Federalism, Decentralization and Conflict Management in Multicultural Societies -International Community-

Serap BINDEBIR, Mia HANDSHIN, Miodrag JOVANOVIC, Christian E. RIECK

Inter-state functional economic unions are recognizable in today's world. Nevertheless, the growing demands of various intra-state minorities for the recognition of their community rights, the most important being rights to self-government and territorial autonomy, is perhaps one of the most significant forces behind this trend. One plausible explanation for the fact that this process influenced even the most stable liberal-democracies of the West could be found in the abandoning of the long lasting myth of ethno-cultural homogeneity of the nation-states. Since it would be impossible to implement, without serious conflicts, the principle that all political and ethno-cultural units are congruent, various modes of decentralization and federal regimes become almost imperative as conflict management devices of a modern state organization. This paper explores the application of the federal idea in the management of internal conflict, International Community intervention into such conflict, the legitimacy and benefits thereof and identifies several key challenges for future reform. Two case studies (Cyprus and the Federal Republic of Yugoslavia) are analyzed in order to provide an insightful illustration.

I.
INTRODUCTION

In his well-known 1996 article, Daniel J. Elazar states that students and scholars of both federalism and international relations have recently noticed that "the world as a whole is in the midst of a paradigm shift from a world of states, to a world of diminished state sovereignty and increased interstate linkages of a constitutionalized federal character." (Elazar: p. 417). Therefore, when we speak today about the questions of federalism, decentralization and conflict management in multicultural societies, we are inevitably faced with the increasing elusiveness of present state borderlines.

The most obvious example of this phenomenon is Europe. What we are witnessing in this part of the world "is not a paradox of simultaneous integration and fragmentation. Instead, we need to understand contemporary Europe as an area in which the nature of borders is in process of fundamental change." (Christiansen and Jørgensen: p. 62). Increasingly, in the words of Ingolf Pernice, European constitutionality is morphing into a "multilevel constitutionalism" (Pernice: p. 703).

The federalist trend is clearly visible at the sub-national, national and supra-national levels.

Certain features of this trend, especially inter-state functional economic unions, are recognizable in other parts of the world as well. Nevertheless, the growing demands of various intra-state minorities for the recognition of their community rights, the most important being rights to self-government and territorial autonomy is perhaps one of the most significant forces behind this trend. One plausible explanation for the fact that this process influenced even the most stable liberal-democracies of the West could be found in the abandoning of the long lasting myth of ethno-cultural homogeneity of the nation-states.[1] According to some estimates, the world's independent states of today "contain over 600 living language groups, and 5,000 ethnic groups." (Kymlicka: p. 1) Since it would be impossible to implement, without serious conflicts, the principle that all political and ethno-cultural units are congruent, various modes of decentralization and federal regimes become almost imperative as conflict management devices of a modern state organization.

This paper explores the application of the federal idea in the management of internal conflict, International Community intervention into such conflict, the legitimacy and benefits thereof and identifies several key challenges for future reform. Two case studies may serve as an insightful illustration thereto.

---

[1] The new autonomous status of Corsica in France, complicated federal structure of Belgium, devolution process in Great Britain, federal reform plan in Italy, Quebec as the "distinct society" in Canada are examples of this new openness in the liberal democracies of the West.

II.
IS THERE AN INTERNATIONAL COMMUNITY?

The concept of an International Community presumes the existence of a broad range of common values and coordinated interests among states. However, states have very ambiguous interests, both in relation to specific ethnic conflicts and in regard to human rights issues. As Marina Ottaway has bluntly put it, the International Community is an unwieldy entity with no single center and lots of contradictions. Meanwhile, the multilateral organization that by its mandate should play the dominant role in peacekeeping and state-reconstruction – the United Nations – is the weakest and most divided of all (Ottaway: p.20).

Special interests related to particular conflicts may be derived from hegemonic or geopolitical concerns of influence and dominance, or from ethnic identification with one of the parties to the local conflict. Countries having large numbers of their own national minorities living in other countries respond to demands for support in cases where those minorities are involved. Examples of such include: the Indian concern with the Tamils of Sri Lanka, which led to a traumatic peacekeeping effort and the Armenian concern with the majority population in the Azerbaijani enclave of Nagorno-Karabakh.
The combination of hegemonic interests, ethnic identification, and geopolitical concerns causes many states to have ambivalent attitudes in response to certain conflicts – such as the British do in its former colony Sierra Leone. Many other states want to avoid becoming involved at all, because of unforeseeable consequences.

