

NATO AND THE COLLECTIVE SECURITY: CASE OF KOSOVO

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INTRODUCTION

“Bismarck famously said the Balkans were not worth the bones of one Pomeranian Grenadier. Anyone who has seen the tear stained faces of the hundreds of thousands of refugees streaming across the border, heard their heart-rending tales of cruelty or contemplated the unknown fates of those left behind, knows that Bismarck was wrong.”¹

- Tony Blair

Blair’s remarks evoking the image of a humanitarian crisis contrasted with the relative nonchalance with which European powers treated Kosovo in the past shows the marked shift in policy in the 1990s. This policy resulted in NATO, the victorious military alliance of the cold war world intervening in the Balkans, described as cauldron of boiling ethnicities. The intervention was made in the name of upholding human rights but led to repercussions as far as changing the very nature of NATO from a collective defence to a collective security organization.

This paper seeks to complicate the assertion that NATO’s military intervention in Kosovo was justified on the grounds of collective security. The paper argues that though the concept of collective security indeed characterized the justificatory discourse surrounding the intervention, the same was highly modified by political consideration prevailing in that period. Ultimately the paper reflects on how the intervention has led to a particular understanding of collective security in international relations.

¹ *The Blair Doctrine*, PBS NEWS HOUR, Available at https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0CB0QFjAA&url=http%3A%2F%2Fwww.pbs.org%2Fnewshour%2Fbb%2Finternational-jan-june99-blair_doctrine4-23%2F&ei=FcxgVPSBN86RuQSe2oKADg&usg=AFQjCNFpyyXe3FkLS9mSfpGldJuV0SdYaA&bvm=bv.79189006,d.c2E (Last visited on March 10, 2017).

The paper utilizes the concepts of humanitarian intervention and collective security in international relations to argue for collective security as being the basis for intervention. The choice of these concepts is largely based on them being the most significant issues in the discourse surrounding the Kosovo intervention. The last part of the paper analyzes on constructivist approaches to constructing collective security post-Kosovo. The choice of constructivism is due to its ability to reflect critically on political issues.

The paper is divided into three parts. The first analyzes the history of the intervention by focusing on the context, circumstance and chain of events which constitute the Kosovo intervention. The second part critically analyzes the discourses surrounding the intervention including the humanitarian focus and collective security. The last part analyzes the construction of collective security post Kosovo by applying constructivist approaches.

Key Words:

NATO, Kosovo, Collective Security, Humanitarian Intervention, Constructivism.

RESEARCH METHODOLOGY

Aim and Objective

The aim of the paper is to problematize and complicate the assertion that the NATO intervention in Kosovo was in pursuance of collective security.

The objective of this paper is to show why and how the collective security justification of the Kosovo intervention was influenced by the prevailing political environment to the extent of leading to a unique conceptualization of collective security.

Research Questions

Q. 1. What was the context and circumstances which led to the NATO intervention in Kosovo and why?

Q. 2. What were the discourses manufactured around the NATO intervention in Kosovo and why?

Q. 3. Did a NATO intervention in Kosovo signify an intervention made in furtherance of collective security as understood in international relations, why?

