

Chapter 13: War and Intervention

Case Study: NATO's Intervention in Kosovo

In her chapter of the book, Frowe briefly described the circumstances surrounding NATO's 1999 war of humanitarian intervention in Kosovo, which aimed to halt the ethnic cleansing of Albanians in the province by Serbian and Yugoslav forces. This case study discusses that war in more detail. We shall examine controversies surrounding (1) the decision by the US-led NATO forces to go to war in the first place; (2) the manner in which the allies prosecuted the war (in particular, their reliance on high-altitude aerial bombing); and (3) NATO's handling of post-war peace-keeping in the area.

First, however, we shall provide some background about the roots of the conflict, which lie in the repression of the majority Albanian population of Kosovo by Serbia from 1989 onwards (this paragraph draws in particular on Wheeler, 2002, ch. 8). Kosovo was a province of Serbia, but had enjoyed considerable autonomy under the 1974 constitution of the former Yugoslavia (of which Serbia was one of the constituent republics, along with Bosnia-Herzegovina, Croatia, Macedonia, Montenegro, and Slovenia). However, that autonomy was stripped by Slobodan Milošević after he became President of Serbia in 1989, and segregation policies were enforced, under which Kosovar Albanians were removed from state schools, university places, and official positions, and terrorized by the Serbian police.

The initial Albanian response to repression by Serbia was peaceful: encouraged by the secession of other nations from Yugoslavia, Albanians campaigned for independence through the Democratic League of Kosovo, apparently optimistic that, if they adopted a restrained approach, the international community would take up their cause. However, these hopes were dashed when the Dayton Agreement of 1995, which ended the Bosnian War, failed to address the Kosovo question, or even to make mention of the province.

It was in the aftermath of Dayton that the Kosovo Liberation Army (KLA) began its guerrilla campaign against Serbian targets in 1995. By the spring of 1998, Kosovo had descended into civil war, as Serbian reprisals led to the destruction of Albanian villages, and drove thousands of civilians from their homes. As Kosovo finally attracted international attention, there followed a protracted period of negotiations, leading to an agreement in October 1998 by Milošević (President, since 1997, of a rump Yugoslav state composed of Serbia and Montenegro) to the stationing of an unarmed OSCE (Organization for Security and Co-operation in Europe) peace-monitoring force in Kosovo. This failed to staunch the violence, and further rounds of diplomatic activity ensued, culminating in talks in Rambouillet and Paris between Yugoslavia and the Contact Group of Britain, France, Germany, Italy, Russia, and the United States of America. The talks broke down on 15 March 1999, owing to the opposition of Milošević to the proposed terms, which included autonomy for Kosovo and the presence of a NATO-led international

force in the region. The ethnic cleansing of Albanians continued, and, on 24 March, NATO began its bombing campaign against Yugoslavia.

<A>The resort to war

As Frowe explained in her chapter, many just war theorists now accept that humanitarian intervention can constitute a just cause for war. At the same time, however, some just war theorists have expressed concern that acceptance of the legitimacy of intervening abroad for the good of others might lead to too permissive an attitude to war. They therefore argue that only injustices that surpass an especially high threshold of severity should be taken to justify armed intervention. Did the situation in Kosovo surpass such a threshold? Even just war theorists who have been particularly keen to emphasize the need for caution and restraint in relation humanitarian intervention have argued that it did. For instance, according to David Luban (2002), the justification for humanitarian intervention must rest on its being necessary to avert barbarism. This test was met, Luban thinks, in the case of Kosovo: non-intervention in this case would have been 'shameful', Luban writes, because 'the Kosovar Albanians were being treated in a way that is not civilized' (2002, p. 79). Meanwhile, Nicolas Wheeler (2000) has defended the claim that humanitarian intervention is justified in cases which represent a 'supreme humanitarian emergency'—a term which he thinks is aptly applied to Kosovo.

Notwithstanding the urgency of the situation on the ground in Kosovo, however, the decision of the NATO allies to intervene has nonetheless proved controversial on other grounds. First, some critics of the war have argued that military action against Serbia did not satisfy the requirement of last resort. In particular, they maintain, the fact that Yugoslavia was presented at the Rambouillet talks with terms it predictably could not accept, including the undermining of its sovereignty and the stationing of armed foreign troops within its borders, demonstrates that the NATO coalition was not sufficiently committed to a diplomatic resolution. The claim that diplomacy might yet have borne fruit, however, strikes others as rather dubious. Milošević singularly failed to suggest any suitable compromise that would have guaranteed the cessation of violence, or opened up the possibility of autonomy for Kosovo. And, indeed, a renewed spring offensive against Kosovo was launched while negotiations in France were taking place (Wheeler, 2000, p. 283).

Second, should military intervention have gone ahead without the backing of a United Nations Security Council Resolution, and in the face of opposition from two of the Council's permanent members, Russia and China? In proceeding in the absence of such authorization, the allies exposed themselves to the charge of illegality. Democratic debate over the merits or otherwise of going to war often centres heavily on its legal status. But the fact that some war would be illegal need not, of course, indicate that fighting it would be *morally* unjustified. And many just war theorists would undoubtedly contend that, although international mandates for military intervention are certainly to be vigorously sought, political gridlock among the international community ought not to prevent action to

avert human rights violations on the scale of the ethnic cleansing that took place in Kosovo, if one or more countries are in a position to go it alone.

