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THE USE OF FORCE IN THE 21ST CENTURY

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PREFACE

Through the night of 27-8 April I stood on the border between Kosovo and Albania at a place called Morina. The people on the first tractors were surprisingly calm, considering that, that morning, they had been ordered from their homes at gunpoint and then saw them being torched. This group of about 2,000 came from a cluster of villages near the western Kosovo town of Djakovica. The police were angry and shouting that the rebel Kosovo Liberation Army (KLA) had, a few days earlier, killed five of their men……A dog sniffed at the first one across. "Did you see the men in the field at Meja?" I asked. The tractor was still moving. These people were in shock, their eyes red from crying. "They killed them, they killed them," shouted a woman as she passed. I ran to catch up. In a field…in a field…more than a hundred…they took two from us…They're dead! They're dead!…….

…….In the distance, over Mount Pastrik, there were flashes and rumbles. It could have been thunder and lightning. It could have been artillery. But it wasn't. It was NATO bombing the Serbs for the fifth week running.

Excerpt from <u>Kosovo War and Revenge</u>, Tim Judah, 2000.

"My fellow Americans, today our Armed Forces joined our NATO allies in air strikes against Serbian forces responsible for the brutality in Kosova. We have acted with resolve for several reasons. We act to protect thousands of innocent people in Kosovo from a mounting military offensive. …. Our mission is clear: to demonstrate the seriousness of NATO's purpose so that the Serbian leaders understand the imperative of reversing course; to deter an even bloodier offensive against innocent civilians in Kosovo and, if necessary, to seriously damage the Serbian military's capacity to harm the people of Kosovo."

Excerpt from President Clinton Address to the Nation, 24 March 1999, justifying our beginning of the air campaign over Kosovo. Clinton Foreign Policy Reader; Presidential Speeches and Commentary, Rubinstein, Shayevich, and Zlotnikov, 2000.

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INTRODUCTION

The use of military force to meet political aims as a last resort is part of American strategy. In the 21st century, the questions of when to use that force are not easily answered. As the only global superpower today, the United States has a responsibility to a larger audience beyond its borders when making a determination regarding the use of military force. In the future, the military and political strategists need to review U.S. history and learn from it before deciding to use the military to meet political objectives. The U.S. government needs to define an objective prior to involving military forces in any threat not deemed to be of a “vital interest” to the United States.

In the 1980’s, the United States redefined its strategy for the use of military force. Levels of escalation below the actual conduct of war were developed. Low Intensity Conflict (LIC) and Military Operations Other Than War (MOOTW) were labeled. These strategies were developed from lessons learned from the Korean and Vietnam conflicts. The definitions and guidelines of these strategies assist in showing where the doctrine the United States employs today fit in the use of military force.

The debate amongst political, military leadership and national strategists over the dictum of limited means and limited objectives to meet our political goals using military force continues. Two related doctrines, which provide a guideline for the use of military force, are the Weinberger Doctrine of 1984

and the Powell Doctrine 1992. Both doctrines provide a guideline for the use of military force and ask questions relevant to the proper determination for when and how to use military force to meet political objectives. The Clinton administration considered both the Weinberger and Powell doctrines as outdated and, in a sense, “dead” after the air campaign over Kosovo was considered a success. A new Doctrine labeled by Clinton’s National Security Advisor Anthony Lake and others as the “Clinton Doctrine” emerged.

This paper proposes that the Weinberger/Powell doctrines are still relevant today. The relationship between effective deterrence and the necessity to commit forces to combat may at times be unclear; a model is needed to assist in applying strategy. The intentions of Weinberger/Powell Doctrine provide a solid foundation for when and how to use the U.S military force to resolve conflict. This includes the use of limited means to meet limited objectives identified in LIC/MOOTW situations.

Kosovo is the first major campaign involving U.S forces in the 21st century. It provides a good case study for reviewing where the United States doctrine/strategy could be heading politically/militarily in the future. Kosovo provides an opportunity to debate and evaluate the direction of the U.S. political/military use of force doctrine. The campaign raised questions regarding the role of the United Nations, NATO and the United States in internal conflicts of sovereign nations. The debate over legal justification for the use of military force and

the role of the U.N., NATO, and the U.S. in Kosovo is vital to developing guidelines for intervention and the United States' policy on the use of military force.

The legal issues regarding the responsibility of nations going to the aid of those incapable of stopping an aggressor are unclear. Legal issues, particularly international law, will be at the center of the debates for future conflicts the United States can expect to be embroiled in the twenty-first-century. Kosovo provides an opportunity for the world community to debate these issues and determine where the laws regarding sovereignty and the right of intervention fit into the post Cold War world. The answers to these legal questions are important. They determine how the United States, its allies and non-allies perceive the U.S. role, as the only superpower in the global picture. Nations such as Canada, Russia, and China take a dim view of the U.S. role in the Kosovo campaign. Their arguments show the issues to be addressed from United States non-ally partners.

To comprehend the purpose of the Kosovo campaign a brief history of the land and the people is required. The complexity of becoming involved in these types of conflicts, (dealing with historical animosity and cultural, and religious differences of peoples) will be more prevalent in the 21st century. Kosovo provides a template of questions: how to get involved, when to get involved, why to get involved, and the legality of humanitarian intervention as a legal justification for use of military force. Does the United States have the responsibility of

determining when to use military force in conflicts outside its vital interest? What is the legal justification determining when that force is used? There are guidelines which address the issues of intervention. The U.N Charter, which is the foundation of international law since WWII has been the standard. The U.S. in its role as the leading member of the global security force must be prepared to answer the call to the best of its ability. Weinberger/Powell Doctrine provides a guideline for ensuring mission accomplishment and providing for the safety and security of U.S. troops. This is a key element to maintain support of the American people in conducting operations short of war.

