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Kosovo 1998-2008: Human Rights from War to Independence

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Abstract.

Serbs and Albanians have inhabited Kosovo for centuries. For Serbs, Kosovo is the core of the medieval Serbian kingdom. For Albanians, Kosovo is the cradle of their struggle for independence. With both parties feeling entitled to the territory of the province, the threat of conflict was never far away. At several points, human rights abuses were perpetrated by one group on the other. Deeper ethnic antagonisms led to the outbreak of conflict in Kosovo in 1998, culminating in January 1999. Having already dealt with conflicts in Croatia and Bosnia, the international community claimed to be well-prepared to approach the Kosovo issue and stop the atrocities. While bearing in mind the past and the present, this paper addresses the failures of both the international community and the local parties in regard to human rights protection.

1. Introduction

The history of Kosovo, a province of approximately 10,836 square kilometers, if being retold in few lines, can be described as quite complicated.¹ In the Kingdom of Yugoslavia established in 1919, in response to a denial of their basic human rights, an estimated 10,000 rebels took up arms against the central government of the Kingdom. The suppression of this revolt led to atrocities against Kosovo Albanians, the arming of Serbian civilians and the relocation of Kosovo Albanian women and children to internment camps in central Serbia.² All the way until World War II much of the land owned by Kosovo Albanians was confiscated and transferred to state ownership.³ In the course of WWII, while Axis powers occupied Yugoslavia, Kosovo was partitioned among Bulgaria, Albania (governed by Italy), and Germany. During that period, most Serbian churches and monasteries were destroyed. Moreover, numerous Albanians in Serbia collaborated with the Nazis against Serbs. In 1945, Yugoslavia became a communist country and the authorities managed to cover up ethnic tensions through the use of force, intimidation, and mass resettlement of Serbs from Kosovo. Ideological propaganda played an important role as well. The 1946 Yugoslav constitution provided that Kosovo would be an Autonomous Region within the Republic of Serbia and the separate Serbian Republic constitution provided that Kosovo would direct its own economic and cultural development and that it would be responsible for protecting the rights of its citizens.⁴ In 1963, Yugoslavia adopted a new constitution, which proclaimed Kosovo an Autonomous Province, but effectively decreased some of its federal rights. Throughout the 1970s the Kosovo Albanians were even more present in the economic sector, political bureaucracy and local police forces.⁵ In 1974, Yugoslavia adopted yet another constitution giving the Autonomous Province sovereign status nearly equivalent to that of the other six republics of Yugoslavia. As a consequence, Kosovo adopted its

¹ It became Christian in 874 AD. The Ottoman Empire brought Islamization and invaded Serbia in the late 14th century. In 1766, they abolished the Patriarchate of Pec (complex of churches representing the spiritual seat and mausoleum of Serbian archbishops and patriarchs) and the position of Christians in Kosovo was greatly minimized. Later, in 1912, Kosovo was liberated from the Ottomans and embodied into Serbia, becoming a part first of the Kingdom of Serbs, Croats and Slovenians established in the end of 1918, and soon after of the Kingdom of Yugoslavia in 1919.

² N. MALCOLM, *Kosovo: A Short History*, pp. 273-6.

³ *Ibid.*, p. 286.

⁴ *Ibid.*, pp. 315-7.

⁵ *Ibid.*, p. 326.

own constitution, appointed its own representative on the rotating federal Presidency and elected Parliamentarians to the federal Parliament.⁶

