

## **Kosovo and the International Community: The Prolonging and Exacerbation of a Crisis**

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### **Introduction**

In late December of 2003, to the dismay of Kosovar Albanians as well as many Serbs, a radical nationalist party with links to former Serbian President Slobodan Milosevic won the most votes in Serbia's national election (Abramowitz 2004). This is just one of many recent events that demonstrates the high degree of instability in Serbia, especially within the province of Kosovo. The volatility that today characterizes the Kosovo region has its roots in the decade preceding the 1999 Kosovo war, when in response to the disintegration of Yugoslavia the international community reacted in a confused manner with regards to Kosovo, refusing to effectively address the territorial dispute between the ethnic Albanian and Serbian populations there. The 1999 Kosovo war, carried out to stop Milosevic's ethnic-cleansing campaign against Kosovar Albanians, was ultimately successful in halting the killings, but failed to resolve the political issues behind the fighting - namely, the demands being made by the ethnic Albanians for independence of Kosovo on the one hand, versus the Serbian insistence on keeping the province as a part of Serbia. In the four years since the war, the international community has maintained a policy of postponement and basic disregard for the decision of 'final status' for Kosovo, which has only served to instill more fear among both opposing factions, resulting in a province that is as polarized and unstable as ever. This paper will argue that in the three time periods of (1) the decade before the Kosovo war, (2) during the war itself, and (3) in the four years after the war, the international community has acted ambiguously and even hypocritically regarding the issue of statehood for Kosovo - this being a pivotal factor in the prolonging and exacerbation of the conflict. Behind this flawed approach by the international community lies the tension, in both international law and practice, between the concepts of nation and

state. This is a tension that, in the case of Kosovo, has resulted in the international community's ongoing indecision over what the final status of Kosovo should be, and has left the province in dire need of a solution.

### **The Theoretical Tension Between 'Nation' and 'State'**

Before delving into the specifics of the Kosovo conflict, it is important to first discuss the concepts of nation and state and the theoretical debate that surrounds these two terms. First of all, according to *The Penguin Dictionary of International Relations*, the definition of a nation is "...a vague notion which refers to a social collectivity, the members of which share some or all of the following: a sense of common identity, a history, a language, ethnic or racial origins, religion, a common economic life, a geographical location and a political base" (Evans and Newnham 1998, 343). As for the definition of a state, it is said to possess "a permanent population, a defined territory and a government capable of maintaining effective control over its territory and of conducting international relations with other states" (Evans and Newnham 1998, 512). However, neither of these definitions is absolute. Regarding a nation, for example, none of the criteria are "...either necessary or sufficient for definition. Nations can exist without a distinct political identity (e.g. the Jewish nation during the Diaspora) and they can exist without common linguistic, cultural, religious or ethnic components (e.g. the Indian nation)" (Evans and Newnham 1998, 343). And regarding a state, it need not maintain a defined territory or a government capable of exercising control. "Israel, for example, is generally accepted as a state even though the precise demarcation of its boundaries has never been settled", and *The Penguin Dictionary of International Relations* further notes that "...a state does not cease to exist when control is in dispute or when it [the government] is 'temporarily' deprived of effective control as in wartime, civil wars, or revolutions" (Evans and Newnham 1998, 513).

Nevertheless, when there is a fusion of these entities a 'nation-state' is said to exist (Keating and McGarry eds. 2001, 1). The nation-state is classified as "...the dominant political entity of the modern world and as such can be considered to be the primary unit of international relations" (Evans and Newnham 1998, 343-344). The concept of a nation-state is a

fairly recent one, having its origins in the period following the collapse of the Holy Roman Empire and the subsequent "...emergence of the centralized state claiming exclusive and monopolistic authority within a defined territorial area" (Evans and Newnham 1998, 344). The Peace of Westphalia in 1648, recognized as having founded the modern state system, marked the intensification of the nation-states' development. Then, in what is known as 'the rise of nations' phenomenon - which was fuelled by anti-imperialist movements, ethnic conflicts, and secessionist movements - there took place a vast expansion in the number of states, from approximately two dozen in the late 18<sup>th</sup> century, to around 200 by the year 2000 (Ambrosio 2002, 341).