J. Bryan Hehir makes a valid point, when he speaks of the International Community as important and valid primarily as a moral concept that in turn can shape institutions and inform policy choices. He offers the notion of "human community", which exists prior to the sovereign state, its moral reality rooted in shared human nature, and its normative imperative being one of solidarity – a conscious conviction that common humanity sustains a minimal number of moral obligations across cultures, national boundaries, and geographical distances (Hehir: p.38).

It is possible to observe an increasing preference for handling such issues through including international and or regional organizations. Regional supranational organizations often dispose of the financial means and federal experience, whether at a national level or in terms of their membership of the organization, to place them in an optimal position to assist in defusing crises involving ethnic groups within multicultural communities. It is often the case that the federal experience is suggested as a means of organizing the conflicting nation and therefore, of re-building a nation.

Although international laws and institutions are still qualitatively weaker than in the respective domestic member societies, the second half of the 20th century has seen a substantial development and maturing of the international architecture. It has been given shape and structure above and beyond the the role of the sovereign state that for centuries has been the principal unit of authority and action in international relations (Hehir: p.38). Nation-states will not cease to be of great relevance in global affairs – especially in matters of armed response –, however it is safe to say, that they will continue to change into a more cooperative entity than had long been its Westphalian brother.
Even today, many strands of cooperation have asserted themselves over the years, but, as in the words of the UN secretary-general, the International Community is still a work in progress (Annan: p. 31).

III.
FEDERALISM AND DEMOCRACY

Federalism is more than a mere redistribution of legislative responsibilities and competencies; federalism is a mindset. That is why it is intrinsically linked to democracy itself. Federalism can strengthen democracy by allowing for a more accountable government that is nearer its citizens. The more opportunity a federal state offers both institutionally and procedurally to achieve consensus, show commitment to and identify with democracy, the better the chances of achieving functionality, stability and permanency.

While it is true that a federal order is not an indispensable condition of democracy, it comes closer to achieving the democratic ideal than any unitarian order. It is arguable that federalism could overemphasize centrifugal forces at the expense of centripetal ones. In order to address this, strong institutions, effective delivery of policies and unifying symbols need to be set in place, together with an independent and impartial judicial system that enforces minority protection rights, the rule of law and the secularity of the state.

IV.
CONFLICT MANAGEMENT AND RESOLUTION,
NOTES ON THIRD-PARTY INTERVENTION

Even when conflict resolution is practiced well – as is all too rarely the case –, a number of inherent dilemmas still go largely unanswered. They have been categorized as the dilemmas of legitimacy, justice, management, force, power and prevention (Zartman: pp. 15-17). We'll touch upon some of them in the following chapters.

In the case of former Yugoslavia, as in other cases as well, it would seem that the legitimacy of intervention is established by virtue of the interveners assuming the mantle of the tier of a supra-national federal arrangement into which it is anticipated the state will enter. Intervention is legitimated to an extent because the purpose of such intervention, while in part about conflict management, seeks to ensure that the state fulfills the conditions for membership of that larger arrangement.
It is not solely about imposing a solution from on high. Otherwise conflicting communities are convinced to cooperate by a range of benefits as promised by membership and there is incentive for the state to reflect the values of the larger group in its own institutions, structures and constitution.

In addition to establishing the legitimacy of international intervention, this application of the federal idea at a supra-national level may provide for the nurturing of values including the protection of minority rights, democracy and the rule of law, and ensures the manifestation of those values in institutions and infrastructure – simply by offering future participation on an equal footing.
Depending on the situation, non-violent forms of international intervention may be useful and, indeed, very much effective. Consultation, conciliation, mediation, arbitration and adjudication are the most common tools. International Tribunals as in the case of Rwanda, or the National Truth Commission in South Africa are interesting examples of how to increase transparency and also of how to federalize justice, too.

In their article on Conflict Resolution in Africa, Mary Spear and Jon Keller observe that:

> *the case of South Africa is instructive for other countries with intrastate conflict or rivalry among majority and minority ethnic groups. The fact that Mandela, the leader of the majority, allowed de Klerk and another ethnic rival (Chief Gatsha Buthelezi) positions of some influence and conceded regional autonomy is an excellent example of the importance of legitimacy and participation in diffusing conflict. If a rebel or a minority group believes that it has no voice in the governance of the nation or possesses no degree of regional autonomy, conflict will continue. Therein lies the tremendous significance of infusing a nation's institutions and political culture with democratic values: such a political and social context exerts a powerful pacifying force upon potentially violent conflict* (Spear and Keller: p. 123).