After the Yugoslavian communist dictator Tito had died, the tensions between ethnic and religious groups reemerged. In 1987, Slobodan Milosevic traveled to Kosovo delivering a speech calling for the “defense of the sacred rights of the Serbs”.⁷ His message for Kosovo Serbs was: “No one should dare to beat you.”⁸ President Milosevic was obsessed with Kosovo and his policy was that Kosovo should be ‘kept’ at any cost. Throughout the history of competition for sovereign control over Kosovo, the dominance flowed from Kosovo Albanians to Serbs and back again. In 1989 full Serbian control over the region was re-established. The Serbian takeover of Kosovo’s institutions provided the Albanians with a rationale for the creation of their ‘parallel state’ in Kosovo. At the same time, as the Serbs were reintegrating Kosovo within the Serbian legal framework, the Kosovo Albanians declared Kosovo first a republic within Yugoslavia, in 1990, and then an independent state, in 1991. For nearly ten years most Albanians were committed to non-violent struggle for independence, but in 1998 and after, they gradually switched their support to armed struggle.⁹ The Kosovo Liberation Army “was responsible for serious abuses in 1998, including abductions and murders of Serbs and ethnic Albanians considered collaborators with the state.”¹⁰ The brutal confrontations in 1998 culminated in January 1999 when Serbian military forces committed a crime against humanity by killing forty civilians in Racak, requiring the US and Europe to respond with humanitarian assistance, economic sanctions and public declarations, altogether aimed at stopping atrocities.¹¹ Even the Resolution 1199, passed in September 1998, had categorized Serbian actions in Kosovo as a threat to international peace and security.¹² Thus understandingly, there was a clear transatlantic ambition to impede Milosevic completing a strategy of ethnic cleansing and achieving full control of the territory.

⁶ P. R. WILLIAMS, *Earned Sovereignty: The Road to Resolving the Conflict over Kosovo’s Final Status*, p. 396, http://www.law.du.edu/ilj/online_issues_folder/williams.pdf.

⁷ N. MALCOLM, *Kosovo: A Short History*, p. 346.

⁸ M. McALLESTER, *Beyond the Mountains of the Damned: The War inside Kosovo*, p. 57.

⁹ *Federal Republic of Yugoslavia: Abuses against Serbs and Roma in the New Kosovo*, <http://www.hrw.org/reports/1999/kosov2/>.

¹⁰ F. ABRAHAMS, *Under Orders: War Crimes in Kosovo*, p. 13.

¹¹ *Yugoslav Government War Crimes in Racak*, <http://www.hrw.org/press/1999/jan/yugo0129.htm>.

¹² UNSC Resolution 1199 demanded that the Federal Republic of Yugoslavia cease all action affecting the civilian population and withdraw security units used for civilian repression, enable international monitoring and facilitate the safe return of refugees.

2. International involvement

In November 1998, the Public International Law and Policy Group (PILPG) developed an approach of intermediate sovereignty, which would serve as a basis for structuring the phased reduction of Serbian sovereign control over the province, and for allowing the people of Kosovo to accumulate sovereign authority and functions in a manner protecting the legitimate interests of the Serbian minority in Kosovo and of the international community.¹³ After the three to five year period, Kosovo would be entitled, subject to an internationally conducted referendum within the province, to pursue recognition from the international community.¹⁴ However, due to the massacre in Racak and thus the failure of the PILPG approach, the emerging threat of force aimed at Milosevic to moderate his position turned into the use of force in March 1999. All Western politicians were familiar with the 1995 Srebrenica massacre in Bosnia. According to German Foreign Minister, Joschka Fischer, acting politely with Belgrade officials would lead only to more mass graves, so he stated that the use of force should be taken into consideration: “I am not a friend of using force, but sometimes it is a necessary means of last resort. So I am ready to use it if there is no other way. If people are being massacred, you cannot mutter about having no mandate. You must act.”¹⁵ Accordingly, Tony Blair and Jacques Chirac fully supported this statement. The UN Secretary General, Kofi Annan urged the NATO countries to build on the lessons of Bosnia and further refine the combination of force and diplomacy that is the key to peace in the Balkans and elsewhere.¹⁶

The NATO intervention against Serbia raised numerous sharp discussions. There were many other countries around the world that had been involved in, or contributed to, similar or even worse atrocities that Serbia was accused of, and in some nations those violations were still occurring, but most of them were largely, perhaps hypocritically, ignored compared to the Kosovo crisis, while also presenting a strong case for “humanitarian intervention”.¹⁷ The attack was criticized as a colossal error, an example of a policy applied too late, in the wrong place, and in ignorance of history. It was inconsistent and perceived as something that would create problems whether the outcome

¹³ *Intermediate Sovereignty as a Basis for Resolving the Kosovo Crisis*, <http://www.crisisweb.org/projects/showreport.cfm?reportid=171>.

