

recognized regional bodies may intervene if authorized in advance by vote of the Security Council not subject to veto?

Kosovo demonstrates yet again a compelling need to address the deficiencies in the law and practice of the UN Charter. The sometimes-compelling need for humanitarian intervention (as at Kosovo), like the compelling need for responding to interstate aggression (as against Iraq over Kuwait), brings home again the need for responsible reaction to gross violations of the Charter, or to massive violations of human rights, by responsible forces acting in the common interest. We need Article 43 agreements for standby forces responsible to the Security Council, but neither action by the Security Council under Article 42, nor collective intervention as by NATO at Kosovo, can serve without some modification in the law and the practice of the veto. The NATO action in Kosovo, and the proceedings in the Security Council, may reflect a step toward a change in the law, part of the quest for developing "a form of collective intervention" beyond a veto-bound Security Council. That may be a desirable change, perhaps even an inevitable change. And it might be achieved without formal amendment of the Charter (which is virtually impossible to effect), by a "gentlemen's agreement" among the permanent members, or by wise self-restraint and acquiescence. That, some might suggest, is what the law ought to be, and proponents of a "living Charter" would support an interpretation of the law and an adaptation of UN procedures that rendered them what they ought to be. That might be the lesson of Kosovo.

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NATO'S CAMPAIGN IN YUGOSLAVIA

The North Atlantic Treaty Organization's seventy-eight-day bombing campaign in Yugoslavia, the first large-scale military action by the alliance in its history, has given rise to a casuist's dilemma. How can an effort so broadly supported in its objectives—to stem Belgrade's expulsion of ethnic Albanians from Kosovo and block a gross violation of international law—be so uncertain in its legal basis?

The lack of any simple precedent for the air campaign is only a starting place in deciding upon legality, for the formal system of international law cannot claim a monopoly on generative power. The lack of any single source of rules or ultimate arbiter of disputes in international affairs means that state practice remains key to the shaping of legal norms. When an action is deemed morally urgent by a majority of states—even an action involving the use of force—it is likely to shape a legal justification to match.

The war over Kosovo may mark the end of Security Council classicism—the common belief that all necessary and legitimate uses of force outside the Council's decision can necessarily be accommodated within the paradigm of interstate self-defense. It may also mark the emergence of a limited and conditional right of humanitarian intervention, permitting the use of force to protect the lives of a threatened population when the decision is taken by what most of the world would recognize as a responsible multilateral organization and the Security Council does not oppose the action.

The circumstances that gave rise to the Kosovo intervention are familiar. Kosovo gained autonomy within the state of Serbia in 1946, and this special status was confirmed in Marshal Tito's 1974 Yugoslav Constitution. In 1989, Belgrade revoked the province's autonomy, following the assertion by Serbian President Slobodan Milošević that the Serb minority in Kosovo was at risk. Kosovo Albanians, facing discrimination in public and private employment and in the exercise of civil rights, resorted to the development of parallel national institutions and many sought independence using the familiar techniques of

insurrection. The financial and governmental collapse of neighboring Albania in 1997 meant that men, matériel and arms could flow easily across the unguarded border, and the Kosovo Liberation Army began hit-and-run attacks. Yugoslav forces responded with large-scale and frequently indiscriminate military assaults to reverse KLA gains, and in 1998 forced more than two hundred thousand Kosovo Albanians to flee their villages and take refuge in the hills. In a temporary resolution of the crisis in October 1998, Belgrade agreed to the presence of international observers in Kosovo to guarantee that Serb police action would not abuse civilians; these were to be called "verifiers" in deference to Yugoslav sovereignty, and displaced families were able to return to their villages for the winter. In January 1999, the so-called contact group—the United States, the United Kingdom, France, Germany, Italy, and the Russian Federation—convened negotiations between the Kosovo Albanians and the Yugoslav Government to address a political framework for Kosovo's autonomy within Serbia for a three-year interim period, while deferring a final settlement. The take-it-or-leave-it terms proffered by the contact group at Rambouillet, France, were admittedly demanding, providing in a military annex that NATO would have the right to operate within all of Yugoslavia to guarantee its terms. Though both sides initially refused to sign, the Albanians finally acceded. Belgrade remained intransigent, and NATO soon thereafter began a bombing campaign against targets in Kosovo, the rest of Serbia, and Montenegro.