Ethnic and religious troubles cannot be defused by force. Only through the arduous process of institution-building can this be achieved. As opposed to the "blood and iron"-dogma of old, a more holistic and civilized approach to conflict management must not shy away from nation building – in which the protection of individual and collective rights is paramount. This is not without risks, as history has bitterly shown: Just compare Somalia and East Timor. For nation building to work, some harsh compromises are necessary – including military coercion and the recognition that democracy is not always a realistic goal. It should not try to impose common identities on deeply divided peoples but to organize states that can administer their territories and allow people to live together despite their differences (Ottaway: pp. 16, 17).

However, in one way or another, tolerance, equality, non-discrimination, ethnic autonomy within some national framework, self-rule, participation and linguistic freedom will have to comprise the values fostered by the International Community – however difficult this might turn out to be.

The promise of inclusive participation domestically, regionally or indeed internationally is a crucial conflict transformation device. It can be a leverage for the International Community to ensure the protection of minorities and the development of a sound legal and socio-political foundation which reflects the values of that broader community. The federal ideal at work in the International Community therefore, is a key conflict management tool.

V.
REGIONAL INTEGRATION AND THE INTERNATIONAL COMMUNITY

Federalization is a global mega-trend. Both supra and sub-nationally, the nation-state is devolving powers. The world is striking a new balance of sovereignty, codifying equality and non-discrimination in international law and within the countries' respective constitutions.

A constitution is much more than a formal organizational chart, it is a living expression of a people's culture, history and aspirations (Häberle: p. 1096). It is the ultimate source of all legitimate state power. This chain of legitimacy originates in the people and has to be extended beyond the national sphere in order for any intervention to be justifiable.

It would be logical to advance multilateralism on regional and global scales to rationalize and institutionalize interventions of the International Community. However, without a robust consensus on minimum standards in the fields of human rights or free trade, interventions will remain erratic.

However, conflict resolution is of everybody's concern. "A cooperative security system, which enlists the collaboration of the major powers in conjunction with regional security organizations is needed" (Zartman: p. 14).

Voluntary régimes of regional cooperation are capable of opening the participant countries unto a system of supranational checks and balances; thus advancing transparency, predictability and best practice. Regional cooperation is a probate means of stabilizing world regions by establishing closer ties between participant countries. The direct and indirect benefits of these interdependencies in economic, human rights and peace terms commonly outnumber the costs involved.

Examples of successful regional régimes of cooperation are NAFTA, Mercosur, ASEAN and, of course, the European Union. The level of economic and political integration differs considerably, but we can observe that member-states are more willing to accept interference from partners in cooperation or potential cooperation, than from those outside the group. The economic rewards that come of trade liberalization can bridge gaps of distrust, eventually leading to a certain degree of voluntary homogenization of member-states policies in related fields; thus improving the overall situation for the collective constituency. We may call this an integration dividend.

Creating stability in fragile world regions serves not only the public security but also the common good. That should indeed lie in the national, regional or even in the international interest. It also makes good economic sense in light of the general consensus about further liberalizing trade and regionalizing geopolitics to create an oligopolistic counterweight to the unipolar moment. Regional stability, however, will be lasting only if democracy takes root.

In the European Union, all this is visible in the Copenhagen Criteria: mature democratic institutions, a functioning market economy and a rigid spending policy in the member states was the financial precondition for the introduction of the common currency. This made it possible for countries like Italy, Portugal or Greece to join the Euro. Today, the European single market is a reality. The perspective of joining has substantially also contributed to the stabilization of Eastern Europe after 1989.

In international trade matters, the Union speaks with one voice, thus dramatically enhancing its negotiating power, and is currently the largest economic bloc in the world. This has rather helped assuage the relative loss of sovereignty of member states.

Different treatment, however, might have to be extended to regions without a functioning cooperation framework or devoid of a strong central authority. In the absence of institutions, the threat of anarchy looms. Where instability – financial, economic, environmental or political – prevails, the need for international intervention arises.

The case of Sierra Leone shows that it is possible to overcome the hounds of civil war if a majority of those parties concerned agree on UN-sponsored negotiations and peacekeeping. Third-party facilitation also helped reduce tensions in the Sri Lankan quagmire. The somewhat more problematic situation in Afghanistan is a dangerous precedent. In any case, rapid reconstruction and development is required to ensure lasting stability.