Yugoslavia
International boundary
Road
Railroad
Capital
Other city or town
Elevation above sea level
WORLD BOOK map
HUNGARY
CROATIA
Vojvodina
Novi Sad
Belgrade
ROMANIA
YUGOSLAVIA
Serbia
BOSNIA-HERZEGOVINA
Sarajevo
Montenegro
Podgorica
Kosovo
Priština
Niš
Sofia
BULGARIA
Skopje
MACEDONIA
ALBANIA
Adriatic Sea
North

CHAPTER 1

CIVILIAN/MILITARY COORDINATION ON USE OF FORCE

The political object, as the original motive of war, should be the standard for determining both the aim of the military force and also the amount of effort to be made. Clausewitz[1]

A. Political

The use of limited means to achieve political objectives has been hotly debated amongst politicians and military theorists. The U.S. experience in two World Wars put forth the ideal of "unconditional surrender" and complete victory as the normal course of war. With the Korean and Vietnam conflicts' as well as the Cold War, a changing mindset of warfighting emerged. WWI and WWII were fought on the battlefield. The generals fought the wars. In the Korean and Vietnam conflicts, the politicians played a larger role in directing the battle at the tactical level.[2] Political involvement placed restraints upon the military ability to fight and win the nation's wars by direct involvement in target selection and decision-making on what could and could not be attacked. The loss of military control led the debates over the politico-military ability to fight the nation's wars as a team.

As a nation, the United States should endeavor to utilize the political capabilities available to deter conflict. The use

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[1] Howard, Michael and Paret, Peter, eds. Carl von Clausewitz: On War, Princeton University Press, New Jersey, 1976. pg. 81

[2] The War Makers, John Dellinger, www.thehistorynet.com/Vietnam/articles/0496 While the military is responsible for fighting a war, its civilian superiors not only wage war but also determine how it will be fought.

of diplomacy is always sought in order to avoid the use of force. When the determination to use military force is made, the military must have a sound doctrine, which provides the capabilities to meet the objectives as determined by the political administration. The policy makers should monitor military involvement, but not hinder its ability to fight and win, once given the mission.

B. MILITARY OPERATIONS

"Today, as an older order passes, the New World is more free but less stable. Communism's collapse has called forth-old animosities and new dangers."
(President Bill Clinton, January 20, 1993, Inaugural Address)

The mission of the military is to fight and win the nation's wars. There is a long history of "other" missions and operations, not clearly related to warfighting in which the U.S. has been involved. In the post Cold War environment, new forms of conflict and disorder-based on militant nationalism, hyper nationalism, and transnationalism have emerged.[3] They include unforeseen and widespread outbreaks of low-level violence, increased civil war and ethnic conflict. The U.S. military as a member of the international community has been involved in numerous operations short of war; peacekeeping, humanitarian and peacemaking are examples. The conduct of these operations is guided by doctrine identified in the 1980's and described as Low Intensity Conflict and Military Operations Other Than War (MOOTW).

[3] James Steinberg, "Sources of Conflict and Tools for Stability: Planning for the 21st Century," U.S. Department of State Dispatch, July 11, 1994:464

Peacekeeping and peacemaking missions are not new but are more prevalent today. The role of the United States in the successful execution of peace missions is vital. The United States needs to develop a doctrine consistent with the role it will play in peace and humanitarian missions around the world in the 21st century. LIC/MOOTW describe the philosophy to build on.

1. Low intensity conflict (LIC)

Low Intensity Conflict describes an intensity, or level of fighting. It is a politico-military confrontation between contending states or groups below all out war and above the routine peaceful competition among nations. It frequently involves protracted struggles of competing principles and ideologies. Low intensity conflict ranges from subversion to the use of armed force. It is waged by a combination of means, employing political, economic, informational, and military instruments. Low intensity conflicts are often localized, generally in the Third World, but contain regional and global security implications. Military power is only one instrument of an integrated solution to a LIC. Equally important are other facets of power including economic, informational, and diplomatic.

U.S. military operations in LIC primarily support non-military actions. These actions are part of an overall country plan, developed by the state department, which supports both the U.S. and host nation’s political objectives. U.S. Forces will not

in general be combatants. A combat role for U.S. Armed Forces in Third World conflicts has to be viewed as an exceptional event. Some exceptions will doubtless occur, as in 1986 in Libya and 1989 in Panama.

It would be self-defeating for the United States to declare a 'No Use' doctrine for its forces in the Third World. The forces principal role would be to augment U.S. Security Assistance Programs by providing military training, technical training, intelligence and logistical support.[4] Escalation of LIC in a theater of operations will develop into the military operations other than war category, if not all out war.

2. Military Operations Other Than War (MOOTW)

MOOTW is an escalation of conflict indistinguishable from LIC in most cases. It encompasses a wide range of activities using the military instrument of national power for purposes other than the large-scale combat operations usually associated with war. Although these operations are often conducted outside the United States, they also include military support to U.S. civil authorities. MOOTW usually involve a combination of air, land, sea, space and special operations forces as well as the efforts of governmental agencies and non-governmental organizations in a complementary fashion."[5]

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[4] FM 100-20, Military Operations in Low Intensity Conflict, Bulletin pg. 90-4.

[5] JCS Pub 3-0, 9 September 1993

MOOTW vary from simple disaster relief at the lower end of the spectrum of potential operations to major military intervention short of declared war or major conflict at the upper end. These operations are not necessarily limited in size and complexity, nor cost in property, money, or lives. Moreover, these operations may gradually or suddenly escalate to a crisis of greater proportions than originally expected.

