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**INTERVENIMI HUMANITAR NË RASTIN E KOSOVËS PREJ
1998-1999**

**ХУМАНИТАРНАТА ИНТЕРВЕНЦИЈА ВО СЛУЧАЈОТ СО
КОСОВО ОД 1998-1999**

**THE HUMANITARIAN INTERVENTION IN KOSOVO CASE
FROM 1998-1999**

ABSTRACT

The humanitarian nature of intervention in Kosovo has been called into question. On March 24th, 1999 North Atlantic Treaty Organization (NATO) warplanes were seen over the Serbian province, intending to ward off the conflict that was taking place in Kosovo by compelling Serbia to pull back its units from the latter's territory. The March events in Kosovo raised the query whether the interference might be considered as a humanitarian, taking into consideration that the latter's conflict did not started with Kosovo but with Croatia, Bosnia. Most of the analysts are concentrated on the intervention as a completed action without the legal authorization of the United Nations Security Council (UNSC) that violated international law and the United Nations (UN) charters. This research seeks to explain the 'humanitarian intervention' doctrine and applicability in Kosovo case during the war period 1998-1999; how the concept of humanitarian intervention took an

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extraordinary context; on what interventions are built despite the law that continually seeks to prevent conflicts and provide aid to the people; and most importantly, explore the possibilities of conflict prevention before 1998-99. The Security Council authorizes intervention as an enforcement action under Chapter VII Article 41 and 42. The enforcement once had greater legitimacy but has become more complex due to the UN member states' position. The theoretical framework developed by Walzer, Chomsky, and Gray indicates that Kosovo has challenged the international order. Their analyzes are that interventions as such it should depend on the United Nations (UN) charter or be flexible on a case by case-based on political conflict in a particular country.

Key words: UN, NATO, Humanitarian Intervention, United States, Kosovo, Serbia.

INTRODUCTION

Humanitarian interventions remain a very contentious matter in international law. The definition indicates the complexities: the use of force, by a number of states or a state. Its purpose is to intervene in another region, intending to prevent widespread conflict between two ethnicities based on the protection of fundamental human rights, without the approval of the state where the action is applied.² The term itself relies on the concept of intervening in a country, without its approval, to save lives through the threat of the use of force it can be morally and legally justified if it's taken in the name of the humanitarian protection and not in geopolitical interests of the intervening country.

As one of the youngest countries in southeastern Europe, Kosovo declared its independence in 2008, disputing its own territory from Serbia. The origin of the political and provincial conflict between Kosovo and Serbia dates back to the conquest of Kosovo by the Ottoman Empire in 1389.³ Until 1912 Albania was under the Ottoman Empire occupation where their lands were divided in four different vilayets: Kosovo Vilayet, Shkodra Vilayet, Manastir Vilayet, and Janina

² Buchanan, A. (2010). *Human Rights, Legitimacy and the Use of Force*. New York. (pp 298-323)

³ Malcolm, N. (1998). *Kosovo: A Short History*. Published July 1st, 1999 by Perennial/Harper Collins (NYC)

Vilayet.⁴ Within four of the territorial disputes, Kosovo had the largest one, which lasted with defeats for territorial disputes. Kosovo has gone through different phases aspiring for its independence, yet the most significant ones are; the period where Kosovo was under mass oppression of Former Yugoslavia Leadership (FYR) in 1945-1990. Prior to that, the conflict was not very evident. In 1998-99 the conflict became more visible as Serbia dictatorship increased.



Fig. 2. Socialist Federal Republic of Yugoslavia (January 1991) ICTR

During this period Kosovo had in power few constitutional acts that pertained to it with the amended constitution of 1974 so-called ‘Kačanik Constitution’.⁵ The second period involved the government of Kosovo under the United Nations Mission (UNMIK) and the Permanent Governmental Institutions.⁶ And the last phase comprises the establishment of new institutions with the right as an autonomous state. The parliamentary elections that were held in 1992 were considered as

⁴ Arsim Bajrami and Florent Mucaj. (2018) *E Drejta Kushtetuese*. Prishtine. (pp 230-241).