As of August 2002, some 44,000 active military personnel and civilian police from 90 countries and another 4,000 international civil personnel are serving in UN peacekeeping operations alone. Although these numbers are significantly lower than the approximately 75,000 servicemen on UN duty in 1993, it still shows the International Community's ongoing commitment to peace-enforcement.

Change is only achieved in slow, incremental steps, by internationally monitored education programs, muscular anti-corruption measures, and a decidedly civil command over armed forces and the rule of law. Such change, however, will occasionally require proportionate armed enforcement either by local, regional or international detachments.

To strike a balance between justifiable intervention and heavy-handed containment is not easy, and in this sense, the media and civil society play a vital role as watchdogs. Capacity building must occur in respect to nation building within the United Nations and non-governmental organizations, with a strong emphasis on the need for local participation in any process, to ensure that future International Community intervention, in the end, does ensure lasting stability – regardless of how the intervention looks like and who participates in it.

VI.
INTERNATIONAL LAW AND INSTITUTIONS AND THE RULE AGAINST INTERVENTION

The United Nations is the global tier of what could be perceived to be a world increasingly reliant on systems, arrangements and structures which aim to disperse decision making, enhance democracy and provide a check and balance on members. Hence, a world increasingly reliant on the federal model. However, at present, membership of the United Nations is guided by a legal regime which is not always reflective of the values and realities of today's world. Furthermore, "the institutional arrangements presently in place are not well adapted to the global world." (Mason: p. 31).

Key international institutions including the Security Council, continue to operate today based upon strategic alliances and key player dynamics which have shifted significantly since their inception. However, such change has not always been reflected by a concomitant shuffle within the institutions. There is an international institutional deficiency which has meant that "the United Nations has not proved effective in responding to the various outbreaks of hostilities in Africa, the Middle East, the Balkans or in East Timor. In some of these conflicts, it has been left to the United States and its allies (including NATO) to take action" (Mason: p. 37).

National sovereignty has always been one of the founding principles of International Law. Hence, the imperative rule against intervention. Exceptions to this rule need to be explicitly set down in law, limited to a well-defined, narrow scope and mandated by a competent multinational body such as the UN Security Council. Global humanism should be the founding principle of any such law. Otherwise, the intervention régime will remain unpredictable.

VII.
TO INTERVENE OR NOT TO INTERVENE...

In certain conflicts between ethnic groups throughout history, the question has not been so much about the legitimacy of intervention as it has been about the failure to intervene or indeed the failure of the intervention itself. In respect of the former, the situation of the Rwandan genocide is a startling example.

During an address to the 2001 Student's Symposium on International Conflict Resolution, Mediation and Negotiation in The Hague, Lieutenant General Romeo Dallaire, Commander of the United Nations Observer Mission to Uganda and Rwanda and the Assistance Mission for Rwanda, observed that "self interest and political risk, well above global humanism, will define the strategic guidance of the world powers in and around the Security Council."

Dallaire believes that the values fostered and espoused by the International Community in respect to inner-state conflict are rarely founded on altruistic aims. The lieutenant General's experience was of the failure of the International Community to adequately respond to internal ethnic conflict, with devastating consequences. Quite aside from respect for the sovereignty of the Rwandan nation, Dallaire believes that issues of "self interest" and considerations of domestic political risk were the basis of a decision by key military powers not to provide peacekeeping troops to the mission in Rwanda at the time of conflict between Hutus and Tutsis in the mid 1990's.

Dallaire also suggested that he believes a form of racism was underpinning the decision not to take action in the African nation when compared to ready action in other parts of the world. He essentially contended that, in the eyes of the International Community, the life and human rights of a European may be more valuable than those of an African.
This poses some fairly powerful issues about the universality in the application of values around intervention in intergroup conflict by the International Community.

There are numerous examples of International Community intervention in domestic conflict, where the intervention, whether it be military or civil, has revealed important lessons for the future. The various interventions in Somalia during the 1990's provide potent examples of failure.

The cumulative wisdom of the lessons of modern day international interventions reveal the need for the establishment of frameworks to guide any international intervention – to translate the lessons of the past into a framework of knowledge about how to do it and how to avoid potential pitfalls. One such example is the need for mandate clarity, impartiality and the need for a distinction between political and military elements of interventions. Furthermore, capacity-building in terms of understanding nation- and constitution-building is required.

The ideals underpinning federalism, that of decentralization of decision making, local involvement and participation and democracy, could ideally be the guiding values of any intervention by the International Community. Indeed, recognition of the need for intervening parties to resist imposing solutions based on their own national experiences or preferences is vital if lasting, locally respectful and respected solutions are to be created.
The building of confidence within local communities is an essential part of the process. Here, South Africa may provide us with some interesting lessons of success.

