

HUMANITARIAN INTERVENTION AND JUST WAR THEORY: CASE OF KOSOVO

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ABSTRACT

The Kosovo crisis occurred from February 1998 until 1999 in the former Yugoslavia. This conflict started when ethnic Albanians opposed ethnic Serbians and the Yugoslav government in Kosovo. International reactions to the upsurge of the Kosovo crisis have been prompt because of its urgency. Ethnic cleansing became good considering the international response. The intervention was carried out by NATO in the Kosovo crisis. The intervention by NATO raises speculation about humanitarian intervention during the crisis and whether it is justifiable or vice versa. According to the principle of Just War Theory, human intervention can be justified by logical explanations. NATO interventions in the Kosovo crisis are the appropriate instance to describe these situations by Just War Theory.

Keyword: *Conflict in Kosovo, NATO, Just War Theory, Human Interventio*

INTRODUCTION

In 1989, ethnic Albanian leader, Ibrahim Rugova launched a nonviolent protest against the repeal of constitutional autonomy in the Serbian province of Kosovo. The protest was delivered to Slobodan Milosevic, the president of Serbia. Milosevic and members of Kosovo's Serb minority have long complained that Muslim Albanians have demographic control over Serb-consecrated areas. Milosevic's first acts as President were to abolish Kosovo's autonomous status and dissolve the government on the grounds of protecting ethnic Serbs as ethnic minorities in Kosovo.

Tensions between the two ethnic groups are rising, and the international community refusing to address the issue. The issue strengthens Ibrahim Rugova's more radical opponents, who argue about the requisition. Kosovo Liberation Army (KLA) was formed in 1996. Over the next two years, the Kosovo Liberation Army launched sporadic attacks against Serbian police and politicians (Armend R. Bekaj, 2010).

KLA's action is classified as a significant armed uprising and this is drew international attention. The Contact Group known as an informal coalition of the United States, the United Kingdom, Germany, France, Italy, and Russia, voice some demands; ceasefire, the withdrawal of Yugoslav and Serb forces from Kosovo, the return of refugees, and unrestricted access to international monitors. Milosevic as the president of Yugoslavia in 1997, agreed to meet most of the demands but did not follow through on them. During the

ceasefire, the KLA regrouped and rearmed, and resumed its attack. Yugoslav and Serb forces retaliated ruthlessly and participated in ethnic cleansing programs.

In February 1999, diplomatic negotiations began in Rambouillet, France. On March 24 NATO launched air strikes on the Serbian military targets (Armend R. Bekaj, 2010). In response, Yugoslav and Serbian forces expelled all Kosovo Albanian ethnic groups, moving hundreds of thousands of people to Albania, Macedonia (now Northern Macedonia), and Montenegro. NATO and Yugoslavia signed a peace agreement outlining the withdrawal of troops and the return of nearly one million ethnic Albanians and another 500,000 displaced in the province.

In general, the war in Kosovo was an unproblematic conflict for NATO's small powers. It is because the status as a humanitarian intervention made it easy to justify to political leaders (if not always to their public). Those who intervene will justify their actions on humanitarian grounds, while those who were intervening will condemn the intervener on the grounds of violating state sovereignty. Furthermore, as logical reasons there have been massive human rights violations in Kosovo, it remains a question of justification for humanitarian intervention in a region carried out by outsiders.

Moreover, humanitarian intervention in a conflicting area is still under debate. Is the intervention can be justified or blamed? This study will focus on the perspective of the Just War Theory. Indeed, there are several logical reasons for the existence of humanitarian intervention through the Just War Theory. Moreover, this paper will examine the existence of humanitarian intervention in Kosovo from the perspective of the Just War Theory.

THE CONCEPT OF HUMANITARIAN INTERVENTION

Humanitarian intervention is used to prevent or stop a gross violation of human rights within a state that is either incapable or unwilling to protect people (Khirti Jayakumar, 2012). Holzgrefe proposed a comprehensive definition of humanitarian intervention as the threat or use of military force in the sovereign territory of another country by one country (or group of countries) intended to prevent and stop violence against individual human rights rather than the citizens without the permission of the state giving the military action (Holzgrefe & Keohane 2003, 18). Welsh (2004, 3) defines humanitarian intervention as a coercive intervention in the internal affairs of other countries involving the use of military force to prevent violence against human rights or to mitigate widespread suffering among citizens.

