

From Collective Defense to Collective Security: NATO Intervention in Kosovo

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Introduction

In the post-World War II era, with the establishment of international institutions such as the North Atlantic Treaty Organization (NATO) and the United Nations (UN), new political and social standards were shaped. Today, governments do not have carte blanche on the citizens they represent. States are not immune when it comes to the violation of human rights and ethnic cleansing. States are responsible for their actions and will continue to be held accountable in front of the international community. However, if the central government decides to reduce the rights of a certain province and deprive its right to self-determination, does that permit intervention by external forces? This paper aims to offer a deeper analysis of the conflict in Kosovo, to determine that the decision to intervene indeed improved the collective security and cooperation amongst the international community, and to examine how NATO, through multilateral cooperation, evolved from a collective defense organization to a collective security institution.

The Socialist Federation of Yugoslav Republic consisted of six republics (Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia, and Slovenia) and two autonomous regions (Kosovo and Vojvodina). Located in the southeastern part of Europe in the Balkans peninsula, Kosovo was the poorest region of Yugoslavia, but was rich in natural resources. Under the leadership of Marshall Tito – the first president of Yugoslavia – Yugoslavia became a founding member of the non-aligned movement, pursuing a neutral policy, and maintaining good relations with both the East and West. Although authoritarian in his nature, Tito under the motto “brotherhood and unity” managed to maintain the coexistence of the nations in Yugoslavia. With the death of Tito, tensions in the region rose, especially when Milosevic came to power in 1989.

Milosevic initiated draconian measures such as the “anti-bureaucratic revolution” conveying more power and control for him. As a result, Kosovo’s autonomy was removed, Kosovo was annexed to Serbia, and thousands of people lost their jobs. A systematic and violent discrimination against ethnic Albanians went underway – this created turmoil. Citizens started to protest massively demanding their rights and jobs back. The authorities responded with violence, many people were politically imprisoned, students were beaten, people were killed, and tens of thousands of people were forced to leave the country. As the crisis was erupting, the local Albanians started to create military formations, such as the Kosovo Liberation Army, and attack the Serbian police.

As the situation was getting worse, the international community decided to step in and came up with resolutions to end the hostilities in Kosovo. The resolutions were deliberately ignored by Serbia. Since the UN Security Council could not agree on a military response, the

chances for inducing change from outside remained minimal [1]. NATO proposed a peaceful solution in the Rambouillet Conference, returning substantial autonomy to Kosovo, but the Serbian authorities rejected any compromise. Their constant disregard of the international community, the unwillingness to discuss solutions, the continuation of war crimes, and huge violations of human rights left NATO with no other alternative but to declare war on Serbia for the first time in its history. On 24 March 1999, NATO initiated a 78 days’ air campaign.

Legality vs. legitimacy

Unlike the Bosnian intervention, which was in accordance with the UN Charter, the Kosovo intervention was questionable in terms of legality. Kosovo was the subject of fundamental disagreements between the members of the UN Security Council, in particular its permanent members, about whether the use of force was indeed a last resort. Some states wanted to continue to pursue negotiations with Yugoslavia and accused NATO states of deliberately offering unacceptable terms at the Rambouillet talks [2].

Most of the states supported the intervention, whereas Serbia, Russia, and China strongly opposed it. Such debate was in fact the very purpose of the United Nations. The opposition argued that sending foreign troops into a sovereign country without the authorization of the UN Security Council and not respecting the territorial integrity of a state are huge violations of international law. But the U.S. interference in Haiti, Granada, Guatemala, Chile, and many more countries in South America, did not go through the UN Security Council either.

On the other hand, countries in favor of the intervention argued that states cannot emphasize security and integrity without respecting human rights and ensuring a peaceful society in accordance with the UN charter. The action in Kosovo was justified by its supporters on two different grounds, the doctrine of humanitarian intervention and the enforcement of Security Council Resolutions: 1160 (31 March 1998); 1199 (23 September 1998); and 1203 (24 October 1998) [3]. The first resolution called for an immediate cessation of violence and the negotiation of a solution through dialogue. The second resolution was proposed to end the atrocities, allow the presence of the international community, guarantee freedom of movement, facilitate the return of the refugees, and find a political solution. The third one, recalling the former resolutions – 1160 and 1199 – emphasized that the situation in Kosovo was a serious threat to peace and security. Thus, it demanded that the Yugoslav authorities comply fully with resolutions 1160 and 1199.

