

ETHNIC CLEANSING IN KOSOVO AND NATO INTERVENTION

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ABSTRACT

ETHNIC CLEANSING IN KOSOVO AND NATO INTERVENTION

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NATO's 1999 humanitarian intervention in Kosovo in order to stop the ethnic cleansing in the province has come to function as a precedent for other interventions. The aim of this thesis is to study this intervention in order to clarify what ethnic cleansing and humanitarian intervention mean, and to validate whether or not NATO's actions were indeed justified in the face of events in Kosovo. Beginning with the historical background of the province, both in terms of the mythologies that had future implications in terms of identity formation for Serbs as well as its political development especially throughout the 20th century until 1999, the study moves on to a study of ethnic cleansing. Starting from an account of what ethnicity is and then going on to ethnic cleansing, the definition that is arrived at for ethnic cleansing is that it is deliberate state policy aimed at territorial homogenization, done in a two-step process, with removal coming first and resettlement next. Using this definition, it is determined that ethnic cleansing did occur in Kosovo. The problem arises upon beginning the discussion on humanitarian intervention (HI), where the principles of HI are simply detailed and followed by an account of NATO's intervention. This study concludes that unlike the popular adage of "illegal but legitimate" that has been stated for this intervention, NATO's intervention was actually both illegal and illegitimate, for the ethnic cleansing NATO was supposedly intervening to abort had gotten worse after the intervention rather than stopping when the intervention began.

Keywords: Kosovo, ethnic cleansing, humanitarian intervention, NATO intervention

ÖZ

KOSOVA'DA ETNİK TEMİZLİK VE NATO MÜDAHALESİ

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NATO'nun 1999'da Kosova'da etnik temizliği durdurmak için gerçekleştirdiği müdahale başka müdahaleler için örnek olarak alınmaktadır. Bu çalışmanın amacı etnik temizlik ve insani müdahalenin ne olduğunu netleştirdikten sonra NATO'nun kullandığı sebeplerin doğruluğunu ölçmektir. Öncelikle tarihi alt yapı ile başlayıp Sırp'ların kimliklerinin oluşmasında önemli yeri olan olaylar incelendikten sonra Kosova'nın değişen siyasi durumu 1999'daki müdahaleye kadar detaylı bir şekilde anlatılmaktadır. Etnik temizlikle alakalı incelemelerden sonra etnik temizliğin bir devletin kasıtlı bir şekilde belli bir bölgeyi homojenleştirmek için takip ettiği iki adımlı bir süreç olduğu neticesine ulaşılmaktadır ve bu tanım kullanılarak Kosova'da yapılanın gerçekten etnik temizlik olduğu anlaşılmaktadır. Problem insani müdahaleyi incelerken doğmaktadır. İnsani müdahalenin genel prensipleri aktarıldıktan sonra NATO müdahalesi mercek altına alınmakta ve sonuç olarak bu müdahale için kullanılan "gayri kanuni ama meşru" ifadesinin aslında yanlış olduğu ve doğrusunun bu müdahalenin hem gayri kanuni hem de gayri meşru yönünde olması gerektiği saptanmaktadır, zira etnik temizliği durdurmak için müdahale ettiğini söyleyen NATO'nun aslında durumu çok daha kötü bir hale getirdiği anlaşılmaktadır.

Anahtar Kelimeler: Kosova, etnik temizlik, humaniter müdahale, NATO müdahalesi

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CHAPTER I

INTRODUCTION

This thesis is a study of NATO's 1999 intervention in Kosovo, alongside an examination of the terms ethnic cleansing and humanitarian intervention in order to evaluate whether NATO's intervention was indeed justified on the grounds it put forth.

Ethnic cleansing, when considered both legally and politically, is a complicated term, because there is no one set definition available; some tweaking involuntarily occurs depending on the field of the analyst. With this in mind, it is still possible to locate ethnic cleansing somewhere along a spectrum ranging from genocide on one end to population exchange on the other. That said, the machinations of ethnic cleansing and the intent involved remain hidden, and depend on the scholar to be brought out. After considering the various definitions available, the eventual conclusion about the definition of ethnic cleansing in its most general form was that it is deliberate state policy aimed at territorial homogenization and conducted in two steps. Having arrived at this conclusion, the next step was to apply this definition to the situation in Kosovo to see whether ethnic cleansing had occurred.

Humanitarian intervention, much like ethnic cleansing, also changes colors according to the field of the analyst, and for this term as well it was possible to find common points among scholars. After conducting research into the various definitions of the concept, the main idea about humanitarian intervention was that it was the threat or the use of force by a third party against a target state with an ongoing humanitarian crisis, with the aim of stopping the humanitarian atrocities despite a lack of consent on the part of the target state and a lack of authorization by the international organ responsible for such decisions. Simply put, humanitarian intervention is an act, which is supposed to be legal but not always is, done by a third party with the aim of stopping the humanitarian crisis caused by the actions, or the inaction, as the case may be, of an offending state. Considering this, NATO's intervention was humanitarian in the sense that it was indeed illegal because there

was neither the consent of Serbia nor the authorization of the Security Council. The interesting thing about NATO's intervention at this time is that it was still viewed as being legitimate, due to the humanitarian crisis going on in Kosovo. It is this justification that this study aims to analyze, and whether there really was ethnic cleansing occurring at the time of the intervention.

The reason for choosing this particular case study is that Kosovo set a precedent for further humanitarian interventions, while also being a multi-dimensional example of ethnic cleansing. The methodology of the study was analysis conducted in the aftermath of a literature review, where both academic and legal sources on ethnic cleansing and humanitarian intervention were consulted. The limitation of the study was the lack of language skills in order to be able to evaluate the NATO intervention from a local perspective; the language issue actually becomes more pervasive when considering that a more in-depth study could have been conducted involving the local news and how they portrayed the various players, such as the non-violent movement of Ibrahim Rugova, the Kosovo Liberation Army, Milosevic, and other specific persons along the way. Another limitation of this study is that it does not delve into the legal issues inherent to the terms, opting to consider only their political implications in an attempt at coherence and organization. A brief account of responsibility to protect is provided, however, in order to bring more of a closure to the matter of humanitarian intervention at the end. Given these constraints, however, the thesis still aimed to demonstrate the effects of nationalist politics on a region of fragile unity which was compounded and complicated by clashing interests.

The organization of the study is as follows. Chapter 2 presents the history of the region, beginning with a look at the 1389 Battle of Kosovo Polje, a significant moment in the history of Serbs and a pivotal event for the formation of their identity. This is followed by a time jump and there is a move to Tito's Yugoslavia in the post-World War II period, where Kosovo's changing status from a region to a province to a nearly autonomous republic is detailed. The next section within this chapter provides information on Milosevic's period, and details the descent into nationalist warfare among groups that had lived together cordially for many years. This is followed by a more concentrated look at what was happening in Kosovo and what was being done by Albanians, up until the intervention by NATO in 1999.

Chapter 3 goes into the discussion on ethnic cleansing, first considering ethnicity and the various camps it falls into followed by its definition. Having established ethnicity, the study moves on to ethnic cleansing, where after a careful survey of various definitions, the working definition of this study is provided, which is followed by its application to the situation in Kosovo. Chapter 4 begins with an examination of the definitions of humanitarian intervention, followed by the problems of this term, and the last section ties everything together by evaluating whether NATO's justifications of its intervention, which was that ethnic cleansing was the humanitarian crisis in Kosovo, was true. Chapter 5 gives a brief analysis of the new term 'responsibility to protect', included as the newer manifestation of humanitarian intervention, conceptualized in a clearer manner and accepted by a wider swath of the international community. The conclusion wraps everything up and proposes recommendations for bringing more clarity to the concept of humanitarian intervention and its real world applications.

CHAPTER II

KOSOVO'S HISTORY

For the background on Kosovo, I will focus on three periods: (I) the 1389 Battle of Kosovo-Polje, which has played an extremely important role in the formation of a Serbian identity, (II) Kosovo's status throughout the Tito period where constitutional changes occurred, and (III) Milosevic's rise to power and his actions in Kosovo. Details on what happened in Kosovo in 1999 I will provide in the chapter on ethnic cleansing, where it will be more useful following the discussion on ethnicity and ethnic cleansing.

2.1. 1389--Battle of Kosovo-Polje

There is factually very little that is known about this battle; however, two main facts stand out: in this battle between Ottoman and Serbian forces, while heavy losses were sustained on both sides, it was the Ottomans who were left in possession of the field, and both the Ottoman and Serbian leaders, Sultan Murad and Prince Lazar respectively, were killed in the battle. What must be kept in mind is that although the forces these leaders were in charge of are given the generic names of "Turks" and "Serbs", the armies that fought were ethnically quite diverse. However, this fact was swallowed up over time, and, especially when the 20th century and nationalism came around, completely erased.

The student looking at the Kosovo conflict cannot afford to skip over this battle, although considering it from a historical standpoint and in terms of the balance of power in the region at the time, "many historians believe that the earlier Turkish victory at the river Marica in Bulgaria in 1371 had much more far-reaching effects than the battle of Kosovo" (Malcolm, 1999, 58). McCarthy (1997) also provides backing for this perception by stating that Serbs had already accepted Ottoman overlordship by that time but were quick to renounce their vassalage. In addition, Prince Lazar had defeated an Ottoman army the year before, forcing Sultan Murad to return from Anatolia in order to take control of the Balkan situation. The lack of historical importance given to this battle can be seen in the terse summary McCarthy provides for it, where he states, "His [Murad's] forces, which included

Christian lords and their men, met the Serbs and their allies at Kosova in 1389. Although Murat died in battle, his forces triumphed. His son Bayezit ruled over all of the Balkans” (1997, 46).

Despite this lack of importance afforded the battle in an overall sense, it was made important in the long run because of the significance accorded. As Judah (1997) states, “What is important about the Battle of Kosovo, however, is not what really happened but what people believe [author’s emphasis] to have happened” (26). Malcolm uses the term “talismanic” (1999, 58) in describing the operation of the battle later on in time. It can also be argued that it is exactly this lack of attention that has been paid to the battle as well as the many different accounts that are present that has led to its power, in a sense. There is no definitive information on how and when Lazar and Murad met their deaths for example, and it is from this point of ignorance that many of the legends associated with the battle have grown. Tales of treachery and spies abound, especially in terms of how Murad’s death came about. The only point of similarity that can be detected in the Ottoman and Serbian versions is that there was indeed a “solitary deed and a deception” (Malcolm, 1999, 68), but everything else is different. Even more entertaining is the fact that there are also versions where the Turks are the losers and the battle is considered a Serbian victory, which is obviously strange since this is the “most famous defeat in Serbian history” (Malcolm, 1999, 75). Misha Glenny questions the obsession with this defeat, wondering “Why the Serbs celebrate this as the greatest day in their history is a mystery to the rest of humanity, but celebrate it they do” (1993, 34), thus indicating the prevalence of confusion and astonishment about this particular battle by outsiders. As we shall see later, however, constructing an identity out of victimhood can be quite useful when it is necessary to mobilize the population of the group.

What makes this battle so powerful is the religious imagery that has been added on to it and which transforms the whole episode truly into being the ‘myth of Kosovo’. The role of the Serbian Orthodox church in keeping Serbian identity intact throughout centuries against any rule that came upon them cannot be overemphasized. During medieval times, Serbian rule combined state and church; when the Ottomans came and swept away the state, the church remained, canonizing and thus immortalizing the monarchs (Judah, 1997, 25). This meant that the

“churchgoing Serbian peasant saw before him images of Christ, the apostles, and the holy Serbian kings of the lost golden age. In other words, the resurrection was not just a spiritual affair; Serbia itself would one day be raised from the dead” (Judah, 1997, 25). Thus we can see that not only did the Orthodox church keep the records of identity for future generations, it also helped shape the auras of the people who would be used for the future of these identities. One of these personas was, of course, Prince Lazar.

Within the Serbian Orthodox church, a cult of Prince Lazar had begun and “religious texts were written, proclaiming him a martyr, and a special liturgy was composed for the annual commemoration on 15 June” (Malcolm, 1999, 77). Lazar’s legend is not just about a great Serbian leader who refused to submit to Ottoman control; the story also includes two of Lazar’s knights, one honorable and the other traitorous. During the battle, the honorable knight and Lazar die, whereas the traitor lives and does as his name states and betrays his comrades to the Turks. By use of these “facts”, the Serbian version of the Last Supper of Christ was concocted, with Lazar being given the status of Christ due to the fateful choice he made of dying rather than submitting (Judah, 1997, 26). This choice later on came to be known as the Kosovo covenant. The covenant is said to be between Lazar and God whereby Lazar was given the choice between an earthly kingdom and a heavenly one, and chose the latter (Malcolm 79-80, Emmert 168). How this idea developed is unknown, although the Church could reliably be held responsible for its perpetuation. There is general consensus on the fact that this heritage has been kept up and has been useful in preserving historical memory and Serbian collective identity (Emmert, 2003, 168). To support this point further, Malcolm quotes from Batakovic, a prominent Serbian historian who had written, “The Kosovo covenant--the choice of freedom in the celestial empires instead of humiliation and slavery in the temporal world--...is still the one permanent connective tissue that imbues the Serbs with the feeling of national entity” (1999, 80). The resurrection of Serbia with its holy monarchs, maintained by the church throughout the years while under the authority of other powers, came back in the 20th century by way of nationalist writers and nation-builders who took this tradition and transformed it into national ideology (Malcolm, 1999, 79).

To support this point, the war itself is only passingly mentioned in most history texts, but when considered within the context of the awakening of Serbian nationalism, it takes up quite a lot of space. Karen Barkey (2008) considers the Battle to be the glue that held together Serbian identity and the Serbian population throughout the centuries, using the example of the 1990s' ideological bent over this issue as evidence of the power of history and religious imagery (11-12). Admittedly, it is not the case that there was a pause in the use of the Kosovo story throughout the centuries and there was a sudden comeback in the 1990s. In every rebellion, every struggle, Serb leaders called upon the powerful ideas and symbols within the story here, with the covenant being mentioned especially as the red apple for which everyone aimed: sovereignty of Serbs.

Jumping from this overly influential battle, with its heavenly promises and identity-forming symbols, to the 20th century, we are met with the first manifestations of how stories can be used to construct identities much later. As d'Azeglio commented in 1861 after the formation of Italy, the adage of "we have made Italy; now we must make Italians" comes to mind when looking at the situation of the Balkan peoples in the aftermath of the break-up of the Ottoman Empire. The Battle of Kosovo and all of its associated myths and versions of the story were pumped dry in order to draw boundaries between identities that had peacefully coexisted for nearly five centuries.

During the time nearing the Ottoman Empire's end, Ottoman policy had begun to change, with more centralization being emphasized rather than the previous policy of allowing the provincial leaders to do as they saw fit. This centralization sparked rebellions in many areas of the empire, with the territory of eventual Yugoslavia being no exception. There were two factors that were also at play here, with one being the desire of Austria to annex this area after having seized it through the 1878 Berlin agreement, and the second being Russia's need for access to warm seas after its defeat by the Japanese in 1904-1905 (Sander, 2010, 321). With such imperial forces at play, none of the groups in Yugoslavia were able to truly achieve independence, especially after its annexation by the Austro-Hungarian empire in 1908. The harshest reaction to this came from Serbia, who regarded the area as its own territory wherein it could spread. Serbs evaluated the annexation as a serious blow to nationalist movements, and was disappointed even more when Russia,

traditionally a Slavic ally, offered no support (Sander, 2010, 321). This increased the determination of Serbs, who had already decided that even if they were unable to receive Russian support, they would do whatever was necessary in order to stop the Austrians the next time irredentism reared up. Less than a decade later, they truly implemented this when a Serb youth shot and killed Archduke Franz Ferdinand and began the First World War.

Between the First and Second World Wars, Yugoslavia as we know it until 1990 went through various transformations, emerging as a state at war with itself, divided along nationalist lines. The addition of extremist nationalist Croats to the mix only served to make the conflicts even more bloody, and the animosity that had been seen only between Orthodox Christians and Muslims now had Catholic Christians involved as well. Following the Second World War, both Serbs and Croats developed a group of extremists who were bent on annihilating the other, with names that continue to be construed as insulting to this day. Serbian Chetniks and Croat Ustashe were particularly bloody and vicious against any group they perceived not their own. It is “important to note here that while Serbs and Muslims and Serbs and Albanians had a history of blood between them, until that point Croats and Serbs had never fought one another” (Judah, 1997, 35). The Ustashe, Croatia’s leaders for a period after the end of WWII, instituted a policy of mass annihilation and expulsion against Serbs, and thus sowed “the seeds of hatred that their grandchildren would reap in 1991” (Judah, 1997, 36).

The following section will trace Kosovo’s status throughout Tito’s reign, while also pointing out the flaws in Tito’s version of ‘iron fist in velvet glove’ communism, which would cause the problems we see exacerbated under Milosevic.

2.2. Kosovo under Tito

Many in former Yugoslavia continue to speak fondly of Marshall Tito, pointing out that there was at least a modicum of stability if not peace during his reign. While peace may have come, stability and reconciliation are harder to place together in a sentence when considering how they were achieved. Malcolm writes that “power was more important to Tito than reconciliation, and Communist power was imposed on Yugoslavia at a very heavy price” (Malcolm, 1994, 193). The price

mentioned here is that many of the anti-Partisan, meaning anti-Tito, groups who had taken refuge in various Allied countries were requested back to Yugoslavia by Tito; many were returned and of them, “most were massacred within hours of their arrival on Yugoslav soil” (Malcolm, 1994, 193).

Tito came to power in 1945 after a lengthy struggle against German forces and began ruling as a communist, and in fact Stalinist, leader. Compared to the other European countries who were also within the Communist bloc, Tito had real legitimacy, gained from his participation in the struggle for liberation, and thus he was able to enjoy “real domestic political support” (Simons, 1993, 85). It would be this legitimacy that would turn Tito into a threat in the eyes of the Soviets because Tito’s insistence on the freedom of choice in communism raised the specter of potential national paths to communism, where loyalty to the Soviet Union would be freely given and thus just as easily rescinded. This of course tagged him as being “dangerously independent and too ambitious” (Silber & Little, 1997, 28) in the eyes of the Soviets, and thus just a few years after being established, Yugoslavia was expelled from all common institutions with Stalin being confident that the Yugoslavs would then oust Tito and replace him with “a more faithful relationship” (Simons, 1993, 86). The initially mentioned anti-Stalinism became easier after Tito’s (meaning Yugoslavia’s) expulsion from Cominform on June 28, 1948. The reasons given for this expulsion bear thinking about, however, and actually provide evidence for what Tito would treat wrongly in the long-term and which would cause problems when Milosevic came around.

The expulsion letter sent by the Soviets contains elements of paranoia against Western democratic forces, but there is also the mention of national elements and the inability of the communist regime in Yugoslavia to address them. The correspondence reads in the following way:

The Information Bureau considers that the basis of these mistakes made by the leadership of the Communist party of Yugoslavia lies in the undoubted fact that nationalist elements, which previously existed in a disguised form, managed in the course of the past five or six months to reach a dominant position in the leadership of the Communist party of Yugoslavia, and that consequently the leadership of the Yugoslav Communist party has broken with the internationalist traditions of the Communist party of

Yugoslavia and has taken the road to nationalism. (Stokes, 1996, 64)

The rest of the letter speaks of nationalism only as a means of turning Yugoslavia into a bourgeois, capitalist country that will become beholden to imperialist powers such as the US, but the above part is enough to give the sense that nationalism was already skulking up within the party.

This break obviously did not mean much for the peoples of Yugoslavia as they were under the control of the Communist party and a communist constitution which had been modeled on the Soviet constitution. The constitution was the classic example of lofty declarations and cogent black holes of nonsense, “proclaiming, for example, that each constituent republic was ‘sovereign’, but also eliminating the right to secede by declaring that the peoples of Yugoslavia had chosen to live together for ever” (Malcolm, 1994, 194). Given that it was just a few years after Tito’s death that Yugoslavia began to fall apart, the validity of having chosen to ‘live together for ever’ is made completely absurd, if it already had not been so due to Tito’s own policies.

Leading towards the nationalistic tendencies that we would see rising later on, religion’s role comes to the fore once again. The constitution stated something along the lines of there being a separation of church and state and guaranteeing freedom of religion, but in practice this was not so. The Communists had reason to dislike religion as it had been religion that separated the Yugoslavs into groups in the first place. Catholics ran afoul of the Communists because of their connection to the Ustashe, the bloodthirsty nationalist Croats. The Orthodox were in a slightly better position compared to the Croats, because while the older generation of the church had given support to the Serb regime that had been attempting a takeover during the vacuum caused by the war in the early to mid 1940s, many of the younger generation had actually been chaplains in Tito’s army. Islam, however, seems to have fared the worst of all as it was caught in a double-bind: it was regarded as a religion that involved not only private but also social practices, and it was also “viewed as backward and Asiatic” (Malcolm, 1994, 195). Additionally, Malcolm writes that there was a sense of old scores being settled, quoting from Muslim activists that when Communist military units entered villages, “all potential opponents, mainly people of higher social standing and intellectuals known to be

believers, were simply put to death without any judicial proceedings or investigation” (Malcolm, 1994, 195).

In the mid 1950s and 60s the situation for religion improved, when churches were rebuilt for touristic purposes and Muslims came to figure as an important tool for Tito’s “self-styled ‘non-aligned’ foreign policy” (Malcolm, 1994, 196). After being ejected from Cominform rather unexpectedly and being dependent on Western aid, Tito needed a policy that would make this look like it was being done on purpose, and found it in the non-aligned movement during a visit by Nasser (Egypt) and Nehru (India) to Yugoslavia. Being a Muslim eventually began to afford some advantages for those wanting to get into the Yugoslav diplomatic service. A slightly tragicomic effect was, however, that it did not matter whether these diplomats were practicing Muslims--all that was necessary was that they have a Muslim-sounding name so that they could serve well in several Arab states and Indonesia (Malcolm, 1994, 197).

The problem of being Muslim in Yugoslavia, and especially Bosnia first before getting to Kosovo, was that there had been a general air of ‘it will work out somehow’ first without there being an official line on the issue. The assumption was that Muslims would just categorize themselves as either Serb or Croat and life would go on. What this led to, however, was that during censuses Muslims would simply pick whatever nationality seemed to be more advantageous. Muslims were then given three options in 1948; they could pick from among Muslim Croat, Muslim Serb, or Muslim undeclared. Malcolm writes, “This gave the Bosnian Muslims a chance to demonstrate just how reluctant they were to be either Serbified or Croaticized: 72,000 declared themselves as Serbs and 25,000 as Croats, but 778,000 registered as ‘undeclared’” (Malcolm, 1994, 198). In the next census of 1953, Muslim was replaced by Yugoslav and 891,800 Bosnians registered thus. This would further change in 1961, where “people were allowed to call themselves ‘Muslim in the ethnic sense’” (Malcolm, 1994, 198). The three groups were referred to in the preamble of the Bosnian constitution, but it had not become official yet, and there were many campaigns based on whether the M would be capitalized or not, with capitalized M signifying “member of a nation, rather than ‘musliman’ as the word for a religious believer” (Malcolm, 1994, 199). Almost a decade later, the phrase “Muslim, in the sense of a nation” (Malcolm, 1994, 199) appeared in the

census of 1971, having gone through many debates and causing the dismissal of many Muslim Communist party members but eventually accepted by the central government. The distinction is still mentioned to this day; however, a Bosniak assembly gathered in 1993 in order to finalize who was to be referred to as what. The assembly, made up of intellectuals, military personnel, religious leaders, and policy makers from the Bosnian muslim community, decided to abandon the 'Muslim' distinction and adopt one tailored around 'Bosniak'. To this end, it was decided that "'Bosniak' would designate only Bosnian Muslims, while 'Bosnian' would apply to all of the inhabitants of Bosnia-Herzegovina, without regard to membership in a nationality or religion" (Clayer & Bougarel, 2013, 218 n. 2).

The mention of Bosnia here is relevant to Kosovo due to them being plagued by the same problems, not just of housing Muslim (and muslim) majorities but also because of their statuses within the Federation of Yugoslavia. Compared to the other divisions in the federation, Bosnia was in a general state of stagnation; its economic growth was slow, it had the lowest national income average, the highest infant mortality rate, highest illiteracy rate, smallest proportion of people living in towns, etc. Kosovo was the only semi-republic that was worse than Bosnia, which, considering the fact that Bosnia was an actual republic and Kosovo only a part of Serbia during this time, might put the picture into better focus.

Looking at Kosovo specifically, we see that even here, despite being the most backward autonomous province in the whole of Yugoslavia and caused to be so by Tito's policies, Albanians in Kosovo still think of Tito fondly, as they regard him as the man "who halted or reversed the most objectionable policies of the previous Yugoslav regime--the colonization programme and the suppression of the Albanian language--and who gave the territory of Kosovo a form of autonomy" (Malcolm, 1999, 314). It is basically this autonomy provision that garners affection for Tito, because quite honestly it was in fact Tito's legacy of a "stultified political system and a collapsing economy that created the conditions under which a politician such as Slobodan Milosevic could rise to power and manipulate Serbian nationalism to his own destructive advantage" (Malcolm, 1999, 314). The general frame that sets up the problematic of the Kosovo question was that whatever happened here was constantly in response to what had happened before: Albanians were given more autonomy after the mid-1960s, to which the Slavs then reacted in

the 1980s. This basically set the stage for an intractable conflict to come around, finding the door in Tito's "stultified political system and a collapsing economy" and knocking it off its hinges with Milosevic's manipulation of Serbian nationalism for his own ambitious goals.

