

## **Preventing Ethnic Conflicts: A Reconsideration of the Self-Determination Principle**

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One remarkable feature of the post-cold war era has been the growing consensus in the international community on the importance of preventive diplomacy. This has resulted partly in reaction to the catastrophic ethnic conflicts in Rwanda, the Soviet Union, Yugoslavia, and elsewhere, and partly from a realization that it may be easier and less costly to tackle disputes early, before they reach the point of armed conflict.

Armed conflicts have both general and specific causes. Attempts at conflict prevention must therefore attend to both the generic conditions that make societies prone to armed conflict and the potential catalysts that might imminently translate the propensity for war into armed conflict. In this regard, preventive diplomacy measures by international actors can be divided into two categories: short-term preventive diplomacy (or “light preventive diplomacy”) and long-term preventive diplomacy (or “deep preventive diplomacy”) (Zaagman 1996, 30; Miall, Ramsbotham, and Woodhouse 1999, 97). Short-term preventive diplomacy aims at preventing or containing a crisis from escalating into an armed conflict. Examples of such action include diplomatic interventions—sending diplomatic missions, deploying preventive military forces, or conducting private mediation efforts. At the same time, durable prevention of conflict often requires additional measures based on a longer-term perspective. Long-term preventive diplomacy aims at addressing the root causes of latent conflicts through such actions as assisting democratization, establishing the rule of law, building civil society, and monitoring human rights violations.

New and emerging conflicts in the post-cold war era have taken on an increasingly ethnic character, raising the question, “Can we prevent ethnic conflicts?” Many conventional explanations of ethnic conflict stress long-standing mutual hatreds between ethnic communities.

These deep-seated animosities had been dormant, held in check for years by authoritarian rule. The collapse of authoritarian rule took the lid off these ancient, implacable rivalries, allowing long-suppressed grievances to come to the surface and thus leading to violent ethnic conflicts. This argument holds that ethnic conflicts are historical and inevitable, and that accordingly there is no leeway for the international community to conduct preventive diplomacy.

Yet even a cursory examination of recent violent ethnic conflicts reveals their political character: They are forged from strategic and political motivations and are not inevitable. In the face of economic crises, political leaders find it relatively easy to mobilize populations by stimulating a sense of collective ethnic identity. The rallying cry of, and international pressure for, democratization has resulted in something other than effective pluralism; the by-products include upsurges in rampant ethnopopulism and the shattering of fragile democratic institutions. Appeals to ethnicity or nationalism, in fact, have been crucial in ousting certain entrenched elites.<sup>1</sup> In addition, the international environment can strongly affect the escalation of ethnic conflicts. In particular, signals from major powers regarding the possibility of international recognition of the independence of seceding national minorities or ethnic nations, and the concomitant expectation of such recognition, can encourage political elites to mobilize populations, leading eventually to unilateral independence. Naturally, these secession movements often meet outright rejection by the respective central governments, thus leading to civil war.

Given that these political aspects do exist in the emergence and escalation of ethnic conflicts, is there any scope for intervention by the international community or major powers to support and develop a preventive diplomacy capacity? If so, how should preventive diplomacy be conducted?

If preventive diplomacy addresses only the immediate triggers of a conflict, the deeper causes may simply reemerge in a new and different configuration of violent conflict. Post-ethnic conflict situations are potentially volatile. While the general image of the post-conflict phase is that peace will be achieved once the conflicting parties have been disarmed, it is in fact extremely difficult to tackle conflict prevention in a country that has experienced violent ethnic fighting. The lingering animosity generated by ethnic violence creates underlying tensions that can erupt at any time. In addition, there are deeper structural changes in society as a result of

ethnic cleansing that will shape violent events, since it is not likely that a democratic and stable multiethnic society can be built in the short run. In this context, long-term preventive diplomacy is crucial during the post-ethnic conflict phase. But what sort of preventive diplomacy is effective for building and maintaining a multiethnic society?

The armed ethnic conflicts in the former Yugoslavia provide a tragic example of the failure of short-term preventive diplomacy. Similarly, the long-term preventive diplomacy by the international community toward seceding countries—Bosnia and Macedonia in particular, as well as the current Yugoslavia (the Federal Republic of Yugoslavia)—has not achieved the expected results. This chapter will examine the efforts of the international community, and particularly of European countries, to prevent the ethnic conflicts in the former Yugoslavia and will try to identify the causes of their failure. In addition, I will examine the long-term preventive diplomacy efforts of the international community to prevent a resurgence of ethnic conflict in the post-conflict phase in this region. I will first attempt to develop an understanding of how the belated and uncoordinated preventive diplomacy of the international community in fact triggered internal ethnic conflicts in the former Yugoslavia. I contend that signals from certain major powers that they would recognize the self-determination of seceding ethnic nations in fact served as a triggering factor of the conflicts. Second, I will demonstrate that the international community changed the very character of the self-determination principle so that they could apply it to their recognition of the independence of seceding ethnic nations. Third, I will argue that efforts at post-conflict peacebuilding, as a form of long-term preventive diplomacy, are faced with an unrealistic mission in Bosnia and Kosovo in particular, where compromise is impossible between warring ethnic groups. I suggest that the separation and partition of the warring populations is the best possible solution rather than maintaining multiethnic societies under these circumstances.

## **AN ANTICIPATED WAR**

### **Mobilized Nationalism**

Yugoslavia provides a dramatic and tragic example of the failure to prevent ethnic conflict. The

immediate causes of the breakup of Yugoslavia were a decline in the economy and the rise of virulent and aggressive nationalism—especially in Serbia—in the late 1980s and early 1990s.<sup>2</sup> Economic problems during the 1980s provided the context in which the political crisis developed at the end of the decade. Slovenia and Croatia in particular, where the economy was relatively better off, had pursued economic autarky and had come to resent the flow of resources southward to Serbia, Macedonia, and Montenegro, where the economy was impoverished. While Yugoslavia was falling into economic crisis, Slobodan Milosevic, the leader of the Socialist Party of Serbia, rapidly established his credentials as a Serbian nationalist during his visit to Kosovo in 1987, when he openly supported Kosovo Serbs against the Albanians. Through amendments to the Serbian Constitution, introduced just prior to his assumption of the Serbian presidency in 1989, the autonomous status of Kosovo was scrapped, to the outrage of the Kosovar Albanians.

The economic decline and political conflict helped produce growing uncertainty and insecurity among the population of Yugoslavia, thus laying the foundation for ethnic scapegoating and nationalist appeals. Nationalism was discovered to be a powerful political tool, to be used by unscrupulous political leaders to retain their power. These political leaders, who felt that their hold on power was being threatened by the collapse of communism in Eastern Europe, and who were incapable of meeting the pressing needs of the people, skillfully exploited the appeal to nationalism in order to maintain their power. Amid the upheaval in Eastern Europe in 1990, the communists abandoned their monopoly on power in the six republics of Yugoslavia and introduced multiparty elections. Nationalist parties won all of those elections.

The original aims of Serbian nationalism, it should be noted, were to reverse Yugoslavia's fragmentation by recentralizing power in Belgrade. Serbian nationalism, however, provoked a powerful nationalist reaction in other ethnic nations, and rekindled similar sentiments among the Croats and Slovenes in particular, where equally unscrupulous political leaders followed the Serb example and used nationalist appeals for their own political ends.

Self-determination provided the legal tools for establishing the demands of the seceding ethnic nations for independent statehood. The Slovenian Parliament formally proclaimed Slovenian sovereignty in July 1990, and in the same month, the Croatian Assembly promulgated that republic's new constitution, including the assertion of Croatia's sovereignty and right to

secede. In December of that year, Slovenia and Croatia declared that they would secede unilaterally within six months unless a more acceptable federal arrangement was negotiated.

It is striking that referendums were held in the seceding republics in order to confirm the will of the populations concerned. A referendum was held in Slovenia in December 1990, with a turnout of approximately 85 percent, of which 88 percent voted for independence (Meier 1999, 161). A referendum was also held in Croatia in May 1991, with a turnout of 83 percent, of which 94 percent voted in support of independence (East and Pontin 1997, 261). As Antonio Cassese points out, this clearly demonstrates that the republics sought a form of legitimization for their movements through the general legal principle of self-determination. Because they lacked any legal claim to secession or independence under international law, they had to resort to the practice of referendums, which undoubtedly constitutes a fair and widely used application of that principle (1995, 266).

