situation is comparable to that experienced by Kosovar Albanians before 1999, as in Macedonia for example should be sharply disabused. Fourthly, it is difficult to see why any of the alternative options proposed are less likely to generate domino-type consequences for Kosovo’s neighbours. As is the case for Serbia, it is important that Kosovar political leaders start to engage in dialogue and cooperation with their neighbours aimed at reassuring them about Kosovo’s respect for their integrity and good will.

The third argument that is put forward against any change of status in Kosovo has to do with the Security Council. It is argued that attempts to move beyond UN Security Council Resolution

1244 would jeopardise the compromise with Russia—that Kosovo should remain within Yugoslav borders—which was important in ending Nato’s military intervention. Yet, as we have argued, the current status quo is untenable. Russia would object to the independence of Kosovo, but it is inconceivable that it would stand in the way of a solution once an agreement had been reached in the region. The more important then for NATO and the EU to put pressure on the governments in the region to reach such an agreement, based on the new realities.

The classic nineteenth-century concept of sovereignty, even if it rarely pertained in practice, was a concept of absolute territorial sovereignty. In the twenty-first century, sovereignty is necessarily shared and dependent on agreements with a range of international actors.

In the Balkans, a nineteenth-century concept of sovereignty, often espoused by nationalist leaders, is synonymous with insecurity and the renewed risk of war. A truly secure sovereignty in the Balkans—as indeed elsewhere in Europe and the world—is one that is conditional upon international agreements. As far as Kosovo is concerned, conditional sovereignty is the only way to make independence acceptable to Kosovo’s neighbours and to enhance security.⁵ The important difference between the kind of sovereignty proposed for Kosovo and that which pertains elsewhere in the world is that the conditional character of Kosovar sovereignty is not voluntarily chosen, and that it needs to be spelled out and codified, and also explicitly supervised. In other words, conditional independence, in the case of Kosovo, has a specific content. It means that independence can be achieved only on the basis of certain agreed conditions and that, even after independence, it will remain the responsibility of the international community to guarantee that those conditions are met. In other words, sovereignty will be explicitly supervised.

TOWARDS A REGIONAL PROCESS

How might conditional independence come about? As soon as possible after the November elections, a clear statement from representatives of the international community committing themselves to the goal of conditional independence could pre-empt a destructive debate with the newly elected Kosovar leadership. Even without such a statement, the newly elected leaders could set out their agenda for a process that could lead to independence. They could:

- express their commitment to the conditions for independence, especially the renunciation of violence and the inviolability of borders;
- initiate a far-reaching process of dialogue both within Kosovo and with Kosovo's neighbours about how to implement the conditions. This dialogue should involve both political leaders, i.e. elected representatives, and civil society. Especially important is a dialogue with the FRY, so that both leaders and ordinary people understand that Kosovo is no longer part of the FRY but does want to cooperate seriously on issues such as the preservation of historic sites and the return of refugees;
- engage in a negotiation with UNMIK about a new constitutional framework, which would transfer the current powers of the SRSG gradually and progressively to the Kosovo government as it builds up its administrative and organisational capacity.

The process of dialogue should be regarded as part of a wider regional process, in which the international community plays a leadership role aimed at enabling rather than imposing solutions. In recent months there has been considerable interest in the idea of a new international conference for the final settlement of outstanding issues in the region so as to eliminate the contagious consequences of uncertainty. In the last decade, however, there have

been many international conferences — the London Conference of 1992, Dayton, and Rambouillet, to name but a few — which failed either to reach a final settlement or to have their decisions implemented. The fundamental problem is that this type of top-down conference fails to address the central issue: the relation between formal decisions (sovereignty, borders, or constitutions) and everyday life. Most ex-Yugoslavs have experienced highly centralised, authoritarian, top-down regimes, and this, in part, explains the preoccupation with formal issues. It is the frustrations of everyday life that create the underlying conditions for grass-roots nationalism. The key question is how to decentralise and democratise everyday life, so that issues like sovereignty and borders matter less. On this line of thinking, any attempt to reach a final settlement would need to combine long-lasting decisions about the formal framework with a changed relation between the formal framework and informal processes — that is to say, a changed character of sovereignty in which symbols and borders matter less. In order to be long-lasting and to reflect the changing character of sovereignty, it would also need to be less top-down than similar settlements in the past; there would need to be much greater involvement of, say, civic groups and municipalities in the process of reaching a final settlement.

A regional process of this type, which might culminate in a final conference and settlement, is along the lines proposed by the Yugoslav Foreign Minister, Goran Svilanovic, for a Balkan Helsinki Process. Such a process would need to combine three components.

- Classic Helsinki issues — borders and minority rights
- New issues dealing with the relation between formal decisions (borders, constitutions, symbols of sovereignty) and everyday life.

