



## Human Rights in Times of Conflict: Humanitarian Intervention

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### INTRODUCTION

In the Winter 2000 issue of *Human Rights Dialogue*, Dimitrina Petrova wrote: "When an abusive government engages in gross and systematic human rights violations, the international community must intervene, if necessary by military force." She went on to argue that NATO's intervention in Kosovo "had a deleterious effect on the credibility of human rights in the Balkans, where human rights discourse was used to morally justify the loss and destruction of thousands of lives." In the Spring 2000 issue of *Dialogue*, Aloysius Habimana explained that to most Rwandans, the International Criminal Tribunal for Rwanda is "no more than a UN political scheme to save face, doing too little too late for Rwanda."

These two views illustrate the paradoxical premise of this issue of *Dialogue*: the concept of humanitarian intervention, defined as any action undertaken by a state or group of states that violates another state's sovereignty in order to alleviate human rights abuses or humanitarian crises, is necessarily both good and bad. Humanitarian intervention saves lives and costs lives. It upholds international law and sometimes breaks international law. It prevents human rights violations and it perpetrates them. A single case of humanitarian intervention affects different groups of people in different ways: the victims of human rights violations in the country where intervention occurred, the victims of violations in countries where no intervention occurred, the perpetrators of the violations, the citizens of the country whose government perpetrated the violations, vulnerable nearby populations who are not necessarily directly connected to the violations in question, and the activists working in the name of human rights both locally and internationally.

This publication is not opposed to the idea of humanitarian intervention; rather, it provides a critical examination of the practice of intervention. It examines the impact of humanitarian intervention on human rights observance, the public legitimacy of the idea of human rights, and the future acceptance of the actions of the international community taken in the name of human rights. The essays herein offer perspectives of people who have witnessed the effects of intervention and its aftermath—who relate the lived experience of humanitarian intervention. Many of the articles deal with the intervention in Kosovo. Indeed, as the most extreme form of humanitarian intervention—military intervention—Kosovo looms large in the world's imagination with respect to the promise and perils of humanitarian intervention. An intervention executed with such resolve, justified by human rights con-

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**JULIE A. MERTUS** spent two years during the 1990s in Belgrade and Kosovo interviewing local people for a book project on ethno-national conflict in Kosovo and taking part in Soros Foundation initiatives on conflict resolution. She is assistant professor of peace and conflict resolution at American University in Washington, D.C.

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**AJIZA MAGNO** grew up in Dili, East Timor. As a student activist in the East Timor resistance movement, she initiated the formation of the Lorosa'e Women's Forum for Peace (FORELSAN), which focused on the issue of military violence against women. Ajiza and her family barely escaped murder during the violence that followed the August 1999 independence referendum.

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## Introduction

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cerns, and captured by the international media, Kosovo did more than affect human rights for the Kosovar Albanians, the Serbs, and other minority groups. It also challenged our thinking about the merits of humanitarian intervention to achieve human rights goals.

The most immediate and visible effect of humanitarian intervention is on the actual human rights abuses that it is supposed to stem. Does the intervention stop these abuses? Does it have any impact at all? Does it create new human rights abuses, either unintended by the intervening parties or calculated and deemed worth the sacrifice? Leonora Visoka gives a first-hand account of the plight of Kosovar Albanians during and after NATO's bombing campaign in 1999. Despite the terrible hardship they faced, Kosovar Albanians believe NATO made the right decision, according to Visoka. Claude Cahn provides a window into what he assesses to be a tragic consequence of the intervention known to few in the international community: the suffering of the Roma, or "Gypsies," in Kosovo at the hands of the Kosovar Albanians during and after NATO's intervention. Robert Myers criticizes the United Nations and nongovernmental organizations (NGOs) for their posture of neutrality in Bosnia. By wrongly identifying the sides as Serbs versus Croats rather than as nationalists versus those supporting a multiethnic state, most humanitarian organizations actually played into the hands of the ethnic cleansers. Instead of overcoming ethnic division, the decision not to take sides—not to feed and arm the defenders of multiethnic society—actually deepened it, Myers argues.

The experience of humanitarian intervention affects local perceptions and acceptance of the international human rights movement and the message it carries, insofar as that intervention is justified by governments, humanitarian organizations, and the

media in the name of human rights. According to Julie A. Mertus, the strong human rights culture that Kosovar Albanians had developed in the 1990s was damaged by the timing and nature of NATO's intervention. Jelena Subotic argues that while the economic devastation and loss of lives wrought by the NATO bombing initially hurt the credibility of human rights activists in Serbia, it eventually led to the development of a new, stronger civil society that overthrew Milosevic in the fall of 2000.

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## Humanitarian intervention saves lives and costs lives.

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Shifting our focus to Asia, Ajiza Magno explains that the 1999 intervention in East Timor ended ongoing human rights violations and provided much-needed security. The full impact of humanitarian intervention, however, cannot be measured in the short run by military action alone. It must include the effect of the institutions created by the international community to deal with the problems resulting from the intervention as well as the precipitating crisis. In both East Timor and Kosovo the United Nations has set up transitional administrations with unprecedented authority.

In East Timor, according to Magno, this administration does not give adequate voice to the local population. While Magno believes that the local human rights community in East Timor is strong enough to maintain its credibility, Kristen Boon and Joel Ngugi warn about the impact the UN Mission—whose adherence to internationally recognized human rights standards is questionable—will have on the development of human rights norms in Kosovo. In contrast to these examples of international administration in East

Timor and Kosovo, James Newton draws our attention to the Human Rights Chamber for Bosnia and Herzegovina, which has brought the concept of human rights down from the lofty language used to justify the humanitarian intervention to mechanisms that local communities can understand and easily access.

The international human rights community cannot intervene everywhere in the world where human rights violations occur. For legal, political, and economic reasons, it must act selectively. Thus, humanitarian intervention in one country has repercussions in other regions of the world with ongoing or past human rights violations. Even if there were universal consensus that NATO's intervention in Kosovo was a human rights success, the questions would still arise: Why not elsewhere? Why not with as much resolve in Sierra Leone? Why not sooner in Rwanda? Why not sooner in East Timor?

To Pierre Antoine Louis, the international community's neglect of massive human rights violations in Sierra Leone at the same time as its overreaction to comparatively less egregious violations in Kosovo invites charges of imperialism, racism, and hypocrisy. He also charges that after nonintervention in countries like Rwanda and Sierra Leone, which lie outside the scope of Western interests, the NATO bombing of Kosovo actually damaged the universal legitimacy of human rights.

Kenneth Roth closes this issue of *Dialogue* by laying out the choice for the international human rights movement when confronting the decision of whether or not to advocate intervention. Acknowledging that humanitarian intervention is sometimes necessary to stop genocide or mass slaughter, Roth suggests criteria that might justify its use. By addressing the objections often raised to such justifications, Roth provides a framework to account for the various, often contentious, viewpoints presented in this issue of *Human Rights Dialogue*. ❖

## Was Intervention in Kosovo Right? A Kosovar Perspective

INTERVIEW WITH LEONORA VISOKA

**HUMAN RIGHTS DIALOGUE:** *How did NATO's intervention affect the human rights of Kosovar Albanians? How did they react to the intervention?*

**LEONORA VISOKA:** In general, we feel that the NATO intervention improved our human rights situation. Before the action, the rights of Kosovars had been violated for years. From the early 1990s on, for example, we were not allowed to work in our chosen professions or to be educated in schools and universities. I belong to a generation that literally was not allowed to enter school or university buildings.

During the two years before the intervention, our lives were threatened every day and in everything we did—more than five Albanian citizens were killed each day. Put very simply, we couldn't be sure that we would make it home each time we went out. An entire regime was responsible for this oppression. Despite claims by Serbian politicians and diplomats that this was an internal Yugoslav affair, the international community decided that, in fact, the situation needed their attention. Everyone in Kosovo certainly feels that the NATO intervention was the right thing to do.