There is much that should be said about Kosovo's history and the stages it has passed through up till today; unfortunately, this is not the place for these details. Thus, I will briefly give an account of the political and legal status of Kosovo during Tito's reign, before tying it to how Milosevic changed this status and began his war. On September 3, 1945, the Serbian People's Assembly passed a law establishing the 'Autonomous Region of Kosovo-Metohija'; a few days prior, there had been another law passed declaring the 'Autonomous Province of Vojvodina' to be a constituent part of Serbia. The first distinction that should be noted between Kosovo and Vojvodina is the region versus province issue--while neither legally nor officially explained, "the nuance was evidently that a province was a little higher up the pecking order" (Malcolm 1994, 316). The problem with this was that Vojvodina was a smaller, richer, and less populated area compared to Kosovo; also, Vojvodina's ratio of Serb to the other constituent ethnicity was not as unbalanced as in Kosovo because there were (and still are) many groups and thus did not suffer the same consequences or have the same desires for eventual full autonomy leading to statehood.

Since the formation of the Federal Republic of Yugoslavia, there were three constitutions which were promulgated, in 1946, 1963, and 1974 (Repishti, 1984, 198) respectively. 1946 was the first constitution, with the lofty premises of self-determination and right of secession promised but blocked at the same time, given that this was a communist country and all constituent republics were within the country voluntarily. A constitutional law passed in 1953 allowed for worker participation as well as almost control in the state structure; the state came to be equated with the social which was regarded as an indication of a democratization process. Although this was ostensibly only in the economy, it had far-reaching consequences: "it was the beginning of the movement towards administrative democratization" (Repishti, 1984, 198).

Aside from this economic matter which eventually became an all-encompassing overhaul of the way governance in Yugoslavia operated, another

slight change occurred in the references to the autonomous units in Serbia. While nothing formal happened to change the order set out by the 1946 constitution, through a continuous practice of pretermission, the matter of autonomy stopped being a federal matter and was demoted to the control of the republic which contained said autonomous region/s. This meant that the two autonomous units of Vojvodina and Kosovo were reduced to the status of “two ordinary districts of Serbia” (Repishti, 1984, 201), which was later confirmed by the 1963 constitution.

Many protests and movements happened between 1963 and 1974, including national outbursts that paved the way for a new constitution which changed the amount of control republics had over their constituent elements. The Federation’s powers were greatly narrowed while those of the republics and the autonomous provinces were expanded. The new constitution especially “reinforced and extended the various forms of representation and participation by its eight constitutive elements in the exercise of federal functions” (Repishti, 1984, 202). In this way, “For the first time since their inception, the two autonomous provinces were integrated as primary constituents of the Federation, although their dependency on the Socialist Republic of Serbia was maintained” (Repishti, 1984, 202). This dual dependency on the Federation and on Serbia of course had consequences--any laws that the autonomous provinces wanted to pass had to get both Serbian and Federal approval. None of their laws could be contrary to the constitutions of the Federal Republic or Serbia.

Beginning as an autonomous region subservient to the rules and laws of the Socialist Republic of Serbia and the Federal Republic of Yugoslavia, Kosovo experienced a gradual downhill trend in terms of its autonomy. While becoming an autonomous province after a while, Kosovo’s situation was nothing like that of Vojvodina which was at least able to take executive and legislative action independent of Serbia to a certain extent. Albanians living throughout the lands of Yugoslavia had expressed a desire to unite with Albania; protests done elsewhere were put down but those living in Kosovo were given slight autonomy. This downhill slide reached its nadir with the 1963 constitution where Kosovo was termed a mere sociopolitical community and a unit of Serbia whose own regulations needed to be in line with those of the Federal Republic as well as of Serbia (Repishti, 1984, 212-213). The decline stopped a decade later when with the 1974

constitution the Socialist Autonomous Province of Kosovo (SAP of Kosovo) came to be recognized as an “autonomous and self-managing community” (Repishti, 1984, 217).

The 1974 constitution is important in three respects: first, it upgraded the province to a near federal republic level by giving it the right to decide on a federal level; second, the highest organ of the SAP of Kosovo was the Provincial Assembly which could directly deliberate on the two extremely important issues of constitutional and territorial changes; third, Republic constitutions could not be changed without prior provincial approval, especially if contemplated changes involve the interests of the autonomous provinces. This last one sounds like it contains a buried loophole where Serbia can argue that the change it is considering does not necessarily involve the interest of the autonomous provinces, but the mere fact that such a change was enacted within the constitution is important. It publicized the fact that Serbia was no longer completely dominant over Kosovo, and also gave Albanians in Kosovo hope that they might be able to achieve full independence from Serbia, while still being under the auspices of the Federal Republic of Yugoslavia. Unfortunately, this hope would be crushed cruelly a few years after Tito’s death, when Milosevic repealed Kosovo’s constitution and once again demoted the near-republic to merely being a region of Serbia.

To finalize the general situation in Yugoslavia, by the time of his death, Tito had essentially liquidated any political opposition to himself in any form, including nationalist movements. As a way of keeping all of the nationalities on equal footing somehow, Tito basically repressed any flare up and attacked groups that had not flared up as a warning. By “enforcing his doctrine of ‘Brotherhood and Unity,’ he carried out purges of Serbs, Croats and Muslims, Slovenes, Macedonians and Albanians, balancing his repression of any one nation against that of the others” (Silber & Little, 1997, 29). Slavenka Drakulić (1993) perhaps expresses this best, writing, “For forty-five years, within the iron embrace of the Communist Party, the wounds of nationalism were not healed. Instead, they were ordered to disappear. Nationalist antagonisms were suppressed and replaced with ‘brotherhood-unity’ ideology” (171). This meant that nationalists were either killed or exiled, where metaphorically speaking they became open wounds that would fester until Tito’s

death in 1980, when the entire feeble system of Yugoslavia would fall apart with unexpected and solemn alacrity.

During Tito's lifetime, the Yugoslav system of governance had been able to function solely due to the force and charisma Tito brought to his position. Afraid of raising a successor and unwilling to give up any of his own power, Tito created a complicated system by which the Yugoslav federation would be run after his death. The institutional structure was weak, with power devolved to too many parts; even the communist party itself was separated into the federal party and the republics' parties. When Tito died, "the State--and even more the party--soon showed signs of disintegration" (Oeter, 2011, para. 9). The amount of devolvement demonstrated its consequences soon enough, when the federation became incapable of taking or implementing any political decision and "decision-making shifted to the Republics and the Republican party organs, which increasingly resulted in a paralysis of the federal institutions". The only federal institution that remained intact and functioning was the Army, which in itself would cause problems later on when Milosevic took over and used this sole remaining federal bastion for his own purposes.

Having detailed the events in Yugoslavia under Tito in general, and also having set out Kosovo's changing status over time in particular, we can now move on to the reign of Milosevic, and the problems faced by all during his time.

2.3. Milosevic in Power and Kosovo

Slobodan Milosevic is an enigmatic figure to consider. While in some respects it seems simple enough to describe him as a nationalism-driven, power-crazed dictator, what ended up happening in the former Federation of Yugoslavia shows that this reduction does not hold. The best description of Milosevic that is holistic can be found in Misha Glenny's account of this malignant person. Glenny contends that the path to the dissolution of Yugoslavia would not have been as dynamic if not for Milosevic, a most paradoxical dictator with an extraordinary personality. Continuing through life without really touching on anything harsh, Milosevic gives the impression of, for example, being nationalist while having no sympathy whatsoever in reality. Comparing Tito and Milosevic, Glenny bemoans

the fact that while Tito was powerful, it is unfortunately more likely that Milosevic will be the one who will shape the political landscape and leave a deeper historical imprint. Glenny writes that whereas Tito had stopped the violence--albeit violently--between Croats and Serbs, Milosevic deliberately induced it, turning the “sleepy backwater which the post-war Balkans had become into the pathologically unstable region that it was for the first half of the twentieth century” (1993, 31).

In addition, Milosevic was also rather drab and unfriendly. While his low voice might be characterized as “seductive” (Glenny, 1993, 36), he was an ineffective public speaker, using words befitting a specific situation but not their inherent meaning; essentially, he said much but meant very little. Despite his cold and disagreeable character and the general dislike of his wife Mirjana Markovic, Milosevic was the most successful politician in the Balkans at the time. Always grasping the nettle of the bee through the use of another hand, Milosevic was able to hide behind the fact that he did not have many executive powers and thus could not be held accountable for the consequences of laws and policies which were, in fact, written and propagated by him alone. Glenny writes that what is truly amazing about Milosevic is that, for all his many visions and attempts at glory, Milosevic had a great many intentions and yet was unable to completely fulfill any of them. First he wanted to be like Tito, eventually he gave up that idea for the dream of a Greater Serbia, and later on left behind that thought as well for the simple union of Serbia and Montenegro. His success at keeping Montenegro could be debated as well, since Montenegro split from Serbia a short while after Milosevic’s death in a legitimate referendum, with little to no violence (Traynor, 2006). While doing so, “he succeeded in devastating his country. None the less he has demonstrated a remarkable political longevity. It was not until the imposition of United Nations’ sanctions on the rump Yugoslavia (...) that Milosevic weakened probably beyond the point of his long-term political survival” (Glenny, 1993, 37). It is thus quite impressive that Milosevic was able to keep himself in power until 2000, when he was forced to resign after protests erupted following the disputed elections on September 24, 2000.

However, this is far too much of a time jump, so back we go to the mid-1980s, when Milosevic was still just barely visible behind his friend Ivan Stambolic. Following in the footsteps of this mentor and friend, Milosevic basically occupied

every position that Stambolic had vacated prior to ascending. After becoming President of Serbia, Stambolic installed Milosevic as Party President. This arrangement seemed to function quite well for both, until the fateful moment in 1987 when Stambolic made the mistake of sending Milosevic to Kosovo to respond to the rising complaints of Serbs in the province. Aided by the publication of the Memorandum in 1986 and seized by a desire to further his own career at the expense of his friend, Milosevic used this opportunity to sow the seeds of nationalism, which he would very soon reap in order to facilitate his dream of becoming Tito II and achieving Greater Serbia.

After the publication of the Memorandum, which claimed that Serbia was disintegrating and nearly half of the Serb population was languishing under the control of other groups outside of the motherland, Serbs in Kosovo found that they could begin to gather an audience to talk about their plight. Starting off as simple meetings underground and mostly expressed through myriad protests popping up here and there, their calls eventually reached official ears in the person of Dobrica Cosic. Cosic then put the various local Kosovo Serbs in touch with Dusan Ckrebic, the Serbian President, who received this delegation of local Kosovo Serbs in Parliament. Silber and Little write that part of the reason why the Communists were willing to slightly support the Kosovo Serbs cause was because of the horrid state of Serbia's deteriorating political and economic situation. Little did they know that, in fact, they had "tapped a rich seam of national grievance, officially stifled but privately nurtured for decades" (Silber & Little, 1997, 35). Tito had simply 'managed' the nationalism issue, but, as it later transpired, all he did resulted in the destruction of moderates, which thus allowed for the more extreme nationalists to fester. All Milosevic needed to do now was to tap into this vein, which he pragmatically did soon enough.

When Stambolic sent Milosevic to Kosovo in 1987 to calm down the nationalist protests, he actually expected that his friend would placate the Serbs there and leave things as they were. What he did not expect was for Milosevic to completely throw off the long-lasting communist 'Brotherhood and Unity' motto and to institute a new one in its stead. While heading into a meeting with local Serb representatives, people pushed forward to meet the party president, whom police pushed away using batons. Suddenly, rocks were hurled at the police, obtained from

a truck “local activists had conveniently parked nearby”, and representatives inside the building were told that the protests would calm down if the people could meet Milosevic. Seeming fearful of the screaming outside of the window, Milosevic said that he wanted to see what was happening, and after watching for a while he went downstairs to the people and gave what would become a rallying cry and new motto for Serbs: “No one should dare to beat you” (Silber & Little, 1997, 37). By saying this, he cemented his status as the leader of Kosovo Serbs, completely pushing the already-disdained Stambolic out of the picture. Taking up the cause of the Kosovo Serbs made Milosevic the leader of all Serbs, because he was able to use his status as the only leader who cares about the southern brethren to rile up support for himself.

The Kosovo speech was then followed by a series of events that played right into Milosevic’s hands. A young Albanian man opened fire on soldiers in his unit, killing four of them, of whom only one was a Serb, with the other three being two Muslims and one Croat. However, “the frenzied Belgrade media called it an act of Albanian separatism against Serbia” (Silber & Little, 1997, 41). The Serb recruit’s funeral was turned into a protest against the Kosovo Albanian leadership, despite the wishes of the boy’s parents for the funeral to be left in peace. Following this shooting, various Serb leaders spoke out against Milosevic between-the-lines, never really coming out and attacking him directly but remaining below the radar. Those who could read the situation understood what was being said and to whom it was directed, but the hush-hush approach simply allowed Milosevic to act with impunity. His control of the media also made him a formidable opponent, where even media offices who were usually servile to the Communist leadership had turned “cold and arrogant” (Silber & Little, 1997, 42). Stambolic, generally an astute politician, had been taken fully by surprise, himself stating, “When somebody looks at your back for twenty-five years, it is understandable that he gets the desire to put a knife in it at some point. Many people warned me but I didn’t acknowledge it” (Silber & Little, 1997, 45). Following various political intrigues, and even with the support of people who would later become his rivals after waking up to the fact that Milosevic was using nationalism for his own ends, Stambolic was “officially dismissed on December 14, 1987” (Silber & Little, 1997, 47). After this point, it was essentially

the beginning of the descent into nationalist hell, from which--with the possible exception of Slovenia--none of the Yugoslav republics would emerge unscathed.

Following Milosevic's ascent as strongman of Yugoslavia in 1987, the rest of the story is quite well-known: the republics of Slovenia and Croatia first declared independence from the federation of Yugoslavia following moves rescinding Kosovo's near-full autonomy. Slovenia was not nearly as much affected by what happened among Serbs, Croats and Bosnians, considering the fact that there was a very small percentage of Serbs living in Slovene territory, making it fairly unnecessary to keep in the federation. Croatia and Bosnia were different stories--Croatia had a majority Serb population living in the Krajina area on the border with Serbia. Even for Croatia the war might have been less bloody had it not been for the fact that Milosevic insisted that any land Serbs were living on should be united with Serbia proper, denying the principle of *uti possidetis*. As a side note, it is also true that the oft-ignored Croat leader Franjo Tudjman was just as bloodthirsty and irredentist as Milosevic and is just as much to blame for the level of violence into which Bosnia-Herzegovina descended. Clayer and Bougarel (2013) list "the deliberate recourse to 'ethnic cleansing', instrumentalization of nationalism, control of media, and the placement of parallel powers to support secret service and organized crime" (220) as the similarities between the two leaders, with their irredentism being their greatest shared characteristic. In any case, the impossibility of these demands fueled the lack of retractability of the conflict, which was made even worse when Bosnia-Herzegovina (BiH) also decided to withdraw from the federation. The problem with BiH was two-fold: one, it seemed that BiH was being moved about by the events of the time rather than actually managing to keep up and setting its own course; two, Bosnia-Herzegovina was more multiethnic compared to the other two republics, making separation into different territories nigh impossible. While there were areas within the republic where certain groups were a majority, most of it was integrated. This did not much matter to Tudjman and Milosevic, who had already agreed upon partitioning Bosnia-Herzegovina with no care for the Muslim population there.

After the break-up of the League of Communists of Yugoslavia, elections were organized in each individual republic and without fail, nationalist parties won the elections. Kosovo Albanians, on the other hand, boycotted the Serbian elections

of which they were expected to take part since Kosovo had been re-incorporated into Serbia, and instead created the Democratic League of Kosovo (Lidhja Demokratike e Kosoves, LDK). The provincial parliament that had been dissolved in 1989 then clandestinely proclaimed a “Republic of Kosovo” in September 1990 (Clayer & Bougarel, 2013, 217). This Republic of Kosovo then declared independence in 1991, following in the footsteps of Slovenia and Croatia, with Bosnia-Herzegovina breaking away shortly after.

Prior to the beginning of the wars amongst the republics, the Kosovo Albanians’ call for becoming a republic had left its place to calls for independence. Milosevic had already revoked Kosovo’s parliament; nonetheless, a referendum was held where the Kosovar Parliament declared independence on October 19, 1991, although due to the situation of the time this was more a simple declaration rather than actual independence. With circumstances the way they were in terms of the war going on throughout former Yugoslavia, Kosovo--despite being the ignition that set aflame the entire region--was left on the back burner, even during the negotiations to end the war in 1995 in Dayton, Ohio.

Milosevic did not only void Kosovo’s relative independence from Serbia when he came to power, he also changed the entire ethnic dynamic that was present in the province in terms of employment. Up to that point, Albanians could be found in the police force and other duties; after Milosevic, much of the Albanian population lost their employment to the Serbs. Jenne (2009) writes, “[Belgrade] continued to ‘Serbianize’ the province throughout the 1990s, dismissing ethnic Albanians from positions in hospitals, state-run enterprises, the judiciary, the police, media outlets and schools” (281). Media portrayals of what was happening in the province also did not help with placating the situation--the use, or rather abuse, of the young Serb soldier’s funeral mentioned above should be recalled.

Adding fuel to the imagery of Serbs under attack was the problematization of the population imbalance within Kosovo. By the time of the war, Kosovo was almost 90% Albanian with the rest comprised of Serbs, Roma, Turks, and other minorities. There had been a steady decline in the population of Serbs starting from the 1960s due to the paucity of jobs in Kosovo; official reports from the late 1980s even show that among the reasons for leaving, “95 per cent of all cases the emigrants cited either economic or family reasons; in only eleven individual cases

(less than 0.1 per cent) were pressures from Albanians given as the main cause of emigration” (Malcolm, 1999, 331). In addition to the high rate of Serbs leaving the province, there was also the fact of the higher birth rate of the Albanians, which was broadcast in Serbian media as a politically motivated policy. Albanians’ high birth rate is indisputably fact, but reasons for this were that the society was still mainly agricultural with an accompanying strongly traditional village life; large families had become the norm in a sense because of the high rate of mortality due to disease or blood-feuds. What happened in the 20th century was that mortality, whether from rivalries or health-related issues, had been “quite sharply reduced” (Malcolm, 1999, 332), while the tradition of large families declined much more slowly. Within the Albanian population, there was also a sharp difference between birth rates of urban and rural women, where urban working women would have 2.7 children on average, compared to the 6.7 children born by rural women (Malcolm, 1999, 332). Malcolm follows these statistics by then writing that, “The idea that Albanians breed as part of a political campaign is rather neatly disproved by this evidence, since the urban couples are much more like to be politicized than their counterparts in remote villages” (Malcolm, 1999, 332). If the breeding had indeed been politically motivated, a higher birth rate would have been expected in the urban areas rather than the countryside in a bid to crowd out the Serbs. This not being the case demonstrates the levels of lunacy and frenzy that had been reached.

To give a more comprehensive account of the whole birth rate problem, one must also mention the Serbs’ birth rate as well. A fact that is generally overlooked when examining ethnic groups in Kosovo is that all of them actually had high birth-rates; a Serb woman in Kosovo would have an average of 3.4 children, as compared to her equivalent in Serbia proper who would have only 1.9 (Malcolm, 1999, 332). Up to a certain time, Serbs and Albanians had almost the same birth rates, with Serbian growth rate being higher than Albanians because their mortality rate was much slower. The only explanation that makes sense for the ensuing imbalance of the population was thus the “extraordinarily steep decline in Serbs’ own birth-rate” (Malcolm, 1999, 332). Malcolm gives two reasons for this, the general reason being the Serbs’ greater urbanization, but the special reason is quite interesting, as it also had an impact on the views and responses of the Serbian Church--the “very high rate of abortion among the Serbs. By 1994 it was reported that Serbia had the highest

abortion rate in the whole of Europe” (Malcolm, 1999, 333). When the madness ensued about Albanians (and other Muslim populations) being out to ethnically cleanse Serbs from Kosovo through their higher birth rates, calls to increase the Serb birth rate started up, and women who wanted to abort their pregnancies were not seen in a kindly light. The Serb Orthodox Church “offered medals to Serb mothers for bearing many children. A Serb artist demanded that Serb women give birth every nine months” (Sells, 1998, 65).

From this one sentence, it is possible to construct all the avenues of support that led up to Milosevic as Yugoslavia’s strongman. The Church, by rewarding women who had more babies, also made sure that the Battle of Kosovo and King Lazar never died down, resorting to parading Lazar’s bones around Kosovo as well so that people could do pilgrimage to these bones. Artists and scientists signed on to the Memorandum, which was more a document espousing paranoia than anything scientific--or objective--and which was leaked in order to increase the furor and dimension of ethnic conflict, and to instigate ethnic tensions. Finally, the mendacity of politicians, their total focus on their ambitions, and their lack of inhibitions when it came to the accomplishment of these ambitions was the spark that caused a multiethnic society to crumble apart. One would think that given the twenty years that have passed since the end of the war things would have improved by now, but unfortunately the Western powers which intervened were also incompetent at what they were doing and only managed the situation, much like Tito, rather than actually solving it.

To briefly provide an account of the situation in Kosovo before the 1999 NATO intervention, Ibrahim Rugova’s Democratic League of Kosovo (Lidhja Demokratike e Kosovës, LDK) had been elected as the ruling party after setting up parallel institutions for health, education, and governance and security in 1992. They thus followed a non-violent policy, protesting in much the same way as Gandhi did against British colonialism. Rugova’s assumption had been that by displaying this type of exemplary and non-violent behavior, Kosovar Albanians would be included in the final negotiations between Serbia and Western powers, where Kosovo would gain autonomy, if not independence, from Serbia. However, this “protest, unsustainable in the long term and a victim of international indifference, collapsed. Its death notice came after the 1995 Dayton agreement was swiftly followed by the

European Union's recognition of Yugoslavia" (Hedges, 1999, 30). When the war ended in 1995 with the agreement brokered by the US in Dayton, Ohio, Kosovo was not even invited to sit in the meetings, let alone mentioned as a point on the agenda, despite the EU having demanded that Yugoslavia resolve its Kosovo issue prior to the negotiations (ibid). The reason for the start of the war was ignored. This is the point where the West's incompetence becomes very obvious--the Dayton Accords, which did indeed stop the fighting, did nothing to make sure that ethnic reintegration and the safe return of refugees would be accomplished. Bosnia-Herzegovina, formerly of multiethnic composition, was through the Accords divided into two constituent parts, one dominated by Croats and Muslims and the other by Serbs. It was specifically this point that Kosovar Albanians had difficulty understanding-- they did not "grasp why the Bosnian Serbs, responsible for some of the worst acts of genocide since World War II, were handed nearly half of Bosnia at Dayton" (Hedges, 1999, 30). There was power in federal (central) hands, but the constituent parts were given veto power which they could use if they felt a particular law to be contrary to their interest. Given that Kosovo did not even have that as the way the situation stood in 1995, it should come as no surprise that an alternative to Rugova's non-violent movement came about.

Upon observing the situation in Bosnia-Herzegovina, and the fact that the Accords merely patted Milosevic and Tudjman on the backs and did not take anything away from them, Albanians in Kosovo came to the conclusion that it would only be through violence that they would draw the attention of the West. To this end, the Kosovo Liberation Army (KLA, Ushtria Çlirimtare e Kosovës—UÇK) was formed. The KLA challenged the peaceful resistance Rugova had instituted and kept going for nearly a decade, and escalated from "individual terrorist actions" in 1996 when it was formed to becoming "an organized guerrilla force" (Fleiner & Djeric, 2012, para. 39) in 1998. The KLA managed to get the attention of the West rather indirectly, after Serbian forces attacked and destroyed a village in Racak, where they "tortured, humiliated and then murdered any men they found" while going through the village in search of "'terrorists' from the Kosovo Liberation Army" in January (Beaumont & Wintour, 1999). The Racak massacre came nearly a year after the massacre of the Jashari clan in Prekaz. The Jasharis were "the clan that made up much of the KLA at the start of the rebellion" (Hedges, 1999, 33); at the

beginning, they were almost the ones to run the organization and also have the greatest presence within the KLA. In the Prekaz massacre, Serb forces deliberately attacked the village and a firefight ensued between the Serbs and the Jashari clan. The violence of this attack is revealed in a first-hand account by Chris Hedges, who had actually interviewed the Jasharis on February 18, 1998, barely a month before the attack on them. Of the massacre in March, he writes that he witnessed Adem Jashari's throat slit after having been shot multiple times; Adem's elderly father also lay dead close by. Of the 51 corpses on the scene, 20 were from the Jashari clan, all dead in execution style with a bullet to the head at close range. Half of the bodies were women and children, bodies blackened by the flames (1999, 35). The Serbs' attack here managed to turn this relatively unknown family into heroes, not least because despite being vastly outgunned, the Jasharis lasted quite some time (Horwell, 1999). The method of murder in addition to the arson exemplifies the targeted effort to cleanse at least one family, with the intent of causing fear in everyone in order to induce an exodus of Albanians from the province. This goal was accomplished, where after the attacks on Prekaz and Racak, many Albanians fled in fear of their lives. Chris Bird, reporting on the ground from Kosovo just after the Racak massacre, writes, "The Serbs did not want us to see it. But there was no mistaking the hellish fires raging in Kosovo last weekend as ethnic Albanian villages were torched by Serbian security forces" (1999). Bird finishes his account of the episode and his witness of families running away by writing the following: "Everywhere we drove round the edges of Drenica we saw tanks, anti-aircraft guns, soldiers, trucks: Kosovo has been turned into one vast armed camp".