Thus, federalism, as a means of governance, is indeed a solution with varying degrees of applicability and appropriateness in the resolution of conflict and the re-building of nations.

VIII.
CASE STUDIES

The following case studies of Cyprus and of Serbia and Montenegro (the former Republic of Yugoslavia) demonstrate variations on the federal theme, how nations came to federate, the components of those federations and approaches to ethnicity and diversity. More importantly, they also emphasize the possibilities and shortcomings of third party intervention:

1. Cyprus

The Cyprus conflict has been on the international agenda for more than thirty years. During this period the inability of Turkish and Greek Cypriots to agree on a set of governing principles and institutions has drawn the International Community, including the United Nations and the European Union to the island. Solving the Cyprus problem is significant since this issue is of major importance for maintaining security and political and economic stability in the Eastern Mediterranean, and for enlarging the European Union. The Cyprus conflict does thus not only involve the interests of Turkey and Greece but also those of other parties, foremost the European Union and the United States.

There are two key factors which complicate the Cyprus problem: The inefficient role the International Community has played so far and the opposing views of Turkish and Greek Cypriots about the federalist structure planned to be brought unto the island. First, the main role of the International Community in the Cyprus conflict since the war in 1974 has been to engage Turkish and Greek Cypriots in negotiations that could lead to a reunification of the island. Although the International Community has been actively involved in peace operations and negotiations, the procedures have been insufficient to effectively restore peace and order on the island. Second, although both communities in Cyprus recognize the necessity of a federal solution, these perspectives differ significantly from each other. The Greek Cypriots are supportive of a federal state whereas the Turkish Cypriots are in favor of a confederation. This is mainly because Turkish Cypriots are concerned that in case of a federal state, Turkish Cypriots would become an impoverished minority (Bahceli and Rizopoulos: p.32). The main reason for the rejection of a confederation by the Greek Cypriots, on the other hand, is that they believe that a looser confederal system would allow the Turkish Republic of Northern Cyprus to become a sovereign state (Crawshaw: p.73).

The International Community, especially in the form of the UN, has made a major contribution to peace in Cyprus. The main responsibility of the United Nations Force in Cyprus (UNFC) has been to maintain the security of the buffer zone between the ceasefire lines of the Greek Cypriot National Guard and the Turkish security forces. Nonetheless, it seems that the International Community is not succeeding in bringing a permanent solution to the island. As Tozun Bahceli and Nicholas Rizopoulos argue, the International Community has refused to be involved in the Cyprus problem during the past 40 years, assuming that the problem would work itself out with the help of UN mediators and US diplomats (Bahceli and Rizopoulos: p.29). Moreover, in 1992 the Canadian minister of External Affairs, Barbara McDougall, indicated that they had been on the island for 28 years and that they did not intend to stay longer. As a result, Canadians withdrew from Cyprus by the end of 1993.

In addition, Joe Clark, the U.N. Secretary General's former special envoy to Cyprus stated in 1993 that the UN would leave Cyprus if no progress were made with the package of "confidence-building measures" promoted by the U.N. Secretariat (Bahceli and Rizopoulos: p.30). It is obvious that the International Community is rethinking its involvement in that matter.

In addition to the its controversial role in Cyprus, the different status of the two ethnic groups in the international arena postpones the possibility of an immediate solution for Cyprus. The Greek Cypriot side, internationally recognized as the "Republic of Cyprus", has retained the partnership seat in the UN General Assembly, and is now seeking membership in the European Union as "Cyprus." On the other side, are the Turkish Cypriots, devoid of recognition of their Turkish Republic of Northern Cyprus (TRNC) as a legitimate state. Only Turkey and Pakistan recognize the TRNC as a legally independent entity.

In order to secure union in Cyprus, the International Community should act according to the principles of the UN Charter and the respective UN resolutions should be implemented. Such an approach will not only enhance the credibility of the UN Organization, but will also facilitate the achievement of permanent solutions, based on objectivity, justice and international legality. Hence, the EU has made reunification a predisposition for joining the club. This stance seems to have brought some movement into the arena.