Many scholars identified the year of 1990s as the decade of humanitarian intervention. This issue is included in the UN Charter's rules on humanitarian intervention. (Mary Kaldor, 2007). The proponents of humanitarian intervention advocate limited circumstances and uses of military force are justifiable. In particular, proponents attempt to specify the bare minimum, threshold conditions in terms of the severity, scale, and kinds of human suffering necessary (but not sufficient) to justify intervention.

Humanitarian interventions are fraught with controversy (Heinze 2009, 7). Humanitarian intervention violates and contradicts the concept of sovereignty. On the other hand, Humanitarian intervention runs counter to the principle of non-use of military force (non-use of force). This principle is explicitly stated in Chapter 2 (Article 4) of the UN Charter,

which prohibits the use of military force except in self-defence or with the permission of the UN Security Council (Alex J. Bellamy, 2008).

The term 'humanitarian intervention' should be distinguished from the concept of humanitarian operation. Humanitarian intervention uses coercive methods. On the other hand, the concept of humanitarian operation uses non-coercive or non-violent methods. Humanity and humanitarian operations are terms used by humanitarian workers and non-governmental organizations as altruistic, non-political, and caring actions (Hehir, 2010). Humanitarian operations carried out by international organizations such as the United Nations (UNHCR), which deals with refugee issues, such as the International Committee of the Red Cross (ICRC). However, the role of state is still involved in some humanitarian activities such as health care, food distribution, infrastructure reconstruction, education, and so on.

Humanitarian intervention contains moral principles. Some experts used this term of moral as Just War Theory. According to just war theory, war or the use of force can be justified in two conditions, self-defence and punishing those who commit crimes. Onuf (2000) argues about the concept of humanitarian intervention originally had the idea of ordering the world according to a 'liberal sensibility. However, it is still debated regarding humanitarian intervention, whether it is needed or vice versa (in case there is a violation of the concept of human rights in it).

JUST WAR THEORY

The just war theory is a justification for how and why wars exist. The concept to justify Just War Theory can be either theoretical or historical. The theoretical aspects of ethics justify war and the forms that war may or may not take. The historical aspect, or "just war tradition," relates to the historical body of rules or treaties applied in various wars throughout the ages. Geneva and Hague's conventions are an excellent example of this historical aspect. These conventions aimed to limit certain types of warfare that can be referred to by lawyers or mediators in prosecuting lawbreakers. But it is an ethical role to examine these institutional agreements for their philosophical coherence and to ask whether this aspect of the convention needs to be changed.

Just war theory aims to provide a guide to the right way for states to act in potential conflict situations. Just war theory only provides the framework used to discuss the possibility of war. This theory does not intend to justify war but to prevent it by showing that war is wrong, but it can be justify in certain limited circumstances. This concept motivates countries to look for other ways to resolve conflicts.

The origins of just war theory stem from the reality of just war and are only relatively far from contemporary just war theory (Boris Kashnikov, 2014). Just war theory is a collection of interweaving views, recipes, and traditions, the joint efforts of theologians, philosophers, canonists, lawyers, and practitioners (Boris Kashnikov, 2014).

NATO's INTERVENTION IN THE CONFLICT OF KOSOVO

The ethnic cleansing in Kosovo drew the attention of the international community. In 1998-1999, it became clear that the bitter war between the Kosovo Liberation Army (KLA) and

the Yugoslav army was on the verge of escalating into full-fledged 'ethnic cleansing of the province. Albanian population accounts for more than 80% of the province's population (Adam Roberts, 1999). Because of the large number of victims who suffered and died, international parties felt compelled to intervene to resolve the conflict. In addition, related countries are obligated to deal with security issues that appear incapable of resolution by the conflicting parties. To gain support from the international community, however, the intervention must be based on universal principles and adhere to the UN charter. The purpose of this charter is to protect human rights from human rights violators.

