THE BALKANS: FROM BALANCE OF POWER TO BALANCE OF HUMAN WELFARE

ABSTRACT

The principles of territorial integrity and (non)interference halt the influence of self-determination. Legal relationship between these principles become much more complex in the Balkans despite the strong regard given to preserving the territorial integrity of the state. One of the repercussion of this controversial relationship is that human right stay without effectual protection in the case of conflict between these two principles. In this circumstance central government and movement to self-determination are supported to settle its claims by restoring to armed hostilities. The author explains how international community can reduce the inherent conflict as the working out of these principles in light of the forces of democratisation and respect for human rights, peace and development comes to make the parties see them as less and less irreconcilable.

NATIONAL BALANCING IN THE BALKANS

Even if security issue is always a broader idea than power, in the Balkans case security issue and military power are so much intermingled with ethnic-religious relationship that is difficult to talk on the Balkans

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security issue in perspective of balance of power without consideration balance of historically composed ethnic-national interest.

However, as Balkans ethnic-religious relationship has set up on suspicion-and-hatred that is impossible to analyse the Balkans crisis without consideration relationship between pattern of balancing of external powers, as international system, and balancing in ethnic-religious relationship, as regional sub-system.[2]

Since that is difficult to perceive Balkans ethnic-religious pattern of suspicion-and-hatred as product of the balancing of the power, each respectful analyse of balancing in the Balkans should consider this pattern as a product of history rather than pattern of balance of power. Suspicion-and-hatred obtains historical character in relations between Croats and Serbs, Serbs and Bulgarian, Serbs and Bosnians, Croats and Bosnians, Serbs and Albanians, Albanians and Macedonians, Christianity and Islam, Orthodoxy and Catholic.[3] "The fusion or overlapping of ethnicity (nationality) and religion is a well known phenomenon in much of Eastern Europe, especially in the Balkans. For centuries the church was the people and the people were the church (Muslim as well as Christian religious organisations are meant here; the term 'church' is used for the sake of convenience). The church envisioned its role so broadly that it contributed not only to awakening of national consciousness but also to feeling of nationalism."[4] Consequently the Balkans

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2   See more about regional security system in: William R. Thompson, "The Regional Subsystem a conceptual explication and a prepositional inventory", *International Studies Quarterly*, 17, 1, 1973.

3   See more about history of the Balkans in: John V. A. Fine, JR., *The Early Medieval Balkans*, Ann Arbor The University of Michigan Press, 1983; Purphyrogenitus, C., *De Administrande Imperio*, (ed.) G. Moravscik, New Review, Harvard University, 1967; Racki, Franjo, *Borba Južnih Slavena za državnu neovisnost: Bogumili i Patareni*, Srpska Kraljevska Akademija, Beograd 1931; Racki, Franjo, *Bogumili i patareni*, Srpska kraljevska akademija, posebna izdanja, vol. 87, Beograd 1931); D. Mandic, *Bogumilska crkva bosanskih krstijana*, Chicago, 1960), Theiner, A., *Vetera Monumenta Slavorum Meridionalium*, Romae, Typis Vaticanis, I, 1863; Fermendzin, E., *Acta Bosnae... Monumenta spectantia historian slavorum meridionalium*, vo. 23, Zagreb, 1892; John, V.A.Fine, *The Medieval and Ottoman Roots of Modern Bosnian Society*, in: The Muslim of Bosnia and Herzegovina, 1994; Solovjev, A., "La doctrine de l'eglise de Bosnie", Bulletin Academie Royale des sciences, des lettres et des beaux arts des Belgique, Brussels, Vol. 34. 1948; Truhelka, C., *Bosanska narodna (patarenska) crkva, Povjest Hrvatskih zemalja Bosne i Hercegovine*, Knj. I, Sarajevo 1942; Robert J. Donia and John V. A. Fine, Jr., *Bosnia and Herzegovina: A Tradition Betrayed*, Hurst and Company, London 1994.

4   Paul Mojzes, *Yugoslavian Inferno: Ethnoreligious Warfare in the Balkan*, The Continuum Publishing Company, New York 1994, p. 126.

suspicion-and-hatred ethnic-religious pattern must be considered as principal factor of "balance of threat", rather than "balance of power" in this region.[5]

The great irony behind this Balkans historical character is that that primary security of ethnic-religious groups can not realistically be considered apart from one another. The Balkans security issue emphasise historical, ethnic and religious distinctions linked with the security interdependence of ethnic-religious groups as well as that of shared interests.

Balkans ethnic-religious pattern of suspicion-and-hatred and security interdependence of interests of ethnic-religious groups confronts the Balkans states and international community with the specific security dilemma in which strategy of balance of threat rather than balance-in-power is dictated more with historical background then by regional distribution of power.[6] In case of low level of trust, for example between Serbs and Albanians, Croats and Serbs, Bosnian and Serbs, Croats and Bosnian, make strong insecurity links and negative security interdependence between them. On other side friendly historical background between Croats and Albanians, Bulgarian and Macedonians, Serbs and Greece, Croats and Slovenians, Bosnians and Albanians, make positive security interdependence between them conceivable.

In the Balkans security environment where is territorial issue is a central question of bilateral relationship among states, ethnic-religious groups construe the legal principle of self-determination of peoples to mean that they possess the right of secession from the state of which they are a part - an understanding that clearly threatens the territorial integrity of the state.[7] In contrast, central

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5   "States ally to balance against threats rather than against power alone" (Stephen M. Walt, *The Origins of Alliances*, Cornell University Press, Ithaca, N.Y., 1987, p. 5).

6   "Even more than ethnicity, religion discriminates sharply and exclusively among peoples. A person can be half-French and half-Arab and simultaneously even a citizen of two countries. It is more difficult to be half-Catholic and half-Muslim". (Samuel P. Huntington, "The clash of Civilisation", *Foreign Affairs*, vol. 73. no. 3, p. 27; see also: Robert D. Kaplan, *Balkan Ghosts: A Journey Through History*, St. Martin's Press, New York 1993 (particularly Chapter I and II)

7   In Article 1 of both Conventions the International Convention on Economic, Social and Cultural Rights and the International Convention on Civil and Political Rights has stated that all peoples have the right to self-determination. By virtue of the right they freely determine their political status and freely pursue their economic, social, and cultural development. See more in: W. Fuatey-Kodjoe, "Self-determination", in: O. Schachter and C.C. Joyner (eds.), *United Nations Legal Order*, Vol. I, 1994, at p. 385; J. Brownlie, "The Rights of Peoples in Modern International Law", in: J. Crawford (ed.), *The Rights of Peoples*, Clarendon Press, Oxford, 1988, pp. 1-16; Ruth Lapidoth, "Sovereignty in Transition", *Journal of International Affairs*, Winter 1992, 45. no. 2, pp. 325-346.

government of the Balkans states typically view the principle of the territorial integrity of the state as prohibiting the implementation of an understanding of self-determination that would permit sub-national-religious groups to declare their own separate, sovereign, and independent political units.[8]

Since both principles of international law, self-determination of peoples and territorial integrity of the state, have equal international legal status[9] the international law system in the Balkans provides little clarity about what actions the international community will support or about the actions that ethnic-religious groups and central governments should take. As a result, the contending parties often end up focusing on the principles that would lead each to their most favoured outcomes: secession in the case of minority groups and a centralized state in the case of central governments. Because these outcomes are at opposite and irreconcilable extremes, their separate pursuit is likely to generate conflict. Hence, the disparate implications of the principles of territorial integrity and self-determination may promote and even legalise internal armed conflict and violence, that make any balance between central government and ethnic-religious group unstable and short duration strategy.

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8   In the U.N. General Assembly Declaration of 1970 on Friendly Relations has been stated: "Nothing in the foregoing paragraphs shall be construed as authorising or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of government representing the whole people belonging to the territory without distinction as to race, creed or colour. Every State shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other State or country." (Resolution 2625 (XXV), October 24, 1970).

9   Article (1) UN Charter establishes the principles and purposes of the UN. Paragraph (1) and (2) of the Article states two of the principal purposes of the U.N.: to maintain international peace and security and to development of friendly relations among nations. The both purposes have to be based on the principle of "equal rights and self-determination of peoples". Article 2(4) UN Charter protects the territorial integrity of any state from the threat or use of force as a matter of an absolute and general principle of international law. Paragraph 1 of the same Article recognizes the sovereign equality of all members. In other words, the territorial basis of sovereignty is guaranteed. The final paragraph (7), then extends this guarantee in its prohibition on the United Nations, except for enforcement measures under Chapter VII, against interference within the jurisdiction of the sovereign state over its territory;) On this issue see more in: Kathryn S. Eliot, "The New World Order and the Right of Self-Defence in the United Nations Charter", *Hastings Int'l & Comp. L. Rev.*, vol. 15, 1991, pp. 55-81;Thomas D. Grant, "Territorial Status, Recognition, and Statehood", Stanford Journal of International Law, vol. 33, no. 1, 1997, pp. 305-34; C. Schreuer, "The Wining of the Sovereign State: Towards a New Paradigm for International Law", *EJIL*, (1993), pp. 447-471.

