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The tumult having subsided, it should be possible to undertake a relatively dispassionate review and analysis of NATO's war over Kosovo. One might have expected the theme to have dominated the year-end millennarianism, considering the exuberance the war elicited in Western intellectual circles and the tidal wave of self-adulation by respected voices, lauding the first war in history fought "in the name of principles and values," the first bold step towards a "new era" in which the "enlightened states" will protect the human rights of all under the guiding hand of an "idealistic New World bent on ending inhumanity," now freed from the shackles of archaic concepts of world order. But it received scant mention.

A rare exception was the *Wall Street Journal*, which devoted its lead story on December 31 to an in-depth analysis of what had taken place. The headline reads: "War in Kosovo Was Cruel, Bitter, Savage; Genocide It Wasn't." The conclusion contrasts rather sharply with wartime propaganda. A database search of references to "genocide" in Kosovo for the first week of bomb-

ing alone was interrupted when it reached its limit of 1,000 documents.

As NATO forces entered Kosovo, tremendous efforts were undertaken to discover evidence of war crimes, a "model of speed and efficiency" to ensure that no evidence would be lost or overlooked. The efforts "build on lessons learned from past mistakes." They reflect "a growing international focus on holding war criminals accountable." Furthermore, analysts add, "proving the scale of the crimes is also important to NATO politically, to show why 78 days of airstrikes against Serbian forces and infrastructure were necessary."

The logic, widely accepted, is intriguing. Uncontroversially, the vast crimes took place after the bombing began: they were not a cause but a consequence. It requires considerable audacity, therefore, to take the crimes to provide retrospective justification for the actions that contributed to inciting them.

One "lesson learned," and quickly applied, was the need to avoid a serious inquiry into crimes in East Timor. Here there was no "model of speed and efficiency." Few forensic experts were sent despite the pleas of the UN peacekeeping mission, and those were delayed for four months, well after the rainy season would remove essential evidence. The mission itself was delayed even after the country had been virtually destroyed and most of its population expelled. The distinction is not hard to comprehend. In East Timor, the crimes were attributable directly to state terrorists who were supported by the West right through the final days of their atrocities. Accordingly, issues of deterrence and accountability can hardly be on the agenda. In Kosovo, in contrast, evidence of terrible crimes can be adduced to provide retrospective justification for the NATO war, on the interesting principle that has been established by the doctrinal system.

Despite the intensive efforts, the results of "the mass-grave obsession," as the *WSJ* analysts call it, were disappointingly

displacing EU initiatives at least temporarily, a primary reason for the insistence that the operation be in the hands of NATO, a U.S subsidiary. A destitute Serbia remains the last holdout, probably not for long.

A further consequence is another blow to the fragile principles of world order. The NATO action represents a threat to the "very core of the international security system" founded on the UN Charter, Secretary-General Kofi Annan observed in his annual report to the UN in September. That matters little to the rich and powerful, who will act as they please, rejecting World Court decisions and vetoing Security Council resolutions if that becomes necessary; it is useful to remember that, contrary to much mythology, the U.S. has been far in the lead in vetoing Security Council resolutions on a wide range of issues, including terror and aggression, ever since it lost control of the UN in the course of decolonization, with Britain second and France a distant third. But the traditional victims take these matters more seriously, as the global reaction to the Kosovo war indicated.

The essential point—not very obscure—is that the world faces two choices with regard to the use of force: (1) some semblance of world order, either the Charter or something better if it can gain a degree of legitimacy; or (2) the powerful states do as they wish unless constrained from within, guided by interests of power and profit, as in the past. It makes good sense to struggle for a better world, but not to indulge in pretense and illusion about the one in which we live.

Archival and other sources should provide a good deal more information about the latest Balkans war. Any conclusions reached today are at best partial and tentative. As of now, however, the "lessons learned" do not appear to be particularly attractive.

create an "ethnically clean Albanian republic," taking over Serb lands, attacking churches, and engaging in "protracted violence" to attain the goal of an "ethnically pure" Albanian region, with "almost weekly incidents of rape, arson, pillage and industrial sabotage, most seemingly designed to drive Kosovo's remaining indigenous Slavs…out of the province." This "seemingly intractable" problem, another phase in an ugly history of intercommunal violence, led to Milosevic's characteristically brutal response, withdrawing Kosovo's autonomy and the heavy federal subsidies on which it depended, and imposing an "Apartheid" regime. Kosovo may also come to resemble Bosnia, "a den of thieves and tax cheats" with no functioning economy, dominated by "a wealthy criminal class that wields enormous political influence and annually diverts hundreds of millions of dollars in potential tax revenue to itself." Much worse may be in store as independence for Kosovo becomes entangled in pressures for a "greater Albania," with dim portents.

The poorer countries of the region have incurred enormous losses from the blocking of the Danube by bombing at Novi Sad, another center of opposition to Milosevic. They were already suffering from protectionist barriers that "prevent the ships from plying their trade in the EU," as well as "a barrage of Western quotas and tariffs on their exports." But "blockage of the [Danube] is actually a boon" for Western Europe, particularly Germany, which benefits from increased activity on the Rhine and at Atlantic ports.