Today the nation-state is considered to be not only the ideal, but also the most 'normal,' political unit (Evans and Newnham 1998, 344). However, most nation-states are actually not nearly as ethnically homogeneous as what the name implies. Rather, most of the units that the international community calls 'states' today are ethnically and culturally quite diverse. Thus in reality, as political scientists Raymond C. Taras and Rajat Ganguly note, "The international community...is primarily (but not exclusively) a community of states..." rather than pure nation-states (Taras and Ganguly 2001, 32). This is reflected in the fact that in both international law and practice there is a strong bias towards states over nations (Chesterman, Farer, and Sisk 2000). For example, for a nation to become a member of the United Nations (UN) and thus be recognized as a state, it must be a "political entity defined by spatial territorial boundaries. Those peoples or groupings who fall outside this rubric (e.g. the Kurds) appear therefore not to possess the relevant criteria" (Evans and Newnham 1998, 343). Closely related with this are the issues of sovereignty and self-determination. Part of the bias currently held by the international community towards states is related to the priority given to state sovereignty rather than to minority claims for self-determination and other actions that could represent the diminishing power of a state (Chesterman, Farer, and Sisk 2000).

This bias is even reflected in international law documents such as Article 8(4) of the UN's Declaration on Minorities, which consistently

repeats the following refrain: “Nothing in the present Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations, including sovereign equality, territorial integrity and political independence of States” (Ambrosio 2002, 348). When there have been attempts made by various international bodies to enhance the rights of nations, there has been critical reaction from major states such as Russia, China, and India, who are not willing to experience any weakening of their sovereignty (Thomas ed. 2003, 4). Thus, in the current age it is somewhat difficult for nations to acquire the status of statehood, as can be seen from the numerous ongoing struggles by peoples such as the Chechens, Tamils, and of course, the Kosovar Albanians, for legal state recognition.

Yet, while this bias toward states is important to note, it is the international community’s confused and ambiguous approach towards the whole issue that best describes the tension between nations and states. As the previously discussed definitions demonstrate, the terms ‘nation’ and ‘state’ are laden with ambiguity and imprecision, incapable of specifically identifying what the necessary and sufficient criteria are for either of them. This confusion is further compounded in international law. While clauses such as the above-mentioned UN Article 8(4) clearly specifies the predominance of state sovereignty, there are also documents such as that of UN Article 2(5), which not only acknowledges “...the existence of cross-border nations and the need for members of a national group to maintain contacts with their ethnic kin in other countries...” but also has “a nascent willingness to move beyond recognition of cultural and linguistic rights, and to insist that only enhanced rights of political participation for minorities can adequately protect their interests” (Ambrosio 2002, 345). What becomes obvious with this passage that explicitly calls for attention to minority groups is the hypocrisy existing in international law. Consequently, with no uniform international legal standards to work with, the international community confronts a problem when trying to decide whether or not to allow a group to be recognized as a state.

Many international relations and legal scholars have called for a reevaluation of the notions of nation and state. Specifically, they have suggested that the state-centric international system seek to increase the accommodation of nations and decrease the bias currently held against, for example, ethno-nationalists, and ethno-secessionist movements (Taras and

Ganguly 2001, 42). Perhaps what is needed, some say, is for the model of political units to be a 'multi-ethnic state' rather than the so-called nation-state (Evans and Newnham 1998, 344). The trend of certain states in seeking ethnic homogeneity through practices such as creating myths of ethnic unity and using ethnic-cleansing - as has occurred in Kosovo for example - indeed suggests that a reconceptualization of the concepts of nation, state, and especially nation-state, is needed. And yet others are worried that such reassessment could result in a decline in stability and order in the international arena (Evans 2001, 8).

Thus, what this tension between nation and state demonstrates above all is the need for a uniform consensus on these issues in both international law and practice. Consistency among the international community's actions when it comes to dealing with issues of nationality and statehood is crucial. For, without uniformity in practice, situations like that of Kosovo needlessly become prolonged and exacerbated conflicts. Having covered the theoretical problem inherent in the notions of nation and state, this paper next turns to how that problem has affected the Kosovo conflict, beginning with the time period before the 1999 Kosovo war.

### **Before the War**

The roots of the animosity between the ethnic Albanians and Serbians within Kosovo can be traced back many centuries, with the 1389 Battle of Kosovo serving as a marker for many as the beginning of hostilities (Buckley and Cummings eds. 2001, 13). While in reality that battle was probably fought with Albanians and Serbians together on the same side, it has been interpreted by the Serbs as an important event in their history that demonstrates the significance of the Kosovo land in historical, cultural, and religious terms for the Serbian people (Daalder and O'Hanlon 2000, 6-7). Throughout the centuries, such events have been mythologized and ultimately misconstrued by both sides, helping to foster and facilitate a climate of intolerance and hatred between them. In fact, the groups had created two entirely different and contrasting conceptions of history by the 20<sup>th</sup> century (Buckley and Cummings eds. 2001, 14). Both

claimed not only original inhabitancy of the land, but exclusive rights to it as well (Thomas ed. 2003, 65). In 1912 Serbia gained control of Kosovo - after both had been ruled for the past few centuries by the Ottoman Empire - only to lose it during World War One. In the period following the war, Kosovo was arbitrarily made a province of Serbia when both were incorporated into the newly created state of Yugoslavia. Unlike in previous eras, during the Yugoslav period acts of repression between the two groups were kept to a minimum, as the Albanians and Serbians maintained very separate communal lives in Kosovo (Buckley and Cummings eds. 2001, 15).