⁵ Arsim Bajrami and Florent Mucaj. (2018) *E Drejta Kushtetuese*. Prishtine. (pp 230-241).

⁶ U.N. Security Council. (UNMIK) S/RES/1244. 10 June 1999.

a democratic governmental election.⁷ As a result, Serbia responded with tremendous violence out-breaking all the legitimate institutions of Kosovo by changing official language, educational system, etc. The controversy of Kosovars for the Milosevic leadership during that time was endless. As no other alternative civilians chose to join the Kosovo Liberation Army (KLA). The Army emerged in 1997 by declaring their confrontation with the Serbian regime. The expansion of the army was legal with the Kosovo constitution of 1990, where article 77 asserts that the resistance for the sovereignty pertains to every state and it is inevitable.⁸

The confrontation of the army with the Serbian regime it contributed to fasten the process of conflict solving and examination of international community attention. This tells us that if civilians would not have opposed the Serbian regime, there is a possibility that the situation could have taken countless lives until the international community could have considered for an attempt of conflict resolution. The immediate approach of communicating with the Kosovo Liberation Army (KLA) came from American diplomats due to its external influence.⁹ While Kosovo Liberation Army (KLA) was liberating some of Kosovo's territories on the other side Serbia was committing massive killings of noncombatants, torching homes and the use of cruelty on the displacement of families that were sheltered in neighboring states such as; Albania, Macedonia, and furthermore European states. It was hard to detect the Serbian intentions towards Kosovars at the beginning, nevertheless the United States' (USA) engagement made it easier the process of determining their long-term intentions.

When there is a conflict occurring the initial attempt of preventing the conflict is the diplomatic talks but, in this plot, diplomacy was not efficient. The peace conference for Kosovo conflict was held in Paris from 6 to 23rd of February and from 15th to 18th of March 1999.¹⁰ Known as the 'Rambouillet talks' the conference was addressing the attainment of a legal and political agreement on resolving Kosovo's status and the establishment of permanent troops of North Atlantic

⁷ From 130 deputies that the Parliament of Kosovo had 100 were selected and 30 of them will be selected based on the proportion of the political parties.

⁸ The proclamation of Kosovo Constitution in 1990, was called as 'Kaçaniku Constitution' held in Kaçanik (a city in the south of Kosovo).

⁹ Gezim, V (2018). *Acting Like a State: Kosovo and the Everyday Making a Statehood*. By Routledge. NY. (chapter 1)

¹⁰ The conference was made of the contact group and international community such as members of the contact group, Kosovar delegation, Serb Yugoslavia delegation.

Treaty Organization (NATO).¹¹ There were distinct approaches; the Kosovan one that was relying on the diplomatic solution equal to the international community and the Serbian that by every means did not want the emancipation of Kosovo. During that time Madeleine Albright was directly engaged in the process. As one of the witnessing diplomats in the conflict further she states that ‘diplomatic talks seem insufficient at this stage as Serbian leader Milosevic is constantly committing massive killings of civilians and for that, we are discussing with North Atlantic Treaty Organization (NATO) members for all the possible solution on the use of force by bringing to an end the conflict.’¹²

It is inevitable the fact that there where is a conflict taking place, we usually see American’s presence either militarily or politically. Witnessing the atrocities of the war in Kosovo was not enough to ease the concern that some countries had during the voting process of the intervention at the United Nations Security Council (UNSC). And not only members of the United Nations Security Council (UNSC), some scholars see United States presence in Kosovo as inadequate, but it is undeniably the fact that Kosovo delegation was relying on the international community help and by so signing the proposed agreement on peace reaching talks allowed the intervention of the North Atlantic Treaty Organization (NATO) in the region. From a legal context, the enforcement of Rambouillet agreement was illegal as there was no signing from the second party (Serbia). The diplomatic negotiations did not succeed therefore left the case unresolved. The continuous ethnic cleansing that transpired raised consciousness among the international community for an action that could potentially end the conflict. Known as an intergovernmental military alliance the North Atlantic Treaty Organization (NATO) whose aim is to strengthen, advocate peace and security on the international stage witnessed the displacement of over than one million people, thousands were slain, abused, and many saw their property being demolished. As a consequence of unsuccessful diplomacy, military intervention was the last attempt in order to prevent the war. North Atlantic Treaty Organization (NATO) issue a warning to Serbia with the prepared attack if they reject to sign the Rambouillet agreement North Atlantic Treaty Organization (NATO) forces will