**DIALOGUE:** *How do you feel about the way in which the intervention was carried out?*

**VISOKA:** As time went by and our situation under Serbian rule did not improve, intervention became our only hope, especially for those of us who had already lost our loved ones. It became unimportant *how* intervention was carried out.

During the bombing, massive numbers of people were displaced to regions in Macedonia, Albania, and Montenegro. The conditions there were miserable. When I went in the refugee camps in Macedonia I felt like I was in an episode of the *Twilight*

*Zone*. It was terrible. I saw a professor of mine, who had always been very elegantly attired. When he called my name, I found myself looking at a man in his bare feet wearing a long beard and dirty clothes like some homeless character in the movies. That was my elegant professor.

I simply couldn't believe that the conditions in the camps were so bad. I even saw members of my own family and close friends. The Serbian military and paramilitary had forced them to leave the country, and they went to a camp in Macedonia where the Macedonian police treated them like animals. I lived with those pictures in my head for months.

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**“Intervention was the only hope for us. It became unimportant *how* intervention was carried out.”**

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However, even the experience of massive displacement and terrible conditions does not bother people today because the hardest part is over. There is a great feeling in the air because we are alive!

**DIALOGUE:** *Do you feel the intervention should have come sooner? Did you expect it to come sooner?*

**VISOKA:** Kosovars expected the intervention sooner, but it is never too late in cases like this.

**DIALOGUE:** *Why do you think the intervention came so late?*

**VISOKA:** Because there were diplomats trying to solve the matter in a “diplomatic way.”

**DIALOGUE:** *Do you believe the intervention was motivated by human rights concerns?*

**VISOKA:** We definitely thought that the world was concerned with our situation because our human rights were being violated. People were killed and raped on a massive scale and exposed to violence that you couldn't imagine—all happening in the middle of Europe. I worked in Kosovo during the war. Every day I saw houses on fire and villagers running away; every day I knew of at least one funeral for a baby. That is something that still haunts me. Why would a soldier want to kill a baby or a pregnant woman?

When NATO's KFOR troops entered in the first days following the bombing campaign, we regarded them as heroes. We loved them. The rest was not important.

**DIALOGUE:** *How did the media portray your situation?*

**VISOKA:** Even though it is controlled by the Yugoslav government and could not present everything that happened, the Serbian media did play a part in the story. Our situation involved pure violations of human rights. Part of the media didn't present it that way, but the reality was that people were being killed and it had to stop.

I remember the reactions after the massacre in Racak was shown on television. It was a total shock for the Serbian nation. When Ambassador Walker, head of the OSCE mission in Yugoslavia at the time, saw all those old people, women, and children cut into pieces, he couldn't hide his emotion from the TV cameras. After that, the Serbian media announced that his mission was an unwanted presence in Yugoslavia. For the first time, Serbs

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## Kosovo's Little-Known Victims: The Fate of the Roma

BY CLAUDE CAHN

Following the return of the ethnic Albanians to Kosovo in June 1999 and the entry of NATO (KFOR) troops into the province, Albanians conducted a sustained and brutal campaign of ethnic cleansing against Kosovo's Roma. Albanians killed, kidnapped, and raped Roma in front of their family members. Albanians broke into Romani houses during the night and threatened to kill the inhabitants if they were there in the morning. Albanians removed property en masse from Romani houses, stopped Roma on the street and took their automobiles, and burned entire Romani settlements to the ground.

The scale of the brutality exercised by the Albanians on anyone perceived to be a "Gypsy" after June 1999 cannot be fully described. The following testimony, however, provided to me by L.T. in Djakovica/Gjakove on July 6, 1999, while I was conducting research for the European Roma Rights Center (ERRC), gives a glimpse of what some 120,000 people have suffered since then:

After the bombing ended, we found we were in a worse situation from those who fled abroad, because all of the people returning suspected us of various things. The first thing that happened to us personally was that a man came up to my wife while she was shopping and said, "We saw a picture of your husband in uniform. We heard that your husband is a thief. We have evidence that he stole a tractor." This was two or three days after NATO came. Two days after that, uniformed KLA officers came to my house. An older officer told me, "Come with me to prison because you were part of the Serbian army and you burnt houses." I said, "If you have evidence, show it to me. If I was in uniform then surely someone saw me in uniform." Then they said to

me and my wife, "Bring us your guns." That was four or five days after NATO came.

The worst thing that has happened so far took place two days ago, during the night of July 4. Around dinnertime, we heard burning—it was our neighbor P.N.'s house. Albanians beat the man who lives there because he stole, and I think it is probably true—I heard he did take part in looting. Many people of all ethnicities looted one another's houses during the war. I don't know if the family fled or if the KLA took them away. I have not seen them since then.

We had guests at the house that night. At around 2:00 a.m., my father-in-law was awoken because there was a banging on the door. My father-in-law told me later that he woke up and went to open it and there were four uniformed KLA officers there. One had an axe, one had a huge iron rod, the other two were carrying automatic weapons and all of them had knives. As soon as my father-in-law opened the door they pushed him back into the room and told him not to move. I woke up in my bedroom and they were all around me.

Then two KLA officers took everyone into another room and two stayed with me. They started questioning me. They asked me my name and asked me what I had been doing during the war. I told them I had stayed and protected my neighborhood. They said, "You were the driver for a policeman named Milutin. You were in the Serbian coffee houses called Sunce and Garanc." Those are the names of the coffee houses in our neighborhood.

Just then my sister-in-law's daughters came downstairs. They are 15 and 16 years old. The KLA asked: "Are they married?" Then one of the

KLA officers started going upstairs with them. I said, "Can I help you?" and I went upstairs with them. I was afraid the KLA officer would rape them. The girls started to cry. They said to the girls, "He killed people during the war." After that he took them to the room where the two KLA were keeping my wife and mother-in-law and father-in-law. They were not sexually abused.

Then they began questioning me again. They asked me what I had in my house: "Do you have a television? A stereo? A refrigerator?" I told them that I had all of those things. They said that that meant I stole, and they asked me for the documents for the goods. My things are old though, and I only had some of the documents for them. They asked many of the questions over and over again, and they threatened me. They took out a knife and they threatened me with it. They also bound my hands.

Finally one of them said, "Write your testimony down—write what you were doing during the war—and I will come to your house tomorrow and take it from you." It was an hour or two after they came. I noticed it was around 4:30 a.m. I didn't sleep until morning.

Early in the morning I went with my brother to the mayor's office in the city center. It is the KLA headquarters now. I wanted to file a complaint. I was there for two hours, and finally they told me that I should go to the police station in my neighborhood and report the incident there. So I went to the local police station and there I got a huge shock, because in the police station there were the same people who had been in my house the night before. They were not in uniform now. I did not go in and file a complaint.

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## Kosovo's Little-Known Victims

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I know five or six similar nighttime raids by KLA in this settlement. The last case like that was one week ago. The people who terrorize us were in Albania during the war. Some of the people I don't know, some of them I recognize from around here, but I don't think any of them were here during the war.

The same day—July 5—my father went into town to get humanitarian aid, but they chased him away and said he didn't have the right to collect humanitarian aid. So I went back downtown, and I brought a receipt from my brother. He works in Switzerland, and like many Albanians there, he gives 3 percent of his salary to help Kosovo. When I arrived on line, the man distributing aid said, "What are you here for? You Gypsies don't have the right to humanitarian aid." I showed him the receipt, but he said, "What's this? I don't care. Send your brother down to pick up the humanitarian aid. You Gypsies can't have any aid." That man was my neighbor and I said, "But we are neighbors," and he said, "I don't want to be your neighbor anymore."

The KLA come every day now and hang around in front of my house. They told me to give them my car, but I left my car at the home of an Albanian friend of mine so they wouldn't get it. One old Rom told me that he was riding his bicycle down the street and an Albanian on a tractor stopped him and said, "That is my bicycle now. You Gypsies will be killed." Albanians here in this settlement shout at us all the time now things like "Hey Gypsy—you will be killed! We will kill you!"