The interests of the international community have often been the subject of intense discussions. This time, a small country located in the southeastern part of Europe with less than two million people was the center of attention in world politics. The arena of political

confrontation was the UN charter, specifically; article 2(4) which define that "states shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state." Exceptions exist when a state acts in self-defense or when the UN Security Council finds a "threat to the peace, a breach of peace or act of aggression."

The UN charter specifically mentions "states" and according to international law, a state is an organized political community which has a permanent population, defined territory, government, and the capacity to enter into relations with other states¹. Kosovo was not an independent state, so according to the definition, no state had been attacked. As a result, the self-defense exception would have to be stretched in order to apply to Kosovo. On the other hand, the UN Security Council resolutions on Kosovo were disregarded by the Serb authorities, who claimed that the conflict was an internal matter of Serbia.

NATO went to war in Kosovo by attacking a sovereign country. It did not do so to uphold the inherent right of individual or collective self-defense or with explicit authorization from the UN Security Council. Neither did it justify its action under the 1948 Genocide Convention. However, these facts do not mean that the alliance's action was illegitimate. The Security Council had identified the crisis in Kosovo as a threat to international peace and security in 1998. NATO did not request the council's authorization to use force in 1999, because Russia indicated that it would veto any such resolution. Yet Moscow and Beijing also failed to offer any promising alternative strategies for stopping the bloodshed. That left the NATO countries with a choice between not acting in response to the humanitarian emergency and acting without the Security Council's explicit backing. After much debate, the allies chose the latter option, justifying their decision by the urgency of the situation [4].

Entente and dissonance

The West was overwhelmingly in favor of intervention. In Germany, the Social Democrats and the Greens were in coalition. Although pacifist in their profile, they were advocating the intervention to prevent further atrocities. In France, they were pushing for a diplomatic approach rather than a military one. The French believed that this was the European moment, and Europe should try to solve the situation through diplomatic channels and stop relying on the Americans so much. The Italian perspective was equivalent; its political parties were divided on this matter. However, Italy supported Albania financially regarding the refugee crisis. Amongst all, the United Kingdom was the strongest advocate for the intervention. Prime Minister Tony Blair judged the intervention as the right cause, calling for a unified response to act. Also, countries from the region such as Albania, Croatia, Slovenia, and Turkey were advocating for the cause.

Greece, on the other hand, opposed the intervention, fueled by anti-American media and public opinion. However, they didn't want to be excluded from the process, so considering their long-term interests, they decided to join the cause. Two permanent members of the Security Council did not welcome the intervention either. Russia and China had consistently made it clear that they would veto any proposal for military action against Yugoslavia, judging the intervention as an

act of aggression. Moreover, they stressed continuously the importance of the non-intervention norm as the fundamental basis of the UN and international security [5]. Russia, being a close ally of Serbia, had the strongest voice against the intervention. However, Russia was going through a tough post-Soviet transition and economic reforms, both of which made preventing the action less of a priority.

The threat of veto by Russia and China pushed the U.S. to act even without a UN resolution. France and Germany made strong efforts to achieve a solution in the Security Council, claiming that Chapter VII of the 1999 resolution brought about the possibility of the use of force. Moreover, the United Kingdom asserted that the use of force was an enforcement of the resolution [6]. The Western powers in general saw the action as justifiable.

However, the opponents of the intervention accused the West of taking unilateral actions. In 1999, the U.S. and the UK rejected such assumptions of "unilateral action." Thus, U.S. Secretary of State Madeline Albright insisted that action was taken "within the framework of Security Council decisions." This was affirmed by the U.S. representative before the International Court of Justice who argued that the actions of the Members of the NATO alliance find their justification in a number of factors. These include: the humanitarian catastrophe; the acute threat to the security of neighboring states; the serious violation of international humanitarian law and human rights obligations; and finally, the resolutions of the Security Council which have determined that the actions of the Federal Republic of Yugoslavia constitute threat to peace and security in the region and pursuant to Chapter VII of the Charter, demanded to halt such actions².

Before the House of the Commons, the British Secretary of Defense relied even more explicitly on Security Council authority.