As part of Tito's 'ethno-national devolution' attempt, Kosovo was granted a great deal of autonomy in the 1974 constitution (Buckley and Cummings eds. 2001, 16). Kosovo's status was effectively changed from provincial to republic, as it was granted all of the same rights that the six other Yugoslav republics enjoyed. It essentially was made a 'virtual republic' (Caplan 1998, 748). For example, it was granted equal representation in Yugoslav government bodies, as well as its own parliament, courts, police force, and national banks (Buckley and Cummings eds. 2001, 16). Constitutionally, however, the Kosovars were still lacking the official statehood status that the other republics had, and thus the period from 1974 to the collapse of Yugoslavia in 1989 witnessed Albanian demands for greater autonomy. These demands, as well as the fact that the Albanian birth rate in Kosovo was significantly higher than that of the Serbs (by the 1990's Kosovo consisted of 90% Albanians), led not only to increasing resentment on the part of the Serbs, but more importantly to a growing sense of nationalism among them as well (Thomas ed. 2003, 65). When Serbian leader Slobodan Milosevic came onto the political scene in the late 1980's he was able to manipulate and capitalize on this Serbian self-identity movement, eventually stripping away all of Kosovo's autonomy by 1990 (Daalder and O'Hanlon 2000, 8). In the period between the dissolving of the province's powers and the outbreak of the Kosovo war, the ethnic Albanians suffered extensive human rights abuses under the rule of Milosevic's nationalist government (Abrahams 2000).

The international community realized very early that Kosovo was essentially a 'powder keg' ready to erupt into violence at any moment during the 1990's (Schnabel and Thakur 2000, 7). In spite of that, international

bodies and governments largely ignored the situation and acted incoherently and inconsistently during the few times that attention was paid to the region. The confused international reaction to the Kosovo situation was first demonstrated when various republics within Yugoslavia began to claim their independence; Kosovo was included in this movement when it declared the Republic of Kosova in 1991. After Slovenia and Croatia had proclaimed their autonomy, the European Community (now the European Union, or EU) established the Badinter Commission, which had the task of examining the legal status of the various entities of the dissolving Yugoslav federation. In late 1991 the Commission declared that "Yugoslavia was 'in the process of dissolution' and that the republics seeking independence were therefore not rebel entities but... 'new states...created on the territory of the former SFRY [Socialist Federal Republic of Yugoslavia]'" (Caplan 1998, 747). What this consequently implied for the international community was that support could therefore be given to these new states, as they were not technically seceding - an act considered to be in opposition of the UN Charter (Caplan 1998, 747). For Kosovo, however, no support could be granted, as it had never officially been given republic status, even though in all aspects other than title it was considered to be a republic. As author Richard Caplan notes, "were it not for an arcane constitutional principle Kosovo might very well have been a republic" (Caplan 1998, 747). While the quite arbitrary distinctions between republics and provinces had been made during the communist era, the international community deemed such demarcations to be easy and hassle-free determinants of statehood. Thus, extremely multi-ethnic states such as Bosnia were granted independence, while Kosovo, a very ethnically homogenous unit, was denied state status (Taras and Ganguly 2001, 259).

What essentially developed then within the Kosovo territory was a 'parallel state' structure (Thomas ed. 2003, 65). Having lost its parliament, constitution, and basically all state functions in 1990, and then being denied independence in 1991, the Kosovar Albanians built up numerous parallel state institutions that quite successfully addressed areas such as health care, education, and social assistance (Buckley and Cummings eds. 2001, 18). Kosovar Albanian leader Ibrahim Rugova and his Democratic League of

