

The intervention of kosovo and rwanda politics essay



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On 6 April 1994, the plane of the Hutu President Juvenal Habyarimana of Rwanda was shot down and the president was killed. A full-scale war of the government against the Tutsi and moderate Hutu civilian population of Rwanda began (<http://www.pcr.uu.se/database/CustomizedReport/subset.php>, on Rwanda, Conflict Database from the Department of Peace and Conflict Research at the Uppsala University.). Once again, war resumed between the Forces Armees Rwandaises (FAR) and the Rwandan Patriotic Front (RPF). By July 1994, up to 800, 000 civilians had been intentionally murdered in an abominable genocide at a time when UN peacekeepers were in the country, albeit in reduced numbers. Both the civil war and the genocide ended only when the extremist Hutu government and its army fled into exile in Zaire in July 1994 (Adelman and Suhrke 2004, 483). The international community did nothing to prevent the genocide, but in Melvern's parlance – merely conspired to murder by staying aside and waiting for the killings to stop (Melvern 2004, 65 ff.).

There is an extensive scholarship on most of the facts in the Rwandan genocide, as well as a majority of interpretations and evaluations of what occurred. However, there is less analysis of the reasons underpinning the UN Security Council's inaction in the face of such grave human rights violations. In this sense, Barnett's general account of the UN's role in the Rwandan crisis underscored the pattern of self-protection on the side of the member states, which arguably led to a culture of indifference (Barnett 2002). Other scholars have emphasized resource restraints ((Dallaire, quoted in Gambari 2004, 514)) (cf. UN DPKO 1996), the importance of U. S. position towards Rwanda (Power 2002), as well as personality factors in the decision-making

process of the UN Security Council (Melvern 2000, 152-167). All in all, Rwanda has become “ an icon of moral indifference and the failure of responsibility among bystanders” (Adelman and Suhrke 2004, 496).

In the following, the reasons for the non-intervention need to be explored. To get the broad image, the origins of Rwandan ethnic conflict should be briefly outlined. The ethnic differentiation between Tutsis and Hutus dates only from the days of colonization and constitutes a purely artificial problem, invented by Germans who first colonized Rwanda, and reinforced by Belgians who succeeded them. Influenced by the 19th century rationalist thought, Germans and then Belgians found it necessary to categorize the people of Africa. Consequently, they decided that the shorter, darker Hutu should be classified as Bantu, whereas the taller and lighter-skinned Tutsis were closer in type to Europeans and were thus placed among the Hamitic tribes. Regardless of any proofs, the Tutsi people were said to be originated in Ethiopia and to have invaded Rwanda. As they are whiter, they were considered more intelligent than the Hutus and the colonialists thus administered the country through the Tutsi monarchy for decades. This favoritism, which extended throughout all systems including the educational one, inevitably led to the division of the two groups. As Destexhe puts it, if the colonizers had not been tarred by such prejudiced notions, they might have realized that Rwanda simply presented two castes: the minority Tutsi cattle-owner and the Hutu farmers. Both groups intermingled throughout the area, shared the same language, religion, culture and mythology. In short, the Hutus and Tutsis are no ethnically distinct groups and the physical stereotypes do not always hold true (Destexhe 1995, 5f.).

During the colonial period, support was first given to the Tutsi group as the clear intention of the colonizers was to “divide and rule”. At the end of the 1950s, in reaction to Tutsi repeated calls for independence, the Belgians reversed their policy and brought the Hutus to the fore in the framework of representative councils. By transforming the caste system into an ethnic one, the Belgians managed to finally pass the notion of ethnic difference to the Rwandans themselves. Following the overthrow of the Tutsi royal family in 1959 by the Hutus with Belgian support, the first massacres of Tutsi started. Anti-Tutsi feeling grew in the 1970s and 1980s, also urged by the country’s economic problems. By the end of 1980s, the Tutsi having fled to Uganda since the 1959 massacres and their offspring born in exile had formed the Rwandan Patriotic Front (RPF). The RPF was strong enough to organize a military offensive in Rwanda in October 1990, although by the end of the month it was pushed back into Uganda (Adelman and Suhrke 2004, 485 and Destexhe 1995, 6). Until June 1991, Rwanda was a one-party state. However, external pressure forced Habyarimana to move towards democracy, and in the spring of 1992 a token multiparty government was formed. By early 1993 the situation in Rwanda had clearly worsened and information about the systematic killings of civilians started to be publicized. Following the peace talks in Arusha completed in July 1993, mediated by the United States and the Organization of African Unity (OAU), a transitional government – including RPF elements – was to hold power in Rwanda until democratic elections, and during this period UN peacekeepers were to monitor compliance (Melvern 2000, 82).