What is not clear from the current state of the record is what exactly prompted NATO's decision to use military force once Belgrade refused the contact group's final terms. To be sure, U.S. Secretary of State Madeleine Albright had threatened at the outset of the talks that failure to agree would lead to NATO military action. But there is also indication that the Serbs had already embarked on a spring ground offensive, even reaching areas outside KLA control, with the apparent purpose of expelling a large proportion of Kosovo's ethnic Albanians. Certainly, the Serbs' swift implementation of an action that NATO called "Operation Horseshoe"—with the wholesale deportation of eight hundred thousand Kosovo Albanians and the suspected killing of as many as ten thousand civilians—lends credence to the belief that this was what Belgrade had intended all along.

In its explanation of the Kosovo military intervention, the United States has emphasized the goals of the NATO action, rather than the basis in international law for authorization of the use of force. President Clinton stated that the action was designed to avert a humanitarian catastrophe, preserve stability in a key part of Europe, and maintain the credibility of NATO.¹ U.S. government lawyers, perhaps more mindful of precedent, have rested on a so-called elements approach—also styled as "fact-based factors." Elegant or not, this is in part a practical prudence, mixing circumstances and principle to qualify any universalist theory or wide-ranging rule that might prove less attractive in other hands. There is, in fact, no shortage of theories to legitimate the Kosovo campaign. But the legal scholar faces a paradox reminiscent of Justice Cardozo's famously maddening opinions—no single argument quite carries the day, even while the ensemble seems sufficient.

First, the United States is not amiss in claiming some measure of legitimacy from Security Council resolutions, even in the absence of immediate authorization of the NATO campaign. The Kosovo conflict was defined as an international crisis and a threat to regional peace and security, rather than simply an internal matter, in repeated Security Council resolutions.² In March 1998, in Resolution 1160, the Council acted under Chapter VII to impose an arms embargo on Yugoslavia until Belgrade should "withdraw[] the special police

¹ *Statement by President Bill Clinton Confirming NATO Air Strikes on Serb Military Targets*, Fed. News Serv., Mar. 24, 1999; *President Clinton Address to the Nation Regarding NATO Air Strikes against Serbia*, Fed. News Serv., Mar. 24, 1999. See also *Press Statement of Javier Solana, Secretary-General of NATO*, NATO Press Release (1999)040 (Mar. 24, 1999) <<http://www.nato.int/docu/pr/1999/p99-040e.htm>>.

² See SC Res. 1199, preamble (Sept. 23, 1998); SC Res. 1203, preamble (Oct. 24, 1998); SC Res. 1244, preamble (June 10, 1999).

units and cease[] action by the security forces affecting the civilian population," and allow international access to Kosovo for the contact group, the Organization for Security and Cooperation in Europe (OSCE), the UN High Commissioner for Human Rights, and humanitarian organizations.³ The Council called on Belgrade to cooperate in contact group negotiations on the political status of Kosovo, and "expresse[d] its support for an enhanced status for Kosovo which would include a substantially greater degree of autonomy and meaningful self-administration."⁴ In September 1998, in Resolution 1199, the Security Council warned that it was "[g]ravelly concerned" at "the excessive and indiscriminate use of force by Serbian security forces and the Yugoslav Army" and the resulting displacement of over 230,000 persons from their homes and "flow of refugees into northern Albania, Bosnia and Herzegovina and other European countries."⁵ The Council "demand[ed]" an immediate cease-fire, once again acting under Chapter VII.⁶ In October 1998, in Resolution 1203, the agreements for withdrawal of most Yugoslav forces, entered into between Belgrade and the OSCE and NATO, gained the Council's "[e]ndorse[ment] and support[]" and the Security Council "[d]emand[ed]" that Belgrade cooperate with the NATO and OSCE efforts to verify compliance,⁷ including the establishment of a NATO air verification mission over Kosovo.⁸