¹¹ Weller, M. (n.d.). The Rambouillet Conference on Kosovo. Online Library Willey. 1999 (pp 211-251)

¹² Madeleine Albright. USA: Secretary of State Madeline Albright Kosovo Speech. APARCHIVE (story number 81860) 1998.

bomb the capital of Serbia, Belgrade.¹³ Attempts to finalize the end of the conflict remained ineffective until March 24th, 1999. Defined by skeptical as the use of military means to achieve humanitarian purposes such as the protection of non-competence, North Atlantic Treaty Organization (NATO) began a three-month-long bombing operation against Serbia that culminated with Serbia's surrender.¹⁴ The war concluded, but the ethnic tensions were still persisting. The withdrawal of Serbia units did not make Kosovars feel safe in their homeland.

The unresolved matter of the situation left the citizens to wonder about their final status that contributed to the escalation of ethnic tensions. The long path of unsolved tensions took civilians to streets where in 2004 Kosovars started protesting for the drowning of two children's in 'iber bridge' by Serbian citizens.¹⁵ The riots were identified as the tensest after the war. The estimated number of protesters reached 50, 000 by leaving 11 Kosovars, 8 Serbs killed, and a thousand houses torched.¹⁶ The international community particularly Kosovo Force (KFOR) and United Nations Mission in Kosovo (UNMIK) failed to respond to the riots and like no other choice the situation was left under the Kosovo Police Service (KPS). The lack of experience that the Kosovo Police Service (KPS) had it exacerbated the situation.¹⁷ Kosovars had committed themselves to outright independence while Serbia consistently refused any international interference in the affairs with Kosovo, considering as an entirely internal matter. To settle these incompatible views, an initial attempt was made to establish self-governance of Kosovo for an interim period, without touching the status of the country.

This article aims to expose the roots of the conflict in the Balkans particularly the Croatia war continuing with the Srebrenica and Kosovo war that culminated with the breakup of Yugoslavia in 1992. By analy-

¹³ Press Release UN. SC/6657. NATO Action Against Serbian Military Targets Prompts Divergent Views as Security Council Holds Urgent Meeting on Situation in Kosovo. March 1999.

¹⁴ General Wesley K. Clark (Supreme Allied Commander). When force is necessary: NATO's military response to the Kosovo crisis. (pp 14-18) 1999.

¹⁵ Stefan W, Christalla Y. Conflict Management in Divided Societies: Theories and Practice. (pp 228- 230) By Routledge, 2012.

¹⁶ See report of OSCE (Organization for Security and Co-operation in Europe) Mission in Kosovo. Monitoring Department, Legal System Monitoring Section. Follow up of March 2004 Riots Cases Before the Kosovo Criminal Justice System. July 2008.

¹⁷ Kosovo Police was founded on September 1999, in accordance with resolution 1244.

zing the Kosovo's case, we will examine how the intervention was carried out. This study goes beyond examining the North Atlantic Treaty Organization (NATO) intervention that conquered the conflict in 1999; it also discusses the presence of international organizations that were taking the situation under the supervision and how they have contributed to the independence of Kosovo.