The use of force in such circumstances can be justified as an exceptional measure in support of purposes lay down by the UN Security Council, but without the Council's express authorization, when that is the only means to avert an immediate and overwhelming humanitarian catastrophe³.

Subsequently, support for the intervention came from the EU, Japan, Australia, New Zealand, and Switzerland [6]. In the end, Greece joined the cause too, because they didn't want to be excluded from the process, making it a multilateral approach. Multilaterals increased the chances of a successful intervention. However, keeping everyone on board was difficult as every decision had to go through NATO, meaning that all member states' opinions had to be considered.

Collective security

Collective security is a "peace-enforcing system" based on the respect of international norms that does not exclude a priori the use of force to compel aggression [7]. The term collective security can be ambiguous and general, but the case of Kosovo clarifies it and narrows it down. The Kupchan brothers define collective security as "balancing and the aggregation of military force against threats to peace"⁴. Accordingly, collective security is crucial to maintaining peace and stability. Under collective security, states agree to abide by certain norms to maintain stability and when necessary respond to stop aggression through political and military means. The important

¹ Montevideo Convention on the Rights and Duties of States (Montevideo, Uruguay 1933)

² International Court of Justice, CR 99/24 of 11 May 1999

³ UK House of Commons Hansard, 25 March 1999, Col. 1967.

⁴ Charles Kupchan and Clifford Kupchan, *The Promise of Collective Security* (International Security, summer 1995).

question is what was seen to be the collective in Kosovo? Kosovo was not part of any organization or institution, so why did the West intervene without the approval of the UN Security Council, and why did it matter?

The collective was the idea of Europe, its norms, and values; ergo, anyone who lives in Europe should abide by those values. Malevolent Milosevic violated these norms and values, clearly bringing back memories of Europe's dark past. The West had to intervene. This came as a shock to Milosevic himself, because he would never have expected such an action, considering the small size of Kosovo and the fact that no European powers had serious political interests there. Former Secretary of Defense Caspar Weinberger and National Security Advisor Sandy Berger suggested that in cases of genocide the U.S. needed to weigh its national interest in a country before deciding to employ military power [4]. Several prominent politicians shared their opinion, because ultimately there was no significant U.S. political interest in Kosovo. However, voices on the other side were stronger and louder.

General Wesley Clark (Supreme Allied Commander Europe) in his memoirs blames the West for not being able to prevent previous catastrophes. "We are among the countries responsible for not permitting the UN forces in Rwanda to intervene as more than half million people there were hacked to death with machetes, and we hadn't resolved the problems of the Balkans. Other nations looked to the U.S. for leadership, and we needed to work closely with them to help share the burdens that would otherwise fall on us alone. [8]"

The U.S. was committed to not allowing the West to dither as it did in Bosnia. According to Madam Secretary Madeline Albright, "only collective security can ultimately manage a world where weapons of mass destruction proliferate and ethnic and regional conflicts trigger massive refugee flows, enormous economic dislocations, unacceptable human rights atrocities, environmental catastrophes, and the senseless killing and maiming of millions of civilians." The Clinton administration consistently invoked "collective security" to justify the war in Kosovo. President Clinton was looking back on Wilsonian principles such as "the right to self-determination" believing that people have the right to choose their own destiny. The Milosevic regime violated these rights; thus, the international community would have to intervene – there was no other option, at least from the U.S. standpoint.

The Western nations were horrified seeing images of death and destruction in Europe again. However, this time they were determined to act in order to prevent the ethnic cleansing. Considering Europe's dark past, full of wars, and that it was just half a century after the disastrous World War II, Europeans were very sensitive about calling the intervention a war. According to General Wesley Clark, NATO forces were not allowed to call the military action in Kosovo a war, although it was a war, a modern one – the first war fought in Europe in half a century, and the first ever fought by NATO [8]. A leading statesman told General Clark that ⁵"in Italy we couldn't use the word war" because war meant destruction, death, defeat and occupation.