There are other winners. At the war's end, the business press described "the real winners" as Western military industry, meaning high-tech industry generally. Moscow is looking forward to a "banner year for Russian weapons exports" as "the world is rearming apprehensively largely thanks to NATO's Balkans adventure," seeking a deterrent, as widely predicted during the war. More important, the U.S. was able to enforce its domination over the strategic Balkans region,

thin. Instead of "the huge killing fields some investigators were led to expect,..the pattern is of scattered killings," a form of "ethnic cleansing light." "Most killings and burnings [were] in areas where the separatist Kosovo Liberation Army [KLA-UCK] had been active" or could infiltrate, some human-rights researchers reported, an attempt "to clear out areas of KLA support, using selective terror, robberies and sporadic killings." These conclusions gain some support from the detailed OSCE review released in December, which "suggests a kind of military rationale for the expulsions, which were concentrated in areas controlled by the insurgents and along likely invasion routes."

The *WSJ* analysis concludes that "NATO stepped up its claims about Serb 'killing fields'" when it "saw a fatigued press corps drifting toward the contrarian story: civilians killed by NATO's bombs." NATO spokesperson Jamie Shea presented "information" that can be traced to KLA-UCK sources. Many of the most lurid and prominently-published atrocity reports attributed to refugees and other sources were untrue, the *WSJ* concludes. Meanwhile NATO sought to deny its own atrocities, for example, by releasing a falsified videotape "shown at triple its real speed" to make it appear that "the killing of at least 14 civilians aboard a train on a bridge in Serbia last April" was unavoidable because "the train had been traveling too fast for the trajectory of the missiles to have been changed in time."

The *WSJ* analysts nevertheless conclude that the "heinous" crimes, including the huge campaign of expulsion, "may well be enough to justify" the NATO bombing campaign, on the principle of retrospective justification.

The OSCE study is the third major source concerning Serb crimes. The first is the State Department's case against Milosevic and his associates in May; the second, their formal indictment shortly after by the International Tribunal on War Crimes. The two documents are very similar, presumably because the "remarkably fast indictment" by the Tribunal was

based on U.S.-U.K. "intelligence and other information long denied to [the Tribunal] by Western governments." Few expect that such information would be released for a War Crimes Tribunal on East Timor, in the unlikely event that there is one. The State Department updated its case in December 1999, with what is intended to be the definitive justification for the bombing, adding whatever information could be obtained from refugees and investigations after the war.

In the two State Department reports and the Tribunal indictment, the detailed chronologies are restricted, almost entirely, to the period that followed the bombing campaign initiated on March 24. Thus, the final State Department report of December 1999 refers vaguely to "late March" or "after March," apart from a single reference to refugee reports of an execution on March 23, the day of NATO's official declaration that the air operations announced on March 22 would begin. The one significant exception is the January 15 Racak massacre of 45 people. But that cannot have been the motive for the bombing, for two sufficient reasons: first, the OSCE monitors and other international observers (including NATO) report this to be an isolated event, with nothing similar in the following months up to the bombing; we return to that record directly. And second, such atrocities are of little concern to the U.S. and its allies. Evidence for the latter conclusion is overwhelming, and it was confirmed once again shortly after the Racak massacre, when Indonesian forces and their paramilitary subordinates brutally murdered 50 or more people who had taken refuge from Indonesian terror in a church in the remote Timorese village of Liquica. Unlike Racak, this was only one of many massacres in East Timor at that time, with a toll well beyond anything attributed to Milosevic in Kosovo: 3–5000 killed from January 1999, credible church sources reported on August 6, about twice the number killed on all sides in Kosovo in the year prior to the bombing, according to NATO. Historian John Taylor estimates the toll at 5–6000 from January to the August 30 referendum.

mafia in grenade attacks and other crimes, among such acts as murder of elderly women by "men describing themselves as KLA representatives."

The Serb minority has been largely expelled. Robert Fisk reports that "the number of Serbs killed in the five months since the war comes close to that of Albanians murdered by Serbs in the five months before NATO began its bombardment in March," so available evidence indicates; recall that the UN reported "65 violent deaths" of civilians (Albanian and Serb primarily) in the two months before the withdrawal of the monitors and the bombing. Murders are not investigated, even the murder of a Serb employee of the International Tribunal. The Croat community "left en masse" in October. In November, "the president of the tiny Jewish community in Pristina, Cedra Prlincevic, left for Belgrade after denouncing 'a pogrom against the non-Albanian population'." Amnesty International reported at the year's end that "Violence against Serbs, Roma, Muslim Slavs and moderate Albanians in Kosovo has increased dramatically over the past month," including "murder, abductions, violent attacks, intimidation, and house burning…on a daily basis," as well as torture and rape, and attacks on independent Albanian media and political organizations in what appears to be "an organized campaign to silence moderate voices in ethnic Albanian society," all under the eyes of NATO forces.

KFOR officers report that their orders are to disregard crimes: "Of course it's mad," a French commander said, "but those are the orders, from NATO, from above." NATO forces also "seem completely indifferent" to attacks by "armed ethnic Albanian raiders" across the Serb-Kosovo border "to terrorize border settlements, steal wood or livestock, and, in some cases, to kill," leaving towns abandoned.

