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**THE KOSOVO CRISIS AND THE INTERNATIONAL SYSTEM:
ISSUES OF LEGITIMACY AND ACTORS' MOTIVATION**

Ognyan Minchev

University of Sofia – Institute for Regional and International Studies

I. The Kosovo crisis – problems of legitimacy.

The crisis in Kosovo opened the door to a completely new type of international involvement and management of local inter-communal clashes. It's already been more than 120 years since the international community (in the format of the "European Concert of Powers") has intervened for the first time into a local crisis, using the arguments of humanity and human rights defense. This happened in 1876 when the Ottoman Empire defeated a rebellion of the Bulgarian population, claiming independence from the Porte. The huge atrocities of the Ottoman troops against the civilian population have actually lead to mass scale public opinion condemnation in Europe and in the US and brought the 'Great Powers' on the conference table in Constantinople in resolving the 'Eastern Question'.

Mass-scale violations of human rights have been in the focus of the international public opinion and the community of democratic states throughout the 20C. That stimulated the sophistication of international law in many aspects – limiting the means of legitimate warfare, establishing clear status for refugees, military prisoners of war, civilians in war stricken regions, etc. The League of Nations, established in 1919 as an instrument to preserve the new *status quo* in post war Europe and to contain revisionist attempts on behalf of the defeated nations, has been the first precedent of an international organization (even if very fragile and ineffective one), aimed at mediating among the nations' interests from the position of defined principles, including the principles of human rights observation.

The Holocaust and other immense atrocities of the Nazi machine throughout World War II brought to the international scene the UNO as the first precedent of an international institution, capable of enforcing decisions made. At the same time it was effectively restricted in its instruments to do that in most of the individual cases when the UNO has opposed inhumane practices around the world. The logic of the Cold War has substantively reduced the ability of the UNO to prosecute major cases of human rights violations, even if those cases have been treated by the Assembly resolutions or even by the Security Council decisions.

In all cases of international treatment of human rights' abuse throughout th 20 century one basic principle of the international system has dominated both the logic of international decision making and the practical interventions into conflict stricken

areas. This is the principle of national sovereignty and the legitimacy of the sovereign national decision making over the particular process – subject of international concern. If we, for example, take a look at the so called ‘third basket’ of the Helsinki Act of 1975, what we’ll see formulated is the principle right to monitor human rights status in a nation state. The latter, though, goes together with the obligation of the state not to impede, but to support such an independent monitoring.

The crises of disintegrating Yugoslavia – among other comparable events in the post Cold War world - have caused gradually developing precedents both of undermining the sovereignty of decision making at nation state level (through relativating the very concept of state sovereignty), and of international interference with strong obligatory enforcement. In the case of Bosnia and Herzegovina, the nation state as a sole legitimate agent in the international relations has been to a large extent replaced by the autonomous participation in the international crisis management of the conflicting parties’ leaders – the Muslim Bosniaks, the Serbs and the Herzeg Bosnia Croats. The internationally recognized sovereign – the state of Bosnia and Herzegovina – had no practical legitimacy to play a role, larger than the Muslim party representation. The confusion of this semi-legitimate international status of the three conflicting communities has become explicitly obvious at Dayton, where the legitimacy problems have been resolved through involving the presidents of two neighboring states – Serbia and Croatia as parties to the agreement for peace in Bosnia and Herzegovina.

The Bosnian crisis has shown the largest ever involvement of international organizations into a conflict management process. The EU, the OSCE, the UNO, NATO – to enlist only the major ones – have been direct participants in managing the conflict, even if their efforts have been ineffective for years. Only the combination of UNO Security Council resolutions and the willingness of NATO to execute them have finally produced the fragile resolution of the crisis at Dayton. The UNO – NATO partnership combined the legitimacy of the international organization with the executive ability of the military-political union, for the first time acting out of the zone of its principle responsibilities.

The Kosovo crisis represented a difficult case of legitimizing an international involvement from its very beginning. First, the crisis took place in the undisputed sovereign territory of the FR Yugoslavia. Unlike Bosnia, where the majority of the population (Serbs and Croats) has disputed the very statehood, Kosovo represents integrative territory of the Republic of Serbia – the bigger partner in the rump-Yugoslav federation. The Albanians – whose position within the territory and the state constitution has been the focus of dispute – represented a significant minority within the state of Serbia. Changing, or improving their status could be a result of sovereign Serb – Yugoslav decision making process. The legitimate body of international intervention – the UNO – could act as a strong mediator, enforcing international peace-keeping mission in the disputed region, but the UNO could have no authority either to control larger territory of the FRY, or to change the status of Kosovo itself. This is the framework, in which all international actors, mediating in the crisis operated until the end of 1998. The first significant point of departure has been Rambouillet.