Western (European) countries initiated an external intervention in Kosovo as a form of conflict causality within the region. But, the West believes that Kosovo should remain a part of the Federated Republic of Yugoslavia and view Serbia as a factor of regional stability in the Balkans. This viewpoint cannot be justified by the fact Serbia took actions that sparked opposition, and the conflict continues. The United States claims to be the world's police and plays a critical role in maintaining global order and security, and feels compelled to intervene in the conflict's resolution. One of America's good intentions is to seek peace through an agreement on the concept of peace brought by US peace ambassador Richard Holbrooke. With the goal of convincing Yugoslav President Slobodan Milosevic to agree to a peace concept with ethnic Albanians in Kosovo, which included, among other things, granting Kosovo full autonomy and the presence of Western peacekeepers in the province. Milosevic reacted poorly to this effort.

Since the previous negotiations in Rambouillet, the US and NATO have warned Milosevic in case the rejection comes from Milosevic to the proposed peace concept, Yugoslavia will be under attack. And Milosevic remains steadfast in his position, ignoring the threat. Furthermore, on Wednesday, March 24, 1999, in the Oval Office of the White House, on the report of National Security Adviser Sandy Berger, his peace ambassador mission had failed, and the request for approval of the attack on Yugoslavia. Bill Clinton unequivocally declared an attack on Yugoslavia. Berger then returned to his office and summoned General Hugh Shelton, the Joint Chiefs of Staff forwarded the presidential decree to the office of General Wesley Clark, NATO Commander-in-Chief in Brussels, Belgium.

The United States made a unilateral decision to attack Serbia without the consideration or approval of the United Nations Security Council or the Council of International Organizations. As night fell on Pristina, the capital of Kosovo, several explosions occurred, signalling the start of NATO Allied The NATO air attack on Kosovo was dramatic, strategic, and political, and it was Europe's largest air war since 1945. During this invasion, the United States used almost all of its weapons, including laser missiles and other high-tech weapons, and air power in the form of various types of combat aircraft. NATO stated that they are working hard to avoid being hit by both civilians and civilian buildings during this attack.

NATO has mobilized its spectacular air power in Operation Allied Force, but President Milosevic is still able to survive behind NATO's intervention. Milosevic's efforts to crush insurgents and expel ethnic Albanians from Kosovo escalated a week after the NATO attack. Thousands of Albanian civilians have been killed in Kosovo by Yugoslav troops and Serbian militias, according to the KLA (Kosovo Liberation Army). They also burned

villages and towns and drove the people out.

As a result, hundreds of thousands of refugees from Kosovo fled to neighbouring countries such as Albania, Macedonia, and Turkey. The humanitarian disaster in Kosovo is described as Europe's worst disaster since World War II, and NATO is determined to continue air strikes until President Slobodan Milosevic agrees to sign the Rambouillet agreement relating to the conflict in Kosovo.

Following an agreement between NATO and Yugoslavia, ethnic Kosovo Albanian refugees rushed back to their homes, and Serb troops sent to Kosovo returned home (although sometime yesterday they had to hide from the onslaught of NATO air attacks). The impact of the attack was to see the city destroyed as a result of the attack. Aside from military targets, NATO attacks also destroy civilian infrastructures such as bridges, factories, and public facilities. Slobodan Milosevic eventually surrendered, and Kosovo is placed under international scrutiny. Armed Forces Intervention is the type of intervention carried out by the United States and NATO allies.

IDENTIFICATION OF JUST WAR THEORY IN THE CONFLICT OF KOSOVO

Because there are currently no binding and universally applicable rules regarding humanitarian intervention, the issue is still on debated. Different perceptions about who and how to take the initiative to carry out humanitarian interventions have always been a source of contention for countries that wish to intervene. Furthermore, many people have expressed concern that the current intervention is motivated by the national interests of some countries, while it is occurring in Kosovo. The aim of the intervention by NATO was to end the conflict and force Yugoslavia to accept special autonomy status for the province of Kosovo to consider the interest of NATO.