### **Internal and International Implications of Independence**

The Socialist Federal Republic of Yugoslavia was one of the most ethnically heterogeneous countries in Europe, and efforts to break it up by declaring independence unilaterally—thereby foreclosing any possibility of negotiating the split peacefully—raised the specter of war. The immediate escalatory potential of the unilateral independence of Slovenia and Croatia from Federal Yugoslavia was twofold. First, there was a real possibility that their declared independence be rejected outright by Federal Yugoslavia, which was under the control of Serbian nationalists. Second, the material and rhetorical measures used in particular by the Croats, the dominant ethnic group in Croatia, to mobilize for independence posed an offensive threat to the Serbs residing in that republic, creating a security dilemma in which neither group could provide for its own security without threatening the security of the other. The intensity of this security dilemma was in part a function of demography; the more intermixed the patterns of settlement of the ethnic groups, the greater the opportunities for offense by either side. It therefore became more difficult to design effective measures for community defense, except by going on the offensive preemptively to “cleanse” mixed areas of members of the enemy group and create ethnically reliable, defensible enclaves. In this context, ethnic conflicts seemed inevitable.

It was apparent from the outset that if Croatia declared independence, the 600,000 Serbs residing there (about 14 percent of the population) would not stay in Croatia. In fact, the first president of the Serbian Democratic Party of Croatia is said to have stated clearly before the conflict erupted, “For every step that [Croatian President Franjo] Tudjman’s government takes to separate itself from Yugoslavia, we will take a step to separate ourselves from Croatia” (Goldstein 1999, 217). When the nationalist movement came to prevail in Croatia in the summer of 1990, the Serbs in Croatia organized a referendum. Allegedly, 99 percent of the voters supported unifying with Serbia (Goldstein 1999, 222), and they eventually declared independence with the intention of later merging with Serbia. The intractability of the conflict was evident as soon as the nationalist leaders of Bosnia, Serbia, and Croatia had mobilized their constituents into positions that threatened the other communities. Having failed to recentralize Yugoslavia, Milosevic embarked on the creation of “Greater Serbia” from early 1991.<sup>3</sup> Serb communities living outside Serbia, particularly in Croatia and Bosnia, became increasingly radicalized, partly because of Belgrade’s propaganda and partly because of the security dilemma between ethnic groups. There was a real possibility that Bosnia and Macedonia, the most ethnically intermixed republics, would be split along ethnic lines, although there were no borders dividing the ethnic groups within those republics. Bosnia, in which none of the three major ethnic groups had an overwhelming majority, also faced the possibility of being partitioned by Croatia and Serbia. In fact, Tudjman and Milosevic met secretly in March 1991 to discuss precisely such a division.

The international implication of unilateral independence was the possibility that war could spread throughout the Balkans. This threat was not putative, but was based on lessons from Balkan history. For both historical and ethnic reasons, nearly all neighboring states had a direct interest in the developments taking place in Yugoslavia, and particularly the status of ethnic minorities within each republic of Yugoslavia, many of whom had ethnic brethren in neighboring republics. The breakup would provide the occasion for reviving old territorial demands that had been settled, and there was a real danger that if one neighboring state sought to intervene in or exploit the consequences of the conflict for its own gain, others might follow suit.

### **Response of the International Community**

Preventing the impending war was the primary concern of the international community. A violent breakup of Yugoslavia posed a threat to regional stability, with the possibility that the conflict might spread beyond Yugoslavia's borders to involve neighboring states. The violence that would accompany the breakup was also likely to create a humanitarian crisis, with millions of refugees and hundreds of thousands of casualties anticipated. The international community also had a strategic interest in countering the breakup. If Croatia and Slovenia could demonstrate that they could achieve their aims unilaterally through forceful means, assertive nationalists in other parts of the world would be more likely to conclude that they could implement their own aggressive designs with impunity.

What could be done by intermediaries to avert the ensuing violence? External actors had few instruments at their disposal to moderate the behavior of the parties seeking independence. The emerging nationalism and resulting ethnic tension were internal political disputes, and external actors did not have legitimate means with which to intervene. However, both Croatia and Slovenia needed assurances that their declarations of independence would not meet outright hostility among the international community. Both republics craved legitimacy in the West. Therefore, withholding recognition was regarded as one of the key leverage points over the secessionist drives and perhaps the only powerful diplomatic tool available to prevent ethnic conflicts.

In retrospect, however, mixed and uncoordinated signals from the international community regarding the recognition of the independence of the breakaway republics seem to have been among the most crucial factors in producing the ethnic conflicts.<sup>4</sup> Most of the European countries in the phase preceding the outbreak of the armed conflicts aimed at maintaining a unified Yugoslav state. In the late spring of 1991, with the deadline for the declaration of unilateral secession drawing close and the political situation in the former Yugoslavia fast deteriorating, the response of the major powers and international organizations to the proposed secession was negative. For example, the Conference on Security and Cooperation in Europe (CSCE), which was looked upon as the most suitable institution at the time for dealing with the Yugoslav crisis, held a Berlin Council Meeting of Foreign Ministers on June 19–20, at which the members adopted a political declaration, the “Statement on the Situation in Yugoslavia.” The message of

this declaration was clearly aimed at convincing Croatia and Slovenia not to threaten the territorial integrity of Yugoslavia: “The Ministers expressed their friendly concern and their support for [the] democratic development, unity and territorial integrity of Yugoslavia, based on economic reforms [and the] full application of human rights in all parts of Yugoslavia, including the rights of minorities” (Conference on Security and Co-operation in Europe [CSCE] 1991a).

The European Community (EC) repeatedly expressed its position that the Yugoslav federation had to stay united (Zuconi 1996). Many of the EC member-states themselves had separatist movements that the governments were trying to keep under control, and given the possible impact of Yugoslavia’s dissolution on their own situations, they were unwilling to allow it to break up. Shortly before Slovenia and Croatia declared independence, the EC even offered Yugoslavia US\$4 billion of economic aid if the country would stay together. The offer was never seriously considered. Nationalist hysteria is not usually susceptible to economic or any other kind of inducements or penalties.

The U.S. position was that self-determination cannot be unilateral and must be pursued through dialogue and peaceful means, and it would therefore not recognize unilateral secession. Warren Zimmermann, then the U.S. ambassador to Yugoslavia, expressed his concern to President Tudjman that Croatia’s secession would have a catastrophic effect. Zimmermann also urged Slovenia to seek its future within Yugoslavia (1996, 132). U.S. Secretary of State James Baker visited Belgrade on June 21, 1991, and expressed his government’s opposition to secession as well. He met with Milosevic, the leaders of all six republics, and Albanian leaders from Kosovo. He warned the representatives of Croatia and Slovenia even more clearly that the United States would not support their aspiration for independence. At that time, Kiro Gligorov, the president of Macedonia, and Alija Izetbegovic, the president of Bosnia, were trying valiantly to bring the Yugoslav republics back together in a confederal framework. Izetbegovic focused on Tudjman’s reckless strategy and he warned Baker that if Croatia seceded, violence would be unleashed in Bosnia (Zimmermann 1996, 136). Baker reported back to President George Bush, citing the “need to work with the Europeans to maintain a collective non-recognition policy against any republic that unilaterally declared independence, as a lever to moderate behavior” (1995, 483).



## RECOGNITION OF INDEPENDENCE FOR PREVENTING CONFLICTS

### Preventive Recognition

Slovenia and Croatia craved assurances that their independence would be recognized by at least some of the major powers in the international community. While most major European powers focused their strategies on maintaining a unified Yugoslavia, the policy of nonrecognition was not well coordinated among international actors. Signs of support for the secessionist positions were coming from both sides of the Atlantic. Actions taken by the U.S. Congress generally reflected a growing preoccupation with the violation of human rights. And even before the declarations of Slovenian and Croatian independence, the European Parliament went so far as to indicate its possible recognition of a change in internal borders within Yugoslavia. A resolution passed in the spring of 1991 stated, “The constituent Republics and autonomous provinces must have the right freely to determine their future in a peaceful and democratic manner and on the basis of recognized institutional and internal borders” (European Parliament 1991).