The draft agreement, proposed to the Serb delegation at Rambouillet contained many unacceptable elements for the Milosevic regime in Belgrade. Giving up controls

over the disputed Kosovo region under a peaceful agreement would present Milosevic as a traitor in the eyes of the nationalist Serb public opinion. The strong man in Belgrade had already once felt the strength of his angry fellow compatriots after having signed the Dayton agreement against the will of the Bosnian Serbs. This time the reaction could be even stronger. That was enough argument to refuse signature at Rambouillet. But the draft agreement, prepared by the leaders of the West for Rambouillet contained one more significant obstacle to an easy surrender on behalf of Belgrade. According to the draft clauses and amendments, the peace keeping units of the NATO (not of the UN) in Kosovo would have free access to the entire territory of the FRY without being subject to the internal Yugoslav law. Obeying to such a clause would mean principle surrender of the FRY sovereignty on behalf of Milosevic regime. Such a precondition appears for the first time in an international effort to monitor and mediate in a crisis region in order to serve the observation of human rights there.

The propagandist legitimization of the NATO campaign against official Belgrade was built around the global character of the human rights principles and the responsibilities of the 'international community' to defend those rights in a global world. The growing integrity of uniting Europe was used as a powerful additional argument. But the split between the positions of the major Western leaders, united around the NATO, and the UNO, where Russia and China hold veto powers at the Security Council, has reduced the legitimacy of the 'international community' further action to the arguments of the major Western powers. The military campaign against Belgrade was carried out as a result of the united will of those Western powers. Only after Milosevic gave up to the military pressure and opened the door to the international peace keepers of KFOR, agreement involving the UNO as a formal agency of control over the international force had been made possible. These developments have outlined a new framework of international action legitimization in the field of conflict management.

First, the national sovereignty is no longer an obstacle to international action, when major violations of human rights are considered to have occurred. That will have major implications upon the entire international system. Viewing international relations in substance, smaller countries in numerous regions of the world have often been considered sovereign only *de jure*. Poverty and economic crises, strong neighbors and traditional imperial masters have often reduced national sovereignty to a nominal existence. The entire Soviet block throughout the Cold War has been constituted of sovereign on paper satellites. Kosovo, though, represents a precedent in which human rights concerns have been considered as a senior and more valuable principle of the international system, than the principle of sovereignty. This has immediately raised the question about the legitimate authority, capable to judge where is the point, in which sovereignty gives up its primacy to the human rights concerns. If sovereignty becomes relative, what will be the institutional basis of the international system from now on?

Second, there is no valid international authority to make decisions and act on behalf of the community of nations in cases of violent crises or major conflicts. The UNO and its Security Council do not, obviously, reflect the new power structures of the post Cold War world. In the case of Kosovo, the leaders of the West decided to bypass the UNO and act against Belgrade, legitimizing NATO as the new instrument of executing the decisions of the 'international community', thus de-legitimizing the

'great power' status of Russia and China. The NATO summit in Washington D.C., celebrating the 50th anniversary of the Alliance, adopted in effect a new framework of the NATO strategy and territorial range of operation, involving Central and Eastern Europe as parts of the Alliance's legitimate territory of action. Of course, this new strategic framework has been based on the evident will of most Central and Eastern European countries to join NATO and to be part of the Euro Atlantic security system. NATO's obligation to act in favor of human rights defense has additionally been legitimized by the fact that only nations with democratic political systems may constitute the Alliance's membership. But this set of arguments does not resolve the major issue, stemming from the substitution of the UNO – the world international organization – with a military-political alliance with regional scope of its mission. In the case of NATO Kosovo action democratic nations defend a minority, subjected to violent atrocities by an authoritarian regime. What if a regional organization, defending religious or cultural identity with fundamentalist principles interferes into a sovereign nation from the same region, legitimizing its action with the argument that this non-compliant nation does not observe 'the values and the principles of ...' Europe and the Western world could not successfully defend the precedent of a regional scope organization's military action against a sovereign country with the argument that 'our values are humane, and more than that – universal'. In a culturally diverse world international law will be less capable than ever to tell the difference between Western laic values, Christian values, or Islamic and Hindu values, concerning human rights or any other field of value systems definition.