Even before Yugoslavia began the notorious "ethnic cleansing" measures of Operation Horseshoe, the Council had voted in Resolution 1203 to authorize the use of force under Chapter VII of the UN Charter in order to protect OSCE "verifiers."⁹ China and the Russian Federation abstained from voting on Resolution 1203 precisely because it adverted to force.¹⁰ In Resolution 1199, under Chapter VII, the Council also declared that it was "alarmed at the impending humanitarian catastrophe . . . emphasizing the need to prevent this from happening."¹¹ The Council endorsement of "an international armed presence" in Kosovo after the conflict, with the forced withdrawal of Yugoslav troops, is also of some significance, for it is implausible that the Council would ratify the results of an allied military campaign if it considered the means wholly illicit or tantamount to aggression. In framework resolution 1244, the Council "[a]uthorize[d]" the international security presence in Kosovo to exercise "all necessary means to fulfil its responsibilities,"¹² entrusting the Secretary-General with the organization of a parallel "international civil presence" to "[p]romot[e] the establishment, pending a final settlement, of substantial autonomy and self-government in Kosovo," while "taking full account . . . of the Rambouillet accords."¹³

Decisions not to act are a part of state practice and *opinio juris*. On the third day of the air campaign, the Security Council refused a request to condemn NATO's military action. The

³ SC Res. 1160, *preamble and paras. 8, 16* (Mar. 31, 1998).

⁴ *Id.*, paras. 4, 5 (emphasis omitted).

⁵ SC Res. 1199, *supra* note 2, *preamble* (emphasis omitted).

⁶ *Id.*, para. 1.

⁷ SC Res. 1203, *supra* note 2, paras. 1, 3.

⁸ *Id.*, *preamble and para. 1*.

⁹ *Id.*, paras. 1, 9 ("[e]ndorses" NATO and OSCE agreements with Belgrade for the deployment of verifiers within Kosovo and "affirms that, in the event of an emergency, action may be needed to ensure their safety and freedom of movement") (emphasis omitted).

¹⁰ The Russian Federation said in debate on Resolution 1203 that it "would not condone the use of force being reflected in a draft and would abstain from the vote." China stated after the vote that

while its request for deletion of elements authorizing the use of force or its threat had been accommodated during negotiations on the text, the resolution still contained some elements beyond the agreements reached by the Federal Republic of Yugoslavia and relevant parties, such as invoking Chapter VII of the Charter. Therefore China had abstained from voting.

Security Council Demands Federal Republic of Yugoslavia Comply Fully with NATO and OSCE Verification Missions in Kosovo, UN Press Release SC/6588, at 1a (Oct. 24, 1998).

¹¹ SC Res. 1199, *supra* note 2, *preamble* (emphasis omitted).

¹² SC Res. 1244, *supra* note 2, para. 7 (emphasis omitted).

¹³ *Id.*, paras. 10, 11.

trio of Belarus, India and Russia offered a draft resolution charging that the NATO bombing violated Articles 2(4), 24 and 53 of the UN Charter.¹⁴ This proposal was defeated by a vote of 12-3.¹⁵ The permanent members of the Council did not have occasion to exercise a veto, since the numerical tally fell far short of passage.

The Secretary-General has a role as well in the practical application of the UN constitutional system and the recognition of emerging norms.¹⁶ Kofi Annan issued a written statement on the second day of the NATO campaign, acknowledging the breakdown of talks at Rambouillet and expressing "deep[] regret that . . . the Yugoslav authorities have persisted in their rejection of a political settlement, which would have halted the bloodshed in Kosovo and secured an equitable peace for the population there."¹⁷

The Secretary-General's conclusion was carefully weighted. "It is indeed tragic that diplomacy has failed," he said, "but there are times when the use of force may be legitimate in the pursuit of peace."¹⁸ Addressing an inactive Council as well as NATO, he reminded each that the Council "has primary responsibility for maintaining international peace and security" and "should be involved in any decision to resort to the use of force."¹⁹ But, the Secretary-General noted in his opening address to the fifty-fourth United Nations General Assembly, "the imperative of effectively halting gross and systematic violations of human rights with grave humanitarian consequences" is an "equally compelling interest."²⁰

The omission of a new Security Council resolution for direct authorization of NATO's action is unfortunate, for it represents the unwillingness of the Russian Federation to endorse NATO action, and necessarily deprives Russia of a controlling voice in a matter in which it has strong interest. But Russia was represented at the Rambouillet talks (though Russia says that it was not permitted to see the final Rambouillet terms before they were presented) and remained a part of the contact group. Moreover, the nuances of international communications and the manifestations of state consent extend beyond published texts. While Russia made clear it would veto any Security Council resolution authorizing the NATO campaign, at least one high-ranking Russian official with senior foreign policy responsibilities is reported to have said before Rambouillet that the use of force against Yugoslav President Milošević "would not be unuseful"—noting as well that this could never be said in public. If international law is to be based on the consensus of states, some weight must in practice be given to back-channel communications alongside public pronouncements. The rhetoric of foreign relations is often designed to soothe a domestic constituency rather than to determine a cause of action, and this can be true even of formal votes in