Consequently, in the beginning of April 1994, when the carnage started, 2'700 UN observers were already stationed in Rwanda as part of the UN Assistance Mission for Rwanda (UNAMIR) to monitor the peace agreement reached between the Rwandan government and the RPF in Arusha. However, these UNAMIR forces did nothing to prevent the young French-trained Hutu militiamen, known as interhamwe, from slaughtering innocent Tutsis and moderate Hutus (Teson 2005, 318). When ten UN troops from Belgium assigned to guard the Prime Minister were brutally killed on 7 April 1994, Belgium had stated its intention to withdraw its 440 troops from UNAMIR (Chesterman 2001, 145). The UN Security Council then adopted Resolution 912 of 21 April 1994 (Security Council Resolution 912 of 21 April 1994, <http://www.un.org/Docs/scres/1994/scres94.htm>), to reduce the number of UN personnel in Rwanda to 270 in order to prevent further UN casualties and also, with the faint hope that the carnage would somehow stop. The UN Security Council took this decision at a point when “tens of thousands” of Rwandans had been killed, and hundreds of refugees began fleeing to neighboring Tanzania and Zaire (Gambari 2004, 516). When the Security Council realized that the killing continued unabated and by May 1994, an estimated 250,000 to 500,000 Rwandans, mostly Tutsis, had already been killed whereas a further 1.5 million of Rwanda's seven million people were known to be displaced, Resolution 918 of 17 May 1994 was adopted, which imposed a mandatory arms embargo under Chapter VII, determined that the situation in Rwanda constituted a threat to peace and security in the region, and authorized the expansion of UNAMIR forces up to 5,500 (Security Council Resolution 918 of 17 May 1994, <http://www.un.org/Docs/scres/1994/scres94.html>).

The resolution clearly avoided the term 'genocide' (https://assignbuster.com/the-intervention-of-kosovo-and-rwanda-politics-essay/

genocide' which would have supposedly required an urgent response from the international community, referring instead to " the killing of members of an ethnic group with the intention of destroying such a group in whole or in part" (Resolution 918 of 17 May 1994). However, even mid June 1994 the UNAMIR forces only consisted of 503 troops. At this point, in a letter addressed to the Secretary-General dated 20 June 1994, France requested AuC VII authorization " in the spirit of resolution 794" [which had authorized the U. S.-led UNITAF operation in Somalia] for itself and Senegal " to send a force in without delay so as to maintain a presence pending the arrival of the extended UNAMIR" (quoted in Chesterman 2001, 146). On 22 June 1994, the Security Council adopted Resolution 929 recognizing the Rwandan situation " a unique case which demands an urgent response by the international community" and allowing France under Chapter VII to apply " all necessary means" to restore the security in Rwanda and protect the displaced persons, refugees and civilians at risk (Security Council Resolution 929 of 22 June 1994, <http://www.un.org/Docs/scres/1994/scres94.htm>). While critics of the intervention argued that French forces would impartially assist Rwandan government in the fight against the RPF, French troops instead stood aside as the RPF seized control of the capital city Kigali on 4 July and finally declared a unilateral ceasefire on 18 July 1994, thus effectively ending the civil war. French troops, as part of the Operation Turquoise, withdrew from Rwanda two months afterwards, urging the UN to send replacements as soon as possible (Lewis 1994). By August 1994, several thousand blue-helmeted UN troops from Ethiopia, Ghana, and Zimbabwe had replaced the French troops.