The interests of NATO's military intervention in the Kosovo conflict can be seen from several perspectives, including politics and the military side. From a political perspective, the intervention of the United States in the Kosovo conflict related to the efforts to end Russia's role as the ruler of the Eastern European region. Furthermore, the US criticizes Russia as a superpower in the global order. As more countries join as NATO membership, the US could sever ties with Eastern European countries which been part of the Soviet Union.

From the military perspective, NATO's intervention aims to halt the advancement of Balkan military industrial products that threaten western products. Aside from that, the Kosovo conflict has become a staging ground for the disposal of weapons, ammunition, and Western military equipment. If weapons should be destroyed at a high cost but could be devastated more efficiently with the conflict in Kosovo where military weapons are required to arm rebel groups in Kosovo. Furthermore, Kosovo is a location for business transactions involving western-made weapons, and also as a test case for the development of western military equipment and weapons equipment, both directly and indirectly.

According to Nick Fotion and Bruno Coppieters (2008), NATO's intervention during the conflict in Kosovo can be justified based on the seven principles of the Just War Theory.

1. Just cause: few people deny that the plight of hundreds of thousands of Kosovar Albanians, forced from their homes by Serb forces - sufficiently fulfils the first criteria,

providing a reason for the war.

2. Last resort: the reason for the attack by NATO on Operation Allied Force in Kosovo was unable to make President Milosevic stop his actions to destroy the guerrillas and drive ethnic Albanians out of Kosovo. For this reason, this is the final choice for further intervention from NATO. Therefore, this principle adopts some relevance for contemporary just war theory because of democratic decision-making procedures. People in Kosovo believe that the government's decision to fight was unjustified and it was needed international assistance to resolve the conflict in Kosovo.

3. Probability of success: The decision by NATO to intervene in the Kosovo conflict was rational terms of the probabilities of success. Another question is whether the definitions of military target include damage to civilians such as public facilities and infrastructure.

4. Legitimate Authority: Who is to be in charge of a humanitarian operation? The United Nations is widely regarded as an obvious international organization to justify intervention in the Kosovo conflict. However, United Nations interventions necessitate far-reaching considerations based on UN Security Council provisions. On the one hand, NATO decided to intervene in the Kosovo conflict. One of the principles of legitimate authority is the Kosovo liberation movement. The legitimacy of the liberation struggle in Kosovo founded on UN Security Council resolutions as general principles of international law.

5. Good intentions: In the case of the Kosovo conflict, the intervention made because there was an abuse of power that harmed civil society. Losses incurred, such as severe infrastructure damage. The reason of the intervention was the conflict harmed the lives of civilians, and the consequences were severe even after the conflict had ended.

6. Jus ad Bellum: the justified theory of war requires to have a clear understanding of why they are fighting. At this point, NATO appears to be in a strong position. NATO leaders, including US President Bill Clinton, strengthened the provision for intervention to end the bombing, including the repatriation of Kosovo residents. However, they were protected by international organizations such as NATO.

7. Jus in Bello: The motivation for intervening in the Kosovo conflict is the large number of civilian casualties caused by separatist airstrikes in Kosovo. The main goal is to stay on target for the attack on the military centre in Kosovo and minimize civilian casualties. A large number of the victims and most civilians were influencing public opinion around the world. Then, at this point also as a strong causes of NATO's decision to have intervention in the Kosovo conflict.

CONCLUSION

The ethnic cleansing conflict in Kosovo sparked numerous debates and criticisms, including from the international community. Several parties who have criticized the conflict in Kosovo have confirmed humanitarian intervention. On the other hand, Kosovo requires international assistance to help resolve this conflict because the situation is spiralling out of control and causing civilian casualties to increase massively.

Based on the perspective of the Just War Theory, it is clear how this theory explained the conflict in Kosovo and was also able to answer them with rational and theoretical reasons. The Just War Theory perspective justifies the existence of humanitarian intervention by

NATO in the Kosovo conflict. All the causalities explained based on the principles of intervention according to the Just War Theory, including just cause, last resort, probability of success, legitimate authority, good intentions, Jus ad Bellum, and Jus in Bello.

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