In this case, much of the violence had occurred in the aftermath of the end of a negotiated ceasefire when talks between Serbs and Albanians had failed once again, and monitors of the ceasefire had been pulled out. Any sense of security the Albanians felt left with the monitors, and their fears were founded when the Serbs did indeed begin attacking their homes and villages once again. In truth, the KLA had also violated the ceasefire that had been negotiated by Richard Holbrooke and which was backed by the threat of NATO air strikes. There had been skirmishes between the KLA and Serb forces up until that point, but the Racak massacre became the event that forced the West to act and for NATO to actually back up its threat to use air strikes. The point of contention here is that it was not approved by

the UN, which I will discuss in the last chapter in the general context of humanitarian intervention by NATO in Kosovo.

Currently, Kosovo can be termed a UN protectorate, having declared independence from Serbia in 2008. Problems abound for the country in terms of low-level ethnic discrimination still among Serbs and Albanians, as neither reintegration nor the right of refugee return has been made a priority, for either group. To be fair, the majority of Kosovo is Albanian, with a few Serbian enclaves in the southern regions and a more concentrated Serbian population to the north of the Ibar river. Every aspect of Kosovo's political structure, from its constitution to its representatives, presents a problem. The country has a constitution, but the laws in it as well as the powers given by it are under the control of the Ahtisaari Plan, which was used as a type of constitution for the country until it declared independence. The presence of the UN, NATO, and EU bring the legitimacy and actual power of the Kosovar government into question as well. Essentially, problems abound, but at least there is independence.

Having set out the history of Kosovo from 1389 until today, I will now move on to a discussion of ethnic cleansing, and consider the events of 1998 and 1999 in light of my working definition of ethnic cleansing.

CHAPTER III

ETHNIC CLEANSING

Upon hearing ethnic cleansing, the first thought someone might have of this concept is that of the forced removal of a certain group sharing specific traits from a certain territory. This is a general and true enough description, but events throughout the 20th century and the divide between the political and legal definitions of the term have cast a shadow over the concept's potential clarity. In this section, I will begin by clarifying what ethnicity is, then move on to the debates over ethnic cleansing. I will conclude by giving my own definition of ethnic cleansing.

3.1. Ethnicity in time

Ethnicity is a powerful medium connecting peoples while also creating the 'other' that is necessary for a particular group identity. It has been an especially useful glue in the formation of the current world order of nation-states. There are two main issues about ethnicity that scholars have continually debated: one is whether ethnicity, as part of nation formation, has been something that has existed for all of time or something that developed out of the necessities of the modern era; two, what exactly constitutes this concept we so easily refer to as ethnicity.

Among the issues mentioned above, the question of the history of ethnicity may not seem as important as the definition, but history factors directly into the definition of ethnicity when scholars ask, for how long has ethnicity been around? There are three major groups who have attempted to bring clarity to this question, with each of them acquiring sub-groups later on as well. Here I will discuss primordialism, modernism, and the nameless in-between group, as well as the sub-groups of perennialism and instrumentalism while also pointing out the flaws for each. The groups mentioned here regard ethnicity within the context of nation-formation, therefore what follows is not specific to ethnicity but encompassing of it.

Primordialists regard nations and their constitutive ethnic communities as being natural units of history, based on the five aspects of language, religion, race, ethnicity, and territory. Considered from a sociological standpoint, these five provide the bonds of human association throughout history. This renders the concept

truly primordial in the sense that it precedes “more complex political formations and provide the bases upon which the latter can be built” (Smith, 1986, 12). However, primordialism is an untenable position, as it assumes that which it is trying to explain--primordialism “fails to explain why particular ethnic communities emerge, change and dissolve, or why so many people choose to emigrate and assimilate to other ethnies” (Smith, 1996, 446). This particular conception is also unable to clarify why there are “fierce xenophobic ethnic nationalism” and why in others we may find “more tolerant, multicultural national identities”.

Perennialism is another way of looking at ethnicity, and it can be regarded as a sub-school of primordialism, and here the argument is that nations and nationalism (and thus ethnic communities) have existed throughout time, meaning the “units and sentiments found in the modern world are simply larger and more effective versions of similar units and sentiments traceable in much earlier periods of human history” (Smith, 1986, 12). The problem here is that this is an empirical claim which can in no way be proven since it cannot be tested. A different version of perennialism holds that throughout most of history, “nations are being continually formed and dissolved, on the basis of pre-existing ethnic ties,” (Smith, 1996, 446), a position which makes much more sense as it can also be tested.

If ethnicity were to be regarded as a continuum, primordialism and perennialism would be on one end, and modernism would be on the other. This third school came about due to the imbalance in the world order with the presence of one dominant country and the presence of multi-national corporations with economic prowess much larger than those of some small countries, thus necessitating a different definition for nations. Their being something natural and universal and present since the beginning of time was not enough, especially when considering the differences among some of the nation-states existing today. Smith (1986) argues that modernists see ethnic communities and nations as “modern phenomenon having come about as the product of capitalism, bureaucracy and secular utilitarianism” (8). Once religion began to problematize relations among nations and became a weaker bond upon which to construct ties, the more powerful notion of ethnicity was brought to the fore.

Interestingly, Wallerstein provides indirect support for this point in his depiction of the modern world-system as being a capitalist world-economy, where

capitalism as a world-economy has managed to perpetuate itself far longer than any of the previous world-systems. Wallerstein writes, “Historically, the only world-economy to have survived for a long time has been the modern world-system, and that is because the capitalist system took root and became consolidated as its defining feature” (2004, 24); all other world-economies either failed or were transformed into empires militarily. Modernism combines politics and economics and people’s base instincts together and thus carries with it a host of assumptions that must be managed, but for simplicity’s sake, modernist ethnicity is something that may have been around for some time but which has been put to use recently in order to create and perpetuate a capitalist world order.

However, modernism is insufficient because it fails to account for the history pre-dating the Westphalia Treaty of 1648 that began to create the current world order. It is not enough to only focus on the past few centuries when considering ethnicity, because “so many modern nations have been built on the foundations of pre-existing ethnies and so many ethnic nationalisms can draw on ethnic sentiments and shared memories, myths, symbols and values,” all of which is ignored by modernism (Smith, 1996, 446).

A sub-group in modernism is instrumentalism. Instrumentalism regards ethnicity as a tool in “providing resonant bases for mobilizing and coordinating mass action in support of collective policies or the pursuit of power by rival elites” (Smith, 1986, 12). Essentially, instrumentalists view ethnicity as a way of controlling the masses by the elites in order to achieve their goals of power, wealth, and prestige. The problem with instrumentalism is that it cannot account for why ethnic conflicts become as intense and unpredictable as they do if ethnicity is merely a tool to be manipulated, nor does it explain the siren call of ethnicity, where the masses readily respond and are fully prepared to go to great lengths of sacrifice (Smith, 1996, 446). Another problem with instrumentalism is that it only considers one party--the masses--in the whole business, while ignoring the other part, that of the elite. Stating that ethnicity is merely a tool is not enough; the elites who supposedly own and use this tool are just as constrained and bound by the limits of ethnicity as the masses on which it is used.

There is one final conception of ethnicity that manages to combine all of the above, but which unfortunately has no designating name. This manages to

encompass all of the subtleties present in the above camps, suggesting that “older types of social structure and culture persist within the most contemporary modes of social organization and culture” (Smith, 1986, 17). This approach seems to be able to capture the nuances in the relationship between older ethnic communities and the modern nation as well as that between ancient ethnocentrism and modern nationalism. Essentially what this perspective entails is viewing nationalism and ethnicity through two lenses at the same time, both ancient and modern, and thus cover all possible bases. This is most sensible, because although it is possible to separate the effects of ethnicity and how it is being used in modern times, ethnicity would not be ethnicity if it did not have the baggage of the past being dragged along behind it.

I have discussed so far the various general camps on ethnicity in terms of how it is contextualized in time. Now, I will move on to a discussion of what ethnicity is, followed by the provision of my own definition for this elusive concept.

3.2. What is ethnicity?

There have been myriad definitions provided for this term, all of which share something amongst themselves. The most detailed definition I found during my research was that provided by Anthony D. Smith in his work *The Ethnic Origins of Nations*. Smith goes into a detailed account of the elements involved when speaking of ethnicity, listing a collective name, common myth of descent, shared history, distinctive shared culture, association with a specific territory, and a sense of solidarity as the fundamental parts. I will detail here the particulars of Smith’s definition, arguing that as a very comprehensive definition, it provides a jumping-off point for the other conceptions about ethnicity and, consequently, ethnic cleansing that will later arrive.

The collective name is important, because it is what evokes an “atmosphere and drama that has power and meaning for those whom it includes, and none at all (or a quite different resonance) for outsiders” (Smith, 1986, 23). For example, when considering the former Yugoslavia just before the 1992-1995 war, the idea of the name in the Bosnian case is particularly interesting--there was no “Bosniak” identity, because most people in Bosnia-Herzegovina (BiH) considered themselves

as Yugoslavs rather than as a singular ethnicity. Thus, in order to be able to separate them into a group, like Serbs or Croat, the word “Muslim” came to be used as their designation. Muslim in this case was not a reference to the religion, but really to the ethnicity of the group. Once the war there got truly bloody, Turk came to be substituted as a pejorative, with converts being viewed as sell-outs and traitors to the true faith, Christianity, and especially Orthodox Christianity, by the Serbs. The ‘Turk’ generalization was used in Kosovo for Albanians as well, despite the fact that Albanians have no relation whatsoever to the Ottomans, nor can they be ethnicity-betrayers since they are already from a different ethnicity.

The common myth of descent brings together the ideas of cultural similarity and living together with tribal belonging through a common family rather than being only about genetics and blood ties. Smith also notes for this part that the myth of common ancestry is “purely subjective and should not be equated tout court with this attribution of innate and immutable physical or genetic characteristics” (Smith, 1986, 231 n. 10, author’s emphasis). There are various kinds of common myths that can be found, such as temporal and spatial origins, migration, ancestry, filiation, golden age, decline, exile, rebirth, etc. The caveat to these myths, of course, is that while they might have existed as oral tradition and stories, writing them down and using them for purposes other than as simple stories occurred more in the modern era, mostly as the work of nationalist intellectuals. Generally speaking, an elaborate myth patchwork was formed by the time of the 19th century as each generation added their own experiences, forming a rich tapestry and providing a coherent background for a community’s formation and development. However, the richer the story, the more complex the path to truth. Considering these myths in the real-life area where it is used, “the object of this profusion of myth was not scientific ‘objectivity’, but emotional and aesthetic coherence to undergird social solidarity and social self-definition” (Smith, 1986, 25).

Considering the Kosovo case specifically as an example for this, the 1389 Kosovo Battle myth is a prime example of myth typologies--not only is it a myth involving exile, the promise of rebirth and golden age, and ancestry, it is also a claim to spatial origins as well in that the armies involved are boiled down to a single ethnic group and any other groups’ involvement vehemently denied. This is also the case for the Kosovo conflict of 1999--regarded specifically as a conflict

between Serbs and Albanians, the gypsy Roma population was ignored. Additionally, there is also a distinguishing ethnic factor here: Albanians are from a different ethnic group than the general population of the former Yugoslavia. The Serbs are South Slavs, whereas the Albanians are descendants of the Illyrians, “the first people to move into the Balkans, ...who arrived in the area in about 8 B.C.E.” (Boose, 2002, 76). Serbs had been geographically close to the area starting from the early 6th century, but did not truly begin to settle into Kosovo until the early twelfth century (Malcolm, 1999, 26). Boose later adds that during Milosevic’s reign, there was a concerted effort on the part of intellectuals and politicians to prove that Albanians were not the descendants of Illyrians but came rather from various remnant groups--the point being that these groups appeared in the 17th century, well after the arrival of Serbs (2002, 76-77). Noel Malcolm provides linguistic evidence disproving the efforts of these intellectuals and politicians, demonstrating through the development of place names the long-standing presence of Albanians in the region.

The third element proposed by Smith for ethnicity is that of shared history--ethnic groups are “historical communities built up on shared memories” (Smith, 1986, 25). This is fairly obvious considering the common myth element already mentioned, but with history comes a different can of worms--there are sets of experiences that are documented for future generations which are to be learned from. However, the problem comes with the fact that “historical sequence provide ‘forms’ for later experiences, channels and moulds for their interpretation” (Smith, 1986, 25). This idea basically takes the old adage of “history repeats itself” and turns it on its head, where through the historical record, groups themselves repeat history, because that is how it has always been. We see this perfectly in the Serbian case, although once again, this is a hyper-sensitive example because of how much the facts were manipulated in the 20th century.

Beginning from the 1389 Kosovo Battle, a story of victimhood has been concocted for Serbs, with the general idea being that they are victims on this world but those promised with glory in the next. Defeated in this battle and now under Ottoman rule, “Serbs became perennial mourners” (Volkan, 1997, 64). This mourning would continue until 1912, when the Ottomans were eventually pushed out and the Kosovo territory “liberated”. Volkan writes, “Conquering the territory

associated with the heroic images of Lazar and Milos seemed to reverse the shared sense of victimization and powerlessness, at least temporarily” (1997, 66). What is interesting here, however, is that it was not enough for the territory to have been ‘liberated’. On June 28, 1914, the Bosnian Serb youth Gavrilo Princip assassinated Archduke Francis Ferdinand and his wife in Sarajevo, just two years later, and began World War I. The Archduke had been entering Sarajevo on the anniversary of the Battle of Kosovo, which was perceived as an intentional insult by many Serbs. In shooting the archduke, Volkan writes, Princip evoked the idea of a time collapse, where the imperial forces that had tried to suppress the Kosovo spirit--Ottomans and Austro-Hungarians--were finally attacked and beaten back (1997, 66). As a sidenote, Volkan indicates that the archduke had actually been in the process of leaving Sarajevo when he was shot, after being informed of the insensitivity of his timing (1997, 238 n. 28). The toxic combination of ignorance, misunderstanding, and repressed manliness was thus the fuel for the start of WWI.

Before moving on to the fourth element in Smith’s ethnicity depiction, that of the distinctive shared cultures, I would like to clarify the presumption that has been prevalent so far in this thesis, which is that groups are important, they form identities, and ethnicity is one part of this identity. From a social psychology standpoint, the general idea of ‘group’ entails various factors which determine the in-group and the out-group. Most human interaction takes place within the context of the group, and most human interaction is shaped by the constraints or assumptions of the group. Individuals “are born into a group or organize themselves into groups, and as a result most of their behavior is performed within a group framework” (Bar-Tal & Teichman, 2005, 20). Since group membership is one of the most important parts of a person’s social identity, it does not only influence how individuals consider themselves but also influences the way non-members of the group are treated (20). Once individuals have categorized themselves as group members according to whatever standards are required for that group, they then display a tendency to favor their own group at the same time that they emphasize differences with other groups (21). That said, we can now move on to Smith’s distinctive shared cultures idea of ethnicity.

Smith’s distinctive shared cultures include elements which “both help to bind members together and to separate them from outsiders” (1986, 26). These

elements include religion, language, customs, institutions, laws, folklore, architecture, dress, food, music, and the arts. Each of these cultural elements have their pitfalls, of course, language being first and foremost among them. Considering the Serb-Croat-Bosnian case, language is especially problematic since technically these three groups all speak the same language, only with different vernaculars. In the Kosovo conflict, the language distinction makes more sense in terms of setting apart the groups, since the Albanian language is truly different from the Serbian one. What is more salient a differentiator in this case is that of religion. As mentioned before, individuals from Bosnia-Herzegovina who were not Croat or Serb chose Muslim as their identifier rather than Bosnian, despite the fact that many of them were not practicing Muslims due to the communist system.

Architecturally speaking, the religious distinctions become visible with the minaret of the mosque and the different steeples of Catholic and Orthodox churches. While during the 1999 Kosovo conflict there was not as much damage done to religious sites, the 1992-1995 war saw the destruction of many. Especially in Bosnia-Herzegovina, mosques were specifically targeted and bombed; once the appropriate level of destruction had occurred, other buildings were placed there, be they churches or otherwise. The mosque destruction runs deeper than just a religious distinction, however, because it connects to the ethnic part as well. Muslims were regarded as betrayers of both religion and ethnicity--they had originally been Christian Slavs, but by converting to Islam they had left behind both elements of their identity. This betrayal could only be avenged by the death of the person and the destruction of the site. This idea also lent credence to the supposition that all of these sites were Christian first, and that getting rid of the Muslim presence would make room for the original Christian presence to be seen again.

Incidentally, it is not just religious spaces that were destroyed--the famous bridge in Mostar was also bombed to smithereens by Croatian forces as they were retreating from the city. The bridge was from the Ottoman period and had been standing there for nearly four centuries; its destruction can only be interpreted as a wish to destroy all ties connecting people together.

Association with a specific territory, Smith's fifth element of ethnicity, means that an ethnicity is connected to a certain land, irrelevant of whether they are actually living there or not. Physical possession of the territory is not as important as

its symbolic presence; territory is relevant to ethnicity because of the supposed and felt “symbiosis between a certain piece of earth and ‘its’ community” (Smith, 1986, 28). The ideal land far away, irregardless of possession, is much more potent than the actual, everyday one. Smith also details three aspects of ethnic homelands, which are sacred centers, commemorative association, and external recognition. Sacred centers pertains to religio-ethnic sensibilities; people are tied to the location because maybe there is a shrine or saint or god associated with the space, or a city is regarded as ‘holy’ and thus many pilgrims visit it. Whatever the case, there is something symbolic and emotive that “radiates outwards” and which draws “outlying or exiled members of the community back to the fold” (1986, 29). The commemorative aspect of the land/territory comes out in the stories told, where the mountain ranges or some physical aspect is put into the tale and made to equal heaven, a dream, an ideal. This is also where people think about recovering and restoring the territory, and imagine their ‘origin’ as being from this land despite having moved away from it generations ago. A very well-known example of this is the ongoing conflict over Jerusalem between Palestinians and Israelis. The subject of this thesis, Kosovo, is also an example of symbolic attachment to a specific territory--Serbs did not originate in Kosovo, but many important churches and shrines, as well as the fact of the 1389 Battle make this tiny space a particularly desired area.

The third aspect, of external recognition, is where the modern era can cause problems, due to there now being procedures on how countries are to be recognized. Kosovo has actually been going through this process since 2008, when it declared independence. External recognition in the context of ethnicity means that outsiders identify a particular community by connecting them to a specific homeland (Smith, 1986, 29). There is a dual component here, however--for a territory to become a homeland, association is not enough, it is also necessary for the land to be recognized as belonging to the community by outsiders. Again, the Palestinian-Israeli conflict comes to mind as an intractable and vicious example of dual belonging. Kosovo is another. Serbs do not necessarily claim Kosovo as their place of origin, but they certainly do lay claim to the territory due to the many shrines and churches located there constructed by kings long gone which are of great import to their history. The churches in Kosovo are a fact and have the inalienable right of

remaining, there is no doubt of that, but to take things to the point of no other group can live in this territory is stretching it too far. The rules of the modern era about recognition is also where Kosovo runs into problems, because it must receive recognition from a certain number of other states in order to be considered an independent state.

Smith lists a sense of solidarity as the final element of ethnicity, which he describes as being more than just myths, culture and territory, it is also “a community with a definite sense of identity and solidarity which often finds institutional philanthropic expression” (Smith, 1986, 29). This entails a greater solidarity within the group, meaning a bond that transcends the lesser organizational categories of class, factions or regions, especially during times of danger. Smith classifies this solidarity as something that especially needs to effect the intelligentsia and who can then mobilize the masses by using this tool. Although solidarity with the in-group may sometimes be superseded by alliance to the higher authority, be this an empire or a state or some kind of ruling organ, there should be an expectation of the periodic reappearance of a sufficient extent of ethnic solidarity which overrides these grander loyalties, especially in cases of external enemies and dangers (Smith, 1986, 30). This can be seen in Ottoman times and in the Balkan region; Albanians and Serbs even occasionally worked together as allies against the Ottoman Empire. A more modern example of this can be seen in the grassroots mobilization of Kosovo Serbs in the beginning of the 1990s, before the start of the succession wars in Yugoslavia. That a kind of solidarity within all Serbs appeared once the Kosovo Serbs managed to get their voices heard could be construed as the truth; the problem here is that Milosevic also used the plight of the Kosovo Serbs for his own ends, so to classify this as a pure solidarity amongst Serbs becomes slightly difficult.

In a study on the grassroots movement of the Kosovo Serbs during the mid-to late-1980s, Nebojša Vladislavljević (2002) makes the case that the Kosovo Serbs’ mobilization actually pre-dated Milosevic’s rise to power and that while there was interaction and even sporadic cooperation, “the movement remained an autonomous political factor” (771), independent from the authorities. The independence of the movement is highly questionable, because even though they were able to finally get a high-ranked official to pay attention to them by 1987, said official was Milosevic,

who exploited the Kosovo problem for his own ends in the intra-party conflict going on between his supporters and those of Stambolic (774). Vladislavljević writes that through the acceptance of the movement's demands by Serbia's party leader, its visibility increased and its leaders came to be protected from repression by both federal and Kosovo officials. The downside was that the movement needed to proceed cautiously in order not to lose Milosevic's support. This meant that Milosevic gained influence over the movement, but Vladislavljević contends that this influence did not actually affect the situation on the ground. He writes, "The protest organisers by no means intended to stop collective action until their demands had been fully addressed and at times took action contrary to Milosevic's advice" (2002, 774-775). Milosevic responded in kind, exploiting the mobilizing capacity of the movement for his own ends, often provoking the protesters to publicly denounce his opponents. The matter of solidarity with the greater group remains problematic, especially in this case where the ambitions of an unscrupulous political leader so corrupted the actions of a few. Also, because the Kosovo Serbs had to tread lightly in order not to alienate Milosevic, they took steps that actually moved attention away from them and to the larger problems within each republic, causing the leadership in some republics to resign. Just a year later, Kosovo Albanians began their protests against discrimination by the Serbs, and the roles were switched between the two groups once again (Vladislavljević, 2002, 775).

Another point of solidarity came from the Serbs' ire at the Ottomans' *devşirme* system, where young Christian children were taken, generally from the Balkan region, to be trained for service in the Ottoman system. To be holistic, it was not just the families of the Balkan region which were taxed, *per se*; the institution expanded to include "all the Christian population of the European domains of the Empire, and later Asiatic domains as well" (Ménage, 2012). The *devşirme* system meant that the children were converted to Islam, taught Turkish, and were trained as soldiers and later as administrators. While this generally turned out to be profitable for both the children and their families, the humaneness of the *devşirme* system is questionable due to the lack of choice for the children. There are two sides to every coin, however, and there were also families who pushed their children to be taken so that they could have a better future. What is relevant here is that Serbs regarded this system as a cause of shame; not only had they been defeated in battle, now they

could no longer control the fate or future of their children. This sense of powerlessness augmented the feelings of victimhood, but it also caused the appearance of a common enemy to be fought against. And there is nothing that brings a group together than having that monstrous other to warn the children against and concoct stories of.

Two final points from Smith: the first is the importance of having stories. Smith writes, “it is, I should add, far more difficult to create an ethnic community which possesses a territory and even some element of separate culture, but little in the way of historical memories or myths of descent” (1986, 31). I might possibly be over-emphasizing this point, but as I stated before, despite not being the battle that clenched Ottoman control over the Balkan region, the 1389 Battle of Kosovo forms the basis of the identity of the Serbs. Not only their identity, but it provides the basis for their stories, for the golden age that awaits them, and it also provides the format or perspective from which they regard everything that happens to them. Granted, this is not currently the case, but up until Milosevic’s ouster from power, cries of liberating Kosovo could still be heard, and could still cause great damage.