Current indications are that Kosovo under NATO occupation has reverted to what was developing in the early 1980s, after the death of Tito, when nationalist forces undertook to

displaced people face starvation. The World Food Program announced that it would have to curtail its programs for 2 million refugees in Sierra Leone, Liberia, and Guinea, having received less than 20 percent of requested funding. The same fate awaits four million starving people in Africa's Great Lakes region—whose circumstances are not unrelated to Western actions over many years, and refusal to act at critical moments. UNHCR expenditures per refugee in the Balkans are 11 times as high as in Africa. "The hundreds of millions of dollars spent on Kosovo refugees and the crush of aid agencies eager to spend it 'was almost an obscenity,' said Randolph Kent," who moved from UN programs in the Balkans to East Africa. President Clinton held a meeting with leading aid agencies "to emphasize his own enthusiasm for aid to Kosovo."

All of this is against the background of very sharp reductions in aid in the United States, now "at the height of its glory" (Fromkin), the leadership basking in adulation for their historically unprecedent "altruism" as they virtually disappear from the list of donors to the poor and miserable.

The OSCE inquiry provides a detailed record of crimes committed under NATO military occupation. Though these do not begin to compare with the crimes committed by Serbia under NATO bombardment, they are not insignificant. The occupied province is filled with "lawlessness that has left violence unchecked," much of it attributed to the KLA-UCK, OSCE reports, while "impunity has reigned instead of justice." Albanian opponents of the "new order" under "UCK dominance," including officials of the "rebel group's principal political rival," have been kidnapped, murdered, targeted in grenade attacks, and otherwise harassed and ordered to withdraw from politics. The one selection from the OSCE reports in the *New York Times* concerns the town of Prizren, near the Albanian border. It was attacked by Serbs on March 28, but "the overall result is that far more damage has been caused…after the war than during it." British military police report involvement of the Albanian

The U.S. and its allies reacted to the East Timor massacres in the familiar way: by continuing to provide military and other aid to the killers and maintaining other military arrangements, including joint training exercises as late as August, while insisting that security in East Timor "is the responsibility of the Government of Indonesia, and we don't want to take that responsibility away from them."

In summary, the State Department and the Tribunal make no serious effort to justify the bombing campaign or the withdrawal of the OSCE monitors on March 20 in preparation for it.

The OSCE inquiry conforms closely to the indictments produced by the State Department and the Tribunal. It records "the pattern of the expulsions and the vast increase in lootings, killings, rape, kidnappings and pillage once the NATO air war began on March 24." "The most visible change in the events was after NATO launched its first airstrikes" on March 24, the OSCE reports. "On one hand, the situation seemed to have slipped out of the control of any authorities, as lawlessness reigned in the form of killings and the looting of houses. On the other, the massive expulsion of thousands of residents from the city, which mostly took place in the last week of March and in early April, followed a certain pattern and was conceivably organized well in advance."

The word "conceivably" is surely an understatement. Even without documentary evidence, one can scarcely doubt that Serbia had contingency plans for expulsion of the population, and would be likely to put them into effect under NATO bombardment, with the prospect of direct invasion. It is commonly argued that the bombing is justified by the contingency plans that were implemented in response to the bombing. Again, the logic is interesting. Adopting the same principle, terrorist attacks on U.S. targets would be justified if they elicited a nuclear attack, in accord with contingency plans—which exist—for first strike, even preemptive strike against nonnuclear states that

have signed the nonproliferation treaty. An Iranian missile attack on Israel with a credible invasion threat would be justified if Israel responded by implementing its detailed contingency plans—which presumably exist—for expelling the Palestinian population.

The OSCE inquiry reports further that "Once the OSCE-KVM [monitors] left on 20 March 1999 and in particular after the start of the NATO bombing of the FRY on 24 March, Serbian police and/or VJ [army], often accompanied by paramilitaries, went from village to village and, in the towns, from area to area threatening and expelling the Kosovo Albanian population." The departure of the monitors also precipitated an increase in KLA-UCK ambushes of Serbian police officers, "provoking a strong reaction" by police, an escalation from "the prewar atmosphere, when Serbian forces were facing off against the rebels, who were kidnapping Serbian civilians and ambushing police officers and soldiers."

For understanding of NATO's resort to war, the most important period is the months leading up to the decision. Of course, what NATO knew about that period is a matter of critical significance for any serious attempt to evaluate the decision to bomb Yugoslavia without Security Council authorization. Fortunately, that is the period for which we have the most detailed direct evidence: namely, from the reports of the KVM monitors and other international observers. Unfortunately, the OSCE inquiry passes over these months quickly, presenting little evidence and concentrating rather on the period after monitors were withdrawn. A selection of KVM reports is, however, available, along with others by NATO and independent international observers. These merit close scrutiny.

The relevant period begins in December, with the breakdown of the cease-fire that had permitted the return of many people displaced by the fighting. Throughout these months, the monitors report that "humanitarian agencies in

U.S. Congress," *New York Times* Balkans correspondent David Binder observes.

The suffering of Kosovars did not end with the arrival of the NATO (KFOR) occupying army and the UN mission. Though billions of dollars were readily available for bombing, as of October the U.S. "has yet to pay any of the $37.9 million assessed for the start-up costs of the United Nations civilian operation in Kosovo"; as in East Timor, where the Clinton administration called for reduction of the small peacekeeping force. By November, "the U.S. Office of Foreign Disaster Assistance has yet to distribute any heavy-duty kits and is only now bringing lumber" for the winter shelter program in Kosovo; the UNHCR and EU humanitarian agency ECHO have also "been dogged with criticism for delays and lack of foresight." The current shortfall for the UN mission is "the price of half a day's bombing," an embittered senior UN official said, and without it "this place will fail," to the great pleasure of Milosevic. A November donors' conference of Western governments pledged only $88 million to cover the budget of the UN mission in Kosovo, but pledged $1 billion in aid for reconstruction for the next year—public funds that will be transferred to the pockets of private contractors, if there is some resolution of the controversies within NATO about how the contracts are to be distributed. In mid-December the UN mission again pleaded for funds for teachers, police officers, and other civil servants, to little effect.

