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Talks on Kosovo are not yet exhausted

By Frances Maria Peacock for www.kosovocompromise.com

With the 10 December having now passed with no agreement reached between the parties, Kosovo's future remains uncertain.

With both sides maintaining their respective positions, the negotiations became deadlocked with limited debate between the parties. No real attempt was made by the mediators to break this cycle, by encouraging each side to consider the other's proposals as serious options.

There has been no shortage of interesting ideas, as a positive effort was made by Belgrade to put forward proposals capable of encouraging debate, including autonomy so substantial that it would fulfil the Albanians' aspirations of self-rule. The "Hong Kong model," is one such example. Yet the mediators did little to carry these proposals forward and give them the attention they deserved. Autonomy did not receive serious consideration, and was virtually excluded in favour of good neighbourly relations, as advocated by Pristina. Although the establishment of good relations is desirable, it should not have been used as a means of pre-determining Kosovo's status before all options had been fully explored and the negotiations concluded.

Perhaps the mediators could have made progress if a firm stand was taken with the parties, by compelling them to discuss proposals other than their own. This would have ensured that there was a chance of the parties narrowing their differences and perhaps reaching an agreement. For example, the Troika should have compelled Pristina to discuss the alternatives to independence as put forward by Belgrade. Statements such as "independence is not negotiable," or an outright dismissal of a proposal without discussion should not have been tolerated.

Consequently, the Troika presided over a one-sided process where one party put forward ideas, whilst the other was allowed to sit back and await the deadline. The mediators were not keen to point out that these talks were supposed to be about Kosovo's status, not what would happen afterwards on the assumption that independence would be granted. Pristina did not fulfil the objective of the talks, and the mediators were not active enough in getting both parties involved in negotiating status.

In a desperate attempt to bring the parties together, members of the Troika put forward ideas of their own, starting with a fourteen-point plan setting out some possible areas where the parties may have found agreement. Supposedly this was based on what had been negotiated so far - although neither party accepted this



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document. Whilst there was no mention of either independence or autonomy, there was also no mention of UNSCR 1244 or international law, and the possibility of a unilateral declaration of independence by Pristina was not excluded. Item 13 implied that Kosovo and Serbia would be separate states, and the overall emphasis of the document was on establishing good neighbourly relations rather than negotiating actual status. Belgrade responded to these fourteen-points by suggesting some amendments, which would exclude a unilateral declaration of independence and ensure adherence to international law. The amendments would also allow for a broader scope of options, including autonomy. Unfortunately, these amendments were completely ignored.

The EU representative in the Troika, Wolfgang Ischinger, proposed that Kosovo's status be neutralised, meaning that it would neither be a part of Serbia nor an independent state. He described his proposal as a "temporary phase," thus implicating that the neutral status would only remain until a permanent solution was put in place. In the meantime, both Belgrade and Pristina would have "normalised" their relations, thus minimising any likely objections. The idea of the temporary phase was to lay the ground for independence, and prepare for a smooth transition by establishing good relations between Belgrade and Pristina. Ischinger believed that if his idea was seen as temporary, both sides may have agreed to it, although it is unlikely that Kosovo, once separated from Serbia by neutralisation, would be returned and given autonomy within Serbian borders.

Neither side has shown enthusiasm for this proposal (which is derived from the 1972 agreement between East and West Germany), especially not Belgrade, as it is not possible to create neutral territory within a sovereign state. Either a territory is part of a country or it isn't. Such an arrangement would violate international law, because there can be no separation of part of a country's territory – by any means – without that country's consent.

My own solution to the problem would be for Kosovo to become an autonomous region within Serbia, with a special status for a period of five years, after which the situation would be reviewed on the basis of either extending the period or granting independence. Although this would be a temporary solution, it would present some important benefits that the neutralisation proposed by Ambassador Ischinger cannot offer. Firstly, Kosovo would have a properly defined status for the interim period, which would provide an opportunity to prove whether autonomy would work. Secondly, it presents a clear option with no uncertainties and does not exclude any particular outcome.

It is important that a solution to the problem is found, even if only temporarily, in order to quash the ever-increasing threat of a unilateral declaration of independence, but it is also important that it is the right solution. Finding a solution that will bring peace, stability and prosperity should take priority over completion of the process within an artificially imposed deadline. Whilst it must be appreciated that the talks



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cannot go on indefinitely, the imposition of a deadline should not have restricted the course of the process. The previous process was hurried due to pressure from the Contact Group to conclude the talks as quickly as possible. It seems that this is one lesson from Vienna that hasn't been learned.

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