The second point that must be mentioned is the effect of war. Smith asserts that it is not ethnicity that determines war but the exact opposite--conflict conditions the shape and sense of ethnicity. While war might not create the original cultural differences, it does sharpen and politicize existing divisions, transforming categories into definite groupings, conscious of their identities and destinies (Smith, 1986, 39). I specifically want to point this out, especially for the 1992-1995 Balkan Wars and its consequent effects on the Kosovo conflict. There were minor differences between the various groups in the Balkan geography, with religion being foremost among them. However, the communist regime had suppressed these differences, sometimes violently and sometimes through the simple act of banning religion; whether consequently or not, intermarriage among groups had greatly increased. Bosnia-Herzegovina was the country where intermarriage was at its highest, and, as will be recalled, a majority of the people here described themselves as ‘Yugoslavian’ rather than more specifically as ‘Serb’ or ‘Croat’. However, when Milosevic came to power and decided to use difference to further his aims of Greater Serbia, neighborliness was left behind and all people could see were the aspects differentiating them. The same thing happened in Kosovo--people who had been

peacefully living side by side for a long time suddenly became entrenched in the modern rendition of what their identity was supposed to be, and could not see beyond it to how they had actually been living for centuries.

To summarize Smith's idea of ethnicity, ethnic communities are named human populations with shared myths of ancestry, histories and cultures, having an association with a specific territory and a sense of solidarity. This is as good a definition as any, but I will provide some others as well in order to emphasize what it is I mean by ethnicity when I set out to explain the situation in Kosovo. One such a definition is that of ethnicity as social status, which "permits the classification of groups on the basis of cultural characteristics associated with particular communities. This includes customs such as language, naming, dress, religion, and foodways" (Renteln, 2011, 2). This is a somewhat superfluous version of Smith's detailed idea, but nonetheless it is interesting because for the first time we come across ethnicity as a social status. Generally regarded as a vertical identifier where in-group differences are eliminated, cases such as Rwanda and even Bosnia serve to remind us that this is not always the case--ethnicity becomes the very tool of division. In the case of Rwanda, ethnicity as a class division is made manifest because the lower-class (and majority population) Hutus who were made 'less' due to their darker skin rebelled and instituted a widespread genocide against the lighter-skinned Tutsis, who were preferred by the Belgians because of their lighter skin color. This brings us to another perception of ethnicity, where race comes to play.

Race and ethnicity tend to be confused and occasionally used interchangeably; while again as in the case of Rwanda sometimes the two do conflate in order to mean the same thing, race and ethnicity are actually different concepts and thus, different categorizations. Race can be regarded as a sub-category of ethnicity (Omi & Winant, 1994, 15), as the color of one's skin can become the primary identifier, followed by further distinctions that came about due to economic choices, societal pressures, and political whimsies. As part of this idea, ethnicity could be construed very simply as a group formation process based on "culture and descent" (Omi & Winant, 1994, 15). Culture here includes religion, language, customs, nationality, political identification, while descent means heredity and a sense of group origin, "thus suggesting that ethnicity was socially 'primordial,' if not biologically given, in character" (15). The primordial aspect here is almost

oxymoronic, given the use of the term 'process' in the definition. Going through a process implicitly suggests being subject to change, thus eliminating primordialism. This perception of ethnicity as a process is unique in itself, however--mostly ethnicity is simply taken as a given, a sum total made up of its parts, whereas here it is regarded as a process which makes it much more malleable and subject to change in accordance with the times. This way of considering ethnicity opens up the student to the third general camp of ethnicity categorizations, whereby both the past and the present are kept in mind when evaluating situations where ethnicity becomes inflammatory.

Connected with the combination of culture and descent, it is also possible to regard ethnicity as something that is created through a common set of traditions and/or folk beliefs. Anthropologically speaking, an ethnic group could be one that holds a certain set of traditional beliefs not shared by others with whom there is contact (De Vos, quoted in Volkan, 1997, 21). This is probably one of the most general definitions that could be provided, and it is also the most subjective given that traditional beliefs can change over time, and can also be denied by those who might at first glance be regarded as part of the ethnic group. However, considering the idea of tradition in the sense it is used here, the definition becomes clearer and more precise; tradition is regarded as being made up of "folk religious beliefs and practices, language, a sense of historical continuity, a common ancestry, place of origin, and shared history" (21). Accompanying these beliefs is a sense of mythological beginning alongside an unbroken genetic continuity bestowing uniqueness. A sense of distinction accompanies this uniqueness, and this distinctiveness is in both senses of the word--a matter of being both different from as well as superior to other, usually neighboring, ethnic groups.

Another anthropological construction of ethnicity takes us out of the realm of theory and factual matter into that of the imaginary--ethnicity is regarded as a "mode of thought, not a category in nature (Stein in Volkan, 1997, 21). In this case, it is more subjective criteria that are considered where ethnicity becomes more of a marker for "personal and social identity" and is not quite as concerned about "physical characteristics, cultural and social community" and much of the other categories that have been mentioned so far. This is a more fitting way to consider the Yugoslav conflict, as basing the ethnic differences in this geography solely on

physical characteristics makes no sense, considering they are from the same gene pool of southern Slavs. It is much more the subjective matters of history, culture, and religion that give the three groups their differences. In the Kosovo case, boiling the conflict down just to being an ethnic one between Slavic Serbs and Illyrian Albanians is to take the easy way out. Given that the two groups had been living together for centuries, the ethnicity factor alone is not enough to explain the level of violence that occurred. More subjective issues such as media portrayals and caricatures and hysteria must be considered as well.

Another variant on the ethnicity theme is provided by way of considering the aforementioned anthropological factors as being expressly flexible. The implication in the definitions provided above is that there are traditions which are set and which do not necessarily change; with this definition, we are allowed to get closer to a more balanced sense of ethnicity because its elements are allowed to fluctuate and change over time. In this definition, it is not enough to believe that genetics alone is the basis for a sense of group superiority and that other subjective are also necessary to be able to comprehend the uniqueness felt by said group (Volkan, 1997, 21). More specifically, there is a sense of naturalness that is brought to the development of ethnicity; ethnicity is now something that occurs at the end of a long process of “historical continuity, geographical reality, a myth of a common beginning, and other shared events”, all of which evolve naturally (Volkan, 1997, 22). Given this naturalness, there is no judgement to be rendered about them, they simply occur. As these identities develop and evolve, there is also an automatic development of bias for one’s own group and against another’s. Humans dividing into groups is already one of the main assumptions here, with their preference for their own specific group over another being a second assumption. What has not really been assumed, however, has been the commonplace development of the intricacies of these identities. As a justifier, ethnicity is regarded as being more of a spectrum rather than a singular conception, with one end being zero differentiation between groups and the other being complete ethnocentrism. Neither end is desirable, but both occur. The lack of differentiation “would disturb members’ sense of belonging and run counter to mankind’s natural need to find similar others” (Volkan, 1997, 23). Forced assimilation could also be counted within this end, whereby identity is destroyed and, in a manner of speaking, ethnic cleansing is enacted. At the other end

of total ethnocentrism, all that matters is ethnicity and this perception approaches extreme levels of “neo-racism” (23); here, more obvious forms of discrimination occur and intergroup violence abounds.

Connected to the issue of race previously mentioned, there are certain definitions that consider race to be the primary differentiator amongst groups and thus list it in the first part. One such definition conceives of the term as referring to “a group of people that share a distinct racial, national, religious, linguistic or cultural heritage, including shared history and perceptions, group identity and shared memory of past glories and traumas” (Walling, 2007, 49). Technically speaking, race is an objective category; there are genes and one can trace back their history through their DNA. Race is also an implied part of many of the definitions of ethnicity considered so far, but no one prioritizes it as the first element of their definition. A second aspect of this definition that is of interest is the mention of both past glories and traumas. Again, most definitions only consider the glories of the past, the golden age that was, and none truly consider the effect of trauma. Considering the Serbian case, it is the trauma that is far more important and identity-forming than any glory. Or rather, in this instance it is the glory that arises from trauma which brings tears to people’s eyes. In any case, the specifics of race and past trauma are a useful addition to the soup of definitions for ethnicity.

While what has been provided here is nowhere near an exhaustive survey of what ethnicity is about, it gives the basic idea of the elements that are at play when thinking about ethnicity. As a sort of summary, I will provide my own conception of ethnicity based on the elements presented so far. For the purposes of this study, ethnicity is a subjective criteria in the identity of an individual, situating this individual within a group that has been shaped and made common through culture and descent. Culture and descent includes factors such as religion, language, customs, sense of group origins and, most importantly, common history and myths. With this definition in mind, we can now move on to ethnic cleansing, and confront the myriad ways in which different groups, or ethnicities, can be cleansed from a certain area.

3.3. *What is ethnic cleansing?*

As previously stated, ethnic cleansing at first sight seems quite simple, with its meaning fairly obvious--to cleanse, in some certain way, an area of a certain ethnic group. This simplicity belies the complexity, however, of this concept, because ethnic cleansing is something that occurs along a scale, differentiated only by the justification of law or the conditions of war. Here, I will take a similar approach to ethnic cleansing as I did with describing ethnicity, where I will first explain the fundamental parts of this concept before going into the nuances that different academicians have brought to it, ending with my own definition and--in this case--justification for it.

As the basis of the study of ethnic cleansing here, Andrew Bell-Fialkoff's short but succinct account of ethnic cleansing will be examined, followed by a look at Michael Mann's idea of ethnic cleansing as the dark side of democracy. These two are seminal authors for the field; Bell-Fialkoff's article is written contemporaneously (1993) with the Balkan conflict and Mann's book comes after the events in the former Yugoslavia (2005), just around the time Kosovo was beginning its moves to declare independence. This speaks to the fact that the term 'ethnic cleansing' became more relevant after the events in the former Yugoslavia, starting with the Serbs referring to what was being done against their compatriots in Kosovo as ethnic cleansing, and later taken up by the West to describe what the groups in the Balkans were doing to each other.

Bell-Fialkoff provides a historical overview of when and how ethnic cleansing happened, before concluding with what had been happening in the former Yugoslavia. The article's forte is that while it seems only to be a historical account, it actually also presents the different types of ethnic cleansing that have occurred. Bell-Fialkoff describes ethnic cleansing as operating on a range from forced emigration and population exchanges on one end to deportation and genocide on the other. He writes, however, that at the most general level, "ethnic cleansing can be understood as the expulsion of an 'undesirable' population from a given territory due to religious or ethnic discrimination, political, strategic or ideological considerations, or a combination of these" (B-F, 1993, 110). Political considerations were mostly prevalent during the time of empires, when "politically unreliable"

populations, such as those who were “conquered and incorporated into the empire yet still likely to rebel” (B-F, 1993, 110), were moved through forced resettlement. The inverse of this policy was also used, when populations from within the empire who were from the same group as the empire were forced to resettle in a newly conquered area in order to establish control.

Bell-Fialkoff mentions that it was not just ethnicity that caused periods of cleansing; religion came to play as well especially during the Middle Ages when religious purity became paramount and minorities came to be targeted. The biggest example of this was the Reconquista in Spain in 1492, when the Spanish forced out the Jews and Muslims in two phases. Jews were forced out right from the get-go, whereas Muslims were at first given the chance to convert and were later on also completely eliminated. The distinction that is relevant for today’s ethnic cleansing is that the new religion of modernity, nationalism, requires that a nation be completely unified in terms of its content, so to speak. The nation must be “purified” of “alien” groups (B-F, 1993, 111). In the Middle Ages, ethnic cleansing was almost more lenient because when dealing specifically with religion, the possibility of conversion existed. As Bell-Fialkoff writes, “In purely ethnic cleansing that option does not exist; a population must move or die” (1993, 111).

In the time of empires, cleansing was ethnic-based in terms of population exchange--tearing apart the bonds between and within groups. Eventually religion became the only basis of common identity, so Europe took up religion as the basis of cleansing. This then came around full circle when England targeted the Catholic Irish, basing their discrimination on religion but using it to commit ethnic cleansing (113). Bell-Fialkoff moves on to the 20th century and writes about Hitler, who committed not only genocide against the Jews and homosexuals and other groups, but also committed ethnic cleansing against Germans as well. This was a kind of “reverse cleansing” where “Ethnic Germans (Volksdeutsche) were in effect cleansed from Eastern Europe as they were recalled and resettled in Hitler’s occupied territories, especially western Poland” (114). Types of cleansing were then later increased through the advent of communism and its discrimination against classes. Economic class cleansing was thus added, where different classes were regarded as “parasitic” and purged/cleansed in order to ensure the “purity” required by the modern totalitarian state (116).

Bell-Fialkoff then moves on to the aftermath of the Second World War and examines what happened in Tito's Yugoslavia. He writes of this time period as being the most traumatic for Serbs, when hundreds of thousands were murdered at the hands of the Ustashe, the Croat nationalists. In revenge, once the war ended and Croat prisoners were handed over to Tito from the Allied forces, they were marched back in "death columns" across the country; "villagers along the route were forbidden to offer the Croats food or drink, and all those who could not complete the journey were shot" (117). After mentioning the fact that almost everyone living in this geography had lost someone from the family and that many were still alive until the chaos of the 1990s, Bell-Fialkoff begins to write of the Balkan Wars of the 1990s, of which he only saw the first year by the time this article was published. In the first part of this section, he speaks of "voluntary refugees", those who were not necessarily victims of cleansing directly because they had left the land prior to any military/state presence forcing them out. However, this line between displacement and cleansing is a very thin one, because the reason for these people to leave was fear of cleansing in the first place. The 'voluntary' ones aside, there were thousands who were "made to leave even after an area has been militarily secured" and who "belong unequivocally to the category of ethnic cleansing. There people are removed for ethnic and strategic considerations and are clearly victims of cleansing campaigns" (118).

Another aspect of ethnic cleansing that Bell-Fialkoff mentions was that those who cleansed also looted, giving an economic motivation for ethnic cleansing (119). Having so far elucidated the history of ethnic cleansing and compounded this with some statistical and numerical details, Bell-Fialkoff then branches off into the differences of the Balkan case of ethnic cleansing. After saying that the effort to create ethnically homogenous regions was fairly common, he adds that there were three innovations brought about by what happened in Yugoslavia in the 1990s. The first was that much of the cleansing was carried out by civilian forces, not government ones. This was partially because the war this time around was a civil war as well as an ethnic war, while also attesting to the fact that what happened here was of a very personal nature, "with some families resuming feuds that were frozen since the end of World War II. Civilian fighters have carried out what they understand to be their 'duty as patriots,' sometimes committing atrocities on their

own initiative” (119). As examples of the personal nature and non-governmental aspect of the looting, two of the most famous, or rather, infamous, paramilitary groups were the ones led by Arkan (Arkan’s Tigers) and Vojislav Šešelj’s Chetniks. They were used to perpetrate the crimes that the army had to stay away from, instill fear, and generally cause as much havoc as possible to create an environment of absolute insecurity. They were later rewarded for their efforts with the things they had looted in the process of terrorizing villages throughout Croatia and Bosnia-Herzegovina.

Zeljko Raznatovic, nom de guerre Arkan, was a gangster who excelled at robbing banks and escaping from prisons; there are allegations that he was a clandestine assassin for the Yugoslav Federal Secretariat for Internal Affairs (Judah, 1997, 186). Arkan eventually came to be the head of Delije, the official fan club of Belgrade’s Red Star football team. This position later allowed him to recruit men for his Serbian Volunteer Guard, namely, the Tigers. Arkan was a formidable weapon in the hands of Milosevic; the unruly and noisy Delije fans were kept under control, and the youth there became fodder for the paramilitary personnel that would commit atrocities. Šešelj’s background was completely opposite that of Arkan’s; he had been a model student and written treatises which later got him jailed proposing a Greater Serbia initiative. After a fall-out with Vuk Draskovic, the eminently more sane Serbian nationalist, Šešelj established the Serbian Chetnik Movement and came fourth in the presidential polls. After this, he drew Milosevic’s attention, who surmised that Šešelj could be used to garner the hardline nationalist vote. To this end, Milosevic made sure that Šešelj would appear on television, allowing Šešelj the popularity he would otherwise never have been able to achieve. In return, Šešelj supported Milosevic, not just politically, but through his paramilitary force as well. The difference between the Tigers and the Chetniks was that Arkan’s group was more a type of brutal commando force, acting due to the promise of loot. Šešelj’s men were less specialized in the art of war, and were thus used as replacements for the dwindling numbers of the Yugoslav People’s Army (JNA) (Judah, 1997, 185).

A second innovation was what Bell-Fialkoff terms, “the creative use of prisoner of war camps” (1993, 119). Men were held in camps while women were forced into an ultimatum--leave the territory, and the men will be released. In this way, the Serbs were able to state that many people had simply chosen to move

away, with signed affidavits to prove their case, without really clarifying the condition under which this so-called choice was made. The third innovation was the use of rape. Unanimously accepted by the UN through Resolution 1820, rape is a tactic of war and a threat to international security. The resolution states,

Noting that civilians account for the vast majority of those adversely affected by armed conflict; that women and girls are particularly targeted by the use of sexual violence, including as a tactic of war to humiliate, dominate, instill fear in, disperse and/or forcibly relocate civilian members of a community or ethnic group; and that sexual violence perpetrated in this manner may in some instances persist after the cessation of hostilities (UN Res 1820, emphasis from document).

In the case of Bosnia and Kosovo, the persistence of rape after hostilities had ended occurred in a different manner--through the children of rape women were forced to bear, and the humiliation and debilitating shame men who had been raped felt. In Kosovo's case, some Albanian families even sent their daughters who had been raped to join the KLA, in order for them to have a purpose of sorts and also to be rid of the stigma of rape attached to a girl by getting her killed/martyred.

Bell-Fialkoff finishes his article by talking about the Yugoslav conflict, of which he saw (at the time the article was published) only the first year and thus not nearly as much of the violence that would happen. Nonetheless, he provides a succinct and useful account of how the Serbs, Croats, and Bosnians view each other. Serbs regard Croats as effete and weak, willing to submit to stronger masters; Bosnian Muslims are traitors because of their conversion to Islam. In contrast, Serbs regard themselves as "a heroic, independent and virile race, a tenacious fighting people who were among the first to throw off 400 years of Ottoman domination" (120-1). This idea of virility is particularly telling; as mentioned before, a point of contention between Kosovar Albanians and Serbs was that Albanians were purposefully having more babies compared to Serbs. The multiple babies were just another tactic in the arsenal of the Albanians for their battle on the Serbs in ethnically taking over the territory.

Bell-Fialkoff also mentions that Croats and Bosnians regarded Serbs as "domineering brutes seeking continually to impose their will and to infuse nastiness into their relations with other peoples" (121). However, the vapidness of these characterizations is made obvious by the emphasis placed on similarities when it

suits any one side. At the time of Yugoslavia's split, Bosnia-Herzegovina was the last one out. Because of this, the Serbian media "frequently highlighted similarities with the Muslims, while Croats often stressed that Bosnia had been part of historical Croatia and that most Bosnian Muslims were originally of Croatian descent" (121). Given that these are propaganda, there is no need to go into whether there are kernels of truth hidden behind these inflammatory statements. Given also that Tudjman and Milosevic both wanted parts of Bosnia-Herzegovina for themselves, there is again no need to embark on a search for truth within these statements.

Bell-Fialkoff finishes off his article with the mention of one issue that will keep this conflict in the minds of the people for a very long time after its end, which is the issue of rape and the children born out of it. Questions abound on whether and how these children will be cared for and what the mothers will have to face. This is compounded by the fact that the entire population just came out of a war waged over ethnic and national purity (1993, 121). While it might not have been as well-documented at the time of Bell-Fialkoff's writing, there are reports that have come out since the conclusion of war about the rape camps where mostly Muslim but also Croat women were kept not only for the women's psychological torture but also as a means of controlling Serb soldiers. The same thing happened during the Kosovo war of 1999--rape and various forms of sexual violence were once again used "as weapons of war and instruments of systematic 'ethnic cleansing'. Rapes were not rare and isolated acts committed by individual Serbian or Yugoslav forces, but rather were used deliberately as an instrument to (...) push people to flee their homes" (HRW, 2000, para. 4). In both the '92-'95 war and the '99 war, there were three parties that were utilized by the Serbian side: Serbian police, the Yugoslav Army, and Serbian paramilitaries. Most of the rapes were committed by the paramilitaries, with the police and army being fully aware of what these paramilitary groups were doing, as the groups worked "closely with official government forces, either the Serbian Ministry of Interior or the Yugoslav Army, throughout Kosovo" (HRW, 2000, para. 10).

To sum up Bell-Fialkoff, ethnic cleansing is the expulsion of a certain group from a given territory for political/strategic reasons, discrimination, or a combination of both. The Yugoslav case of ethnic cleansing brought certain innovations with it, such as the use of civilian groups--paramilitaries--to commit

atrocities and thus shift blame; the use of prisoner of war camps, and most important the use of rape as a weapon of ethnic cleansing. It was after the Yugoslav case, compounded by the genocide and rapes in Rwanda, that rape came to be regarded as such.

Moving on to Michael Mann, Ikenberry's review (2004) of Michael Mann's *Dark Side of Democracy* serves as a good introduction to the way ethnic cleansing is considered in this work. Ikenberry explains that while ethnic cleansing is generally regarded as the work of primitive evildoers, Mann's idea fully opposes this by saying that ethnic cleansing is actually the product of the modern democratic age (2004, 142). In this way, Ikenberry deftly sets out the two methods in which ethnic cleansing is contextualized--as actions based on ethnic hatreds and thus unstoppable forces, and as actions rising out of modern experiences in nation-formation and democratization. Mann is of the second camp, believing that ethnic cleansing is not something confined solely in the primitive recesses of society but rather as something that is very present today. Mann proposes eight general theses for explaining the occurrence of these types of terrible atrocities, which he later details further through examples of the worst cases of cleansing involving mass murder.

Mann's first thesis is that murderous ethnic cleansing is modern, because it is the dark side of democracy. While supporting democracy as an ideal and also stating that democracies do not routinely commit murderous cleansing, Mann also states that democracies always carry the potential of a majority tyrannizing the minority, which carries particularly malevolent consequences in multiethnic societies (2). Mann specifically pegs nationalism as the instigator of ethnic cleansing, especially when it is politicized and comes to represent the "perversion of modern aspirations to democracy in the nation-state" (3). When speaking about democracy, we mean the rule of the people, based off of the word *demos* from the Greek, which is specifically about ordinary people, the masses. However, when nationalism joins in, we have the collusion of *demos* with *ethnos*, which creates confusion over who will rule--the *demos*, or the groups split now by *ethnos*? When there is an imbalance in the population, the answer becomes easy because the majority comes to power, but then democracy comes into question because the majority does not necessarily have the need to rule democratically and can simply do so tyrannically.

Mann's second thesis is that ethnicity-based hostilities occur when ethnicity trumps class as the main divider of society, and also comes to encompass other forms of exploitation as well. When the modern struggle for democratization involved a certain group of people struggling against foreign rulers, class came to be replaced by ethnic divisions and conflicts became murderous. Conflict does not arise when ethnic groups are separate but equal--the example Mann gives is that of Christians and Muslims, where there is no struggle between the two groups, unless one feels oppressed by the other. His third thesis takes these movements initiated from ethnic groups, claiming to represent the group which lays claim to a particular territory saying that it is their own state, and assume this claim to have substantial legitimacy and feel there to be a plausible chance of implementing it. This point can be seen quite clearly in the Yugoslav wars of succession, as well as in Kosovo--Albanians did not necessarily lay claim to the territory as Milosevic did on behalf of his Serb brethren, but both groups ended up denying the right of the other to continue to live on the same piece of land. Mann details this point further by writing that "murderous ethnic conflict concerns primarily political power relations, though as it develops it also involves ideological, economic, and finally military power relations too" (6). This descent into murderous ethnic conflict is also set out quite clearly in the example of the Yugoslav conflict--after Tito's death, while there was an attempt to continue the system that had been left behind by Tito, none of the leaders could come to control the federal structure anymore because it had become so untenable. With power devolving to the republics, it was only a matter of time before one of the leaders had the bright idea to institute his own state. When these ambitions were combined with a situation that allowed for the propagation of a particular rallying cry and a clear enemy could be presented, the perfect environment was set for a hostile takeover, much like Milosevic did against Stambolic when he promoted himself from Party Chief to President of the Republic.

In his fourth thesis, Mann talks about the two different scenarios that lead to the brink of murderous ethnic cleansing. The first is the decision of the less powerful side to fight because it believes that it will receive foreign aid. The second scenario is that the more powerful side thinks it has so much power both militarily and ideologically that it can enforce its own cleansed state with little or no risk to itself. Both scenarios necessitate further study, however, because it is not enough to

consider only the actions or beliefs of the victims or the perpetrators or focus on the interactions between the two; outside actors must be considered as well. Mann writes that “one or both sides must first decide to fight rather than conciliate or manipulate, and that choice is unusual” (7). One assumes the presence of level-headed politicians or negotiators who can conduct a cost-benefit analysis for both groups and point out what will happen if they decide to follow through with a certain call.

Mann’s fifth thesis considers the instability of the geopolitical environment and the problems this would cause for a state that had become factionalized and radicalized. Radicals emerge quite quickly out of these kinds of environments calling for the extermination of rival ethnic groups as perceived enemies. Where the rivalry stretches back a long time, murderous cleansing does not really happen as the conflict has become ritualized and can be managed. Mann contends that “truly murderous cleansing, in contrast, is unexpected, originally unintended, emerging out of unrelated crises like war” (7). Situations where the state and geopolitics are stable do not necessarily lead to murderous violence and are more manageable, but where political institutions are unstable, affected by war, are not consolidated or newly so, or repeatedly repressive of dissidents and factionalism, the likelihood of murderous ethnic cleansing increases exponentially.