Up to now, this has been discussed mainly in relation to economic issues; thus, the Stability Pact framework has paid

considerable attention to policy measures such as trade liberalisation or common infrastructure. But other issues are also important. The Nordic Council cooperation could provide a model for this type of approach. Issues might include the following.

Reconciliation. The biggest obstacle to integration of Serbs and Albanians in Kosovo, agreement about the future status of Kosovo, or integration of Slavs and Albanians in Macedonia is the absence of a common truth, an agreed story about the events of the past decade that overcomes the mutually incompatible versions that currently exists. Competing narratives of victimhood and inconsistent chronologies are obstacles to wider regional reconciliation. There are proposals for Truth and Reconciliation Commissions in both Serbia and Bosnia. However, without the involvement of people from the region as a whole, there is a risk that these commissions could end up with at best partial truths and at worst with separate and rival national narratives. This is why a regional process could be so important. Such a process should also deal with confidence-building measures such as the search for missing persons and the exchange of prisoners.

Cultural heritage. In Belgrade the Commission members were informed about the destruction of the Serbian cultural heritage in Kosovo over the past year. In Banja Luka in May 2001, there were demonstrations against Muslim attempts to reconstruct mosques that had been destroyed during the war. This region is rich in history, and the monuments of different nations and religions are part of a Balkan-wide heritage. Therefore, ways to protect the cultural framework of the region as a whole need to be discussed. The commitment of individual states to protect their cultural patrimony in cooperation with their neighbours is a test of political maturity.

Security. An integrated security structure throughout the region, involving KFOR as well as local forces, could provide a way of both professionalising forces and preventing conflict. Cooperation between KFOR and Serb forces in the Presevo valley might provide a model for similar sorts of cooperation.

These examples are not comprehensive; other issues such as health care, education, and the media could be added to the list.

- Proposals for institutionalisation of a regional framework. At present, there is a proliferation of regional initiatives—the Stability Pact, the Stabilisation and Association Agreements with the EU, the NATO partnership agreements—as well as various forms of international involvement—UNMIK, the Office of the High Representative in Bosnia, and the NATO presence in Albania and Macedonia, for example. What is lacking is a clear sense of political direction and a sustained political commitment to the region. There were great hopes, for example, for the Stability Pact, which began with great fanfare in Sarajevo in the summer of 1999 but has since lost political momentum. It could be important to discuss ways to rationalise these various initiatives into a single Balkan framework, linked to the EU, with headquarters in the region, perhaps Sarajevo.

Such a regional process would need to be authorised at the highest level, both by governments in the region and by the international community, but it would need to provide a framework for a “bottom-up” grass-roots process that involves discussion at all levels of society. In its small way, the negotiations in the Presevo Valley provide a model for such a process.

CONCLUSION

Our Report took the position that, under certain exceptional circumstances amounting to an impending or unfolding humanitarian catastrophe, it could be appropriate to rely on international force without its acting under the authority of the United Nations. In such circumstances, it is essential that the use of force be in strict accordance with a series of guidelines set forth in a framework of principles intended to govern any instance of humanitarian intervention. (For text of this framework see the Kosovo Report, pp. 193–5.) The Report also supported the complementary position that, even in the context of a humanitarian intervention backed by UN authority, there exists an international duty to comply with these guidelines.

It is the Commission's view that the events in Kosovo since 1999 enable us to reaffirm these positions with the added confidence of experience. To give these guidelines, or some altered formulation, greater stature; it would be highly desirable to have them endorsed formally by organs of the UN, especially by the Security Council and General Assembly. It might be beneficial to entrust the International Law Commission with the task of developing an authoritative text of the framework of principles.

The experience of the months since the Report was issued also has demonstrated the relevance (and insufficiency) of the framework with respect to the duty of international interveners subsequent to the Kosovo intervention. Of particular concern was the application of Principles 9 and 11 of the framework. Principle 9 is formulated as follows: "There must be even stricter adherence to the law of war and international humanitarian law than in standard military operations. This applies to all aspects of the military operation, including any post-cease-fire occupation." The Commission is of the view that KFOR deserves praise for such adherence during the course of its occupation up to the present time. However, KFOR and UNMIK did not exercise sufficient diligence

to protect threatened minorities, especially in the early stages of occupation, permitting the process sometimes described as “reverse ethnic cleansing”, and leading to many instances of abuse directed at the Serb minority population of Kosovo and to their allies, especially among the Roma people. Greater efforts should have been taken from the inception of the occupation to protect civilians in Kosovo, and to establish the Rule of Law. Greater efforts should also have been made to secure the borders and prevent supplies reaching armed groups in the GSZ and in southern Serbia and Macedonia. The second sentence of Principle 9 should thus be reformulated to take account of this imperative: “This applies to all aspects of military operation, including any post-cease-fire occupation, *and imposes a particular duty of occupying forces and their administrative counterparts to give the highest priority to the protection of threatened segments of the civilian population, including the prevention of acts of revenge and retribution.*” The failure to fulfil this duty has definitely eroded the legitimacy of the NATO intervention, but not to the extent that the Commission would withdraw its position of support for what was done, which on balance did bring to an end a deepening humanitarian catastrophe which, without the NATO intervention would in all probability have resulted in massive and continuing abuse of the great majority of the people living in Kosovo.