Among the countless enduring memories I have of witnessing the destruction of the Romani communities of Kosovo, there is one quite unremarkable one (read: no one had been tortured,

witnessed the rape of a close family member, or recently had their house set alight) that comes back to me repeatedly. It is the dinner I ate in a house in Prizren in July 1999 with six or seven members of the Kosovo Romani intelligentsia. Until recently, one had been a judge, another had been an editor for a local radio station, and a third had been a student in medical school. Before the conflict began, Kosovo could boast of being the cradle of the Romani intelligentsia—Kosovo was home to Romani poets, lawyers, journalists, theater groups,

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"When I arrived on line, the man distributing aid said, 'What are you here for? You Gypsies don't have the right to humanitarian aid.'" —L. T.

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radio stations, and newspapers. The house where we ate dinner had been forcibly occupied during the NATO bombing by the Yugoslav army and there was still Serb graffiti on the walls, a few heroin syringes in the bathroom, and four bolts on the front porch where an anti-aircraft artillery mount had been screwed in place. We ate quietly and drank heavily and then I went to sleep in another room, leaving a brooding conversation plagued by long pauses. I slept badly, waking at every sound; would the Albanians break in? They were at that point breaking into houses all over Prizren every night. In the next weeks, every single person with whom I had had dinner that night had fled Kosovo.

Indeed, during the roughly one-and-a-half years since the beginning of the ethnic cleansing campaign against Roma, the very contours of the Romani communities of Kosovo have changed utterly. A new ethnic group, the "Ashkalija," has come visibly into being in places—especially Albanian-majority rural areas and villages—where previously Albanian-

assimilated "Gypsies" lived. The Ashkalija are involved in a massive effort to demonstrate their loyalty to the Albanian nation by explicitly rejecting their Romani-ness, and Ashkalija civic organizations and a political party have sprung into existence. This process is the dramatic exaggeration of earlier efforts by some Kosovo Roma to distance themselves from their Romani identity (not to mention Serb and Albanian identities) by proclaiming themselves "Egyptians," an identity that first appeared in the 1989 Yugoslav census.

Hopes that "Gypsy"-ness might be shed via a name change have not paid off. As I write these words in November 2000, anti-Romani violence against anyone perceived to be a "Gypsy" in Kosovo continues, and in fact it is Ashkalija who have most recently fallen victim. Four Ashkalija men participating in a UNHCR-led return project were found killed on November 9 in the village of Dosevac/Dashevc, less than 48 hours after they returned to their homes. The threat of violence by Albanians against all persons regarded by Albanians to be "Gypsies" is omnipresent; more than half the Romani population of Kosovo remains outside the province, and many of those who stay are displaced within it. Kosovo after the bombing has been an amazing mess and remains a sick morass of base human sentiments and actions—a place of people still motivated solely by the idea of domination on an ethnic basis. ❖

### HUMAN RIGHTS INITIATIVE ONLINE

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## The Fallacy of Neutral Humanitarianism in Bosnia

BY ROBERT MYERS

As a member of Workers Aid for Bosnia, a humanitarian aid organization, I helped organize and drive convoys of supplies to Bosnia during the war. An organization founded in London in 1993 primarily by trade unionists and Bosnian refugees, Workers Aid was criticized by other humanitarian organizations for combining a campaign to collect and deliver food with political support for one side in the war—the side of a united, multi-ethnic Bosnia. The more we went into Bosnia, however, the more critical we became of most of our critics and, above all, of the United Nations and NATO.

During the war, international NGOs became involved in every aspect of Bosnian life, from providing aid, education programs, and health care to

giving forestry and agricultural advice. Traveling into Bosnia under UN auspices, their vehicles were marked by round stickers on their windows showing a red line through a gun—meaning “No guns on board”—in order to distinguish them from UN military activity. Taken alone, the efforts of each NGO might be seen as acts of kindness. Bosnia, however, had not been short of food, doctors, teachers, or anything else before the war, and its misery resulted directly from nationalist aggression planned in Belgrade and Zagreb and condoned by the United Nations’ military policy. The actions of the humanitarian aid agencies simply camouflaged this fact.

Most people outside of Bosnia only heard about “warring ethnic factions.” The “sides” in the war were defined as



Muslim, Croat, and Serb—a vision promoted by the British and U.S. governments, the United Nations, and most of the media. Behind every action the United Nations undertook, from the arms embargo to the many “peace

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### Testimony by Tihomir Babic

*Tihomir Babic was a mining technician in Tuzla. The following testimony is excerpted with permission from Taking Sides Against Ethnic Cleansing in Bosnia, an anthology edited by John Davies and published in 1998 by Workers Aid.*

All those pictures about the devastation of war we have seen on TV are now here. The mass exodus of people, the destruction of their homes, factories, communications, robbery and rape, the most violent executions, mass slaughter. Before, these were bad dreams, now they are here, around us.

Life becomes worthless, without social purpose, except the fight for survival. It is difficult to explain the hell the civilians go through, even to our soldiers on the front line. Every day there is the fight to find food for the family when nothing comes into the region through the blockade. Almost nothing is in the market. It becomes a daily contest. On one side the black marketeers who raise prices to astro-

nomical amounts and on the other side the miserable, unemployed civil population.

There is humanitarian aid, but it is manipulated. Some 50 humanitarian organizations bring supplies, but only to refugees who have been driven into the region from elsewhere. The Red Cross did give some food to our pensioners, but so little. Tuzla citizens are pushed towards religious foundations for help—to Caritas for Catholics, to Merhamet for Muslims, Dobrotvor for Serbs. But even these are little help. Many Croat families, like mine, go to Caritas but are told, “Sorry we cannot take any new members.” So we starve, we have to search for thrown-out food scraps. Others are more lucky and get one parcel of food each month from the religious foundations.

For the thousands of Serbs though, things are most difficult since Dobrotov has nothing to distribute, as no one sends them anything despite many appeals to the world.

I talk with friends and everyone is angry because of the numerous European governmental and humanitarian organi-

zations that are indifferent to the fate of Tuzla citizens. We are even more angry because we know that their representatives, who are here in Tuzla, are being paid large salaries and drive around all day in brand new, expensive jeeps. We starve, but we can see these humanitarian representatives eating in luxury restaurants every night. We can see that these people come to Tuzla for their own personal gain, using “humanitarian aid” as their cover. . . .

Ordinary people help each other, regardless of name, of religion or nationality. . . .

But while the starving people of Tuzla help each other, the world, unfortunately, forgets us. The cultivated, educated, rich people of Europe forget us. Such things cannot happen to them. And no one here would want it to happen to them. But here nationalism and fascism are devastating society like a plague. And for all their wealth, their culture, their education, when it came to stopping this plague all the organizations of Europe, political and humanitarian, have failed. ❖

## The Undermining of Human Rights Culture in Kosovo

BY JULIE A. MERTUS

“Like rabbits,” the old man exclaimed, pointing to a hill behind his house, “they sit up there and shoot at us like rabbits!” The man was a Kosovar Albanian. His house was in a small village just south of Mitrovica. He was talking about the way in which Serb hooligans would harass Albanians. The year was 1993. At that time, international policymakers were just beginning to wake up to the fact that Kosovo was a volatile area, but most people had no idea what was happening there.

Today, thanks to the NATO intervention, everyone knows something about Kosovo. Most readers of the major newspapers even know something about Mitrovica. They have read about it as a Serb enclave and a site of vicious revenge killings—the incidents are mainly Albanian against Serb, but they are also Albanian against Roma and Serb against Albanian. These readers think they know a lot about this messy place called Kosovo, but they do not know the man who compared his plight to that of rabbits.