Kosovo encouraged this parallel state arrangement in the hope of proving Kosovo's ability to operate as a state to the international community. Rugova furthermore preached non-violence to his subjects, determined not to give the Serbs an excuse to attempt to expel or exterminate the Albanians. Rugova was sure that this 'good behavior,' together with the results of a referendum - which had proven that an overwhelming majority of Kosovars wanted independence - would coalesce into the eventual granting of autonomy (Buckley and Cummings eds. 2001, 18). However, his efforts were of no avail, as not only was there no recognition of independence, but the international community seemed to have forgotten about the plight of Kosovo altogether. For example, despite the fact that many analysts of the Yugoslav conflict had recognized that any peace agreements made would have to comprehensively address the issue of national minorities throughout the entire former Yugoslavia, the Dayton Agreement that was signed in 1995 to end the Bosnian war dealt with no such issue (Caplan 1998, 750). In fact, Kosovo was not discussed to any significant degree in the accords. This was largely done because it was thought, especially by the American and Western European governments, that doing so would push Milosevic too far after he had just 'cooperated' in the Dayton peace process (Caplan 1998, 750). Furthermore, because there was no overt violence in the Kosovo region - mainly due to Rugova's peaceful resistance tactics - the international community felt there to be no urgent need to tackle the problems there (Thomas ed. 2003, 65).

As a result of so little constructive attention given to the repression being suffered by the ethnic Albanians in Kosovo, Rugova's non-violent tactics were abandoned. Realizing that there could be no improvement in the situation as long as Kosovo remained a low priority for American and European policy-makers, many Albanians turned to violence to not only fend off the Serbs, but more importantly, to gain the attention of the world community (Abrahams 2000). The Kosovo Liberation Army (KLA) gained prominence and was soon engaged in aggressive hostilities against Serb authorities. Needless to say, the violence level in Kosovo began to dramatically escalate. The international community did take some notice, and several measures were taken to curb Serbian criminal behavior. Yet, efforts were only half-hearted and foreign governments and bodies still refused to see Kosovo as anything but an integral component of the state

of Serbia (Thomas ed. 2003, 65). As a result of this outlook, any action taken by the international community towards Kosovo was focused not on the underlying political issues such as self-determination or national rights, but rather on simply protecting human rights (Daalder and O'Hanlon 2000, 9). Consequently, it was not until a brutal March 1998 Serbian massacre of Albanians in which eighty-five people were murdered did groups such as NATO seriously consider taking overt action against the Milosevic regime in Kosovo (Daalder and O'Hanlon 2000, 11).

Thus, during the time period leading-up to the international community's 1998 consideration of directing actual force against the Serbian perpetrators, it is quite apparent that the flawed and ambiguous concepts of nation and state had a negative affect on international behavior. Since there was no precise and definitive legal norms with regards to when a nation - such as the ethnic Albanians - should be granted the right to form their own state, action taken by foreign governments and international bodies was incoherent. The Kosovar Albanians were granted different status - for arbitrary reasons - in comparison to the other national groups within the dissolving federation, and this different treatment proved to be a key factor in the continuation and escalation of hostilities (Caplan 1998, 746). For example, after watching the international community refuse to ratify borders to create an independent Kosovo, but then watching the violent parties involved in the Bosnian conflict being granted permission to change their boundaries, many ethnic Albanians drew the conclusion that, as the editor-in-chief of the Pristina daily, *Koha Ditore*, said, "international attention can only be obtained through war" (Caplan 1998, 752). Consequently, non-violent tactics were shelved in favor of the violent strategies of the militarily-oriented pro-separatist KLA, and as a result, hostilities in Kosovo worsened.

Hence, it becomes evident that if there is to be any sort of adequate response by the international community to conflicts involving statehood and national issues, a uniform consensus on the subjects of nation and state is needed in both international law and practice. The need for this is seen equally as strongly in the period surrounding the Kosovo war, to which this paper turns to next.

### **During the War**

As previously mentioned, the March 1998 massacre signaled to the United States (US) and Western European governments that they would have to take substantial action to halt the hostilities in the province. Even so, international efforts at first were disjointed and ineffective. The US took the initiative, sending to Belgrade 'special representative for the implementation of the Dayton Agreement,' Robert S. Gelbard (Buckley and Cummings eds. 2001, 19). In determining the situation within Kosovo, Gelbard actually arrived at a positive assessment of the Serbian regime, praising Milosevic for his peacemaking efforts in the Dayton process. Not only was a reduction in Serbian sanctions suggested, but much to the Serbs' delight, on Gelbard's visit to the Kosovo capital of Pristina he said that the KLA "is, without any question, a terrorist group", and furthermore, that the US "condemns very strongly terrorist activities in Kosovo" (Caplan 1998, 753). Essentially having given Serbian authorities a legitimate pretext to launch attacks on these 'terrorists,' Milosevic thus began a Serbian offensive a week after Gelbard's visit. Secretary-General of the ruling Serbian Socialist Party, Gorica Gajevic, explained the ensuing burning and looting of Albanian villages, the executions, and the general brutality when he said, "Serbia will fight terrorism the same way the rest of the world does" (Caplan 1998, 754).