The ineffectual French mission, which basically did nothing to avert genocide, and the inaction on the side of the UN and the U. S. during the Rwandan massacre remain a terrible stain on the credibility of the international community. Lack of any interest in Rwanda seems to be the most appropriate explanation for the UN member states' decision not to intervene in Rwanda. Even though UN troops were on the ground and France partly stepped in towards the end of June 1994 under UN authorization, it is indisputable that Rwanda is a case of non-intervention.

After the unexpectedly large military casualties in the Somali debacle, the U. S. rejected requests for participation in the UN forces and generally opposed the idea of deploying any large UN peacekeeping troops in Rwanda while the fighting was still ongoing and in the absence of any firm commitments from the other UN member states to supply troops and equipment. According to the Presidential Decision Directive 25 (PDD-25) signed by President Clinton on 2 May 1994, the U. S. would only consider participation in multilateral military operations after a strict evaluation of the impact on U. S. interests, the availability of troops and funds, the necessity of U. S. involvement, congressional approval, a clear date for U. S. withdrawal, and acceptable command and control arrangements (Presidential Decision Directive 25 (PDD-25), <http://www.kentlaw.edu/academics/courses/admin-perritt/pdd-25.html>). Allegedly, the Clinton administration turned particularly sensitive to congressional criticisms of the costs imposed by the U. S. share of UN peacekeeping, which had increased by 370 percent from 1992 to 1993 (Adelman and Suhrke 2004, 490). The only UN Security Council member state, which seemed to have stakes in Rwanda, was France. On the one

hand, it was the French parochial interest in maintaining its francophone sphere of influence on the so-called 'dark continent' (Destexhe 1995, 8, and Adebajo and Landsberg 2000, 182) (i. e. 0. 33 on the 'national interests' variable). On the other hand, there were the close relations with the Habyarimana government: France was its biggest supplier of heavy military equipment for over 20 years and also sent troops in 1990 to help repel a military offensive from Uganda by the RPF (Melvern 2006). Given the consistent weapons export flows to Rwanda, it can be thus contended that some form of economic interdependence existed between the two countries - however low (i. e. 0. 33 on 'economic interdependence' variable).

Despite the fact that by 1994, the Rwandan army had become some sort of a "military protégé" of France, Rwanda had but a low level of military capabilities. French military support took the form of approximately 47 high-ranking French army dispatches to the Rwandan elite battalions, the Presidential Guard, the para-commandos and the reconnaissance battalion (Melvern 2006). The Rwandan military forces amounted to some 30, 000 to 50, 000 people (Destexhe 1995, 6). These figures are only poor estimates given that the government is known to have been continuously attracting new forces out of the Hutu population. Still, the military capabilities were relatively low (i. e. 0. 33 on the 'state strength' variable ((Gambari 2004, 516))) so that the UN member states might have needed to ponder over the difficulty concerning a military intervention in Rwanda. Regardless of the weapons flows, the conflict was fought with extremely brute weapons - pangas, i. e. machete-like agricultural tools, and sharpened sticks - which only heightened the brutality of the massacre (Chesterman 2001, 144).

Completely indifferent to the widespread killings in Rwanda and waiting for a termination of the massacre from within, the international community had obviously no big (if any) moral concerns. While the Secretary-General and also, the New Zealand's ambassador to the Security Council in 1993-1994 are known to have pressed for deployment of military forces in Rwanda, these were only singular attempts annihilated by the so-called "micromanagement" by the member states in the UN Security Council (Keating 2004, 503). To put it bluntly, there seemed to be no moral considerations on the side of either the P-5 or any other major power (thus, 0 on the 'moral considerations' variable). Regarding the domestic constituencies, there was surprisingly little activism as the genocide unfolded. Human rights organizations started lobbying the Clinton administration and the UN representatives only towards the end of the crisis, and many newspapers brought the Rwandan situation on their front pages – but then it was already too late. In short, "there was no public outcry to stop genocide in Rwanda" (Straus 2006, 51). This can be explained by the fact that the violence was very quick, lasted for approximately 100 days and there was thus limited time to generate significant domestic pressure on the issue. Only in its aftermath did the genocide receive wide international attention and considerable visibility (ibid.).