Federalism has significantly contributed to the peace-making processes in world politics. For example, the federal power structure has a major place in the debate on India's national integration and ethnic tensions. Furthermore, the process of linguistic reorganization of states initiated in 1953 has been pushed forward under the recommendations of the States Reorganization Commission since 1956 and was broadly completed by the end of the 1960s.[2] This has been a major development towards incorporating cultural identities into political and administrative units. The imperatives of federalism in India, particularly with linguistic states as a vital political category, have encouraged and strengthened regional parties (Pai: p.397). Its positive aspect is that no ethnic or regional party is capable of assuming power at the center on its own, thus being forced into the checks and balances of coalition governments.

In the case of Cyprus, a workable political solution may have to include the following: First there is the classic regime of guaranteed minority rights – to education, to the use of their own language in schools, in law courts, in communications with government, in broadcasting. Second, a reunified Cypriot state could be established under a federal system based on two constituent states of both ethnic groups. These federated states would have full autonomy in all matters of their specific interests, while the organization of federal powers would have to provide effective mechanisms to guarantee participation of both ethnic groups.

Even though the US, NATO, the EU and the UN can continue to play a role in Cyprus conflict, no permanent solution can be achieved without the consent of the large majority of both Greek and Turkish Cypriots. The final responsibility for any viable agreement lies on their shoulders only.

---

[2] For a brief description of the reorganization of states in India, see: Mathur, P.C., pp. 135-91.

2. Federal Republic of Yugoslavia (Serbia and Montenegro)

There are numerous examples of International Community intervention in managing disputes between conflicting groups within sovereign states. Moreover, such examples of external involvement include a role in reconstructing states, providing the parameters and guidelines to form the constitutional foundations for new political arrangements within that state.

After the harsh times of sanctions, isolation and war, it seems that the Federal Republic of Yugoslavia is now in a transitional period, in which its return to the major world and regional political and economic institutions is still largely dependent upon political aspirations of the key subjects of the International Community such as the European Union.

The EU has had a significant impact on federalism, decentralization and conflict management in the FRY. The EU's role has been quite visible and, as it would seem, this role will persist in the near future. State reconstruction of the community of Serbia and Montenegro, final political arrangement for Kosovo and minority rights issues are among the issues which have and continue to provoke the constant attention of the International Community in the FRY.

It is a commonly held belief, especially in Eastern European states, that "federalism is a zero-sum game – that is, a game in which there is a fixed amount of some desirable commodity and in which one player can increase his supply of the desired commodity only by taking some away from the other player." (Nice: p. 4) That viewpoint is even more plausible in a dyadic federation, such as the Yugoslav one, in which two major communities are trapped in a political conflict. In identifying the conditions under which there may be co-operation between two such communities, Ivo Duchacek refers to the well-known "Prisoner's Dilemma."[3]

Although Duchacek is aware that an analogy with territorial communities is quite limited, he concludes: "If two hostile communities share the view that they must keep on living and interacting within the same sovereign-state boundaries, and if secession, deportation, or mass murder of the other community seems impossible, their acceptance, however reluctant, of necessarily meeting again and again may sometimes be reinforced by external factors" (Duchacek: p. 11).

In the FRY this is certainly the case. With the firm hand of the International Community in the form of the EU upon them, otherwise conflicting communities have agreed to negotiate. The International Community is devoted to the concept of a "democratic Montenegro within a democratic Yugoslavia," which implies "meeting again and again."

The political will of external factors, especially the EU, resulted in the conclusion of a political agreement on March 14, 2002, between representatives of the federal authorities of both republics, as well as the High Representative of the European Union, Mr. Javier Solana. That agreement, in the form of a document entitled *Starting Points for the*

---

[3] The title "prisoner's dilemma" and the version with prison sentences as payoffs are due to Albert Tucker, based upon earlier research by Merrill Flood and Melvin Dresher in 1950 investigations into game theory. Present advances have been heavily influenced by Robert Axelrod. The puzzle attracted widespread attention in a variety of disciplines:
The "dilemma" faced by the prisoners is that, whatever the other does, each is better off confessing after being caught than remaining silent. But the outcome obtained when both confess is worse for each than the outcome they would have obtained had both remained silent. A common view is that the puzzle illustrates a conflict between individual and group rationality. A group whose members pursue rational self-interest may all end up worse off than a group whose members act contrary to rational self-interest. More generally, if the payoffs are not assumed to represent self-interest, a group whose members rationally pursue any goals may all meet less success than if they had not rationally pursued their goals individually (Kuhn: Prisoner's Dilemma).

Restructuring of Relations between Serbia and Montenegro, provides for the creation of new state union, Serbia and Montenegro. The union will be founded on a constitutional charter, with several common institutions – the unicameral Parliament, the President, the five departments, Council of Ministers and the Court, with constitutional and administrative functions. The economic systems of the republics, such as trade and custom policies, are to be harmonized with EU economic parameters. Finally, upon the expiration of a three-year period, each member state is entitled to start the procedure of withdrawing from the state union if so desired.