Third, loosing the authority of the single international organization, which builds up a process of consensus on international conflict management action, and reducing the status of national state sovereignty in the international system impairs the legal definitions of the necessary threshold to international intervention. The world becomes much more relative in terms of responsibilities and rights. We live in a multicultural world. We have always lived in a multicultural world. What makes the difference today is that we assess positively the fact of multicultural living. This positive assessment, though, does not make it easier to define the rules of multicultural living. The nation state sovereignty has always been based on the principle of self-determination. A community becomes a sovereign only after proving it is a nation. (Long term struggles and dear victims usually pave the road to national emancipation in an entire epoch of human history – the epoch of the modern world.) A democratic nation has the obligation to observe the rights of all its citizens, including those belonging to minority communities, without being obliged to recognize those minorities' right to self-determination. Turning this principle into a relative one, opens the door to an endless process of communal claims for self-determination, with no possible end up. The endless self-determination process promises an endless chain of inter-communal conflicts and endless interventions of the 'international communities', aimed at human rights defense and at restoring peaceful coexistence. An endless chain of international protectorates, devouring humanitarian aid and preventing hostile clans to sit at each other's throats may well replace the imperfect, but stable world of sovereign states.

Let's take a look at Bosnia and Kosovo. Enormous amounts of international funds maintain weak protectorate administrations, presiding upon intense corruption and organized crime, tense inter-communal relations and continuous efforts to ethnic cleansing, performed by the currently stronger communities. The structural weakness of the 'international community' to deal with escalating communal claims has been

perfectly well demonstrated in the process of ex-Yugoslavia's disintegration. The first step has been to recognize the constituent republics. The next challenge immediately followed – Bosnia, an entity, which had no autonomous chance to survive the internal clash. A second step – semi-recognition of the constituent Bosnian parties, clashing with each other. Step three – uneasy peace, sponsored by the 'international community', and involving as "mediators" the war lords themselves – Milosevic, Tudman and Izetbegovic have been the signatories in the peace, following their own war... Fourth step – Kosovo. The 'international mediator' Milosevic becomes indicted war criminal... Step five ...?

If we come back to the Kosovo case, the challenges of legitimizing an international action do not stop with the successful end of the NATO campaign against Belgrade. The comparison between means and ends and – in particular – between aims and results brings us to an environment of multiplying crises, stemming out of unresolved old dilemmas.

First, the Kosovo action of NATO against Belgrade did not stop mass scale human rights abuse, even if it had successfully prevented a huge massacre of Kosovar Albanians, planned by the Milosevic regime. In the past nine months, systematic abuse of human rights of the now victorious Albanians over the minority Serbs has been taking place under the helpless observation of KFOR units, designed to perform military actions, but helpless in performing policing functions. The ethnic intolerance of Albanians in Kosovo affects not only the Serbs, yet all other ethnic communities – Roma, Turks, Slav Muslims etc.

Second, the protectorate status of Kosovo resembles a contradictory structure. Kosovo is a legal part of Serbia, and Kosovo is practically separated territory with its own currency, border controls, customs, dependent on foreign donors and organized crime economy, aiming at full independence. Thus Kosovo represents an important test case of the unavoidable change of borders as a primary consequence of war. Europe resolved its ethnic clashes after the World War II on the basis of two interconnected principles: inviolability of borders and respect to minority rights. One could say – if Milosevic failed to observe minority rights in Kosovo, he would now face separation. Without going into too much detail – the separation of Kosovo could not remain a single case in the international system in the Balkan region and in Europe. If a minority succeeded once to receive its independence as a gift from the international community, many other minorities are very likely to follow this tempting lead. If Kosovar Albanians could become independent, what obstacle – in terms of reason or international law – could prevent the independence of the Bosnian Serbs and Croats? A potential independence of Kosovo would immediately affect the stability of neighboring Macedonia, opening in this way the entire Pandora's box of old Balkan ethnic and nationalist strife.