The nature of MOOTW is largely determined by the circumstances leading up to the operation's initiation, the character of the opposing forces, a particular operation's importance to U.S. interests, and the intended outcome of the operation. Although exceptions can be cited, the characteristics common to most non-domestic types of MOOTW include; (1) limited objectives with focus on limiting collateral damage and casualties; (2) media plays an important role as forces attempt to garner support for the operations, particularly in operations where U.S. forces are part of a coalition and not in charge of an operation; (3) The role of intelligence cannot be over-emphasized, as it will help to get operations to a suitable end-state, by providing vital information to military forces, which will assist in mission accomplishment.[6]

As the political world becomes increasingly fragmented and tumultuous, the demands to employ the nation's military force in MOOTW increase. These operations are highly diverse in character

[6] REPORT OF THE SENIOR WORKING GROUP ON MILITARY OPERATIONS OTHER THAN WAR (OOTW) May 1994

and may be conducted amidst the challenges associated with the threat of weapons of mass destruction (WMD). The objectives of these employments will encompass a wide range of missions including: humanitarian assistance; deterrence; rescue of U. S. citizens abroad; and establishing, enforcing and supervising conditional peace. These become significant, the end of the Cold War led to a major drawdown of U.S. forces at overseas locations, which could have provided a rapid response to a crisis, preventing escalation in many cases.

As U.S. forces are withdrawn from overseas and redeployed in the Continental United States (CONUS), they will be farther from probable hot spots. The timetable for response of forces will have an affect on the amount of force needed. The ability to gain authority from nations to use port facilities, and landing bases will affect the decision-making process of our leaders as it affects our ability to move forces into a theater of operations. This can determine if the U.S becomes involved and the level of force used.

U.S. forces after WWII were not designed for the discrete application of force. Current U.S. military force structure was designed to deal with the threat posed by the Soviet Union. Our strategy, doctrine, training and modernization efforts had been driven by this threat, which required the concentrated application of massive firepower. These capabilities have limited utility in operational environments where political

considerations mandate that casualties and collateral damage be kept to an absolute minimum.

Predominant military operations for the foreseeable future will be MOOTW, including both combat and non-combat missions. Whether humanitarian in nature or involving hostilities, such operations will occur overseas. Many of the nations will have only a minimal political and economic infrastructure. The commitment of U. S. forces to MOOTW will most often result from the President exercising his authority as Commander-in-Chief rather than from the formal approval or endorsement by Congress. This was done in Operation Allied Force. Additional unique characteristics associated with MOOTW include:

> 1. Operations will frequently be initiated with little or no notice and require rapid, adaptive planning and decision-making. Such operations typically have great political impact in the domestic and international arenas and will be conducted in full view of unrestricted world news media.
>
> 2. The United States may not be in charge: its forces may be part of an alliance, coalition or UN force. They may have limited functions such as air or logistic support. The Department of State or an international body such as the United Nations will probably exercise a constant and controlling influence on military operations. Because these operations are usually taking place concurrently with diplomatic efforts, the military commander will often be limited in his actions and in the tactics and force that his units may employ.[7]

Operations will normally be contingent in character, temporary in nature, and conducted with the objective of restoring peace and stability. They will improve conditions as rapidly as practical

[7] REPORT OF THE SENIOR WORKING GROUP ON MILITARY OPERATIONS OTHER THAN WAR (OOTW) May 1994

with the minimum application of force. Military operations in urban areas will figure prominently in MOOTW. The decisions determining the use of military force in a conflict are the responsibility of the civilian administration. Once the determination of the objectives are made, it then falls upon U.S. military commanders to carry out the objectives outlined.

The tenets of the Weinberger/Powell Doctrine address this issue. If the U.S. decides to commit forces to combat overseas, there need to be clearly defined political and military objectives. The forces should know precisely what those objectives are. The relationship between our objectives and the forces committed, their size, composition and disposition must be continually reassessed and adjusted when necessary. This doctrine will be expounded upon later in this paper. Determination of clear objectives will often be difficult requiring close and persistent scrutiny of the objectives to identify the necessary adjustment to be made.

Operations in Kosovo are an example where the military as an arm of the political policy was tethered in such a way as to hinder its ability to fulfill the objectives of the administration in a quick and decisive manner. Though a 78 day air campaign could be seen as quick and decisive the campaign could have been even more decisive and quicker if the use of ground forces had not been taken out of the operational picture.

B. Policy

The debate between the military and the Clinton administration views on intervention in light of the crisis in Kosovo provide insight into the campaign problems. In the National Security Strategy Report of 1998, this congressionally mandated document outlined the U.S. grand strategy and global interest. President Clinton justified the intervention of the United States in regional conflicts such as Kosovo. In the chapter on "Advancing U.S. National Interests," it states, "We seek a world in which democratic values and respect for human rights and the rule of law are increasingly accepted. This will be achieved through the promotion of the international community that is willing and able to prevent or respond effectively to humanitarian problems."[8] It goes on to state, "In some circumstances our nation may act because our values demand it. Examples include responding to violations of human rights."[9]

The decision should be made to utilize the military after all other means of diplomacy have failed. The decision to use that force should contain a clear objective. This was addressed in the Weinberger/Powell Doctrines. The Clinton administration claims the Kosovo campaign killed the Powell Doctrine.[10] In retrospect, it did just the opposite. The guidelines outlined in the

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[8] National Security Council, National Security Strategy Report, October 1998, pg.5.

[9] Ibid., 5-6

[10] Unlearning the Lessons of Kosovo, Ivo H. Daalder and Michael O'Hanlon, Foreign Policy September 1999

Weinberger/Powell Doctrine make it as viable today, as when it was first outlined. This is important as it provides a starting point for the development of a U.S. doctrine for the 21st century.

CHAPTER 2

INTERNATIONAL LAW/DOCTRINE

International law developed for a Cold War strategy needs to be reviewed. It must evaluate its purpose in preventing crisis involving moral and humanitarian issues within the sovereignty of a nation. Intervention in a sovereign territory is a sensitive issue. The global community has not clearly defined the extent of autonomy of an individual country or its leadership in settling internal disputes. This is significant as the main security threats in today's global community between states are the threats of the governments against their own citizens, not the relationships between states. The crises in which the United States has become embroiled require evaluation of the rules of law outlined within the international community through the United Nations and NATO Charters. Intervention in a region/country in violation of these charters creates a dilemma for political and military leaders.