Furthermore, as shown above, not even the massive refugee flows with their corresponding economic and political destabilization effects in the neighboring countries – namely, Burundi, Zaire, and Tanzania (Adelman and Suhrke 2004, 492) managed to ignite more UN involvement at the time of the crisis.

To sum up, the Rwandan genocide is qualified as a case of non-intervention. However, noteworthy is the fact that security concerns were present to a large extent as the Rwandan crisis posed a real threat to the economic and political stability in the region. Based on the regionally-driven mechanism Rwanda would thus be a deviant case of the second causal pathway leading to UN humanitarian intervention. At this point, it can be only said that negative spillovers appear to build a factor not strong enough to bring a UN intervention in Rwanda into being. As for the national interests, there were indeed some French geopolitical and economic stakes in the African country, but they were rather confined. Rwanda was of limited interest to all the other great powers or as Adelman and Suhrke put it, “ to the state system as a whole” (Adelman and Suhrke 2004, 496) and France was not enough a patron to face the explicit U. S. allegations of indifference to the Rwandan conflict in the UN Security Council. In brief, Rwanda suggests that even in the presence of regional security concerns, no considerable interests of whatever origin (i. e. strategic, geopolitical or economic) of the P-5 or other major powers and also, no explicit moral concerns render the chances of a UN humanitarian intervention close to null.

3. 2. Kosovo

Located in the southwest corner of the Former Republic of Yugoslavia, Kosovo covers less than 11, 000 sq. kms. Landlocked, Kosovo has a central plain in the middle of high mountains with few points of entry. Serbia and Montenegro are on its north and Albania and Macedonia are at its southern border. To its east, past the borders of the former Yugoslavia, are Bulgaria and Romania. To the west, past Albania and Montenegro is the Adriatic Sea.

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The region experiences frequent floods, and harsh winters with poor visibility. It would have been very difficult terrain on which to sustain a large contingent of alien ground forces without clear lines of support and reinforcement from contiguous countries through the rest of Yugoslavia (Connaughton, 2002, p. 200). At the time of the NATO engagement it had a population estimated at around 2 million, almost 90% of whom were Muslim by religion and ethnic Albanian by cultural heritage.

It is a region that has for centuries been claimed by both Orthodox Serbians and Muslim Albanians as enormously significant to their respective ethnic and religious identities. It has also been the site of battles – two of which, go back to the fourteenth and seventeenth centuries – between the ancestors of both peoples whose oral traditions have fed myths of victimization and struggle concerning the rightful ownership of Kosovo and the symbolic importance of religious buildings and artifacts. The population and constitution of Kosovo have gone through major changes since the Second World War.

Between the First and Second World Wars the percentage of Serbs living in Kosovo varied from 25% to a third of the population. Ethnic Albanians made up anywhere from 65 to 55% of the total. After the end of WWII the Serb make-up of the population remained at slightly over 20% until the 1980's when they began to migrate north or leave Yugoslavia entirely. According to the 1991 census ethnic Albanians accounted for 82% of the total and Serbs made up just fewer than 10%. During the 1970s, 80's and 90's people living in Kosovo had the lowest per capita incomes and highest unemployment of any province or republic in the Former Yugoslavia. Kosovar ethnic Albanians

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generally fared the worst in both categories. (Mertus, 1999; and Judah, 2000).

Kosovo's status as an "autonomous region" within Serbia, which it had gained as a result of constitutional change in the Yugoslav Federation of Socialist Republics in 1974, was summarily revoked by a hostile Serb Parliament in 1989. Throughout the 1980s there were a number of demonstrations organized by ethnic Albanian students and political parties to protest Serb rule and call for republic status or independence for Kosovo. After the collapse of East European communism, the decisions of Croatia and Slovenia to declare themselves independent of the Yugoslav federation in 1991, supported by Western European powers, had the effect of exacerbating tensions and distrust between Serbs and Albanian Kosovars as well as those of other ethnic rivalries across the Balkans. Too many Serbs and to Serbian leaders throughout Yugoslavia its dismantling was a tragedy that threatened the dismemberment of their own collective heritage, well-being and dominance of the Balkans, something to be not only lamented but resisted, and if possible, reversed.