Despite the limited aid, the appeal of a disaster that can be attributed to an official enemy, and exploited (on curious grounds) "to show why 78 days of airstrikes against Serbian forces and infrastructure were necessary," has been sufficient to bring severe cutbacks in aid elsewhere. The U.S. Senate is planning to cut tens of millions of dollars from Africa-related programs. Denmark has reduced non-Kosovo assistance by 26 percent. International Medical Corps is suspending its Angola program, having raised $5 million for Kosovo while it hunts, in vain, for $1.5 million for Angola, where 1.6 million

command. When Serbia and Russia insisted on the terms of the formal agreements, they were castigated for their deceit, and bombing was renewed to bring them to heel. On June 7, NATO planes again bombed the oil refineries in Novi Sad and Pancevo, both centers of opposition to Milosevic. The Pancevo refinery burst into flames, releasing a huge cloud of toxic fumes, shown in a photo accompanying a *New York Times* story of July 14, which discussed the severe economic and health effects. The bombing was not reported, though it was covered by wire services.

It has been argued that Milosevic would have tried to evade the terms of an agreement, had one been reached in March. The record strongly supports that conclusion, just as it supports the same conclusion about NATO—not only in this case, incidentally; forceful dismantling of formal agreements is the norm on the part of the great powers. As now belatedly recognized, the record also suggests that "it might have been possible [in March] to initiate a genuine set of negotiations—not the disastrous American diktat presented to Milosevic at the Rambouillet conference—and to insert a large contingent of outside monitors capable of protecting Albanian and Serb civilians alike."

At least this much seems clear. NATO chose to reject diplomatic options that were not exhausted, and to launch a military campaign that had terrible consequences for Kosovar Albanians, as anticipated. Other consequences are of little concern in the West, including the devastation of the civilian economy of Serbia by military operations that severely violate the laws of war. Though the matter was brought to the War Crimes Tribunal long ago, it is hard to imagine that it will be seriously addressed. For similar reasons, there is little likelihood that the Tribunal will pay attention to its 150-page "Indictment Operation Storm: A Prima Facie Case," reviewing the war crimes committed by Croatian forces that drove some 200,000 Serbs from Krajina in August 1995 with crucial U.S. involvement that elicited "almost total lack of interest in the U.S. press and in the

general have unhindered access to all areas of Kosovo," with occasional harassment from Serb security forces and KLA paramilitaries, so the information may be presumed to be fairly comprehensive.

The "most serious incidents" reported by the ICRC in December are clashes along the FRY-Albanian border, and "what appear to be the first deliberate attacks on public places in urban areas." The UN Inter-Agency Update (December 24) identifies these as an attempt by armed Albanians to cross into Kosovo from Albania, leaving at least 36 armed men dead, and the killing of 6 Serbian teenagers by masked men spraying gunfire in a cafe in the largely Serbian city of Pec. The next incident is the abduction and murder of the deputy mayor of Kosovo Polie, attributed by NATO to the KLA-UCK. Then follows a report of "abductions attributed to the KLA." The UN Secretary-General's report (December 24) reviews the same evidence, citing the figure of 282 civilians and police abducted by the KLA as of December 7 (FRY figures). The general picture is that after the October cease-fire, "Kosovo Albanian paramilitary units have taken advantage of the lull in the fighting to re-establish their control over many villages in Kosovo, as well as over some areas near urban centres and highways,...leading to statements [by Serbian authorities] that if the [KVM] cannot control these units the Government would."

The UN Inter-Agency Update on January 11 is similar. It reports fighting between Serb security forces and the KLA. In addition, in "the most serious incident since the declaration of the ceasefire in October 1998, the period under review has witnessed an increase in the number of murders (allegedly perpetrated by the KLA), which have prompted vigorous retaliatory action by government security forces." "Random violence" killed 21 people in the preceding 11 days. Only one example is cited: a bomb outside "a cafe in Pristina, injuring three Serbian youths and triggering retaliatory attacks by Serbian civil-

ians on Albanians," the first such incident in the capital. The other major incidents cited are KLA capture of eight soldiers, the killing of a Serbian civilian, and the reported killing of three Serbian police. NATO's review of the period is similar, with further details: VJ shelling of civilian and UCK facilities with "at least 15 Kosovo Albanians" killed, UCK killing of a Serb judge, police and civilians, etc.

Then comes the Racak massacre of January 15, after which the reports return pretty much to what preceded. The OSCE monthly Report of February 20 describes the situation as "volatile." Serb-KLA "direct military engagement…dropped significantly," but KLA attacks on police and "sporadic exchange of gunfire" continued, "including at times the use of heavy weapons by the VJ." The "main feature of the last part of the reporting period has been an alarming increase in urban terrorism with a series of indiscriminate bombing or raking gunfire attacks against civilians in public places in towns throughout Kosovo"; these are "non-attributable," either "criminally or politically motivated." Then follows a review of police-KLA confrontations, KLA abduction of "five elderly Serb civilians," and refusal of KLA and VJ to comply with Security Council resolutions. Five civilians were killed as "urban violence increased significantly," including three killed by a bomb outside an Albanian grocery store. "More reports were received of the KLA 'policing' the Albanian community and administering punishments to those charged as collaborators with the Serbs," also murder and abduction of alleged Albanian collaborators and Serb police. The "cycle of confrontation can be generally described" as KLA attacks on Serb police and civilians, "a disproportionate response by the FRY authorities," and "renewed KLA activity elsewhere."