The standard, though not exclusive, response of the international community is to regard self-determination as merely a status that ethnic-religious groups can pursue within the confines of a sovereign state. The international community stays aloof from these internal disputes within states unless or until international peace is "threatened."[10] Of course, an important downside of that pattern of response is that the international community forfeits any active role in encouraging internal democratisation, protection of minority rights (including the prevention of genocide), development, or peace-building within sovereign states.

In real Balkans political landscape the principal question is how to establish balance between differences in Atlantic community regarding relationship between self-determination of national-religious groups within the Balkans and balance of interest between national government and ethnic-religious groups in the Balkans? The other main objective is to define what kind of alliance in the Balkans is workable? Is alliance that promise of mutual military assistance between the Balkans states possible? What form the "assistance" will take: just offensive or defensive assistance or agreement not to use force? Who will defend whom or who will support whom and who will resist whom to what extend and in what contingencies?[11] Does the Balkans states ally against the states that threaten them (balance) or with states that threaten them (bandwagon), or with states with the same ethnic-religious background.[12] As numerous large ethnic-religious groups leave in the Balkans states which are backed by their cousins from neighbouring states the balance

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10   Adam Roberts, "Humanitarian war: military intervention and human rights", *International Affairs* 69, 3, 1993, pp. 429-449; Stephen J. Salarz & Michael E. O'Hanlon, "Humanitarian Intervention: When Is Force Justified?, *The Washington Quarterly*, Autumn 1997, pp. 3-44; Richard Falk, "The Haiti Intervention: A Dangerous World Order Precedent for the United Nations", *Harvard International Law Journal*, Vol. 36, 1995, pp. 341-358; M.E. O'Connell, "Commentary on International Law: Continuing Limits on UN Intervention in Civil War", 67 *IND, L.J.*, 1992, 903; N. Rosenau (ed.), *International Aspects of Civil Strife*, Princeton University Press, 1964; Tom J. Fisher, *The Regulation of Foreign Intervention in Civil Armed Conflict*, Hague Academy of International Law, 1974, pp. 367-402; J. A. Gallant, "Humanitarian Intervention and Security Council Resolution 688: A Reappraisal in Light of a Changing World Order", *Am.U.J. Int'l Pol'y* 881 at 890 (1992); J. Delbruck, Commentary on International Law: A Fresh Look at Humanitarian Intervention Under the Authority of the United Nations, 67 *IND. L.J.* 887, 889 (1992).

11   Glenn H. Snyder, "Alliances, Balance and Stability", *International Organisation* 45, 1, Winter 1991, p. 123.

12   Stephen M. Walt, *The Origins of Alliances*, Cornell University Press, Ithaca, N.Y., 1987, p. 5.

of interest between central government and sub-national groups within state is the most important for consideration of any balance in the Balkans.[13]

THE INTERNATIONAL DIPLOMATIC DANCE AND OPENING DOORS TO THE BALKANS ATROCIOUS

Without any doubt Western Ally have had global interests to stop human suffering in the Balkans, to prevent spreading regional conflict especially to Greece and Turkey, to prevent a split with Russia and impede spreading of radical Islam in the Balkans. However, self-interests of the western countries were different regarding strategy which could probably achieve all of these objectives.[14]

France was oppose to NATO predominance in post Cold-War European security issue and preferred to see UN more involved in the Balkans crisis than NATO.[15] Also France police-makers was under strong influence of long historical friendship built between France and Yugoslavia and inclined to preserve territorial integrity of former Yugoslavia.[16]

Re-unification of Germany and intensification debate in EC about creation an new co-operative security order in Europe[17] and position of Germany in the network of regional and international institutions, had encouraged Boon to take over dominant role in EC in process of solution of the Balkans crisis. German policy toward the Balkans was influenced with the Bavarian Christian Social Union (CSU) which inclined to recognize Catholic Croatia and Slovenia.[18]

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13   "In other words, the main threat to the security of international community is the weakness of state owing to a luck of democratic structure and an inability to manage and combat such phenomena as organized crime, international and domestic terrorism, corruption, luck of political liberties, human right abuses, religious and ethnic conflict and aggressive nationalism. In many states, institutional mechanisms are unable to resolve these problems with norms and the tenets of the rule of law." (Adam Daniel Rotfeld, "The Organizing Principles of Global Security", SIPRI Yearbook 2001, p. 3).

14   F. Stephen Larrabee, *Western Strategies Toward the Former Yugoslavia*, RAND, P-7878 Santa Monica, 1994, p. 118.

15   P. C. Wood, "France and the Post Cold War Order: The Case of Yugoslavia", *European Security*, 3. 1 1994, pp. 129-52.

16   *La Politique Etrangére de la France*, May 1991, p. 19.

17   I. Martin and J. Roper (eds. 1995), *Towards a Common Defence policy*, WEU Institute for Security Studies, Paris 1995.

18   See Maria-Janine Calic "German Perspectives", in: Alex Dancev and Thomas Halverson (eds.), *International Perspectives on the Yugoslav Conflict,* St. Antony's

Policy of Great Britain toward the Balkans crisis was reinforced a long time by reflections on internal political situation in Northern Ireland and its fear to mounting Germany's influence in that part of Europe, what determined its reluctance to be prepared to support any international intervention in the Balkans case. Also, oppose approach of USA to establish so called "special relationship" to Great Britain, made British foreign policy-makers averse to US initiatives to use force in the Balkans.[19]

"From July 1991 on, the 12 member nations (EC) were split: Germany and Italy (as well as Austria, a candidate for EC membership) argue for prompt recognition of Croatia and Slovenia, which were seen as exercising their right to self-determination; the United States, the U.N. secretary-general, and his envoy, Cyrus Vance, supported the position of the Dutch foreign minister, the French, the British, and Lord Carrington against immediate recognition: such a move 'would not incite these republics to moderation; and also, who would defend their independence, after it had been recognised".[20]

American and West European strategic priorities are diverging, with the allies preoccupied with European security and the United States - no longer consumed from Soviet Union military power – worried most about non European threats to what it believes are it interests.[21]

In such European political and legal confused situation,[22] central Bosnian government, predominantly Muslims, has openly turned over to the

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College, Oxford 1996,, pp. 52-74; also see: Stanley Hoffmann, "Yugoslavia: Implication for Europe and for European Institutions", in: Richard H. Ullman (ed.), *The World and Yugoslavia's Wars*, A Council on Foreign Relations Book, New York 1996. "The Vatican openly lobbied for the independence of the two predominant Roman Catholic republics, with decisive influence through episcopal conferences on the Bavarian wing of ruling German party, the CSU, and hence on Kohl`s CDU… Frankfurter Allgemeine Zeitung, the most influential Germany Newspaper was particularly sympathetic to the Croatian prospect of interdependence and waged against Slobodan Milošević and Serbian nationalism that had a major role in shaping Germany opinion about the conflict." (Susan L. Woodward, *Balkan Tragedy: Chaos and Dissolution After the Cold War*, The Brooking Institution, Washington, DC 1996, p. 149).

19　See more in: James Gow, *Triumph of the Lack of Will: International Diplomacy and the Yugoslav war of Dissolution*, Hurst, London 1995.

20　Stanley Hoffmann, in: Richard H. Ulman (ed), *The World and Yugoslavia's Wars*, 1996, p. 105.

21　Ronald D. Asmus, Robert D. Blackwill and F. Stephen Larrabee, "Can NATO Survive?", *The Washington Quarterly*, Spring 1996, p. 85.

22　"At the some time, in late 1990 and the first half of 1991, the tide of interest in alternative structures for European security was at its high-water mark. Critics of

Islamic countries, seeking help and guarantee for its survival in these regions. There was no immediate reaction from Islamic countries on this request. The reactions proceeded only after the accusations of the political opposition in these countries that the ruling regimes in Islamic countries are not sufficiently interested in destiny of Bosnian Muslims,[23] that seriously jeopardised their legality as Islamic regimes.[24] Under such pressures the regimes in Islamic countries have begun to exert pressure on western powers, above all on USA, in order to stop armed conflict among ethnic communities in Bosnia and Herzegovina. The question of Balkans has thus become one of the important

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NATO argued that a post cold war Europe required a post-cold war institution and that principles and institutions emerging out of the Helsinki process in the Conference on Security and Cooperation in Europe (CSCE) after 1975 emphasising transparency, confidence-building, and non military means of conflict resolution – where more appropriate instruments for all-European security. As recently as January 1989, the Helsinki process to 'open' communist countries by obtaining their commitments to human rights had been reaffirmed when CSCE meeting in Vienna enhanced the mechanism, and priority, of Basket Three (human rights). Moreover, the Charter of Paris for a New Europe, signed on November 21, 1990, appeared to put institutional force behind this commitment by creating the CSCE secretariat, the Committee of Senior Official (CSO), and office of free elections, and Conflict Prevention Center (CPC)."(Susan L. Woodward, *Balkan Tragedy: Chaos and Dissolution After the Cold War,* op. cit., p. 151).