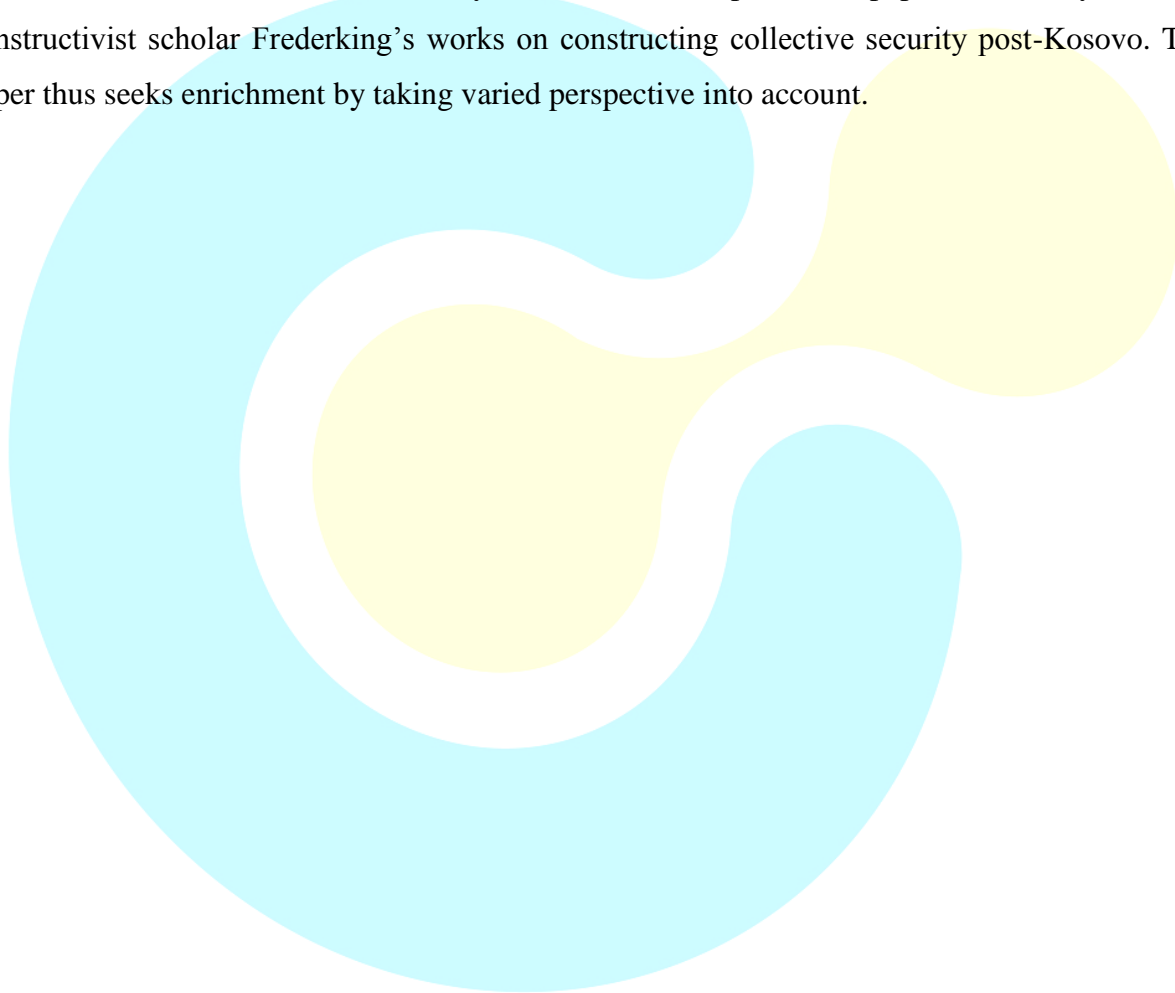
Q. 4. Did the NATO intervention transform the understanding of collective security international relations, how and why?

Method of Writing

The paper undertakes a qualitative analysis since it critically analyzes secondary materials and case studies on the Kosovo intervention rather than creating any new data. The paper also utilizes the critical discourse analysis method which revolves around the concept of discourse which assumes that there is no 'true' knowledge rather all knowledge is created for a particular purpose. The paper analyzes the concepts of 'collective security' and 'humanitarian intervention' through discourse analysis. An instance of this is the examination of speeches by Blair and Clinton (primary data) to identify the strands in the justificatory discourse surrounding the Kosovo intervention. The paper primarily follows a deductive method of reasoning.

Review of Literature

The paper does not subscribe to any one school of thought rather it seeks guidance from a number of authors belonging to different schools of thought in order to problematize the Kosovo intervention. While analyzing concepts the greater part of the paper relies on realist authors such as Kupchan and Mearsheimer. Rather than any explicit choice this is due to the fact that the bulk of the writing on Kosovo intervention is American where Realism is the predominant school of thought. In order to take a multidisciplinary perspective the paper also relies on works in International Law (Glennon) and History (Trim). In the last part of the paper exclusively relies on constructivist scholar Frederking's works on constructing collective security post-Kosovo. The paper thus seeks enrichment by taking varied perspective into account.



I. THE 'BALKAN' PROBLEMS: WHAT HAPPENED AND HOW

As the world was preparing to welcome the new millennium certain events occurring in the Balkans were to significantly change our understanding of international law and international relations in the 21st century. The event being referred to was NATO's military intervention, in the name of human rights, in Kosovo at the fag-end of the 1990s which scholars in international relations have referred to as the golden era of humanitarian intervention.² The Kosovo intervention marked the end of a series of wars fought post the break-down of Soviet Russia that marked the eventual end of the Socialist Federal Republic of Yugoslavia (SFRY). Kosovo (now a self-declared sovereign country) was an autonomous province of Serbia with a Kosovo Albanian majority and a Serb minority. Serbia, itself was part of the larger SFRY. The causes of the violence which later engulfed Kosovo can be traced back to Serbian President Milosevic's action of making changes in the SFRY constitution which stripped Kosovo of many of its rights in 1989. Kosovo though not an independent federal unit within

SFRY was prior to the amendments considered an autonomous province with equal rights as the other federal units. The amendments led to an apprehension of imbalance of power within the Yugoslavian federation which eventually provoked federal units such as Bosnia- Herzegovina, Croatia and Slovenia to strive and even fight for sovereign status.³ These events in the early decades of the 1990s unleashed a series of wars and conflicts whose intensity prevented the international community from remaining a mute spectator. Balkans, infamous for being a boiling ethnic cauldron, provided the perfect backdrop for large scale violence and ethnic cleansing. The Security Council got involved not only diplomatically and in terms of providing humanitarian aid but also militarily through its resolutions which authorized the use of force.⁴ Peace was ultimately brokered after hectic negotiations and intense international pressure through the Dayton Accords of 1995. It has been argued that the failure of the Dayton Agreements to address the concerns of the Kosovo Albanians was a pre-cursor to the eventual conflict.⁵ The fact that the agreements did

² J. Baylis *et al*, THE GLOBALISATION OF WORLD POLITICS, 515 (4th edn., 2008).