¹⁴ *Ibid.*

¹⁵ I. DAALDER, M. O'HANLON, *Winning Ugly: NATO's War to Save Kosovo*, p. 75.

¹⁶ T. GALLAGHER, *The Balkans in the New Millennium*, pp. 49-50.

¹⁷ A. SHAH, *Did NATO really Act out of Humanitarian Concerns?*, <http://www.globalissues.org/Geopolitics/Kosovo/Humanitarian.asp>.

was a failure or success.¹⁸ The US and Britain supported the intervention as a humanitarian necessity to prevent additional human rights violations, protect civilians in wartime and eventual genocide. The prohibition of genocide is regularly counted among the norms of *jus cogens*, but so is the prohibition of force.¹⁹ Germany argued that there was no legal basis for the intervention, but it could be justified on moral grounds even if the law was violated. Accordingly, Slovenia argued that the Security Council had the primary but not exclusive responsibility for the maintenance of international peace and security.²⁰ Professor Noam Chomsky claimed that the concept of ‘humanitarian crisis’ had a technical meaning described as a problem somewhere threatening the interests of rich and powerful people, in the Balkans agenda, namely, the elites of Europe and the US. That was the essence that made it a crisis.²¹ Others perceived the aggression as a war of expansion by NATO (which two years previously had rejected applications for membership from several pro-Western Balkan states), a war designed to push United States power right up to the borders of Russia, or an attempt to usher in an aggressive new world order.²²

The United Nations stayed on the sideline during the Kosovo conflict. Within the first three weeks of NATO bombing and Milosevic’s ‘Operation Horseshoe’,²³ the UNHCR which blamed Western governments for not receiving any advance warning to get prepared for a mass exodus of people, declared the number of 525,787 Kosovo Albanians refugees poured into neighboring countries. The arrival of a large part of the Kosovo population in Albania could be seen as “the forced introduction of the two main parts of the nation to each other”.²⁴ But the contrast in living conditions and overall outlook did not create the sense of one people. According to the UNHCR report, Serbian government forces expelled 862,979 Albanians from Kosovo and several hundred thousand more were internally displaced. More than 80 per cent of the entire population of Kosovo was displaced from their homes.²⁵

¹⁸ E. A. HAMMEL, *The Bombing of Serbia: Back to the Future*, <http://www.demog.berkeley.edu/~gene/bombserbs2.htm>.

¹⁹ *Recent Developments in International Law*, <http://juscogens.typepad.com/>.

²⁰ N. WHEELER, *Saving Strangers: International Intervention in Humanitarian Conflict*, pp. 277-8.

²¹ N. CHOMSKY, *The Truth About Kosovo*, interviewed by P. CAIN, <http://www.chomsky.info/interviews/199906--.htm>.

²² P. GOWAN, *The Euro-Atlantic Origins of NATO’s Attack on Yugoslavia*, pp. 3-5.

²³ The name given by the German government (German: Hufeisenplan) to an alleged Serbian plan to expel the entire Albanian population from Kosovo, <http://www.answers.com/topic/operation-horseshoe>.

²⁴ P. KOLA, *The Search For Greater Albania*, pp. 362-3.

²⁵ F. ABRAHAMS, *Under Orders: War Crimes in Kosovo*, p. 134.