Apart from historical events that will be explored further, this research will give the possible alternative solutions that could have been taken in order to prevent the conflict. Although there is an increasing number of academic researchers being done in the Kosovo case, none of them gave explicit alternative solutions to the rooted conflict. Hence, the purpose of this research is to propose a solution to how an international community could have carried out the conflict as such by decreasing the regional conflict escalation. This article is divided into two parts: First section concentrates more on the North Atlantic Treaty Organization (NATO) intervention in 1999, and the purposes behind it as well as obstacles that have been addressed by different scholars and how the latter's intervention contributed to reshaping the international law applied on humanitarian protection. The second section of this research is focused on the resolution 1244 adopted by the United Nations Security Council (UNSC) and how it has contributed to the Kosovo independence under the regional tensions.

THE INTERVENTION OF NATO: HUMANITARIAN VS POLITICAL

A complex and ambiguous case that contributed to the assumption that 'the United States (US) is employing humanitarian concerns as a pretext to mobilize public support for military interventions undertaken for other reasons.'¹⁸ The future of the use of this means led the members of the alliance to construct the decision of the use force as a solution to the humanitarian crisis.¹⁹ When we talk about the intervention carried out by the North Atlantic Treaty Organization (NATO)

¹⁸ Goodman, R. (2017). Humanitarian Intervention and Pretext for War. Law Harvard Faculty, 34. (pp 107-141)

¹⁹ These objectives were: the cessation of military Serbian forces that were violating the Kosovar civilian population; withdrawal of Serbian forces permanently; helping to Kosovo with military forces to assure peace; the refugees and displaced Kosovars to return home with the assistance of international organizations and, last but not least, the settlement of a political framework for Kosovo based on Rambouillet accords.

aspiring to promote peace, we should scrutinize rigorously the state's case. To clarify the Kosovo intervention, no one better than Clinton can justify it. During his mandate, he declared that 'leaving Serbia unpunished would turn into hostility for neighboring states that could contribute to a dangerous impending but blocking Serbia will deter future aggression'.²⁰ He gave two primary reasons that the intervention was chosen for the humanitarian ideals; we intervened to protect Kosovo people as they were demolished by Serbian units and second; we took such a decision to counter the threat of the most likely escalation of the conflict at the regional level because there was a possibility of the neighboring state's involvement such as Greece, Turkey that were in great risk and as they remain North Atlantic Treaty Organization (NATO) ally, might have entangled in the conflict.²¹

The intervention in Kosovo alarmed various countries because of its geopolitical position and one of those are Russia and China as the only opposing countries, nevertheless policymakers do say that this could intimidate and concern only 'radical' Russians and Chinese.²² Doubtless that Russians have an odd reason to doubt about the North Atlantic Treaty Organization (NATO) expansion in Europe because of endless fear that the great powers have been always rivals and capabilities about their objectives can be reversed instantly as it arose with Kosovo.

A great challenge for the future is the country's geopolitical interest that could potentially affect civilians in various countries. In the post-war period, the North Atlantic Treaty Organization (NATO) remained the most powerful military alliance that the world has ever seen by responding with an intervention to the great events taking place in different regions and periods. But interventions are not always seen as humanitarian, even though it might liberate a nation from its accusatory. This will be elaborated more theoretically. In contrast to realist perspective that focuses on states as the major actor in international interventions, liberalists emphasize the protection of human

²⁰ Access the Presidential Speech at Miller Center. March 24, 1999: Statement on Kosovo. <https://millercenter.org/the-presidency/presidential-speeches/march-24-1999-s-tatement-kosovo> Access: 01/03/2020.

²¹ Full speech. Bill Clinton for Military Action in Kosovo. APAARCHIVE (story number 113926) 1999.

²² Sakaguchi, Y. Mayama, K. Significance of the War in Kosovo for China and Russia. *National Institute for Defense Studies*. 2020.

rights. Whereas classical liberals claim that humans possess constitutional rights to do anything they consider that fit to preserve themselves if they do not violate the equal liberty of others, not denying the fact that a state can cooperate for mutual progress. Walzer states that ‘in Kosovo case, we can evidently identify that the military actions were applied in the name of the protection of human rights whilst liberalists acknowledge that civilian’s cooperation with the local authority and the international community made the international intervention available to that state.’²³ Walzer’s perspective is supported by Chomsky where he demonstrates that ‘when there is invariably a history of humanitarian intervention, they are interpreted as military forces intervention.’²⁴