³ S. D. Murphy, *Book Review: Contested Statehood: Kosovo's Struggle for Independence by Marc Weller*, 42 THE GEORGE WASHINGTON INTERNATIONAL LAW REVIEW, 443, 444 (2010).

⁴ N. Morris, *Humanitarian Intervention in the Balkans* in HUMANITARIAN INTERVENTION AND INTERNATIONAL RELATIONS, 98, 108 (J. M. Welsh ed., 2006).

⁵ *Id.*, at 110.

not alter President Milosevic's position that was held responsible for the situations in Slovenia, Croatia, Bosnia and later Kosovo, has also been criticized.⁶ Post 1995 the Kosovo Albanians stayed put with their demand for greater rights. Eventually, various instances of violence against the Serbian authorities were reported to have been committed by the Kosovo Liberation Army (KLA), a separatist grouping. This led to a brutal repression by the Serbian authorities that left many civilians dead. There has been some debate in scholarly circles regarding the exact nature of events and the extent of involvement of either side.⁷ However, the paper endorses the more or less settled opinion that throughout the 1990s Kosovo Albanians did suffer human rights abuses at the hand of Serbian authorities a trend which only followed the adverse constitutional changes of 1989.

The paper also stays clear of the debate regarding who, whether the KLA or the Serbian authorities, was more aggressive and violent in their response to one another. There is enough evidence to suggest that the KLA did indulge in terror related activities, which was indeed followed by heavy repression from Serbian authorities, thereby making the question of degrees irrelevant. This repression led to civilian casualties and massive displacement of Kosovo Albanians within Kosovo and into neighbouring states.⁸ USA and its European allies in order to avert a refugee crisis were thus forced to take notice.

The United Nations Security Council passed a series of resolutions through 1998 condemning the use of excessive force against civilians and KLA's terrorist activities among other things.

However, the situation on the ground only worsened thereby ultimately leading to the military intervention in March of 1999. The period just before this saw intense diplomatic negotiations including the conference at Rambouillet where proposals including greater self governance and entrenched human rights for Kosovo were rejected by Belgrade. As has been indicated the conflict had far-reaching consequences in terms of displacement within and outside the region with some reports claiming 100, 000 people were seeking asylum by the first quarter of 1999.⁹ This was part of a well thought-out strategy to weaken KLA by forcing the Kosovo Albanian population, which was otherwise the majority in the province, to the neighbouring Albania.¹⁰ This would remove any

⁶ *Id.*

⁷ Murphy, *supra* note 3, at 446.

⁸ Murphy, *supra* note 3, at 448.

⁹ Morris, *supra* note 4, at 110.

¹⁰ L. Freedman, *Victims and Victors: Reflections on the Kosovo War*, 26(3) REVIEW OF INTERNATIONAL STUDIES, 335, 352 (2000).

apprehensions of the majority supporting KLA activities. Reports of human rights abuses with apparently all male, able-bodied Kosovo Albanians being considered as potential terrorists added fuel to the fire.¹¹

This precipitated into the NATO intervention through air-strikes in March against Serbia seeking the withdrawal of all Serbian authorities from the province of Kosovo. Though no ground forces were sent but FRY eventually relented and consented to the withdrawal of Serbian authorities and instalment of NATO forces and civil authorities under the United Nations in Kosovo. The establishment of internationalized government however left Kosovo's position in a kind of limbo. Encouraged by the development of self-governing institutions however led Kosovo to declare its own independence in 2008, thereby becoming a partially recognized state, its sovereignty still remaining contested.

It is clear that the NATO intervention in Kosovo took place in the most dramatic circumstances and the events preceding and following it were of immense complexity. This paper focusing on the intervention itself thus has restricted its analysis of accompanying events to the extent of understanding the background of the intervention. Now, the paper will analyze the justificatory discourse surrounding the intervention by looking at concepts of humanitarian intervention and collective security.

II. JUSTIFICATORY DISCOURSES: A CRITICAL ANALYSIS

*"It is this challenge that we and our allies are facing in Kosovo. That is why we have acted now - because we care about saving innocent lives; because we have an interest in avoiding an even crueler and costlier war; and because our children need and deserve a peaceful, stable, free Europe"*¹²

- Bill Clinton

The above extract from the American President's statement to his people justifying military intervention in Kosovo clearly lays down the three primary justificatory strands in the discourse

¹¹ Morris, *supra* note 4, at 112.

