

## Priority for Human Rights or for International Law?

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There are at least three sides involved in the problem of abuses of human rights within a state: those who are victims, those who are violating individual or collective human rights, and finally, those who are analyzing the situation. The last of these may be identical with the institution—state or organization—which is going to comment or to intervene. Of importance, in this respect, is first of all the fact that normally only the third party will be aware that abuses of "human rights" are going on, simply because, in most cases, human rights are an unknown phenomenon in the respective society or state—unknown for both victims and aggressors. They probably had no experience in their tradition of individual "rights"; what they may recognize is whether those measures being employed by those in power are just or unjust.

Let us take Kosovo (and Bosnia and Hercegovina) as an example. Slobodan Milošević is responsible for the violation of human rights; the Albanians of Kosova are the victims; and the international community, or NATO, or EU, or OSCE represent the third side of the conflict.

Socialist Yugoslavia, which still existed at that time, signed the human rights documents of the CSCE (now OSCE) in Copenhagen and in Paris in the late 1980s. These documents clearly define that member states have the right to interfere in cases of human rights violations which are occurring in another member state. Therefore, the NATO intervention cannot any longer be considered "interference in the internal affairs" of the state in question. In 1989, Serbia, while still a constituent republic of the Socialist Federated Republic of Yugoslavia, undertook a change of its republican constitution, directed against the far-reaching autonomy of the two autonomous provinces, Vojvodina (in the north) and Kosovo (in the south). The changes effected stood in clear violation of the still-valid 1974 constitution of the SFRY itself, by which these autonomies had been established. The new Serbian constitution, however, sent an alarming signal to Slovenia, Croatia, and the other constituent republics. They considered it an open aspiration by Serbia to eliminate Tito's political concept of a multinational state with a delicate balance of power among the six republics and two autonomous provinces. Bearing in mind the country's previous experience with the "first" Yugoslavia (1918-41), which had been

dominated by the Serbs and which had therefore been unable to solve its internal problems, Tito had been determined to limit the power of Serbia. At the same time, as a kind of compensation, Tito accepted Serbian dominance in the Yugoslav army, police, judiciary, diplomatic apparatus, and other sectors of the regime; this Serbian dominance could be said to have been "legitimated" by the prominence of Serbs in Partisan ranks during the National Liberation War of 1941-45.

But to return to the question of human rights documents, it is interesting that, upon signing documents such as those of the OSCE, Serb politicians did not consider that these documents established specific obligations which needed to be fulfilled; they tended, on the contrary, to regard the mere act of signing such a document a "success" in and of itself. Therefore, the item in question could easily be dropped from the government's daily agenda. Consequently, for instance, the government of Serbia installed a human rights secretariat and included, in the constitution, all possible rights for minorities, without making any effort to translate these rights into actual policy and practice.

The Serbian Republic's unilateral changes in its constitution in 1989 could have been the first alarm signal for the OSCE members. Because of the furious reactions of the other republics, the international community should have reacted out of respect for human rights principles as well as for democracy. The violation of the constitution was, in fact, the beginning of the end of Tito's Yugoslavia; even so, this development was not even discussed on an international level at that time. (The only exception was an initiative by the Austrian foreign minister, Dr. Alois Močk, which was not followed up by any other OSCE member state.)

In 1990, as a consequence of the elimination of Kosovo's autonomy, the Serbian government sent military and police forces in great numbers into Kosovo. The apartheid system, which had already been prepared in the second half of the 1980s between Albanian and Serbian schoolchildren, was now extended throughout all levels of society. If school directors and teachers did not sign a declaration of loyalty toward the Republic of Serbia, they were forbidden to enter the school grounds; this affected schools from elementary level to university. Workers were dismissed if they did not sign previously prepared printed documents demanding the same loyalty. Physicians were expelled, often by means of physical violence, from all hospitals, where until that time they had been cooperating with Serbian colleagues without any problem. Albanian social workers, judges, journalists, and university professors lost their jobs, and Albanians more generally were deprived of all kinds of rights. No Albanian court, no Albanian social network for unemployed, old or sick persons, no all-round medical care system, no information, cultural, or educational programs in the media created by Albanians in their own language were allowed to appear. The technical equipment in editorial offices and printing houses

was destroyed. The Bank of Kosovo was dissolved and the money transferred to Belgrade. The National Library of Kosovo in Priština, the capital of the province, was destroyed and practically no books or manuscripts were left. Nevertheless, Ibrahim Rugova, the Kosovo president, elected in May 1992 by the Albanian population, proclaimed a policy of "non-violent resistance" toward all Serbian provocations. Quite miraculously, the Albanians of Kosovo followed his lead (until 1997).