He, like all Kosovar Albanians I spoke with during that time, was eager to testify about human rights abuses committed against his family and people. They all deeply believed that, once heard outside their provincial borders, the “truth” about human rights would set them free. This man, like many Kosovar Albanians, was waiting for the American airplanes to save him. With Albanian and American flags displayed on the walls of his sitting room, he calmly told me that the Americans will have to “do something” to end the abuses.

He never saw the airplanes. Two years before the NATO intervention, this man was shot and killed while working in his yard. If he had lived, he would have been forced to flee to Macedonia with his family and hundreds of thousands of other Kosovars. I

am told that his house no longer exists. It was destroyed either by Serb forces or by NATO bombs. It doesn’t really matter what happened. He and his house are gone forever, and so is the image of Kosovo Albanians as patient victims waiting for an American rescue.

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**In place of the once-principled human rights culture, life in Kosovo is defined these days by a “whatever it takes” attitude.**

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I spent two years in the early 1990s living in Belgrade, taking frequent clandestine trips to Kosovo. I was amazed by the degree to which Kosovar Albanians were living and thinking human rights. These were a people who taught their children that just because they are human, they are entitled to some fundamental rights, such as freedom of movement and freedom from torture and police harassment. These were a people who decried the legitimacy of the Serbian constitution and looked instead to the Universal Declaration of Human Rights as a source of guiding principles for their lives. These were a people who believed that the international community would come to their rescue if only it understood the extent of human rights abuses perpetrated against them.

To be sure, some Kosovars never bought the notion of “passive resistance,” but many more had their hope grounded in a patient human rights struggle. Within intellectual circles they quietly debated whether their Gandhi-inspired strategy would suffice in stripping the Serbian regime of its power over them, or whether an inter-

national military intervention would be necessary to enforce human rights. As time passed, adherents of “passive resistance” gradually lost their followers and the cries for armed intervention eclipsed all other strategies.

Did the eventual humanitarian intervention vindicate this struggle for human rights? No. On the contrary, the timing and method of intervention greatly crippled human rights interests in Kosovo. There are several reasons for this ironic result. First, the intervention came too late. The international community should have supported human rights groups in Kosovo and Serbia at an earlier date. While the Soros Foundation and other private organizations aided Albanian and Serbian media and other aspects of civil society throughout the former Yugoslavia beginning in the early 1990s, the United States and other major powers did not do all they could have to support civil society. They might have offered financial and technical support to independent Serbian and Albanian journalists, opposition political parties, and civic organizations of all stripes, from women’s health groups to farmers’ organizations. Most important, they could have fostered feelings of economic security by bolstering private businesses and by using potential funding of government projects as inducements for concrete change on pressing human rights issues. Instead, the United States imposed economic sanctions against Belgrade, a move that only stoked Serbian feelings of victimization and solidified Milosevic’s power.

Reports of human rights violations had been coming out of Kosovo for years and had had little impact on international decision making. NATO allies turned a blind eye to these reports, issuing the occasional empty threat to the Milosevic regime. The United States and other NATO countries decided to

take up the human rights flag only after the emergence of the Albanian paramilitary organization, the Kosova Liberation Army (KLA). At that point, it appeared as if the conflagration in Kosovo could result in a massive population displacement that would spill across country borders, disrupting trade and social relations among NATO countries. Kosovar Albanians got the message: the international community would respond only to guns, not to rights claims.

When NATO did intervene, the Clinton administration explained its actions in Kosovo by mixing human rights talk with messages about the need for regional stabilization, national security concerns over a long war and a large refugee flow, the need to protect NATO's reputation, and America's interest in preserving prosperous and secure trade with Europe. At the same time, the Clinton administration and its NATO allies failed to offer a clear legal justification on human rights grounds for the bombing. While a case could be made for the legality of the air strikes under the UN Charter—specifically, that through gross human rights violations Serbia had waived its claim to sovereignty, and hence intervention was needed under Articles 55 and 56 of the UN Charter—this argument was never clearly and consistently articulated.

Finally, the intervention itself was not conducted in line with human rights principles. The NATO bombing was designed to avoid any allied casualties, and to do so entailed a greater risk that civilians would be hit. The Geneva Convention IV and Protocol I provide that civilians shall be protected against “indiscriminate attacks” that “employ a method or means of combat which cannot be directed at a specific military objective” or “employ a method or means of combat the effects of which cannot be limited as required.” In addition, Protocol I requires military planners to “take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event minimizing, incidental loss of

civilian life, injury to civilians and damage to civilian objects.” It is not within the spirit of these provisions to greatly increase the risk of civilians in order to avoid casualties to one's own military. Unavoidable and unplanned damage to civilian targets incurred while attacking legitimate military targets would have been within international law. Yet the action's proportionality became questionable when it became apparent that the bombing was not advancing military objectives as quickly or effectively as anticipated, and that the effects of the bombing were felt mainly by Serb civilians.

The international community's failure to respond earlier to human rights violations, its refusal to explain its actions in terms of human rights motivations, and its intervention that was out of step with human rights principles all served to undermine the legitimacy of human rights in Kosovo. In place of the once-principled human rights culture, life in Kosovo is defined these days by cynical instrumentalism—a “whatever it takes” attitude. It is defined by an attitude of individual self-help—“everyone for oneself and one's own family” instead of for the greater good. Local human rights activists still persevere in Kosovo, but this new attitude hampers their ability

to organize. Activists face great difficulty in garnering popular support for any project that entails long-term thinking and brings few tangible rewards in the short term. A human rights approach, which by its nature requires patience and principles, is a now a hard sell in Kosovo.

When I was in a Kosovar refugee camp in Albania in May 1999, a four-year-old boy ran up to me and hit me on the back as hard as he could. His mother scolded him, “No! She is not one of them!” She apologized to me—the boy thought I was a Serb who was coming to take her away. He had already lost his father, who had been pulled out of a long line of refugees leaving their town. No one knows what happened to him.

Whenever I think of the future of Kosovo, I think of this four-year-old boy. He returned to a land whose people were steeped in the desire for revenge, not in a faith in human rights. What impact did the NATO bombing have on him? It certainly helped secure a peace accord and the end to Serbian government-orchestrated human rights abuses against Albanians. It did not, however, leave a strong human rights legacy in Kosovo that could help build a more just society for this boy and his people. ❖



Remnants of the war in Pristina

Photo by Kristen Boon

## In Intervention's Wake: The Death and Rebirth of the Serbian Human Rights Movement

BY JELENA SUBOTIC

Like the rest of the people in their country, Serbian activists were absolutely unprepared for the powerful NATO intervention that started on March 24, 1999. Having worked tirelessly for years to promote human rights, democracy, peace and tolerance in Serbia, these activists woke up on March 25 with an overwhelming feeling of anger at the West for having let them down.

Serbian activists realized during the NATO bombing campaign that they were victims of the policies of their own government; however, they also felt like victims of the international community, which was using military means to promote the human rights standards that they had been advocating peacefully for years. In the words of a leading independent broadcaster, Veran Matic, “they felt betrayed by the countries that were their models.” Serbian civil society groups also felt betrayed by their NGO friends and partners around the world who were lining up behind their respective governments in support of the NATO campaign.

Ten years of work toward raising human rights awareness in Serbia had now been destroyed. Serbian activists felt they had lost credibility with a population disillusioned and disappointed by the actions of NATO—actions taken in the name of human rights. With bombs falling all around them, how could Belgrade NGO activists persuade the people that this was only an attack on their government, not on their country? Milan Nikolic of Belgrade’s Center for Policy Studies argued, “It will be extremely difficult after the NATO aggression to advocate models of democracy of those countries that sent bombs our way.” Sonja Licht of the Fund for an Open Society–Yugoslavia in Belgrade asked, “How are we to fight for a civil society



Serbian woman celebrating the ouster of Serbian President Slobodan Milosevic. Her sign reads “Puk’o je!” (He’s done!).

Photo by FreeB92

and democracy in this country, as every fool can now question the rule of law, after that rule had been violated at the highest international level?”