¹² *World: Americas Clinton's Statement: Stabilizing Europe*, BBC ONLINE NETWORK, Available at <http://news.bbc.co.uk/2/hi/americas/303693.stm> (Last visited on March 11, 2017).

surrounding Kosovo. First, “*care about saving lives*”, refers to the humanitarian aspect of the exercise which has been stressed upon by NATO and pro-NATO international relations scholars since. Second, “*interest in avoiding an even crueller and costlier war*” refers to how the intervention was in pursuance of collective security which it was posited that NATO was committed to. Third, “*need and deserve a peaceful, stable, free Europe*” reflects the geopolitical significance of Kosovo for NATO countries.

Although Clinton used the three strands to justify the intervention as being in American national interest they have since dominated much of international relations literature about Kosovo. The paper analyzes the concepts of humanitarian intervention and collective security and argues how humanitarian considerations were a ground on which collective security was invoked. Presenting the intervention in the hues of collective security the paper reflects on how this changed the nature of NATO as a military alliance in the long term and repositioned it in the post cold-war world.

(I) HUMANITARIAN INTERVENTION: PROTECTING HUMAN RIGHTS?

Much debate has raged in International Law¹³ regarding the legality of NATO’s actions in Kosovo. This is owing to the fact that the attack was on a sovereign European country without any accompanying authorization by the U.N. Security Council. The intervention was in clear violative of Art. 2(4)¹⁴ of the U.N. charter which prohibits members from violating the territorial sovereignty of any other member. Further, it did not even fall within the self-defence exception covered under Article 51¹⁵ of the U.N. charter.

The NATO charter envisages an organization for defence purposes which responds upon one of its members being attacked. The Kosovo intervention clearly fell outside this scope. Further, the NATO charter recognizes the supremacy of the U.N. Security Council in matters of international peace and security which was clearly bypassed in Kosovo’s case. This shaky legal basis has allowed critics of the intervention, including Chomsky¹⁶, to allege that the casualty figures were bloated in order to justify the intervention.¹⁷ Anderson argues that absence of sound legal basis led

¹³ See M. J. Glennon, *LIMITS OF LAW, PREROGATIVES OF POWER: INTERVENTIONISM AFTER KOSOVO* (2001).

¹⁴ Art. 2(4), Charter of the United Nations, 1945.

¹⁵ Art. 51, Charter of the United Nations, 1945.

¹⁶ N. Chomsky, *A REVIEW OF NATO’S WAR OVER KOSOVO*, Available at <http://www.chomsky.info/articles/200005--.htm> (Last visited on March 12, 2017).

¹⁷ *Id.*

NATO to stress on how the intervention was to prevent ethnic cleansing on a genocidal scale.¹⁸ Within international law some have argued for a limited concept of humanitarian intervention, subject to the fulfilment of certain conditions.¹⁹

The official US position, though not completely clear, had been that NATO did not require a UN Security Council authorization to undertake such an intervention.

In spite of these contradictory positions regarding the legality of the NATO intervention popular IR textbooks such as Heywood²⁰ and Bayliss²¹ have classified Kosovo as a humanitarian intervention. Developments post-Kosovo also seems to have endorsed this position. The UN World Summit's recognition of the doctrine of the responsibility to protect in 2005 is indicative of this.²² The responsibility to protect essentially makes the concept of state sovereignty conditional to the states' responsible behaviour towards its own citizens. It also clarifies the position for future interventions justified on humanitarian considerations.

The paper thus poses the question of whether Kosovo can be defined as an instance of humanitarian intervention.²³ Humanitarian interventions arise out of the concept of human rights which are considered inalienable. The human rights approach in international relations is in conflict with the concept of territorial sovereignty which has long been considered the bedrock of international politics.²⁴ This is due to the fact that human rights as a concept impose strong moral obligations which extend beyond national borders thus affecting both domestic as well as foreign policies.

Post the Cold War, with the end of a world where power politics had dominated it was hoped that moral and ethical considerations would act as a replacement.²⁵ Scholars of this bent of mind thus characterized the interventions of the 90s as being primarily humanitarian in character. They were of the opinion that with a break-down of the bi-polar power structures, that had dominated the cold war years, would now be replaced by a rule-of-law society where international organizations would be able to uphold world peace and security. Influential statesman such as Vaclav Havel's

¹⁸ J. Anderson, *Kosovo and the Legality of NATO's Actions*, 11, IRISH STUDIES IN INTERNATIONAL AFFAIRS, 31, 32 (2000).

¹⁹ See M. E. O'Connell, *The UN, NATO and International Law after Kosovo*, 22(1), HUMAN RIGHTS QUARTERLY, 57 (2000).

²⁰ A. Heywood, GLOBAL POLITICS, 321 (2011).

²¹ Bayliss, *supra* note 2.

²² J. Western & J. Goldstein, *Humanitarian Intervention Comes of Age*, 90, FOREIGN AFFAIRS, 48, 55 (2011).

²³ Bayliss, *supra* note 2, at 515.

²⁴ A. Heywood, *supra* note 20, at 303-304.