23 "From the Gulf War, Islamists have concluded that the West is ready to fight on behalf of reach Muslims against the poorer ones, and that the West is now more willing to engage in military in the Muslim world than it was during the Cold War. They also draw lesson about the West from the contrast between the handling of the Somaly and Bosnian crisis: The West is ready to intervene militarily when Muslims are killing other Muslims but remains passive and hypocritical when (Muslim) Bosnian are killed by (Christian) Serbs. As for the disintegration of the Soviet Union, Islamist are gratified to see the collapse of an atheist power that was supporting their leftist rivals in the Muslim world, but Islamist also worry about the new opportunities and increased power available to the West following the dismemberment of the Soviet empire". (Ghassan Salame, "Islam and the West", *Foreign Policy* 90, Spring 1993, p. 28).

24 "Despite their moderate stance, however, the Saudis cann't avoid pledging support to an Islamic cause. One reason is pressure from Islamic revival movement. Especially after the fall of the Soviet-backed government in Kabul in early 1991, discontent among volunteers and fighters returned from Afganistan was an increasingly serious political issue. That December in Algeria, this group was driving force behind Islamic fundamentalists' victory in parliamentary elections. A rising Islamic revivalism in the Middle East and worldwide cannot help but affect Saudi Arabia, and in a worst-case scenario the ruling dynasty could fall. The Saudis therefore employ moderate Islamic revivalism against the threat from a radical one, and policy on the Bosnian question is one of the best examples of this strategy at work". (Tetsuya Sahara, "The Islamic World and the Bosnian Crisis", *Current History*, November 1994, p. 387).

determination of the internal politics in the majority of Islamic countries and their political relations with the West.[25]

Simultaneously, Balkans question was growing into a powerful determination of Russian internal and foreign policy. In order to prevent internal democratisation of the country and suspend Russian approaching to the West, radical political opposition was blaming the authorities in Russia for the insufficient protection of the Orthodoxy Serbs in the Balkans and historical interests of Russia in this region, trying to introduce political tension between Russian Orthodox Church and government in Russia.[26] At the same time the Russian policy-makers using the Balkans conflict had endeavoured to affirm Russia as a great power being opposed to policy of the Western countries.[27]

In situation that was developed in international political landscape regarding to the Balkans crisis it was obviously that Western countries had not to look to the Balkans crisis as a internal and regional crisis out of their strategic interests, further more. In the second stage, the war in the Balkans could appeared as big dangerous which could easily to divide and to weaken the Western alliance, extend conflict to Greece, Turkey and

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25 "Iran and the United States had reason to align in Europe, irrespective of their differences in the Middle East. The underlining principle of such and implicit coalition is that, `The enemy of my enemy is my friend`. That is, Teheran and Washington confronted one another in Persian Gulf, but stood with each other in Europe. Iran and the United States colluded to support the Bosnian Muslims against common foe – Serbia and Bosnian Serbs… Washington, in effect, traded the risk of the penetration into the heart of Europe of the Iranian Revolutionary Guards for the benefits of keeping the Bosnian Muslim regime afloat… But the resulting contentious political debate within the United States made it difficult for Washington to sustain a tacit alignment with Teheran and sent confusing messages about the intent of the United states. As a result of mixing signaling, coercive diplomacy was difficult to achieve". (Raymond Tanter and John Psarouthakis (1999), *Balancing in the Balkans*, St. Martin`s Press, New York, pp. 26-27).

26 Suzanne Crow, "Soviet Reaction to the Crisis in Yugoslavia", *Report on the USSR*, Vol. 3, no. 31, August 2, 1991.

27 "Russia's unwillingness to join other U.N. Security Council members in getting the Serbs in Croatia to make peace with the Croatian government, and the offer of Iran and other Muslims nations to provide 18.000 troops to protect Bosnian Muslims. (Samuel P. Huntington, "If Not Civilization, What?", *Foreign Affairs*, November/December, 1993, p. 188); see more in: Elaine M. Holoboff, "Russian Views on Military Intervention: Benevolent Peace-Keeping, Monroe Doctrine, or Neo-Imperialism", in: *Military Intervention in European Conflicts*, The Political Quarterly Co. Ltd., 1994, pp. 154-174; Andrei Edemskii, "Russian Perspectives", in: Alex Danchev and Thomas Halverson, *International Perspectives on the Yugoslav Conflict*, St. Anthony's College, Oxford , 1996, pp. 29-51.

Albania, block any possibilities for co-operation between West and Russia regarding the situation in the Balkans and strengthen influence of radical Islam in the Balkans.

It was last time for Western Ally had to put situation in the Balkans under control by creating conditions for lasting balance between their interests in this part of Europe.[28] In endeavouring to foster democracy, respect for human rights and economic prosperity, and to protect its own interest in South Eastern Europe, Western Ally had to have to establish balance of interests between governments of South Eastern countries and many ethnic-religious groups that exists within the states. However, achieving this task was seriously disrupted by ambiguity in international legal order that made solution of the Balkans crisis confused and uncertainly.

INTERNATIONAL LEGAL AMBIGUITY AND REINFORCING THE BALKANS DISTRUST

The legal relationship between principles of self-determination of peoples, territorial integrity of state, intervention in internal affairs of state is one of the most complexity questions in the Balkans political relations.

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28 "The contradictory diplomatic positions of the United States and Germany, unintentionally led to the outbreak of fighting. Within Europe, an initially unified position on how to respond to Yugoslavia's crisis began to unravel shortly after the Croatian and Slovenian declarations of independence. Partly because of Bonn's tilt toward Zagreb, Germany argued that recognizing Croatia and Slovenia's independence was a way to bring the end to the fighting. Germany formally proposed recognition o Slovenia and Croatia at the European Community Council of Foreign Ministers meeting of July 4, 1991. The community initially reject the suggestion and Paris led the opposition to the to the recognition option…. While Washington de-emphasized ethnic separatism, Germany acknowledge ethnic division within the country. The United States sought to resolve ethnic differences through the maintenance of Yugoslavia's territorial integrity and political unity… Washington's advocacy of Belgrade and Bonn's endorsement of Zagreb was a dance of a diplomats that created diplomatic deadlock… Meanwhile, on December 16, 1991, Bonn announced that it would recognized Croatia but not former Yugoslav Republic of Macedonia, thus once again dividing Yugoslavia along religious and ethnic lines. As division proceeded, the Western reaction was one of confusion, misunderstanding and rivalry… The clash between Serbia and Croatia was colored with religious overtones. Orthodox Russia backed Orthodox Serbia, Germany with its large Catholic population supported Catholic Croatia. Muslim states outside the Balkans sided with the Bosnian Muslim government in Sarajevo."(Raymond Tanter and John Psarouuthakis, *Balancing in the Balkans*, op. cit., pp. 22-23.

This issue in democratic view is primarily reduced on matter of diffusion of power between central government and sub-national groups,[29] but, unfortunately, very often without emphasising of internal democratisation of the state.[30] However in the Balkans practice this legal issue is primarily reduced on political question which solution depend on military power of the participants in the Balkans dispute.

In this article we will consider how can we establish balance between ethnic-religious groups and governments through the introduction welfare as an new legal principle of international law and so encourage ethnic-religious communities in the Balkans, which rely on the principle of self-determination, and the central government of the Balkans states, which invoke on the principle of territorial integrity of its state, to make rational choices which will reduce the likelihood of minority/government conflict in future.[31]

In a typical Balkans dispute between ethnic-religious groups and central government, each claims one principle to justify its position and to regulate the outcome of the dispute. Rather than contribute to peace, as was the original intention of each, the two principles intensify internal conflict. This conflict between these international legal principles promoted and legalised internal armed conflict and violence in the Balkans.

Solution that occurrence in this project includes the corollary that a modification to the existing relationship between the principles of self-determination and territorial integrity by human welfare principle, as an new principle of international law, will affect how the parties in the Balkans dispute can avoid mutual armed conflict, and how international community can obtain active role in so called "balance-in-prevention" of internal armed conflict in the Balkans while providing internal democratisation of state.

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29 "In a case of diffusion of power, both the central government and the regional or autonomous authorities could be the lawful bearer of a share of sovereignty, without necessarily leading to the disappearance or dismemberment of the state". (R. Lapidoh, "Sovereignty in Transition", *Journal of International Affairs*, Winter 1992, no. 2, p. 345).

30 "Secessionist attempts, and the efforts of states to resist them, have usually led to severe economic dislocation and massive violations of human rights. All too often, ethic minorities have won their independence only to subject their own minorities to the same persecutions they formerly suffered" (Allen Buchanan, "Democracy and Secession", in: Margaret Moore, *National Self-Determination and Secession,* Oxford University Press, 1998, p. 14).

31 See more in: Nedzad Basic, David Goetze and Charles Anthony Smith, "Secession Crises, Human Welfare and Conflict Resolution", *Conflict, Security&Development* 3:2, August 2003, pp. 185-209.

Consequently if this relationship can be modified, it will encourage the parties to make decisions that will lead them to democratisation. In new relationship between these principles of international law, realisation of the principles of self-determination of people and territorial integrity of state in the Balkans is set up on respect to principle of human rights, peace and development.[32] By this change in international legal system, principle of (non)intervention of international community in internal affairs of state and principle of international recognition of states is inherently associated with principle of human welfare that make human rights as effective tool for internal democratisation of state and peace-building.