3. The UNSC Resolution 1244

Immediately after the bombing campaign had terminated, it became clear that the UN presence in Kosovo could not afford once again the delusion that occurred in Bosnia before and after 1995, failing to effectively incorporate civilian and military tasks. Resolution 1244, passed on 10 June 1999, stipulated the “establishment of an interim administration for Kosovo as a part of the international civil presence under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia, to be decided by the Security Council of the UN. The interim administration was to provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants in Kosovo”.²⁶ The military force, entitled the Kosovo Force (KFOR), supervised directly by NATO, had to prevent violence, enforce cease-fire, demilitarize the Kosovo Liberation Army and establish a secure atmosphere in the region.²⁷ Although the KFOR divided Kosovo into five zones, in order to make peace-keeping process efficacious,²⁸ its effectiveness in the beginning was hardly evident. It declared the quick return of half a million of the Albanian population from neighboring countries.²⁹ At the same time, the environment of lawlessness and intolerance caused attacks fuelling the exodus of 180,000 Serbs and 55,000 other people, mainly Roma, by the end of August 1999. The number of murders and attacks came down the following year.³⁰ The UNHCR played a significant role providing assistance and care for over one million returning Albanians. The Serbian side insisted that the UN mission and KFOR were both incapable of preventing violations of human rights where the remaining Serbs and other non-Albanian population and the few returnees to the region continued to be subjected to terror, murders and robberies on a daily basis.³¹

The Resolution 1244 which prescribed “democratic self-governing institutions” and “substantial autonomy within the Federal Republic of Yugoslavia,”³² was a framework

²⁶ UN SC Resolution 1244, Annex 2, point 5.

²⁷ *The Kosovo Report 2000*, p. 101.

²⁸ The north, in the region of Mitrovica, controlled by 7,000 French troops; the south, in the region of Prizren, controlled by 8,000 German troops; the west, in the region of Pec, controlled by 6,000 Italian troops; the east, in the region of Gnjilane, controlled by 6,000 US troops; and the central area, in the region of Pristina, controlled by 8,000 British troops. See, for example, *The Kosovo Report 2000*, p. 105.

²⁹ *The Kosovo Report 2000*, p. 118: KFOR declared approximately 20,000 UCK members. The KPC was to count 3,000 members including 200 who would be authorized to carry weapons. The process of demilitarization was terminated in September 1999, but the violence did not stop due to ex UCK members reluctant to lay down their weapons.

³⁰ *Ibid.*, p. 107.

³¹ *News from Kosovo: Statement by Dr. Nebojsa Covic*, http://www.kosovo.net/covic_un.html.

³² UN SC Resolution 1244, point 10.

understood by the overwhelming majority of Kosovo Albanians as a denial of their right of self-determination. The 1999 intervention in Kosovo was justified as a means of protecting the Albanians as a threatened minority within Serbia, but left the Kosovo Serbs exposed, as a minority within Kosovo, to repeated acts of violent revenge, culminating in March 2004.³³ Thus, to conclude, the overall situation concerning basic security and freedom of movement for the non-Albanian population, the return of internally displaced persons and the building of inter-ethnic tolerance, has been constantly deteriorating since June 1999. The first positive achievement of the UN mission was the return of hundreds of thousands of Albanians who had left or were forced to leave Kosovo during the NATO bombing campaign.³⁴ Nevertheless, dozens of thousands of Albanians from northern Albania, also entered Kosovo in order to confiscate the property abandoned by those Serbs who had escaped to Serbia or Montenegro, as testified by local Serbs.³⁵ Thus, in spite of joint efforts by UNMIK and KFOR, the systematic persecution of the non-Albanian population by Albanian extremists since 1999 has continued to be the main obstacle to any viable progress in building a tolerant multi-ethnic, multi-cultural and multi-religious society under the rule of law.

4. Confusion, thus illusion

From June 1999 until December 2000, all the judges and prosecutors in Kosovo were ethnic Albanians, while seven Serb judges appointed later were constrained to leave their seats and fled to inner Serbia after being threatened by Albanian extremists. The appointment of international judges proved to be insufficient due to constant pressures by extremists in the predominantly Albanian environment totally unwilling to cooperate in finding the perpetrators of ethnically motivated crimes.³⁶ According to the UNMIK report of 26 June 2003, there were only 15 international judges and 10 international prosecutors serving in the local justice system capable of dealing with only three percent of the

³³ More than 50,000 people were involved in 33 violent incidents across the province. The trigger was a report stating that a Serbian gang-group attacked a group of four Albanian children, who tried to escape by jumping into a river, when three of them drowned. Subsequently, the report proved to be false, because there was no Serb attack. The result, as UNSG Kofi Annan reported to the UNSC, was: 19 persons died (11 were Kosovo Albanians, 8 were Kosovo Serbs), 954 injured, 730 houses, mostly belonging to Kosovo Serbs, and 36 Orthodox churches and monasteries were damaged or destroyed, <http://www.globalpolicy.org/security/issues/kosovo>.