The Kosovo conflict is often referred to as "Madeleine's War,"⁶ because she had to flee Hitler's brutality, then Stalin's-it was indeed a very personal and defining mission for her. To Albright, a stable Europe was central to U.S. interests, and Europe was not stable without

a stable Balkans. Ethnic cleansing in Kosovo brought bad memories, invoking not only the lively ghost of the Holocaust, but also the "Rwanda genocide (1994)" and "Srebrenica genocide (1995)." Prime Minister Blair stated that it "seemed like a throwback to the worst memories of the twentieth century [1]." It was essential to oppose and prevent genocide in Kosovo. In other words, the stability of Europe and human rights were at stake, and Western powers did not want genocide to happen.

This conflict was highly important for NATO allies, although success was not guaranteed. Failure could have meant another refugee crisis in Europe, political tensions, and instability in the Balkans, and it would have seriously damaged NATO's reputation and U.S. credibility. Considering the potential consequences as well as NATO's essential purpose of safeguarding freedom and security, NATO allies had to step in. On 24 March 1999, NATO launched an air campaign, codenamed Operation Allied Force (NATO bombing of Yugoslavia), in order to halt the humanitarian catastrophe that was then unfolding in Kosovo. The decision to intervene followed more than a year of fighting within the province and the failure of international efforts to resolve the conflict by diplomatic means.

The conflict in Kosovo was a defining moment that raised many conceptual challenges that redefined the understanding of international relations and world order. It is significant because it raised the credibility and relevance of NATO as a stability mechanism. Most importantly, it has redefined and reoriented NATO aims, causing a shift from collective defense to collective security, making the institution a peace enforcement mechanism. Moving into the post-9/11 era, this alliance will face serious security issues, such as NATO enlargement, arms control, cyber-attacks, and nuclear threats; thus, as NATO is moving into its new role, only multilateral approaches can help overcome such challenges. The decision to intervene in Kosovo did not just improve the wellbeing of Kosovo citizens and the stability of the Balkans, but it also improved the overall relationship of NATO members and strengthened the role of NATO as a producer of stability in the world. Indeed, the campaign in Kosovo improved the overall security environment of the transatlantic community.

In the aftermath of the Kosovo war, a special commission, the Independent International Commission on Kosovo (IICK), was initiated by the government of Sweden. IICK concluded that "the NATO military intervention was illegal but legitimate in order to prevent further atrocities." Since the establishment of the Nuremberg court, domestic violations of human rights are not considered solely within the domestic jurisdiction of any particular state, but as matters of concern to the entire international community. For instance, Articles 55 and 56 requires "all members to pledge themselves to take joint and separate action" to promote "universal respect for, and observance of, human rights and fundamental freedoms for all," suggesting that the UN Charter not only permits humanitarian intervention, but in some cases, requires it. When the UN failed to manage the conflict, NATO acted in defense of human dignity and justice.

The NATO campaign in Kosovo was a major challenge in the history of the Atlantic alliance. "For the first time, a defensive alliance launched a military campaign to avoid a humanitarian tragedy outside of its own borders. For the first time, an alliance of sovereign nations fought not to conquer or preserve territory but to protect the values on

⁵ Ibid, introduction.

⁶ Walter Isaacson, Madeleine's War (Time Magazine, May. 09, 1999)

which the alliance was found. And despite many challenges, NATO prevailed [1].”

The Responsibility to protect

The Security Council's failure to act in cases of genocide such as Bosnia and Rwanda has been criticized on the limited and delayed response of the institution dealing with humanitarian crises. Moreover, there were criticisms against the intervention, Russia and China in particular. The intervention in Kosovo showed that the UN was not equipped to handle humanitarian operations. In October 1999, Christine Chinkin-a professor of international law – published an article asserting that the intervention in Kosovo “may stimulate the development of a new rule of law that permits intervention by regional organizations to stop these crimes without the Security Council's authorization [9]” and she was right, because the case of Kosovo inspired future events.

In order to help prevent future Kosovo's, the United Nations adopted the “Responsibility to Protect (R2P)” declaration in 2005 World Summit which states that “when states are unwilling or unable to protect their citizens from grave harm, the principle of non-interference ‘yields to the responsibility to protect (R2P)’. This way, the UN made it more difficult for Security Council members to use their veto when facing humanitarian emergencies and makes it harder for state to abuse humanitarian justifications.

The R2P is a major step in international community. It is an international commitment which was endorsed by all member states of the UN at the 2005 world summit for the purpose of preventing war crimes, genocide, ethnic cleansing and crimes against humanity. The R2P is based on principles of international law relating sovereignty, peace, security, conflict, and human rights. This mechanism rests solely on the UN and it is considered a measure of last resort.