FROM LEGAL CONFUSION TO
THE BALKANS ARMED CONFLICT

Regardless international community does not incline to recognise the practice or the legality of secession, a large number of ethnic-religious group in the Balkans desire to separate.[33] Many self-determination movements in the Balkans have found justification for secession in the norms of international law, despite their ambiguity and controversiality.[34]

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32 Despite many commentators on philosophical argument concerning relationship between self-determination and sovereignty of state tend to justify secession in terms of respect of individual human rights and remedy an injustice they ignore entirely how can legal relationship between these principles be powerful tool for internal democratisation of state and respect to human rights as a basis of development of society. "There is a tendency to view these two profound political changes – the spread of democracy and the surge of secessionist movements – as distinct and unrelated phenomena. The scholarly literature tends to concentrate on the one or the other, without attempting to provide a systematic analysis that links the two". (Allen Buchanan, "Democracy and Secession", in: Margaret Moore, *National Self-Determination and Secession,* Oxford University Press, Oxford 1998, p. 15.

33 However, the United Nations are moving away from the previous rigid anti-secession position, evidenced in the recognition of the numerous Eastern European states that have seceded from the former Soviet Union. The European Community`s recognition policy is set out in the declaration of December 16, 1991, on guidelines for the recognition of new States in Easter Europe and the Soviet Union. I.L.M. (1992), 1486.

34 "State practice during the decolonisation period consistently affirmed the right of peoples everywhere to self-determination. This led to the mistaken belief that the principle was intended to be universally applicable. When groups in non-colonial States unsuccessfully invoked the right, the international community was accused of double standards and the existence of a legal right to self-determination was denied on the grounds of this perceived inconsistency. However, when many States affirmed the right of peoples everywhere to self-determination they did not intend to affirm the universality of the right

Thanks to this ambiguity in contemporary international legal order the key to solving the Balkans hatred-suspicious dilemma between central government and sub-national groups is in relationship between international legal norms and anticipated behaviour of international community in accordance with international legal order, rather than in balancing power between participants.

The Yugoslav crisis began in l980 with the death of Josip Broz Tito. Tito had been President of the Communist League of Yugoslavia (CLY), President of the Presidency of the Socialist Federal Republic of Yugoslavia (SFRY) and the Commander of the General Staff of the Yugoslav Peoples' Army (YPA). After his death two strategies for solving the crisis developed. One strategy saw the separation of the Republics, Slovenia and Croatia in particular, and their recognition as new states as the main threat to the preservation of Yugoslavia. Its proponents thought the political, constitutional and economic re-centralisation of the state to be the most effective way to maintain the state. The other strategy started from the opposite viewpoint. It argued re-centralisation would impede political liberalisation and democratisation and economic rationalisation within Yugoslavia, which its adherents considered to be the best way to maintain the state and to solve the crisis.[35]

In light of the contemporary international legal system[36] central government of Former Yugoslavia postulated the international community

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as a commonly understood. For them, peoples in independent States had already exercised the right to self-determination. By affirming the universality of the right, they were seeking to extend its application to peoples who had not yet exercised it."(Helen Quane, "The United Nations and the Evolving Right to Self-Determination", *International and Comparative Law Quarterly*, Vol. 47, July 1998, p. 571).

35 Nedžad Bašić, *Međunarodno pravo i rat u Bosni*, II izdanje (International Law and War in Bosnia, II issue), Beograd, 1994, str. 3-28

36 U.N. Charter Article 2(4); Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States...Res. 2525(XXV), U.N. Doc. A/8028(1971); (Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, G.A. Res. 2131, U.N. Doc.A/6014(1965). "All members shall refrain from the threat or use of force against the territorial integrity or political independence of any state". The UN Charter particularly prohibits attack on states. Self-defence against armed attack that is spelt out in Article 51 is fundamental right of states. Also in contemporary international law there is no norm with clear obligation of State to refrain use force against sub-national groups claiming secession and no norm of international law to allow international community to use force against the State which use force against sub-national groups under its jurisdiction. Employment force in internal relations remain in exclusive internal jurisdiction of state.

would recognise its right to protect the territorial integrity of sovereign state of Yugoslavia.[37]

The central government in addition postulated the international community would not intervene in its internal affairs, since international law prohibit external intervention in the domestic affairs of a sovereign state.[38]

Further central government of Former Yugoslavia speculated that decentralisation of state with high level of autonomy of the republics and province of Kosovo could encourage the ethnic-religious groups to seek secession what could be recognised as internal dissolution of the state by international community.[39] It strongly encouraged the central government to employ policy of centralisation.[40]

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37 "Despite the changes brought about by the end of the Cold War, Western policy toward Yugoslavia sought to maintain the status quo."(Raymond Tanter and John Psarouthakis (1999), *Balancing in the Balkans*, op. cit., p. 25.

38 The Security Council may take action only to maintain international peace and security... It must avoid interfering in internal affairs of member states by altering a state's political arrangements. ((Mary Ellen O'Connell, "Commentary on International Law: Continuing Limits on UN Intervention in Civil War", 67 *IND. L.J.* 903 (1992).

39 "Precisely because minority may enjoy autonomy as the member units of a federal state and because they can articulate their claims and build up their political elite and administrative infrastructure, secession is easier for them to effectuate than it would be in centralistic or dictatorial regimes. Respect for minorities, which is inherent in genuine federalism, simplifies not only cohabitation but also the braking apart. If one also claims – like the Arbitration Commission of the Conference for Peace in Yugoslavia – that the borderlines between federal member units must be inviolable, one would seem to be punishing federal states for their respect for minorities and, as institutions, treating them worse then unitary states are treated" (Luzius Wildhaber, "Territorial Modifications and Breakups in Federal States", *The Canadian Yearbook of International Law*, Vol. XXXIII, 1995, p. 43.

40 In famous Article 2(7) Charter of U.N. has been announced that "nothing contained in the present Charter shall authorise the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matter to settlement under present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII. Since Chapter VII is entitled "Action with respect to threats to the peace, breaches of the peace, and acts of aggression", it is obviously that threats just to the international peace, breaches to the international peace and acts of aggression, can be legal reason for intervention UN in matters which are essentially within the domestic jurisdiction. Taking threat and breach just to international peace as a reason for intervention in internal affairs of states international law largely excludes internal situations in states. .. In Preamble of the 1970 Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States, which is approved by the UNGA Resolution 2625 of

However, at the same time, concerning contemporary international legal system, Slovenia and Croatia speculated that international community would support their right to self-determination. Slovenia and Croatia also postulated that some states would recognise their right to secede[41] and that international community will intervene in internal affairs of the state in case of internal armed conflict and huge humanitarian crisis and so support their right to secede.[42] Slovenia and Croatia knew that just making human disaster within state might provoke military intervention from outside,[43] so they were encouraged to provoke and intensify inter-communal conflict.[44]

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24 October 1970, the words that "the practice of any form of intervention not only violates the spirit and letter of the Charter, but also leads to the creation of situations which threaten international peace and security.. " are particularly emphasised. UN General Assembly by Resolution 3314(XXIX) of 14 December 1974, adopted definition of aggression as the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporarily, resulting from such invasion or attack. By adopting this definition of aggression UNGA is, in fact, reduced unilateral intervention on aggression. In the same Resolution, Article 3(a), UN Security Council have discretion to conclude that a determination that an act of aggression has been committed would not be justified in the light of other relevant circumstances. (UNGA 3314 (XXXIX) 14 December 1974). See more in: B. F. Burmester, "On Humanitarian Intervention: The New World Order and Wars to Preserve Human Rights", *Utah L.Tev*. 269, 1994, at 278,.

41   Germany recognized ethnic differences and wonted to partition the country along ethnic lines. At the some time Bonn sought to balance Serbian military power with the military capabilities of Croatia and Slovenia." (Raymond Tanter and John Psarouthakis, *Balancing in the Balkans*, op. cit., p. 23.

42   See Stanley Hoffmann, in Richard H. Ulman (ed. 1996), *The World and Yugoslavia's Wars*, op. cit., p. 105; Susan L. Woodward (1996), *Balkan Tragedy: Chaos and Dissolution After the Cold War*, Washington, DC, The Brooking Institution, pp. 146-199.

43   See more about justification of external military intervention with aim to end suppression within state and to protect refugees and other inhabitants in: Adam Roberts, "Humanitarian War: Military Intervention and Human Rights", *International Affairs* 69 (1993), pp. 434-435. Also, many international lawyers incline to see legal basis for intervention of international community in internal affairs of state in the case "when government is acting in a tyrannical manner its population, in the aim protect minorities from genocide or violent oppression, combat gross and persistent violation of human rights, and act to protect extreme cases of violence against a people". (J.A. Gallant, "Humanitarian Intervention and Security Council Resolution 688: A Reappraisal in Light of a Changing World Order", *Am.U.J. Int'l Pol'y* 881, (1992), p. 890. The similar opinion can bee seen in the statement of former U. N. Secretary General Javier Perez de Cuellar: "We are clearly witnessing what is probably an irresistible shift in public attitudes toward the belief that the defence of the oppressed in the name of morality should prevail over frontiers and legal documents" (David J.