In general, the Commission concludes that recent developments in the Balkans underline the importance of the original proposals in the Kosovo Report. Far from being a reason for postponing a sustainable solution to the Kosovo conflict, the fall of Milosevic has offered an opportunity for an agreement of the future status of Kosovo between Serbia and Kosovo. It is obvious however, that the international community, especially the Western powers who supported the intervention, and consequently have a considerable responsibility, must put pressure on the partners to use this opportunity. Indeed, there is a risk that Western governments are repeating the historic mistakes made

towards Kosovo in the early 1990s: by failing to support the non-violent resistance to Serbian oppression, and by excluding the issue of Kosovo from the Dayton talks, the international community allowed the conflict to fester and, moreover, sent a message to the Kosovars that the outside world takes notice only of violence. This was what gave rise to the KLA.

The same situation may be happening now. The solution of Kosovo's status should have been given the same priority as the arrest of Milosevic by Western governments after his fall from power. The same arguments against raising the Kosovo issue were made against insisting on the transfer of Milosevic to The Hague. As it turned out, the arrest of Milosevic has probably been a positive development for democratisation in Serbia. A decision about the future of Kosovo could very well have positive consequences too. The postponement of any decision on Kosovo, however, has already had negative consequences. The uncertainty has contributed to the violence both within Kosovo and in neighbouring states. Moreover, Kosovar political leaders have had little incentive to try to do what the international community has failed to do: to create a secure internal and external environment.

The elections in Kosovo in November 2001 offer another opportunity to put forward the proposal for conditional independence. The international community could pre-empt future conflict by putting a proposal for eventual independence on the table. And the Kosovar political leadership could seize the post-election honeymoon to try to start implementing the conditional part of the deal.

The Commission still considers NATO's intervention in Kosovo to be legitimate. However, the legitimacy of the intervention could be undermined in future by a failure to make a sufficient commitment to the future of Kosovo and the region and to take the political initiatives, with appropriate military and economic backup, needed for a sustainable solution. In our view, this means a commitment to conditional independence for Kosovo and a

process of dialogue and cooperation for the region. All those who took part in the intervention have a responsibility to ensure that the legitimacy of NATO's intervention is preserved through constructive follow-up.

END NOTES

- 1 Members of the Commission spoke with Ivan Bender, an adviser to Vice President Covic, who negotiated the agreement. Bender is a new recruit to government; he was formerly a student activist, who had supported the Kosovar students in their campaign to implement the Education Agreement in the autumn of 1997 (see *the Kosovo Report*, Chapter 1). He was sent to the region by Covic, where he spent several months, touring the villages, discussing the grievances of local people and gaining their confidence, even helping them with their cows. This bottom-up approach undoubtedly laid the basis for the agreement.
- 2 Reference to Human Rights Watch report on Macedonia: see www.hrw.org
- 3 See the European Stability Initiative on Montenegro: "*Rhetoric and Reform: A Case Study on Institution building in Montenegro, 1998-2001*", 1 July 2001, Podgorica and Berlin. Available at www.esiweb.org.
- 4 Flaka Surroi, who represented civil society on the working commission for the constitutional framework, resigned. The reasons, given in her resignation letter, were as follows: "First, the Constitutional Framework was adopted and the people of Kosova were not even asked about it. It was drafted by a group of professionals and discussed only with political parties. Needless to say that civil society was completely ignored. Further on, according to the provisions of this document, Kosova will elect self-governing structures that will have extremely limited authority. Finally, I cannot be part of the team that is to design the rules for the elections that will lead to establishing a system in which almost all powers will be concentrated in the hands of one person and his assistants; the rules for electing an assembly that will have legislative power always subject to veto; and the rules to appoint a president that will present awards and express gratitude".
- 5 The same sentiment was expressed by the Albanian foreign minister, Pascal Milo: "We want these borders to become less important. We are thinking of joining the EU so we want this to be a region of cooperation. The philosophy of nationalism, of extremism, goes against the principles of a united Europe. The nationalists and extremists want to close borders and create small nation-states. For us, that would be counter-productive" (quoted in Tim Judah, "Greater Albania?" *Survival* vol. 43, no. 2, 2001, p.16).