Considering the events in former Yugoslavia and Kosovo, Mann’s sixth thesis of murderous cleansing rarely being the initial intent of perpetrators is debatable. Mann’s argument for this is that there are no evil geniuses who initiate their plans of global dominance with a plot to eliminate a particular group right from the beginning. Murderous ethnic cleansing comes about as a sort of plan C, after the failures of compromise or straightforward repression (plan A), and more radicalized violence in an environment of rising violence and political destabilization (plan B) to achieve the goal. This plan C involves further radicalization, with calls for ethnic cleansing as the sole viable solution becoming louder. Mann finishes up his account of this thesis by stating that he is “not actually arguing that murderous cleansing is accidental, only that it is far more complex and contingent than blame-centered theories allow. It is eventually perpetrated deliberately, but the route to deliberation is usually a circuitous one” (8). It is the ‘usually’ here that brings together Mann’s thesis with the present thesis being written--whether providing an account of the

history or considering more specific elements about ethnic cleansing in Yugoslavia and Kosovo, the general consensus is that what happened in this geography was premeditated, and did not happen accidentally.

The seventh thesis set out by Mann is that elites, militants, and core constituencies are the three main perpetrators of ethnic cleansing. It is not just any one group that is solely responsible, as Mann writes, “We cannot simply blame malevolent leaders or ethnic groups en masse. That would be to credit leaders with truly magical powers of manipulation or whole peoples with truly remarkable single-mindedness” (8). The Yugoslav and Kosovo conflict once again cast some shadow on this statement, although there is enough truth to say that events did occur in such a way that Milosevic was able to manipulate them to his advantage, with the help of his people in various places in the government and media. Mann’s last thesis is about normal people being brought into situations where they commit murderous ethnic cleansing despite there being no enforcement upon them to commit these acts. Mann contends that “to understand ethnic cleansing, we need a sociology of power more than a special psychology of perpetrators as disturbed or psychotic people-- though some may be” (9). Indeed, the individual person who commits atrocious acts should be examined, but there is something to be said about the general population who willingly participates in the murders of former neighbors. Saying that there is a tendency for violence and murder in each person does not justify all that happens, because there is something about a particular circumstance that brings out this worst part in a person. Mann writes that there is something about modernity which releases this particular evil of murderous cleansing on a mass scale. When considering the Yugoslav case in particular once again, the political situation was completely unstable and nationalism had started to rise up, television was rising in popularity and thus those who controlled the flow of news controlled information and thus could control the masses. Economically speaking Yugoslavia was on the brink of collapse; Serbia was in a particularly bad situation and needed the mines in Kosovo in order to keep itself going. All of this, combined with the upheavals that had occurred in the lives of many of the people who could remember what had been done by particular people, made the descent into murderous ethnic cleansing that much easier.

Mann is not alone in considering ethnic cleansing as a modern experience, independent of primordialist and primitive urgings. Norman Naimark, an American historian specializing in genocide and ethnic cleansing in Eastern Europe, is also of this opinion, where he considers ethnic cleansing to be a modern experience due to the existence of a modern state with its brand of nationalism and desire to homogenize, alongside a willing elite and the necessary infrastructure to carry it out (Frank, 2002, 750).

There are six elements that Naimark isolates from his five cases of Armenians and Greeks of Anatolia, the Holocaust, Soviet deportations of various groups, expulsion of Germans from Poland and Czechoslovakia, and the Yugoslav succession. First, Naimark contends that ethnic cleansing involves violence, as there is rarely anything voluntary about being forced from a home. Second, war becomes a cover for ethnic cleansing because war accustoms people to killing while also providing strategic rationale for uprooting populations. Third and relatedly fourth, Naimark emphasizes the totalistic quality of ethnic cleansing, where it is not enough that an entire group of people be removed, but all traces of them be destroyed as well (Frank, 2002, 750-751). The Balkan wars demonstrate these claims quite well: while at first people may have evacuated from a certain territory out of fear before the arrival of state or paramilitary forces, most left (if they could) after the occurrence of violence forced them out. War, in this case, was a glaringly obvious cover up for cleansing. In terms of the destruction of places in addition to the people, two examples stand out: the bombing of the National Library in Sarajevo on August 25, 1992, and the bombing of the bridge in Mostar on November 9, 1993. The most important point here is that both of these events occurred at the beginning of the war, a testament to the very final nature of the actions ordered in order to completely rend people apart. It is also of note that neither of these sites were of military significance (BBC, 2014), meaning that this was all part of a strategy to eradicate not just people but all memory of them from a territory.

Naimark's fifth element is the theft of the possessions and properties of those who have grown wealthy by exploiting the majority. This point makes no sense when applied to Kosovo except as a matter of reverse psychology--the Albanians were the majority in Kosovo and thus could be accused of discriminating against Kosovo Serbs; once Milosevic revoked Kosovo's status as an almost-republic and

began inundating various sectors with Serbs only, this was turned on its head and the formerly disenfranchised minority began to profit off of the majority. What is even worse is that Kosovo was and continues to be the poorest country remaining of the former Yugoslavia, so there really was not much to exploit. Whatever resources were left, however, became all the more precious for that.

The final element Naimark mentions is the fact that ethnic cleansing is inherently misogynistic, where women are the primary targets “not only because they form the overwhelming majority of the civilian population in times of war but also because they are the ‘biological core of nationality’” (Frank, 2002, 751). This brings us to the matter of systematic rape, depicted as a tool of ethnic cleansing after the Yugoslav experiences. The misogynistic aspect of ethnic cleansing is something that affects women of both the victims and the perpetrators--when considering the situation of Serbian women, it is true, they are not dying, but they also no longer have the option of living in a healthy manner if they cannot abort a pregnancy that will be bad for them simply because politicians say that she needs to birth this child so that Serbs can continue. For the victims as well--it is not the Albanian girl's fault that she was raped, but she becomes an outsider and a shame. Her parents send her away to join the KLA, as a way of restoring the family honor with the added benefit of killing Serbs. The images used during the war, and even the language the men use to describe themselves--insulting the other groups' manliness by calling them feminine and weak, whereas they are virile and strong and able to propagate as much as they want, even forcing women from other groups to bear their children. This second part is much more torturous, because not only do the women suffer the rape first, they then also have to bear the burden of birthing the children of rape. The woman issue is one that would require many theses, therefore I will stop here and move on with Naimark's arguments.

Naimark's final important point is about the way he distinguishes ethnic cleansing from genocide: intent. Ethnic cleansing is the “intent to remove a population from a given territory” while genocide is the “intent to exterminate it” (751). Naimark also acknowledges, however, that the line between the two gets blurred when ethnic cleansing becomes genocidal in its results, even if its intents were, at the beginning, only removal. In the case of Yugoslavia, the intent of Serb leaders comes under close scrutiny, because it is just as likely that genocide,

meaning extermination, was the intent all along, with ethnic cleansing simply being the beginning of an arduous process of complete erasure from a territory.

I will now provide some other definitions of ethnic cleansing in order to facilitate the construction of my own. One such definition is one which takes ethnic cleansing as being the expulsion of a certain minority from a certain territory with the addition of a legal dimension--the loss of the right to be judged on individual merit and not be condemned by association, aside from the more general violation of basic human rights, of course (Mulaj, 2005, 1). A civilian population is indiscriminately and deliberately targeted, with the specific purpose of inducing the group to flee. More specifically for this case, ethnic cleansing refers to a “deliberate policy designed by and pursued under the leadership of a nation, or with its consent” for the purpose of removing a particular undesirable population from a given territory based on the group’s “ethnic, national, or religious origin, or a combination of these, by using systematic force and/or intimidation” (Mulaj, 2005, 19 n. 1). This definition is particularly fitting for this thesis as it is based on observations from Bosnia, which can be applied to Kosovo as similar events occurred on a smaller scale just four years later.

Considering a definition that is much more specific in terms of being based off of the Bosnian case in its entirety, there is a Serb-specific and rather unspecific but nonetheless useful depiction of ethnic cleansing. In this instance, the contention is that by using the slogan “Only unity serves the Serbs”, separation from Serbia was exaggerated and came to imply a threat to national existence. This idea justified the concept of ethnic cleansing, which was the Serbian “program of massacring enough of their ethnic enemies to force the rest to flee any territory they claimed” (Kaufman, 2013, 100). While being inflammatorily biased against the Serbs, the part about massacring enough of the enemy to force the rest to flee is a succinct and true observation. To be fair, this type of policy was applied by the Croats against both Muslims in Bosnia and Serbs in the Krajina region along the border between the two countries. Admittedly, the definition remains lacking since it only considers the act of forcing people to leave and does not concern itself with the plight of those who must now move in to the emptied territory. As mentioned before, it was due to the lack of Serbs moving into these “liberated” areas which caused Milosevic to lose, in

a manner very similar to what had occurred when Hitler attempted ethnic homogenization.

A more holistic definition comes by considering two tactics of ethnic cleansing, referring to “ethnic removal” and “ethnic resettlement”. The explanation of the definition above hints at this differentiation; in considering the two parts which compose ethnic cleansing we are able to provide a more accurate analysis of those affected during such a situation, as it is very possible to get lost in the victimization tactic of one group and be ignorant of the fact that the entire balance of a region is transforming by the actions of a few. The first part, of “ethnic removal”, is concerned with the threat or actual use of force to intimidate members of the targeted group, followed by the resettlement of displaced members of the dominant group into the newly vacated premises. Thus doing, “ethnic cleansers create permanent facts on the ground, helping them to consolidate their territorial claims” (Jenne, 2013, 115). The easiest example that can be given for this is the settlement policy maintained by Israelis on legally Palestinian territory--first, Palestinians are forced to move out of their homes through various means ranging from the violent to the insidious; temporary barracks are set up to immediately move in certain Jewish settlers. Once they have moved in, the media announces that there are Israelis living in these poor conditions, and so bulldozers are brought in alongside construction material and settler houses are built. Bit by bit, the territory is taken away and colonized. In terms of the ethnic removal part, it is not just the bodily removal of persons but also the elimination of any trace of them, meaning the destruction or purposeful defiling of “their sites of national significance, including graveyards, churches, monuments and other landmarks that tie the group to the land” (Jenne, 2013, 115). Serb paramilitaries accomplished this by destroying not only mosques and Muslim graveyards but also libraries and archives which were the repository of hundreds of years of Bosnian Muslim national history. The Croats attempted something similar when they destroyed the ancient bridge in Mostar, showing that it is not enough to remove the people, it is also necessary to get rid of their monuments and memories.

Another perception about ethnic cleansing can be construed as being located somewhere along a spectrum between genocide and mass crimes against humanity, which serves to demonstrate the general confusion around the term. Situated at

around the same time as the Rwandan genocide, the Yugoslav case did not reach the same level of death observed in Rwanda; however, the amount of displaced people and the general environment of violence specifically targeting one group of people in order to force them to vacate an area introduced a “new species of international crime, euphemistically termed ‘ethnic cleansing’” (Goldstone, 2004, 190). Indeed, this is a very generalized approach to ethnic cleansing in that it simply states what it is not, which is that it is not genocide and yet crime against humanity does not quite cover it either. As such, whether speaking politically or legally, despite the efforts made to define ethnic cleansing, confusion still reigns, even in this thesis despite its best efforts to bring some clarity to the situation.

In connection with the euphemism mentioned above when considering the rather tame-seeming ethnic cleansing, one could be speaking about the “depluralization” of a society (Esman, 2004, 204). Depluralization refers to the effort to achieve ethnic homogeneity in a particular territory by eliminating all but the members of the dominant nationality in that area. Policies implemented for this purpose can be as prosaic as population exchange, to as draconian as genocide or mass expulsion or forced removal. What is additionally interesting here is that the particular study consulted for this definition considered Kosovo and not Bosnia to be a case of “brutal ethnic ‘cleansing’” implemented by Serb authorities (Esman, 2004, 204). The depluralization idea iterates the confusion surrounding ethnic cleansing; once again we must ask what makes a situation truly ethnic cleansing and what is simply wanton discrimination. Must there be a threshold of violence, of people killed per certain period, or forced to leave within a certain period of time?

Given these types of questions, and in order to finalize what is meant by ethnic cleansing for the purposes of this thesis, I provide my own working definition for the concept. For the purposes of this study, ethnic cleansing is a two-pronged policy where a state first pursues a deliberate strategy of expelling a certain population based on an aspect of their origins from a particular territory in order to homogenize this territory, implemented either by the state’s forces directly or by paramilitary forces under the control of the state; having expelled the ‘other’ from said territory, the state then resettles the dominant ethnic group in the area in order to complete the process of homogenization. Given this definition, we now come to the critical question of whether what happened in the period between 1998-1999 in

Kosovo can be classified as ethnic cleansing. While the Serbian state tolerated KLA activities for a while, engaging in low-level repressive action, their counter-terrorism methods slowly started to become more and more violent, endangering the lives and livelihoods of Albanians living in the province, despite the Albanians being a majority. After the massacre in Prekaz where almost the entire Jashari clan was murdered, followed by the senseless murders in Racak where Serb authorities were allegedly looking for terrorists, the situation did become a case fitting the various parts of the ethnic cleansing definition provided here. Thus, while at the beginning Kosovo was simply in a situation of ethnic tension, through the activities of the KLA and the Serbs' completely unnecessarily violent repression of them, ethnic cleansing came to be a policy pursued by Belgrade against Albanians living in Kosovo.

The problem here, however, is that the Serbian state was not able to engage in the second part of ethnic cleansing--the resettlement of Serbs into Kosovo. Throughout all of the violence, the Albanians remained a majority, with Serbs mostly separated into enclaves strewn throughout southern Kosovo and more concentrated in the north, closer to the Serbian border. Part of the reason for this was that Serbs simply did not want to move into Kosovo, with its lack of jobs, solid infrastructure, and general instability. Kosovo's economy was in shambles, and the government that was set up after the NATO intervention was a government in name only, with very little power or autonomy. Indeed, autonomy, because after the intervention, Kosovo had gained a new master--the international community. While not nearly as repressive or obnoxiously nationalist as Serbia, nonetheless the West came with its own can of worms. The legitimacy of any actions taken by the Kosovar government was questioned, because it had to pass international approval. Even the constitution of Kosovo comes under scrutiny at this point, because it was based on a plan written by the UN's Special Envoy for Kosovo, Martti Ahtisaari. While the plan might have meant well, the fact that its implementation was not particularly emphasized by the West weakened its power and reputation.

Kosovo's problems of legitimacy and autonomy arise right from 1999, when NATO intervened against the Serbs, which will be considered in the next chapter. I will provide the necessary information on humanitarian intervention first, and then detail what happened in Kosovo and debate the sensibility of NATO's actions.

When considering the timeline of actions taken, there is a problem with NATO's bombardment of Serbia because after the NATO intervention, Albanians' situation actually worsened. Even worse, as stated above, once NATO had secured Albanians' situation, they left, without considering what would become of the Serbs still living in Kosovo, the kinds of institutions that would be set up and who would be employed in them, or even about what would happen to the Albanians. More former warlords and KLA fighters came to power than actual government workers or bureaucrats, despite the presence of the West.

CHAPTER IV

HUMANITARIAN INTERVENTION

Humanitarian intervention is another term that defies easy definition, given that there are degrees of intervention ranging from the non-forcible to that of armed action against a state. Non-forcible humanitarian intervention can be left out of the present discussion and included in the category of humanitarian aid, where a state or group of states provides assistance in the form of food, medicine, or other non-military help. For the purposes of this study, it is only humanitarian intervention that includes the use of force or the threat of the use of force against another state which will be considered.

In this chapter, I will examine the various definitions and problems of humanitarian intervention. Unlike the previous chapter, I will not settle on a working definition of humanitarian intervention, as this would be counter-effective, although I will attempt to clarify some general points scholars agree on. After this, I will present the problems associated with humanitarian intervention, from its use and justifications to the damage done the term by politicians. I will end with a discussion of NATO's intervention in Kosovo, concerned with the justifications brought by NATO and evaluating whether its actions were truly legitimate.

4.1. What is humanitarian intervention?

As previously stated, the greatest problem of humanitarian intervention (HI) is that there are a great deal of definitions for it, not least because the field of each analyst colors the description made. The most generic definition of HI possible is that it is the “threat or use of armed force against another State that is motivated by humanitarian considerations” (Lowe & Tzanakopoulos, 2011, para. 2). The very genericness of this definition becomes a problem, however, when it is necessary to consider all of the particulars that go into the decision process of intervening, and whether this intervention is truly humanitarian in purpose or simply selfish.

One of the issues complicating the process of defining HI is that both parts of the term require clarification, humanitarian and intervention. By using ‘humanitarian’, arguably a word with positive connotations, the intervening state(s)

are “explicitly attempting to legitimize these actions as non-partisan and moral, and hence inherently justified, rather than selfish and strategic, and hence necessarily contentious” (Hehir, 2010, 12). Former UN Secretary General Kofi Annan, noting the confusion around HI, made calls for separating the two terms because of the cynicism that could eventually appear due to the military operations involved. In a speech to the International Peace Academy in 2000, Annan states that there should be some distance placed from the humanitarian part of the term, where military operations should not be colluded with actual humanitarian actions such as bringing food and medicine to distressed places. Otherwise, he states, “we will find ourselves using phrases like ‘humanitarian bombing’ and people will soon get very cynical about the whole idea” (Hehir, 2010, 13). In fact, part of the reason for the shift towards the new term of responsibility to protect (R2P) can be explained by the duality inherent to HI with the positive humanity and negative intervention. Instead of emphasizing the overtly military actions of intervening parties, the concept of responsibility brings with it the capacity to blame the offender for not fulfilling the responsibilities it has as a sovereign state beholden to certain promises to its citizens and the international community at large.

Another distinction to be drawn is that of the difference between HI and strategic military intervention. The UN Charter specifically prohibits the use of force against another state unless it is in self-defense, at which point there are also certain legalities which must be settled before the defending state is able to take action against the offender. The self-defense part has also come under scrutiny, especially after 9/11 and US actions in the supposed ‘war on terror’. The haziness around the self-defense exception was problematized once again with the US not waiting for UN Security Council approval prior to starting the war in Iraq. While the US’ actions prior to and during and after the Iraq war can be debated, the most important part of this was the US’ complete lack of concern about the UN’s position throughout all of this. The US did apply the self-defense exception in arguing for intervention into Iraq, with Article 51 and Chapter VII of the UN Charter being the primary sources for this exception; even with these however, there is a need to either promptly inform the UN upon taking the action or receiving prior approval respectively (Hehir, 2010, 15; IICK, 167). The main point of difference between HI and strategic military intervention is that military intervention has no need to be

humanitarian--the two concepts are not mutually inclusive, although HI is automatically assumed to have some kind of military aspect within it (Hehir, 2010, 15).

There are five considerations that might be useful when attempting a definition of HI, which are: the parties involved, the consent issue, the means, the motives, and the legality of the act. When considering only the parties involved in humanitarian intervention, it is generally assumed that the intervening party is an unrelated third party, meaning they are not citizens of the distressed state. The lack of precision about the identity of the intervening party thus makes it appear to lack significance, gaining importance only in terms of legality (Hehir, 2010, 16). HI definitions tend to focus more on the intervening party and not so much on the parties in the offending country; the only time the offending country comes into play is with the consent issue, and with consent the usual take on the matter is that it is absent.

To be more explicit about the matter of consent, as stated above, in definitions of HI it is assumed to be absent, with coercion being legally but not descriptively relevant. This does not mean that all humanitarian intervention is coerced, there are occasions where a state has not been able to properly manage a situation and thus asks for help from the international community. The UN Mission in Sierra Leone is one such case, in addition to the (tentative) example of Indonesia's consent to the deployment of troops in East Timor in fall of 1999 (Hehir, 2010, 18). Connected to the matter of consent is the means by which intervention is enacted, and once again within the context of the definition, the legality or legitimacy of the action is left aside in favor of stating facts. Thus, the means of HI mostly involve military components, with a few definitions going into more detail in terms of how intrusive this military action becomes; there is a potential for proportionality where the violence the offending state enacts is responded to in kind by the intervening state/s. Implicitly, proportionality could be said to contain the potential for less intrusive means such as sanctions or diplomatic rebuttals, but this becomes far more specific than what can be afforded here.

The motivations behind a humanitarian intervention are also a highly contentious issue, once again blurring the line between description and legality. It is extremely difficult to determine motives in general, and an attempt to separate out

just one motivation when operating in the confusing and multi-faceted current world system is nearly impossible. However, the common vein among various definitions is that there should be some kind of humanitarian motivation involved in the intervention. Some descriptions go further and stress that intervention should be fully altruistic with the intervening party having no interest in the state under duress, but, truly, “this would appear to be an unreasonably onerous requirement” (Hehir, 2010, 19). Also, as stated before, how can motivation be measured? It is a subjective criteria easily masked by the discourse of the intervening state.

And finally, surely the most important part of a description, is the issue of legality. Interestingly enough, almost no definition considers the legality of humanitarian intervention in its definition. Although the “majority of legal scholars consider it to be illegal at present” (Hehir, 2010, 19), there are very few instances where a definition of humanitarian intervention includes a reference to whether HI in general is legal or not. Due to sovereignty being the inalienable right of a state, any intervention that is not in self-defense or that is not consented to is construed as being illegal. The case of Kosovo is interesting, as there is a new phrase coined for humanitarian intervention at this time: illegal but legitimate. The illegality in this instance comes from the fact that NATO acted without permission from the United Nations as the Security Council was in gridlock because of Russia and China’s threat to veto any resolution for taking forcible action against Serbia. Its legitimacy arises from the fact that ethnic cleansing was being committed against Albanians, and the international community needed to step in and stop the possible descent into full genocide; a claim to legitimacy this study questions.

Having provided a relatively detailed look at the elements that go into the definition of humanitarian intervention, it would no doubt be useful to provide a summary of sorts of said elements. Thus, humanitarian intervention can be regarded as “military action taken by a state, group of states or non-state actor, in the territory of another state, without that state’s consent, which is justified, to some significant extent, by a humanitarian concern for the citizens of the host state” (Hehir, 2010, 20). This is quite a comprehensive definition and general enough to seem to encompass most cases, but upon its application to the case of Kosovo, we are faced with immediate problems. As mentioned before, the Kosovo intervention brought with it the “illegal but legitimate” contextualization, therefore the legality issue is

taken care of--it was an illegal act on the part of NATO because it acted unilaterally without permission from the UN. Unilateral actions are not problematic if there is Security Council backing behind it, otherwise, these kinds of actions can be considered aggressive infringement on the sovereignty of another state. NATO is the party who intervened in Kosovo, but there is a prevalent view that this was an action taken not in the interest of displaced Kosovo Albanians, but in the interest of Bill Clinton, the former US president, as he was going through the Monica Lewinsky scandal and needed a military win in order to draw attention away from his lying and cheating (news of the scandal broke in 1998, just when the KLA was upping the ante on its actions in Kosovo against Serbs). Quite obviously, Serbia did not consent to being intervened; and Kosovo was still within the borders of Serbia at the time, arranged so by international agreement at Dayton, despite the declaration of independence a decade earlier by Rugova's non-violent LDK party. And yet, the final judgement about this intervention was that it was indeed illegal, yet legitimate because of ongoing ethnic cleansing. A more in-depth analysis of the situation in Kosovo will be provided later on in the chapter, this is simply an introduction to the various parties and interests involved in the intervention.

To give a better elucidated definition of humanitarian intervention, it is necessary to consider the minutiae of legalities as well as it is also directly in line with the legitimacy and justification of this concept. Pondering HI from the lens of international law brings in the behavior of states, mostly as a tool used for the formation of international law. As such, if there are no written precedents in order to determine customary practice, state practice could be considered in order to set some sort of precedent. However, given the case of humanitarian intervention, even this becomes problematic because no one state applies the same principle and at times the action of one state during one intervention is fully at odds with its actions in another (Chesterman, 2001, 1). There is also the problem of how parties to an intervention attempt to justify their actions in the eyes of the international community. NATO's Kosovo intervention actually becomes a very good example of the myriad ways in which parties to the intervention attempt to persuade their audiences of what they are going to do--in this case, the statements of NATO Secretary-General Javier Solana, US President Bill Clinton, and UK Prime Minister Tony Blair reveal much about the ways in which interventions can be politically

justified while seemingly being couched in legal terms. I will go into the details of this later on in the chapter, but suffice it to say that the three powers present different justifications for the reasons to intervene: Solana states that it was because Milosevic did not comply with agreements, Clinton says that if the international community had not intervened the situation would have become much worse, and Blair argues that the only choice offered was that of doing something or doing nothing, and the better choice was to do something.