Separatism and international protectorate buffer zones against separatism are hiding one more evidence of long-term legitimacy shortage: the new structure of Kosovo - administrative and economic - does not promise easy recovery. The region is overwhelmed by the organized crime economy and politics, which function on the basis of adverse clan competition. No effective law and order could be installed in this entirely criminal zone, where nobody feels secure for his/her life or property. If the community and its international sponsors could not establish the basics of decent institutions in Kosovo, what could we count at for the future? The restoration of Serb

control is impossible and unjust. The capacity for decent self-rule is almost non-existent. How many years of international protectorate administration and how many billions of dollars could rebuild a legitimate order in Kosovo, thus preventing a crisis spill over into the Balkans? How many places like Kosovo do we have on the Balkans...? In Europe...? In the World...? How many cases like Kosovo do we face today...? And tomorrow...? The day after tomorrow...?

Thomas Hobbs argued that no Leviathan (or reasonable order) is possible in the field of international relations. The process of international system's development in the next centuries tried to prove this Hobbs' thesis wrong. The consent of sovereign nations upon particular principles, norms and values, has made it possible to distinguish (within a reasonable risk of relativism) between legitimate and illegitimate behavior at the international scene. How could we establish a legitimate new international system, if the universal rule of normative consent among sovereign nations is being replaced by the flexible qualitative considerations upon the human rights records of different states and regimes, selectively applied after the *real politik* interest of a current 'international community'? (Flexibility is evident in comparing the Kosovo and Chechnya cases, where dealing with a 'Great Power' as Russia makes the only difference to dealing with the little nasty regime in Belgrade.) Human rights represent a value system. We either have to convince the entire world in a quantifiable normative version of our human rights observation standards, or we have to face an international system, built on relative bases.

Legitimacy is a process of consensual empowerment, which makes it particularly difficult to develop international authority, enjoying legitimate influence upon a growing diversity of cultures (that is – diversity of values), intensely communicating in the global world. The motivation of the different actors, involved in the Kosovo crisis represents an illustration of this problem.

II. The Kosovo crisis – the motivation of the actors.

The actors in the Kosovo crisis seem to interact dynamically with each other, but this is only at the level of physical contact. At the level of value motivation to act, the participants often represent parallel universes with no relationship among them. Who are they, the actors?

The Albanian community of Kosovo represents the passionate, emotional nationalism of a young nation, what Albanians really are. Like all young nationalists, Albanians try to enter the modern world of nation statehood, motivated by pre-modern, primordial perceptions of the world. Albanians fight for land, and rely upon clan solidarity. Their blood tells them the truth about who is a friend or foe. They do not admit alien blood into their community. They live together in a collectivist extended family structure, where membership is subject to a sole criterion – proven origin. This is why Albanians do not live with 'the others'. The aliens – that is the non-Albanians – have their own, non-intersecting territorial and spiritual realms. This is to explain the ethnic cleansing not only of the Serb foes, but also of all non-Albanians from the territory of Kosovo, once after the Albanian community took over control with the KFOR presence.

Serb nationalism shares most of the above mentioned features of the Albanian community, even if it is much older and on the defensive side. As former masters of the Yugoslav quasi-empire, Serbs have developed the art of assimilating other ethnic

groups with violence or cultural sophistication. The myth of the Serb identity, though, is as primordial and organic as the Albanian claim for ethnic communal purity. The legendary prince Lazar, who preferred Heavenly immortal victory for the Serbs to the victory in the real battle against the Ottomans at *Kosovo pole* represents the transcendent legitimacy of the Serb claim of control over Kosovo. The Kosovo defeat in 1399 sanctified the Serbs into a heavenly nation and no authority on Earth could reclaim this holy background of Serb national identity.

The Serb – Albanian dispute on Kosovo has the architecture of a medieval spiritual drama, where no compromise between the alternative parties seems possible. The global world with its new images and rules intervened in this drama in a really dramatic fashion. **The leaders of the West** represent a new international elite, whose perception of warfare has largely been shaped after the CNN imaging of the Desert Storm operation in the Gulf. ‘Human rights war’ has become possible, because it is a bloodless war. The ‘good guys’ are high in the sky and the ‘bad guys’ suffer 45 000 feet below, where only the computer smoke of Star Wars-like explosions makes us guess how severe the punishment is. Those, who got punished for no guilt are isolated into the peripheral category of ‘co-lateral damage’, representing the unavoidable risk of life. This picture substantially reduces the psychological threshold to accept the war as a normal event or fact of life.