²⁵ B. Simms & D.J.B. Trim, HUMANITARIAN INTERVENTION: A HISTORY, 365 (2011).

speech to the Canadian Houses of Parliament,²⁶ which stressed on the fact that wars should be fought on the basis of human rights, and Tony Blair's famous Doctrine of International Community Speech in Chicago,²⁷ which argued for a shift from traditional 'realism' to a blending of mutual self-interest and purpose, are indicative of this trend.

Western and Goldstein argue that the triumphalism of western liberal democracies post the cold-war convinced them of their ability to solve world problems.²⁸ This was also supported by the fact that their military capabilities that were engaged in rivalries in the past could now be utilized for other purposes. Further, Freedman argues that the 'CNN' effect played a huge role in shaping public opinion to provide legitimacy for such an intervention.²⁹ 'CNN' effect essentially refers to the transmission of images through technology which end up creating a public sympathy for preventing such crimes against humanity.³⁰ This is illustrated by the fact that though the NATO members were diplomatically involved in Kosovo since 1998 they only actually intervened when images of ethnic cleansing at the scale of genocide started being broadcasted through television. The discourse hence revolved around how the, "*Serbian authorities were engaged in a campaign of such brutality and ruthlessness, in order to depopulate a province the conscience dictate action*"³¹

An analysis of the speeches of the major stakeholders in the Kosovo intervention and context in which it occurred makes the conclusion that the clamour for the regard of human rights was mere window-dressing for what were otherwise illegal actions a little stretched.

Subsequent actions such as the recognition of the responsibility to protect doctrine lend credence to the argument that a certain regard for human rights did motivate NATO to act.

This was possibly favoured by surrounding circumstances such as the 'CNN' effect and an altered post cold war scenario.

The above arguments should not however be considered a vindication of the view that political action in a post cold-war world will be solely based on moral and ethical grounds. Simms and Trim

²⁶ Address by Vaclav Havel President of Czech Republic to the Senate and the House of Commons of the Parliament of Canada, Available at http://www.vaclavhavel.cz/showtrans.php?cat=projev&val=105_aj_projev.html&typ=HTML (Last visited on March 12, 2017).

²⁷ *Supra* note 1.

²⁸ Goldstein, *supra* note 22, at 49.

²⁹ Freedman, *supra* note 10, at 339.

³⁰ Freedman, *supra* note 10, at 339.

³¹ Freedman, *supra* note 10, at 345

argue that humanitarian interventions of the 1990s were nothing unique and list out a series of historical instances in support of this argument.³² Giving humanitarian intervention a history puts things into perspective since it shows that, “*humanitarian and strategic concerns are not only hard to disentangle, but may in fact sometimes become indistinguishable*”³³ Thus rather than arguing either of the extreme positions the intervention should be understood as a combination of humanitarian and strategic considerations which also played in Clinton’s speech where he alludes military action as being in American national interest. This brings us to a kind of interconnectedness between the strands earlier identified. The humanitarian urgency of the situation in Kosovo made it impossible for NATO to ignore it since the possibility of instability and a refugee crisis could not be allowed in the heart of Europe. This threatened European security and due to the geopolitical significance of Kosovo NATO had to be seen upholding European security in a post cold-war world.³⁴ Thus geopolitics acts as kind of convergence for humanitarian interests and the need to uphold security in Europe. The paper thus argues that a humanitarian intervention was undertaken due to the geopolitical significance of Kosovo in the interest of preserving European security.

However this premise raises some important questions about the nature of NATO as a collective security organization. The paper will thus look at the last strand of collective security and its reflections on NATO as an international organization.

(II) “ALL FOR ONE AND ONE FOR ALL”: COLLECTIVE SECURITY IN IR

Collective security in international relations, “*asserts that the peace of the international community can be maintained through a binding, predetermined agreement to take collective action to preserve it*”.³⁵ It thus envisages what has been referred to as a ‘community of power.’ Thus it works upon agreement between sovereign states that if one of them illegally attacks the other the combined force of all other members of the international community is triggered. This combined action should not only immediately repulse the attacker but the possibility of such action should also act as a deterrent in the first place. A collective security system thus essentially aims at maintaining peace.

³² See Trim, *supra* note 25.

³³ Trim, *supra* note 25, at 379.

³⁴ Trim, *supra* note 25, at 379.

³⁵ L. H. Miller, *The Idea and the Reality of Collective Security*, 5(3) GLOBAL GOVERNANCE, 303, 303 (1999).