Leaving aside the discursive fantasies of political leaders and concentrating on the specific legalities, we first come across the UN Charter with its clear prohibitions on the use of force against another state, although there are arguments on the side of unilateral intervention pre-existing the Charter. As a legal concept, humanitarian intervention is actually incoherent and that any 'right' of HI is not due to it falling under an exception to use of force principles but rather to a loophole in the enforceable content of international law (Chesterman, 2001, 2). Considering the genealogy of HI, we see that it emerged in the 19th century as a possible exception to non-intervention but still with an unclear meaning; those who attempted to add more detail to it were divided into three camps--one group held it to be a legal right, a second rejected it outright, while a third said international law should be irrelevant to the matter (Chesterman, 2001, 3). Carrying on to the reasons behind the creation of the UN, we see that there was division here as well, with two camps forming around the humanitarian intervention fault line. The first group contends that "humanitarian intervention might not contravene the Charter prohibition if it does not violate the 'territorial integrity or political independence' of the target state" (Chesterman, 2001, 3). The normative assumptions within this argument boggle the mind, and, as transmitted from Oscar Schachter, "demands an Orwellian construction of those terms" (Chesterman, 2001, 3). The second argument is that "humanitarian intervention may be justified where the appropriate international organ (the Security Council) is unwilling or unable to act to prevent atrocities" (2001, 3-4). The problem with this argument is that it presumes a more far-reaching customary right of forcible self-help than is compatible with the jus cogens of international legal order. As a note for the discussion further on about Kosovo, this is the path the US and NATO took when they decided to intervene in Kosovo--the Security Council was not a viable option for humanitarian intervention when Russia

announced that it would veto any resolution that authorized the use of force against Serbia.

An alternative argument for humanitarian intervention in the context of it as a violation of state sovereignty is that it could be justified not as a valid use of force against said sovereign state, “but because certain actions by a governing regime may invalidate that state’s sovereignty” (Chesterman, 2001, 4, author’s emphasis). In its most extreme form, this argument is applied to non-democratic states, allowing for intervention in order to bring about democratic reform. At a lesser level, the argument has been construed as a sort of ‘sovereignty of the people’, impugning the credibility of a state which claims to represent the people within it. This presents an obvious challenge to the “traditional understanding of sovereignty as absolute” (Chesterman, 2001, 4); if a state is seen to be non-representative, an intervention can be justified in order to bring it democracy. The sovereignty of the people part is a dangerous argument, however--consider the case of Rwanda, where the Hutus rebelled stating that they were not being represented despite being the majority and started a genocide, prompting the UN to eventually get itself together and pursue intervention there, and fail miserably. The complaint of a minority not being represented can also be considered for the case of Serbs in Kosovo. Present as a minority, their situation had slowly deteriorated throughout the period when Kosovo was allowed to have greater autonomy from Serbia. It cannot really be stated that their situation improved after Milosevic came to power and changed the balance of those employed in the ranks of the bureaucracy, because they were still a minority. However, the Kosovo parliament, which was supposed to represent and protect their rights, was not functioning as it ought to in terms of fulfilling its obligations as an autonomous province within which existed two different ethnicities. In the end, there was a spiraling descent into ethnic cleansing of both Serbs and Albanians, as members of each group fled in the face of violence from the other.

The penultimate point that must be mentioned in terms of legalities is about the role of the United Nations Security Council in authorizing an intervention. Recently, there has been unification between the groups divided over HI as a unilateral right versus a Security Council authorized enforcement action. At one point, enforcement actions authorized by the Security Council were separate from humanitarian intervention, but more recently, scholars have invoked authorized

actions as forming the basis of customary international law and functioning as a norm “sanctioning unilateral intervention” (Chesterman, 2001, 5). Having stated that, we now come to the point where politics enters the picture of legality, and see that due to the loose manner in which authorizations have been granted and interpreted, the “conflation of categories is revealing of the manner in which Security Council ‘authorization’ came to be deployed as a political rather than a legal justification for military action” (Chesterman, 2001, 5). Drawing a line separating legalities from politics becomes nearly impossible--consider the Libya intervention. While first it was done in order to stop the repressive actions of Qaddafi, a very short while after the intervention had begun it became a political one with the intent of removing Qaddafi from power, not with the intent of improving the livelihoods of the people who had been revolting against him. There is actually a rather interesting parallel between the Kosovo intervention in 1999 and the Libya intervention in 2011, with the most important difference being that Qaddafi was able to hang on to power for nearly four decades, whereas Milosevic barely eked out one decade and some change. Slightly hilariously, Qaddafi had been around for so long that while there are pictures of him with various, more recent Yugoslav officials, there are also those from farther back, with Tito, for example (Economist, 2011, para. 3). This difference of power-holding occurs in two countries with significant multi-tribal and multi-ethnic populations. A further study could be done on these two leaders, and the calculations that went into the bombing of one country very few years after it had begun committing atrocities and waiting forty years to destruct another one that had engaged in just as much if not worse human rights violations itself.

The final point from a legal perspective that must be mentioned is the implication around justifying HI as a unilateral right, and what that will mean for collective action. Humanitarian intervention brings into question not just the substance but the moral foundations of international law, and implicitly causes problems for the meaning of world order and international morality. Unilateral enforcement, or the ‘right’ to unilateral intervention, is problematic on many levels, including the risk of interventions being done in bad faith while also being “incoherent as a principle, and it would be inimical to the emergence of an international rule of law” (Chesterman, 2001, 6). Given that nation-states are already

operating in an anarchic society with no ultimate ruler, taking away the agreed-upon rules of international law, or at least engaging in such actions as to make them ambiguous, is a disservice to everyone involved. The Kosovo intervention can be brought up as an example here as well--there are serious doubts cast around the accusation of ethnic cleansing being committed by Serbs against Albanians, and the shady connections of the KLA as well as the inversion of the chronology of events all lend to the opacity of the situation, fully debasing the legitimacy of the operation.

To continue the discussion on the definition of humanitarian intervention, that it is being done in a unilateral manner will be assumed a bit more in order to facilitate a better focus on the other aspects of HI prior to looking with more detail at the legal issues inherent to it. As such, one other definition of unilateral HI can be stated as the threat or use of force where the intervenor deploys a military force of some kind in order to eliminate the threat of death or suffering facing a particular population in a state (Levitt, 1998, 335). Generally speaking, there are four types of intervention, which can be listed as unilateral intervention by a state or group of states acting on their own initiative, unilateral intervention by a regional actor using its own initiative, intervention authorized by the UN but not taken by it, and UN intervention. Unilateral intervention, while taken at face value for now in this study, is actually more controversial than it first appears; it is legally more sound for an intervention to be conducted under the auspices of the UN or of a regional organization--a country going it alone does not bode well for international, regional, or domestic politics. However, there are three instances when unilateral action by regional actors or groups of states seem to be permitted by law *de lege lata*¹, which are: a) instances where there are egregious violations of human rights, to the extent that are in violation of *jus cogens*² norms of international law, b) there is a failed state situation and the collapsed state is descending into anarchy, and c) in cases where a democratic regime has been violently and illegally removed against the will of its domestic population, necessitating intervention to protect the original, democratic regime (Levitt, 1998, 336-337). These three instances are of particular interest when considering the NATO intervention in Kosovo, as a case can be made for NATO, acting as a regional organization, intervened unilaterally in Kosovo in

¹ Current law, or, the law as it exists

² Peremptory norms; a fundamental principle of international law that is accepted by all states and from which no derogation is permitted

order to prevent the worsening of an already bad situation. None of the seriousness of the above three cases can be observed in the Kosovo case, which is not to diminish the suffering of the people there, but considering the situation from a legal standpoint alone, the NATO intervention appears unjustified.

Getting closer to the legal aspects of humanitarian intervention, there generally appears to be a lack of legally-binding justifications that are sought prior to the initiation of an intervention. Basically, HI involves coercive action undertaken by a state or more than one state involving the use of force (or threat of) in another state without its consent, with the purpose of putting an end to “gross and massive violation of human rights or international humanitarian law, i.e., mass atrocity crimes” (Kuwali, 2011, 10). More interestingly, and relevant legally, is the fact that HI is forcible intervention at the inter-state level that is taken up without “any other justification rooted in a legally-binding expression of will” (Kuwali, 2011, 10). Through this definition, we can come to the conclusion that intervention can occur (as it does) with or without Security Council authorization. The burden this brings, then, is that of justification, meaning the need to present evidence of the aforementioned mass atrocity crimes. To take this a step further, there is a certain belief that HI must be explicitly motivated by the aim of halting or averting the furthering of the humanitarian crisis in the offending state. Again, the offending state’s consent for the intervention has no bearing on whether an action is considered humanitarian intervention, becoming relevant only when the time comes to assess whether an intervention had been permissible or lawful. And to put a further cherry on top of this concept, if consent is given, an intervention is then no longer humanitarian intervention, but instead becomes “intervention by invitation” (Kuwali, 2011, 10), at which there are no legal consequences to consider and only the amount of aid that can be given and in what format this aid should be.

To be more precise in providing a definition, for the purposes of a study considering HI in light of the forthcoming concept of R2P, the idea of HI as coercive action taken by a state in order to stop mass atrocities in a third state with the proviso that the victims are not nationals of the intervening state, and that this action is done without the legal authorization of a competent international organization, namely, the UN (Kuwali, 2011, 12) is posited. The particular emphasis on not having the legal authorization of the Security Council is different from the

definitions provided so far; the general view had been that it was irrelevant to whether something was to be regarded as humanitarian intervention, but in this case the author is adamant that if an action has legal backing, it is no longer humanitarian intervention. When approval is given, the action becomes “statutory or treaty-based intervention” (Kuwali, 2011, 13) and referring to it as humanitarian intervention is misleading. This point of authorization is complicated further by stating that humanitarian intervention can be invoked in cases where the Security Council is unwilling or unable to provide the authorization needed for military intervention. Essentially, the idea of HI here is that in order for an action to be considered HI, it must not have the consent of the target state, and it must not be authorized by the UNSC. To put it into more succinct and Kosovo-relevant terms, it appears that an action is only HI when it is illegal but legitimate.

Another definition of HI that provides a different focus is one that considers state sovereignty, regarding HI as the “need to override state sovereignty and rescue suffering civilians who live in a state that is unable or unwilling to protect and succor them” (Weiss, 2012, 2). As before, it is only military interventions which occurred against the wishes of the offending government or without meaningful consent and with humanitarian motivations will be considered as HI. However, an important distinction is made in this case, where attention is drawn to the fact that motivations are never completely pure, and that it is meaning to hunt for only altruism without some level of self-interest being involved (Weiss, 2012, 8). Subjective judgements abound. Also interestingly, here we are offered a spectrum of humanitarian intervention, ranging from peacekeeping on one end--military deployment “designed to create and maintain conditions in which political negotiations can proceed”(Weiss, 2012, 9)--to war fighting on the other. Curiously, Kosovo is given as an example of intervention as war fighting, where the objective is to defeat a “clearly defined adversary, and it is undertaken by fully combat-capable troops” (Weiss, 2012, 9). There are problems about the fully combat-capable troops part of this conception, however, because there were no boots on the ground, so to say, in Kosovo; it was an aerial assault on military and certain civilian targets with troops coming in afterwards to secure the situation in Kosovo and make sure Serbia did not infringe on its rights again. However, the example of Kosovo does apply in this case since it certainly was not peacekeeping, as there was no effort

to intervene in Kosovo in a manner that would allow political negotiations to continue--the approach was much more combative and undiplomatic as could possibly be.

To provide further detail on the spectrum of humanitarian intervention, we are shown that it “ranges across peace enforcement, coercive protection, and war fighting; it is distinct from peacekeeping, a situation in which there is “peace to keep,” which was obviously absent in many cases in the 1990s and 2000s” (Weiss, 2012, 11). A caveat for the way humanitarian is construed in HI is also presented here, with civilian aid staff disliking the military force association of the term, “viewing ‘humanitarian intervention’ itself--let alone ‘humanitarian bombing’ in Kosovo--as a contradiction in terms” (Weiss, 2012, 12). Coming to the conclusion that humanitarian intervention is, at the time, the best name for the concept: “Semantics aside, truth in packaging requires an accurate shorthand description for outside military coercion to protect civilians caught in war zones to prevent mass atrocities or stop them if they have started” (Weiss, 2012, 12). Comparing HI to R2P, we are told that while responsibility to protect is “better and more accurate language”, use of the old terminology can be useful in emphasizing the international response element, which is mostly downplayed by the R2P. In terms of the when of humanitarian intervention, meaning when does HI become necessary, the argument posited is that there must be a high threshold of suffering that must be crossed; there must be the threat or actual occurrence of large-scale loss of life, massive forced migration, and widespread abuses of human rights--in brief, acts that shock the conscience” (Weiss, 2012, 14-15).

These definitions essentially circle around the concept of HI, while coming to a consensus on the parties involved, the motivations, and the means of HI. The parties involved are third parties, in whatever format this third party happens to be--another state who intervenes, a group of states, or an international organization. The motivation is simple--to stop actions that shock the conscience from occurring, or put an end to them if they have already begun. The means are also obvious--it must be military means, otherwise it does not count as HI. It is also at this point that the definition starts to become more fuzzy, however, because in some cases we are given a spectrum of force that can be used. Sanctions and diplomatic notes are also acceptable in terms of showing a modicum of force, but the leaning appears to be

that for an intervention to count as humanitarian intervention, there needs to be use of actual military equipment, whether these are bombs dropped from the sky or actual soldiers going into the territory of the offending state. The last point whereon there is consensus is that the offending state does not give its consent for an intervention, desiring to continue in its actions with impunity. Where the greatest confusion appears to be is when legality comes into play--does HI count as HI if it is based on legal grounds, or if it has been given a legal green light on the part of the Security Council? There appears general disagreement on the issue, confused even more by the fact that there is no customary law that can be applied to since the precedents of any one country do not necessarily match what it later does. With this confusion in mind, I transition to the problems of humanitarian intervention where I will provide further issues that complicate the concept.

4.2. The problems of humanitarian intervention

In general, humanitarian intervention has myriad meanings because the way it is defined, or what aspects of it are emphasized, changes according to the field of the analyst. Also, how it is framed changes, depending on the country that purports to be engaging in humanitarian intervention; this is actually a two-way relationship because humanitarian intervention also comes to define the state or group of states who are engaging in it. Another problem that appears is the method of coordinating the use of force against an offending state. Will the UN be given the lead, or will countries simply bypass the UN and act on their own? What, then, are the implications of this for such an international organization, and how necessary is this organization if it is not going to be used in a manner befitting its charter? As we have seen so far, some scholars purport that humanitarian intervention is only such when it does not have authorization provided for it by the UN. Given these types of concerns, what follows will be a brief account of the damage humanitarian intervention justifications cause international organizations and the damage caused to HI itself on the part of states who use it for their own interests.

Consider the European Union (EU) for example--countries in the EU may be able to come to an agreement concerning economic issues related to intra-EU countries, but when it comes to a common foreign policy, problems arise. Nowhere

was this more problematic than during the first post-Cold War conflict in Yugoslavia. While general EU policy had been along the lines of a type of *laissez-faire*, a short while into the declaration of independence by Slovenia and Croatia, Germany decided to recognize the two, disregarding general EU policy. A consequence of this was that because the Europeans could not agree on a particular policy, they had to suffer the humiliation of handing over the crisis to the Americans. The good part about this was that it came to function as a lesson for Europeans, and opened their eyes to the weakness of their foreign and security policy and their “lack of a capability to respond quickly to crises when they occurred even in Europe, let alone further afield” (Hill & Smith, 2005, 313). Another problem arising from this European ineptitude and the constant role of the US in humanitarian intervention was that other countries, especially of the third world, came to regard humanitarian intervention as just another type of imperialism. Not only that, but Western action, especially in Kosovo, was seen as “further evidence of Western willingness to flout international law” (Hill & Smith, 2005, 313). This point is supported by the fact that the most powerful nation in the world, namely, the United States, refuses to sign on to any kind of international tribunal, as undoubtedly all focus would immediately slide over to what the US had been doing.

In terms of bypassing the UN and specifically connected to the issue of HI not being HI if the UN had authorized the military action, Kosovo is actually regarded as being to blame for this. While there had been a series of high-level initiatives to attempt to reform the UN because of its presence as a rather large elephant with stubby legs, unable to move and act in a speedy manner, most of these initiatives had run aground and “new and previously unimagined layers of internal corruption came to light” (Mazower, 2009, 2). At a time when the organization was already suffering both internally and externally in terms of its legitimacy and use, the US then took action with the Kosovo case, prodding NATO to bomb Kosovo without Security Council approval, and thus, “setting a precedent in which the UN was bypassed in the name of humanitarian intervention” (Mazower, 2009, 2). Further actions like this taken by the US--one thinks of the recent Bush action in Iraq following 9/11--have simply served to problematize the position of the UN in world affairs even more. In his consideration of the transformations of the UN, Mazower briefly alludes to humanitarian intervention’s transition to R2P as well,

writing that recently “there is the call for it [UN] to promote something called ‘human security’--a blend of development goals and rights--and to claim the right to intervene in defense of the world’s citizens when their own governments maltreat them” (2009, 3). Having said that, once again the relevance of the UN comes into question due to the pervasive suspicion that the UN is just too far gone to be able to “restore it to a central role in international affairs” (Mazower, 2009, 3).

Referring also to the role of former colonial powers in conducting most of the intervention, the humanitarian in HI once again comes to be questioned. While considering the way in which the role of the UN has changed over time and yet how it appears to be remain under the control of former colonial powers, humanitarianism couches itself in terms of pure virtue and regards itself as an “antipolitical gesture of compassionate brotherhood” (Mazower, 2009, 200). Having spread freedom amongst the lower nations first as colonial powers, now this group of old states is leading “the charge against the human rights abuses and the ‘organised hypocrisy’ of the sovereignty claimed by many new and shaky states” (Mazower, 2009, 200-1). The old states, which still hold on to the vestiges of power remaining from their imperial days, see only a universal aspiration in their liberalism, but the states they target tend to be those that have recently appeared from the rubble of former empires. These new states are shaky and uncertain, looking very much like failed states when they are but just forming, and critiquing them comes close to a civilizational arrogance that should have been left behind in the 19th century and not carried into the latter half of the 20th century (Mazower, 2009, 201). However, despite all of these problems, the UN is still a remarkable institution for having been able to adapt to changing times despite its elephantine size and demeanor.

Further problematizing the concept of humanitarian intervention was the examples that were brought forward about representing HI in the best way possible. Heralding the 1990s as the decade of humanitarian intervention, Kosovo and East Timor were cast as the jewels in the diadem of HI, and the “new right to intervene on ‘humanitarian’ grounds was established by the courage and altruism of the US and its allies” (Chomsky, 2003, 22). Given the prior examples of interventions by India in East Pakistan in 1971 and by Vietnam in Cambodia in 1978, one must question the validity of choosing the debatable interventions of Kosovo and East

Timor as the shining examples of HI. Written off by the West as aggressive moves that should not have been carried out--although both could have been considered as including an element of self-defense and both did put an end to horrible human rights violations--neither of the interventions garnered support in the West; in fact, Vietnam was shortly invaded by the US (Chomsky, 2003, 22-23). The Orientalist approach of the West in these cases is remarkably noticeable, with the idea of the white man's burden consistently observed. Thus, a possible general conclusion is that the West--especially the US and UK and France--is engaging in a type of old-fashioned diplomacy, claiming moral superiority and righteousness and acting with a hero-complex of sorts, as saviors of the world. What emerges out of this is the conception that the actions of the West in Kosovo and East Timor actually served to make the UN Charter obsolete (Chomsky, 2003, 58). If we are to indeed consider Kosovo and East Timor as precedents and the Iraq case as a follow-up, then the legitimacy of invading a country without Security Council being the norm appears to be true enough. Here we are also exposed to the danger inherent to discussions of this type, however, regarding the matter of whether to keep solely to semantics or to indulge in the much more complicated real life situation that appears when we add matters of legality and legitimacy. The various problems that appear from this perspective is that as a West-biased discussion, humanitarian intervention's humanitarian comes under question not just because of military means, but also because of the states who generally carry out interventions and those in which interventions occur. Most humanitarian interventions have been executed in third world countries who had just become an actual state either through the concept of self-determination or due to the map-drawing skills of former imperial powers.

This problematic can be seen in the actions of the G77, who released a declaration where there is a clear rejection of humanitarian intervention as a right. This is due in part to its lack of a "legal basis in the United Nations Charter or in the general principles of international law" (para. 54) and the seemingly pervasive acceptance of HI as a right to be applied by certain states when they saw fit. The first part of the point about humanitarian intervention stresses the need to separate it from other forms of humanitarian assistance; the declaration states,

We request the Chairman of the Group of 77, in conjunction with the Chairman of the Non-Aligned Movement (NAM), through the Joint Coordinating Committee, (JCC), to

coordinate consideration of the concept of humanitarian intervention and other related matters as contained in the 1999 Report of the United Nations Secretary-General on the work of the Organization. We further stress the need for scrupulously respecting the guiding principles of humanitarian assistance, adopted by the General Assembly in its resolution 46/182, and emphasize that these principles are valid, time-tested and must continue to be fully observed. Furthermore, we stress that humanitarian assistance should be conducted in full respect of the sovereignty, territorial integrity, and political independence of host countries, and should be initiated in response to a request or with the approval of these States. (para. 54)

Humanitarian intervention in this case seems to become subsumed under humanitarian assistance in general, especially when considering the last bit about respecting the territorial integrity and sovereignty of states. The demand that humanitarian assistance should be initiated at the request or with the permission of the state in crisis is a point of interest, given the argument that if there is permission, it is no longer humanitarian intervention. This is where the politics and the legal semantics of the matter collide and become confused, but it is also where Kosovo comes to the fore. Serbia neither requested nor allowed for an intervention, thus making NATO's actions there true humanitarian intervention because the Security Council had also not given its approval. The actions were justified in the aftermath of the intervention, through a Security Council resolution stating that there must be certain institutions set up in order to coordinate refugee return, election monitoring, disarmament, etc. It is also my opinion that because this summit was made up of the 'other' countries of the world--the places ripe with the potential for intervention--they are adamant about their request for HI to become explicitly legal and legitimate through international oversight.

As a purported brief survey, this part does not do the subject justice in the limited space available for its consideration within this thesis. Based on scholarly depictions of humanitarian intervention as a concept that should not be authorized by the UNSC or consented to by the offending state, HI becomes an idea that right from the beginning is supposed to be illegal. The problem inherent to being illegal aside, there are also no agreed-upon means of humanitarian intervention, with military force being the only commonality, with no details about the specifics of the use of force. The lack of a single method being followed in the application of

humanitarian intervention presents another problem, while the various justifications provided for HI also have far-reaching effects, ranging from causing a country to go full nuclear to that of a full-fledged rejection of portraying HI as a right. Having said all that, humanitarian intervention has been given a makeover in the form of the responsibility to protect, which one hopes is more precise in how it is to be used and cast, although there is grave doubt about the R2P as well, based on recent applications of the concept in Libya and the braking on its use in Syria.

4.3. NATO intervention in Kosovo--illegal but legitimate?

Finally, we arrive at the main point of the thesis--was the 1999 humanitarian intervention in Kosovo justified? From everything that has been written until now, and from the title of the section, it is obvious that the intervention was not legal, legitimized only by the fact that there was a serious humanitarian crisis going on. However, questions abound on whether the humanitarian crisis was due to Belgrade's efforts or whether blame can also be placed on Western action. Also scrutinized is the accusation of ethnic cleansing occurring in Kosovo at the time, and whether the ethnic cleansing happened before or after NATO's intervention. After these considerations, the legitimacy of NATO's intervention becomes questionable and subject to scrutiny.

To begin, let us refer back to Chesterman's point about the different stances states took when attempting to legitimize the intervention in Kosovo. I will begin by considering former Prime Minister Blair's and former President Clinton's comments, and then move on to Solana, who is more relevant to the discussion of the thesis as he was NATO Secretary-General at the time of the Kosovo intervention. Tony Blair's statements present the Kosovo conflict in a starkly dichotomous manner, stating that the choice before the international community was to either do something or engage in nothing. Neil Clark, quoting Blair, writes that NATO's war with Yugoslavia was "a battle between good and evil; between civilisation and barbarity; between democracy and dictatorship" (2010, para. 3). Justification in this dual manner is not only Orientalist, where the good West is once again trying to save the backward East; but also distracting from main issue at hand--whether ethnic cleansing really occurred in Kosovo and whether unilateral action

without consent from Serbia and authorization from the UN was warranted. This is compounded by the fact that the West is just as much to blame for the deterioration of the situation, as it was due to Western incompetence during the Dayton process that Kosovo turned into an ethnic cleansing-prone space. However, considering Blair's words at face value, fighting Milosevic, for him, meant fighting evil.