Slovenia and Croatia further speculated that centralisation of the federal state could encourage international community to refuse to recognise their right to self-determination, and so justify high level of constitutional, political and administrative centralisation of the Yugoslavia. As a result of this, they would decrease their cultural and historical identity, political independence and economic influence in a common state. It encouraged them to provoke conflict with the central government and employ strategy of secession.

In such legal circumstance the most attractive strategy for each participant in Yugoslav crisis was to pursue its own self-interest (secession for Slovenia and Croatia and centralisation for federal government that was under strong Serbs influence) and try to persuade the international community to support it. Consequently, both sides ended in conflict. Democratisation in the Balkans in such international legal order was highly risky for each participant and they were reluctant accept it.

Model 1.

Depict rational decision-making in the Balkans in current international legal system which become conflict.

YUGOSLAV GOVERNMENT

	B-1 **decentralisation**	**B-2** **centralisation**	
A-1	**(3, 3)**	**®**	**(1, 4)**

Scheffer, et al, *Post-Gulf War Challenges to the U.N. Collective Security System: Three Views on the Issue of Humanitarian Intervention*, Washington (DC), United States Institute of Peace, p. 4).

44 Similar situation occurred during conflict in province of Kosovo. "Ambassador Richard Holbrooke of the United States succeeded in brokering an agreement with Yugoslavia's president, Slobodan Milošević, which permitted the return of those who had fled their homes and the positing of a group of 2000 unarmed human rights monitors. In the end only 1400 monitors were deployed, but the vast majority of refugees return to their homes. Still it was unstable peace. According to the International Herald Tribune, 'US intelligence reported almost immediately (following the Agreement) that the Kosovo rebels intended to draw NATO into its fight for independence by provoking Serbian force into further atrocious.' More attacks did occur" (Mary Ellen O'Connell, "The UN, NATO, and International Law After Kosovo", *Human Rights Quarterly* 22, 2000, p. 78).

CROATIA   **democratisation** **(co-operation)** **(hegemony)**
SLOVENIA

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A-2	**(4, 1)**	**(2, 2)**
secession	**(disintegration)**	**(conflict)**

While it is clear that results in co-operation is the best possible outcome for both, Slovenia and Croatia, from one side and central government, from other side, it is also clear that the contemporary international legal order and behaviour of international community strongly support mutual uncertainty and mistrust between participants in co-operation. This luck of mutual confidence and mistrust between participants lead them into worst outcome conflict.

Because lack of mutual confidence and belief that international community should support principle of international law on which they ride, each participant in this crisis has accepted inevitable conflict rather than an inevitably greater loss from foolish co-operation.

Even if the Yugoslav central government would decentralised and democratised nobody could guarantee to the federal government that Slovenia and Croatia would not claim secession if they would strengthened in the process of decentralisation and democratisation. In this case secession would be understood in references of international law as internal dissolution of the Yugoslavia.[45] Also was not guarantee to Slovenia and Croatia that central government of Yugoslavia would undertakes measures of decentralisation, even if they discard their claim to secession.

In such legal circumstance even if co-operate the participants would be concerned if another achieve relatively greater gains from their co-operation. When faced with the possibility of co-operating for mutual gain central government and sub-national groups that feel insecure must ask how the gain will be divided. They are compelled to ask not will both of us gain?

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45   Arbitration Commission of European Community in case of Yugoslavia, in opinion no. 1, stated that the federation of Yugoslavia was dissolving, the federal organs were no longer representative. (Luzius Wildhaber, "Territorial Modifications and Breakups in Federal States", *The Canadian Yearbook of International Law*, Vol. XXXIII, 1995, p. 68; On dissolution of former Yugoslavia see more in Marc Weller, "Current Developments: The International Response to the Dissolution of the Socialist Federal Republic of Yugoslavia", 86 *Am Int'l L*. 569, 576, 1992.

But who will gain more? If an expected gain is to be divided, say, in the ratio of two to one, one participant may use its disproportionate gain to implement a policy to damage or destroy the other,[46] what led the participants to be concerned about gaps in gains from mutual co-operation,[47] that made central Yugoslav government and Slovenia and Croatia averse to co-operate each other even co-operation produce better outcome for both then conflict.

Why, considering that the payoffs for co-operation are better than for conflict, did the participants in the Yugoslav crisis chose strategies that resulted in conflict rather than strategies that produced co-operation? Why are the strategies of re-centralisation and secession the rational strategies in the Yugoslav crisis? Both participants in the crisis were rational decision makers; they correctly calculated their interests and know how under the circumstances to accomplish them. In the Yugoslav crisis one of the main reasons for deciding against strategies that lead to co-operation was undefined behaviour of international community towards norms of international legal system what strengthened lack of mutual confidence and encouragement of assumption of the each participant that international community would protect their self-interest: secession or territorial integrity of state. Although the each participant might be tempted to try to negotiate their differences within Yugoslavia, they would not since they could not be certain the other would not forsake co-operation and they were confident that international community would support just its self-interest as a lawful claim in accordance with norms of international law. This results in strategy of cheating each other what results in the worst outcome: armed conflict. In the Yugoslav crisis the international legal context is ambiguous and this contributes significantly and, in our view definitively, to the progressive development of lack of mutual confidence and to decisions that result in conflict.

CLOSING WINDOW FOR DEMOCRATISATION

While Washington inclined to Belgrade, Bonn favoured Zagreb, Sarajevo turned to Islamic countries. It unintentionally led to further ethnic division in the Balkans and to outbreak fighting and West was faced with two possible options. The first option was support territorial integrity of

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46   Waltz N. Kenneth, *Theory of International Politics*, p. 105.

47   Joseph Grieco, "Relative-Gains Problem for International Co-operation", *American Political Science Review*, Vol. 87, No. 3, September 1993, p. 734.

Yugoslavia. The second option was recognised support for Croatia and Slovenia's secession underlining internal ethnic division of Bosnia and Herzegovina as unit state. However, the both options were connected with different and collided interest of member-state of Western Alliance.

During September 1991, France proposed to create Rapid Reaction Force for the Balkans and send it in the region instead of traditional peacekeeping force. Germany coincided with France plan but London, fearing of strong Franc influence in Europe Union, was differed underlining that no valid reason for intervention in the Balkans crisis. Also UN was opposed to idea about Rapid Reaction Force. "The conflict in Europe was primarily between France and Germany, but there also were disputes involving Britain. Such intra-alliance disagreement lowered the credibility of the Western intention. The lack of resolve and the absence of force regarding Yugoslavia derived from preoccupation among the European states to maintain balance of power among themselves rather than to resolve conflict in Yugoslavia. To some extent, a fear of Germany influence in Croatia and Slovenia drove British policy. London believed that the dissolution of Yugoslavia would give a newly united Germany an opportunity to expand its interest over those two republics. Such a contingency would make the Germany impact in Europe even stronger, and thereby dilute Britain's influence. London, therefore, devised a policy to balance this diplomatic threat from Bonn."[48]

While neither, Slovenia, Croatia nor the Yugoslav central government could not predict that international community would exclude whether self-determination or territorial integrity,[49] resulting armed conflict prevents any chance whatsoever for state-wide respect for democratisation and human rights. Ironically this is something the current international law directly contributes.[50]

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48   Raymond Tanter and John Psarouthakis, *Balancing in the Balkans*, op. cit., p. 32.

49   "The West never chose between two conflicting policies: continuity and unity through the support of Serbia versus change and independence through assistance to Croatia and Slovenia. The first approach emphasized the territorial integrity of the whole Yugoslavia with Serbia as its core. The second approach acknowledged ethnic division within the country in the form of support for Croatian and Slovenian secession. Intra-European wrangling and transatlantic bickering produced confusion that abetted violence."(Raymond Tanter and John Psarouthakis, *Balancing in the Balkans*, op. cit., p. 24.

50   The formal logic of the model of the Current International Legal Order indicates that the Federal-Serbian coalition knew the threat of force would not maintain the territorial integrity of Yugoslavia. Similarly, Slovenia and Croatia knew not accepting re-

In such political and legal environment international community had moved its focus on Bosnian situation as a core of the Balkans conflict resolution, focussing preference-order of the participants in Bosnian crisis (Bosnian Serbs, Bosnian Croats and Bosnian Muslims) intending to change it and established balance-in-power between Serbs Coalition, on one side, and Bosnian Muslims and Croats Coalition on other side, thus encouraging them to move away from conflict.

