**REPORT FROM THE ROUNDTABLE
ON CANADA, NATO AND THE UNITED NATIONS:
LESSONS LEARNED FROM THE KOSOVO CRISIS**

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On October 1, 1999, the Human Rights Research and Education Centre at the University of Ottawa in partnership with the Canadian Centre for Foreign Policy Development organised a one-day roundtable on the lessons from Kosovo. The roundtable focussed on the implications of the Kosovo crisis for Canada, NATO and the UN. It brought together a wide range of International Relations and legal experts, academics, government officials, NGOs and students. The proceedings were broadcast by CPAC on October 27, 1999.

1.   Thinking about the Kosovo Intervention

John Polanyi, Nobel Laureate, University of Toronto, opened the discussion by pondering the **moral aspects of NATO's intervention in Kosovo.** He went on to say that concern about the fate of human beings does not stop at our border. We must extend our commitments and responsibilities abroad and strive to strengthen the rule of law everywhere. While some may argue that the intervention in Kosovo actually weakened the rule of law, it had extensive moral backing within the international community. Lacking was the institutional approval/ legitimisation of the action by the UN Security Council. Nevertheless, what would the consequences of inaction be?

John Polanyi further pointed out that the Kosovo intervention brings to focus several other questions. What are the criteria for intervention? How to achieve desired ends and at what cost? Kosovo made the case that it is unacceptable for a nation to invade another and that there are limits to governments' actions within their own state borders. Sovereignty is less than absolute. There is no law that requires the international community to respect a lawless government. There is no doubt that the humanitarian intervention in Kosovo enhanced terror perpetrated against the Kosovo Albanians by the Yugoslav leadership. While more effective ways have to be found to address humanitarian crises, criminals must be punished. Here our unpreparedness to go on the ground and sacrifice military life come to the fore. Similarly to domestic policing, humanitarian intervention entails risks. The failure to recognise this fact and commit resources towards effectively re-enforcing the rule of law is a testimony to the ambiguous attitudes within the international community towards intra-state/humanitarian causes. If we are unwilling to pay, we will be unable to succeed. New thinking has to be encouraged as a lesson from our experience in Kosovo. A myriad of tragedies occur every day across the globe. There was a chance for a new beginning for Germany and Japan. Why not the Balkans?

The moral justification of the Kosovo intervention was outlined by Paul Heinbecker, Assistant Deputy Minister, Global and Security Policy, DFAIT. He argued, similarly to Polanyi, that there was little doubt the international community as a whole favoured the action. However, there was also little doubt that the initiative would be blocked by the Chinese and Russians at the Security Council. Fear that no decision would be taken by the Assembly prevented the initiative to go through that channel as well.

General Michel Maisonneuve drew attention to the on-the-ground experiences of the Kosovo Verification Mission. He also pointed out that the role of Canada within the OSCE is credible. Where the Kosovo Verification Mission was effective, breaches of humanitarian law were prevented. While the work of such Missions is invaluable, there are difficulties with enforcing humanitarian standards in practice.

To counter criticisms aimed at the selective nature of NATO's involvement, Paul Heinbecker pointed out that just because NATO can not intervene everywhere does not mean it should not intervene anywhere. Drawing on the Czech President, Vaclav Havel's appeal, decent people simply can not sit back and tolerate the atrocities committed by the government of Yugoslavia. In this instance, human security trumped sovereignty.

Others were not as enthusiastic about the legitimacy of the NATO intervention in Kosovo. Marcus Gee, The Globe and Mail, for example, argued that the international community flaunted law on behalf of the rule of law. It is simply unacceptable that the UN was circumscribed on the basis of potential rejection. Moreover, Gee pointed out the devastating consequences of the NATO bombing campaign on lives and infrastructure as well as the acceleration of massacres by the Yugoslav leadership. NATO forces openly took the side of the Kosovo Liberation Army. Serbia capitulated because it was unable to fight the air campaign. While refugees returned, rebuilding and reconciliation remains a huge challenge. In a way, the involvement of the international community in Kosovo was inspiring. However, the effects and practicalities of humanitarian intervention have to be seriously thought through.

An argument was made that the Kosovo intervention was a clear violation of international law. The principle of NATO as a defensive alliance was also challenged. Circumscribing the Security Council made the action illegal. In the final analysis, the Canadian government also violated its own Constitution. Geoffrey Pearson expressed his doubts about the inclusiveness of the term "international community" and asked the question whether countries like China, India or Indonesia were not a part of it. Others pointed out that the concept of humanitarian intervention is hypocritical since it seems to apply to some but not others. How would Canadians react if human intervention was proposed for Canada? Without clear criteria, humanitarian intervention might become a tool of Norther neo-colonialism. To a question posed by Polanyi: does not morality and common sense trump the law, critics replied by asking: morality and common sense for whom?