Moreover, some European governments were approaching Slovenia and Croatia through back channels, urging them to go ahead and secede. According to one account, Slovenian politicians claimed at the time that certain countries—primarily Austria, but also Germany and Switzerland—had promised a “benevolent” reception (Meier 1999, 175). Reacting to the flare-up of violence in Croatia in early May, Austrian Foreign Minister Alois Mock spoke publicly in support of a drive for independence by the two republics. The Germans also expressed their fear that the EC policy to preserve the unity of Yugoslavia would only aggravate the crisis. Throughout the initial stages of the political crisis, Germany indicated a willingness to recognize Croatian and Slovenian independence, reflecting rising domestic pressure in favor of those countries’ right to self-determination (Lucarelli 1997, 37–38).<sup>5</sup> German Chancellor Helmut Kohl was quoted as saying in early July 1991: “The people of Yugoslavia must be free to choose their own future. Free Europe must remain loyal to them. . . . The importance of the principle of self-determination is that much more evident for Germans because by the means of self-determination our nation was able to regain its unity” (Edwards 1992, 178).

On June 25, 1991, four days after Baker's visit to Belgrade, the Croatian and Slovenian parliaments voted for independence. The war in Yugoslavia began in earnest the next day, with the Slovenes battling the Yugoslav National Army (JNA). In Croatia, as was fully expected, the decision on unilateral independence set off a chain reaction of self-determination movements. Croatia had a large Serb population, about half of which lived in the region along the Croatian border with Bosnia and in parts of eastern Croatia. Croatia's declaration of independence based on self-determination posed a perceived danger to Croatian Serbs, since it took no account of the rights or aspirations of the Serb minority. Spurred by a demand for their own ethnic identity, and with backing from Belgrade, Croatian Serbs launched an all-out effort to deny Croatian sovereignty over Serb-inhabited territories. The Croatian Serbs' move for self-determination, supported by the JNA, was swift and brutal.

From July 1991, German Foreign Minister Hans-Dietrich Genscher repeatedly used the threat of a German unilateral move to pressure Germany's allies and as a means to deter Serbian aggression. As other attempts to stem the violence failed, it was increasingly argued that the strategy of internationalizing the conflict by "preventive recognition" was the only political lever that Western Europe could still use to preserve the peace. If Slovenia and Croatia were to be internationally recognized, this would transform the internal Yugoslav conflict into an international one, thereby opening the way for the greater involvement of the international community without the permission of Yugoslavia. It was thus expected that the internationalization of the Yugoslav conflict through the recognition of independence could ultimately bring it to an end. Genscher repeatedly stated that Germany would recognize Slovenia and Croatia if the violence were to continue. However, at an emergency meeting of EC foreign ministers held on July 5, his counterparts backed away from recognizing the breakaway republics (Rummel 1992, 167).

### **Unilateral Independence and Its Aftermath**

Throughout the second half of 1991, the EC played an almost exclusive role in dealing with the Yugoslav crisis. At the beginning of September 1991, the EC created the Badinter Commission, whose assignment was to set down the presuppositions for the recognition of those Yugoslav

republics seeking independence. For much of that time, however, the Community's strategy remained that of maintaining some form of unified Yugoslav framework. The Troika of EC foreign ministers mediated and persuaded Slovenia and Croatia to freeze the implementation of their independence. A cease-fire was declared on July 4, 1991, and the agreement was formalized in the "Common Declaration for a Peaceful Solution of the Yugoslav Crisis," signed on the island of Brioni on July 7. Slovenia and Croatia agreed to suspend their independence for three months. An EC-sponsored Peace Conference opened at The Hague on September 7, chaired by Lord Carrington, a former British foreign secretary and former secretary-general of the North Atlantic Treaty Organization (NATO). At the conference, the EC mediators advanced a specific constitutional solution that would replace the federal state with a confederation of sovereign states. As an inducement, the EC offered association status to the individual republics. Milošević, however, refused the EC's proposal on confederation and the conference failed.

The cease-fire did not last long. The Croats violated the cease-fire in the expectation that the country would be recognized if the violence continued. A massive offensive was then launched by the JNA against Dubrovnik in Croatia (the main tourist city). The eastern Croatian city of Vukovar fell after weeks of artillery fire in late November. Self-determination in the intermixed areas of the population led to ethnic cleansing. The Croatian Serbs, with the support of the JNA, captured nearly one-third of Croatia's territory and expelled non-Serbs from much of that area.

In the fall of 1991, the move to support recognition of Slovenian and Croatian independence began to gain strength within the international community. Germany was no longer completely isolated in its position. Italy started to support the preventive recognition cause more openly. The Parliamentary Assembly of the Council of Europe, held on September 21, 1991, issued its resolution "on the crisis in Yugoslavia" and called upon the Council's member-states to consider recognizing the breakaway republics of Yugoslavia that had already declared independence. However, Milošević had hinted already that military action would take place if Croatia and Slovenia were recognized, and it was clear that this could well be the spark that would set Bosnia alight. The president of Bosnia, Alija Izetbegović, had made his deep concern known. In Western capitals, then, there still prevailed in December the view that the ethnic tensions could worsen as

a result of Germany's campaign to extend diplomatic recognition to Croatia and Slovenia.

It was fully anticipated that the self-determination of Croatia and Slovenia would cause a chain reaction of national minority independence in Bosnia, Macedonia, and Serbia. The Serbian Democratic Party in Bosnia, representing the majority of the Serbs in that republic, had already voiced repeatedly that they would not accept Bosnian independence. If Bosnia became independent, then the Serbs in Bosnia would be a minority—a situation they would consider unbearable. In November, the Bosnian Serbs stated their desire that Bosnia remain within the Federal Republic and warned that, in case of its secession, they would declare an independent Serbian Republic of Bosnia.

Although Bosnia's president had been trying to keep Yugoslavia together within a loose federation, once it became clear that Croatia and Slovenia would be internationally recognized, Bosnia had no choice but to seek its own independence. Both Bosnia and Macedonia concluded that they had little choice but to follow Croatia and Slovenia, lest they be subjugated within a Yugoslavia dominated by the Serbs. Bosnian President Izetbegovic and Macedonian President Gligorov are reported to have warned the United States that they would be destabilized if the Americans recognized other republics but not theirs, and the Bosnian foreign minister similarly told Secretary of State Baker that stability could be best promoted by Western recognition (Baker 1995, 642–640). Macedonia declared independence in September 1991, and the Bosnian parliament declared sovereignty in October and began to seek independence as well.

A last-minute effort to derail German recognition was made in early December. Lord Carrington, chairman of the EC Peace Conference, wrote to the then president of the Community, Foreign Minister Hans van den Broek of the Netherlands, on December 2, warning that a separate initiative by Germany would undoubtedly mean the breakup of the conference, and that “[t]here is also a real danger, perhaps even a probability, that Bosnia-Herzegovina would also ask for independence and recognition, which would be wholly unacceptable to the Serbs in that republic in which there are something like 100,000 JNA troops, some of whom had withdrawn there from Croatia” (Owen 1996, 376). United Nations Secretary-General Javier Pérez de Cuéllar similarly warned that selective recognition could widen the present conflict and fuel an explosive situation, especially in Bosnia-Herzegovina and Macedonia (Owen 1996, 376;

Zucconi 1996, 246–247).

In the end, however, the images of violence swayed the international community. The foreign ministers of the 12 European Community states met on December 16, 1991, to establish a common stand on the seceding republics of the Soviet Union and Yugoslavia. The need to keep some semblance of unity a few days after the signature of the Maastricht Treaty made the meeting a tense and difficult one. As a compromise, they accepted the German position, but they established a set of “Guidelines on the Recognition of New States in Eastern Europe and in the Soviet Union” (European Community [EC] 1991). Under these guidelines, they invited all Yugoslav republics to submit their applications for recognition by December 23, 1991. Slovenia, Croatia, Bosnia, Macedonia, Kosovo, and Krajina applied for recognition. Interestingly, Germany unilaterally recognized Slovenia and Croatia on December 23. The EC and its member states announced their recognition of those same republics on January 15, 1992. The applications from Kosovo and Krajina, on the other hand, were rejected. The recognition of Bosnia was postponed until March 1992 for reasons that will be discussed below, and the recognition of Macedonia was also delayed until April 1993 as a result of Greek concerns that the intended use of the historic Greek name of “Macedonia” implied that they had designs on Greek territory across the border.