The hostilities in turn stimulated more support for the KLA, and thousands of ethnic Albanians joined the fight. Attitudes like that of Adem Demaci, leader of one of Kosovo's strongest political parties, became common: "I will not condemn the tactics of the [KLA] because the path of nonviolence has gotten us nowhere...The [KLA] is fighting for our freedom" (Caplan 1998, 752). By June 1998, with a full-fledged insurrectionary war taking place, not only had over 350 people been killed in the fighting but approximately 60,000 Kosovars had become refugees, many having fled into Albania (Buckley and Cummings eds. 2001, 19). The potential destabilization of the broader region that refugees could cause, together with dramatic media coverage of the atrocities, helped to stimulate a somewhat more effective, though still not totally adequate, response from the international community (Pavkovic 2000, 191).

The International Contact Group for the Former Yugoslavia which included the US, Britain, France, Germany, Italy, and Russia, finally condemned the Serbians' "use of excessive force by [their] police against civilians" (Buckley and Cummings eds. 2001, 20). The UN Security Council shortly thereafter passed Resolution 1160 which placed an arms embargo on the region. After that there were an additional series of diplomatic measures, culminating with UN Security Council Resolution 1199 in September 1998, which called for "immediate action" to halt the fighting in Kosovo which had by that time produced 200,000 refugees (Schnabel and Thakur 2000, 12-13). Almost immediately following the resolution, NATO began to plan for military action, and negotiations were attempted between Milosevic and American Ambassador to the UN, Richard Holbrooke. The October 1998 agreement that Holbrooke eventually managed to secure with Milosevic was faulty on many levels. First of all, it simply demanded that Serbs revert to the police and military levels that had existed prior to February 1998 (Buckley and Cummings eds. 2001, 21). This was not only an extremely generous condition for the Serbian authorities but, more importantly, it failed to address the root cause of the Kosovo crisis, which of course was the political status of Kosovo. Furthermore, the agreement was signed without the support of the KLA, making it a one-sided peace settlement (Buckley and Cummings eds. 2001, 21). Predictably, the so-called peace did not last long and by February 1999 new peace talks, co-chaired by British and French Foreign Ministers, were being held in Rambouillet, France. On March 20, after the talks had been suspended because of a walkout by the Serb delegation, a major Serb offensive was launched in Kosovo, which finally prompted NATO to begin its bombing campaign on March 24.

The main objectives of the air strikes were to force Milosevic 'back to the negotiating table' and thereby halt a humanitarian catastrophe (Schnabel and Thakur 2000, 13). NATO's expectation that this would simply take a few days was reflected in its willingness to only take limited actions and its decision to, for example, rule out the use of ground force (Evans 2001, 6). However, Milosevic immediately began a brutal policy of ethnic-cleansing that by the end of the seventy-eight day war had resulted in

850,000 ethnic Albanian refugees, between 300,000-400,000 internally displaced people within Kosovo, and approximately 10,000 killed (Abrahams 2000). Although it took much more time and effort than NATO had anticipated, by June 1999, NATO had managed to convince Serb commanders to withdraw military forces from Kosovo. Peace was formally instigated on June 10 by UN Security Council Resolution 1244. NATO itself considered the war to have been a great achievement: a successful air campaign that achieved the original objectives, and low losses of life in terms of both civilian casualties and NATO personnel (Daalder and O'Hanlon 2000, 4-5).

While cessation of hostilities and limited casualties are definitely commendable achievements, the Kosovo war was nevertheless deeply flawed in many respects. The most obvious failure was NATO's inability to avert Milosevic's ethnic cleansing campaign, mainly the result of NATO doing too little, too late. Furthermore, there were some governments who were very wary of not only the fact that NATO went ahead with its mission despite no UN backing, but also that such activity could set dangerous precedents. One Indian newspaper captured this sentiment when it printed, "NATO aggression on Yugoslavia: Today Kosovo, Tomorrow Kashmir?" (Ambrosio 2002, 349) However, the most major failure, and the one to cause the most serious repercussions, was the lack of attention paid to finding a political solution for the territory. Professors A.J.R. Groom and Paul Taylor describe this mistake by saying, "it is dangerous to base action on axiomatic principles without reflection. Insisting on no partition, no independence, enforced multi-ethnicity, and no questioning of borders imposed constraints on the possibilities of compromise" (Schnabel and Thakur 2000, 38). Although NATO had planned to address governing arrangements following the war - and its inadequate attempts to do so will be discussed later in this paper - no serious consideration during this time period was given to what the territorial status of Kosovo should be.