One may ask, where was the solidarity of European Trade Unions, of European universities, of European associations of medical doctors, of students, of journalists, of writers, of judges, or parliaments, and so on and so forth? From 1990 onwards, numerous delegations from various countries and organizations, both at the official level and on the NGO level, visited Kosovo and published reports or disseminated their findings privately. Politicians of all stripes and parties had access to information, and some of the serious media published more or less regularly their own reports and comments. Why were internal reports not taken into consideration by leading politicians? Do they not read their own newspapers? (They do, of course, when they themselves are mentioned, but not if another country is in question.)

What could have been done on the international level, and when should the reaction have been undertaken in order to prevent an escalation, which sooner or later was to have been expected? A number of answers may be given. First, the mechanism of the OSCE should have been activated immediately after the introduction of the Serbian constitution in 1989, when the collective rights of the Albanian minority were violated, and again in 1990, when collective and individual human rights (freedom of speech, education, language and information, meetings, and employment, not to mention the independence of the judiciary) were eliminated. All of this happened in conditions of the military and police presence, who very often interfered directly by searching Albanian houses for weapons (while Serb civilians, living in Kosovo, were being equipped with arms), frequently arresting Albanian citizens without clear accusations, and so on. All these measures served the political goal of frightening the Albanian population, making clear to them that they had no future in Kosovo, and driving them to flee or to emigrate. Hundreds of thousands of Albanians fled, leaving large families behind them under unbearable conditions of daily life.

An international protest mentioning every field of human rights violations in Kosovo would have functioned at least as a warning for the Serbian leaders and government. In addition, it would have supported the opposition in the Serbian population against Milošević's nationalistic political goals and style. An international reaction would have sent a message to Mr. Milošević that nothing might happen in human rights affairs without international observation. However, the total lack of international protest achieved just the opposite. The government in Belgrade learned that nobody was defending the Albanians in Kosovo—and therefore continued with the most cruel forms of

repression. (Besides, it may be worthwhile to mention that the anti-Albanian campaign after 1987 was not only linked with Milošević's political aims, but in accordance with a traditional racist Serbian concept of a Greater Serbia with a pure Serbian population. According to this notion, since the Albanians are not of Slavic origin, they were to be eliminated. There are several Serbian documents about this, existing from the time of the Balkan Wars of 1912-13 onwards.)

Second, simultaneously with the Serbian aggressions in Slovenia, and especially in Croatia in 1991, international attention should have been given to the Serbian regime's behavior in Kosovo. Unfortunately, however, there was a total lack of political sensitivity and of careful analysis of "right and wrong" in Yugoslavia at that time. Milošević appeared to be trusted in France and in London as the only one who could "save" the unity of Yugoslavia, in the traditional role of Serbia being a "factor of stability" in the Balkans. Furthermore, he found support in some leftist political circles in Europe ostensibly because Serbia during the two World Wars had fought on the "good" side. Even the Serbian propaganda slogan, "We are again defending European Christianity against the Penetration of Islam" (i.e., against the Bosnian Muslims and the Muslim majority among Kosovar Albanians), found friendly ears in the West. The unscrupulous brutality in Kosovo should have been recognized at least in this context.

Third, during all the years of peace negotiations concerning Bosnia-Herzegovina, Milošević was treated like a respected statesman, who was received everywhere in Europe and in the U.S. and visited in Belgrade by everybody of political importance and reputation in the West, in spite of the fact that his personal responsibility for the Bosnian war and the heavy violations of human rights by the Serbian side from the first day on were well known. Today we also know that a number of concessions have been offered to him by Western negotiators, all with the purpose of letting him "save face" when supporting the Western peace-making efforts. The Dayton agreement finally stopped the war, but it also rewarded Serbia with a great part of Bosnian territory which had been won by appalling means during this war and by the expulsion of many hundreds of thousands of innocent civilian men, women, and children. Why was Milošević not treated as the criminal he undoubtedly is? And Kosovo was once again not mentioned in the agreement, because Milošević would not allow it. This, in turn, gave him a free hand in Kosovo.