### **Another Failure of Preventive Recognition**

Selective recognition of Slovenia and Croatia had fateful consequences for Bosnia and Kosovo. It was clear that intercommunal violence could erupt in Bosnia at any time. In rejecting the recognition of Bosnian independence, the Bandinter Commission of the EC implied that the holding of an internationally monitored referendum to confirm the will of the whole population about its independence would be a precondition for Bosnia to be recognized. The EC thus elevated the status of referendums, making them a basic requirement for the legitimation of self-determination. In this environment of ethnic tension, however, there could be no unified will representing the majority of the Bosnian population. No one of the three major ethnic groups in Bosnia had an overwhelming majority. According to a 1991 census, Muslims constituted 43.7 percent of the population, Serbs 31.3 percent, and Croats 17.3 percent. The Serbs had already

made it clear that they would not stay in an independent Bosnia. In preparation for the imminent Bosnian secession from Federal Yugoslavia, Milosevic and Radovan Karadzic, the leader of the Serbian Democratic Party in Bosnia, decided in early 1992 to station troops of Bosnian Serb extraction in Bosnia for use in the coming conflict (Meier 1999, 210). It was generally assumed that if a Bosnian referendum were held, the hard-line Bosnian Serbs would use the vote as a pretext for instigating violence and calling for help from their fellow Serbs in Belgrade. When a referendum was held on March 1, 1992, roughly 64 percent of the electorate voted, with 99.4 percent of them choosing independence. The vast majority of the Serbs boycotted the referendum (East and Pontin 1997, 276; Malcolm 1999, 231). In the immediate aftermath of that vote, Bosnia declared independence.

As in Croatia, self-determination of the majority induced another move for self-determination of the ethnic minority in the intermixed area of the population. Shortly after the referendum, the Bosnian Serbs proclaimed their own “Serbian Republic of Bosnia-Herzegovina” on March 27, with its capital in Pale, near Sarajevo. Eventually, the EC states and the United States came to the conclusion that the collective Western recognition of Bosnia could best contribute to its stability, thereby warning against efforts from within or without to undermine its integrity. The EC states recognized Bosnia on April 6, 1992, and the United States followed suit the next day. It was meant to be another case of preventive recognition.

In fact, however, the formal recognition of Bosnia provided Serbia with an excuse to contest Bosnia’s territorial integrity openly, thus triggering large-scale ethnic violence in Bosnia. The Serbs (supported by Serbia), the Croats (supported by Croatia), and the Muslims began to fight to hold onto their respective territory, although there were no clear ethnic borders. Backed by the JNA, the Bosnian Serbs instantly secured the two-thirds of Bosnian territory that they had already occupied by force.

This process of ethnic conflict would follow a similar trajectory during the Kosovo war of 1998–1999. As Slovenia, Croatia, and Bosnia became independent, Yugoslavia dwindled away to a nearly unitary Serbian state, and Albanians in Kosovo province rejected the idea of staying under the same roof with the Serbs. Albanians began to despair of international help and to turn away from the patient policy of nonviolence to a more militant solution, resorting to violence to

win self-determination. The Kosovo Liberation Army (KLA) managed to win widespread support among the Kosovo Albanian population, and by 1998, the KLA had managed to seize a large part of rural Kosovo. However, a strong force of Serbian military and police units dislodged the KLA from most of the areas they held late in 1998 and early in 1999, causing the Albanian population to flee from their homes.

It is noteworthy that Macedonia was the exceptional case in which preventive recognition and successive preventive measures contributed to the prevention of armed conflict. Macedonia was admitted to the United Nations in April 1993, and subsequently the EC countries extended recognition to Macedonia later that year. The CSCE acted to forestall the spread of conflicts to other parts of Yugoslavia by sending a long-term mission to monitor any symptoms of embryonic ethnic disputes in Macedonia. The UN also deployed a preventive military force (UNPROFOR) in Macedonia—the first attempt by the UN to deploy military force to prevent ethnic conflicts—and the United States sent a small military force as well. This international diplomatic and military presence served to reassure Macedonia and to deter its neighbors from intervening.<sup>6</sup>

### **The Missed Timing of Preventive Diplomacy**

Why did ethnic conflicts erupt when the policy switch by the major powers became apparent? Why did preventive recognition by the international community fail to prevent an escalation of the conflicts? Was there any range of time when preventive diplomacy could have been effective in avoiding the violent breakup of Yugoslavia?

As Michel Lund points out, mediation and other forms of third-party conflict intervention are likely to be more effective when many of the conditions of advanced conflicts are absent: the issues in dispute are fewer and less complex; conflicting parties are not highly mobilized, polarized, and armed; significant bloodshed has not occurred, and thus a sense of victimization and a desire for vengeance are not intense; the parties have not begun to demonize and stereotype each other; moderate leaders still maintain control over extremist tendencies; and the parties are not so committed that compromise involves a significant loss of face (1996, 15, 94). In addition, effective preventive diplomacy requires not just a strong enough combination of carrots and sticks, but also the use of a variety of actions and instruments to address the many facets of a

dispute. Learning from the experience of failed preventive diplomacy, it is also evident that these actions must be closely coordinated among the third parties participating in the preventive effort.

It was already clear in 1990 that conflict was brewing in Yugoslavia after the first free elections that year had given victories to nationalist leaders. Tensions were rising in both Slovenia and Croatia, on the one hand, which favored a confederal association between the republics based on the EC model and a rapid transition to a market society, and Serbia, Montenegro, and the JNA, on the other hand, which favored maintaining the federal constitution.

By the time of the elections in December 1990, Milosevic had not yet adopted the Greater Serbia line. The first priority for the political leaders of both Croatia and Slovenia was to reconstruct Yugoslavia as a confederation (Meier 1999, 143–157). Intensive negotiations were taking place among the leaders of various republics even in the first half of 1991 on a possible confederal arrangement in Yugoslavia. However, once Croatia and Slovenia abandoned the idea of maintaining a unified Yugoslavia and became determined to seek national self-determination, compromise was no longer possible. Throughout the second half of 1991, Croatia and Slovenia sought nothing less than full independence for all territory within each republic, while Belgrade insisted that all the Serbs should live in one state. The claims of Serbs, Croats, and Muslims were incompatible. Resolved to achieve self-determination even if it meant resorting to violence, the Croatian and Slovenian governments had begun to arm themselves already in the first half of 1991.

One point that stands out in this context is the absence of serious organized violent conflict during the period when the international community was believed to be committed to the territorial integrity of Federal Yugoslavia. Ethnic conflicts erupted only when it became apparent that the seceding republics were going to declare independence and that major foreign governments were about to reverse their commitment to the territorial integrity of Yugoslavia and recognize those republics' independence. In fact, as we have seen above, organized ethnic conflicts first erupted in Croatia and Slovenia in the summer of 1991, right after their declarations of independence, and in Bosnia in the spring of 1992, right after its recognition by major Western states. We can therefore conclude that the most significant single factor in producing the perceived threat that eventually threw ethnic groups into a security dilemma was



the prospect of the recognition of the breakaway republics by major powers. Psychological factors were primarily responsible for the eruption of conflict, not ancient ethnic differences or the end of authoritarian rule as such. The creation of a unitary—that is, nonfederal—state dominated by a major ethnic nation is often perceived by ethnically distinct sections of the population to pose a threat. Serb inhabitants in Croatia, and Serb and Croat inhabitants in Bosnia perceived that as minorities in unitary states they would be repressed or would become second-class citizens. It was against this background that the Serbs in these newly recognized republics declared their own independence.

Looking back on his experience as a mediator, Warren Zimmermann asked himself in his memoir if it was possible to manage that breakup in a way that would have avoided violence. Tudjman, encouraged by Germany and by supporters in the U.S. Congress, dismissed any concerns that the West might act against him. Similarly, Milosevic and his army, reading between the lines of the Baker visit, were convinced that the United States had no intention of stopping them by force. Zimmermann concludes that Baker's message came too late: "If a mistake was made, it was that the Secretary of State hadn't come six months earlier, before the action-reaction spiral of nationalist threats had spun out of control. We should have chosen an earlier time to express our preference for a loosely confederated Yugoslavia" (1996, 136–139).

The best possible timing for the international community to have conducted preventive diplomacy by showing its strong will not to recognize self-determination by violence would have been in late 1990 or in early 1991, before the unilateral proclamations of independence by Croatia and Slovenia. At that time, Yugoslav Prime Minister Ante Markovic was trying desperately to hold Yugoslavia together and bring about economic reform, but he did not receive sufficient support either from the international community or from within Yugoslavia.