³⁴ *Kosovo Template*, <http://www.ess.uwe.ac.uk/Kosovo/Kosovo-Refugees81.html>.

³⁵ *Federal Republic of Yugoslavia: Abuses against Serbs and Roma in the New Kosovo*, <http://www.hrw.org/reports/1999/kosov2/>.

³⁶ *International Judges and Prosecutors in Kosovo: A New Model for Post-Conflict Peacekeeping*, <http://www.usip.org/pubs/specialreports/sr112.html>.

criminal cases.³⁷ All 1,894 Albanian prisoners from Serbian jails were released in order to facilitate political dialogue, and to mark the difference from the Milosevic regime.³⁸ However, Kosovo Albanians have not found or released any of approximately 1,300 missing Serbs. Within the plan proposed by UNMIK, hardly 2,000 out of approximately 250,000 displaced Serbs were able to return to Kosovo in 2001. The overall percentage of Serb returnees was less than 3% in four years of UNMIK administration.³⁹ Mathematically, if continued that way, the eventual return of all displaced Serbs would take more than 100 years. Thus, although reports from the OSCE and the UNHCR stressed that 2002 saw a continued fall in ethnically motivated crime, it was only due to the fact that many Serbs simply disappeared from many previously ethnically mixed areas after continuous threats, attacks and assassinations by Albanian extremists.⁴⁰ The Statistical office of Kosovo estimated in 2003 the total population of Kosovo to be approximately 1.9 million with the proportion: 88% Albanians, 7% Serbs, and 5% other ethnic groups.⁴¹

The Stability Pact created by Germany and supported by more than forty countries agreed to reinforce the countries of South-East Europe. The accent was put on peace, democracy, human rights and economic prosperity improvement. Accordingly, Germany was ready to invest over \$600 million through the SP initiative between 2000 and 2003. But, the SP failed to galvanize donors and attract officials able to devise original proposals fundamental for an effective peace and security agenda.⁴² At the same time, Kosovo Albanians were constantly dissatisfied with their status quo, and kept pressing for the province's independence. The Belgrade government accepted, through the mediation of the European Union, the UN and the Contact Group, the Vienna dialogue with Pristina, which started on 14 October 2003. The international community advocated a policy of 'standards before status', inaugurated by Michael Steiner, the third UNMIK chief, and aimed at establishment of democratic institutions, rule of law, sustainable return of internally displaced persons, basic security for all and sustainable economic development - a concept fully accepted by the Serbian side.

³⁷ Official Documents Systems of the United Nations, <http://daccessdds.un.org/doc/UNDOC/GEN/N03/403/90/PDF/N0340390.pdf?OpenElement>.

³⁸ D. T. BATAKOVIC, *Kosovo: From Separation to Integration*, <http://www.bglink.com/bgpersonal/batakovic/AAASSToronto2003.html>.

³⁹ *Fewer than one percent of Serbs have returned to Kosovo*, http://www.kosovo.net/news/archive/2004/October_03/1.html.

⁴⁰ S. G. SIMONSEN, *Nation-building as Peace-building: Racing to Define the Kosovar*, <http://taylorandfrancis.metapress.com>.

⁴¹ *Kosovo in figures 2004*, http://www.sok-kosovo.org/pdf/general/Kosovo_in_figures_2004.pdf.

⁴² J. BUGAJSKI, *Stability pact or status quo?*, p. 3.

