

Intervention vs. Sovereignty: Kosovo Conflict

A public awareness of ethnic conflict rose after the end of the Cold War, especially in the Balkans during the break-up of the Yugoslav Republic by Croatia and Bosnia-Herzegovina. The conflict in Kosovo demonstrates how internal state conflicts can increasingly involve the international community. The question arises then of the importance of state sovereignty outlined in the Charter of the United Nations. States are defined as being “*supreme and sovereign within their own territory*”. Often when there is internal ethnic conflict there is a strong potential for human rights to be violated. In the case of Kosovo, the international community strongly questioned the actions of the Serbian President, Slobodan Milosevic, and whether or not his government had committed genocide according to International Law. The United Nations and NATO first took a diplomatic course of action towards Serbia. It was when strategies changed and NATO took charge of the situation, with a questionable aggressive bombing campaign, that the real debate arose. NATO took the position that the violation of humanitarian rights outweighed the importance of state sovereignty. Other international critics opposed this viewpoint and stated NATO itself had committed illegal acts in violation of international laws of war.

This begs the question of which is more fundamental, humanitarian intervention or state sovereignty? Furthermore, do states have the right to intervene in the internal matters of another state? What conditions validate breaching state sovereignty? To address these issues, four major areas must be explored:

- ethnic conflict and human rights violations;
- humanitarian intervention;
- state sovereignty;
- globalisation and a changing international system.

It has been noted that most cases of ethnic conflict involve some form of human suffering. At what point, however, does human suffering constitute a violation of fundamental human rights? The issue that needs to be considered is what exactly are human rights? Human rights may appear as international law formed by treaties or customs between states, but does this really make them universally enforceable? Moreover, the number of parties involved in an ethnic conflict is arbitrary, as is their place or role in society. If human rights are violated does it matter what party commits the violation and does the degree of severity differ based on such? There are many ethnic conflicts throughout the world, yet some go

unnoticed or ignored. If human rights are that fundamental then they should be universally applied and enforced. Enforcement, however, would be very strenuous and near impossible with a vast population. This would point to certain ethnic conflicts as being more severe, which in turn would place them on the international agenda. What placed Kosovo in such ranks and made it the focus of NATO and the United Nations? The ethnic conflict in Kosovo must first be assessed for its legitimacy in causing international concern and such intense scrutiny. If this is to be a valid example of human rights violations to be used in evaluating the importance of state sovereignty, then the first inquiry to be probed is of the very nature of the ethnic conflict in Kosovo.

To compare the importance of state sovereignty with humanitarian intervention, both need to be reviewed for their primary definitions and significance. Humanitarian Intervention is referenced in International Law, but there is no definitive meaning for it therefore being left to the discretion of those in the legal profession or politics who provide their own interpretations. Does ethics and emotion alter their viewpoint or is their opinion, strictly speaking, defined by the law? The very nature of Humanitarian Intervention, therefore, must be evaluated to determine what is generally acceptable. There should exist a certain threshold upon which states may intervene in internal conflicts to assist in protecting human rights. Was there such a point in the Kosovo conflict? Or was this a reaction to the seemingly late action in Croatia and Bosnia-Herzegovina? At what point does humanitarian intervention become a legal state action? In the case of the NATO bombings in Kosovo, it can be contested that NATO's actions were illegal and the excessive force by NATO in destroying non-military targets and civilian infrastructure in turn violated human rights. An overview needs to be conducted to weigh the outcomes of acts deemed to be legitimate humanitarian intervention with the potential damage they cause. By investigating the nature of the NATO campaign, it can be determined at what point a humanitarian objective ceases to be obtainable without further human suffering.

State sovereignty is a concept adopted by the United Nations promoting the idea that states are supreme within their own territory. This infers that states are the protectorate of those within the state. However, what if instead of protecting, the state promotes conflict against its own people – for example its ethnic minorities? Who do the people turn to then? If states are supreme in their own territory, they represent the supreme law making body. By the strict definition of sovereignty, then there can be no external control of a state and no laws imposed upon it by other states. If this is the case, then by signing treaties and adhering to

customs, does a state give up its sovereignty? Or is this merely a compromise? This issue is fundamentally important to understand in order to determine the validity of humanitarian intervention. If international laws can bind states then in fact they may not be sovereign and the principle of state sovereignty is no longer relevant. By agreeing to international laws, are states voluntarily giving up their sovereignty? Is the international law of humanitarian intervention flawed or are the laws declaring a state's sovereignty imperfect? The two appear to conflict in their very nature.

With increasing globalisation, it may be the case that states have moved away from being the central actors in the international system. If human rights have become more important than state sovereignty or state sovereignty ceases to exist, then a new major force is at play in the international system. Have international or Regional Organisations such as the United Nations, EU, NATO, OSCE or the African Union taken on such a role? International Law has become increasingly important as more states become members of the United Nations and sign its Charter. It may then be increasingly important for the rise of democratic global authorities such as the United Nations and countries allied within it. The changing role of NATO must also be assessed to determine if such organisations have become dominant actors internationally. NATO's original mandate was to defend its member states against military threats through the Cold War. In the case of Kosovo, this was not so. By examining the strategies deployed by the United Nations and NATO in the Kosovo conflict, one may further understand if such power and dominance does lie in the hands of international organisations.

Human rights and security are outlined in International Law along with state sovereignty, the Law of War, and the Rule of Law. The law exists and it is the duty of humans to apply it to circumstances that arise around it. The roles that international organisations play in international conflicts should follow from the laws that exist around them. This may not always be the case however, because in actual fact, states and international organisations can effectively alter and create the law.

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