Whether or not the tragedy could have been avoided, the West's policies, both before and during the conflict, were quickly seen as a failure. The timing of the preventive diplomacy by the major powers and the EC was too late. Moreover, the international community failed to act firmly or to coordinate its approach to conflict prevention. In this regard, the steady and determined German support for the preventive recognition of Croatia and Slovenia proved to be a crucial factor in the eruption of organized armed conflicts. Moreover, the EC's belated

commitment to Yugoslavia made a difficult situation worse by first insisting on Yugoslavia's territorial integrity and then abruptly changing direction after the Croatian and Slovenian secessions, supporting them against Serbia. In June 1991, when EC representatives requested that Slovenia and Croatia suspend their decisions on independence for three months, this was taken to mean that they were being asked to buy time and that their independence would sooner or later be internationally recognized. All the same, both the Croatian and Slovenian governments knew that they would have to defend themselves militarily until this goal could be achieved because of the Serbian claims of a Greater Serbia. They knew that the longer they fought, the more they would appear to be victims of Serbia, and the more likely it would be that the international community would support their independence. Thus some 12 cease-fires were signed among the warring parties, each being broken one after another. Although the Yugoslav crisis presented a good opportunity for preventing violent conflict, the ability of the international community to bind together the will of its members into a common approach to Yugoslavia seems to have been insufficient for the task.

While no one knows for certain whether a credible threat of military force at an early stage in the conflict might have deterred Milosevic and his regional allies from resorting to violence, its absence can only have encouraged them to continue forcefully acquiring large swaths of territory. Particularly in the case of Bosnia, a clear message that international actors such as the UN and NATO would deploy preventive forces might have pushed the republics to reach a political solution. Once the newly independent republic was recognized and granted membership in the UN, the international community—and the UN in particular—could have deployed troops to Bosnia as a preventive measure, as they actually did later in Macedonia.<sup>7</sup> In fact, President Izetbegovic repeatedly asked for the deployment of UN troops to Bosnia, but the UN rejected his requests.

## **THE CHANGING CONCEPT OF SELF-DETERMINATION AND ITS IMPACT ON SECESSION**

### **From National Self-Determination to Peoples' Self-Determination**

As Mario Zucconi argues, most commentators do not seem to appreciate adequately the decisive

value attributed by the contending parties to Western European actions—in particular to their recognition of statehood—and therefore the impact of those actions on the evolution of the conflict. Because of the controversial nature of secessionist action under international law, the recognition of Croatia and Slovenia, and later of Bosnia, had and was intended to have what is called a “constitutive” effect. It formalized the existence of these states for the purposes of international law (Zucconi 1996, 261). As noted previously, in order to formalize the independence of these ethnic nations, the self-determination principle was invoked. Ethnic nations resorted to self-determination by force and the international community accepted their claim as a legitimate right for an ethnic nation to become independent.

Cases of self-determination in nations that were previously under communist regimes have attracted favorable responses, leading to the recognition of secessionist ethnic nations and to their subsequent membership in the CSCE/OSCE and the UN. In fact, the admission of new, post-communist states into the UN has been swift, undertaken without debate or dissenting votes. The admission of each new state constituted the legal recognition of that entity as a state and its concomitant right to self-determination (Blay 1994, 292). Here, a question arises as to the international practice and custom regarding the principle of self-determination. Had the international community previously accepted the secession and creation of new states as acts of self-determination? Should self-determination be understood as the right of independence of an ethnic nation?

Since the creation of the League of Nations minority regime,<sup>8</sup> it has been regarded that the principle of self-determination might well jeopardize the sanctity of the sovereign state. Modern states have tried to create communities of citizens rather than communities of nationals, and have ensured the primacy of common citizenship over privileges based on ethnicity or religious divisions. After World War II, the UN was reluctant to adopt the interwar rhetoric of national self-determination and its attendant language of minority rights. National self-determination—and the secession and irredentism it could provoke—was viewed as a serious political threat to the new international order (Preece 1999, 183). Consequently, the UN Charter incorporated the vague phrase “self-determination of peoples,” as distinct from the more familiar term “national self-determination.” Self-determination was accepted only insofar as it implied

the right to the self-government of peoples.

Socialist countries, however, understood self-determination essentially as a principle to liberate non-self-governing peoples from colonial domination (Cassese 1977, 85). In fact, as the process of decolonization proceeded, self-determination came to be recognized as a legal norm confined to the cases of people under colonial rule. In other words, the principle of self-determination came to mean the right of people under colonial rule to be independent—i.e., “external self-determination.” Self-determination as “internal self-determination” also came to be commonly defined as the right of a people to “freely determine their political status and freely pursue their economic, social and cultural development,” as described in the International Covenant on Civil and Political Rights (UN Treaty Series 1976, Art. 1). In the Helsinki Final Act of the CSCE, the “self-determination of people” is defined as the right “to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development” (CSCE 1990, para. 8).

A cursory survey of relevant international conventions does not indicate any positive recognition for the right of post-colonial self-determination. To the contrary, there was a deliberate move in cases prior to the breakaway Yugoslav republics to discredit the idea of self-determination as understood in ethnonational terms (Preece 1999, 183). The principle of self-determination has in fact never been used as a principle to legitimize the independence of any constituent ethnic nation or national minority. The international community has rejected post-colonial self-determination through a commitment to the maintenance of the principle of territorial integrity. The territorial integrity of states has been held as paramount. This was specifically expressed and affirmed in the 1960 UN Declaration on the Granting of Independence to Colonial Territories and Countries, which states, “Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations” (United Nations General Assembly 1960, para. 6). By severely limiting the justifiable application of self-determination and by raising territorial integrity to the level of nearly an absolute principle, the international community has rejected any sort of secession (Bartkus 1999). And when faced with a declaration

of independence in 1960 by the Katanga province from what is now known as the Democratic Republic of the Congo, or that of Biafra from Nigeria in 1967, for example, the international community made its implicit condemnation of secession explicit (Bartkus 1999, 68–78; Blay 1994, 283). The determination of the international community to preclude secession and irredentism was largely successful until the breakup of the Soviet Union and the former Yugoslavia.

### **Self-Determination of National Minorities**

Under international law, then, the six Yugoslav republics had no right to external self-determination. In addition, no such right was proclaimed in the Yugoslav constitution. Nevertheless, the international community granted the right of “self-determination of people” to the secessionist ethnic nations. It must be stressed again that this was not the application of self-determination as assumed in the conventional interpretation of that principle.

In the post-communist context, modern states are being jeopardized by a trend toward subnational and ethnic re-territorialization. This is partly a reflection of the new political trend that has seen democracy and minority rights becoming the *sine qua non* for validating governance. The Paris Charter, agreed to at the CSCE Paris summit meeting held on November 11–21, 1990, declared the end of the cold war, saying, “The era of confrontation and division of Europe has ended.” It also urged states to “undertake to build, consolidate and strengthen democracy as the only system of government of our nations.” Interestingly, as one of the “guidelines for the future” in the Paris Charter, special emphasis was put on national minorities: “Determined to foster the rich contribution of national minorities to the life of our societies, we undertake further to improve their situation. We declare that questions related to national minorities can only be satisfactorily resolved in a democratic political framework” (CSCE 1990).

If minority rights are to be extended and minority groups decide to seek their self-determination, what are the implications for the territorial integrity of a state? In the immediate post-cold war period, ethnic conflicts hitherto suppressed by authoritarian rule did indeed come to the foreground, particularly in the Soviet Union and Yugoslavia, challenging the territorial integrity of those respective states. Former UN Secretary-General Boutros Boutros-Ghali

explicitly expressed this concern in his 1992 report, *Agenda for Peace* (para. 18–19):

The time of absolute and exclusive sovereignty, however, has passed; its theory was never matched by reality. It is the task of leaders of States today to understand this and to find a balance between the needs of good internal governance and the requirements of an ever more interdependent world. . . . Yet if every ethnic, religious or linguistic group claimed statehood, there would be no limit to fragmentation, and peace, security and economic well-being for all would become ever more difficult to achieve. . . . The sovereignty, territorial integrity and independence of States within the established international system, and the principle of self-determination for peoples, both of great value and importance, must not be permitted to work against each other in the period ahead.

The critical issue for the international community is whether to recognize the independence of subnational ethnic groups. The Yugoslav constitution did not include specific provisions for the secession of Yugoslav republics from the federation. In July 1991, just before Slovenia and Croatia were about to declare independence, a CSCE Meeting of Experts on National Minorities took place in Geneva to discuss this delicate issue. It is noteworthy that they could not reach an agreement on the question raised by the Yugoslav delegates as to whether “national minorities” should be granted collective rights. Despite the fact that for a number of CSCE states such recognition would have implied a danger of secession by their own minorities, the meeting could not reach a consensus on how to define the actor of self-determination. At the end of the meeting, the Yugoslav delegation issued an “interpretative statement,” regretting that the concluding document did not reflect “a very important issue raised in the debate,” namely, “the separatist behavior of national minorities [and] their claim to the right of self-determination.” The statement continues, saying that the only objective of the Yugoslav proposal was “to reaffirm the crystal-clear principle of the Helsinki Final Act stating that only peoples, and not national minorities, have the right to self-determination. In failing to do this, the Meeting did not meet its responsibility, and hence it contributed to the defining of a dangerous precedent, whose

boomerang may tomorrow hit other participating states, threatening their territorial integrity, stability and peace” (CSCE 1991b).