This can be seen in the contradictory statements made by the American government, for example. In the week before the commencement of the NATO air strikes, then-US President Bill Clinton stated, "With our NATO allies and with Russia, we proposed a peace agreement to stop the killing and give the people of Kosovo the self-determination and government they need and to which they are entitled

under the constitution of their government” (Ambrosio 2002, 344-345). This statement would seem to suggest American support for the self-determination of the ethnic Albanian people, and therefore their right to statehood. However, in numerous other addresses, the issues of self-determination and state status were altogether left out. For example, in Clinton’s speech to his country regarding the initiation of NATO bombing he said,

“Our strikes have three objectives. First, to demonstrate the seriousness of NATO’s opposition to aggression and its support for peace. Second, to deter President Milosevic from continuing and escalating his attacks on helpless civilians by imposing a price for those attacks. And third, if necessary, to damage Serbia’s capacity to wage war against Kosovo in the future by seriously diminishing its military capabilities” (Ambrosio 2002, 347).

In one address to the Serbian people, in fact, Clinton declared, “the NATO allies support the desire of the Serbian people to maintain Kosovo as part of your country” (Ambrosio 2002, 347). And both during the war and immediately afterwards, Secretary of State Madeline Albright as well as State Department spokesman James Rubin claimed on behalf of the US that “we have always said we do not support independence for Kosovo, and we do not support independence for Kosovo now” (Ambrosio 2002, 347).

Such contradictory statements were echoed in UN Security Council resolutions, which had the tendency to stress ‘self-administration’ and ‘self-government’ for the Kosovar people, but not ‘self-determination’ (Ambrosio 2002, 347). Thus, in combination with the actions taken by the international community in the decade before the Kosovo war - in particular the arbitrary recognition of some former Yugoslav states but not others - together with the contradictory messages to the Kosovar people during the war regarding what their political status would be, an impression of an incapable and arbitrary international system was allowed to develop. And indeed, the international system in this respect is arbitrary. Without a clear formula of how to address crises involving self-determination,

nationality, and statehood, any action taken by the international community will both appear and will be illogical and hypocritical. And the consequence of this confused system, for conflicts like Kosovo, is that no quick and adequate resolution will take place. This is demonstrated nowhere more obviously than in the time period immediately after the war and to the present day in Kosovo - a topic which this paper will now discuss.

### **Following the War**

UN Security Council Resolution 1244 that was passed at the end of the Kosovo war not only formally marked the end of the fighting, but also established stipulations for the province to be run as a joint UN and NATO Yugoslav protectorate, as opposed to being strictly under Belgrade's control. A UN Interim Administration Mission in Kosovo (UNMIK) was arranged to 'constitute the transitional administration for the region' (Taras and Ganguly 2001, 253). UNMIK's principle areas of focus include police and justice, civil administration, democratization and institution building, and reconstruction and economic development (Abrahams 2000). Several other bodies, such as the EU and the Organization for Security and Co-operation in Europe play fundamental roles in the operation of those tasks as well. The resolution also established a Kosovo Peacekeeping Force (KFOR) consisting of soldiers from various NATO countries. KFOR's nearly 40,000 troops are centered in five main areas of the province with the responsibility of 'keeping the peace' (Abrahams 2000). While Resolution 1244 was important in that it provided for both a provisional method of governing Kosovo as well as a temporary means to ensure peace, it neglected to address the future final status of Kosovo (Buckley and Cummings eds. 2001, 26-27). This has made UNMIK's governing of the province difficult, as well as KFOR's task of guaranteeing security and stability. Ultimately, this has proven to be the factor most responsible for the continuing unrest within the province.

UNMIK and KFOR did share some immediate success in providing for the safe return of nearly all of the 1.3 million ethnic Albanian refugees who had been displaced during Milosevic's rule (Daalder and O'Hanlon 2000, 4). However, neither of them proved capable of preventing the expulsion from Kosovo of over 250,000 non-Albanians -

mostly Serbs and Roma - by KLA revenge attacks (Schnabel and Thakur 2000, 13). Since 1999 the track record of both UNMIK and KFOR has been mixed at best. On the positive side, the level of violence within Kosovo has decreased tenfold since 1999, the province operates its own police force and judiciary, and Milosevic is currently on trial for war crimes in the Hague (Daalder and O'Hanlon 2000, 16). However, the pressing reality is that today the lack of a consensus on a final status and the consequent unresolved animosity and tension between the ethnic Albanians and Serbians within Kosovo has turned the political situation into a zero-sum game: the majority Albanians will now accept no less than independence, and the minority Serbians remain steadfast in their demand to be a part of Serbia (International Crisis Group 2003). With little sign that the international community will be addressing Kosovo's permanent political status anytime soon, the ethnic Albanians and Serbs grow more suspicious and distrustful of each other by the day, and ultimately increasingly fearful of the future (Price 2003, 2).