Clinton's justifications on the issue are more interesting to consider, and had more far-reaching consequences considering the circumstances of the civilians in Kosovo. The US had had a torrid affair with the KLA ever since the KLA first appeared, initially declaring it to be a terrorist organization until 1998, when in February the US "gave into KLA demands to remove it from the State Department's terrorism list" (Christoff-Kurop, 2001, para. 16). Indeed, when perusing the list for references to the KLA, the organization is not mentioned. However, early on into the period leading up to the intervention, the West had the general stance that the KLA was a terrorist organization, changing their tune only when it became apparent that Milosevic was not going to step back from his actions in Kosovo. Robert Gelbard, US Special Envoy to the Balkans, had made a statement prior to the worsening of the situation in Kosovo that the KLA was a terrorist organization, stating after a meeting with two of KLA's political leaders, "I know a terrorist when I see one and these men are terrorists" (Sebak, 1998, para. 3). These words can partially be blamed for making the Albanian situation worse, as Belgrade interpreted these words as a "green light for a security forces operation against the KLA" (para. 5). There was an attempt on the part of the US to bolster Rugova's position in Kosovo, but he was too far gone, and eventually the KLA was brought to the negotiating table, with a picture of Secretary of State Madeleine Albright shaking hands with Hashim Thaci, the leader of the KLA, in order to bolster their legitimacy. Part of the reason why the KLA was considered a terrorist group was because they engaged in "tit-for-tat attacks with Serbian nationalists in Kosovo, reprisals against ethnic Albanians who 'collaborated' with the Serbian government, and bombed police stations and cafes known to be frequented by Serb officials, killing innocent civilians in the process" (Moran, 2006, 3). There were also allegations of connections to the drug trade and organized crime, especially in organ trafficking. These facts, the US' changing stance about the KLA, and the fact that Clinton was going through a tough period domestically with the Lewinsky scandal all point to

the fact that Kosovo presented the perfect opportunity to employ distraction tactics. Alas, it did not work very well since he was impeached just a few months later.

In her autobiography, Madeleine Albright provides an insider's look at the machinations that were going on--because Kosovo was part of Serbia at the time, Milosevic's actions could not be construed as aggression against another state, nor was Kosovo a member of NATO and therefore a claim of self-defense was inadmissible. There had also been no indication on Serbia's part that it intended to take its aggression further afield than Kosovo, therefore a preventive strike could not be approved. Nevertheless, the US had "a duty 'to defend the vulnerable other'" (Albright, 2006, 61). Taking it to the UN, however, meant facing Russia's veto of any action that might authorize the use of force against Serbs. This meant that the US faced two choices: either risk the Russian veto, or bypass the UN entirely and save the people of Kosovo. Albright contends that she had both strategic and moral reasons for pushing hard for the intervention option. Strategically the intervention was necessary because "Europe was never going to be fully at peace as long as the Balkans were unstable, and the Balkans were never going to be stable as long as Milosevic was in power" (Albright, 2006, 62). Morally, the point was the desire not to see innocent people murdered; "NATO's presence in Europe gave us the means to stop ethnic cleansing on that continent, and I hoped that by doing so we could help prevent similar atrocities elsewhere" (62). While the violence ended for some time, there was no follow-through on the part of the West to strengthen political and legislative issues, making it difficult to swallow Albright's claim of helping save innocents.

Alongside Albright's accounts was also Ambassador Holbrooke's efforts to bring Milosevic to heel. Providing a fresh look at the problems of the Rambouillet negotiations, from which nothing came to light because what was written in the agreement was so odious to the Serbs, a discursive study of the Rambouillet process shows that there was a generally confrontational language being used. In an article in the New York Times, Albright is reported as walking into a meeting of Clinton's top aides with a plan to have NATO use air strikes against Yugoslavia in order to force a peace agreement (Sciolino & Bronner, 1999, para. 1). Clinton, at the time, was quite busy with the impeachment process going on and thus was not present at the meeting, casting doubt on whether he might have done the same thing as

Albright. In any case, given that the president was far too distracted by his sex scandal and oncoming impeachment, the leading person during negotiations was Albright herself, along with Richard Holbrooke, who, while more accustomed to the way Milosevic operated, apparently did not have as good a grasp of the situation in the case of Kosovo as he did during the negotiations in Dayton for Bosnia-Herzegovina. Holbrooke's experience, while making him indispensable due to his previous exposure to Milosevic, also made him apply to the simple use of analogies, where he assumed that Milosevic would act in the same way as Bosnia and thus ignored the greater implications of Kosovo for Serbs. The idea behind this Bosnia-Kosovo analogy was that Milosevic would easily acquiesce with enough incentive backed up with serious intent. This, however, ignored the fact that letting Bosnia go was not very problematic for Milosevic since it was a money- and resource-sucking experience. Additionally, Kosovo had been a recognized province of Serbia; Bosnia, while included in Milosevic's greater Serbia plan, was an independent nation from before and therefore did not have as much significance for Serbs. Also, as has already been extensively discussed within this thesis as well, the historical significance of Kosovo for Serbian identity was still very much at the fore, and at the time of Rambouillet Milosevic was allied with Šešelj (the militant Serbian nationalist) and needed to keep up appearances of nationalism in order to retain/gain the votes of the ultranationalist Serbians (Hehir, 2006, 75).

Former NATO Secretary-General Javier Solana, writing for Foreign Affairs in the aftermath of NATO's actions in Kosovo, states that NATO's operation here was the first time that a defensive alliance such as this one had engaged in military action to prevent further humanitarian tragedy outside its own borders. He draws attention to the fact that this action was not for political or territorial gain/loss, it was to "protect the values on which the alliance was founded" (Solana, 1999, 114). After lauding the efforts of the negotiators at Dayton whereby the current system in former Yugoslavia was arranged, Solana considers the situation in Kosovo and touches on the various diplomatic efforts that had been expended in order to come to a peaceful solution for the situation there and ends by mentioning the fact that Milosevic had been engaged in subtle military action against Albanians throughout the time negotiations were being arranged, and his eventual rejection of the Rambouillet agreement showed that he "had never intended to accept a political

solution” (Solana, 1999, 117). Thus, a military one was brought to him in the shape of NATO’s Operation Allied Force on March 24, 1999. Solana mentions the risks associated with taking this action, especially in considering that it would be a violation of the sovereignty of Serbia as well as the costs to civilian lives despite meticulous planning, in addition to the strain in relations with Russia. Nevertheless, it was decided that the risks were worth taking as not doing so “would have meant that the Atlantic community legitimized ethnic cleansing in its immediate neighborhood” (Solana, 1999, 117). The problem faced by NATO at this point was that if it did not act, this very inaction would have undermined its own policies, the credibility of Western institutions, and the transatlantic relationship (Solana, 1999, 118). In sum, Solana states that the reason for the intervention was because Milosevic did not comply with and actually rejected the agreements that had been prepared for a settlement of the Kosovo issue. That Solana mentions NATO credibility and inaction undermining the community’s own policies brings to mind Chomsky’s accusation that this intervention was a way to save face, since Milosevic had snubbed NATO and the UN once already.

The Kosovo intervention’s questionable justifications also had consequences in completely different areas of international relations, unforeseen but potent consequences in the nuclear proliferation field especially. As the only superpower in the world, the United States frequently occupies the role of leading intervention, although in recent times the US has been trying to step down and attempting to get locals to take over the way things are run. Nonetheless, the US’ overbearing presence everywhere brings into question the legitimacy of any and all operations that are done. Chomsky provides the most comprehensive account about the illegitimacy of US actions, which will be detailed here despite misgivings about the fact that Chomsky is almost virulently anti-American when examining US justifications for its actions.

Part of the problem caused by the US being so active was that other nations had come to fear that they might be next in line for some sort of intervention. Chomsky gives the example of India and its nuclear weapons. India, now a nuclear country and one who had refused to sign the non-proliferation agreement ever since its inception in the 1970s, was already in a precarious position security-wise, especially when keeping in mind that it is a country that borders China and Pakistan,

two countries also with nuclear capacity. Chomsky quotes from John Mearsheimer who, in an article for the NY Times, had written that it was US action in the Persian Gulf war in 1991 and the Kosovo intervention that had made India even more determined to become a nuclear country. Mearsheimer writes, “The United States easily beat Iraq and Serbia by exploiting its enormous advantage in conventional arms. Had either foe possessed nuclear weapons, the United States might not have gone to war. This lesson was not lost on India” (2000, para. 6). Chomsky then adds that the additional problem here was that peaceful options existed for both cases, particularly for the Kosovo intervention, but were not pursued (2006, 75).

The US is rather famous for not signing, and if signed, not ratifying treaties and conventions on human rights. The torture convention was unique, in this sense, because it was ratified although with amendments by the Senate. The intervention in Kosovo was also unique, because the intervention was followed by a group of international lawyers wanting to press charges against NATO for war crimes in Yugoslavia (Serbia) and to investigate the bombing campaign in Serbia. They presented documentation from major human rights organizations, as well as admissions from NATO commanders, as grounds for an investigation. However, the prosecutors rejected the request without investigation, in violation of the statutes of the tribunal, stating that they accepted NATO assurances of good faith. Yugoslavia then brought charges to the World Court, invoking the Genocide Convention. The US government excused itself, on grounds of its self-exclusion from charges of genocide. The court, keeping to its statutes, accepted this argument (Chomsky, 2006, 64).

Considering the words of the Court (International Court of Justice) directly, the ICJ first concerns itself with whether it has jurisdiction to oversee the case. Determining that it does, the ICJ then goes on to consider the accusations brought by the Federal Republic of Yugoslavia (FRY) against Belgium (the only country that bothered to argue that what NATO had done was in line with the principles of humanitarian intervention, such as they exist). Part of FRY’s accusation against Belgium was that it had violated Article II of the Genocide Convention because of the “sustained and intensive bombing of the whole of its territory, including the most heavily populated areas”, adding that it was the Yugoslav nation as a whole which was targeted and that the

use of certain weapons whose long-term hazards to health and the environment are already known, and the destruction of the largest part of the country's power supply system, with catastrophic consequences of which the Respondent must be aware, "imply the intent to destroy, in whole or in part", the Yugoslav national group as such (Provisional Measures, 1999, 72).

Belgium, in its turn, rejects the claim of intent to destroy the whole of the group, with which the Court agrees, saying, "The Court considers therefore that it is not in a position to find, at this stage of the proceedings, that the acts imputed by Yugoslavia to Belgium are capable of coming within the provisions of the Genocide Convention". In this way, the Court rejects the basis of jurisdiction provided by Article IX of the Convention which the FRY had later added. The Court's judgement is rather confusing, in the sense that while it says it does not have the jurisdiction invoked by the FRY and thus cannot indicate any provisional measures for Belgium, it still reserves the right to consider the questions brought before it by the two countries. Dissenting opinions to the Court's decision were varied in their considerations, especially about the time frame that had been brought by FRY and on the jurisdiction of the Court to consider the case. Judge Kreca was one who had a more interesting point in his dissent, stating that the Court should have at least brought clarity to whether the FRY was to be considered a member of the UN, and thus also a signatory to the Statute of the ICJ. The Judge also takes issue with the jurisdiction decision of the Court, stating that the Court should have declared itself to have jurisdiction considering the fact that the Applicant of the case was going to be moving on from that basis, that the invoking of additional grounds for consideration did not transform the character of the case before the Court, and that the additional grounds actually afforded a basis on which the Court's jurisdiction could have been prima facie established (Provisional Measures, 1999, 77-78).

Aside from the legal concerns, there were also problems with how the facts on the ground were and whether the NATO intervention was justified in its use of 'humanitarian' because there was not actually ethnic cleansing happening prior to the intervention. While the KLA had been engaging in increasingly violent attacks against both Serbs and Albanians, the Serb government had not responded to these attacks with the extreme force it could have. However, specific massacres, especially the senseless massacre in Racak where the Serb authorities maintained

that they had been looking for KLA terrorists, allowed the West the trigger it needed in order to step in. For what purpose and in whose interest, then, become the questions that need answers. Chomsky considers the NATO action to have been taken as a way of getting rid of the final thorn in the side of the West--Milosevic had to be eliminated. Reasons given for this are the fact that he had come to undermine the “credibility of American and European diplomacy and of NATO’s willpower” (Chomsky, 2003, 57). Europe had already suffered at the hands of Yugoslavia four years prior with the 1992-1995 war when it had been able to do precisely nothing and had handed the reins of the operation over to the Americans. The Americans did not suffer at the time, but were inept with the agreement that was arranged, an agreement which left out Kosovo.

An important source for the illegitimacy of NATO’s actions comes from NATO Commander Wesley Clark, who is quoted extensively by Chomsky. Clark states that the escalation in Serbia’s activities against the Albanians was completely predictable, and that he had actually reported this to Secretary of State Madeleine Albright, who of course makes no mention of this in her autobiography; indeed, her entire account of the Kosovo intervention is an echo of Blair’s statements on the matter saying that it was a fight of good versus evil and that Milosevic, scum that he was, needed to be eliminated. All of the effort expended on the intervention and its justification was followed by a total lack of concern for what would happen in 1999 in Kosovo after the bombing campaign and the types of institutions that would be set up, the legitimacy that was required for the operation of these institutions, and the people who would compose these institutions and where they would come from. Chomsky writes, “Four years later, Europe and the US had lost interest. Half of the Kosovars live in poverty. Radical Islamists have capitalized ‘on the ill feelings produced by the international community’s negligent behavior’ (...)” (2003, 58). This situation also provides evidence for the adage of history repeating itself, and that the US really does not learn from past lessons (1980s Afghanistan and the creation of the Taliban come to mind).

The greatest legitimation for intervention would have been the increasing intimidation, dismissals, and other violations that were ongoing during the 1993-1995 war and which were ignored in the Dayton Accords. With this war in mind, there was every reason to believe that ethnic cleansing on the scale of Bosnia would

be repeated; however, in the case of Kosovo, all actions the Serbs took came as a response to the attacks of the KLA. In order to consider the intervention to be legitimate, it would have been necessary for NATO to address the leaders of the KLA as well, and not declassify them as terrorists. The Serbs' capacity for cruelty had been fully demonstrated in the previous Balkan war, but there was no evidence of that level of violence in Kosovo yet. This point is further underlined when considering that while the case against Milosevic was built around the various massacres in Kosovo, they were still not enough to indict him and thus the Srebrenica massacre was added. What Milosevic was held responsible for was that he did not maintain control over the Bosnian Serb paramilitaries who were committing the atrocities--as the leader of a neighboring nation, it was his duty to uphold order insofar as he could have. Milosevic, obviously, did nothing of the sort, although this claim remains "unproven" because of a lack of clear evidence. Lastly, the oppression faced by Kosovar Albanians was true enough, but it had been going on since the end of the 1980s and could have been stopped by being handled during the Dayton Accords. Understandably, everyone was much more concerned about getting the killing to stop to pay much attention to anything else, but it was this very lack of attention that could be blamed for causing the Kosovo crisis to occur in the first place. In fact, it was Kosovo that started the entire conflict, so leaving it aside when attempting a peace agreement seems the ultimate fallacy.

To conclude, the main question of this part had been whether the NATO intervention in Kosovo had been justified. By coming up with the "illegal but legitimate" phrase, the intervention was presented as being justified, because there had been a serious humanitarian crisis going on in Kosovo which the international community was obligated to end. Considering the progression of events in Kosovo and the fact that Milosevic became bolder after the intervention points to the fact that even this phrase is untrue. The end result is that the NATO intervention was not only illegal, as a humanitarian intervention is supposed to be, but also illegitimate, because there was no actual basis for the accusations of ethnic cleansing that had been going on before the NATO attack began. The intervention only gains justification when considering the fact that ethnic cleansing really did begin once the intervention occurred, which simply transforms the humanitarian intervention concept into the oxymoron that human rights activists have been saying it is. Thus,

NATO's Kosovo intervention, which was supposed to stop ethnic cleansing, caused ethnic cleansing; the entire operation could have been avoided, in fact, if more balanced diplomatic acts had been taken by the group involved in the operation. This is not to argue that the situation should have been left as it was--leaving the situation alone would have been a crime as well, since there was ongoing discrimination and low-level violence. Peaceful options for a resolution did exist, however, and not all avenues were exhausted prior to the commencement of the intervention.

CHAPTER V

RESPONSIBILITY TO PROTECT

Following the debacles of various interventions throughout the 1990s, and especially those in Rwanda and Kosovo, it became obvious that there were serious problems about the path taken to decide on an intervention, how it was to be conducted, and what was to be done upon its ending. Aside from the logistics and military aspects of intervention, the politics and legalities about it also came to be questioned, and a general will to set up a new norm of responding to events that shock the human conscience appeared.

So far in the thesis, only humanitarian intervention has been mentioned as the concept of interest, but when considering the term in legal speak, one must say the “right of humanitarian intervention”. After looking at the full form of this term, the problems associated with it become far more obvious. I have already gone into details about the issues associated with this term, which are actually worsened when combined with the idea of a ‘right’ to intervene. The biggest issue here is that right implies discretion on the part of those who intervene--countries can pick and choose where they wish to act, which means that a humanitarian crisis can actually be ignored while another receives priority. When there are no set rules for intervention and discretion can be used, accusations of self-serving agendas and conflicts of interest abound with entropic consequences where order is actually of utmost necessity and priority.

The second problem that comes with the ‘right to intervene’ is the protection of and priority given to sovereignty. Humanitarian intervention is a way of working around the sovereignty problem, but calling it a right delegitimized the well-intention that might have been present for any particular action. Offending countries can use the excuse of sovereignty to continue their actions with impunity because they know that sovereignty trumps many of the excuses that could be brought against their actions. That many nations have only been recently formed (within the past century for most, in fact) also makes it difficult to diminish sovereignty’s

importance--rather naturally, newly minted countries based on the concept of self-determination do not want anything that could threaten their existence.

The norm of non-intervention is embedded into the UN Charter; Article 2(4) states, "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."

Continuing along this vein, Article 2(7) makes the non-intervention idea even stronger by obstructing any infringements on states' domestic jurisdictions. Given these two articles, the immunity afforded by sovereignty is powerful. Contrasting this with the humanitarian suffering and the responsibility of the United Nations to protect and maintain international peace and security, the conflict present between the norm of non-intervention and the newly embraced responsibility becomes obvious. When considering the additional fact that recently there have been more intrastate wars than interstate wars, the sacredness of sovereignty becomes even more troublesome. As such, it became necessary to formulate a new term in order to balance sovereignty while also helping to keep people safe. In addition, the interventions in Rwanda and Kosovo showed that only discussing the legal aspects of an intervention was not enough, an operation's legitimacy also needed to be considered.

For this reason, the International Commission on Intervention and State Sovereignty (ICISS) was created in order to develop a new norm that could be used which would address and solve the deficiencies of and problems caused by the 'right of intervention'. The new term arrived at was the "responsibility to protect" (R2P). In a sense, R2P was created as a result of and a response to the failings of the humanitarian intervention. To sum up these (aforementioned and other) failings:

- a) "humanitarian" as a misconception--nothing humanitarian about the bombing of civilian targets in Serbia during the 1999 intervention when simply bombing Kosovo was not enough to stop Serbian activities of ethnic cleansing
- b) Lack of discussion on sovereignty--as the "fundamental principle of international order" (Stanley Foundation, 2000, 2), sovereignty is to be respected and maintained except in cases of self-defense. But what happens when you have massive human rights violations? Does sovereignty still trump humanity?

c) 'right' to intervene--brings up idea of hierarchy and possibility of discretion. Hierarchy implies that some places are more important than others and thus deserve intervention. Discretion implies that the international community can decide where and when it is going to intervene, with the question of "it is so far away that it will not affect me, so why bother?" constantly lacking an answer.

Theoretically speaking, all of the above points are a realist consideration of global politics and balance of power, which does not allow for a very nuanced view of the situation as constructivism does. Therefore, a constructivist approach will be adopted here, which seems appropriate as this theory appears to be the inherent theory of R2P, since R2P's scope is much larger than the solely ends-concentrated HI. By adding identity and purpose, constructivism's mainstays, and also by changing the way one considers the constitutive factors of HI, R2P allows for a more wholesome reading of and approach to a particular situation, which then helps in shaping a better process and procedure for a military intervention.

The advantages of R2P are numerous, when considering the points detailed above as well as other, additional factors. To once again touch on an issue previously mentioned, if we are to only consider semantics, the removal of "humanitarian" also removes any illusions that might be present about pure intentions and provides for a more truthful view of the matter at hand. While the goal is to establish humane circumstances once again, the means--once an intervention begins--are in no way humanitarian. Also, the aim of an intervention is "profoundly negative in character" (Walzer, 2004, 69) as well--their point is not to set up some social practice or arrangement such as democracy that we think to be best for a particular country, it is to "put a stop to actions that, to use an old-fashioned but accurate phrase, "shock the conscience" of humankind" (Walzer, 2004, 69). Because the use of the word humanitarian puts a slightly positive spin on what will be happening, R2P's lack of such aesthetic words allows for an immediate confrontation with the implications of what is to be done. Granted, both responsibility and protect are also terms with positive connotations, but they are much weightier in their implications than simple humanitarianism.

Also, humanitarian intervention is much more single-minded in its pursuit of the goal of settling a problematic circumstance--the point is to go in, remove the negative actor/actors, and then get out as soon as possible. Essentially, "rescue the

people in trouble from their troublers, and let them get on with their lives” (Walzer, 2004, 70). However, what happens when there is no single person who is behind the cause of all the troubles? What if there is an endemic problem, such as a failed state situation, or a terrorist group that has taken over? How, then, can the single-minded pursuit of removing the negative factor and beating it out of the country work? Lacking this singular persona on whom to concentrate all force, humanitarian intervention becomes untenable, because it provides neither the necessary military response nor the much more relevant aid for the re-establishment of institutions, be they social, economic, or political.

The second advantage gained by the switch to R2P is the shift in focus from the state to the victim by way of discarding the classical understanding of sovereignty. Sovereignty remains a factor, of course--it is highly unlikely that any agreement could be arrived at if sovereignty were removed from the equation. However, by reconfiguring sovereignty as the responsibilities and protection of the state owed to its people, the victims’ point of view comes to the fore, and also gives more allowance to the international community if a time comes for an intervention where an offending state is engaged in abusive behavior against individuals/groups. In connection with this comes the third advantage of R2P, which is that the discretion inherent to HI is removed, and all states are held responsible, and therefore accountable, for their actions (Arbour, 2008, 449-450). Sovereignty construed as responsibility means that there are certain things a state owes to its people; applying responsibility to the international community means that the international community now has an obligation to act in certain types of situations, and cannot avoid this responsibility by arguing that it is not obligated to act. Also, this norm allows for a more equal distribution of responsibility, meaning neighboring states do not have to be the ones to bear the onus of providing aid to (whatever it may comprise) or intervening in an offending country. While they may still be the primary ones to lead an intervention because of their better grasp of the local culture (Walzer, 2004, 69), R2P as an international norm means that everyone must somehow contribute. This is similar to the Genocide Convention where states are obligated to take action if it is a case of genocide. The problem with this assignment of responsibility was observed in the case of Rwanda, however, when

states refused to call what was happening in the country ‘genocide’ in order to avoid shouldering said responsibility.

The one remaining problem of HI that R2P also does not address very well is that of determining a certain set of standards that is to be considered when there is a potential threat to international security comprised of circumstances which shock the conscience of humankind. The “knowing when we see it” approach used in HI is not particularly healthy, nor helpful given the costs to the population who will have already suffered injustices, as well as the eventual costs to the international community when the time comes for a clean up and rebuilding. R2P does begin to set up more instances of when military intervention is appropriate but there remain problems in the approach to determining what requires/necessitates intervention.

Having provided a comparative view of R2P and HI, one must also afford R2P its own depiction. The ‘responsibility to protect’ came out of a report prepared by the International Commission on Intervention and State Sovereignty (ICISS) in 2001, established by funds from the government of Canada and a number of major foundations. The members of the Commission are also of various backgrounds, and the methodology followed within the compilation of the report takes into account the views of various parties and states in order to provide as holistic and unanimous an opinion as possible. Roundtable discussions were conducted with representatives from governments, inter- and non-governmental organizations, civil society institutions, and think tanks (ICISS, 2001, ix). From the beginning the report summarizes what R2P is about: first it summarizes the core principles of R2P by detailing its basic principles, foundations, elements, and priorities; the report then relates the R2P principles of a military intervention by pointing out the just cause threshold, precautionary principles, right authority, and the operational principles.

The core principle of R2P is the fundamental idea that sovereignty is a responsibility, and in the case of the state, this is the responsibility to protect its own population, from external and internal harm. In the case of events shocking to the human conscience happening and the state being unwilling or unable to respond, the international community then has the responsibility to step in and take charge. Implicitly the meaning here is that the principle of non-intervention gives way to that of international responsibility to protect. Foundations for R2P are listed as coming from a variety of international law sources as well as from the obligations

inherent to sovereignty. The most interesting part of the foundations is that the Commission lists state, regional organization and Security Council practice as beginning to form a new principle of customary international law, while admitting that there is not yet a “sufficiently strong basis to claim” thus (ICISS Report, 2001, para. 2.24). Essentially, for the textual basis of R2P per se, one must look to the various declarations, treaties, and laws related to actions that are required in cases of humanitarian crises.