¹⁴ See Belarus, India, and Russian Federation: Draft Resolution, UN Doc. S/1999/328 (Mar. 26, 1999), reprinted in *Security Council Rejects Demand for Cessation of Use of Force against Federal Republic of Yugoslavia*, UN Press Release SC/6659 (Mar. 26, 1999) [hereinafter Press Release SC/6659].

¹⁵ China, Russia and Namibia voted in favor of the resolution. Press Release SC/6659, *supra* note 14.

¹⁶ Cf. UN CHARTER Art. 99; John F. Murphy, *Force and Arms*, in 1 UNITED NATIONS LEGAL ORDER 249 (Oscar Schachter & Christopher C. Joyner eds., 1995) ("Certain interpretations or legal opinions by the Secretary-General on the use of force also may carry some weight.").

¹⁷ *Secretary-General's statement on NATO military action against Yugoslavia*, M2 Presswire, Mar. 25, 1999, available in LEXIS, Market Library, Iacnws File.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Secretary-General Presents His Annual Report to General Assembly*, UN Press Release SG/SM/7136, GA/9596 (Sept. 20, 1999); see also *id.*:

To those for whom the greatest threat to the future of international order is the use of force in the absence of a Security Council mandate, one might ask—not in the context of Kosovo—but in the context of Rwanda: If, in those dark days and hours leading up to the genocide, a coalition of States had been prepared to act in defence of the Tutsi population, but did not receive prompt Council authorization, should such a coalition have stood aside and allowed the horror to unfold?

Cf. Statement of Ambassador Danilo Türk, Permanent Representative of Slovenia, in Press Release SC/6659, *supra* note 14 (Council has "primary, but not exclusive responsibility for maintaining international peace and security"); accord THE CHARTER OF THE UNITED NATIONS: A COMMENTARY 234–35 (Bruno Simma ed., 1994); Certain expenses of the United Nations, Advisory Opinion, 1962 ICJ REP. 151, 163 (July 20).

international bodies. This double voicing poses a challenge to the ideal of transparency in international law and may demean the necessary importance of public fora—but international law, as applied, must take some account of how diplomacy actually works.

Another of the elements that bolsters NATO's action is the role of regional organizations under the Charter. Article 53 has sometimes been read in a restrictive fashion, requiring prior Council authorization of regional enforcement action.²¹ The recent evolution of Council practice has been quite different, and provides another mantle of legitimacy for the NATO action. In difficult peacekeeping operations in Africa, the Council has deferred its approval of regional action until after the event or never spoken clearly at all. For example, the regional interventions in Liberia and Sierra Leone—led by Nigerian and Ghanaian troops on behalf of the Economic Community of West African States, or ECOWAS—were not authorized by the Council before the fact, though treated with implicit approval afterwards.²² In the vote against the recent Russian resolution on Kosovo military action, the African precedent was noted: “the Council had chosen to remain silent at times when regional organizations sought to remove regional threats to peace and security,” and “some consistency in adhering to the Charter was required.”²³

The ideal of multilateral action seeks to achieve several purposes—to guard against partiality, to avoid escalation of conflicts by inadvertent provocation of important actors, and to invoke the authority of a broad normative community. The *pas de deux* of the contact group and NATO may have served these purposes to the extent possible in the circumstances.

The United States should feel an interest in the preservation of Council authority on issues of international security. The veto wielded by the United States in the Council will be worth little if the Council is easily and often displaced from its role in authorizing the use of force beyond self-defense. The Council enjoys a normative authority that builds coalitions and musters public support. But this may point up the necessary linkage of arguments in justification of the Kosovo intervention. The urgency of allied action to prevent ethnic cleansing may make this case different from the ordinary decision.

Beyond regional stability and alliance reputation, humanitarian necessity remains the core of NATO's justification for military force in Kosovo. Humanitarian need is cited as the reason why the United States could not afford to abide a Russian veto, and why NATO gambled its reputation and efficacy. The humanitarian emergency threatened regional stability as refugees flowed over international borders, burdening the delicate political balance in Macedonia and overwhelming the aid capacity of Albania.