The American people demand that their military not be placed in harms way for an unjust cause. This makes it important to use a sound military strategy for the deployment of U.S. forces in any crisis. The U.S. role as a global super power makes it imperative that a policy for intervention in global crisis be outlined. The development of doctrine is important. It is imperative that in the regional conflicts involving the international community that the doctrine developed clarifies its

relationship with legal justification for intervention with military force. Doctrines have been debated extensively within the military and political circles since the 1980s beginning with the Weinberger Doctrine and in the 1990s with the Powell and Clinton Doctrine.

A. Weinberger Doctrine

Since the end of the Cold War, politicians, national strategists, and the military have been seeking answers regarding the extent the U.S. should become involved in global conflicts. The paramount view was the desire to avoid another situation like the Vietnam War. The Weinberger Doctrine formulated by the former Secretary of State Caspar Weinberger in 1984, outlined six conditions which a conflict should meet before the United States would consider getting involved with military force.

Weinberger called these conditions an intervention test that would prevent another quagmire and ensure "firm national resolve to achieve our objectives".[11] Future use of military force doctrine was developed, with these fundamental conditions. Some, like Colin Powell, agreed with his general doctrine and expanding it while others, such as Secretary of State George Schultz[12] arguing against it. Both the political and military doctrines formulated today routinely refer to these conditions.

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[11] Caspar W. Weinberger, "The Use of Military Power," speech National Press Club, Washington D.C., 28 November 1984

[12] Secretary of State Schultz worried that American diplomacy not backed up by credible threats of force would be hamstrung by the military's reluctance to get involved in "Limited Wars".

It is relevant to address the role these conditions play in development of future doctrine. (see figure 1).

1. The conflict should be of vital interest to the United States and its allies.

2. Intervention must occur whole-heartedly with a clear intent of winning.

3. The country must have clearly defined political and military objectives.

4. The relationship between the objectives and the forces must be continually reassessed and adjusted if necessary.

5. There must be a reasonable assurance that the American people and Congress will support the intervention.

6. Commitment of U.S. forces should be a last resort.

Figure 1. Weinberger Doctrine

The criticisms leveled against the Weinberger doctrine focus on the six conditions and fail to look beyond them. A debate has ensued claiming that in the post Cold War world the doctrine is inadequate to meet the needs of the future global environment. Part of the criticism claims there is a need for a tough stance with the threat of force without the actual use of force. Clinton advisors, particularly Les Aspin, also claim it is a prescription for never using military force.

Weinberger discussed the need for objectivity in defining vital national interest. He described terms when concerns of U.S. allies would also qualify as being of vital to national interest. The inability to define future global circumstances dictated that the leadership be flexible in applying this doctrine. The use of

force as a force denominator should be unnecessary in most cases. The political, economic, and diplomatic components of national power should be exhausted prior to any military intervention.

The Weinberger Doctrine mandated that if military force was used, it must be done so with a clear intention of winning with adequate forces to successfully meet political and military objectives. Though this would seem to be a “no-brainer” approach to warfighting, it had not been the standard. The Vietnam War was a prime example of why such a doctrine was needed to focus warfighting.

Critics of the Weinberger doctrine attempt to make an issue of it as a “follow the numbers” approach to intervention. In reality it is a prescription for the use of force after the leadership has studied a situation and used their judgment to determine the necessary actions to be taken in a crisis. Not all of the six measures of the Weinberger Doctrine will be met with each and every decision.

B. Powell Doctrine

Following the Persian Gulf War General Colin Powell, Chairman of the Joint Chiefs of Staff, put forth his views on the use of military force. This came to be known as the Powell Doctrine. Politicians, news analyst and others say it is just the Weinberger Doctrine revisited.[13] With many similarities, it also has its own merits and differs in terminology and focus. It

[13] Colin Powell was Weinbergers military aide in 1984.

focuses on the mechanics of the decision- making process. Where Weinbergers doctrine required a link to the “vital interest”, Powell articulated it to be “important” to meeting the political objective. Powell espoused the idea of conducting a careful analysis of risk and cost involved with any action. He emphasized the need to ensure that military action was in concert with meeting political objectives and having these objectives clearly stated.

Powell trumpeted the application of overwhelming force. Weinberger merely stated “enough force” to assure victory. Similarly to the philosophy of Weinberger, Powell denounces the escalation approach to the use of military force. He states: “Decisive means and results are always preferred, even if they are not always possible.” According to the Powell philosophy, the use of military force does not always require the objective of a resounding, swift, and overwhelming victory. If the objectives are short of winning a resounding victory, the U.S. needs to identify that objective and go into it efficiently and swiftly to meet our goals and get out. Operations in Somalia and Panama are examples of the type of mission where an objective of resounding victory was not mandated.

C. Criticisms of Weinberger/Powell Doctrine

Within the United States, the debate on the philosophy of troop deployment and the proper use of U.S military forces in the conduct of operations is hotly debated. The Clinton

Administration lauds Operation Allied Force as the "end of the Powell Doctrine."[14] "NATO's strategy, according to one White House official was the "anti-Powell Doctrine."[15] Many touted the new ideology labeled the "Clinton Doctrine" as the successor to Powell's all or nothing approach to the use of military force.