The elements of R2P are where a serious break with humanitarian intervention happens and where we are afforded a much more encompassing concept, aware of the implications of its actions and wary of the consequences of intervention. R2P is made up of a tripartite conception where there is the responsibility to prevent, the responsibility to react, and the responsibility to rebuild. The mere admittance and enshrinement of the prevention aspect is already a huge step forward from the lowly precedent that is humanitarian intervention, and shows that lessons were (hopefully) learned from cases such as Kosovo. The prevention part of the elements is emphasized over and over again; it is also listed in the priorities of the definition--the point of R2P is to prevent a situation from worsening and to exhaust all resources in this thread before moving on to a reactionary phase. Prevention entails addressing the root and direct causes of the conflict as well as the man-made crises; reacting is to respond in an appropriate measure to the situation at hand. Also important here is that reaction does not immediately entail the use of military intervention--once again, all non-coercive and non-forcible means must be exhausted before using military force to stop the violent and unstable situation in a country. The third leg of R2P, that of rebuilding, is to provide assistance for recovery, reconstruction, and reconciliation. From these three we can also see the steps that have been taken to advance R2P as a concept much further than HI, especially with regards to reconciliation. While NATO might have helped with reconstruction some in the case of Kosovo, there was very little done for recovery and reconciliation, evidenced today by the existence of enclaves where Serbs have secluded themselves from Albanians and from the ongoing practice of driving without license plates in order not to be tagged as being from either group while going from work to home and vice versa. The abysmal lack of planning on the part

of HI in Kosovo is, admittedly, part and parcel of how HI operates; had R2P not addressed these issues, R2P's validity would also be open to vilification.

In terms of solutions, once all peaceful and non-forcible means have been exhausted and the time comes for military intervention, R2P sets out just cause thresholds, precautionary principles, right authority, and operational principles in order to create a solid basis for determining whether military intervention is necessary. First, the Commissioners argue that there is a need to regard military intervention as being an "exceptional and extraordinary measure" and that "exceptions to the principle of non-intervention should be limited" (ICISS Report, 2001, 32, para. 4.18). With this, there is a possibility of limiting the danger that actions will be taken in self-interest; the occasions for intervention are then further limited with the addition of the just cause thresholds, which state that there must be either a large scale loss of life or large scale ethnic cleansing happening in order to initiate an intervention. In both cases, the loss of life or ethnic cleansing can be either actual or apprehended, and the method of carrying out said actions is not subject to constraint (32, para. 4.19). The one thing that the Commission does not quantify is what they mean by large scale, stating that opinions may differ in marginal cases where small atrocities build up into larger ones. The caveat is that "military action can be legitimate as an anticipatory measure in response to clear evidence of likely large scale killing" (33, para. 4.21). The aftereffects of Kosovo can be clearly seen here--part of the arguments against the legitimacy of NATO action was that while there were small instances of atrocities being committed by the Serbs against Albanians, it was not of enough scope to merit the military response it got. To go back to the just cause thresholds, the Commission's report makes it very clear that anything less than outright killing or ethnic cleansing cannot qualify as grounds for military intervention--less coercive actions may be considered, but military intervention is not allowed in cases of discrimination or systematic repression or imprisonment.

The precautionary principles elucidated by the Commission include those of right intention, last resort, proportional means, and reasonable prospects. Right intention is just what it says--the intention is to go in to avert or halt an ongoing humanitarian crisis, not to change borders or help a small group's claim to self-determination. Interestingly, the report states that the "overthrow of regimes is not,

as such, a legitimate objective, although disabling that regime's capacity to harm its own people may be essential to discharging the mandate of protection" (35, para. 4.33). It is the argument of this author that the reason for stating this so specifically was also because of Kosovo--Kosovo wanted independence and sovereignty for itself; a few years after the intervention, a movement called "Self-Determination" (Vetevendosje!) appeared in response to what was regarded as encroachment on the part of UN and EU institutions on Kosovar sovereignty (sovereignty as control, not responsibility). In terms of assuring that the right intention is always kept in mind, the Commission makes the case that there should be a collective or multilateral force rather than a single-country one. The idea of last resort has already been mentioned with the arm of responsibility to prevent, and even with react--all diplomatic and non-military means must have been explored and exhausted before moving on to a military approach. The Commission does state that there probably will not be enough time to go through every single non-military means, but it is still required that there be reasonable grounds to believe that if these measures had been attempted, they would not have succeeded (36, para. 4.37). Proportional means set limits for the scope of the military intervention, in a sense--the "scale, duration and intensity of the planned military intervention should be the minimum necessary to secure the humanitarian objective in question", in short, the means have to match the ends, and also be in line with the "magnitude of the original provocation" (37, para. 4.39). Obviously, the interveners should act in accordance with the rules of international humanitarian law themselves. Reasonable prospects means that the military intervention should have a reasonable chance of succeeding, meaning it should be able to halt or avert the atrocity/suffering in progress. The Commission is very clear on the fact that if actual protection cannot be established or if the consequences are likely to be worse if an intervention occurs than what the situation currently is, military intervention is not justified. The Commission makes the note here that this essentially precludes any intervention in the permanent members of the Security Council due to the difficulty of achieving success against these powers and the low possibility of avoiding a larger conflict if engaged with one of the five.

The next point the Commission touches on is the right authority that should have the last say in determining whether an intervention of a military nature should be conducted or not. To be brief, said right authority is the United Nations Security

Council, based on various reasons but mostly due to Article 24 of the Charter where the Security Council is conferred the primary responsibility to make sure that swift and effective action is taken by the UN for the maintenance of international peace and security (47, para. 6.3). The second point the Commission makes with the right authority is that efforts should not be expended on finding alternatives to the Security Council, but rather on improving it so that decisions can be made more efficiently and effectively. The one interesting bit about the Security Council is the Commission's take on the right of the veto for the permanent members of the Council. The Commission offers the idea that a "permanent member, in matters where its vital national interests were not claimed to be involved, would not use its veto to obstruct the passage of what would otherwise be a majority resolution" (51, para. 6.21). This is a type of "constructive abstention", where the majority powers do not necessarily approve but do not obstruct an intervention from happening and a catastrophe from continuing by absolutely rejecting it. Admitting that the Security Council may not always reach an agreement, the Commission then lists the General Assembly and regional or sub-regional organizations as potential alternatives. The regional and sub-regional organizations have the necessity to seek subsequent authorization from the Security Council following an intervention. If none of these institutions or organizations functioned, then single countries could potentially act in situations of the human conscience shocking kind, but this would obviously harm the credibility and stature of the UN as well as its constituent parts. Kosovo could be presented as a trigger for this principle of authority as well. It was obvious that with China and Russia's threat of a veto, no resolution to act would come out of the Security Council, therefore NATO came to the fore as a regional organization. Its intervention received subsequent approval from the Security Council in the shape of Resolution 1244, negotiated by Russia in order to end the violence and passing with 14 votes in favor and China abstaining. Interesting here is the fact that NATO acted as a regional organization in a region that was not actually included within NATO's body at the time.

The final part about military intervention under R2P is the operational principles on how the military intervention is to be conducted. Part of the genius of R2P is that it states the obvious about what should be done but which becomes obfuscated in the heat of the moment of an intervention. As such, the first principle

the R2P report details is that there be clear objectives and a clean cut mandate at all times with matching resources. The second point is that there should be a common military approach among all parties involved with a unity of command as well as clear and unequivocal communications and chain of command. Third, there must be an acceptance of limitations, incrementalism and gradualism when applying force as the objective is to protect a population and not defeat a state. Fourth, rules of engagement must be precise, reflect proportionality, and be completely in accordance with international humanitarian law. Fifth, there must be acceptance that protection of the forces intervening cannot become the principal objective, which is why the first point is so hammered on--the main idea is to save the population under threat, not to act with such restraint that despite sending in troops nothing is being done to save the locals. Lastly, there must be coordination with humanitarian organizations--this has a few reasons behind it, one being that humanitarian organizations are more likely to have access to victims and can assess the damages being done, where they are concentrated and map out what type of response might be necessary better than an international organization swooping in from the top.

This report was written and presented in 2001, and it was not until the World Summit in 2005 that the UN did something concrete about it. During this period the Commissioners went around in an attempt to “sell” the idea, and were relatively successful in getting R2P up and running as the concept to transition to in the face of the problems of humanitarian intervention. It had to concede much when it came to getting a consensus from all countries, therefore what went into effect after 2005 was a watered-down version of the original R2P document. The changes made to the R2P report can be summarized as follows: the Summit outcome document’s wording made it so that the host state had more responsibility as compared to the international society in the maintenance of stability and peace; the original just cause threshold of massive human rights violations was overlooked in favor of genocide, ethnic cleansing, war crimes, and crimes against humanity; as part of host state’s inability to carry out its responsibilities, the relatively light “unable or unwilling” was upped to “manifest failure” whereby the threshold was significantly increased; the “obligation” to act when the threshold gets crossed was also changed to the much lighter “responsibility”; the outcome document placed R2P squarely in the domain of the Security Council but the language was ambiguous enough that

unauthorized intervention remained a possibility; and lastly, the proposal of limiting the veto was not even mentioned (Bellamy, 2006, 165-168). While it is a potential adage that “ambiguity is often the price of consensus” (Welsh et al, 2002, 507), in this case the presence of ambiguity simply points to a concept that might be applied but generally is not. Recent events in Libya and Syria help to demonstrate this.

After the problems faced by the Security Council with the Kosovo intervention, where the leaders were in severe disagreement about what the aim of the intervention had been, it had become obvious that a different concept was required which was supplied in the form of the R2P. Problems remained however, because now this concept faced an existential dilemma--when and where would it be applied? After the 2005 World Summit outcome document mentioning R2P and its use in Resolution 1674 a year later regarding the protection of civilians in armed conflict and cooperation between the UN and regional organizations, the R2P was not mentioned until 2011, for Libya. For this instance, R2P was mentioned both in the case of domestic responsibility towards citizens, stating, “Reiterating the responsibility of the Libyan authorities to protect the Libyan population” (UNSC Res 1973, 2011, para. 5) and in the case of international activity in response to the actions of Libyan authorities such as the creation of no-fly zones as well as the authorization of the use of forcible means short of full occupation to protect citizens. Views were divided on how to regard the level of R2P’s success--generally it was regarded as a success because of the lack of vetoes on Resolution 1973; there were 9 votes for and 5 countries abstained, Russia and China prominently among them. The other three who abstained at the time were Brazil, India, and Germany, who must be pointed out because they are emerging states with the potential to level the playing field power. It should be mentioned that Russia and China abstaining most likely occurred because of the approval given to the military intervention by neighboring countries and regional organizations. Additionally, there are allegations that Russia agreed to not veto the resolution on condition that “it receive support for a Commonwealth of Independent States peacekeeping mission in Georgia; and China acquiesced because the United States promised it support for a World Bank loan in return” (Hehir, 2013, 143). Regardless of the politics of the matter, practically, it appeared that R2P had finally found its place and was being employed.

However, the Libya case appears to be more of an exception than a rule due to a number of circumstances that eased the use of R2P for military intervention. Calls were made from the beginning that the Libyan authorities were not acting in the responsible manner they were supposed to on the part of the Secretary-General and his advisers; this helped frame the upcoming debate (Bellamy, 2011, 264-265). There was an immediate identification of the potential for mass atrocities; additionally, not since Rwanda had a regime been so explicit about its intention to engage in crimes against humanity. Also, the time frame was very short--none of the risk-assessment frameworks flagged Libya as being on the verge of sliding into massive human rights violations phase, but the rapidity of gains and losses on both sides problematized the response time so much that in resolutions leading up to UNSC Resolution 1973 many things were thrown together. Also, the role of regional organizations in approving the intervention cannot be underestimated--it is argued that "without their support, China and Russia would have certainly vetoed Resolution 1973" (Bellamy, 2011, 266). The lesson to be learned by R2P from the case of Libya is that if it is truly to be a concept based on a three-pronged approach of prevent, react, and rebuild, it has to pay more attention during the prevention part in order to avoid a descent into such acute situations as to require immediate decision-making without enough information (Bellamy, 2011, 269).

Syria, on the other hand, appears to be a much more difficult assessment when it comes to the use of the R2P. Compared to Libya, none of the consensus that exists in terms of regional organizations, neighboring countries, or interests can be found. The Syrian situation is most remarkable for the fact that while certainly qualifying as a conscience-shocking situation, nothing was being enacted to put an end to this state of affairs. Starting out by simply censuring the Assad regime for its actions, no country has done anything to stop the massive murders. The Security Council has been unable to act because of the vetoes by China and Russia on any resolution that might involve military involvement in Syria. The General Assembly cannot act because of a lack of consensus. No regional organization has come to the fore due to the presence and threat of Daesh. Considering the individual response of countries, with the exception of neighboring countries such as Turkey, which has had to suffer under the enormous influx of refugees, and Iran, most countries of the MENA are inadequate in terms of offering safe havens within themselves or simply

plans for how to end the conflict there. Western countries are so far away that they can simply ignore the atrocious situation because it did not, at first, pose a direct threat to them. Their only concern appeared with the presence of foreign fighters joining Daesh who were later returning home--how were they to be reintegrated into society? The rise of Daesh changed every balance, of course, and led to the current situation, where the USA is bombing certain areas, Russia is bombing certain areas, neither of them are doing anything to ameliorate the situation of the people on the ground, and are acting in opposition to each other because the two have different stakes in the game. In the case of R2P in Syria, the political hurdles have yet to be overcome, let alone the legal ones of arguing whether the situation in Syria qualifies as a humanitarian crisis requiring intervention. Given the three pillars of R2P, prevention certainly did not happen--it is debatable whether anything was done to initiate such a phase. No reaction can be detected, with the exception of the past few months when there has been a more active international response. And of course, no rebuilding can be expected until the reacting is finished, but given the track record of a lack of rebuilding, the future of R2P in Syria, if not for other places in the globe, looks quite bleak.

In defense of R2P, one of its requirements is that there be a reasonable prospect of success. Leaving aside the subjectiveness of success, the Syrian situation as it stands today seems rather impossible to do anything about while expecting there to be any reasonable chance of success. Arguing that the situation might not have gotten so bad had R2P been used from the start is also unhelpful. Certainly more could have been done to prevent the worsening of the situation to the point it is at today, but the general instability of the region with revolutions and anti-revolutions throughout the MENA region, the ongoing unpredictability of Iraq next door, Iran's machinations in its desire to form a Shii crescent in the region, Turkey's wishes to deter the formation of a Kurdish statelet, and the presence of terrorist organizations such as Daesh also make this a very difficult argument to maintain. It remains to be seen whether what is going on today with Russia bombing targets and the US also dropping bombs will have a useful effect, or whether it will simply make the situation worse. What this worse would look like is a scary thought to have. Despite these arguments to demonstrate that R2P could not have been used in

this case anyway, it unfortunately appears that R2P can be compared to a stillborn baby--dead on arrival.

CHAPTER VI

CONCLUSION

The aim of this study was to evaluate the justifications of NATO's humanitarian intervention in Kosovo in 1999 through a careful examination of the terms ethnic cleansing and humanitarian intervention. Following the detailed study done on both of these terms and the revelation that even the international community regarded the Kosovo intervention as "illegal but legitimate", it is the conclusion of this study that NATO's actions in Kosovo were not only illegal but also illegitimate, because the justifications NATO had given for carrying out this intervention were not true at the time of the actions taken. The ethnic cleansing NATO claimed to want to abort actually increased once the intervention began, with more Albanians displaced following the start of aerial bombardment than before. There is additional purported evidence that civilian targets were included in the NATO bombardment, purported because of a lack of a capability to verify the evidence on the part of the study. As such, while NATO's actions were legalized ex post facto through UN Resolution 1244, even this was botched because the international community eventually lost interest and did not follow through with the requirements it had brought the two sides (Serbs and Albanians, but more specifically, Milosevic and the KLA) to agree on.

The study began with an examination of the history of Kosovo, doing so in a manner aware of the complexities of the region and the of consequences historical events on the formation of Serbian identity. As such, after giving an account of the 1389 Battle of Kosovo where the Serbs lost to the Ottomans through the choice of Serbian Prince Lazar, who is mythologized as a Christ-like figure promised a kingdom heaven, the discussion was moved ahead by about 600 years to Tito's Yugoslavia, post-World War II, and Kosovo's changing status during Tito's reign was presented. Attention was then shifted to Milosevic and the consequences of his rule on the entire region. Invoking powerful nationalist sentiment by using the chosen trauma of Serbs' constant victimhood, Milosevic upset the flimsy balance in Yugoslavia and caused this strangely communist state to divide into its constituent

republics in the bloodiest way imaginable. Kosovo also went through many changes at this time--losing its autonomy to Serbia once Milosevic came to power, becoming a trigger for starting the ethnic conflict, being governed by the parallel institutions set up by Ibrahim Rugova's non-violent movement, and finally engaging in its own ethnic conflict between 1998-1999 when the more aggressive Kosovo Liberation Army rose to prominence. The historical discussion ended at the point of the international community deciding what to do in Kosovo.

Following the history of Kosovo was the discussion of ethnic cleansing. This chapter began with an account of ethnicity first, taking up whether ethnicity was primordial or instrumental, and coming to the conclusion that it was somewhere in the middle. After a survey of the various definitions of ethnicity, intermittently spruced with the application of particular aspects to the case of Kosovo, a working definition of ethnicity was provided for the purposes of this thesis. Ethnicity here is a subjective criteria in an individual's identity, placing this individual within a group, and where the characteristics are shared through common culture and descent. Culture and descent include such factors as religion, language, customs, sense of group origins, and, most importantly, common history and myths. Having settled on this definition, the discussion then moved on to ethnic cleansing in order to attempt to provide a clear and sensible definition for this confused and confusing term. After providing as holistic a review of definitions as possible, the working definition of ethnic cleansing arrived at for the purposes of this study was that ethnic cleansing is deliberate state policy³ for the purposes of territorial homogenization, conducted in two steps: 1) the forced expulsion of a certain group from a given territory based on some aspect of their origin through the use of force, conducted either by state security forces or paramilitaries under state control, followed by 2) the resettlement of the territory now emptied with members of the dominant ethnic group in order to finalize the homogenization. This was followed by the application of this definition to Kosovo to see whether what had happened there could be classified as ethnic cleansing. Evaluating the situation by keeping both steps in mind, the conclusion of this study is that ethnic cleansing had begun in Kosovo, especially after Milosevic began actively discriminating against the Albanian

³ For full disclosure, it is not only states who engage in ethnic cleansing; non-state actors--as seen in the example of Rwanda with Hutus' actions against Tutsis--can engage in ethnic cleansing as well.

population, the majority in the province. Discrimination does not qualify as ethnic cleansing and is strictly within the purview of domestic jurisdiction. When discrimination spills over into more repressive actions against a specific group and includes violence, then ethnic cleansing can be considered. In the case of Kosovo, the eventual increase in repressive actions against Albanians by Serbs led to the conclusion that ethnic cleansing was happening. The problem was that this violence worsened after an intervention had begun to combat it. Also, ethnic cleansing as homogenization remained incomplete in Kosovo, however, because Milosevic was unable to entice, and force, Serbs to move to Kosovo. He was eventually removed from power by his own people after his too obvious hijacking of elections; he was later indicted at the Hague following his ouster from power. To connect with the subject of the next chapter, the statement that ethnic cleansing occurred is not meant to give support to NATO's justification of its humanitarian intervention.

The chapter following ethnic cleansing concerns itself with humanitarian intervention, attempting to set up a definition for this elusive term as well, and then considering the case of Kosovo to determine whether what had happened could be justified. While brief survey of definitions was provided, no definition of humanitarian intervention for the purposes of this study was given in homage to the fact that any definition made would have something missing and could only be applied to a specific case. However, the general elements of humanitarian intervention definitions are points related to the identity of intervening parties, the means, the motives, consent, and legality. In general, it is an unrelated third party, who uses forcible means, motivated by a humanitarian crisis in the target state, who intervenes usually without the consent of the target state and usually without authorization from an international organization. In this sense, it was a surprising finding that some scholars (Kuwali, Weiss) consider it a requirement that the target state not consent to the intervention and for there to be no authorization by an organization moving forward with the intervention for it to be truly considered humanitarian intervention. Otherwise, the action is taken out of the realm of humanitarian intervention and instead becomes treaty-based intervention.

Following the definitions of humanitarian intervention, the problems of humanitarian intervention were presented, touching on both the problems HI causes states who use it to justify their actions as well as the reciprocal damage caused to

HI by the actions of these states. This part is followed by an examination of the 1999 Kosovo intervention. Kofi Annan had labeled this intervention “illegal but legitimate”, with the illegality not being much of a problem since to be considered humanitarian intervention, it had to be illegal. The legitimate part was cast in doubt, however, upon considering evidence that while there were serious problems of discrimination in Kosovo, they were not to the extent that would justify NATO’s actions at the time of the action. Also, not all peaceful avenues had been exhausted prior to the intervention, with peace agreements brought being unfairly biased. Also, the KLA were just as guilty of atrocities as Milosevic and his forces, and the hypocrisy of US policy was once again observed through the fact that the State Department, who had listed the KLA as a terrorist organization at first, later took it off the list after things started to go downhill for Albanians.

Considering these various issues, this study concludes that NATO’s intervention was not legitimate, especially in point of fact that peaceful options were still available and Milosevic could have been made to comply with them as he was no longer in the solid position he had been four years prior at Dayton, domestically or internationally. This conclusion is justified by the confusing and contradictory statements given by various officials, skewing the chronology of events in one way or another in order to justify the intervention. It is also a gross misconduct of the international community that only a few years after its intervention, it lost interest in Kosovo without really attempting to settle the various sides down in a definitive, democratic, and acceptable (to both Albanians and Serbs) manner. While this sounds like an impossible task, it is not, because it is in the interest of the intervening party to resolve an ongoing conflict quickly and absolutely. In this sense, Kosovo set a terrible precedent for HI, both in the way it was carried out and justified after the fact and in the way no plans had been made from the start for a solution to the problem present in Kosovo.

To conclude, there are a few issues that should be kept in mind when considering an intervention, which this author had hoped the R2P addressed as the current manifestation of HI. The general recommendations given are as follows: that every piece of information be obtained about the situation on the ground, who the sides are, their capabilities and capacities, the balance of power among the groups, etc.; all non-forcible means must be exhausted prior to initiating action; when

military intervention becomes absolutely necessary, there must be a definitive plan of action of when and how to intervene, and what is to be done in the aftermath of the intervention; and finally, as heartless and inhumane as it may sound, specific circumstances of when to intervene should be elucidated. The specific circumstances necessitating an intervention as well as the planning phase are two parts that are admittedly the most difficult to elucidate while also being of utmost importance. If there is no set check-list of when an intervention should occur, mass atrocities could go unchecked in one part of the world while another one immediately receives attention--one thinks of the attention the Syrian refugee crisis has received contrasted with that of the Rohingya peoples. Also, if there are no plans on what to do before initiating the intervention, what is to be done during the intervention, and what is to be done in the aftermath of the intervention, the mass confusion that results becomes a violation of human rights in itself. While the beginning and middle of an intervention might be written up on the fly, the end of an intervention must be planned out as early as possible--this will keep the intervener from being bogged down in the conflict, while also making sure that the sides know that there will be consequences if fighting does not end and assuring the people that a solution is being worked on in order to end the conflict as quickly and painlessly as possible.

It was the fault of this author that at first, due to keeping her thesis limited to a time frame of solely 1998 and 1999, nothing beyond was considered. In terms of further recommendations, however, it is of absolute necessity to mention that the new norm of 'responsibility to protect' (R2P) had been invented in order to address the failings of HI and to provide a more wholesome approach to humanitarian crises. With R2P, control was changed to responsibility, and accountability for action both taken and not taken was added. In this way, not only was a more comprehensive check-list spelled out, military intervention in all its consequent problems was marginalized as much as possible in order to avoid conflicts of interest as well as potential spirals down into even further violence. By way of depicting just cause thresholds, precautionary principles, setting out the right authority, and elucidating operational principles, R2P provides a much clearer approach to military interventions. It remains to be seen, however, whether this new concept will gain any traction: R2P was developed in 2001 but was not made "official" until the World Summit Outcome Document in 2005; it was accredited by its use in

Resolution 1674 in 2006. With the slight exception of reference to R2P in the case of the cyclone-stricken Burma, which was not enough to persuade the Security Council to act in accordance with the responsibilities spelled out in R2P; it was not until the 2011 Libya crisis that R2P once again came into the spotlight. However, even with Libya there were so many outside factors that came in line that it is very difficult to give R2P credit--Libya came to define an exception rather than the rule for R2P. With the later case of Syria, and then the newer one of Yemen, where the international community is grudgingly beginning to act, the foundation that was thought to have been established for R2P was eroded even further. Naming what is currently happening in Syria as any kind of intervention is very difficult.

It is the hope of this author that some sort of international stability will be accomplished, despite the anarchic society in which everyone is operating. The anarchic system is compounded not just by cutthroat politics and legal semantics but also by environmental problems, capacity issues, and with an eye to playing the game as best one can in order to land at the top. How this is to be accomplished remains to be seen; R2P seemed to offer some hope but its lack of use in recent cases also makes that a difficult argument to follow. Hope endures, however, as does humanity's penchant for survival.

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