<A>The bombing campaign

For many critics, by far the more serious concerns about the Kosovo War related not to the choice to begin it in the first place, but rather to the allies' choice of military strategy, which involved exclusive reliance on bombing from the air (from high altitudes, so as to avoid the enemy's anti-aircraft weapons), and a refusal to commit ground troops. The allies maintained that an air campaign would be most efficacious in speedily securing Milošević's capitulation to their demands. Largely unstated, however, was a second motivation, namely their unwillingness to risk the loss of life of their own military personnel. The NATO powers, in other words, sought to avoid so-called 'body bag syndrome', whereby the public at home withdraw support for a war effort once casualties begin to be reported in the media. But the decision of the allies to fight what was (for them) a casualty-free war was morally problematic, to say the least. For dropping bombs from a great height does not allow for great precision in targeting, and in consequence NATO was responsible for killing not only Yugoslav aggressors, but also significant numbers of the very Albanians whom they were attempting to rescue.

Were NATO forces morally required to fly lower, thereby exposing themselves to anti-aircraft fire, or wage a ground campaign? On the one hand, one might think that they were not, on grounds that we are not generally required to come to the aid of others at high cost or risk to ourselves. Thus, by analogy, a person cannot be under a moral duty to rescue a drowning swimmer, most of us think, if the seas are rough, and there is a significant danger that s/he will drown her/himself. Moreover, in the Kosovo case, we might think that it was permissible for the NATO powers to impose risks on the Kosovar Albanians in the course of attempting to rescue them, rather than imposing such risks on their own troops, because it is still better, from the point of view of the imperilled, to have a chance of rescue rather than none at all. On the other hand, however, it might be replied that the NATO troops ought to have accepted at least somewhat higher risks to their own troops than they did, on grounds that soldiers are professionals whose voluntarily-assumed responsibilities involve, precisely, braving danger in order to defend others (McMahan, 2010, pp. 68-9).

A second criticism of NATO's bombing campaign, meanwhile, relates to its choice of targets. Bombing was not confined to the theatre of the conflict—that is, to Kosovo itself—nor to Yugoslav forces and convoys. Rather, attention was also directed towards certain dual purpose targets within Serbia, and in particular to electricity generators. NATO argued that the purpose of targeting these facilities was to undercut the Yugoslav war effort. However, in doing so, NATO also denied much-needed power to the homes and hospitals of Yugoslavian civilians.

Henry Shue (2003) has expressed concern that NATO's emphasis on neutralizing dual purpose targets may have betrayed a return to the morally discredited strategy of

punishing the civilian population of an enemy state, in contravention of the principles of non-combatant immunity and proportionality, in the hope that their resolve is broken, and they exert pressure on their government to surrender. Note that, for some just war theorists, it is in principle possible that not all citizens are morally entitled to be treated in accordance with the norm of civilian immunity, insofar as they may have chosen to support and facilitate the unjust war-mongering of their leaders (see especially McMahan, 2009). However, in the case of Serbians, the extent of their complicity in the policies of Milošević is highly debatable. Moreover, the NATO bombing of necessity could not only place at risk those citizens who supported Milošević, but instead also affected those who were in no position to do so (for example, infants). On the grounds, then, that when electrical generators and water mains are knocked out in order to deny advantages to the opposing military forces, innocent people are also deprived of the means to meet their basic subsistence needs, Shue argues that targeting such facilities is wrong, even if our restraining ourselves from doing so benefits an unjust adversary.

<A>The aftermath

Some seventy-eight days after the commencement of NATO's bombing campaign, on 2 June 1999, Milošević finally acceded to a settlement substantively similar to those he had rejected in March, including the withdrawal of troops from Kosovo. Following this, the UN passed Security Council Resolution 1244, establishing a NATO-led Kosovo peace-keeping force, KFOR, with a mandate to protect against any return of Yugoslav forces, to demilitarize the Kosovo Liberation Army, and to prevent the renewal of violence, including reverse ethnic cleansing, following the return of Kosovar Albanians to the province. KFOR entered Kosovo on 12 June 1999, and remains there to this day. But while KFOR has been able to reduce its strength in Kosovo steadily over time, and to transfer its responsibilities to the Kosovo Police Service, owing to improvements in the security situation in the province, it was not wholly successful in keeping the peace in the years following the war, and failed to prevent widespread reprisal attacks both between and within ethnic groups. Following a notably dramatic two-day spate of attacks by Kosovar Albanians against minority Serbs and others in March 2004, Human Rights Watch (2004) reported that: '[f]or nearly forty-eight hours, the security structures in Kosovo —the NATO-led Kosovo Force (KFOR), the international UN (UNMIK) police, and the locally recruited Kosovo Police Service (KPS)—almost completely lost control, as at least thirty-three major riots broke out across Kosovo, involving an estimated 51,000 participants.' During those forty-eight hours, 'violence forced out the entire Serb population from dozens of locations—including the capital Pristina—and equally affected Roma and Ashkali communities. After two days of rioting, at least 550 homes and twenty-seven Orthodox churches and monasteries were burned, leaving approximately 4,100 Serbs, Roma, Ashkali, and other non-Albanian minorities displaced.'

Human Rights Watch attributed the failure of the Kosovo security organizations to keep order during this episode to a combination of inadequate capacity and command

structure, as well as, in some cases, a simple lack of will to intervene (ibid.). Insofar as they failed to lay down the basis of effective peace-keeping, one might think that the intervening powers in Kosovo fell short of fully meeting their obligations under *jus post bellum*, which governs, as we saw once again in Frowe's chapter, post-war issues such as reconciliation, reconstruction, and the securing of human rights in the war-torn area. In conclusion, then, notwithstanding the urgency of the crisis in Kosovo that initially prompted NATO's intervention, the conduct of the allies, before, during, and after the war proved far from uncontroversial or immune to criticism.

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