One of the staunchest critics of the Weinberger/Powell Doctrine was Les Aspin. As the Chairman of the House Armed Services Committee, he claimed their criteria constituted an "all or nothing" approach that would hinder the use of U.S. military forces in support of foreign policy.[16] In a speech before the Jewish Institute for National Security Affairs in Washington, on 21 September 1992, Les Aspin, as the Secretary of Defense, identified four tenets to the all-or-nothing approach to intervention:

1. Force should only be used as a last resort. Diplomatic and economic solutions should be tried first.

2. Military force should only be used when there is a clear-cut military objective. We should not send military forces to achieve vague political goals.

3. Military forces should be used only when we can measure that the military objective has been achieved. In other words, we need to know when we can bring the troops back home.

4. Military force should be used only in an overwhelming fashion.

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[14] Anthony Lake in a commentary to Time Magazine, April, 1999

[15] Unlearning the Lessons of Kosovo, Daalder and O'Hanlon, Foreign Policy, No's. 114-117, Spring/Winter 1999

[16] Intervention, May 1992, page 15

Aspin firmly disagreed with these tenets. He believed in the more expansive use of military force for advancing political objectives. Military use should not be reserved just for war, but could be used as a deterrent. His views appear similar to the views of George Shultz on the Weinberger Doctrine.

Les Aspin believed with the fall of the Soviet Union, the United States had the capability to just walk away from a situation that went awry. He failed to recognize this strategy would also weaken our credibility with allies and empower our adversaries. Examples of this include our intervention in Somalia. When the situation went against the U.S troops, the U.S. withdrew. This showed a weakness, which would be viewed as an Achilles heel by adversaries such as Sadaam Hussein in Iraq and Slobodan Milosevic in Kosovo. Aspin's policy also failed to meet the common sense standard. The avocation of increased military intervention and engagements, in conjunction with a policy of defense cuts and military downsizing is contradictory.

Les Apsin's firm belief in our advanced weapons technology allowing us to go into any engagement with limited objectives using limited weapons was short sighted. When he became Secretary of Defense in the Clinton Administration, his pro-intervention positions on Somalia, Iraq, and Bosnia tended to reinforce the interpretation of his philosophy for using military force. His philosophy failed to recognize the levels of ethnic diversity and animosity within regions such as Eastern Europe, Middle East and Africa, as shown by their violent history.

D. Clinton Doctrine

"I want us to live in a world where we get along with each other, with all of our differences, and where we don't have to worry about seeing scenes every night for the next 40 years of ethnic cleansing in some part of the world."
--President Clinton, March 23, 1999[17]

The most explicit expression of a Clinton Doctrine was his speech on February 26 in San Francisco--an important statement that clearly foreshadowed the decision to bomb Serbia:

"It's easy to say that we really have no interests in who lives in this or that valley in Bosnia, or who owns a strip of brushland in the Horn of Africa, or some piece of parched earth by the Jordan River. But the true measure of our interests lies not in how small or distant these places are, or in whether we have trouble pronouncing their names. The question we must ask is, what are the consequences to our security of letting conflicts fester and spread? We cannot, indeed, we should not, do everything or be everywhere. But where our values and our interests are at stake, and where we can make a difference, we must be prepared to do so."[18]

The tenet of this doctrine, which is purported to have replaced the Powell doctrine, involves the use of military force in moralistic and humanistic conflicts in those areas vital to our national interest. An article in Time Magazine, 29 March 1999 by Charles Krauthammer, provides an excellent example of why this philosophy is dangerous and untenable at best.

"In August 1995, Croatia launched a savage attack on Krajina, a region of Croatia that Serbs had inhabited for 500 years. Within four days, the Croatians drove out 150,000 Serbs, the largest ethnic cleansing of the entire Balkan wars…… this campaign

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[17] Clinton Doctrine, Time Magazine, 29 March, 1999 Charles Krauthammer

[18] Clinton Foreign Policy Reader, On Eve of the Millennium, pg. 36

was carried out with brutality, wanton murder and indiscriminate shelling of civilians. …….

Krajina is Kosovo writ large. And yet, at the time, the U.S. did not stop or even protest the Croatian action. The Clinton Administration tacitly encouraged it…… Croatia's savage ethnic cleansing so demoralized the Serbs that they soon agreed to sign the Dayton peace accord of 1995."

This is the crux of the issue with the Clinton Doctrine. In an unsure world there is no defining logic for U.S. involvement in global conflicts. The decision making process is unstructured and done on the spur of the moment, dependent on the CNN factor or the ally of the week. Operation Allied Force is a good example of committing to military action without a plan, creating a rift within our political and military structure

If the administration had developed a strategy for Kosovo prior to 24 March, it is possible the problem could have been resolved sooner. In a statement before Congress on 28 April 1999, Representative Tom Delay, House Majority Whip, summarized the political contribution to the military planning process in an acrid statement on the floor of Congress:

> *"The Secretary of State, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff told us that this was no big deal, that we would bomb for a couple of days, 48 hours, and then stop bombing, and Milosevic would come to the table. When asked the question, 'What if he does not come to the table?' they said, 'Well, we will go to phase II, and Phase II is that we will bomb him for a few more days. Then he will go to the table by crackie.' Then we asked, 'then what?' Then they said, 'Well, we will bomb for another week and that will force him to come to the table and this will be all over with.' Then we asked, then what?' There was silence."*

The planning came first and the objectives followed, which led to a selection of random targets, which had to be approved by NATO

allies, prior to being executed.[19] This is very similar to numerous operations during the Vietnam War with the exception that the White House was authorizing targets.[20]

The Clinton Administration National Security Strategy of 1996 discussed a policy of employing U.S. Forces. It reflected similar views as Colin Powell and Caspar Weinberger. It outlined three categories for intervention:

1. Vital to the survival and security of our national entity.
2. Interest, which are important but not vital, such as those at stake in Haiti and Bosnia.
3. Humanitarian interventions.

Presently there is no specified United States policy that defines the word vital. What is truly vital is therefore left open to interpretation and becomes highly subjective. This is where the U.S. and NATO have placed their justification for the involvement in Kosovo, conducting a humanitarian intervention mission, which was in the vital interest to the security of the region.