Supporting classical liberals view that is focused on humanitarian rights brings us a profound challenge for the future that is the military actions; how issue’s such as intervention will undertake nations’ decisions globally not independently; whether international law should enable states to intervene in order to stop a certain conflict. This is the subject matter of the Security Council (SC) authorization. The international law imposes that the use of threat or force to intervene in another the state is restricted except when they have to do it for their own self-defense.²⁵ Interventions are based on international law that restricts the human catastrophe destruction of another country, the same as it occurred in Kosovo terminating with the North Atlantic Treaty Organization (NATO) intervention. Based on many scholars’ arguments, it may become tolerable to intervene in states in order to prevent the conflict if diplomacy is not effectible. One of these authors that stand behind this concept is Gray by affirming that ‘organizations such as United Nations (UN) might evaluate the reasons for the demand for an intervention that will be tolerable and skip the doctrinal quarrel.’²⁶

Nevertheless, conflicts and disputes between states at the local and national level have contributed to the stipulation for ‘humanitarian’

²³ Terry, N. (2013). From Right to Intervene to Duty to Protect: Michael Walzer on Humanitarian Intervention. Terry Nardin*. *The European Journal of International Law* Vol. 24. No.1.

²⁴ Chomsky, N. (1999). The New Military Humanism: Lessons from Kosovo. *The United Kingdom*. (pp 1-24 and 24-72)

²⁵ U.N. Chapter VII: Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression. Article 42.

²⁶ D.Gray, C. (2000). *International Law and the Use of Force*. The United States. Oxford: Oxford University Press. (pp 39-47).

intervention. The international community affirms that a military intervention might be justified if humans are in need of preservation, despite the fact that occasionally it might not have the green light of the Security Council members.²⁷

Based on the liberalists approach, there is an enormous variation between politics, treaties and the law applied to ethical and moral principles that differ greatly, but Kosovo's intervention has exposed the concern that humanitarian intervention in the future might demand the same intervening method without the United Nations (UN) approval for future legitimacy.

Actions as such, no one better than Kofi Annan justifies where he affirmed that 'there are occasions that the use of force may be justified in the pursuit of peace'.²⁸ The critical questions come if the conflict could have been prevented; was there a possibility to avoid the escalation and the demand of the North Atlantic Treaty Organization (NATO) intervention? Alex Bellamy gives three reasons why the intervention in Kosovo was not required as eagerly before the war commenced: first, the conflict was not evident prior to 1998, second, there were strains between Kosovo and Serbia but nothing to be alarmed for, last but not least if there might be a claim to separate Kosovo from Serbia it would have carried out with Bosnia and finally those who were seeking the independence of Kosovo, unfortunately, they did not have authority or control over their own territory.²⁹ However, history teaches us a lot; going back to Bosnia war taking place in 1995 committed by same Serbian leader Milosevic where around 8000 Bosniaks were killed left a room that Serbia most probably will invade and apply the same method of ethnic cleansing to Kosovo too. The United States (US) was not seeking to get involved in post- second world war's due to its big loss, therefore the faith of Bosnia and Kosovo was left in Europe's hand. Answering to the previous question if the conflict could have prevented there are numerous facts that give us an answer that there was a potential prohibition of the conflict.

²⁷ Orford, A. (2003). *Humanitarian Intervention: Human Rights and the Use of Force in International Law*. The USA. (pp 4- 55)

²⁸ See the Secretary-General Statement, Press Release. UN official website: <https://www.un.org/press/en/1999/19990518.SGSM6997.html> Access: 01/03/2020

²⁹ Hehir*, A. (2009). Independence, Intervention, and Great Power Patronage: Kosovo Georgia and the Contemporary self-determination penumbra. *Amsterdamlawforum.UK* (pp 223-233)