The lack of clarity regarding Kosovo's status has hurt its development in other ways as well. The Stabilization and Association Process (SAP), the principal instrument in preparing Balkan states for incorporation into the EU, has been instrumental in guiding the states around Kosovo towards integration into the European community (United States Institute of Peace 2002, 2). However, SAP requires its subjects to be sovereign states, and thus Kosovo is unable to participate, making it very likely that it will soon be 'left behind' politically and economically (United States Institute of Peace 2002, 2). Kosovo's economic situation is further hindered by the fact that few foreign investors wish to become involved in the region. The unclear status of Kosovo and its unpromising future severely discourages any kind of foreign economic involvement or investment in the province. This has resulted in poor economic conditions characterized by statistics such as a 60% unemployment rate (Price 2003, 2). With regards to Kosovo's political condition, its governmental development is being compromised by UNMIK procedures. 'Standards before status' is the policy at the heart of UNMIK operations (Abramowitz 2003). That essentially equates to Kosovo having to meet certain 'benchmarks' before

being able to govern itself (United States Institute of Peace 2002, 3). However, these benchmarks are conditions few other Balkan states have even come close to achieving, and thus the expectation that Kosovo, with its already extremely limited powers, should meet these goals before being granted the institutions of self-governance is highly unfair. Moreover, no adequate plans or programs have been developed to help Kosovars reach the benchmarks, nor have assessments been completed regarding any progress made (Abramowitz 2003). Kosovars are as a result very frustrated, especially with the fact that UNMIK still has principal control over political arenas like the constitution, the calling of elections, and foreign affairs (United States Institute of Peace 2002, 3).

UNMIK has responded by stressing that sovereignty and statehood are merely symbolic issues (International Crisis Group 2003). Yet it is clear in the case of Kosovo that political matters are far from simply symbolic and are instead considered pivotal issues by Kosovo's people (International Crisis Group 2003). As previously (though briefly) mentioned, while the level of overt violence within Kosovo has decreased, societal conditions remain very poor. The situation of the Serbs within Kosovo, for example, is coming to mirror that of the ethnic Albanians during the 1990's. The Serbs - and frequently the Roma as well - are restricted from freely using their languages, are deprived of access to many Kosovar institutions, and attacks towards them by Albanians are quite common (Matic 2004). These conditions have two negative effects: firstly, they encourage the Serbs and Roma to settle in isolated enclaves away from the ethnic Albanians, thus creating a very polarized state, and secondly, the Serbs' and Roma's perceptions that UNMIK and KFOR are poorly providing for their safety in the face of such atrocities drives them to support radical nationalist Serbian parties (Matic 2004). As Simbad, a Roma, explained, "We are locked up in this village and I'm sure the Radicals are the only ones who can help us regain all the freedoms we lost after 1999" (Matic 2004). Attitudes like that help to explain why the Serbian Radical Party, led by Vojislav Seselj who is currently on trial in the Hague, won the most seats in Serbia's December 2003 national election (Cvijanovic 2004). The support of Kosovar Serbs and Roma for such radical politics is unlikely to wane as long as final status is put off and the fear among the groups is allowed to fester.

Balkan experts and academics have discussed and advocated various solutions to Kosovo's continuing problems. To begin with, it is virtually unanimously agreed upon that the West must not delay the decision over Kosovo's final status any longer (International Crisis Group 2002a). Not only has this interim protectorate condition proven itself unworkable, but the lack of long-term planning for the province is discouraging development in economic, political, and societal terms. What this equates to is the need for dedicated and constructive assistance from the international community (Price 2003, 3). UNMIK must, for example, either disregard the benchmark program or make the goals more realistic and explicitly demonstrate their linkage with obtaining self-government. UNMIK must also be willing to hand-over more powers to the Kosovo people in order to prepare them for some kind of self-government (Abramowitz 2003). Furthermore, unless willing to become actively involved, the international community must stop their insistence that Kosovo and the Serbian government hold negotiations (Abramowitz 2003). Kosovo has no real powers of its own at the moment, whereas Serbia is a full-fledged state. It is important that the two parties have dialogue, and indeed there are many issues that need to be discussed, but unless negotiations are conducted on fair terms they simply serve as fodder for extremist attitudes.