The rights of national minorities within sovereign states, such as the rights of ethnic Albanians in Yugoslavia, require an evaluation of the regulations and laws of the United Nations and

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[19] General Short Brief to Congress on War in Kosovo as reported by the BBC on 22 October 1999. In a brief General Short criticized the ability of France to veto targets during he conflict. He stated, " France which supplied 8% of the air power should not have been allowed to block the Americans who bore 70% of the load."

The Washington Quarterly Autumn 2000, pg. 159 NATO's hesitant Air Campaign by Ivo H. Daalder and Michael E. O'Hanlon describes the criticism of NATO's air campaign heard in Washington D.C., That NATO's war effort was hampered by political interference from the 19 member countries, to paraphrase.

NATO that direct levels of interference in sovereign nations over the treatment of its ethnic minorities. The extent of sovereignty is being challenged daily by the ethnic minorities as seen in Croatia, and the ethnic Albanians in the greater Yugoslavia. The response by the international community is one of the defining aspects requiring change to meet the ever-growing crisis situations leading into the 21st century. The use of U.N. Charters and NATO alliances are tools available to make those changes.

[20] Derelection of Duty by H.R. McMaster: Lyndon Johnson, Robert Mcnamara, Reviewed by John Garofano in Naval War College Review – Spring of 2000 in discussing Deciding on Military Intervention, What is the role of Senior Miltitary Leaders?

CHAPTER 3

KOSOVO

UNITED NATIONS, Oct 24, 2000 -- (Reuters) Kosovo, under interim UN administration since June 1999, should have "conditional independence," according an independent international commission that studied last year's conflict over the mainly ethnic Albanian Serb province. The commission, that circulated a report on Monday, also found that the 11 week NATO military bombing campaign that forced the withdrawal of Yugoslav troops and police from Kosovo was illegal, since it did not have Security Council consent, but was legitimate from a political and moral point of view.

I. Background

A. History[21]

Kosovo is a province in the Federal Republic of Yugoslavia. It is a region in the Balkans, an area of Europe that has a long history of ethnic differences and historical rivalry that could trigger widespread warfare. Serbians argue that Kosovo is part of the Serbian ancient Heartland. In the middle ages, it was the site of two significant battles. The first, in 1389, resulted in the decisive defeat of the Orthodox Christian Serbs under Prince Lazar of Rascia by the Muslim Turks, then in the process of conquering the Balkan Peninsula. The second, in 1448, saw the Turks defeat a mixed Christian army (including both Serbs and Albanians).

The Serbian population of Kosovo gradually moved into Hungary to escape Turkish domination, which lasted five

[21] The Crisis in Kosovo, 1989-1999, Marc Weller, International Documents and Analysis, Volume 1, Chp 1. pg. 15-21

centuries. Gradually, ethnic Albanians replaced them in Kosovo. Formerly Serbian-populated Kosovo now has a 90 percent Albanian majority. For this reason, the Tito regime granted Kosovo a degree of autonomy in 1974. This gave an extra vote potentially to the Serbs who controlled Kosovo. Although it always remained a part of the Serbian Republic, it was the largest of the Yugoslav Republics. This status as a somewhat autonomous province and a federation member state was important. It allowed for the teaching of Albanian language in schools, the observance of Islamic holidays and giving the province representatives on the old collective federal presidency. Member states of the federation also had at least a technical right to secede.

With Tito's death in May 1980, the fragile political structure began to unravel. Instead of pushing the country toward a multi-party democracy or selecting an authoritative heir, Tito had arranged for an inherently unstable rotating presidency. The assemblies of Yugoslavia's six republics and two autonomous regions selected the leaders. This system of selecting leaders created conflict, constitutional deadlock and political paralysis. In 1987, Yugoslav president Slobodan Milosevic used the emotional issue of Kosovo autonomy to ascend to power in Serbia. In 1989, he rescinded the province's autonomous status in a series of constitutional revisions and administrative steps. These reinstituted the basic terms of the 1963 federal constitution restoring Serbia's direct control. The same moves affected Vojvodina, home of the Hungarian minority. Large

numbers of Serbian police and troops were sent in declaring the Albanian language unofficial and changing school curricula. This led to a boycott by Albanians of official institutions and services and the creation of a parallel government, with its own health, taxation and education systems.

The shadow government set up by the Albanians discouraged attempts to gain concessions by violent means from Milosevic. Their failure led to the emergence of the Kosovar Liberation Army (KLA) in 1996 that escalated the tensions in Kosovo.

B. The Air Campaign

On March 24, 1999, the North Atlantic Treaty Organization (NATO) launched a campaign of air strikes against Serbian Military targets in Yugoslavia. NATO's mission was to prevent more human suffering, repression, and violence against the civilian population of Kosovo.[22] The air operations were directed towards disrupting the violence perpetrated by the Serb Army and the Special Police Force against Kosovar Albanians. A second goal was to prevent the spread of the violence outside of the region thereby creating regional instability.[23]

NATO feared the instability of Kosovo spilling into neighboring Albania and Macedonia, where ethnic Albanians make up a quarter of the population. In turn, this could draw Greece, Turkey, and Bulgaria into the conflict. Albania had warned that it would "act as one nation" if a full-scale war broke out between Serbs and ethnic Albanians in Kosovo.

NATO's credibility was at stake in Kosovo. In October of 1998, NATO's threat of force was decisive in obtaining Milosevic's agreement to a cease-fire and the establishment of

[22] NATO press release 1999, 25 March 1999, made by Dr. Javier Solana, Secretary General of NATO.

NATO verification regimes. NATO warned it would respond if his intransigence were responsible for failure to reach an agreement at the talks. Milosevic did not come into compliance with the October agreements and his repression continued.[24] Failure on NATO's part to follow through with its threats would have discredited NATO and possibly destabilized the region even more.