In his monthly report, March 17, the UN Secretary-General reports that clashes between Serb security forces and the KLA "continued at a relatively lower level," but civilians

the subject of the Paris negotations then underway. One can only view his account with some skepticism, even apart from his casual attitude toward crucial fact, already noted, and his clear commitments. For the moment, these important matters remain buried in obscurity.

Despite official efforts to prevent public awareness of what was happening, the documents were available to any news media that chose to pursue the matter. In the U.S., the extreme (and plainly irrelevant) demand for virtual NATO occupation of the FRY received its first mention at a NATO briefing of April 26, when a question was raised about it, but was quickly dismissed and not pursued. The facts were reported as soon as the demands had been formally withdrawn and had become irrelevant to democratic choice. Immediately after the announcement of the peace accords of June 3, the press quoted the crucial passages of the "take it or leave it" Rambouillet ultimatum, noting that they required that "a purely NATO force was to be given full permission to go anywhere it wanted in Yugoslavia, immune from any legal process," and that "NATO-led troops would have had virtually free access across Yugoslavia, not just Kosovo."

Through the 78 days of bombing, negotiations continued, each side making compromises—described in the U.S. as Serb deceit, or capitulation under the bombs. The peace agreement of June 3 was a compromise between the two positions on the table in late March. NATO abandoned its most extreme demands, including those that had apparently undermined the negotations at the last minute and the wording that had been interpreted as calling for a referendum on independence. Serbia agreed to an "international security presence with substantial NATO participation," the sole mention of NATO in the peace agreement or Security Council Resolution 1244 affirming it. NATO had no intention of living up to the scraps of paper it had signed, and moved at once to violate them, implementing a military occupation of Kosovo under NATO

the fate of the Kosovar Albanians, they would have sought to determine whether diplomacy could succeed if NATO's most provocative, and evidently irrelevant, demands had been withdrawn; the monitoring enhanced, not terminated; and significant sanctions threatened.

When such questions have been raised, leaders of the U.S. and UK negotiating teams have claimed that they were willing to drop the exorbitant demands that they later withdrew, but that the Serbs refused. The claim is hardly credible. There would have been every reason for them to have made such facts public at once. It is interesting that they are not called to account for this startling performance.

Prominent advocates of the bombing have made similar claims. An important example is the commentary on Rambouillet by Marc Weller. Weller ridicules the "extravagant claims" about the implementation Appendices, which he claims were "published along with the agreement," meaning the Draft Agreement dated February 23. Where they were published he does not say, nor does he explain why reporters covering the Rambouillet and Paris talks were unaware of them; or, it appears, the British Parliament. The "famous Appendix B," he states, established "the standard terms of a status of forces agreement for KFOR [the planned NATO occupying forces]." He does not explain why the demand was dropped by NATO after the bombing began, and is evidently not required by the forces that entered Kosovo under NATO command in June, which are far larger than what was contemplated at Rambouillet and therefore should be even more dependent on the status of forces agreement. Also unexplained is the March 15 FRY response to the February 23 Draft Agreement. The FRY response goes through the Draft Agreement in close detail, section by section, proposing extensive changes and deletions throughout, but includes no mention at all of the appendices—the implementation agreements, which, as Weller points out, were by far the most important part and were

"are increasingly becoming the main target of violent acts," including killings, executions, mistreatment, and abductions. The UNHCR "registered more than 65 violent deaths" of Albanian and Serb civilians (and several Roma) from January 20 to March 17. These are reported to be isolated killings by gunmen and grenade attacks on cafes and shops. Victims included alleged Albanian collaborators and "civilians known for open-mindedness and flexibility in community relations." Abductions continued, the victims almost all Serbs, mostly civilians. The OSCE report of March 20 gave a similar picture, reporting "unprovoked attacks by the KLA against the police" and an increase in casualties among Serb security forces, along with "Military operations affecting the civilian population," "Indiscriminate urban terrorist attacks targeting civilians," "non-attributable murders," mostly Albanians, and abduction of Albanian civilians, allegedly by a "centrally-controlled" KLA "security force." Specific incidents are then reported.

The last NATO report (January 16–March 22) cites several dozen incidents, about half initiated by KLA-UCK, half by Serb security forces, in addition to half a dozen responses by Serb security forces and engagements with the KLA, including "Aggressive Serb attacks on villages suspected of harbouring UCK forces or command centres." Casualties reported are mostly military, at the levels of the preceding months.

As a standard of comparison, one might consider the regular murderous and destructive U.S.-backed Israeli military operations in Lebanon when Israeli forces occupying southern Lebanon in violation of Security Council orders, or their local mercenaries, are attacked by the Lebanese resistance. Through the 1990s, as before, these have far exceeded anything attributed to the FRY security forces within what NATO insists is their territory.