In the first few weeks of the NATO campaign, 27 prominent Serbian academics and NGO activists issued a joint statement named after the frequently used phrase, “Between NATO’s hammer and the [Milosevic] regime’s anvil.” Adopting the official Serbian government’s language of “aggression” to refer to the NATO campaign (in reference to its bypassing of the United Nations Charter), the letter’s authors expressed their “deep concern that NATO’s violation of international norms would disable any struggle for the rule of law and human rights in this country and world wide.” In a similar public statement, a consortium of Belgrade NGOs warned that the NATO campaign had damaged the existing civil sector in Serbia—in particular the once-growing network of local independent media and other grassroots organiza-

tions—to such a degree that its very survival was threatened.

Following the Serbian capitulation to NATO in June 1999, the Milosevic regime dramatically intensified the crackdown against its critics. Especially hard hit were opposition parties, the independent media, the student movement, NGOs, and civic activists. More than ever, the regime exercised brutal police force when dealing with peaceful street demonstrators. Intrepid student activists of the *Otpor* (Resistance) movement were detained on a daily basis, interrogated, and often severely maltreated. Open declarations of political dissent became increasingly dangerous. This repression, which continued to intensify until election day in the fall of 2000, helped Milosevic hold on to power in the immediate aftermath of the NATO intervention.

However, the crackdown also produced a boomerang effect. Many people argued that the latest wave of repression was a sign that Milosevic felt increasing-

ly vulnerable to political defeat, either at the polls or in the streets. Growing discontent with Milosevic's policies soon became manifest, and opinion polls consistently showed a steady decline in support for the authorities and a strengthening of support for the opposition. People started to realize that the Milosevic regime was crumbling from within, and that the oppression of its own citizens was the only power mechanism it had left.

In spite of the pessimistic predictions, Serbian civil society started to regroup, gaining particular strength in the less developed, smaller urban areas that had suffered the most during the NATO war. For the first time since Milosevic's military adventures in Croatia, Bosnia, and Kosovo, the NATO campaign against Serbia brought home a feeling of what the war was really like—it was no longer something only seen on television. Most of the troops drafted for the Kosovo war also came from small towns in the south, where it was difficult to hide and dodge the draft and where patriotic pride ran deep. These soldiers came back from Kosovo horrified by what they had seen. They started talking to their families, friends, and neighbors about ethnic cleansing, forced expulsions, and civilian massacres. They were furious at being engaged in what they began to see as an unnecessary war with the world's most powerful military alliance, a duel for which they were very poorly trained and paid. In the previous wars in Croatia and Bosnia the draftees had been convinced that they were protecting "Serbian national interests." In Kosovo, they felt Milosevic had tricked them into waging a personal war against NATO.

Public frustration was so extensive and the economic devastation that followed the NATO intervention so severe that many people across Serbia felt that they had nothing to lose in demanding that their voices be heard, even at the price of police intimidation and brutality. "Civic Parliaments" began to sprout throughout Serbia. Officially registered as NGOs, these local initiatives devel-

oped into a grassroots network of real popular opposition to the Milosevic regime, setting the foundation for a new civil society. By providing an outlet for the people's anger and frustration, these civic actions finally broke the cycle of fear and victimization that the Serbian population had lived in for the last ten years. Together with the student movement Otpor, this new civil society created a popular base of support for a united political opposition in Serbia. Fourteen months after the end of NATO intervention, this new civil society achieved the long overdue fall of the great dictator.

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### Local "Civic Parliaments" developed into a grassroots network of real popular opposition to the Milosevic regime, setting the foundation for a new civil society.

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Today, most of the Belgrade NGO sector believes that NATO's intervention was a grave mistake by the international community that actually helped to keep Milosevic in power longer. The early impact of the NATO campaign was extremely detrimental to the existing Serbian civil society, which faced great new obstacles in continuing to advocate for peace and human rights. Initially, Milosevic successfully rallied the nation behind the patriotic flag and clearly defined the Serbian enemy as NATO and, by proxy, the West. In doing so, he created a temporary "safe haven" for his regime as he managed to redirect the anger and frustration of the Serbian population toward the Western governments and away from himself. In the long term, however, the military intervention played a significant role in mobilizing a new, stronger, and more determined civil society, which succeeded in overthrowing the regime of Slobodan Milosevic in October 2000. ❖

### Was Intervention in Kosovo Just?

(continued from page 4)

feared that they would not get away with what they had done.

*DIALOGUE: How do you feel about the international presence in Kosovo since the intervention?*

*VISOKA: People here feel that the international presence is necessary I believe it is important because it provides security from the growing crime problem for Kosovar Albanians. The Serbs in Kosovo also feel safer with the international police presence, even though many of them would prefer to have the Yugoslav army still there. At the same time, working together with the international police provides the local police with the opportunity to develop and improve. Through their funding and ideas, the international presence here is helping to promote and educate society about human rights. The United Nations produces human rights publications, translates them into local languages, and organizes seminars and training programs.*

*DIALOGUE: How has the intervention affected the legitimacy of human rights and the international human rights community in Kosovo?*

*VISOKA: The intervention definitely made people value human rights more, and it has since sparked educational efforts. Human rights will soon be taught regularly in primary schools and high schools. The Kosovo Protection Corps, an unarmed emergency unit of local people created by NATO and the UN, went through a number of seminars on human rights. In addition, Kosovar police are trained in human rights by the international police unit, foreign experts, and the university's law school in Pristina—which established a Center for Human Rights just recently with the help of the World University Service and the Åbo Academy in Finland. This tells me that Kosovars are working hard to protect human rights. ❖*

## The Successes and Failures of UN Intervention in East Timor

INTERVIEW WITH AJIZA MAGNO\*

*HUMAN RIGHTS DIALOGUE: Did the people of East Timor want humanitarian intervention?*

*AJIZA MAGNO:* Yes. The International Force for East Timor (INTERFET), which was sent into East Timor in September 1999, and the ensuing peacekeeping mission were very much needed. It is really important that INTERFET came in when it did because it created instantaneous security. Without this protection, any misstep by the local guerrilla movement that had been defending the East Timorese—the Armed Forces of National Liberation of East Timor (FALINTIL)—might have resulted in a lot more deaths.

During the violence that followed the referendum in August 1999, FALINTIL's hands were really tied. Their imprisoned commander, Xanana Gusmao, had ordered them not to attack any Indonesian troops or militias—instead, they had to hide themselves or they would have been killed. Thus, the intervention brought a measure of safety that was really needed. In addition, the peacekeeping force was an important factor in keeping East Timor free of Indonesian military presence. Now most of East Timor is safe, though the refugee and border situation is still quite bad.

But it would have been better to have something like INTERFET in East Timor earlier—before the elections. Even before the escalation of hostilities following the referendum, there were a lot of people hiding in the mountains, a lot of people who were very afraid.

*DIALOGUE: Did people in East Timor expect or hope for an earlier intervention?*

*MAGNO:* It was apparent from the May 1999 agreement with the United Nations that Indonesia was going to have complete control of security in the region. This was a huge disappointment for the East Timorese. People began to voice their concerns at that point, saying that they did not trust the Indonesian police or military and that they were very afraid. Their fears were quickly realized. Intimidation steadily increased as the election approached. People did ask the United Nations to send peacekeepers and even demanded that it send a force to protect them. However, it was not until after the violence started—when there were a large number of UN people that had to be evacuat-

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**“The United Nations is willing to spend whatever it takes for security in East Timor but not for human rights and justice.”**

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ed—that the United Nations finally sent INTERFET. I wonder if the United Nations would have sent in the force had foreigners not been in danger.

*DIALOGUE: Do people in East Timor believe the actions of the international community are motivated by human rights concerns?*

*MAGNO:* It may be called a humanitarian intervention, but if the United Nations really cared about human rights, it would be doing more right now to prosecute people responsible for human rights violations. Every time you talk about an international tribunal with someone who works for

the United Nations in East Timor they say, “Well, you know, it takes a lot of money, it takes a lot of time, and it would be a huge hassle.” Though the people of East Timor say they want justice, the United Nations is very reluctant to undertake the task.