C. United States Role in Kosovo

President Clinton, in an Address to the Nation on 24 March 1999, outlined the role of the United States in the air campaign against Serbian forces in Kosovo. In part, he decried the violence perpetrated against the ethnic Albanians and outlined the United States responsibility as a member of NATO to ensure their safety. "We acted to diffuse a powder keg, which has exploded twice in the twentieth century, with catastrophic results. Our failure to act could lead to the beginning of World War III. The small underdeveloped countries surrounding Kosovo are not capable of handling the challenges of a large flux of Kosovo refugees." Included in this justification is the need to preserve our National Interest as outlined in our National Security Strategy of 1998. "America has a responsibility to stand with her allies when trying to save innocent lives and preserve peace, freedom and stability in Europe. That is what we are doing in Kosovo."[25]

II. Legal Justification

A. Security Council Resolutions

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[23] ibid

[24] U.S. and NATO Objectives and Interest in Kosovo, Fact Sheet released by the U.S. Department of State, Washington D.C., March 26, 1999

[25] Crisis in Kosovo, 1989-1999, President Clintons address to the Nation of 24 March 1999, pg. 498.

Four United Nation Security Council (UNSC) Resolutions were adopted prior to the air campaign (Resolution 1160, 1199, 1203 and 1209), three of which were under Chapter VII (Resolutions 1160, 1199 and 1203).[26] These UNSC Resolutions initiated approximately a year prior to the air campaign, outlined the UNSC's attempt to impose a political solution to the Kosovo crisis. Though legally binding resolutions under Title VII, they were not complied with. These resolutions declared the actions to be unfulfilled by the Federal Republic of Yugoslavia (FRY). At the same time, they reaffirmed the sovereignty and territorial integrity of the FRY. They also reaffirmed the UNSC primary responsibility of maintenance and control of international peace and security.

UNSC 1203 decreed the situation in Kosovo constituted a continuing "threat to peace and security" in the region. Having made such a finding, the UNSC may authorize the use of force to maintain or restore international peace and security.[27] Russia made it clear it would veto any such referendum for the use of force. NATO could not gain legal authority for the use of force to stop the Kosovo atrocity from the UNSC.

The failure to receive sanction from the UNSC for a military campaign against Serbia would now require each of the nations allied under NATO to make an interpretation of

[26] Chapter VII is Action with Respect to threats to the Peace, Breaches of Peace, and Acts of Aggression. Chapter VII provides the legal authority for the UNSC to take measures, including the use of force, to maintain or restore international peace and security.

international law. This would then determine the justification for the use of force in Kosovo. There was consensus on the issue but it was not without debate. This can be discerned by comments from allies, which may not have been public knowledge before the campaign, but were voiced during and after the campaign as shown by the opinions of the nations of USA, Canada, Russia, and China.

The United States argued no justification was needed. NATO had the right and authority to act to prevent a humanitarian disaster and a threat to stability throughout the Balkans. The argument provided by western politicians was both moral and political. There was an overriding obligation to stop the suffering of innocent civilians and prevent a de-stabilizing conflict from spreading to other countries in southeast Europe.[28]

There is no single answer to the use of force in a specific regional crisis situation. Each situation requires decision-makers to evaluate justification for intervention. There will be questions from analysts, politicians, world leaders, and the public in regards to this philosophy. East Timor, Rwanda, and Chechnya did not bring the United States to the same position as it found itself in Kosovo.

The Canadian foreign and defense ministry signed on to the alliance for Operation Allied Force. Their ambassador to Yugoslavia provided a stern view against the actions the

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[27] The Crisis in Kosovo 1989-1999, pg. 498. 8.
[28] BBC News Report, Thursday, March 25, 1999, How the West Justifies Action

following spring. A critic of the NATO bombing of Yugoslavia, Canada's Ambassador to Yugoslavia James Bissett stated, "I believe it to have been a tragic mistake---a historic miscalculation that will have far reaching implications. When NATO bombs fell on Yugoslavia in the spring and summer of last year, they caused more than just death and destruction in that country. The bombs also struck at the heart of international law and delivered a serious blow to the framework of global security that since the end of the Second World War has protected all of us from the horrors of a nuclear war. Kosovo broke the ground rules for NATO engagement. The aggressive military intervention by NATO into the affairs of a sovereign state for other than defensive purposes marked an ominous turning point in the aims and objectives of that organization."

NATO's war in Kosovo was conducted without the approval of the United Nations Security Council. It was a violation of international law, the United Nations charter and its own article 1, which required NATO to settle any international disputes by peaceful means and not to threaten or use force, "in any manner inconsistent with the purposes of the United Nations."[29]

Russia also condemned NATO. Claiming the air strikes on Serbia was an illegal military action. Russian President Boris Yeltsin stated he was "deeply upset" by the bombing, describing

[29]Canada's Ambassador Bissett's speech on the Serbia-Kosova war, to the Canadian Parliament Committee on Foreign Affairs, February 2000

it as “open aggression”.[30] The Russian chief military representative was called back to Russia and all military cooperation with NATO was cancelled. Though Russia took this stance at the beginning of the campaign, it was the support of Russia that eventually led to Milosevic agreeing to the mandates of NATO. This allowed peacekeepers into Kosovo and caused the Serbian military and police forces to withdraw. Joining the Russians in announcing their displeasure, Beijing’s Ambassador stated, “power politics of the strong bullying the weak was opposed by China.” China’s president had called for the end of the strikes. He was concerned with plunging the region into deeper turmoil. The dissension of the NATO members involved in the air campaign and those of the UNSC members who condemned it created a fragile alliance. The need for quick success was imperative. Failure to gain capitulation with a minimal loss of life would have weakened NATO’s role and possibly led to its demise.