Within Kosovo, no significant changes are reported from the breakdown of the cease-fire in December until the March 22 de-

cision to bomb. Even apart from the (apparently isolated) Racak massacre, there can be no doubt that the FRY authorities and security forces were responsible for serious crimes. But the reported record also lends no credibility to the claim that these were the reason for the bombing; in the case of comparable or much worse atrocities during the same period, the U.S. and its allies either did not react, or—more significantly—maintained and even increased their support for the atrocities. Examples are all too easy to enumerate, East Timor in the same months, to mention only the most obvious one.

The vast expulsions from Kosovo began immediately after the March 24 bombing campaign. On March 27, the United Nations High Commissioner for Refugees (UNHCR) reported that 4,000 had fled Kosovo, and on April 1, the flow was high enough for UNHCR to begin to provide daily figures. Its Humanitarian Evacuation Programme began on April 5. From the last week of March to the end of the war in June, "forces of the FRY and Serbia forcibly expelled some 863,000 Kosovo Albanians from Kosovo," the OSCE reports, and hundreds of thousands of others were internally displaced, while unknown numbers of Serbs, Gypsies, and others fled as well.

The U.S. and UK had been planning the bombing campaign for many months, and could hardly have failed to anticipate these consequences. In early March, Italian Prime Minister Massimo D'Alema warned Clinton of the huge refugee flow that would follow the bombing; Clinton's National Security Adviser Sandy Berger responded that in that case "NATO will keep bombing," with still more horrific results. U.S. intelligence also warned that there would be "a virtual explosion of refugees" and a campaign of ethnic cleansing, reiterating earlier predictions of European monitors.

As the bombing campaign began, U.S.-NATO Commanding General Wesley Clark informed the press that it was "entirely predictable" that Serb terror would intensify as a result. Shortly

had been formally conveyed to the Negotiators on February 23, and announced by the FRY at a press conference the same day. Whether these proposals had any substance we cannot know, since they were never considered, and remain unknown.

Perhaps even more striking is that the Rambouillet ultimatum, though universally described as the peace proposal, was also kept from the public, particularly the provisions that were apparently introduced in the final moments of the Paris peace talks in March after Serbia had expressed agreement with the main political proposals, and that virtually guaranteed rejection. Of particular importance are the terms of the implementation Appendices that accorded to NATO the right of "free and unrestricted passage and unimpeded access throughout the FRY including associated airspace and territorial waters," without limits or obligations or concern for the laws of the country or the jurisdiction of its authorities, who are, however, required to follow NATO orders "on a priority basis and with all appropriate means" (Appendix B).

The Annex was kept from journalists covering the Rambouillet and Paris talks, Robert Fisk reports. "The Serbs say they denounced it at their last Paris press conference—an ill-attended gathering at the Yugoslav Embassy at 11 PM on 18 March." Serb dissidents who took part in the negotiations allege that they were given these conditions on the last day of the Paris talks, and that the Russians did not know about them. These provisions were not made available to the British House of Commons until April 1, the first day of the Parliamentary recess, a week after the bombing started.

In the negotiations that began after the bombing, NATO abandoned these demands entirely, along with others to which Serbia had been opposed, and there is no mention of them in the final peace agreement. Reasonably, Fisk asks: "What was the real purpose of NATO's last minute demand? Was it a Trojan horse? To save the peace? Or to sabotage it?" Whatever the answer, if the NATO negotiators had been concerned with

presented to Serbia as an ultimatum. The second was Serbia's position, formulated in its March 15 "Revised Draft Agreement" and the Serb National Assembly Resolution of March 23. A serious concern for protecting Kosovars might well have brought into consideration other options as well, including, perhaps, something like the 1992–93 proposal of the Serbian president of Yugoslavia, Dobrica Cosic, that Kosovo be partitioned, separating itself from Serbia apart from "a number of Serbian enclaves." At the time, the proposal was rejected by Ibrahim Rugova's Republic of Kosovo, which had declared independence and set up a parallel government; but it might have served as a basis for negotiation in the different circumstances of early 1999. Let us, however, keep to the two official positions of late March: the Rambouillet ultimatum and the Serb Resolution.

It is important and revealing that, with marginal exceptions, the essential contents of both positions were kept from the public eye, apart from dissident media that reach few people.

The Serb National Assembly Resolution, though reported at once on the wire services, has remained a virtual secret. There has been little indication even of its existence, let alone its contents. The Resolution condemned the withdrawal of the OSCE monitors and called on the UN and OSCE to facilitate a diplomatic settlement through negotations "toward the reaching of a political agreement on a wide-ranging autonomy for [Kosovo], with the securing of a full equality of all citizens and ethnic communities and with respect for the sovereignty and territorial integrity of the Republic of Serbia and the Federal Republic of Yugoslavia." It raised the possibility of an "international presence" of a "size and character" to be determined to carry out the "political accord on the self-rule agreed and accepted by the representatives of all national communities living in [Kosovo]." FRY agreement "to discuss the scope and character of international presence in [Kosovo] to implement the agreement to be accepted in Rambouillet"

after, Clark explained again that "The military authorities fully anticipated the vicious approach that Milosevic would adopt, as well as the terrible efficiency with which he would carry it out." Elaborating a few weeks later, he observed that the NATO operation planned by "the political leadership…was not designed as a means of blocking Serb ethnic cleansing. It was not designed as a means of waging war against the Serb and MUP [internal police] forces in Kosovo. Not in any way. There was never any intent to do that. That was not the idea." General Clark stated further that plans for Operation Horseshoe "have never been shared with me," referring to the alleged Serb plan to expel the population that was publicized by NATO after the shocking Serb reaction to the bombing had become evident.