The United Nations presence in East Timor is almost like the sovereign government of a country. It has never had so much power in one country. In a way, this is like a great experiment for the United Nations—it often seems like a way to build up people's CVs rather than a way to do something for the East Timorese. I don't know what all the different motives of UN workers are, but human rights do not seem to be a top priority.

It also seems like the United Nations is a lot more willing to pay for other things: arms, more training for a local military, and bringing in more troops. In my opinion, there are already too many troops in East Timor. They cover the whole country, when they are really only needed along the border. The local guerrillas—who had been the people's protectors for a long time—are not being given the power to guard their own country, even though that would be economically a lot more feasible than importing troops. The United Nations is willing to spend whatever it takes for security but not for human rights and justice.

*DIALOGUE: How has the international presence affected the human rights situation in East Timor?*

*MAGNO:* The greatest problem right now, and the greatest violation of rights, involves the right of the East Timorese people to help reconstruct their country and to have decision-making power in this process. All legislative and decision-making power is

\* Agatha Shmaedick acted as interpreter for this interview.

currently in the hands of the UN-appointed transitional administrator, Sergio de Mello. This quashes the voice of the East Timorese and limits their civil right to participation in the political process. Even those East Timorese who are brought into the UN system as part of the national council are appointed rather than elected, and the consultative process for their appointment has never really been explained to people in the villages. It may appear to the United Nations that they are setting up a system in which the East Timorese have a voice, but the people have never been told how to use that voice. The bureaucracy is opaque and confusing.

As a result, the United Nations Transitional Administration in East Timor (UNTAET) has very different priorities from those of the East Timorese. It has not built much-needed roads and local markets, but rather channels resources and money into building hotels for foreign visitors and supermarkets that sell imported foods to foreigners. Nor has the United Nations given priority to the creation of badly needed labor standards. UNTAET originally said it would adopt Indonesian law except where it contradicted international law. Because Indonesian labor law was changing at the time, UNTAET then said it would develop its own labor regulations. It has yet to do this, leaving East Timor with neither labor laws nor regulations. UNTAET is also developing regulations concerning land use that may allow the unlimited sale of land to foreigners. With times so hard now, East Timorese may be tempted to sell land, thus putting the best property into the hands of foreigners.

The United Nations is now trying to bring many of the refugees back from West Timor. In so doing, they are negotiating with the militia leaders who control the refugee camps. We do not want them to make deals for immunity with these leaders, many of

whom have committed crimes in East Timor.

*DIALOGUE: How has the intervention and international presence affected people's perceptions of human rights and the international human rights community?*

*MAGNO: The East Timorese have been researching human rights and democracy in their various community groups for a long time now, since before the Indonesian invasion in 1975. They hold a strong belief in human rights and realize that those rights have not yet been established in East Timor—as they have not yet been established in many countries around the world. The people recog-*

nize that this inability to have their voice heard in their own country and to be in any position of power in their own government is a violation of their human rights. That does not mean, however, that they have given up on human rights. Their cynicism is directed at the UN bureaucracy. So far, this attitude has not had a negative impact on local human rights organizations, though we are concerned about this happening in the future. I think local groups have avoided the trap of cynicism because they have been so vocal in pointing the finger of blame at the United Nations, saying, "You're not recognizing our civil rights or being advocates for the people." ❖

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## Post-Conflict Institutions That Promote Human Rights: The Human Rights Chamber for Bosnia and Herzegovina

BY JAMES NEWTON

In recent years military humanitarian intervention has been based on the belief in and the need to protect fundamental human rights. A successful military campaign under this banner must bring the protection of such rights. Once hostilities have ended, however, there still exist huge obstacles to this task.

In its effort to ensure the rights described in its Agreement on Human Rights, the Dayton Peace Accords created a unique international tribunal called the Human Rights Chamber for Bosnia and Herzegovina, located in Sarajevo. This court has established a national body of law applicable in all of Bosnia. Just as important, it has brought the concept of fundamental human rights down from the lofty language used to help justify humanitarian intervention to tangible procedures that can be used by the local community to protect its rights.

The Human Rights Chamber applies the jurisprudence of the Council of Europe, which is the body responsible for implementing the European Convention on Human Rights. The Dayton Agreement on Human Rights, however, also places other international instruments directly within the Chamber's jurisdiction, giving it a broader mandate than that of the Council of Europe. The Chamber deals with problems that resulted from the war and the NATO intervention, such as the return of hundreds of thousands of displaced persons from their homes, as well as issues that the conclusion of hostilities exposed, such as a judicial and administrative system pervaded as much by corruption as by the rule of law.

The Chamber receives applications from any person or group who claims to be the victim of a violation of a protected right. Grievances must be directed against the parties to the

Agreement on Human Rights, which are the state of Bosnia and Herzegovina, the Muslim-Croat Federation, and the Serb Republic. They are primarily civil, rather than criminal, in nature. The majority of the applications received and registered deal with an applicant's attempts to regain control of his or her property lost because of the war. The Chamber accepts cases according to discretionary criteria, such as whether the applicant has exhausted all possible remedies in the domestic legal system or whether to continue to do so would be futile. If it determines there has been a violation of protected rights,

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**The Chamber has provided hope and confidence in the rule of law to a populace who had lost almost all faith in its own legal system.**

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it may order that relief be granted in the form of monetary compensation, land reclamation, or whatever else the Chamber considers equitable. Its conclusions are binding law in Bosnia, and their enforcement is obligatory. While enforcement has proved difficult, especially with respect to politically sensitive cases such as ordering the construction of Islamic mosques in a predominantly Orthodox region, all the parties have made strides recently in meeting their obligations.

One of the most important effects of the Chamber's work is that it has reduced the rhetoric of human rights to concrete procedures. Inherent in the

international community's decision to intervene in Bosnia was the goal of limiting all forms of discrimination among the Croats, the Muslims, and the Serbs. Before the war, there was no legitimate means by which individuals of one ethnicity could complain if they felt they had been discriminated against by an official from another. With the cessation of hostilities, however, the agreement made applications containing allegations of discrimination an express priority of the Chamber.

While discrimination remains one of the most difficult violations to prove, the Chamber has made a few decisions in favor of the claimant. In the town of Livno, a predominantly Croat area, for example, numerous public bus drivers who were Muslim were fired during the war because of their ethnic origin. After the war ended, these persons attempted to regain their positions but were denied, again owing to their ethnicity—and despite numerous legal efforts. One of these bus drivers applied to the Human Rights Chamber in an attempt to regain his job. The court found that there had been discrimination and ordered that the driver be given back his job. Much to the relief of the applicant, he was reinstated soon thereafter.

With such rulings, the Chamber has instilled hope and confidence in the rule of law to a populace who had lost almost all faith in its own legal system. Applicants express genuine gratitude toward the Chamber for its work. When an applicant receives a favorable decision, the reaction is often akin to disbelief, even if the case had been clearly in the applicant's favor. The Chamber's work has also raised the profile of human

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## ...And Institutions That Fall Short: The UN Mission in Kosovo

BY KRISTEN BOON AND JOEL NGUGI\*

How has the international community implemented its mandate to protect the rights of the Kosovars, Serbs, Roma, and Turks in Kosovo? Advancing human rights in the region is one of the primary responsibilities of the UN Mission in Kosovo (UNMIK), the first international civil administration authorized and created by the United Nations Security Council.

The scope of UNMIK's mission is unprecedented. According to the resolution that created it, UNMIK is to "provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo." In addition, its powers are extraordinary and provide for "all legislative and executive authority . . . including the administration of the judiciary." In exercising these powers, the UN Mission is specifically required to observe internationally recognized human rights standards as contained in a variety of international human rights conventions.