At a more theoretical level Kupchan and Kupchan define collective security as a mitigating solution to the realist Hobbesian world.³⁶ Realism envisages an anarchic world where states in order to ensure their survival are constantly involved in augmenting their military and economic capabilities. In such cases peace is maintained through deterrence sustained by a balance of power thus confrontation and antagonism leading to stability. Peace however may still not be achievable due to relatively equal balances or a failure to balance amongst other reasons.³⁷

Collective security on the other hand entails a commitment on part of all the members to join a coalition against the aggressor with preponderant strength. This has two advantages;³⁸ first, the response is preponderant and not merely equivalent and second, it leads to the creation of world setting where peace is a result of cooperation and not competition. These advantages over a realist conception capture the theoretical underpinning of the concept of collective security in international relations. But, this however does not preclude great variety in which collective security manifests itself in the real world through variations in membership, scope of operation and nature of obligation upon members.³⁹

At the same time despite these variations certain conditions are considered absolutely necessary for collective security.⁴⁰ First, no state should be so powerful that no coalition of states is able to gather preponderant force against it because of this happens it would defeat the very logic of collective security. Second, states should have compatible views on what constitutes an international and stable order as this would ensure that there are no competing views regarding aggression. Last, major powers should have a sense political solidarity and moral community, the preservation of which should be in their national interest. Thus collective security has a long genealogy in IR but it has attained greater coinage in the last two decades due to the changed political scenario post cold-war.

(III) NATO IN A POST COLD-WAR WORLD: PROMISE OF COLLECTIVE SECURITY?

³⁶ C.A. Kupchan & C.A. Kupchan, *Concepts, Collective Security and the Future of Europe*, 16(1) INTERNATIONAL SECURITY, 114, 117 (1991).

³⁷ Kupchan, *supra* note 36, at 117-118.

³⁸ Kupchan, *supra* note 36, 118.

³⁹ Kupchan, *supra* note 36, 120.

⁴⁰ Kupchan, *supra* note 36, 124.

The early beginnings of collective security can be seen in the formation of international organizations such as the League of Nations and thereafter the United Nations which were aimed at maintaining global security and world peace. These organizations were built on Wilsonian notions which represented an international morality much superior to the realist balance of power conceptions.⁴¹ During most of the cold-war however due to the inherent tensions of a bipolar world the enforceability of collective security system through the UN got heavily restricted. The very structure of the Security Council, with the top-five capable of vetoing any and every action of the United Nations contributed to this. After the end of the cold war and the soviet collapse theorists and policy-makers have shown a renewed interest in the concept of collective security through international institutions.⁴²

However what is significant in the context of European security is that this role has not been restricted to the United Nations but has been extended to other regional institutions including NATO through their actions as UN's agents.⁴³ A possible reason behind this could be the UN's failure to act as a collective security organization. Grey argues that instances of the Security Council's failure to act in times of humanitarian disasters and its inability to prevent unilateral action by states has adversely affected its collective security credentials.⁴⁴ This, the researcher argues has shifted focus to a cold-war defence arrangements like NATO to assume a collective security role.⁴⁵

The end of the cold war also marked the abolition of the Warsaw pact which effectively ended bipolarity thereby creating a uni-polar world order where NATO had emerged victorious. Scholars thus argued for the need of collective security arrangements because the need for collective defence was now precluded.⁴⁶ Organizations such as NATO which had the requisite capabilities⁴⁷ were thus required to reflect on their roles in order to remain relevant.

⁴¹ J. J. Mearsheimer, *The False Promise of International Institutions*, 19(3) INTERNATIONAL SECURITY, 5, 27 (1994).

⁴² Mearsheimer, *supra* note 41, at 5.

⁴³ Miller, *supra* note 35, at 327.

⁴⁴ C. Grey, *A Crisis of Legitimacy for the UN Collective Security System?*, 56(1) THE INTERNATIONAL AND COMPARATIVE LAW QUARTERLY, 157, 157 (2007).

⁴⁵ There has been a live debate between Mearshimer and Kupchan and Kupchan regarding the ability of institutions to maintain peace. This debate questions the very merits of the collective security system itself. However a normative evaluation of the concept is beyond the scope of this paper. *See* Mearsheimer, *supra* note 41 & C. A. Kupchan & C. A. Kupchan, *The Promise of Collective Security*, 20(1) INTERNATIONAL SECURITY, 52 (1995)

⁴⁶ Miller, *supra* note 35, at 309.

⁴⁷ J. Stern, *NATO Collective Security of Defence: The Future of NATO in Light of Expansion and 9/11*, DÜSSELDORFER INSTITUT FÜR AUßEN- UND SICHERHEITSPOLITIK (DIAS), 8 (2010).

It is in this context that the changing role or the alleged transformation⁴⁸ of NATO in the 1990s needs to be understood. The most glaring example of this change was the New Strategic Concept which was released in Rome in 1991,

“Risks to Allied security are less likely to result from calculate aggression against the territory of the Allies, but rather from the adverse consequences of instabilities that may arise from the serious economic, social, and political difficulties, including ethnic rivalries, and territory disputes, which are faced by many countries in Central and Eastern Europe... This could, how-ever, lead to crises inimical to European security and even to armed conflicts, which could involve outside powers or spill over into NATO countries, and have a direct affect on the security of the Alliance”.