The resulting civil wars involving Croats, Bosnian Serbs and Bosnians (Muslim Bosnians), from 1992 until 1995, over the status and boundaries of Bosnia-Herzegovina absorbed the attention of international actors and the UN and permitted the Yugoslav Serb administrations to do much as they pleased in Kosovo, with the exception of an intriguing warning issued by President George H. Bush in his last month in office. Bush sent Serb leader Slobodan Milosevic a note in late December 1992 indicating that the US was "prepared to employ military force" if a civil war broke out in Kosovo as a

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result of Serb aggression. Little was made of that warning by the US State Department, the press or other governments. Western governments were keen to maintain working relations with Milosevic, who had become the key figure in Serbia and for Serbs generally across the Balkans. The hope was that he would cooperate to broker an end to the war in Bosnia and in fact he played a major role in acceptance by Serb leaders in Bosnia of the Dayton Accords.

When the Dayton agreement that marked the end of the Bosnian war was finally concluded on 21 November 1995, it was thought to be the end of armed conflict in the Balkans (G. Misha *The Balkans 1804-1999: Nationalism, War and the Great Powers* (London, Granta Books, 1999) 651 ff). This was not to be so, however. It was soon clear that the treatment of Kosovo-Albanians (Kosovars) by the Federal Republic of Yugoslavia (FRY) President Slobodan Milosevic was causing tensions in the Kosovo region. He had suspended their rights under the 1974 FRY constitution, and implemented strict segregation policies, by some described as an apartheid system in Kosovo (Wheeler (n 16) 257).'

Already in the summer and fall of 1996, the Kosovo Liberation Army (Ushtria Çlinitare e Kosovës - the UÇK) started a campaign of provocation and terrorist attacks. The UÇK wanted to direct international attention to the situation in Kosovo. They also felt that the pacifist boycott-policy was only making matters worse, by securing Serb control over a region where 90% of the population was Albanian (Misha (n 237) 656 ff).

The FRY army stepped up its action against the UÇK, and the conflict intensified. But it was not until early 1998 that the Western powers took serious interest in the conflict. On 31 March 1998 the SC adopted resolution 1160, in which it condemned the use of excessive force by Serbian police forces against civilians and peaceful demonstrators in Kosovo, as well as all acts of terrorism by the Kosovo Liberation Army. But it did not prescribe any solution to the conflict, except that it imposed a weapons embargo and called upon the parties to solve the conflict through dialogue.

The fighting continued, and it became increasingly clear that the Serbs, in their effort to wipe out the UÇK, were driving the civilian Kosovar population out of Kosovo and into Albania and Macedonia. The Western allies, with USA and the UK in the lead, felt that more drastic measures were needed. On 23 September 1998, resolution 1199 was passed where the SC stated that:

“ Affirming that the deterioration of the situation in Kosovo, Federal Republic of Yugoslavia, constitutes a threat to peace and security in the region...

Demands ...that the authorities of the Federal Republic of Yugoslavia and the Kosovo Albanian leadership take immediate steps to improve the humanitarian situation and to avert the impending humanitarian catastrophe.”“

Although the situation was now regarded as falling under chapter VII of the Charter, the demands made in the resolution were not backed up by a threat of military action. Such a clear authorization was not possible to obtain from the SC, as both China and Russia would have vetoed that (Wheeler (n 16) 260 ff.). As the fighting still did not stop, the NATO countries decided to take

the matter in their own hands, and on 13 October 1998 they issued an activation order for air strikes if the Serbs did not cease their attacks on Kosovar settlements (B. Simma NATO, the UN and the Use of Force: Legal Aspects (1999) 10 EJIL 1 at 5, where the text of the activation order is provided). In the last minute, they sent US Special Envoy Holbrooke to Belgrade, and he persuaded Milosevic to accept a cease-fire and the presence of 1.700 inspectors from the Organization on Security and Cooperation in Europe (OSCE). The agreement was endorsed by the SC in resolution 1203 on 24 October 1998, which also affirmed the statements made in resolution 1199. However, many SC members expressed concerns that the NATO air strike-order was illegal according to the UN Charter (Wheeler (n 16) 263 ff.).