Yet, UNMIK's human rights rhetoric diverges noticeably from its practice of human rights on the ground. Granted, enforcement of human rights norms was difficult in the chaotic environment in Kosovo when NATO forces entered in 1999. The ongoing political instability and lack of consensus on the future status of the territory have since created a politically complex environment in which the United Nations must carry out its objectives. Still, UNMIK has not



Posters in Turkish, Serbian, and Albanian for registration preceding municipal elections in Kosovo in October 2000.

Photo by Kristen Boon

moved with sufficient speed to bring its administration of Kosovo in line with human rights principles. In our view, the effects of the humanitarian intervention and subsequent UN administration on the development of human rights norms in Kosovo fall short of international obligations and could be devastating.

One of the clearest problems regarding respect for human rights lies with the administration of the courts and police system in Kosovo. In a number of cases, basic human rights have been transgressed, such as the rights to bail, to counsel, and to a speedy and effective trial. These transgressions often result from the confusion created by the use of a hybrid of Federal Republic of Yugoslavia (FRY) law and the new regulations promulgated by UNMIK, both of which are recognized in Kosovar courts. Under the FRY Constitution, there is no right to bail. Under the criminal code, a trial judge may interfere with the confidential communication between a criminal defendant and her

counsel. Additionally, there are no provisions ensuring counsel for criminal defendants or even permitting arrested suspects to talk with their attorneys. There is no express supremacy of international human rights laws over those of the FRY; as a result, when FRY laws are in conflict with international human rights law, courts and law enforcement officers often apply FRY laws.

UNMIK regulations themselves are sometimes in conflict with international human rights law. Under one regulation, law enforcement officers may arrest and detain individuals "for security reasons." This gives law enforcement officers broad powers to engage in "preventive detention" contrary to the European Convention of the Protection of Human Rights. The situation is exacerbated by another UNMIK regulation, which allows the detention of a person without an independent review by a court for up to six months before trial. The suspect may

\* The authors thank David Marshall for his valuable assistance. The opinions in this article are solely those of the authors and should not be attributed to any organization, institution, or body with which the authors are affiliated.

## Post-Conflict Institutions that Promote Human Rights

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rights in Bosnia in general. As the Chamber has issued more decisions, and as more of these decisions have been enforced, the idea of human rights has spread through word of mouth and media coverage of the Chamber's actions. In addition, international organizations and NGOs such as the OSCE refer to the Chamber's remedies, a recognition that raises interest in human rights. Moreover, the Chamber has set standards for the bodies responsible for writing and enacting laws in Bosnia.

Further benefits resulting from the Chamber's presence are evident in the legal profession in Bosnia. During the five-plus years of the Chamber's existence, both the parties that bring their cases to the Chamber and the respondents have become more savvy in their understanding and articulation of human rights. Early arguments made by the parties before the Chamber would for the most part simply refute the facts. Now the parties cite the case law of the Council of Europe, the Chamber, and other relevant international bodies.

The Chamber's popularity, however, brings difficulties. It has created a sizable backlog—there are approximately 6,000 open cases, with more being registered daily. Applicants may have to wait for long periods of time for decisions, leading to obvious frustrations. Further, as the Chamber's body of law grows, it exposes laws written both before and after the war that do not meet international standards. This forces the relevant legislatures to create new laws, pushing these institutions farther than they may be currently capable or willing to go.

Another drawback of the Chamber's work is its deepening of Bosnia's dependence on the international community. A significant portion of the Chamber's legitimacy comes from its

internationality—Bosnians believe it to be above the conflicts and biases of domestic institutions. However, in many cases it is perceived as the only legitimate legal institution that can provide justice. Unless the domestic system is used, it will not improve, its deficiencies will not be exposed and corrected, nor will it have the chance to develop under the guidance of the international community. Also, like many international tribunals, the Chamber is funded primarily by donations from European governments and the United States. Five years after the end of the war, the will to provide money is starting to wane. While local governments are supposed to take over the funding of the Chamber and make it a wholly domestic institution, the future is uncertain. Until relevant domestic institutions have become fully capable of ensuring human rights protection, the Chamber's survival will depend on the international community.

Despite its problems, the Chamber has done much to raise the profile of human rights and the rule of law. Over time, these improvements will continue to trickle down and permeate a civil society suppressed by socialism and made cynical by the war. In addressing the effects of war and humanitarian intervention, the Chamber has proved that its unique work is of great benefit in the effort to right pressing wrongs faced by Bosnians in their everyday lives. ❖



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The "human rights box" is a set of historical and structural circumstances that allow the human rights framework to gain currency among elites while limiting advances, even creating setbacks, for the awareness and acceptance of human rights among the general population. *Human Rights Dialogue* seeks to break down these barriers by exploring how human rights work can be more responsive to vital human needs throughout the world.

NUMBER 1: Human Rights for All? The Problem of the Human Rights Box

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#### SERIES ONE:

**THE GROWTH OF EAST ASIA AND ITS IMPACT ON HUMAN RIGHTS**

NUMBERS 1–11

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## Those That Fall Short

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then be kept for an additional three months by order of a court that is not required to consider whether the detention is even lawful. In one of the most egregious violations of the basic principles of international human rights law—and also FRY law—the Kosovo UN police, with the complicity of Kenyan police, arrested and transported Moses Omweno from Kenya without a formal extradition proceeding last June. Omweno was suspected of stealing DM 190,000 from the International Organization for Migration while in Kosovo. Held for more than a week before being presented to a court, he was then detained for another two months.

Such disrespect for basic civil rights is striking for three reasons. First, an intergovernmental organization is at least partly responsible for the abuses. Second, these violations are being committed in the name of “humanitarian intervention.” Third, UNMIK’s response to charges of human rights violations—that human rights can only be ensured once a certain stage of political or economic development has been achieved—resembles arguments often made by authoritarian governments of developing countries, which Western observers understandably dismiss. Still, UNMIK officials insist that “political imperatives” militate against the full recognition of all human rights when the situation is potentially explosive.

UNMIK is also subject to local criticism for making critical decisions without obtaining the consent of all sides involved. One of UNMIK’s obligations under the Security Council resolution is to establish and oversee the development of provisional democratic self-governing institutions. This implies a need to use, where possible, local political authority structures, giving the local population not only a chance to participate meaningfully in the admin-

istration of its own affairs, but also to enhance the capacity of the local political structures to adopt human rights standards and other principles of coexistence. In fact, however, UNMIK’s efforts to consult local populations in Kosovo are minimal, and in practice the institutional structures of UNMIK, such as the Joint Transitional Council—a structure within UNMIK where locals are joint department heads—involve Kosovars only symbolically: They have no real voice.

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### Lack of local participation in the enforcement of UNMIK’s obligations negatively affects the legitimacy of the intervention and the appreciation for human rights.

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This practice has created much resentment on all sides of the Kosovo conflict. In one case Kosovar Albanians were angered when UNMIK shut down a local newspaper in Pristina on the grounds that it was running inflammatory articles. The paper had published a list of “Most Wanted Genocide Criminals” and criticized UNMIK for not doing enough to bring war criminals to justice. One of the Serbs identified by the paper was murdered shortly thereafter. In response, UNMIK closed down the paper and hurriedly passed a punitive press law that was widely criticized as unduly restrictive of freedom of the press.

In another case, Serbs were angered when UNMIK decided to close the Trepca Mining and Industrial Complex in the northern Mitrovitca region. UNMIK claimed that closure was nec-

essary in order to reverse “rising levels of atmospheric lead in northern Mitrovitca.” Serbs, however, regarded this act as discriminatory since the owners and most of the workers were Serbian. They pointed to an agreement between UNMIK and an international consortium to manage the complex as evidence of an attempt to unfairly siphon off resources from the Serb community.