Fourth, Kosovar President Rugova visited Western capitals several times every year to meet the leading political figures and discuss the situation in Kosovo, asking for support against the daily violations of human rights. He was met with politeness but never received any clear support. It is true that Rugova himself failed to elaborate an Albanian concept regarding the measures needed from the international community, and he failed even to communicate enough with his own compatriots. He was a lone fighter and so remained the only

voice in a desert of silence. In Kosovo he lost his once great authority. The Western media reported developments in the province, including the growing tension between Albanians and Serbs and the growing impatience of the local Albanians. But clearly nobody was interested. Europe did not understand that this matter was a danger for peace and stability on this continent. If, in the political circles in the West, human rights had seriously represented any kind of a priority, the fate of the Albanian population in Kosovo could have been different.

Fifth, Kosovo (like Bosnia-Herzegovina) is a European problem. There were, over the years, many warnings that Kosovo might become a "powderkeg" for the whole Balkan peninsula, even possibly destabilizing Europe, Greece being friendly toward Serbia. Nevertheless, when, in 1997, the first organized armed rebellion in Kosovo broke out, the West seemed surprised. At first, Western politicians even adopted Milošević's terminology by talking about "Kosovo terrorists," only to drift to the opposite extreme less than two years later, by accepting the political ambitions of the Kosovo Liberation Army and treating its leader, Hasim Thaci, as the *de facto* head of the delegation during the negotiations in Rambouillet, while the democratically elected President of Kosovo, Ibrahim Rugova, and his government stood aside (Madeleine Albright several times recalled that young soldier without any kind of political experience, exchanging views with him concerning the development of the talks!). Rambouillet turned out to be the first step in the total failure of Western diplomacy which, for months, had negotiated without realistic concepts (except that of letting Milošević once more "save face"). The compromise paper which the two sides should have signed was, in fact, an attempt to betray both of them.

Let me repeat: If human rights had been a criterion for the Western engagement in Kosovo, no other aim than an independent republic of Kosovo within Yugoslavia, on an equal level with Serbia and Montenegro, had to be a very normal solution. Already in 1990, the Albanian population of Kosovo had democratically voted for such a republic. If human rights had really been a criterion for the Western engagement in Kosovo, Serbia had to be convinced that the brutal violation of human rights in Kosovo could no longer be tolerated and that no political goal could be advanced by such methods. No changes of frontiers would be necessary and the Albanians of Kosovo would be obliged to protect the Serbian minority rights (under 10 percent) by any and all means.

However, since diplomacy failed, military intervention seemed unavoidable—now the U.S. and NATO banked on force to achieve success. And once more, Milošević succeeded in troubling the international community. For as long as he did not give in, moreover, he forced NATO to continue the bombing. Every day that the bombing continued resulted in greater damage for Serbia and no progress for the Albanian refugees. It also caused more and more political problems for the Western politicians, while across Europe, the opposition to NATO aerial strikes grew steadily.

Another central question is this: Does the population in Serbia understand that Milošević is responsible for the dramatic situation? Do the European-minded anti-nationalist circles in Serbia understand that the concern for human rights has motivated NATO in its aerial strikes and diplomatic pressures?

The biggest failure on the Western side happened already before the escalation in Kosovo. Nobody listened to the voices of those who refused to join the Serb-dominated army in a war against Slovenia, Croatia, and Bosnia-Herzegovina. Neither were the numerous activities since—by women, students, intellectuals, independent media in Serbia—taken into account politically in the Western capitals. All these smaller and bigger demonstrations were directed against Milošević's aggressive political methods. But our politicians and diplomats preferred to paint a picture of a popular Serbian (later Yugoslav) president and a population who followed him blindly. Did the Western diplomats ever think of establishing permanent contacts with the civil opposition, not those in the so-called "opposition" parties represented in the parliament? Did we ever try to understand that Milošević had not changed the methods of ruling since communist times? Did we ever try to understand that in Serbia there is no tradition of constructive opposition? In their history, Serbs have a tradition of murdering their kings and political enemies without changing the system. But only since Tito and Milošević have the Serbs been ruled by personalities with a great reputation in the Western world and therefore not easily eliminated.

One might well ask, What is the future of the region? Unfortunately, no easy answer can be given. First, the West has to invest huge amounts of money and skill to rebuild the destroyed region of Serbia, Kosovo, Vojvodina, Montenegro, Macedonia, Bulgaria, and Albania. Second, the West will be obliged to support the new social and political structure of most of these societies, but in cooperation with representatives of the respective populations in accordance with their traditions and values (which we arrogantly are often neglecting). Third, we must be aware that our share of the responsibility for the tragedy in the last years will not be easily forgotten by the victims (all of them are victims today, after the military intervention) and their readiness to trust us in future may be limited.