The clear intention of the International Community was to prevent the secession and independence of the smaller units and to promote conditions for the establishment one federal political system.1 Although the assemblies of Serbia and Montenegro have both already given their support to the constitutional charter, differing interpretations of provisions, especially with regard to elections for the Parliament, indicate that the International Community will need to maintain its involvement in the adoption and implementation of the constitutional charter.

The International Community has had similar involvement in the question of the border demarcation agreement between the FRY and the former Yugoslav Republic of Macedonia, signed on February 23, 2001. In its presidential statement (S/PRST/2002/16), the Security Council deplores the adoption of the Kosovo Assembly's "Resolution on the Protection of the Territorial Integrity of Kosovo", on May 23, and concurs with the Special Representative of the Secretary-General, Michael Steiner, that such decisions by the Assembly on matters which do not fall within its field of competence are null and void. The Portuguese OSCE Chairman supported this statement.

Therefore, in the case of Kosovo, the choice between a federal political system or independent statehood will be resolved with the decisive influence of the International Community, particularly because the territory is currently under an international legal regime established by United Nations Resolution 1244.

The stability of the whole area of Yugoslavia is dependent upon the prevention of further conflicts between different ethno-cultural communities; old and new majorities and minorities. One important step in the direction of successful management and resolution of such conflict is the creation of a comprehensive national legal setting to ensure the protection of minority rights. This and other political and legal obligations form the conditions of full membership in the Council of Europe and for the status of candidate country for European Union. The obligations are described in the Council of Europe's Framework Convention for the Protection of National Minorities, ratified in the Yugoslav parliament in 1998, and the "Copenhagen Criteria" of the EU, adopted in 1993. The latter act contains a number of economic and political conditions to be met by new EU candidate countries, the most important being; "stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities."

The new FRY Law on the Protection of Rights and Freedoms of National Minorities provides for the protection of national minorities from any kind of discrimination in the exercise of rights, establishes the instruments for the protection of their special rights related to education, use of native language, information and culture, and facilitates their effective participation in government and decision-making processes at all levels. Nevertheless, while it does not explicitly confer the right to territorial autonomy, "`active` participation in the life of States may lead to autonomous structures, as individuals and groups find levels of organization appropriate to effective participation." (Thornberry: p. 134). The law has already been graded by the EU Commission as liberal and progressive.

IX.

CONCLUSIONS

Problems of ethnic conflict and minority issues are central to the international agenda of our time. There is an increasing need for a combination of the insights gained by international standard-setting and implementation, on the one hand, and conflict resolution practices, on the other. That is mainly because of the comlexity of modern-day, post-cold-war intergroup strife.

The involvement of regional organizations in the internal conflict of member states or potential members, is not to be underestimated in its ability to transform conflict between ethnic groups. Since the ressources committed to peacemaking are increasingly spread thin due to multiple conflict theaters, cooperative security may be where intervention will go from here.

In this context of conflict response subsidiarity, the promise of economic and political benefits of participation in regional structures is an effective enticement into civil negotiations. As we have seen, strategic third party facilitation can be very helpful.

The regional application of the federal ideal imbued with the values and principles which underpin the great national Federations of the world can be of great import in nation-building efforts and ensuring the protection of human rights. Though no panacea, it disposes of an array of valuable dispute-settling mechanisms.

Conflicts cannot be solved ad hoc, neither without the application of basic standards. All actors have to adapt to a common and consistent framework demanded by the International Community. International legal and institutional change is necessary to better reflect the realities of today's world and secure the legitimacy of the intervention of the International Community especially in domestic conflict between ethnic groups. The lessons that history has revealed in respect to international intervention in domestic conflict must be translated into systems, structures and processes to guide the future action of the International Community. Today's interdependence should make states value national interest in the light of the broader global interest. Be it peacemaking, -enforcement or -keeping, the set of intervention tools is there, but it will be needing constant refinement.

The challenge of the International Community is to transform itself into an instrument of global governance, Arjun Appadurai has recently spelled out, we need a new cultural architecture that recognizes that global politics are not just international politics by another name, or the International Community – with its moral promise – may well be reduced to an exclusive club or a museum devoted to memories of Westphalia (Appadurai: pp. 43,44).