RESOLUTION 1244

When the war concluded on June 10, 1999, the Security Council adopted the resolution 1244 that enabled the Security Council General Secretary to establish an Interim Civil Administration in Kosovo that will bring transition into provisional democratic self-governing institutions.³⁰ As one of the biggest and influential organizations, the United Nations (UN) has a purpose to keep the peace and stability on a global level. There are numerous forms of the United Nations (UN) engagement in various parts of the world. Some of them include military forces with peacekeeping troops, some include aids (e.g. Kosovo, East Timor, Rwanda).³¹ During the cold war, the United Nations (UN) has acted to a great degree as a contributing player and remained to perform a significant role in the latter's situation. The approval of the resolution contributed to the closure of Serbian aggression that applied towards Kosovars and not just that it ended Kosovo Liberation Army (KLA) resistance towards Serbian forces that with the support of North Atlantic Treaty Organization (NATO), Kosovo was inaugurated with liberty. Nevertheless, there is matter left to wonder in the resolution 1244. Point 10 of the resolution explains the status of Kosovo under the Federal Republic of Yugoslavia ruling until the latter receives the status as a sovereign state.³² During this period United Nations Mission in Kosovo (UNMIK) was in charge to carry the elections in Kosovo by providing a simple policy for a political solution based on the Rambouillet agreement.³³

The resolution has left many vague answers starting from Annex 1 paragraph 5 where it states 'the safe and return of all refugees and displaced individuals and unlimited access to Kosovo by humanitarian aid organization' but it disregards the missing people where around

³⁰ Nations, U. (1999, June 20). United Nations. Retrieved 06 28, 2017, from United Nations. Access: 29/03/2017

³¹ Patrick A.M. Democratic Participation in Armed Conflict. (Military Involvement in Kosovo, Afghanistan, and Iraq. Palgrave 2014. (pp 63-67)

³² Former Yugoslavia emerged as a result of the separation of multi-ethnic Hapsburg and Ottoman Empire in the early 20th century. Yugoslavia was made of Bosnia, Slovenia, Croatia, Kosovo, Macedonia and Montenegro.

³³ The Contact Group included France, Germany, Italy, the UK, and the USA. See Archive (The U.S. Department of State) Information released online on January 20, 2001.

1700 are yet to be found.³⁴ Apart from the establishment of 1244 resolution, the Rambouillet agreement gave authority to the United Nations Mission in Kosovo (UNMIK). It reached 3-years of administration that provided the extension of legitimate authority to the United Nations Mission in Kosovo (UNMIK) to govern Kosovo from 1999- 2001.³⁵ The resolution advanced four stages that were fundamental, yet there were paragraphs that were vague as marked before. Annex II point 2: it affirms the establishment of an interim administration mission in Kosovo by allowing to obtain substantial autonomy within the Federal Republic of Yugoslavia (FYR).³⁶ This was upon the decision of the Security Council of the United Nations (SCUN). Even that it was considerable autonomy it was upon the Former Yugoslavia Republic (FYR) and the Security Council (SC) decision which proved to Kosovo the expected instability in the region. Moving on to Annex II point 3 where it states about the assurance of the security under the United Nations (UN) administration, but it does not pertain to 2004 riots taking place in the north of Kosovo.³⁷ The resolution focuses predominantly on the consequences caused by Serbs rather than the origins of the crises that dates with the Bosnia war. (and lacks lots of facts)

There are many points that are not explained clearly in Resolution 1244, particularly in Annex I and II that actually seek to address the G-8 leader statements. One of the controversial political concerns is the refinement of the so-called autonomy within the Federal Republic of Yugoslavia (FYR) meaning Serbia. Point X of the resolution expresses the termination of the military activity by including the performance of Serbs personnel in Kosovo.³⁸ This could have potentially increased instability between ethnicities resulting in another undefined period of crisis. The language applied in resolution 1244 leaves matters unclear pursuing Kosovo in deadlock. Regardless of the indication of resolution 1244 that Kosovo protection will be under the authority of the United Nations (UN) it never detailed(concise) about the sovereignty of

³⁴ International Commission on Missing Persons. Kosovo for more see <https://www.icmp.int/where-we-work/europe/western-balkans/kosovo/>

³⁵ U.N. Security Council. Report of the Secretary- General on the United Nations Interim Administration Mission in Kosovo. S/1999/779. July 12, 1999.