Yugoslavia was right. The CSCE states could not reconfirm the “crystal-clear principle” of self-determination. To the contrary, the European states changed the traditional interpretation of the principle shortly thereafter and recognized the secession of ethnic nations. As was fully anticipated, a chain reaction of violent secessionist conflicts ensued, as the recognition of the breakaway republics triggered a geopolitical catastrophe. Once the principle of self-determination was applied to the secession of ethnic-based nations within a federal state, the minorities in nascent nation-states in former communist countries started to crave their own self-determination. By the end of 1992, seven secessionist movements had successfully demonstrated their ability to defend their self-determination militarily in Yugoslavia and the Soviet Union.<sup>9</sup>

### **Self-Determination with Minority Rights**

Another noticeable change in the concept of self-determination at the time of the Yugoslav crisis was that it had come to contain human rights and minority protection. Deciding on conditional recognition, as we have seen above, the EC announced its Guidelines on the Recognition of New States in Eastern Europe and the Soviet Union, and formally proclaimed a certain political conditionality for breakaway states to be recognized under the self-determination principle. The EC’s guidelines start off with the following words: “The community and its member States confirm their attachment to the principles of the Helsinki Act and the Charter of Paris, in particular the principle of self-determination” (EC 1991). With these words, the EC intended to emphasize that it regarded the secession of the republics from Yugoslavia as the realization of the principle of self-determination. In addition, among the various requirements the nascent states were to meet in order to obtain recognition, the EC included respect for the “rule of law, democracy and human rights,” as well as the establishment of “guarantees for the rights of ethnic and national groups and minorities” in accordance with the commitment subscribed to in the framework of the CSCE. Recognition, in other words, was contingent upon internal self-determination.

According to one account, this approach was in some respects “profoundly innovative,” so

much so that one could even term it “revolutionary.” By making their recognition of secessionist republics conditional on respect for democracy and minority rights, the 12 European Community states forcefully affirmed the close link existing between external and internal self-determination. They made it clear that they were prepared to endorse the achievement of independent statehood—i.e., external self-determination—only on the condition that the breakaway republics fully respect the principle of representative democracy—internal self-determination. For the first time in the world community, the inextricable connection and interdependence between the two dimensions of self-determination were brought to the fore (Cassese 1995, 268).

Yet this was not as innovative or revolutionary as it may seem. After World War I, the victorious allies used international law to rearrange the European landscape. The settlement of 1919 made minority rights a prerequisite for international recognition of new states in Central and Eastern Europe. Although the nascent principle of self-determination insisted that these newly created states be ethnically homogeneous, there were 20 million to 25 million people who remained outside of their nation-state, and who were placed under the protection of the League of Nations to enable them to live side by side with the majority ethnic group where they were residing. In this way, Europe tried to establish a minority protection regime as a way of preserving international peace and security (Mertus 1999, 269; Krasner 1999, 90–96).

The regional human rights and minority protection regime under the OSCE’s direction that was introduced by the European international community after the breakup of Yugoslavia was redolent of this interwar minority rights protection regime. The OSCE participating states agreed on common norms and principles with regard to human rights and minority protection and provided a mechanism for monitoring and promoting those norms. It should be noted that the establishment of both regimes reflected international perceptions at those respective times that minority issues could threaten international security.

## **THE DILEMMA OF POST-CONFLICT CONFLICT PREVENTION**

### **Long-Term Preventive Diplomacy in the Post-Conflict Phase**

The “peace agreement” was not the end of the conflicts in the region. Nor can the “post-conflict



phase” be in any way characterized as conflict-free. The root causes of the ethnic fighting have only been frozen, not solved. While peace agreements may represent the point at which conflicts are formally terminated, if root causes are not addressed in the post-settlement phase, conflicts can erupt again during the peacebuilding process. There remain many Central and Eastern European countries whose jurisdiction encompasses regionally concentrated ethnonational minorities that might demand self-determination at any time in the future. The ethnic animosity between these groups has become deeper and increasingly implacable as a result of violent ethnic conflicts. The dividing boundaries between ethnic groups have become more apparent both psychologically and demographically as a result of ethnic conflicts, ethnic cleansing, and population transfers. War in Bosnia and Kosovo in particular remains a possibility. Thus the post-conflict phase in Bosnia and Kosovo requires long-term preventive diplomacy by the international community.

There is a near consensus among policymakers and scholars that the objective of long-term preventive diplomacy in the post-conflict phase should be to recreate and preserve integrated, multiethnic societies. Current efforts by the international community aim to restore multiethnic civil society in Bosnia and Serbia by such means as institution building, power sharing, and identity reconstruction. It is assumed that most of those who have become refugees because of ethnic conflict can return to their pre-conflict places of domicile and enjoy reasonable economic, political, and cultural freedom. The bottom line of this thinking is that working to reintegrate ethnic groups that were once at war with each other is morally preferable and, in the long run, more practical than acquiescing to a partition.

Intermixed population settlement patterns, however, can contribute to maintaining the potential for ethnic conflict. Is the rebuilding or introduction of participatory electoral democracy a feasible means for peacebuilding? There is little likelihood that the Croatian Serbs will accept minority status in Croatia, that Albanians in Kosovo will accept minority status in Serbia, or that Bosnian Serbs will accept minority status in Bosnia. In the post-conflict phase, with ethnic divisions being more distinct than ever, the holding of free elections as a step toward democracy and good governance can actually become another tool through which the parties hope to resolve the unfinished business of war. In the national and local elections held in Croatia and Bosnia, for

example, it has become a life or death matter for new ethnic-oriented political parties to win the election. If we look at the post-conflict settlement and the instability in Bosnia and Kosovo in particular, which is barely being maintained with an international presence and forces, it becomes clear that the current approach to peacebuilding is neither feasible nor realistic.

### **Internal Peace with an International Military Presence**

The difficulty of restoring a multiethnic democratic society in the post-conflict phase is shown by the tardy progress of refugees in returning to their homes. The termination of most secessionist conflicts in Europe since 1995 has not brought a significant reduction in the European refugee population so far because the further ethnic divide that resulted from ethnic cleansing and ethnic transfers is standing in the way of the return of the refugees. More than a half million people were forced to flee their homes during the course of the 1991–1995 armed conflict in Croatia. While the majority of the Croat displaced persons and refugees have returned to their places of domicile, the return of the Croatian Serbs has not been easy. It is estimated that around 280,000 Croatian Serbs became refugees or were displaced internally during this period. Even after the Eastern Slavonian region of Croatia, the site of heavy ethnic fighting, was placed under the United Nations Transitional Administration (UNTAES), many Serbs faced continuing harassment and the fear of living in Croatia induced large numbers of them to cross into Serb-held territory. Some 47,000 Croatian Serbs are reported to have fled to Yugoslavia from 1995 on, leaving 12,900 displaced Serbs still in Croatia in early 1998 (Organization for Security and Cooperation in Europe [OSCE] 2000). In addition, after Eastern Slavonia was transferred from UNTAES administration back to the Croatian government in 1998, thousands more Serbs left the area. According to the United Nations High Commissioner for Refugees, by early 2000, there were an estimated 300,000 Croatian Serb refugees still in the Federal Republic of Yugoslavia, and another 30,000–40,000 in Bosnia (United Nations High Commissioner for Refugees [UNHCR] 2000b). Only a small percentage of Croatian Serb refugees have returned to their prewar places of domicile. Between the end of 1995 and October 1999, a total of just under 35,000 Croatian Serbs had returned from abroad (OSCE 2000). As a result of this population transfer, Croatia has become an increasingly homogeneous country.