Moreover, the international community must think in more proactive rather than reactive terms. This means, for example, strengthening KFOR to be able to prevent conflict from erupting on the Albanian and Macedonian borders, as the upsurge in extremism among both the Kosovar Albanians and Serbians has increased the likelihood that the broader region will become destabilized (Greenberg 2001, 3). And while KFOR and UNMIK were too slow in reacting to the expulsion of Serbs from the province after the war, they can now act proactively by providing a safe environment for their return. A major boost in ethnic relations could occur not only if more of the Serbs were allowed to come back to their homes, but if they were able to do so in an atmosphere of security and hospitality (International Crisis Group 2002c).

These are just some of many measures needed to be taken by the

international community if Kosovo is to see any progress. What these measures all stem from, however, is the need to address the final status issue. In one means or another, all problematic matters in Kosovo are related to the lack of clarity regarding the province's future. Even the return of Serbian refugees, for example, has been politicized to such an extent because of Kosovo's unresolved status that it makes it highly unlikely that the more than 190,000 remaining displaced people will return home anytime soon (Avidiu and Vujisic 2003, 3). While there is at the moment no clear consensus on what exactly Kosovo's political status should become - whether it should be partitioned, be granted autonomy with Serbia, be given full independence, and so on - there is an acknowledgment among most scholars that at least some autonomy is vital for Kosovo, in addition to a democratic and ethnically representative government (International Crisis Group 2002b). The International Crisis Group, in its recent report on Kosovo, suggested that the province be granted 'Conditional Independence' which they described as "...a way out of the impasse" (International Crisis Group 2002a). Conditional independence "...would allow the international community to retain essential influence over local Albanian leaders. Having secured independence from Belgrade, but remaining on probation, the Kosovo Albanians would have a strong incentive to ensure that Kosovo would cease to be a factor of regional instability" (International Crisis Group 2002a). Because this option both grants autonomy to the ethnic Albanians, but at the same time makes that autonomy conditional upon 'good behavior' - especially in the field of ensuring fair treatment to the Serbs - this is perhaps the most viable alternative suggested to date.

Even more important than the political design of Kosovo, however, is that it simply be decided upon soon. The stakes are clearly too high for the decision to be held off any longer; the conflict has already been too prolonged and exacerbated. There are a range of factors holding the international community back from addressing final status: fear of opening 'Pandora's Box' to a multitude of future secessionist movements, for example, and a simple decline in interest in the region since the end of the war (United States Institute of Peace 2002). Yet the primary reason comes from the international community's confusion over the concepts of nation and state, as well as the related issues of self-determination and sovereignty.

As mentioned before, with a lack of clarity and established consensus over when a nation should be granted the right to form its own state, foreign governments and international bodies are left searching for adequate answers. Their grappling for a solution to Kosovo's final status is directly the result of the ambiguous, arbitrary, and hypocritical characteristics of the nation and state dilemma in international law and practice.

### **Conclusion**

Commenting on the numerous international conflicts of the 1990's, former Australian Foreign Minister and leader of the International Crisis Group, Garth Evans, said, "If we've learned anything from these catastrophes that have haunted us throughout the 1990s, it is that they haven't occurred like conventional wars demanding conventional military responses" (Evans 2001, 7). Indeed, Kosovo was - and still is - an example of one of those catastrophes that called for new approaches to the art of conflict management - NATO's bombing campaign being a prime example of that. However, what Kosovo desperately needed was a unified and effective response from the international community. Due to the lack of a clear and formulated consensus on nationality and statehood issues, none came. Before and during the Kosovo war, despite attitudes like that of former Dutch foreign minister Willem Van Eekelen who asked, "...why make a difference in principle between, say, Slovenia and Kosovo when fundamental human rights are being crushed?", arbitrary decisions were made regarding the political status of Kosovo that helped in numerous ways to extend the conflict (Caplan 1998, 761). Since then, "the war with bombs has ended but not the political war", as newspaper editor Veton Surroi explained, and the province is still awaiting its long-due status decision (International Crisis Group 2003). If there is to be any hope of ending the international community's practice of prolonging and exacerbating the Kosovo crisis, or of putting a stop to the violence in the Balkan Peninsula in general, the tension between nations and states will have to be resolved. It remains to be seen whether this issue that has been pestering international politics for so long will be put to a rest in time to save Kosovo.



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