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centralisation would reject the preservation of Yugoslavia's territorial integrity and call forth the threat. The central question the analysis poses is why each coalition chose strategies--re-centralisation at the Federal-Serbian level and independence at the Republican level-they knew would involve the threat and use of force. Why did the one coalition decide upon force knowing it would provoke the disintegration of the state it sought to preserve? Why did the other decide to provoke the threat and necessitate a response in kind when that would make independence more costly to achieve than would negotiation? These choices reflected the mutual lack of confidence required to chose strategies that resulted in co-operation to solve the crisis. To understand the rational answer in the circumstances was to accept force as the solution knowing it could be counter-productive lies in the relation of the international legal order and the behaviour of the international community to the thinking of the participants in the crisis. The Federal-Serbian coalition realized Slovenia and Croatia might not remain in Yugoslavia regardless of the degree of democratisation and decentralisation it might agree to. If it were to agree to decentralise and Slovenia and Croatia were to secede anyway, it would have to accept its worst possible outcome-Slovenian and Croatian independence and the loss of a Serbian controlled Federal state. In this case, re-centralisation, given it would lead to conflict because Slovenia and Croatia would decide to secede regardless, was the rational decision. But the attitude of international community toward the position of the parties in the crisis encouraged the Federal-Serbian coalition in their decision to threaten and to use force. The first phase of the conflict in Yugoslavia confirmed their thinking. The international community rejected the secession of the Republics, Slovenia and Croatia in particular, and regarded the crisis as an Yugoslavian internal matter into which it would not intervene. Since conflict would resolve the crisis, this attitude confirmed that conflict would not only resolve the crisis, but also that its outcome depended on the political and military power of the Federal-Serbian forces relative to the Slovenian and the Croatian forces. The international community's attitude meant to the parties that it would recognise the result of the use of force. If the Federal-Serbian coalition had sufficient political and military power, it would resolve the crisis by preserving the state and giving Serbia a dominant position in the new re-centralised political, constitutional and economic structure. The international community would accept this outcome. But the international community would equally accept the outcome if the Slovenian-Croatian coalition prevailed through force. This would allow them, and the other Republics, Montenegro, Macedonia and Bosnia-Herzegovina, to secede, and the international community would recognise them as new states. The combination of the internal circumstances and the posture of the international community could only encourage and intensify the use of force and the ambitions it feeds. It affected both coalitions in an ironic manner. In the first phase of

Serbia had been the dominant military power in the Balkans region until the Dayton Peace Accords. But, Serbia leaned toward Bosnian Serbs and to dominate Bosnia and Herzegovina rather than to play role of holder of the balance. International community accepted the second option for solution of the Balkans crisis: to support Croatia and Slovenia secessionism and offer a credible balance to the Serbs-Yugoslav military force. This balance was created by supporting Bosnian and Croats military forces and by actively involving USA in conflict. But Bosnian Muslims and Croats, as weaker participants in the conflict, have had mutual oppose preferential order of their national interests, that made coalition among those parties in the Balkans conflict unstable.

During the Bosnian armed conflict, three distinct coalitions has been established: Bosnian Serbs, led by the Federal Republic Yugoslavia (Serbia, Montenegro); Bosnian Croats, led by the Republic of Croatia and the Bosnian Government as single-member coalition. Considering that each of these coalitions has been supported by certain group countries, whose political interest in the Balkans crisis has been more or less defined, we can see political feasible interests of each of the coalitions in the Balkans conflict.

In this circumstance three alternatives have faced the participants in Bosnian crisis:

a. The first alternative (q1) was to continue armed conflict. The Serb's coalition has preferred this alternative. The Serb's coalition hypothesised that its side would eventually win this conflict and to eliminate Bosnia and Herzegovina as independent state, if this alternative would prevail.

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the conflict (the separation of Slovenia and Croatia), the incapacity of the Federal-Serbian coalition to preserve Yugoslavia contributed to the attitude that if separation of the Republics was to be the result, then the existing borders of the Republic of Serbia would not be acceptable; there would have to be a "Greater Serbia". On the other hand, one of the Republics that sought independence as a Republic in the first place, once it saw it could be accomplished, also sought to expand into a "Greater Croatia" The "ethnic cleansing" or genocide that both adventures required, since newly acquired territory would have to be entirely Serbian or Croatian, or Bosnaks, testifies to the extremes the use of force can go. When it became clear the strategy of re-centralisation would not be successful, one coalition, the Federal-Serbian, sought greater "gain" than losing on the basis of a resolution along the original lines of conflict--preservation and re-centralisation of Yugoslavia or independence of the Republics with existing borders respected. It saw the opportunity to reduce its losses through expansion as an approach to the national question. On the other hand, Croatia, realising it would get its original position-independence-also sought to increase its gains through expansion also on the basis of the national question.

b. The second alternative (q2) has suggested internal territorial division of Bosnia and Herzegovina along the newly drawn ethnic lines in Bosnia and Herzegovina. Croat's coalition has preferred this alternative. However, elimination of Bosnia and Herzegovina as a independent state, was sincere option of Croat's coalitions. Since Croatia was faced with immense threat to its territorial integrity, by seeking separation of Croatian Serbs, Croat's coalition announced its deceptive preference. As other participants in the crisis and international community could not detect this deception they have adopted this preference as accurate preference of the Croat's coalition (tacit deception).

c. Bosnian Government has preferred third alternative (q3): territorial unification of Bosnia and Herzegovina as a unit multi-ethnic society.

Heaving in mind internal political and military situation in Bosnian conflict, and situation in international relations, related with conflict in the Balkans, the preference order of each of the three participants in the crisis could be defined as follows:

A. the Serb's coalition (q1, q2, q3)

B. the Croat's coalition (q2, q3, q1)

C. the Bosnian Government (q3, q1, q2)

If in this preference order the best alternative of each participant is marked by numerical value of 3, the next best alternative each participant by numerical value 2, and worst alternative each participant by numerical values 1, it is easy to see that the Bosnian conflict in this preference order lacked a core.

If strategy of conflict (A_{q1}) is selected the Serbs would realises its best, the Croats its worst and the Bosnian government its next-best outcome: $A_{q1} = (3\text{-}1\text{-}2)$.

In case if strategy of ethnic-territorial division of Bosnia (B_{q2}) would prevail the Serbs would realise its next-best, Croats its best (?), and Bosnian government its worst outcome: $B_{q2} = (2\text{-}3\text{-}1)$

And finally if strategy of territorial unification of Bosnia and Herzegovina (C_{q3}) would prevail the Serbs would realised its worst, Croats its next-best and the Bosnian government its best outcome: $C_{q3} = (1\text{-}2\text{-}3)$

By these preferences order of the participants, internal structure of the Bosnian conflict has been defined in following order without dominance.

$$A_{q1} (3,1,2) > B_{q2} (2,3,1) > C_{q3} (1,2,3)$$

In such preference order in which no dominance, to establish stable balance between national interest of the participants was impossible and Balkans bloodshed was continued.

In so complex situation the western ally had decided to change preference order of the participants in the Balkans conflict with the aim to modify internal structure of the conflict from zero-sum game, where is any concession automatic means a permanent loss, to interdependence game, in which the participants have to take care about both their own choice and those of other participants, and stop armed conflict among participants in Bosnian crisis. Because that international community ordered bombing campaign against Bosnian Serbs Army.

At the Paris Conference, which marked the end of the Bosnian armed conflict, the Serb's coalition adopted its deceptive strategy and announced its a new false preference: (q2,q1,q3). By this Serbs revealed deception, internal structure of the Bosnian crisis was completely changed and preferences order of each of the three participants in the crisis was as following:

A. the Serb's coalition (q2, q1, q3)

B. the Croat's coalition (q2, q3, q1)

C. the Bosnian Government (q3, q1, q2)

After changing preference order of the Serbs coalition internal structure of the Bosnian conflict has been defined in following order with internal dominance.

$$A_{q1} (2,1,2) < B_{q2} (3,3,1) > C_{q3} (1,2,3)$$

From this preference order it is easy to see that strategy of internal ethnic-division of Bosnia and Herzegovina (B_{q2}) dominates both strategies (A_{q1}) and (C_{q3}) that make coalition between Serbs and Croats preference stable. However, in this new strategic situation genuine coalition between Croats and Bosnia government was unacceptable for both side.

In this new game, with Serb's revealed and Croat's tacit deception, Bosnian government was compelled to adopt strategy of internal ethnic division of Bosnia and Herzegovina, what temporarily ended the armed conflict. However, as a sincere strategy for the both, Croats and Serbs coalition, is associated with their the most preferred alternative (q1), to eliminate Bosnia and Herzegovina as unit multiethnic state, what is the most preferred alternative for Bosnian Muslims, that abrogated any chance to

establish stable peace in Bosnia and Herzegovina, and to impose co-operation in the Balkans.

In this stage of the conflict difficult and delicate balancing among ethnic groups have been given up by sending NATO troops in to the battle field and by establishing "train and equip" programme. By this strategy NATO become the holder of the overall balance that had completely changed decision-making of the participants bringing them in a new artificial strategic situation in which neither participant incline to accept conflict as self defeating strategy. See Matrix 1.

Matrix 1.