ACRONYMS

DPA	Radical Albanian Party in Macedonia
EU	European Union
FRY	Federal Republic of Yugoslavia
GDP	Gross Domestic Product
GSZ	Ground Safety Zone on border of Kosovo
HDZ	Croatian Democratic Union
ICTY	International Criminal Tribunal for the former Yugoslavia
KFOR	Kosovo (International Security) Force
KLA	Kosovo Liberation Army
LPK	Levizja Popullare e Kosoves
NATO	North Atlantic Treaty Organisation
NLA	The National Liberation Army in Macedonia
SDA	Party of Democratic Action, in Bosnia Herzegovina
SRS	Special Representative of the Secretary General
UCPMB	Liberation Army of Presevo, Medvedja and Bujanovac
UNMIK	United Nations Interim Administration Mission in Kosovo
VMRO	Macedonian radical Slav nationalist party

BACKGROUND ABOUT THE COMMISSION

The initiative to form the Independent International Commission on Kosovo was taken by the Prime Minister of Sweden, Mr Göran Persson, who concerned by the absence of independent analysis of the conflict in Kosovo and any real attempt to research the lessons to be learnt from the conflict. The Secretary-General of the United Nations, Mr. Kofi Annan, with whom he informally canvassed the idea, endorsed the project.

Prime Minister Persson announced the establishment of the Commission on August 6, 1999. Direct involvement by the Swedish government in the Commission extended only to the invitation to Justice Richard Goldstone of South Africa and to Mr. Carl Tham, Secretary-General of the Olof Palme International Center in Stockholm to act as chairman and co-chairman respectively.

Appointment of the remaining 11 members of the Commission was made after invitations had been extended to particular individuals by Justice Goldstone and Mr Tham. Given the sensitive nature of the initiative—the very many international actors who stood to be scrutinized by the Commission—selection was made on the basis of known expertise and with due regard for the gender and geographical composition of the Commission.

The Commission members have convened six times:
September 1999 – Stockholm
December 1999 – New York
April 2000 – Budapest
June 2000 – Florence
August 2000 – Johannesburg
September 2001 – Stockholm

After the launching of the report the Commission has had 20 seminars in Northern America, Europe and Japan. It has also had consultations with Governments including the United States and The Federal Republic of Yugoslavia.

MISSION STATEMENT FROM 21 SEPTEMBER 1999

The Independent International Commission on Kosovo will examine key developments prior to, during and after the Kosovo war, including systematic violations of human rights in the region. The Commission will present a detailed, objective analysis of the options that were available to the international community to cope with the crisis. It will focus on the origins of the Kosovo crisis, the diplomatic efforts to end the conflict, the role of the United Nations and Nato's decision to intervene militarily. It will examine the resulting refugee crisis including the responses of the international community to resolve the crisis. The effect of the conflict on regional and other states will also be examined. Furthermore, the Commission will assess the role of humanitarian workers, NGOs and the media during the Kosovo war. Finally, the Commission will identify the norms of international law and diplomacy brought to the fore by the Kosovo war and the adequacy of present norms and institutions in preventing or responding to comparable crisis in the future.

In addition the Commission will take up: The future status of Kosovo, Lessons learned for Kosovo, and Lessons learned for the future.

THE MEMBERS OF THE COMMISSION

Chairman Richard Goldstone, South Africa

Co-chairman Carl Tham, Sweden

Members:

Grâce d'Almeida, Benin ¹

Hanan Ashrawi, Palestine ²

Akiko Domoto, Japan

Richard Falk, USA

Oleg Grinevsky, Russia ³

Michael Ignatieff, Canada

Mary Kaldor, UK

Martha Minow, USA

Jacques Rupnik, France

Theo Sommer, Germany

Jan Urban, the Czech Republic

Assisting the Commission:

Mark Ellis, legal advisor ⁴

Pia Övelius, director

Anki Wood, press

Liam Mahony, editing ⁴

Nicole Fritz ⁴, Estelle Dehon ⁴ and Tung Chan ⁴

Statistical team in Washington: Scott Carlsson ⁴,

Charles Rudnick ⁴, Randy Clark ⁴, Wendy Betts ⁴

The Commission extends its warm thanks to all the people who have made the Kosovo Report and the Follow-up possible.

1 Grâce d'Alemlida was unfortunately not able to participate in the work with the Follow-up due to other pressing engagements.

2 Unfortunately commitments to peace initiatives in the Middle East has prevented Dr. Ashrawi from participating in more than the first of the Commission's meetings and is therefore, not associated with the report.

3 Unfortunately ill-health prevented Ambassador Grinevsky from participating in more than the first of the Commission's meetings and he is not associated with the report.

4 Only the Kosovo Report.

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