Concerns were raised about the prospects for a **just peace** in Kosovo. While the intervention might have stopped atrocities and deportations, the tensions between Albanians and

Serbs persist. As Errol Mendes, Ottawa University, pointed out, winning peace will be difficult. Some asked "a just peace" for whom? Certainly, not the Serbs.

Officials drew attention to the lack of resources and often the lack of political will to initiate and sustain peace-keeping efforts. Moreover, humanitarian intervention does not only require military action/presence, it also includes a large civilian component. The inter-operability of the diverse groups involved in humanitarian initiatives has to be enhanced, beginning with integrated planning and deployment. Tools for humanitarian intervention have to be developed so that the capacity to address civilian protection and ensure human security on a global basis exists. This need poses major challenges for militaries in terms of equipment and strategy.

2.   Institutional Context

David Malone, President, International Peace Academy, elaborated on the institutional context for humanitarian intervention, especially the **UN**. He said that the main developments at the UN include:

- A general shift in favour of intervention (The U.S.A. in particular has been the champion of using Chapter 7 to intervene in Kuwait as well as Kosovo. The U.S.A. has been also in favour of imposing economic sanctions, often unilaterally. There has been a rising incidence of naval blockade in 1990's.)
- A tendency to build "coalitions of the willing."
- A growing interest in using regional organisations by the UN Security Council (NATO).
- A growing concern about human rights, especially the plight of the refugees. (While human rights has been an issue literally quarantined from the Security Council agenda there has been some action on human rights monitoring and institution building.)
- A growing interest in democratisation and elections (with the hope that democracy would lead to greater stability.)
- An emphasis on the civilian component within peace operations (i.e., civilian administration, human rights monitoring, reform of the judicial system).
- The Security Council's role in supporting Truth Commissions for countries emerging out of civil wars (Rwanda, former Yugoslavia). The creation of these Tribunals served as impetus for the establishment of the International Criminal Court.

NATO itself is facing some serious challenges. Its exclusion of Russia from the enlargement process has undermined NATO's general consensus. The unity of the alliance was perhaps more fragile than publicly appeared during the Kosovo campaign. The shift in orientation from deterrence to action generated some confusion and crystallised problems (i.e., the chasm between the Western powers and Russia). There is no doubt that NATO needs the UN to legitimise its actions internationally as well as to fill the civilian component of humanitarian interventions. (The defeat in the General Assembly of the proposal by Russia to end the air strike legitimised the Kosovo intervention by default.)

While the **U.S.A.** is increasingly impatient with the UN, it idealises NATO – a situation that may alter after the Kosovo action has been closely assessed. The Kosovo intervention also

pointed to U.S.A. particularism in its reluctance to commit ground troops and sacrifice military lives. While the U.S.A. would like to shift more responsibility for regional conflicts to the Europeans, it prevents industrial mergers that would improve Europe's defence capacity.

The role of the **G-8** was also explored. According to Malone, the G-8 played a more important role than may be apparent. (For instance, the G-8 countries prepared the "end of bombing" package and sanctioned a peace-keeping force in Kosovo.) The Russians cooperate within the G-8. Canada is also quite enthusiastic about the G-8. Paul Heinbecker said that it can be the main vehicle through which Canada can act.

3.   International Law Context: Territoriality *versus* Human Integrity

Errol Mendes framed this part of the discussion by pointing to a "tragic flaw" in the UN Charter. He said that the UN Charter contains two potentially contradictory concepts. One stating that the principal condition for global peace and security is territorial integrity and political independence. The other makes human integrity or human rights central. Which is more foundational? Mendes argues that the Cold War tilted the balance towards the former. While the body of international humanitarian and human rights law grew steadily, it was not before the fall of the Berlin Wall and two genocidal events (Great Lakes and Bosnia) that the principle of human integrity began to supercede preoccupations with sovereignty. This tendency can be seen, for instance, in the creation of the Ad Hoc Tribunal to Prosecute War Crimes in the Former Yugoslavia, which also assumed jurisdiction for War Crimes in Rwanda, the establishment of a permanent International Criminal Court, the Augusto Pinochet extradition case, and finally NATO's intervention in Kosovo.

The flaw in the UN Charter, according to Mendes, can only be solved by framing the two principles within the framework of human security. Human security is a concept that has the potential to "combine the essential values behind territorial integrity and political independence *where they are compatible with* international humanitarian and human rights law."

John Currie, University of Ottawa, pointed out that perhaps the most tragic flaw is that we allowed ourselves to be mesmerised by the principle of territoriality – a principle that was never meant to be an end in itself. It is difficult to exalt in the victory of human integrity, pondering the barbarity of the Kosovo intervention. It was a desperate response. One may perceive it as a lesser of two evils. It should not comfort us and bring us satisfaction about a job well done for humanity's sake. The intervention was an inditement of international law. The international community was reduced to barbarism. It points to our failure to create conditions that would prevent the crisis. Claude Emmanuelli, Ottawa University, pointed out that while there is demand to alter the international normative framework, we should be careful not to have a materialistic approach to rules and laws. Existing laws are under-utilised as it is.