Decision making in Dayton Peace Accord

Republic of Serpska

	Status Quo	The Conflict
Status Quo	(50; 50) ¬	(10; 10)

Federation
of B&H   -

The Conflict	(10; 10)	(50; -5)

However, having in mind that the best (sincere) strategy of national interest, of the Bosnian Croats and Bosnian Serbs is to be separated from Bosnia and Herzegovina, and that sincere strategy of Bosnian, predominantly Muslims, government is to maintain territorial integration and political centralisation of Bosnia and Herzegovina as unit state, no development of mutual trust and co-operation among participants in this model. Each participants try to keep status quo without any progress in democratisation and development that prevented to establish long-lasting peace in the Balkans.[51]

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51 "Despite considerable progress since the signing of the Dayton Peace Agreement (DPA) in November 1995 in consolidating the peace and rebuilding normal life in Bosnia and Herzegovina (Bosnia), international efforts do not appear to be achieving the goal of establishing Bosnia as a stable, functioning state, able at some point to run its own affairs without the need for continued international help. Peace, in the narrow sense of an absence of war, has been maintained; progress has been made in establishing freedom of movement throughout the country; joint institutions, including the state presidency, parliamentary assemblies and ministries, as well as a joint command for the armed forces of the Federation of Bosnia and Herzegovina (Federation), have been established. However, the return of refugees and displaced persons (DPs), one of the key planks of the DPA, has been disappointingly slow, despite considerable international

NEW BALKANS STRATEGY: FROM BALANCE OF POWER TO BALANCE OF HUMAN WELFARE

Thanks to national-religious suspicious-hatred historical pattern as a core of the Balkans relationship, one can clearly see that lasting solution of the Balkans crisis, with democratic development, can not be established by coercive diplomacy, "balance-in-power" or by "offense-defense balance strategy",[52] even if balance of interest Western countries, regarding of the Balkans, has been established. It is obviously that future of the Balkans is up to Balkans peoples. However, the central question: how can Balkans peoples build up their common democratic future if there are so much historical, ethnic, religious dissimilarity with too mutual exclusive interests among them, remains still open.

Attempting to find an new approach to solution of the Balkans dilemma we propose here adoption a new principal criterion for establishing balance between principle of protection of territorial integrity

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attention to this issue and the application of considerable resources. While joint institutions have been set up, at the state level they barely function, if at all, with the international high representative having to intervene and impose decisions in a number of key areas. Institutions in the Federation frequently do not function properly. Bosniac and Croat parallel institutions continue, de facto, to operate, while in cases where joint institutions have begun to function, Bosniac and Croat officials often behave more as representatives of their ethnic groups and political parties than as professional public servants. And while a joint command for the Federation Army notionally exists, in practice separate Bosnack and Croat military formations remain, so that Bosnia still effectively has three military forces representing the three recent wartime protagonists. In general, mutually-suspicious ethnic parties representing the three principal ethnic groups are dominant. They hold very different perspectives about how the country should look. If they do co-operate at all in implementing the DPA it is usually only grudgingly and under intense international pressure. The political system, which requires consensus among ethnic representatives, does not function effectively. In a system infused with corruption and cronyism, the one major respect in which many in power share a united purpose across the ethnic divide is in their determination to take advantage of the numerous opportunities for personal enrichment. In this situation economic reforms, such as privatisation, which numerous western advisers and consultants have tried to steer towards a western-style market orientation, are more likely further to entrench cronyism."

52 Offence-Defense theory (or security dilemma theory) is a quite optimistic theory of international politics, since its argues that when defense has the advantage over offense major war can be avoided."(Charles L. Glaser and Chaim Kaufmann, "What is Offense-Defense Balancing and Can We Measure It?", *International Security*, vol. 22, no. 4 (Spring 1998), p. 44 .

of state, and principle of self-determination of people that still remain principal issue in the Balkans dispute. Which principle: territorial integrity of state or principle of self-determination of people, should be supported by international community?[53]

If right of self-determination of Bosnian Serbs and Bosnian Croats is limited to self-governance within the united B&H, the principle of self-determination would itself reduce pressure for internal democratisation and thus eliminate it as a inherent force of internal democratisation. On the other hand, a people who seek self-determination, in this case Bosnian Serbs and Bosnian Croats, should also have to respect and develop the highest standards of human rights, peace and development. Similar to the above logic, if they do not then they should remain in the high centralised Bosnian state and be obligated to do so. This implies that self-determination cannot grant an immediate and unconditional right to secede. If a people has a right to secede without having to observe human rights, peace and development while they are in the state or trying to get, then equally, there is no inherent pressure on them to do so, and any overtures for internal improvement through democratisation including respect for human rights, peace and development can be easily rejected. The case of protecting territorial integrity without obliging the government to respect human rights, peace and development and the case of allowing secession without a previous obligation to observe human rights, peace and development have the same consequence: the state descends deeper into autocracy and retreats further from democracy as all parties resort to force to settle issues, that quickly become, if they are not already, "scores".

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53 Were self-determination include secession, either as a variant or as the single option, in current international legal order, it would contest the principle of respect for the territorial integrity of the state as the cornerstone of the modern international state system. Moving towards recognising a right to secession will certainly produce huge internal problems. If the international community inclines to recognise the "process of internal dissolution of a state" as a basis for the recognition of "unilateral secession" it must also recognise the risk to internal peace. If the international community accepts the position that self-determination means self-government within the state, but not independence through secession, this too will provoke internal and international conflict. Giving governments a free hand to act against sub-national groups by denying them the right to secede gives governments opportunities to refuse of obstruct democratisation and to violate the human rights of the sub-national group. Which ever position it adopts, the international community confronts the same consequences: increasing internal disorder, and increase in violations of human rights.

Without the right of secession of Bosnian Serbs and Bosnian Croats the central Bosnian government is not under any inherent pressure to compromise and to democratise. Bosnian Serbs and Bosnian Croats knowing this, will also be reluctant to compromise and accept any promises of internal reform. If, on the other hand, the international community would recognise an unconditional right of secession, they would have no motive to co-operate in internal reform and progressive development of respect for human rights, peace and development.

By recognising right of secession of sub-national groups and holding the possibility of secession open, the primary responsibility of the international community in this cases is to create non-violent democratic routes for the realisation of self-determination of Bosnian Serbs and Bosnian Croats, and for protection of territorial integrity of Bosnia and Herzegovina, which encourage and develop respect for human rights, peace and development. The international community can use international law to reduce gradually the inherent conflict between self-determination and territorial integrity as the working out of these principles in light of the forces of democratisation and respect for human rights, peace and development comes to make the parties see them as less and less irreconcilable.

Model 2.

Depict decision-making in relationship between Bosnian central government and Bosnian Serbs and Bosnian Croats in new international legal system which become co-operation. Change in numerical values reflect change in relation between principles of self-determination and territorial integrity of state.

BOSNIAN GOVERNMENT

	B-1 **decentralisation**	**B-2** **centralisation**
A-1 **Democratisation**	(3, 3) (co-operation)	¬ (1,-4) (disintegration
A-2 secession	(-4, 1) (hegemony)	- (2, 2) (conflict-war)

SERBS &
CROATS

In this model of "balancing principle of international law" (territorial integrity of state and self-determination of people) in the Balkans each member in conflict can be confident that others one would reject use force to achieve their self-interest, simply because to use force for each party is self defeating strategy.

In new legal and political environment Serbia or Croatia would not interest to support violent secession of Bosnian Serbs or Bosnian Croats from Bosnia and Herzegovina. If Serbia or Croatia want to see separated Bosnian Serbs and Bosnian Croats from Bosnia and Herzegovina, as they want, in that case Serbia and Croatia would support democratisation and development of Bosnian Serbs and Bosnian Croats. At the some time Serbian and Croatian government must push democratisation and development their own countries, Serbia and in Croatia, and to make them more attractable for Bosnian Serbs and Bosnian Croats to join them, than stay within B&H.

At the some time if the central government of Bosnia and Herzegovina wants to preserve the territorial integrity of B&H, have to be capable to build up a programme of development, human rights standards, and democratisation, with higher attractable performance for Bosnian Serbs and Bosnian Croats then human welfare programme offered them by authority of Bosnian Serbs and Bosnian Croats. Also human welfare programme of central government of B&H should have higher performances in credibility, reality and viability then human welfare programme offered by Serbia and Croatia.

Through these chain reactions, the desire of Bosnian Muslims to preserve the Bosnian territorial integrity and the desire of Bosnian Serbs and Bosnian Croats to realise independence work to produce a guarantee of welfare for all. As both parties engage in welfare activities to retain their respective principles the joint focus on welfare becomes a trend towards peace, democratisation and development. In the end, the principles of secession and territorial integrity harmonise rather than conflict. Influenced by this new constellation of international legal order, the parties' political interests gradually focus on democratisation including observation of human rights, peace and development rather than on territorial issue.

As demonstrated in this article balance of interest of the participants in intrastate conflict can promote the peaceful resolution of the Balkans disputes and the internal democratisation of the Balkans multiethnic states, if their interest is governed by an adherence to welfare, rather than balance-in-power.

If a balance of power among the parties in Bosnia is necessary to keep the peace between them,[54] it is very difficult to anticipate that balance of

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54   Raymond Tanter and John Psarouthakis, *Balancing in the Balkans*, op. cit., p. 132.

power among parties in the Balkans can bring the parties in process of development and democratisation itself.

Similar model of balance in human welfare could be applied in relationship between Kosovo and Serbia, Serbia and Montenegro, Turkey and Kurds people, Romania and Hungarian minority, Macedonia-Albanians minority, and in other multiethnic Balkans states.