The situations in Bosnia and Kosovo are even more complex and perilous. The aftermath of the wars in Bosnia and Kosovo reflects a contradiction between the explicit rejection of ethnic cleansing in the settlements and the actual implementation of practices that endorse the principle of ethnic homogeneity. In the Dayton Peace Accords, the affirmation of the territorial integrity of the internationally recognized state of Bosnia accorded respect for the state's earlier act of self-determination. The peace settlement divided Bosnia into two political entities, allotting 51 percent of the republic's territory to the Muslim-Croat federation (the Federation of Bosnia and Herzegovina), and 49 percent to the Bosnian Serbs (the Serb Republic) who had controlled over 70 percent of the territory before the peace agreement. The political entities of Bosnia are de facto two states, each possessing its own army, and thus the agreement accorded Serbs their national self-determination. The Bosnian Serbs obtained what they wanted all along: a semiautonomous state.

Although the Dayton Peace Accords contained clear and unconditional provisions for the return of refugees and displaced persons, and despite numerous political pledges not to accept the results of ethnic cleansing, the reality of postwar Bosnia contradicts those statements. There were 550,000 Muslims in 1991 who were living in the area that later came to be the "Serb Republic"; as a result of ethnic cleansing, that number dwindled to just a few thousand. By the end of 1997, of the 2.3 million displaced during the war and the 80,000 displaced since, an estimated 660,000 people have returned to Bosnia. However, the return of people to their original homes where they would now be part of an ethnic minority has been particularly slow. Five years after the Dayton Peace Accords, Bosnia still had over 809,000 internally displaced persons (UNHCR 2000a). War precipitated ethnic segregation, and the Dayton Peace Accords cemented the national divide by creating a system of ethnicity-based government.

It is now impossible for Bosnia to maintain the facade of a unified state without an international military presence, since the Bosnian Serbs still have strong aspirations for the secession and independence of Bosnia. In the Dayton Peace Accords, the mandate of the Implementation Force (IFOR), mainly composed of NATO forces, was limited to one year, but it has become impossible for IFOR to withdraw since stability in that country is clearly dependent upon the deterrent capability of the international military presence. As of 1998, NATO had

decided to continue its operations indefinitely with about 30,000 troops.

In Kosovo, after heavy fighting and the ensuing ethnic cleansing of ethnic Albanians by the Yugoslav army, and later of Serbs by Albanians in return, NATO's intervention in Yugoslavia resulted in the return of over 850,000 Albanian refugees and internally displaced persons to Kosovo. At the same time, 210,000 Serbs, Roma, and other non-Albanians fled Kosovo (UNHCR 2000a). The number of remaining Kosovar Serbs has dwindled to about 100,000, making Kosovo an ever more homogeneous province. It is not likely that the Serbs will return to Kosovo in the future, as long as the situation of the remaining minority is precarious. Fearful of Albanian retaliation, the Serbs as a minority group in Kosovo cannot survive without an international military presence. Moreover, because of its volatile relationship with Yugoslavia (FRY, the Federal Republic of Yugoslavia), Kosovo also cannot survive without an international presence. In addition to the United Nations Interim Administration Mission in Kosovo (UNMIK) and the OSCE permanent mission (which, with 2,100 staff, is the largest OSCE field presence for peacebuilding), the international community agreed to deploy yet another international military presence, the 60,000-person NATO-led Kosovo Force (KFOR). In essence, Kosovo is now a NATO/UN/OSCE protectorate, although its constitutional and legal status makes it still a part of Yugoslavia (FRY). The relationship between Yugoslavia and Kosovo is therefore yet to be resolved, but it is likely that the international military presence will continue to be needed for the foreseeable future—almost indefinitely—to maintain the semblance of one sovereign state.

The post-conflict policy of refugee return cannot be implemented in the immediate aftermath of wars, and attempts to encourage refugees and displaced people to return to their homes are likely to cost the lives of some of the very people they are supposed to save. It is almost impossible to restore intermixed population settlement. Neither is it feasible to restore a unified sovereign state in Bosnia and Yugoslavia (Kosovo). By deploying an international military presence in Bosnia and Kosovo with the goal of imposing intermixed population settlement, the international community is helping to ensure that Bosnia and Kosovo will have a much more troubled and uncertain future.

### **Partition as a Means of Conflict Prevention?**

Healing the wounds of war will take time, but there is nothing in Balkan history to suggest that these wounds can be healed in ways that will satisfy the distinctive political desires of different ethnic groups in one political entity. Nonetheless, separating populations remains deeply controversial and seems immoral to many in the international community. Even when carried out safely, population transfers inflict enormous suffering, including the loss of homes and livelihoods and the disruption of social, religious, and cultural ties. Thus they can be justified only if they save the lives of people who would otherwise be killed in ethnic violence.

In recent years, however, the idea that separating the warring populations may be the best solution for many areas that have come through intense ethnic conflicts has been gaining ground. In fact, there have been a number of seemingly radical measures such as population transfers applied during the 20th century as post-conflict conflict-prevention measures.<sup>10</sup> Separating populations can reduce interethnic violence, thus contributing to internal stability. After investigating the partitions of Ireland, India, Palestine, and Cyprus, Chaim Kaufmann concludes that when warring populations were separated—either by planned transfers or by ethnic cleansing—violence subsequently declined. If the logic of demographic separation is correct, then why have the partitions in Northern Ireland, Kashmir, Palestine, and Cyprus been so violent? Kaufmann asserts that the continuation of resurgent intergroup violence in limited regions within some of these cases has resulted not from partition or from separation, but rather from the incompleteness of separation of the hostile groups in those specific areas (1998). In keeping with this line of argument, while Croatia has become peaceful and stable because it has become increasingly homogeneous as a result of ethnic cleansing and demographic transfers, the political situations in Bosnia and Kosovo have been tense since the warring groups within those areas have been forced to live side by side under the facade of a nation-state. As long as conflicting parties know that the best security strategy for each is to engage in offense against the other ethnic group and even in ethnic cleansing, neither can base its security strategy on hopes for the other's restraint.

The policy implications of this examination of preventive diplomacy efforts in the former Yugoslavia are clear: the international community should endorse the de facto self-determination of the two entities of Bosnia—i.e., the Muslim-Croat republic and the Serb Republic—as well as

the separation of Kosovo from Yugoslavia (FRY), with the condition of minority protection. If not, the international community may have to remain committed to these states almost indefinitely, or the process of war may separate the populations anyway at a much higher human cost.

## **CONCLUSION**

Belated and uncoordinated preventive diplomacy could not forestall the escalation of the Yugoslav crisis into violent conflict. If historical second-guessing is allowed as we reconsider this case of failed preventive diplomacy, the crucial catalyst in this escalation clearly appears to have been the international recognition of the seceding ethnic nations' right of self-determination. The secessionist drives counted on the principle of self-determination as a tool to legitimize their claims. Such an assertion of the principle, however, inexorably has led to the breakup of multiethnic states, given its lack of respect for the territorial integrity of existing states. Self-determination, in fact, has rekindled and enhanced ethnic identity and led to loathsome bloodshed.

It was a mistake to have recognized the unilateral independence of ethnic nations. The creation of new states has led to the creation of new minorities that are seeking their own independence. Although the breakup of Yugoslavia might have been inevitable, it is unlikely that the country would have suffered such a violent collapse if the international community had taken a more coordinated and determined approach to self-determination, based on a policy of nonrecognition of unilateral independence by violent means.

The cases of Croatia, Bosnia, and Kosovo show how incompatible it can be to realize both self-determination and international peace and security. Article 1 of the United Nations Charter sets forth the purposes of the United Nations as being to "maintain international peace and security" and to ensure "friendly relations among nations based on respect for the principles of equal rights and self-determination. . . ." Daniel Moynihan correctly notes that the fact that it might not be possible to do both things at one time seems hardly to have occurred to the drafters of the Charter (1993, 66). The idea of self-determination also serves to undermine multiethnic societies, whose very creation is idealized in the melting pot phenomenon (a phenomenon

experienced to some extent in the United States but rarely emulated elsewhere).

Looking back at the process through which the seceding ethnic nations of Yugoslavia received international recognition, there was clearly a double standard in the way in which the self-determination principle was interpreted. First, the response of the international community to the Yugoslav cases differed markedly from the past practice in other parts of the world. The principle was never meant to be a norm to legitimize the independence of any constituent ethnic nation, much less national minorities. In fact, it had never been applied to secession drives, even when they involved major conflicts that threatened international security.

In addition, while the self-determination of decolonized states was unconditional, the recognition of the seceding republics of Yugoslavia was conditional upon the respect of human rights and minority rights. The difference may derive from geopolitical and security concerns. Many European countries had good reason to perceive the conflicts in the Balkans as sources of instability in Europe, directly threatening their security interests through possible spillover effects.