This fragile cease-fire was again shattered when UÇK, who was left out of the OSCE agreement, refused to respect it. In retaliation, the FRY forces massacred 45 civilians in the village of Racak, an event that shocked the world community (D. Kritsiotis NATO's Armed Force Against Yugoslavia (2000) 49 Int Comp L Quart 330 at 337.). In a last, peaceful effort to end the hostilities, the parties were invited to Rambouillet outside Paris for peace talks. Here the UÇK agreed to drop their demand for total independence, and the FRY would in turn have to accept the presence of a NATO force in Kosovo. The Serbs eventually refused to accept this last hope for peace, and instead began a new campaign of ethnic cleansing of Kosovo (D. Kritsiotis NATO's Armed Force against Yugoslavia (2000) 49 Int Comp L Quart 339.).

The NATO countries were now faced with the dilemma of engaging in war against a large state in its own region or renege their public commitment to <https://assignbuster.com/the-intervention-of-kosovo-and-rwanda-politics-essay/>

do so (Misha (n 237) 657). After the last pleas for restraint were rejected by Milosevic, the NATO headquarters decided to launch air strikes against the FRY on the night of 23 March 1999.

Four key rationales were presented to justify the NATO intervention in Kosovo (Wheeler (n 16) 265 ff). One, that NATO's credibility as a collective defense organization was at stake, but this could evidently not serve as a legal foundation for waging war (Misha (n 237) 657). Two, that the operation was in conformity with the three SC resolutions. But since China and Russia so clearly objected to the intervention, both in the debates in the SC and when it was a *fait accompli*, this was also an evident misconception (Wheeler (n 16) 267). Three, that the ethnic cleansing posed a long-term threat to European peace and security, that NATO was obliged to act to prevent. This clearly suggests the contention that the action should be regarded as legal under the UN Charter chapter VIII (R. Wedgwood *NATO's Campaign in Yugoslavia* (1999) 93 AJIL 828 at 832 and L. Henkin *Kosovo and the Law of "Humanitarian Intervention"* (1999) 93 AJIL 824 at 827). But as we saw in the Liberia-case, this is a misinterpretation of the charter and its recognition of regional arrangements. Outside the right to self-defense, regional organizations still have to obtain authorization from the SC to use force (Simma (n 241) 6). Finally, it was held that the action was aimed at averting an impending humanitarian catastrophe. And this is the only basis on which the intervention can be regarded as lawful. As the British Foreign Secretary stated in the Parliament:

" We were left with no other way of preventing the present humanitarian crisis from becoming a catastrophe than by taking military action to limit the

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capacity of Milosevic's army to repress the Kosovar Albanians (Statement by Foreign Secretary Robin Cook in House of Commons, 25 March 1999. Quoted in Wheeler (n 16) 265-66.)."

This soon became the principal official validation from the NATO countries (Kritsiotis (n 243) 340). Wheeler argues that:

[T]he evidence points to this being a case where a key determinant of the use of force was the Prime Minister's and the President's belief that this was a Just War (Wheeler (n 16) 267 (emphasis added)).

But was this just war justified? To answer this, two aspects have to be considered. Firstly, if the human rights situation in Kosovo was severe enough to warrant a humanitarian intervention. Second, if the other motives behind the operation, prevention of damage to the credibility of NATO and the issue of security, were central enough to disqualify an interpretation of the operation as predominantly humanitarian. To answer the latter first, as we have seen before, the lack of pureness of motive cannot undermine the lawfulness of an operation where the sole consequence is the actual protection of human life (Kritsiotis (n 15) 1038, see above p 34. See also Kritsiotis (n 243) 342). As it was admitted by Prime Minister Tony Blair:

[O]ur actions are guided by a subtle blend of mutual self-interest and moral purpose in defending the values we cherish ...values and interests merge (Speech by Prime Minister Blair 22 April 1999. Quoted in Wheeler (n 16) 267).