An opinion poll in November 2003 found that 86% of ethnic Albanians favored independence within current borders and 14% were for a union with Albania.⁴³ In their view, the minority Serb population could have enjoyed dual citizenship with Serbia, provided they were loyal to the Kosovo state, accepted the authority of the Pristina government, and participated in multiethnic local administration. The growing Albanian nationalist intolerance demonstrated by the majority population was so powerful that it literally threatened the physical existence of local Serbs on the territory they have inhabited continually for more than ten centuries. Neither the UN nor the international community took this into account when they accepted a mission to preserve peace and protect human rights in Kosovo.⁴⁴ Consequently, the Serbian government argued that it was necessary to change the institutional framework and the policy supposed to create conditions for a peaceful and normal life for all Serbs and other non-Albanians in Kosovo and to ensure their safe and unimpeded return to the territory of Kosovo, from which they were forcibly expelled. Likewise, it was necessary to provide efficient protection and promotion of human rights in accordance with European norms and standards.⁴⁵

Later, in autumn 2005, the UNSC approved the beginning of negotiations between Pristina and Belgrade, mediated by international actors. The former president of Finland, Marti Ahtisaari, was appointed as special envoy. The European Council when opening the procedure to determine the future status of Kosovo in accordance with UNSC Resolution 1244 asked the authorities in Belgrade actively to encourage the Serbs of Kosovo to take their place in Kosovo Albanian-led institutions and exercise their democratic rights there.⁴⁶ The European Council also declared that the determination of the status of Kosovo must reinforce the security and stability of the region and accordingly any solution which was unilateral or resulted from the use of force, as well as any changes to the current territory of Kosovo would be unacceptable.⁴⁷

In December 2005, the UNDP observed that opinions about the final status were as follows: 93.4% of Kosovo Albanian respondents favored the independence, while 89.6% of Kosovo Serb respondents supported autonomy for Kosovo within Serbia.⁴⁸ At the same time, the international community insisted that talks on the final status of Kosovo could

⁴³ L. J. COHEN, *Kosovo: From Interim Status to Enhanced Sovereignty*, <http://www.ccc.nps.navy.mil/si/2006/Jan/CohenJan06.pdf>.

⁴⁴ *A Plan for the Political Solution to the Situation in Kosovo and Metohija*, p. 2., http://www.srbija.sr.gov.yu/extfile/en/1987/plan_kosovo_metohija2004.doc.

⁴⁵ *Ibid.*

⁴⁶ *Declaration on Kosovo*, p. 34.

⁴⁷ *Ibid.*

⁴⁸ *Early Warning Report on Kosovo, No. 12*, pp. 7-8., http://www.kosovo.undp.org/publications/ews12/ewr12_eng.pdf.

not begin before standards on issues such as basic human rights and minority protection were achieved.⁴⁹ According to Misha Glenny, an independent writer on Balkan affairs, the continued absence of any long-term solution to the Kosovo issue that both Belgrade and Pristina could live with threatens to do immense damage to all South-East European countries. The region was overcoming many obstacles that were more formidable than those faced by other European states in transition.⁵⁰

5. Connected: human rights and Kosovo final status

During the first Contact Group meeting in London, held in January 2006, it was stressed that Belgrade should take into account the will of the people of Kosovo regarding Kosovo status issue.⁵¹ The Ministers pointed out the significance of a lasting Kosovo status settlement which would encourage a multi-ethnic society.⁵² To this end, Ministers supported the work of Martti Ahtisaari while stressing the importance of effective provisions for the decentralization of government to be crucial to the status settlement because it is the decentralization that can ensure that minority communities remain a vital part of Kosovo's future and give impetus to the return of displaced persons who should be able to choose where to live in Kosovo.⁵³

A policy of 'standards before status' approved both by the UN and the EU, was welcomed by Belgrade whose expectations were high that this policy would put a real end to the strategy of ethnic cleansing perpetrated against the Serbs in the province of Kosovo. This approach suspended any political discussion regarding the final status until after precise standards were met. Mr. Steiner, the UNMIK chief, consistently praised achievements in rebuilding transitional institutions, while publicly acknowledging that the return process has been too slow, and that it was shameful that in 2002 enclaves were still present in Europe.⁵⁴ In addition, Mr. Steiner also publicly disapproved of the possibility

⁴⁹ S. CVIJIC, *The future of Kosovo*, <http://transatlanticassembly.blogspot.com/2005/05/future-of-kosovo.html>.