CONCLUSION

Adoption of a human welfare criterion could remove much of the confusion in international policy making about secessionist movements as well as the uncertainty faced by central governments and minority groups about the posture of the international community. Most importantly, it would transform the incentive structure that currently encourages conflict between central Bosnian government and Bosnian Serbs and Bosnian Croats into a competition is most likely to promote the welfare own populations.

Promotion of political democracy, protection of civil and minority rights, promotion of economic prosperity, and restraint in the exercise of coercive force against a citizenry are criteria that much of the international community supports and attempts to encourage in other states. People living in political units where these criteria are promoted are simply better off than people living in states where they are not.[55]

By introducing welfare as an new principle of international law between principles self-determination of Bosnian Serbs and Bosnian Croats and territorial integrity of Bosnia and Herzegovina, the parties will understand that if neither self-determination nor territorial integrity can be realised, unless in doing so it contributes to the observation of human rights, development and peace, then they must adopt strategies that result in democratisation. This effectively reduces the likelihood of armed conflict. If central Bosnian governments and Bosnian Serbs and Bosnian Croats are given to understand that self-interest (protection of territorial integrity of

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[55] In thinking about a new international legal and political order, the main question is how international community can employ the right of self-determination of peoples, including right to secession, to prevent multi-ethnic conflict while providing new opportunities for government to preserve its territorial integrity (?). The two principles might possibly be brought together by focussing the attention of the parties on welfare (internal democratisation, development and respect for highest standards of human rights).

B&H and independence of Bosnian Serbs and Bosnian Croats) can only be strikingly realised if human rights, peace and development are observed, then conflict is not about land but rather about how each can attain their goals within a context of respect and observation of human rights, peace and development, what lead them in democratisation.

Thus, if Bosnian central government adopts measures of decentralisation (constitutional, political, administrative), democratisation and development, while the Bosnian Serbs and Bosnian Croats seeks secession and disintegration of the state, international community should not recognise right to them to be seceded. Bosnian Serbs and Bosnian Croats in realising that a policy of conflict is self-defeating, if central government adopt strategy of powerful centralisation with strong international support, may understand that, it is better to adopt a strategy of democratisation and development rather than a strategy of conflict, since only then can obtain its best outcome, independence, as opposed to its worst outcome, to stay in high centralised state.

The same logic applies to Bosnian central government, that personifying national interest of Bosnaks as the largest ethnic group in B&H. A central government in realising that a policy of secession is self-defeating if Bosnian Serbs and Bosnian Croats adopt strategy of secession, may understand that, it is better to adopt a strategy of decentralisation, democratisation and development rather than a strategy of centralisation and conflict, since only then can obtain its best outcome, to preserve territorial integrity, as opposed to its worst outcome, disintegration of state. This has two effects: since observation of development, and human rights affects the realisation of either or both of the principles of self-determination or territorial integrity, democratisation become the focal point and the active factor in resolving internal conflict and establishing internal peace in Bosnia and Herzegovina and the Balkans. The other effect is that the international community does not stand aside and let force have its effects; rather it uses the observation of democratisation, development and human rights as the legal basis of intervention in the internal affairs of a state.[56]

For the international community, the issue is no longer whether a central government is behaving so abysmally as to warrant suspension of

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56 ("…thesis defended here is that the rights of states recognised by international law are derived from human rights, and that as a consequence war on behalf of human rights (humanitarian intervention) is morally justified in appropriate case."; Fernando , Transnational Publishers.

non-intervention principles but rather a matter of evaluating a competition between the two sides. Does the central government of Bosnia and Herzegovina (Bosnaks) or Bosnian Serbs or Bosnian Croats offer the best and most convincing proposals for enhancing the welfare of the affected populations? An evaluation of this sort is no easy matter. For example, plans for democratisation may not always be consistent with plans for economic development. Promotion of one may hinder promotion of the other. Thus, evaluations of human welfare may require very difficult assessments of tradeoffs between different components of welfare. The central point remains, however, that in this new legal environment, the contending parties are competing to fulfil highly constructive ends rather than destructive ones.

Of course, adopting a human welfare principle into international law would not immediately transform Bosnia and Herzegovina and Balkans into peace-loving region nor resolve all issues confronting the international community in formulating Balkans policy. The international community will undoubtedly continue to be beset by the problems of: accurately evaluating the welfare proposals and practices of central government of Bosnia and Herzegovina and Bosnian Serbs & Bosnian Croats, determining what actions the international community should take as support for the deserving side; and fashioning responses to political actors who are oblivious to the resources that the international community could bring to bear on their situations.

Moreover, as a means to curry the favour of the international community, Bosnian Serbs and Bosnian Croats, as well as Bosnian Muslims might create false impressions of their willingness and ability to further the welfare of their peoples. In response, the international community would need to develop criteria in its evaluation process that enables the recognition of false claims and that facilitates substantiation of the claims made by the various parties. No set of criteria are likely to be foolproof in establishing the accuracy of claims, but the process itself should go along way towards encouraging participants to develop plans for improving the welfare of their populations and providing convincing evidence of their intentions and good practices. These behaviours ought to be highly correlated with the actual improvement of human welfare and should divert time and attention away from the making of plans for hostile and violent conflict.

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BALKAN: OD RAVNOTEŽE SNAGA DO RAVNOTEŽE LJUDSKE DOBROBITI

REZIME

Većina zapadnih analitičara posmatra konflikt na Balkanu kao sukob koji je uzrokovan pre svega istorijski kreiranim odnosom između balkanskih etničkih zajednica, koji je kroz istoriju uvek bio determiniran balansom interesa između mnogo značajnijih faktora međunarodnih odnosa. Na prostoru Balkana kroz dugi istorijski period sučeljavali su se i sukobljavali interesi i ideologije hrišćanstva i islama, interesi velikih imperija, Otomanske imperije, Austro-Ugarske monarhije i carske Rusije, te docnije podjele sveta na zapadni-kapitalistički i istočno-

komunistički svet, čiji su se interesi najčešće sudarali duž temeljnih verskih linija podela između hrišćanstva i islama, katoličanstva i pravoslavlja, podcrtavajući time još snažnije i moćnije temeljnu balkansku podelu na svetove međusobno isključujućih civilizacijskih sistema vrednosti.

Ne negirajući značaj ove podele Balkana i njen uticaj na poslednji sukob između balkanskih etničkih i verskih zajednica, autor ove studije uzroke posljednjeg balkanskog sukoba traži u racionalnosti ponašanja sukobljenih etničkih zajednica na Balkanu, koja se predominantno svodila na značenje njihovog političkog i kulturnog opstanka. Ova unutarnja racionalnost balkanskog konflikta kreirana je prije svega ponašanjem međunarodne zajednice i uspostavljenim međunarodnim pravnim sistemom koji je nastao kao izraz interesa podeljene međunarodne zajednice, a ne isključivo kao izraz međusobne mržnje i netolerancije između balkanskih etničkih i verskih zajednica. Razvijajući koncept "unutarnje racionalnosti balkanskog konflikta" kroz studiju se kreiraju nove mogućnosti ne eliminacije vekovnog sukoba između balkanskih etničkih i verskih zajednica, već pre svega transformacija ovog istorijskog konflikta iz konflikta stagnacije, međusobnog ubijanja i istrebljivanja, u konflikt sopstvenog ekonomskog razvoja i demokratizacije, sa čime se otvaraju nove perspektive u odnosima između sistema vrednosti različitih civilizacija na području Balkana.

Koncept "transformacije konflikta", koji se razvija u ovom eseju, između tri etničke i verske zajednice u Bosni i Hercegovini, iz tzv. „statično-zatvorenog " konflikta, u kojem se ne može kreirati unutarnja racionalnost sukobljenih strana za demokratskim razvojem i ekonomskim napretkom, u tzv. „otvoreno-dinamički" konflikt, u kojem se demokratski razvoj i ekonomski napredak pojavljuje kao temeljni instrument realizacije vekovnih težnjih balkanskih naroda, predstavlja instrumentarij za realizaciju istorijski kreiranih nacionalnih interesa etničkih i verskih zajednica kroz proces demokratizacije, razvoja i teritorijalne integracije, uz maksimalnu realizaciju verskog, kulturnog i političkog identiteta etničkih, kulturnih i verskih zajednica.

Kroz koncept "transformacije konflikta" autor ove studije ukazuje na sve tragične greške međunarodne zajednice, koja je ne shvatajući svu istorijsku složenost balkanskog pitanja, sa svojom politikom umnogome kreirala racionalnost balkanske destruktivnosti, bez ikakvih mogućnosti kreiranja unutarnje demokratske klime i klime razvoja na području Balkana.

Model koji je razvijen u ovom eseju i koji koristi istorijski kreirane međusobno isključive interese različitih etničkih i verskih zajednica, da bi se kreirala unutarnja inherentna racionalnost demokratizacije i ekonomskog razvoja samih sukobljenih strana, mogao bi se efektno primeniti i na tekuće konflikte između srpske i albanske zajednice na Kosovu, te na tekuće nesporazume između Srbije i Crne Gore, smatra autor.

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