As to the first question, there were concerns expressed that NATO would become the UÇK's air force (NATO official, quoted in Wheeler (n 16) 259), i.

e. simply engaging in an internal conflict on one party's side. But the conflict was very one-sided in the first place, and the FRY forces treatment of the Kosovar civilian population was particularly abhorrent. Before the NATO bombing began, it is estimated that some 500 civilian Kosovars had been killed and 400. 000 internally displaced or driven out of Kosovo (Wheeler (n 16) 269). And perhaps most importantly, Milosevic did not show any signs that he was going to stop before Kosovo was ethnically clean, and this scenario certainly warranted an intervention on humanitarian grounds (J. I. Charney Anticipatory Humanitarian Intervention in Kosovo (1999) 93 AJIL 834 at 839).

NATO chose high-altitude air strikes to combat the FRY forces, because this would limit the risk of NATO casualties and make the operation politically feasible. It was also presumed that Milosevic would back down after a few days of bombing, as he had done prior to the Dayton agreement (Wheeler (n 16) 268). But it soon became apparent that far from backing down, the FRY forces were actually escalating the ethnic cleansing of Kosovo. As Wheeler claims:

' The bombing almost certainly led the Serbs to intensify their campaign against the Kosovo Albanians, since ...it created the cover of war for the ethnic cleansers ...inflaming the latter's desire to extract revenge against the defenseless Albanians they despised (Wheeler (n 16) 269).

On the other hand, it is argued that Milosevic's campaign in Kosovo would have been even worse had it not been for the NATO air strikes. The Serbs had planned and were starting to implement Operation Horseshoe when the

air strikes started, a strategy to totally remove all Kosovars from Kosovo (Wheeler (n 16) 269). But the NATO strikes did not stop, and the bomb targets were increasing in numbers when the FRY refused to give up. It became clear that the only way to stop the atrocities and get Kosovars to return to their homes was to employ land forces. But this would only be done if a permissible environment was established in Kosovo. That meant that the infrastructure had to be destroyed, to limit rapid transfer of FRY troops, and massive bombing of bridges, roads, oil refineries etc, was initiated (Wheeler (n 16) 271). This also meant that an increasing number of Serb and Kosovar civilians were being killed, and that stray bombs were hitting civilian areas (Wheeler (n 16) 270).

All this raises serious doubts about the proportionality of the operation, and thereby also about its humanitarian nature. As the campaign evolved, it became more of a penal exercise, rendering the FRY shattered without really alleviating the Kosovar suffering (Kritsiotis (n 243) 357.). Another aspect is that after NATO's withdrawal, thousands of Serbs in Kosovo found themselves at the receiving end of a new ethnic cleansing, from Albanians seeking revenge. Nevertheless, the campaign eventually had its peace-restoring effect when Milosevic agreed to sign a EU-Russian peace agreement on 3 June 1999.

Thus, it is highly doubtful whether this can be categorized as an instance of humanitarian intervention. As Wheeler articulates the problem:

' NATO's intervention is not a good model of humanitarian intervention. ...

There are important questions to be asked over whether NATO's actions

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meet the defining tests of necessity, proportionality, and a positive humanitarian outcome (Wheeler (n 16) 275).

But even if the humanitarian character of the operation was doubtful, it can be argued that if there is sufficient *opinio juris* regarding its lawfulness, then it can be regarded as a genuine instance, in accordance with Kirgis sliding scale – theory. Most Western states indicated support of the intervention. Britain reiterated its previous justification of the Iraqi intervention, and argued that humanitarian intervention was legal and recognized in customary international law (Kritsiotis (n 243) 340). On the other hand, a Chinese official characterized the operation as absolute gunboat diplomacy (Financial Times (London) 11 May 1999, quoted in Kritsiotis (n 243) 346), and the Russian UN Ambassador stated that:

[W]hat is in the balance now is the question of law and lawlessness. It is a question of either reaffirming the commitment of