⁵⁰ M. GLENNY, *The Kosovo Question and Regional Stability*, p. 87.

⁵¹ *Early Warning Report: Kosovo, No.12*, p. 15. Moreover, the political director of the British Foreign Office John Sawyer, in a meeting with Kosovo Serb representatives, directly told them that the future status of Kosovo should be independence and that the Serbian community should find its position within such a solution (the statement broadcasted on Serbia Radio Television, February 6, 2006), http://www.kosovo.un.dp.org/publications/ews12/ewr12_eng.pdf.

⁵² *Kosovo Contact Group Statement*, p.1; http://www.consilium.europa.eu/uedocs/cmsUpload/060130-KOSOVO_CONTACT_GROUP_STATEMENT.pdf.

⁵³ *Ibid.*

⁵⁴ *Michael Steiner's Speech to Donors' Conference*, Brussels, 5 November 2002, <http://www.unmikonline.org/press/2002/pressr/pr864.htm>.

for the partition of Kosovo along ethnic lines, placing significant emphasis on the creation of a multi ethnic society.⁵⁵

The Vienna talks were set for determining the future status of Kosovo. As decentralization was seen as an important facet in reforming the government for the protection and prosperity of minorities, the International community decided that the negotiation process between Pristina and Belgrade should start with the very issue of decentralization in a high level meeting between both delegations in Vienna. This was seen as the most important step due to the failure of the pilot project for the establishment of new municipalities in certain localities with a Serb majority.⁵⁶ The January 2006 session was a complete failure and it became obvious that the relief agencies will have to prepare for the least-bad option - another forlorn exodus of Serbs.⁵⁷

Moreover, it has been argued that full independence cannot be negotiated, it can only be imposed.⁵⁸ To arrive to a sustainable solution, the solution has to be acceptable, optimally satisfactory, for all parties inside and surrounding the province of Kosovo.⁵⁹ Despite some efforts, the UN administration has been proven unable to restrain the strategy of violence. In addition, under the rule of the Albanian majority, Kosovo became a hotbed of all kinds of organized crime – from illegal trafficking of drugs, guns, human beings, cigarettes and petrol, which turned the province into a paradise for all kinds of smuggling.⁶⁰ Paradoxically, once it became clear that Kosovo was poised to declare independence from Serbia, the European Union stated that its mission is to be “charged with stabilizing the breakaway province once it secedes from Serbia should take urgent steps to prevent human rights abuses, particularly against minorities and women.”⁶¹

6. Conclusion

President Milosevic was indicted by the UN’s International Criminal Tribunal for Yugoslavia (ICTY) for “murder, persecution, and deportation in Kosovo”.⁶² It was the first indictment for war crimes of a serving head of state. This was a sign that his

⁵⁵ *Southeastern Europe: Steiner Says No Return of Kosovo to Serbian Rule*; <http://www.rferl.org/newline/2002/06/4-See/see260602.asp>.

⁵⁶ *Early Warning Report: Kosovo, No.12*, p. 16.

⁵⁷ T. HUNDLEY, *Wary Serbs watch deadlocked talks on Kosovo’s independence*, p. 1.

⁵⁸ J. OBERG, A. MITIC, *Kosovo: Many options but independence*; http://www.transnational.org/pressinf/2005/pi228_Oberg_Mitic_Kosovo.html.

⁵⁹ A. MITIC, J. OBERG, *The main preconditions for a sustainable solution of the Kosovo conflicts*; http://www.transnational.org/pressinf/2005/pi211_SolutionPrecond_Eng.html.

⁶⁰ R. STEFANOVA, *Fighting organized crime in a UN protectorate: difficult, possible, necessary*; <http://taylorandfrancis.metapress.com>.