The challenge is to stop dwelling upon, or indeed talking about, the past failures and lessons learned, and translate those experiences into guidelines, new frameworks, structures and processes and capacity-building to ensure future efforts do not repeat the mistakes of old. An alliance of Federal Democracies would be ideally placed to instigate such a move forward, and, despite the dilemmas surrounding that context, to facilitate the best of the federal idea into future interventions in conflict throughout the world.

Bibliography

Annan, Kofi A.,
Problems without Passports,
Foreign Policy, September/October 2002, pp. 30-31.

Appadurai, Arjun,
Broken Promises,
Foreign Policy, September/October 2002, pp. 42-44.

Bahceli, Tozun and Rizopoulos, Nicholas X.,
The Cyprus Impasse: What Next?,
World Policy Journal, Winter 1996/97, pp. 27-39.

Christiansen, Thomas and Jørgensen, Knud Erik,
Transnational Governance `Above` and `Below` the State: The Changing Nature of Borders in New Europe,
Regional & Federal Studies, Vol. 10, No. 2, 2000, pp. 62-77.

Crawshaw, Nancy,
Cyprus: A crisis of Confidence,
The World Today, April 1994, pp. 70-73.

Duchacek, Ivo D.,
Dyadic Federations and Confederations,
Publius – The Journal of Federalism, Vol. 18, No. 2, 1988, pp. 5-31.

Elazar, Daniel,
From Statism to Federalism – A Paradigm Shift,
International Political Science Review, Vol. 17, No. 4, 1996, pp. 417-429.

Häberle, Peter,
Verfassungslehre als Kulturwissenschaft (second edition)*,*
Berlin: Duncker & Humblot, 1998.

Hehir, J. Bryan,
The Limits of Loyalty,
Foreign Policy, September/October 2002, pp. 38-39.

Kuhn, Steven,
Prisoner's Dilemma,
        in: Zalta, Edward N. (ed.)*,*
        The Stanford Encyclopedia of Philosophy (Fall 2002 Edition),
        URL = http://plato.stanford.edu/archives/fall2002/entries/prisoner-dilemma/

Kymlicka, Will,
Multicultural Citizenship – A Liberal Theory of Minority Rights,
Oxford: Clarendon Press, 1995.

Mathur, P. C.,
Social Bases of Indian Politics,
Jaipur: Aalekh Publishers, 1984.

Nice, David C.,
Federalism: The Politics of Intergovernmental Relations,
New York: St. Martin's Press, 1987.

Ottaway, Marina,
Think Again: Nation Building,
Foreign Policy, September/October 2002, pp. 16-24.

Pentassuglia, Gaetano,
The EU and the Protection of Minorities: The Case of Eastern Europe,
European Journal of International Law, Vol. 12, No.1, 2001, pp. 3-38.

Pernice, Ingolf,
Multilevel Constitutionalism and the Treaty of Amsterdam: European Constitution-Making Revisited?,
CM Law Review, Vol. 36, 1999, pp. 703 ff.

Sampford, Charles and Round, Tom (eds.),
Beyond the Republic, Meeting the Global Challenges to Constitutionalism,
Sydney: Federation Press, 2001.

Sampford, Charles,
Reconceiving and Reinstitutionalizing Liberal Democratic Values in a More Global World,
in: Sampford, Charles and Round, Tom, (eds.),
Beyond the Republic, Meeting the Global Challenges to Constitutionalism,
Sydney: Federation Press, 2001, pp. 11-28.

Spear, Mary and Keller, Jon,
Conflict Resolution in Africa: Insights from U.N. representatives and U.S. Government Officials,
Africa Today, Vol. 43, No. 2, 1996, pp. 121-138.

Sudha, Pai,
Regional Parties and the Emerging Pattern of Politics in India,
Indian Journal of Political Science, Vol. 51, No. 3, 1990, pp. 393-415.

Thornberry, Patrick,
The Democratic or Internal Aspect of Self-Determination with some Remarks on Federalism,
in: Christian Tomuschat (ed.),
Modern Law of Self-Determination,
Dordrecht: Martinus Nijhoff, 1993, pp. 101-138.

Watts, Ronald L.,
Comparing Federal Systems (second edition),
Montreal & Kingston: McGill-Queen's University Press, 1999.

Zartman, I. William (ed.),
Peacemaking in International Conflict,
Washington: United States Institute for Peace, 1997.

Zartman, I. William
Toward the Resolution of International Conflicts,
in: Zartman, I. William (ed.),
Peacemaking in International Conflict,
Washington: United States Institute for Peace, 1997.