B. Humanitarian Intervention

It is not debated among most international lawyers or governments that under the UN charter the bombing of Kosovo was illegal, having no basis in the UN Charter to justify the bombing. It did not meet the requirements of Chapter VII of the UN Charter for authorization, nor did it meet the requirements of self-defense under Art 51. Those were the only two justifications

[30] BBC News/Europe/ Russia condemns NATO at the UN.

for the use of force available at the time under international law.[31] Though there has been much debate about the way the U.N Charter was circumvented.

The justification for the use of military force in Kosovo is based on the concept of humanitarian intervention. Humanitarian intervention is defined as the unilateral intervention by armed force to protect the inhabitants of another state from inhumane treatment. This philosophy remains highly controversial when applied to international law. The determination of when any nation has the right to interfere in the sovereignty of a Nation for the protection of human rights is vague.

The debate relates to the "unilateral" use of force. In the Kosovo air campaign, the argument is over recognition of justifications for the air campaign amongst U.N. and NATO chartered nations. In the past, the international community has increasingly been involved in internal conflicts of states where human rights are in jeopardy, as in Kosovo. The difference was human rights were not the only reason given for this involvement.

Humanitarian issues still remain the reason given for the intervention of NATO in Kosovo. Kosovo Albanian Refugees flooded over the international borders into Macedonia and Albania, threatening regional stability. Failure to stem this tide had the possibility of creating an even greater conflict in Eastern Europe.

[31] http://www.un.org/aboutun./charter

The involvement of NATO in the security of Europe has changed. The laws, which define the policy on intervention in conflicts that go outside the sovereignty of a state and affect neighbors, are not clear. The legal authority for becoming involved in sovereign nations, based on moral, ethical views and humanitarian intervention must be evaluated/debated by U.N. and NATO alliance members and adjusted as deemed necessary.

Conclusion

The greatest challenge to the United States today is to maintain its influence where the non-military levers of power, diplomacy, economic strength and national prestige, are much less effective. There is a strong desire to focus national efforts, assets, and attention on domestic problems. The United States' interests and its status as the only remaining superpower do not permit this. Allies, friends, clients, and others (including international bodies such as the United Nations) expect and demand that in hazardous situations the United States lead the way. Accordingly, U.S. forces perform a critical role as instruments of U.S. national policy now and in the foreseeable future.

Because the relationship between effective deterrence and the necessity to commit forces to combat may at times be unclear, a model is needed to assist in applying strategy. The combination of the Weinberger/Powell Doctrine captures U.S democratic values and serves as that model. Weinbergers set of six tests continues to serve a vital function today. It remains

a valuable framework in which to apply the military strategy, assisting the Nation in ensuring that the military means of war are consistent with the political purpose. When applied as a set, the tests "require national unity of purpose" and provide clarity to the ambiguous era in which the Nation finds itself. The Weinberger/Powell Doctrine continues to assist in attaining the proper balance between military force and the other elements of the Nation's power.

Operation Allied Force provides an example of the types of future operations in which the United States will be involved. However, it does not offer a by the numbers guideline for every situation. The lessons learned from it can support development of doctrine for the use of military force and diplomacy when considering intervention in global crisis.

The lessons learned from this operation provide an indication of how U.S. allies, non-allies, and the U.S view its role. Numerous debates continue on the effectiveness as well as the legitimacy of Operation Allied Force. Caspar Weinberger, writing in the New York Times on 12 April 1999 said, “The Kosovo operation, then in its third week, met the guidelines of the Weinberger Doctrine, to some extent” in that “the principal feature of my thinking was that the United States should enter the conflict only if it was vital to our national interest. That is the case here. The Balkans have been at the heart of two world wars in this century, so stability of the region is important.” He added that: “As a NATO member, the United States

cannot ignore an assault in Europe against our values by a thug who has directed brutal atrocities in both Kosovo and Bosnia." However, he said the objective in Kosovo had to be victory and the United States and NATO had to be willing to apply sufficient force to win.

The operation was determined a success by the Clinton administration because the short-term objectives were met. It is important not to judge the military and the political debate as moot. Key objectives in the air campaign were to deter a bloodier offensive against innocent civilians and to damage the Serbian military's capacity to harm the people of Kosovo. It could be argued that the air war made the atrocities bloodier and freed the Serbian military to increase their attacks against the people of Kosovo. Presumably, the knowledge that ground forces would not be used allowed Milosevic's reign of terror to develop at a faster pace. Had the ground forces not been taken off the table as a viable option, the possibility of Milosevic, capitulating to the demands of the U.N sooner, might have been increased.

There are those who believe the long-standing principle of state sovereignty can be overruled when human rights violations take place in a country. Until Kosovo, the ground rules for such intervention called for Security Council authority before action could be taken. NATO knew that Security Council authority could not have been obtained because of the veto power of China or Russia. Rather than try to get consent, NATO took upon itself the powers of the Security Council.

Undoubtedly, there may be times when such intervention is justified. The atrocities associated with the genocide in Rwanda are a possible case. However, intervention for humanitarian reasons is a dangerous concept. The development of doctrine for intervention in global crisis must be continuous.

The legal authority for becoming involved in sovereign nations, based on moral, ethical views and humanitarian intervention are not clear. There is considerable legal opinion that the U.N. Charter expresses the current law on the use of force and that neither of the Charter's bases for the use of force existed in the Kosovo air campaign. For the most part NATO's actions were justified and there should be a right of humanitarian intervention to protect the people from human rights violations committed by their governments.

U.S policy makers are now required to make a determination about the use of force in Kosovo. Do they consider it a deviation from the laws on the use of force? Is there an establishment of guidelines supporting Kosovo as an emerging customary law on the right of humanitarian intervention? If this is the case an interpretation change to the United Nations Charter, article 2(4) on the limits of use of force for humanitarian intervention is needed.

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