⁶¹ *Kosovo: Build New State on Rule of Law*, http://hrw.org/english/docs/2008/02/15/serbia18053_txt.htm.

⁶² F. ABRAHAMS, *Under Orders: War Crimes in Kosovo*, p. 12.

opponents would be content with simple peace agreement signing. The world was surprised and Henry Kissinger argued that it would simply make Milosevic more obdurate.⁶³

President Clinton, the day bombing was terminated, June 11, declared that the demands of an outraged and united International community had been met. He expressed himself in public: “When I ordered our armed forces into combat, we had three clear goals: to enable the Kosovo Albanian people, the victims of some of the most vicious atrocities in Europe since the Second World War, to return to their homes with safety and self government; to require Serbian forces responsible for these atrocities to leave Kosovo; and to deploy an international security force, with NATO at its core, to protect all the people of the troubled land – Serbs and Albanians alike. Those goals will be achieved.”⁶⁴

Having entered the territory to protect the Albanians from Serb oppressors, the NATO forces soon found themselves protecting Serbs from the returning Kosovo Albanians. Orchestrated by Albanian extremists, this new wave of post-war ethnic cleansing was tacitly approved not only by the majority of the Kosovo Albanian population, but also by their political leaders, as a kind of justified revenge for crimes against ethnic Albanians previously committed by the Serbian police or paramilitaries under the Milosevic regime.⁶⁵

The Provisional Institutions of Self-Government Assembly of Kosovo declared Kosovo to be independent from Serbia on 17 February 2008. The leaders of new Kosovo stated: “We declare Kosovo to be a democratic, secular and multiethnic republic, guided by the principles of non-discrimination and equal protection under the law. We shall protect and promote the rights of all communities in Kosovo and create the conditions necessary for their effective participation in political and decision-making processes.”⁶⁶ Anyhow, violent confrontations between Albanians and remaining Serbs following the declaration remain a probability. In regard to human rights, it is argued that “it is imperative that Kosovo authorities and the EU-led mission protect minorities from the violence that has been a persistent feature of Kosovo’s post-war history.”⁶⁷ This statement is based on the idea that very often the creation of a new democratic political

⁶³ A. BELLAMY, *Kosovo and International Society*, p. 197.

⁶⁴ *Ibid.*, p. 235.

⁶⁵ D. T. BATAKOVIC, *Kosovo: From separation to integration*, <http://www.bglink.com/bgpersonal/batakovic/AAASSToronto2003.html>

⁶⁶ *Kosovo Declaration*, <http://news.bbc.co.uk/1/hi/world/europe/7249677.stm>.

⁶⁷ *Kosovo: Build New State on Rule of Law*, http://hrw.org/english/docs/2008/02/15/serbia18053_txt.htm.

structure immediately means that the ethnic majority will dominate while smaller ethnic groups suddenly discover that they have been transformed into ‘minorities’. Accordingly, the Kosovo case has become an example.

Only the European Union which from the late 1990s acquired far greater visibility in the Balkans, can facilitate the process of Kosovo independence and bring the Serbs and the Albanians closer together, despite the fact that the most precious Serbian territory will be lost, most probably forever, and despite the fact that Kosovo Serbs might have to content themselves with a compromise solution of some sort, not as high as the Serbian political elite optimistically expects.⁶⁸ It is worth mentioning that the 1999 NATO air-campaign was aimed at protecting Albanians at the time abused by the Serbian government. Thus, it is an absolute obligation for the new Kosovo to respect and protect human rights of all its communities, and that way secure the return of the displaced peoples.

According to Robert Cox, international relations scholar, the future represents an opportunity to break with the structures of the past and thus the potential to escape the strictures that bind human potential.⁶⁹ Taking responsibility for the past acts of war in return facilitates new beginnings. Hopefully, this will happen as soon as possible.

⁶⁸ S. CVIJIC, *The future of Kosovo*, <http://transatlanticassembly.blogspot.com/2005/05/future-of-kosovo.html>.

⁶⁹ R. W. COX, T. J. SINCLAIR, *Approaches to world order*, p. 3.

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