The agency that bears primary responsibility for care of refugees is UNHCR. "At the war's end, British Prime Minister Tony Blair privately took the agency to task for what he considered its problematic performance." Evidently, the performance of UNHCR would have been less problematic had the agency not been defunded by the great powers. For this reason, the UNHCR had to cut staff by over 15 percent in 1998. In October, while the bombing plans were being formulated, the UNHCR announced that it would have to eliminate a fifth of its remaining staff by January 1999 because of the budgetary crisis created by the "enlightened states."

In summary, the KVM monitors were removed and a bombing campaign initiated with the expectation, quickly fulfilled, that the consequence would be a sharp escalation of ethnic cleansing and other atrocities, after the organization responsible for care of refugees was defunded. Under the doctrine of retrospective justification, the heinous crimes that ensued are now held to be, perhaps, "enough to justify" the NATO bombing campaign.

The person who commits a crime bears the primary responsibility for it; those who incite him, anticipating the

consequences, bear secondary responsibility, which only mounts if they act to increase the suffering of the victims. The only possible argument for action to incite the crimes is that they would have been even more severe had the action not been undertaken. That claim, one of the most remarkable in the history of support for state violence, requires substantial evidence. In the present case, one will seek evidence in vain—even recognition that it is required.

Suppose, nevertheless, that we take the argument seriously. It plainly loses force to the extent that the subsequent crimes are great. If no Kosovar Albanians had suffered as a result of the NATO bombing campaign, the decision to bomb might be justified on the grounds that crimes against them were deterred. The force of the argument diminishes as the scale of the crimes increases. It is, therefore, rather curious that supporters of the bombing seek to portray the worst possible picture of the crimes for which they share responsibility; the opposite should be the case. The odd stance presumably reflects the success in instilling the doctrine that the crimes incited by the NATO bombing provide retrospective justification for it.

This is by no means the only impressive feat of doctrinal management. Another is the debate over NATO's alleged "double standards," revealed by its "looking away" from other humanitarian crises, or "doing too little" to prevent them. Participants in the debate must be agreeing that NATO was guided by humanitarian principles in Kosovo— precisely the question at issue. That aside, the Clinton administration did not "look away" or "do too little" in the face of atrocities in East Timor, or Colombia, or many other places. Rather, along with its allies, it chose to escalate the atrocities, often vigorously and decisively. Perhaps the case of Turkey—within NATO and under European jurisdiction—is the most relevant in the present connection. Its ethnic cleansing operations and other crimes, enormous in scale, were carried out with a huge flow of military aid from the Clinton administration, increasing as atrocities mounted.

the term "contradiction" would be more apt, particularly when we consider other pertinent evidence, such as the direct testimony of the military commander, General Clark.

Kosovo had been an extremely ugly place in the preceding year. About 2,000 were killed according to NATO, mostly Albanians, in the course of a bitter struggle that began in February with KLA actions that the U.S. denounced as "terrorism," and a brutal Serb response. By summer the KLA had taken over about 40 percent of the province, eliciting a vicious reaction by Serb security forces and paramilitaries, targeting the civilian population. According to Albanian Kosovar legal adviser Marc Weller, "within a few days [after the withdrawal of the monitors on March 20], the number of displaced had again risen to over 200,000," figures that conform roughly to U.S. intelligence reports.

Suppose the monitors had not been withdrawn in preparation for the bombing and diplomatic efforts had been pursued. Were such options feasible? Would they have led to an even worse outcome, or perhaps a better one? Since NATO refused to entertain this possibility, we cannot know. But we can at least consider the known facts, and ask what they suggest.

Could the KVM monitors have been left in place, preferably strengthened? That seems possible, particularly in the light of the immediate condemnation of the withdrawal by the Serb National Assembly. No argument has been advanced to suggest that the reported increase in atrocities after their withdrawal would have taken place even had they remained, let alone the vast escalation that was the predicted consequence of the bombing signalled by the withdrawal. NATO also made little effort to pursue other peaceful means; even an oil embargo, the core of any serious sanctions regime, was not considered until after the bombing.

The most important question, however, has to do with the diplomatic options. Two proposals were on the table on the eve of the bombing. One was the Rambouillet accord,

available, all of this is academic, merely an indication of the desperation of the efforts to justify the war.

Were less grotesque options available in March 1999? The burden of proof, of course, is on those who advocate state violence; it is a heavy burden, which there has been no serious attempt to meet. But let us put that aside, and look into the range of options available.

An important question, raised by Eric Rouleau, is whether "Serbian atrocities had reached such proportions as to warrant breaking off the diplomatic process to save the Kosovars from genocide." He observes that "The OSCE's continuing refusal to release the report [on the observations of the KVM monitors from November until their withdrawal] can only strengthen doubts about the truth of that allegation." As noted earlier, the State Department and Tribunal indictments provide no meaningful support for the allegation—not an insignificant fact, since both sought to develop the strongest case. What about the OSCE report, released since Rouleau wrote? As noted, the report makes no serious effort to support the allegation, indeed provides little information about the crucial period. Its references in fact confirm the testimony of French KVM member Jacques Prod'homme, which Rouleau cites, that "in the month leading up to the war, during which he moved freely throughout the Pec region, neither he nor his colleagues observed anything that could be described as systematic persecution, either collective or individual murders, burning of houses or deportations." The detailed reports of KVM and other observers omitted from the OSCE review undermine the allegation further, as already discussed.