This clearly represented a shift in focus from threat to risks and the acceptance of the premise that insecurity at the periphery would eventually create security of concerns for the members of the alliance. The intervention in Kosovo can possibly be understood in this context. It is such an approach which has lead scholars to conclude that NATO has transformed from a collective defence to a collective security alliance focussing on world security.⁴⁹

The transformation has however been criticised because it undermines the concept of collective security which envisages a global community which in this cases is restricted to US-Western European military alliance. This is because the NATO’s actions have undermined the role of the Security Council because the interventions such as the one in Kosovo was undertaken without Security Council authorization due to fears that such a resolution would be vetoed by China and Russia.⁵⁰

This lack of authorization, as mentioned earlier in the paper, has created a lively debate regarding the legality of NATO action in international law. It also has ramification on the nature of NATO as a collective security or a collective defence alliance. Interestingly the NATO website still refers to Art 5 of the Washington Treat, that is, collective defence as its basic principle.⁵¹ The Kosovo

⁴⁸ Scholars in IR throughout the past decade have referred to this transformation. See S. Popov, *NATO Expansion: From Collective Defence to Collective Security*, 13 PERSPECTIVES, 59 (2000).

⁴⁹ Stern, *supra* note 47, at 3.

⁵⁰ A. Suterwalla, *Collective Insecurity: UN, NATO and Kosovo*, 22(4) HARVARD INTERNATIONAL REVIEW, 8, 9 (2001).

⁵¹ *What is NATO?*, Available at <http://www.nato.int/nato-welcome/index.html> (Last visited on March 14, 2017).

intervention however not being one against any of the members reflects the collective security dimension of the alliance. White argues that intervention by regional organizations in the interest of collective security without UN authorization are a clear violation of the UN charter and therefore merits reform of the same.⁵²

This has meant that the intervention in Kosovo remains a dubious precedent as far as NATO's credentials as a collective security organization or the legal *vires* are concerned.⁵³ Therefore Stern argues that the alleged transformation of NATO is not complete as even though it had turned its focus on security the basis of its actions still seems to be defence.⁵⁴ This gives realist underpinnings to collective security which is otherwise a liberal concept. He argues on the basis of qualifying the Kosovo intervention as even though there was no direct, clear threat, there was fear of the conflict spreading and creating a refugee concerns. Further, NATO's dilemma about conducting air-strikes or pledging ground troops, points to its discomfiture in its new security orientation.

Thus to *prima facie* accept that NATO's actions in Kosovo were motivated by its new role as a collective security organization obliterates the many complexities of the situation. While intervening in a situation in which none of its own members were directly under threat (thereby, falling outside the concept of collective defence) shows a collective security focus.

This is because collective security allows for actions where members respond to acts of aggression not only for self-help but in the interest of international peace. The humanitarian nature of the intervention also supports this view. However, the geo-political significance of Kosovo and the implicit strategic interests involved, NATO's hesitancy in using ground troops, persisting confusion over legality indicate that transformation is not complete. Thus the intervention should be understood as *sui-generis*, a kind of hybrid between collective security and collective defence.

III. CONSTRUCTIVISM AND CONSTRUCTION OF COLLECTIVE SECURITY

The paper will now look at how collective security was constructed during the Kosovo intervention and how such construction affects the concept of collective security post Kosovo. By such construction the paper also reflects on the complexity of asserting NATO's intervention in Kosovo

⁵² N. D. White, *On the Brink of Lawlessness: The State of Collective Security Law*, HILAIRE MCCOUBREY MEMORIAL LECTURE UNIVERSITY OF HULL, 10-11 (2002).

⁵³ *Id.*, at 5.

⁵⁴ Stern, *supra* note 47, at 5.

as being in pursuance of collective security. To this end the paper analyzes Frederking's approach⁵⁵ of applying constructivism to construct collective security in the Kosovo intervention.

The reason for aligning with Frederking's constructivist approach in understanding collective security is because of the capacity of constructivism to provide critical insights into questions of politics.⁵⁶ The constructivism which this paper employs has largely arisen after the end of the cold war. In contrast to early critical theory which focuses solely on normative issues this kind of constructivism equally focuses on empirical issues in world politics.⁵⁷ Thus constructivists rather than pursuing purely abstract philosophies and rejecting humans as capable of rationally have now offered an alternative ontological framework where humans are socially embedded, communicatively constituted and socially empowered. In simpler words constructivism focuses on how political realities are shaped by culture, norms and ideas.⁵⁸ Thus it focuses on the how ideas end up becoming facts in international politics. This thus offers the best approach to understand the manufacture of the discourse on collective around an event (which was the NATO intervention in Kosovo in our case) became a defining characteristic of the event and a significant concept within the larger discipline of IR. Frederking focuses on speech acts as constituting social structures through human agency and thereby ultimately constructing social rules. In constructivism these social rules can include identity, norms etc. However Frederking focuses on speech acts as constituting social rules. Speech acts, social rules and ultimately what social arrangements or practice develop follow a logical chain. While speech acts constitute rules they are also in turn influenced by rules. Certain speech acts lead to social rules and these rules once settled influence practices and institutions. This works on the assumption that agents who perform speech acts display communicative rationality, that is, their actions are consistent with what they interpret and how the social rules they construct constitute world politics.⁵⁹

Frederking applies the above framework to understand NATO's intervention in Kosovo as a speech act in pursuance of collective security which further leads to the institutionalization of

⁵⁵ Prof. Brian Frederking is a member of the American Political Science Association but has worked exclusively on the topic of collective security and its applicability during and post the Kosovo intervention. *See Profile Available at* <https://www.mckendree.edu/directory/brian-frederking.php> (Last visited on March 15, 2017).