Whether NATO's intervention was initially effective is open to debate—some have argued that Yugoslavia could dare to carry out its startling plans for ethnic deportations only under cover of wartime confusion, reminiscent of another dictator's belief in *nacht und nebel*. But

²¹ Article 53(1) of the UN Charter provides that “no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council.” The United States took the position in the Cuban missile crisis that *ex post* authorization was sufficient. Many commentators disputed this reading of the uncertain text, since it suffers the hazard that Council authorization will not be forthcoming. A choice of interpretation may depend on one's attitude toward legal ambiguity in international affairs, and relative confidence that a frequently stymied Council can preserve an adequate framework of security. Compare THE CHARTER OF THE UNITED NATIONS, *supra* note 20, at 734, and YORAM DINSTEIN, WAR, AGGRESSION AND SELF-DEFENCE 286–87 (2d ed. 1994), with Murphy, *supra* note 16, at 300, and David Wippman, *Enforcing the Peace: ECOWAS and the Liberian Civil War*, in ENFORCING RESTRAINT: COLLECTIVE INTERVENTION IN INTERNAL CONFLICTS 157, 182 (Lori F. Damrosch ed., 1993).

²² See Jeremy Levitt, *Humanitarian Intervention by Regional Actors in International Conflicts, and the Cases of ECOWAS in Liberia and Sierra Leone*, 12 TEMPLE INT'L & COMP. L.J. 333, 347 (1998); Ved Nanda et al., *Tragedies in Somalia, Yugoslavia, Haiti, Rwanda, and Liberia—Revisiting the Validity of Humanitarian Intervention under International Law, Part II*, 26 DENV. J. INT'L L. & POL'Y 827, 860 (1998); Karsten Nowrot & Emily W. Schabacker, *The Use of Force to Restore Democracy: International Legal Implications of the ECOWAS Intervention in Sierra Leone*, 14 AM. U. INT'L L. REV. 321 (1998); and Wippman, *supra* note 21, at 185–86.

²³ Statement of Ambassador Danilo Türk, in Press Release SC/6659, *supra* note 14.

the question of legal principle transcends the immediate disputed facts. Is the use of force for humanitarian necessity ever permitted by the UN Charter and international law, where it is not authorized by an affirmative vote of the Security Council?

Within the ken of treatise writers, humanitarian intervention has inconstant support.²⁴ Some note its infrequent use and the danger of pretextual disguise of national ambitions. Others argue that a more direct assignment of the task of humanitarian protection to the United Nations might increase its legitimacy, and hence the willingness to discharge the duty through collective means. But many have argued against procedural perfectionism in times of emergency, when key normative principles are at stake, and United Nations security machinery fails to work.²⁵ The aims of the UN Charter are to guarantee human rights and international security, and while the danger of increasing the scale of a conflict is always to be considered, the use of military action to protect a beleaguered population may advance humane values without significant danger to stability. Whatever one's view of Article 2(4), one may profitably draw an analogy to Article 51, where the right of self-defense in the juridical state precedes and survives the Charter's collective mechanisms. The Council's willingness to expand the reach of Chapter VII to look at both internal and international conflicts may justify a broader interpretation of Article 51 as well, for surely the self-defense of a population warrants as much consideration as defense of a political structure. The Security Council's duty to act in accordance with international law has had obverse consequences, for Council action also influences perception of what the law is. Collective intervention in civil conflicts such as those in Bosnia, Somalia and Haiti to restore "international peace and security" helps to legitimate a broader right of humanitarian intervention even when Security Council action is thwarted by the veto. So, too, Article 2(7), forbidding intervention within the domestic jurisdiction of a member state except by Council decision under Chapter VII, has resected force in an age of international human rights where crimes against humanity may be prosecuted by any country.