The R2P declaration comprises of four main elements: (1) states recognized their responsibility to protect their own citizens from genocide, war crimes, crimes against humanity and ethnic cleansing; (2) they pledged to help states fulfill their primary responsibility; (3) the international community will take a host of non-coercive measures to prevent genocide and mass atrocities; (4) in extreme situations, where a government is manifestly failing to protect its citizens, the UN Security Council stands ready to intervene using the full range of its powers⁷.

The R2P is an attempt to reconfigure the relationship between sovereignty, human rights, and international society. An Extension of the role of the inter-national community to protect societies vulnerable to abusive governments [10]. It suggests that this is not just a matter of charity but a matter of responsibility that states and international community must abide, because the very essence of international society are individual human rights. R2P delivers a strong notion that human beings matter more than sovereignty radiated [11]. Although, this declaration was adopted in 2005, there are still many improvements that need to be done in order to make the difference in the world and help people in need [12].

Although, Obama administration used this mechanism as a justification for the air campaign in Libya, the same standards are not taken into consideration when it comes to the Syrian conflict. The R2P has been subject of debate regarding its implementation [13]. The

intervention in Libya and the destabilization of the region has seriously damaged this mechanism and has made it harder to enforce it today. The R2P remains an international norm facing its challenges; however, it surely does have a future [14].

Conclusion

The Kosovo case provides insightful information regarding what is successful and what can be improved in the future. It shows how difficult is to bring everyone on the table and discuss alternatives. Multilateralism requires energy and willingness but it improves the overall cooperation of nations and increases the chances of successful intervention and postwar stability. The Kosovo moment, surprisingly, has put the NATO-Russia relationship back on track. Russian government had decided to participate in Kosovo Force (KFOR) which was a NATO led peacekeeping force responsible for establishing security in postwar Kosovo.

NATO achieved its objectives without launching a ground invasion. But, there were troops stationed in Albania and Macedonia. When Milosevic accepted the terms of an international peace plan to end the fighting in 03 June 1999, NATO troops started to be deployed in, while Serbian troops were retreating from Kosovo. The role of ground troops was necessary to maintain postwar stability in Kosovo.

Further, the Kosovo intervention shows that the West continues to script international law and remains pivotal in maintaining peace and stability. The European Union has played a prominent role in state-reconstruction, conversion, and reform of the rule of law and institutions. The European Union defined the Western Balkans, including Kosovo, as an important way towards European integration. Point two of the declaration states the following, “the EU reiterates its unequivocal support to the European perspective of the Western Balkan countries. The future of the Balkans is within the European Union⁸.

However, Balkans is not a complete event, nor a truly pacified region. Kosovo remains a fragile state, having enormous problems such as the rule of law, corruption, unemployment, et cetera. Kosovo also lacks recognition. There are 110 countries that recognize Kosovo as an independent state. Kosovo is also not member of the United Nations which makes it harder to be part of important political processes. Kosovo's future belongs in Europe; its government must overcome the problems and challenges, and fulfill Copenhagen criteria to be part of the union. Only when Western Balkans fully integrates in the EU, the European map will be completed.

Lessons and Recommendations

- Sovereignty can no longer be viewed as protection against interference. The use of force is justified if countries fail to prevent ethnic-cleansing and human rights violations.
- Multilateralism is difficult because you have to keep everybody on board. However, multilateral cooperation increases the chances of successful intervention and state-building.
- The conflict in Kosovo was a defining moment that raised many conceptual challenges that redefined the understanding of international relations and world order.

⁷ International Commission on Intervention and State Sovereignty, “The Responsibility to Protect”

⁸ EU-Western Balkans Summit, Thessaloniki, Greece. 10229/3 (Presse 163, 23 June 2003)

- The role of international organizations remains crucial to ensuring democracy, stability, and order. The West is critical to ensure the commitment and enforcing of UN. Mechanisms.
 - The Kosovo intervention helped policymakers to frame the “Responsibility to Protect” mechanism, for the purpose of preventing future violations of human rights.
 - Kosovo is the first and probably the last intervention without the UN Security Council approval.
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