⁵⁶ C. Reus-Smit, *Constructivism* in THEORIES OF INTERNATIONAL RELATIONS, 209, 215 (S. Burchill *et al* 3rd edn., 2005).

⁵⁷ *Id.*

⁵⁸ P. Sutch & Juanita Elias, INTERNATIONAL RELATIONS THE BASICS, 133 (2007).

⁵⁹ B. Frederking, *Constructing Collective Security in Kosovo*, MCKENDREE COLLEGE Available at http://www.webpages.uidaho.edu/martin_archives/Kosovo.htm (Last visited on March 16, 2017).

certain collective security rules. This also takes into account the opposition of countries like Russia and China as opposing the particular collective security rules. This paper by looking at the speeches by Blair and Clinton earlier, further establishes how different strands in them constituted the kind of security rules which justified the intervention.

Both Clinton's statement justifying the intervention in Kosovo and Blair's Doctrine of International Community speech focus on the violation humanitarian norms in the European context. The violation of human rights was thus considered a violation of community rules thus meriting a response. This reasoning is based on the premise of collective security where members are responsible for each other's security. Further, as Frederking argues that such security stresses on commitment to use military capability.⁶⁰

China and Russia on the other hand as has been earlier indicated in the paper stressed on the illegality of NATO's actions in international law. Their argument thus was based on a set of social rules which constituted a different conception of collective security. Their force of their argument also revolved around how Kosovo being a global problem should be addressed in that manner. This is also why they questioned NATO's actions which were without Security Council authorization. Their responses against the use of force and in favour of upholding Yugoslavian sovereignty also represent a competing conception of collective security.

These contrasting speech acts represent contrasting perspectives on social rules representing collective security. NATO's dominance however shows the particular social rules have come to construct the understanding of collective security post-Kosovo. The constructivist approach shows the social rules constructed through the speech acts of NATO form a particular understanding of collective security which is distinct from how those who opposed the intervention understood it. Thus collective security post cold war can be understood as constituting punishment for human rights violations.⁶¹ The Kosovo intervention can thus be taken as a precedent where moral imperatives lead to the invocation of collective security by NATO. This must however be seen in the context of there being rival notions of collective security. The rules since have however informed the manner in which collective security been understood in terms of constituting practice

⁶⁰ *Id.*

⁶¹ B. Frederking, *Constructing Post-Cold War Collective Security*, 97(3) THE AMERICAN POLITICAL SCIENCE REVIEW, 363, 371 (2003).

and institutions which can be termed as a form of post cold-war collective security.⁶² These norms and institution are thus reflected in the manner in which NATO acted in Kosovo.

CONCLUSION

The first part of this paper analyzed context and the circumstances which led to the NATO intervention in Kosovo. It concluded how due to the history of ethnic tensions and the excesses committed by the Serbian regime led to the formation of the separatist KLA. The resultant oppression led to heavy Kosovo Albanian casualties and large-scale displacement.

The trenchant violation of human right and impending refugee crisis eventually led to NATO to intervene through air-strikes. In this background the second part of the paper looked at the various justificatory discourses around the Kosovo intervention. This involved an analysis of key concepts of international relations such as humanitarian intervention and collective security. Finally the paper through Frederking's constructivist approach analyzed the construction of collective security in international relations post Kosovo.

The paper endeavoured to complicate the assertion that the NATO intervention in Kosovo was in pursuance of collective security. It argues that though humanitarian atrocities in Kosovo violated European community norms therefore invoking the concept of collective security however this was tempered by a number of factors. These include the relative failure of the United Nations, NATO's changed role after the end of the cold war, geopolitical and strategic interests in Kosovo, legality of the interventions among other factors. Thus the kind of constructive security envisioned was unique in IR and was merely *one* kind of collective security. The intervention can thus be viewed as a hybrid between the concepts of collective security and collective defence thus bringing together what are otherwise conflicting liberal and realist positions. Further, by reflecting on the construction of collective security from a constructivist position the paper sheds light on the changed understanding of collective security post Kosovo.

The paper like most academic writing suffers from the constraints of time and resources. The paper however can be made richer through analyzing the humanitarian interventions post Kosovo as that

⁶² Frederking, *supra* note 61.

would shed light on whether the collective security rules that have been argued to have been constructed post the cold war have endured the rough weather of international politics. Doing away with this temporal restraint would involve analysing military intervention by NATO and justificatory discourses manufactured around them.