³⁶ U.N. Resolution 1244 (1999). Adopted by the Security Council at its 4011th the meeting, on 10 June 1999. S/RES/1244 (1999).

³⁷ U.N. Resolution 1244 (1999). Adopted by the Security Council at its 4011th the meeting, on 10 June 1999. S/RES/1244 (1999).

³⁸ Document United Nations Resolution 1244. S/RES/1244 (1999) 10 June.

Kosovo apart from Yugoslavia leadership which was incompatible with the resolution 1244. The recognition of Kosovo as a sovereign state is in inconsistency with the resolution not eliminating the remark that Kosovo was part of the Serbian province. This means that all the states, particularly the United States of America (USA), as a component of the United Nations (UN) have disregarded their support in view to resolution 1244 by recognizing Kosovo's sovereignty, which draws us to notice that the purpose of the violation was clearly anticipated by United Nations (UN) representatives.

The purpose of the resolution was to 'administrate peace' and 'keep it fairly' in accordance with the United Nations (UN) policy but it turned out that paragraphs on annexes gave a questionable interpretation of the situation. The certainty that 21- years have passed and the situation to some degree remains the same taught us that the United Nations (UN)-role in long-term cohesion and peace as foreign policy has lacked its efficiency. Prior to the adoption of resolution 1244, there were previous resolutions with a similar aim on trying to condemn Serbian excessive forces towards Kosovars.

Resolution 1160 (1998) where paragraph 8 states the prevention of aircraft, arms, and weapons supply to the Former Republic of Yugoslavia (FYR), including Kosovo.³⁹ The resolution was adopted nevertheless the constant supply with arm units to Serbia did not stop that contributed directly to a continues conflict. Moving on to resolution 1199 (1998) same as in the previous resolution condemning the supply of arms but nothing was done even that resolutions were adopted.⁴⁰ The third resolution 1203 (1998) where it is emphasizing the need to ensure the safety of the international community operating in Kosovo but not mentioned about the safety of Kosovo citizens.⁴¹ The essence of establishing an Interim Mission to Administrate Kosovo was a challenge and bringing into existence was another milestone. Kosovo's faith was trusted to the Special Representative of the Secretary-General and United Nations Mission in Kosovo (UNMIK)- administration by a collective goal of establishing local institutions. Not too long in 2000,

³⁹ UN. Resolution 1160 (1998). Adopted by the Security Council at its 3868th the meeting, on 31 March 1998. S/Res/1160 (1998)

⁴⁰ UN. Resolution 1199 (1998). Adopted by the Security Council at its 3930th the meeting, on 23 September 1998. S/Res/ 1199 (1998).

⁴¹ U.N. Resolution 1203 (1999). Adopted by the Security Council at its 3937th the meeting, on 24 October 1998. S/Res/1203 (1998).

they established the Transitional Council of Kosovo (TCK) and Temporary Administrative Council (TAC).⁴² Upon entry into the charge of Resolution 1244, in 2000 United Nations Mission in Kosovo (UNMIK) had established the temporary administrative structure of Kosovo.⁴³ The first elections held in 2000 were a major accomplishment for Kosovo under United Nations Mission in Kosovo (UNMIK) administration that had the right from resolution 1244. The estimated number of people who went to polls was 79% that marked the enthusiasm for the determination of independence. After four years the numbers declined to 49.5% due to the undefined status of Kosovo.⁴⁴ Kosovars went to streets again, the violence that erupted was condemned by the United Nations Security Council (UNSC) as the civilians were attacking Kosovo Force (KFOR) and the United Nations (UN) personnel properties.⁴⁵