The principle of self-determination came to focus during the discussion. Metta Spencer, Peace Magazine, argued that clear criteria for the right of self-determination would reduce illegitimate claims for independence world-wide. Conditions under which the right to secede is legitimate (sanctioned by the international community) should be identified.

4.   Theoretical Context: Human Security and Humanitarian Intervention

Paul Heinbecker said that the NATO campaign can be perceived as the first war to defend human values. The crisis has validated Canada's commitments to human security. There was little strategic interest in defending the Kosovo Albanians. Nevertheless, while a new benchmark has been established, NATO is less likely to act beyond Europe. The UN has to come to terms with the new challenges the human security paradigm poses. The protection of people must be accepted as the core of UN activities. However, clear criteria for humanitarian intervention must be established to avoid charges of Western neo-colonialism by developing countries. Care must be taken so that the criteria do not become an impediment to action. Geoffrey Pearson suggested that perhaps the Convention on Genocide could be the basis towards establishing some humanitarian intervention criteria. Some reacted to this proposal negatively, since the Genocide Convention is not gender specific. Many recent atrocities targeted women (i.e., rape).

Canadians remain supportive of humanitarian intervention. TV coverage is key to this public support. Canadians also have a high quality air power and a professional diplomatic service. While Minister Axworthy's leadership provides energy, the foreign service is stretched thin.

Dean Oliver, Canadian War Museum, argued that based on human nature, there is a large role for the military in ensuring security. He said that there is a dissonance between the rhetoric of human security and the capacity to implement a human security agenda. Inter-state conflict is not behind us. The Kosovo intervention showed that NATO is the most effective tool in addressing international security problems. Human security underestimates the utility of military force while it makes demands on the "residual" forces. Current military capacity is over-extended and insufficient. This may eventually lead to undermining Canada's credibility to deliver on human security commitments. Reacting to the calls for enhanced military capacity, Bob Miller, Parliamentary Centre, expressed his doubts about such a development in the context of the restrictive fiscal environment.

Donna Winslow, University of Ottawa, pointed out that the task of the military should be securing an environment conducive to peace-building. It is somebody else's job to develop an environment for democracy. The complex encounters between the military and civilian components of humanitarian interventions must be dissected. A new framework has to be developed to incorporate the diverse actors involved in humanitarian interventions including NGOs, and para-state agencies. Military discussions can no longer remain isolated from political discussions. Fora should be established that facilitate the exchange of information, network building, and cooperation among diverse sectors of Canadian state and society (i.e., universities, organisations such as the Canadian Centre for Foreign Policy Development).

Brian Tomlinson, Canadian Council for International Cooperation, pointed out that the NGO community is not well situated to address humanitarian intervention. Instead it is engaged in a long term development. There is a general consensus that conflict is a result of political, diplomatic and socio-economic factors. It is here where influence on policy should be directed. However, this is increasingly difficult in the context of structural adjustment programmes. If social justice issues are not addressed, no amount of intervention can bring a peaceful and secure world to existence. We must remain sceptical about the grave consequences of human engineering. Humility is necessary.

Don Hubert, DFAIT, asked whether it is legitimate at all to use deadly force for civilian protection or the achievement of human security goals. Prosecution of war criminals is not protection, despite its deterrent qualities. What does it mean to make people safe, what does it take? Is a mere military presence a means to protecting civilians? Some argued that the creation of safe havens could be revisited. Claude Emmanuelli, suggested that security zones often do not work since those maintaining them have to be ready to defend them at all costs. Otherwise they just attract attention and enhance the vulnerability of a threatened group. Errol Mendes pointed out that conflict prevention facilitates security. The power/influence of the IMF and other IFIs could be brought to bear on authoritarian states.

5. Conclusion

Steven Lee, Canadian Centre for Foreign Policy Development offered a few closing remarks. He drew attention to Paul Heinbecker's overview of the intervention including the role of the G-8, NATO's moral justification of the war, the importance of human rights over national/territorial rights, the importance of the media, the question of finding effective criteria for intervention, the fact that atrocities committed on the ground can not be stopped from the air, and that the veto power in the Security Council is not always absolute. He also recognised the importance of an historical perspective, offered by Maya Shatzmiller, McGill University, and others throughout the day, including the shadow of intra-European conflicts through religious wars and the Crusades.

Criteria for humanitarian intervention could be developed in the framework of complex civilian-military encounters. The inter-operability of the military, NGOs, DFAIT, CIDA and others may be difficult to achieve. The deadlock at the Security Council must be resolved. Human Security and National Security can be mutually re-enforcing. Some reflection should be made on tendencies within the international system including, the unwillingness of the U.S.A. to commit ground troops and risk military lives, as well as the growing tendency to address problems through informal coalitions rather than international institutions.