In this context of ‘post-modern’ warfare Kosovo represented a low risk opportunity for the US President **Bill Clinton** to reclaim moral authority on the international scene, after having lost a substantial portion of it back home. Of course, we could not question President Clinton’s administration devotion to the human rights cause, which has been very actively manifested by the State Secretary **Madeline Albright**. Raised in a Czech family during the World War II, Ms. Albright’s passionate participation into the Kosovo campaign brought back to the political columns the forgotten notion of the ‘Munich Syndrome’. In 1938 the democratic leaders of France and Britain gave up the road to the still vulnerable Nazi dictator Hitler, permitting him to occupy Czechoslovakia and –later on – the entire Europe. The lesson of history, which Ms. Albright has learned on the example of her own life, is – ‘beat the dictator while he’s small’.

European political landscape has been – and still is – dominated by leaders of explicit left-wing legacy at the time of the Kosovo crisis. Most of those European politicians have started their conscious political life as pacifist demonstrators or anti-NATO campaigners in the Cold War era, when the successful performance of NATO has been crucial to the survival of the Western world. What has persuaded all those people, raised in the wave of 1968 culture, to support the NATO campaign against a brutal, but small Balkan dictator? How could Tony Blair and Xavier Solana present themselves as bigger ‘hawks’, compared to Jesse Helms or Henry Kissinger? We could offer many answers to those questions, but one of them is for sure true. The new generation **left leaders of Europe** are in search for their place in the history of unification and integration of the Old Continent. Schuman and Monet developed the idea of European unity. De Gaulle and Adenauer gave birth to the European integration as an expanding process. Mitterand and Kohl mastered the Maastricht treaty, transforming the economic community into political, economic and social European Union. Now what is left for Blair, Schroder, Prodi and Solana is to achieve the EU enlargement and extend the values and principles of democratic, united

Europe throughout the territory of the continent – even over the dark Balkans, which European legacy might be argued...

This picture would be incomplete, if missing the attitudes of **Russia** and **China**. Suffering from its heavy post-imperial syndrome, Russia expressed authentic 'geopolitical anger' at the NATO attack on the 'Serb brothers'. Pushed back in its borders before Peter the Great, Russia was furious to see the Balkans – the last 'legitimate sphere of Russian interest', and Serbia – the faithful Russian *gendarme* – attacked by the 'wily West'. A defeat for Serbia should certainly mean cutting Russia off the Adriatic and dramatically reducing the remnants of Russian presence into the Mediterranean basin.

China fully cashed the accident with its embassy in Belgrade. The Kosovo crisis was a truly legitimate opportunity to show up as a world power – a status Beijing will not be late to reclaim many times from now on.

This small excursion into the motivation of the key actors of the Kosovo crisis explicitly shows the limits of legitimacy in an integrated international action, based on values with no clear normative consent behind them. If we tend to act on the basis of the purely value systems' motivation, we have to face the 'clash of civilizations' paradigm. This paradigm may seem affordable from the perspective of a resident of Cambridge – Massachusetts, but it is certainly painful for the residents of the Balkans and many other regions of the world, where different cultures intersect and create environment of plural value systems. If the global world has to be a place of law and order, it should be governed by explicit rules of reason, capable to 'translate' values and interests into operational norms. Responsibility of observing those norms and rules should be claimed from the legitimate members of the international community. Do we consider it possible to replace national sovereignty with a plurality of actors into an increasingly relative world of global interaction? Can we consider entities as 'international civil society' or 'international community' as structured and responsible enough to reclaim sovereignty from the 'out-fashioned nation states'?

No doubt – a new international system in the global world will represent much of the traditional clash of interest, much of the traditional relative value of international law interpretations, typical for the modern world. But if we stick to the tradition of reasonable translation of diverse interests into easily comprehensible consensual norms, equal for all international actors, then we have bigger chances to reproduce at least a relative law and order in the global village, where consensus upon values is not possible. Human rights respect – as we understand it - should be essential part of this 'New World Order', where we have to try to install it into the status of consensual norm. And the global sheriff should treat all violators equally – because this is the law.

Within the upcoming new international system of the global world, the Kosovo crisis opens the door to optional tendencies of development in human rights' status. This first 'human rights' war' underlines the importance of respect for all human beings. It sends a clear warning to all dictators – present and future – about the end of their immunity to act against the international standards of humanity. At the same time, the Kosovo crisis and its aftermath have clearly shown the relative nature of international human rights concerns, the immature instruments of human rights defense within a controversial situation of tense inter-communal clash. There's a

danger in this immature ability to bring justice for all from the perspective of human rights defense. This is the danger of a growing number of people, believing that the notion of human rights reflects an idealistic value system, which is incorrectly used to disguise illegitimate hidden aims.