Finally, the recognition of external self-determination in the post-communist phase by the international community has been selective. As discussed above, not only the republics of Slovenia, Croatia, Macedonia, and Bosnia, but also Krajina (a Serb region in Croatia) and Kosovo (a largely Albanian autonomous province attached to Serbia) appealed to the EC for recognition. However, the EC eventually rejected the independence of Krajina and Kosovo for fear of further fragmentation and the additional political instability that it would unleash. Does this imply that the international community will recognize the independence of ethnic nations that are constituent parts of a federation, such as Chechnya of Russia and Montenegro of Yugoslavia? Does this mean that ethnic minorities which are not guaranteed the status of federal republic but are a semi-autonomous executive unit instead, such as Kosovo or Aceh of Indonesia, are not qualified to be independent?

The increasingly interconnected world today is faced with the fragmentation of sovereign and territorial states due to these new approaches to the principle of self-determination. The application of the principle of self-determination to the Yugoslav secession movements shows that the principle has become so central in international law and politics that it has fully

encompassed the principle of territorial integrity. Self-determination has come to mean a tool to prove democratic entitlement over the territory inhabited by a people who may wish to exercise their right to democratic government within a separate state entity. The implications of this are staggering if we consider that, as Walker Connor found, of 132 states he examined, only 12 were “essentially homogeneous from an ethnic viewpoint” (1972). According to some estimates, there are over 5,000 minorities and approximately 80 ethnically oriented, protracted conflicts around the globe. Approximately 35 internal wars were under way in 1994 (Carment and James 1997, 2). There is a legitimate fear that international recognition of secession might inspire the unrealizable aspirations of other ethnic communities. When secessionist movements that are likely to threaten the security and peace of Europe proclaim independence with the premise of the respect of human rights and minority rights, how will the international community—and the European community in particular—respond? How can the international community contribute to peaceful independence?

There are several lessons to be drawn from this example of failed diplomacy. First, a few words should be added on the political impact of supporting or even organizing referendums on the question of self-determination. Referendums are found to be a persuasive means to assess the democratic character of self-determination. Holding a referendum is also found to be a handy and persuasive way of mobilizing nationalism for independence. But referendums held in seceding ethnic nations were nothing but a means to realize an ethnic majoritarian rule, and these actions are a prelude to throwing multiethnic society into a security dilemma. For the international community to help and even organize referendums regarding independence is consequently tantamount to helping produce ethnic conflicts. The international community must refrain from supporting referendums in ethnically intermixed areas.

Second, the lessons of the failure of preventive diplomacy in the former Yugoslavia indicate that violence, and any international actors helping violence, must not be condoned. Looking back on the Yugoslav war, we find that it was too late for the international community to conduct effective short-term preventive diplomacy after secessionist movements came to be organized and they began to arm themselves. In that respect, the Macedonian case has been a good example of successful preventive diplomacy by the international community since the



timing of the international involvement, including preventive deployment of United Nations forces and the OSCE's active role in short-term and long-term preventive diplomacy, came early enough—well before the society became organized along ethnic lines.

A related lesson to be drawn here is that the international community, with the active and leading role of the United Nations, should establish a global early-warning system and methods of preventive diplomacy that can lead to the peaceful settlement of ethnic disputes. The international community must agree to make the domestic root causes of conflicts a matter of international concern so the international community, and the United Nations in particular, can play a more effective role in preventive diplomacy.

And finally, the experience of the former Yugoslavia vividly demonstrates the urgent need for the international community to establish an international standard for the recognition of independence. This is critical from the viewpoint of preventive diplomacy, considering the emerging drives for self-determination among national minorities around the world. The standard should explicitly show the clear-cut and determined will of the international community that any movements for secession or self-determination that resort to violence will not be recognized. It should also make clear that negotiations for secession or independence are to be conducted peacefully under the auspices of the United Nations, and that minorities should be protected. Finally, in order to ensure that such protections are effective in newly independent countries, the United Nations, as the representative of the international community, should take the initiative in establishing a worldwide minority protection regime.

## NOTES

1. For an explanation of ethnic conflicts in the post-cold war era, see Kozhemiakin (1998), Carment and James (1997), and Brown (1996).
2. See Daalder (1996), Goldstein (1999), and East and Pontin (1997). I have relied heavily on these accounts in my review of the crisis and the process of the breakup of Yugoslavia.
3. "Greater Serbia" is an idea that implies the creation of a monoethnic and contiguous state that would include Serbia proper and all predominantly Serbian areas outside its

boundaries—primarily Slavonia and Krajina in Croatia and the Serb regions of Bosnia and Herzegovina, Macedonia, and Montenegro.

4. For an overview of the involvement of the international community in the Yugoslav conflict, see Baker (1995), Zimmermann (1996), Zucconi (1996), and Miall, Ramsbotham, and Woodhouse (1999).
5. In the spring of 1991, there were at least four countries leaning toward support for Slovenian and Croatian independence: Hungary, Denmark, Germany, and Austria. Although in late June, Vienna moved to the collective EC stance, Italy at times reflected domestic pressures favoring Slovenian and Croatian independence (Zucconi 1996, 241).
6. Since I initially wrote this chapter, there has been a fair amount of sporadic conflict and further diplomatic efforts to prevent the escalation of conflict in Macedonia. From February 2001, the Albanian rebels known as the National Liberation Army (NLA) began limited fighting in areas around Tetovo and Kumanovo, the ethnic Albanian region in the northern part of Macedonia. The tensions between the Macedonian majority and the Albanian minority in the country mounted, resulting in the demand by Albanians for a new constitution, greater rights for Albanians, and international mediation in the dispute.

Representing the international community, the EU, the North Atlantic Treaty Organization (NATO), and the OSCE mediated between the Macedonian government and the rebels, and both sides agreed in August 2001 to a peace accord that paved the way for NATO's deployment to demilitarize the rebels. It also promised a series of measures to satisfy the demands of the Albanians. Under the terms of the peace accord, NLA fighters handed in their weapons to NATO and disbanded. Under the pressure of the international community, Macedonia's parliament adopted constitutional changes in November 2001 granting greater rights to Albanians, including the recognition of Albanian as an official language and increasing access for ethnic Albanians to public sector jobs.

The country has succeeded to date in avoiding the escalation of conflict, and peace appears to have returned. However, since the potential for ethnic conflict still exists, the international community decided to step up its commitment to Macedonia by strengthening the OSCE long-term mission there, the mandate of which is to monitor the implementation

of the peace accord and to prevent conflict. In addition, NATO has deployed a small force of around 1,000 soldiers to protect the OSCE mission. Although Macedonia has not experienced a large-scale, nationwide ethnic conflict like those in Bosnia and Kosovo, it has become another country that requires an international presence for its stability and conflict prevention.

7. The CSCE sent a mission to Skopje in September 1992, and the UN Security Council authorized the first preventive deployment of UN peacekeepers to Macedonia on December 11, 1992 (UN Resolution 795). This initiative was triggered by concerns that the Yugoslav war would spill over from Bosnia to Macedonia, and by a request from Macedonian President Gligorov for a peacekeeping force.
8. After World War I, minority rights were set in peace treaties with the new states of East and Central Europe, granting full rights to ethnic and religious minorities. In addition, monitoring and enforcement mechanisms were established through the League of Nations and the International Court of Justice.
9. The seven secessionist movements that had proven their ability to establish de facto independence militarily by the end of 1992 were Nagorno-Karabakh from Azerbaijan, Abkhazia and South Ossetia from Georgia, Chechnya from Russia, Transdniestria from Moldova, Krajina/Slavonia from Croatia, and the Serb Republic from Bosnia.
10. For example, after World War I, Greece and Turkey agreed to an exchange of populations, with 400,000 Turks being sent to Turkey in exchange for 1.3 million Greeks. The victorious Allies in 1945 opted for changing populations to fit the borders rather than the other way around, and this was achieved through the expulsion and resettlement of some 15 million people, including the expulsion of 7 million–10 million Germans from East Prussia, Silesia, and Sudetenland, providing a final settlement of what had been lasting territorial conflicts. An exchange of population was also agreed upon between Hungary and Czechoslovakia, as a result of which up to 100,000 Slovaks could choose to transfer to Czechoslovakia and the same number of Magyars could choose to transfer to Hungary. Eventually, some 60,000 persons were exchanged on each side. Germany, Poland, Hungary, and Czechoslovakia became for the first time in their histories nearly homogeneous entities, but in the rest of

Eastern Europe the problem was suppressed rather than solved (Baev 1999, 25, 29; Preece 1999, 190).

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