The unwillingness on prolonging the United Nations Mission in Kosovo (UNMIK) mission in Kosovo was supported by the majority of Kosovars because of undefined status and instability of the region. As a result of the situation, the United Nations Security Council (UNSC) was calling for strategical change on handling the situations that could bring stabilization for both ethnic groups and furthermore.⁴⁶ The adoption of the Constitutional Framework for Provisional Self-Government had three primary intentions: establishing a legal basis for holding general parliamentary elections and for establishing legislative institutions; establishment of Provisional Self-Government for Kosovo within the framework of Resolution 1244; Kosovo's preparation for the decisive political decision after UNMIK administration foresaw with 1244 resolution. The third phase of the United Nations Mission in Kosovo (UNMIK) was the final status of Kosovo 2005-2008.⁴⁷ It commenced in 2005 where Kosovo had the green light for its path of independence.

⁴² UNMIK/PR/ 174. Press Release. Kosovo Transitional Council Establishes Secretariat.

⁴³ The Temporary Administrative Council comprised of 8-members appointed by SPSG, 4-were from Kosovo, 1-from Serbia and the rest from UNMIK

⁴⁴ Arsim Bajrami dhe Florent Muçaj. *E Drejta Kushtetuese*. Prishtine 2018. (pp 26-237).

⁴⁵ Human Rights Watch. Failure to Protect: Anti-Minority Violence in Kosovo, March 2004. July 2004 Vol.16 No.6 (D). (pp 20-26)

⁴⁶ U.N. Security Council Presidential Statement, S/PRTST/2004/13, April 30, 2004.

⁴⁷ U.N. Regulation No. 2008/1. On an Amendment to the Constitutional Framework for Provisional Self-Government in Kosovo. UNMIK/REG/2008/1

The Kosovo constitution was signed on April 1, 2008.⁴⁸ The United Nations (UN) had no other alternative but to administer Kosovo with the military forces that consequently many previous missions of the United Nations (UN) were not to apply in Kosovo. During the governance in Kosovo, the United Nations (UN) expanded its own role as a contributing factor in assistance of the nation-building of Kosovo that had to use military forces to finalize a post-conflict period held due to complete shattered country by Serbian forces.

CONCLUSION

This study indicates the encounter of moral and legal aspects of North Atlantic Treaty Organization (NATO) to counter the conflict in Kosovo. Opposed by certain countries that the use of force should not be an alternative in order to ward off conflict even if diplomacy is a failed instrument, left Kosovo unrecognizable as an independent country by a big number of states. Up until today, Serbia has not recognized Kosovo's independence by giving room to a direct engagement of the United States (USA) and European Union (EU) that are resulting successful to a certain extent. Since 1999, the North Atlantic Treaty Organization (NATO) has been composing efforts to maintain peace and stability in Kosovo and the region and so it has achieved the goal. To help maintain peace in Kosovo in the post-war period, North Atlantic Treaty Organization (NATO) established Kosovo Forces (KFOR), an organization derived from the United Nations Security Council (UNSCR). Right after the approval of the resolution 1244 North Atlantic Treaty Organization (NATO) supported the establishment of Kosovo Force (KFOR). The number of troops has been decreasing since then due to the improved regional stability.

The purpose of this study was to look briefly at the historical events that were taking place in Kosovo and the leadership of Serbia that had foreseen circumstances for the cause of Kosovo and Bosnia conflict. The most critical question developed in this research was; in upon what circumstances the international community sees it justifiable intervening in a country. The situation in Kosovo apart from bringing peace there is instability for both sides ending in demand for the

⁴⁸ State Portal of the Republic of Kosovo. Link: <https://www.rks.gov.net/EN/f39/republika-e-kosoves/kosova>.

assistance of the international community. Until now the United States (USA) remains the strongest ally to Kosovo on its progressive path. The regional ethnic tension is still far from reality because underlying the cause of the territorial dispute as well and the end of the war makes it more coherent than argumentative. Despite the vague status of future stability in the region that might be one thing, but the other is that Kosovo was guaranteed with its the permanent presence of the international community. This cannot be welcomed that easily knowing the influence of the United States that has in external level particularly in Kosovo case.

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