The crucial allegation remains unsupported, though it is the central component of NATO's case, as even the most dedicated advocates recognize, Weller for example. Once again, it should be stressed that a heavy burden of proof lies on those who put it forth to justify the resort to violence. The discrepancy between what is required and the evidence presented is quite striking;

They have also virtually disappeared from history. There was no mention of them at the 50th anniversary meeting of NATO in April 1999, held under the shadow of ethnic cleansing—a crime that cannot be tolerated, participants and commentators declaimed, near the borders of NATO; only within its borders, where the crimes are to be expedited. With rare exceptions, the press has kept to occasional apologetics, though the participation of Turkish forces in the Kosovo campaign was highly praised. More recent debate over the problems of "humanitarian intervention" evades the crucial U.S. role in the Turkish atrocities, or ignores the topic altogether.

It is a rare achievement for a propaganda system to have its doctrines adopted as the very presuppositions of debate. These are among the "lessons learned," to be applied in future exercises cloaked in humanitarian intent.

The absurdity of the principle of retrospective justification is, surely, recognized at some level. Accordingly, many attempts to justify the NATO bombing take a different tack. One typical version is that "Serbia assaulted Kosovo to squash a separatist Albanian guerrilla movement, but killed 10,000 civilians and drove 700,000 people into refuge in Macedonia and Albania. NATO attacked Serbia from the air in the name of protecting the Albanians from ethnic cleansing [but] killed hundreds of Serb civilians and provoked an exodus of tens of thousands from cities into the countryside." Assuming that order of events, a rationale for the bombing can be constructed. But uncontroversially, the actual order is the opposite.

The device is common in the media, and scholarship often adopts a similar stance. In a widely-praised book on the war, historian David Fromkin asserts without argument that the U.S. and its allies acted out of "altruism" and "moral fervor" alone, forging "a new kind of approach to the use of power in world politics" as they "reacted to the deportation of more than a million Kosovars from their homeland" by bombing so as to save them "from horrors of suffering, or from death." He is refer-

ring to those expelled as the anticipated consequence of the bombing campaign. Opening her legal defense of the war, Law Professor Ruth Wedgwood assumes without argument that the objective of the NATO bombing was "to stem Belgrade's expulsion of ethnic Albanians from Kosovo"— namely, the expulsion precipitated by the bombing, and an objective unknown to the military commander and forcefully denied by him. International affairs and security specialist Alan Kuperman writes that in East Timor and Kosovo, "the threat of economic sanctions or bombing has provoked a tragic backlash," and "Western intervention arrived too late to prevent the widespread atrocities." In Kosovo the bombing did not arrive "too late to prevent the widespread atrocities," but preceded them, and as anticipated, incited them. In East Timor, no Western action "provoked a tragic backlash." The use of force was not proposed, and even the threat of sanctions was delayed until after the consummation of the atrocities. The "intervention" was by a UN peacekeeping force that entered the Portuguese-administered territory, under UN jurisdiction in principle, after the Western powers finally withdrew their direct support for the Indonesian invasion and its massive atrocities, and its army quickly left.

Such revision of the factual record has been standard procedure throughout. In a typical earlier version, *New York Times* foreign policy specialist Thomas Friedman wrote at the war's end that, "once the refugee evictions began, ignoring Kosovo would be wrong…and therefore using a huge air war for a limited objective was the only thing that made sense." The refugee evictions to which he refers followed the "huge air war," as anticipated. Again, the familiar inversion, which is understandable: without it, defense of state violence becomes difficult indeed.

One commonly voiced retrospective justification is that the resort to force made it possible for Kosovar Albanians to return to their homes; a significant achievement, if we overlook the fact that almost all were driven from their homes in reaction

to the bombing. By this reasoning, a preferable alternative—grotesque, but less so than the policy pursued—would have been to wait to see whether the Serbs would carry out the alleged threat, and if they did, to bomb the FRY to ensure the return of the Kosovars, who would have suffered far less harm than they did when expelled under NATO's bombs.

An interesting variant appears in Cambridge University Law Professor Marc Weller's introduction to the volume of documents on Kosovo that he edited. He recognizes that the NATO bombing, which he strongly supported, is in clear violation of international law, and might be justified only on the basis of an alleged "right of humanitarian intervention." That justification in turn rests on the assumption that the FRY refusal "to accept a very detailed settlement of the Kosovo issue [the Rambouillet ultimatum] would constitute a circumstance triggering an overwhelming humanitarian emergency." But events on the ground "relieved NATO of having to answer this point," he writes: namely, "the commencement of a massive and preplanned campaign of forced deportation of what at one stage seemed to be almost the entire ethnic Albanian population of Kosovo just before the bombing campaign commenced."

There are two problems. First, the documentary record, including the volume he edited, provides no evidence for his crucial factual claim, and indeed refutes it (given the absence of evidence despite extensive efforts to unearth it). Second, even if it had been discovered later that the expulsion had commenced before the bombing, that could hardly justify the resort to force, by simple logic. Furthermore, as just discussed, even if the commencement of the expulsion had been known before the bombing (though mysteriously missing from the documentary record), it would have been far preferable to allow the expulsion to proceed, and then to initiate the bombing to ensure the return of those expelled: grotesque, but far less so than what was undertaken. But in the light of the evidence