Humanitarian reasons have served as justification in a number of cross-border interventions: Vietnam's displacement of the Khmer Rouge in Cambodia, India's invasion of East Pakistan in support of Bangladeshi independence, Tanzania's overthrow of Idi Amin in Uganda, and United States action in several Central American venues. These were largely unilateral decisions, and any skepticism of motive or result does not necessarily impeach multilateral action, even where it takes place outside the Security Council. NATO can claim the legitimacy of a nineteen-nation decision process, and the normative commitments of a democratic Europe that even Yugoslavia wishes to join. The Helsinki Accords, the Paris Charter, and the Copenhagen Document of the OSCE, as well as the European Community's Guidelines on the Recognition of New States in Eastern Europe and in the Soviet Union,²⁶ make clear that political membership in the Euro-Atlantic community requires minimum guarantees for the rights of minority populations—it is, one might even venture, close to an objective regime. NATO includes the vast majority of countries in the community of Europe (especially if one counts the countries wishing to join NATO). NATO's decision deserves greater deference than purely unilateral action.

The practical difficulties of the Kosovo intervention may prove more influential than legal principle in determining whether NATO's decision will be embraced in the future. This was humanitarian intervention of a challenging sort—not meant to topple a particular regime, or rescue a handful of people on a tarmac, but rather to allow time to negotiate a future

²⁴ For general surveys, see SEAN D. MURPHY, *HUMANITARIAN INTERVENTION: THE UNITED NATIONS IN AN EVOLVING WORLD ORDER* (1996); *HUMANITARIAN INTERVENTION AND THE UNITED NATIONS* (Richard B. Lillich ed., 1973).

²⁵ Compare UN CHARTER Art. 106.

²⁶ See Declaration on the "Guidelines on the Recognition of New States in Eastern Europe and in the Soviet Union," Dec. 16, 1991, 31 ILM 1485, 1486 (1992).

political relationship. It will be difficult to rebuild Kosovo's economy while Serbia is excluded from regional economic plans, and the displacement of an oppressive provincial *apparat* will seem a mixed success if NATO police power cannot reverse the retaliatory actions that have driven out most of Kosovo's Serb minority. The consistency of the air campaign with the traditional protection given to civilian objects and the problem of dual-use targets are also open to reflection. Some will wonder whether the more flexible terms allowed by NATO to end the conflict should not have been offered before.

At the same time, it is important to acknowledge that the Kosovo intervention may represent a sea change in the responsibility of multilateral organizations to attempt to thwart ethnic slaughter—even if multilateralism takes a different form. Kosovo did not happen in isolation, but after the United Nations was unable to act effectively in Rwanda and Bosnia. The veto of the permanent members of the Security Council has often thrown a monkey wrench in the machinery of collective security, and a mature judgment is required to test whether strict proceduralism should be applied. The Secretary-General's call for Council action to meet future humanitarian crises may inspire unified support for the "developing international norm in favour of intervention to protect civilians from wholesale slaughter."²⁷ Even after the Cold War, one wants to avoid undue provocation of major powers, and to preserve the centrality of the Council as a forum for the resolution of security disputes. But the admonition to "never say never" must apply as well. Legitimacy—and legality—represent a complex cultural process not confined to the Council chamber.

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ANTICIPATORY HUMANITARIAN INTERVENTION IN KOSOVO

I. INTRODUCTION

The intervention by the North Atlantic Treaty Organization (NATO) in Kosovo during the spring of 1999 aroused controversy at the time and still provokes questions about the legality of the action, its precedential effect, and procedures for developing new international law. The participants faced a legal and moral dilemma between international law prohibitions on the use of force and the goal of preventing or stopping widespread grave violations of international human rights. This editorial seeks to chart a course for the future in light of the current legal and moral environment.

Many individuals on all sides of the Kosovo crisis maintained the highest standards of law and morality. Regrettably, others, particularly political leaders, fell short of their moral and/or legal obligations. Of the latter, the leadership of the Federal Republic of Yugoslavia (FRY) headed by Slobodan Milošević stands out. The FRY committed grave international crimes against the ethnic Albanians in Kosovo. However, both the ethnic Albanians and the Serbs in Kosovo engaged in aggressive and brutal actions against each other and both were at fault, legally and morally. The Kosovo Liberation Army (KLA) has also committed terrorist and other brutal acts against the Yugoslav Serbs and the FRY forces. As for the United Nations, though perhaps not morally at fault, it did not address the Kosovo problem in a timely and effective manner, as is its responsibility.

Indisputably, the NATO intervention through its bombing campaign violated the United Nations Charter and international law. As a result, the intervention risked destabilizing the international rule of law that prohibits a state or group of states from intervening by the use of force in another state, absent authorization by the UN Security Council or a situation of

²⁷ *Secretary-General Presents His Annual Report to General Assembly, supra* note 20.