These examples are not meant to suggest an abuse of power, but rather to show that UNMIK’s administration works against the goal of instilling respect for human rights. The lack of local participation in the enforcement of UNMIK’s administrative obligations negatively affects the legitimacy of the intervention and the local appreciation for human rights. It is incumbent upon UNMIK to exercise power in a way that encourages confidence in the local political authority. Without that, many in the international community, as well as in Kosovo, fear that the local people will not have the tools to develop a responsible government based on a respect for human rights.

One of the greatest challenges to the human rights movement today is the misappropriation of its moral language. Utmost care must be taken in instances where multilateral organizations invoke the moral authority of human rights for their actions. The actions of these organizations send powerful signals to the international community and to the people directly affected by these actions about the true nature, function, and legality of human rights. Only a coincidence of rhetoric and practice can build local institutions infused with human rights norms. These in turn may cultivate a culture of genuine respect for human rights and help lead to democratic governance—which, in the end, is the best method of preventing conflict. ❖

## Inconsistency and the Tragedy of Africa's Neglect

BY PIERRE ANTOINE LOUIS

The concept of humanitarian intervention is based on the alleviation of human rights violations. Recent actions in Sierra Leone and Kosovo, however, suggest that the practice of humanitarian intervention has less to do with stopping abuses than with furthering the interests of the intervening powers and their advocates. As a member of both the United Nations observer mission in Sierra Leone and the interim administration in Kosovo, I was able to witness the contrasting approaches to humanitarian intervention in those two arenas of conflict.

Nigeria, the West African powerhouse, spent considerable human and financial resources to help neutralize a murderous rebellion in Sierra Leone that has caused untold violations of human rights and international humanitarian law. The Nigerian model of humanitarian intervention was marked by a robust use of force to compel the rebels to accept the legitimacy of the elected government. As a regional power with its own human rights problems and a lethargic economy, however, Nigeria needed the assistance of the international community. Since the United States, Britain, and the other permanent members of the UN Security Council had no interests worth pursuing in a poor African country, the international community paid little attention to the plight of the people of Sierra Leone. The largely ill-equipped—if determined—Nigerians and a few hundred Ghanaians, Guineans, and Malians were left to their own meager resources to stanch a humanitarian crisis of unimaginable proportions.

The eventual establishment of a UN peacekeeping force in Sierra Leone following the Lomé Agreement of July 1999 has not changed matters much. Sierra Leoneans have yet to reap the fruits of that intervention; certainly it

lacked the robustness of the purported humanitarian intervention in Kosovo. There, from March through June 1999, scarcely two million residents benefited from a horrifying bombing campaign of Yugoslavia, which involved million-dollar missiles and other high-tech weaponry. In the aftermath of the bombing, 40,000 NATO troops deployed in Kosovo have provided protection and other assistance. At the peak of the crisis, NGOs and UN agencies showered the Kosovar refugees with cellular telephones, bottled water, cigarettes, and other amenities. Humanitarian workers and other Western experts crowded the television screens to register their incredulity and outrage that this could happen in Europe on the eve of the twenty-first century.

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### The concentration of resources devoted to the Kosovo rampage seems excessive when contrasted to the Band-Aid applied to Sierra Leone.

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Meanwhile, the plight of African refugees, who often fled the same kind of ethnic violence as the Kosovar Albanians, faded from the world's consciousness as these refugees tried to survive on the crumbs left over from the Kosovo operation. The United Nations had to scramble to find 13,500 troops and the funds to support the operation in Sierra Leone, a country with nearly six million inhabitants. The U.S. Committee for Refugees estimated that international agencies and NGOs spent 11 cents per Sierra Leonean refugee versus \$1.50 per Kosovar refugee. Though I did see

destroyed villages in Kosovo, I saw nothing like the wide expanses of burned towns (including Freetown, the capital), amputee camps, droves of sex slaves, and child soldiers that continue to flourish in Sierra Leone. Thus, the concentration of resources devoted to the Kosovo rampage and the multiplicity of the actors involved seem excessive when contrasted to the Band-Aid applied to Sierra Leone. This point is not lost on those Sierra Leoneans who are aware of the situation in Kosovo. Even Mary Robinson, the UN high commissioner for human rights, implied at the start of her three-day visit to Sierra Leone in June 1999 that there were disparities in treatment. She acknowledged that there had been more suffering, more loss of life, and more human rights violations in Sierra Leone than in Kosovo.

At the NGO level as well, the attention given to the two populations was shockingly disparate. While working in Sierra Leone as a human rights officer for the UN observer mission, I met a representative of a major international human rights organization, a U.S. citizen who said that formerly she had been a journalist. Her chief task consisted of monitoring the human rights situation and writing reports. My conversations with her revealed that she possessed little credible experience in Africa and virtually no human rights experience. In Kosovo, by contrast, I met seasoned workers who came to alleviate the plight of the suffering Kosovars. I believe this reinforces the appearance that international NGOs send people to Africa who are seeking only to find themselves and to establish a reputation.

Judging by the disparity between operations in Sierra Leone and Kosovo, not to mention the criminal failure of the international community, under

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## The Choice for the International Human Rights Movement

BY KENNETH ROTH

For a confirmed pacifist, the debate over humanitarian intervention is easy. War is the ultimate evil, to be opposed in any circumstance. For a human rights activist, however, the issue is more complex. If military force cannot be ruled out categorically, when might it appropriately be used to stop severe human rights abuse? In my view, the human rights movement should urge military intervention when it is the last feasible option to stop genocide or comparable mass slaughter, so long as intervention is likely to do more good than harm and the intervenor abides strictly by international humanitarian law. Because military force necessarily entails a risk to life, it should not be deployed lightly. However, some things are worth fighting for, including, at the very least, stopping the slaughter of large numbers of innocent civilians. For example, I believe that many in the human rights movement (including my organization, Human Rights Watch) appropriately advocated military intervention to stop genocide in Bosnia and Rwanda.

To elaborate, the human rights movement should recommend military force only for the most severe abuses involving large-scale loss of life—genocide or comparable mass slaughter. (The latter concept includes large-scale killing on political grounds, which is not embraced by the concept of genocide.) Governments might well choose to proceed militarily against lesser abuses, and I would not oppose such efforts if they meet the other criteria outlined below. Because of the risk to life inherent in military intervention, however, I would not actively advocate its use against abuses short of mass slaughter.

The human rights movement should advocate military action only when it really is the last feasible option. If diplomatic or targeted economic pres-

sure has a reasonable chance of preventing slaughter, these nonviolent tools should be used first as a simple matter of prudence. Obviously, though, one's willingness to try non-military alternatives must diminish if large-scale slaughter is already under way.

The human rights movement should not advocate military intervention unless we are reasonably certain that it will do more good than harm. Going to war against a nuclear power, as some suggested in response to Russian atrocities in Chechnya, would fail this criterion, as would the use of military force in a territory where it would trigger accelerated or broader killing that the intervenor is unable or unwilling to prevent.

Finally, the human rights movement should not advocate military interven-

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**It is wrong for us to oppose, or even remain neutral about, a tool that at reasonable cost could save large numbers of innocent civilians from slaughter.**

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tion unless the intervenor will abide strictly by international humanitarian law. It is morally defensible, in my view, to use military action against the forces and their commanders who are carrying out mass slaughter. However, it is immoral to stop slaughter by deliberately or indiscriminately killing civilians.

I recognize that in war some unintentional killing of noncombatants may be unavoidable. Humanitarian law provides the best standard we have

for distinguishing unfortunate but unintentional loss of civilian life from the deliberate targeting of civilians or their killing through indiscriminate warfare. Only the latter are human rights violations, which the human rights movement should oppose categorically. The former must be considered in looking at the overall costs and benefits of a proposed intervention, but it is not a reason in itself to reject intervention.

If these criteria are met, I believe the human rights community should advocate humanitarian intervention. It is wrong for us to oppose, or even remain neutral about, a tool that at reasonable cost could save large numbers of innocent civilians from slaughter. In such circumstances, our pacifist qualms should give way to our paramount goal of preventing the most severe human rights abuse.

I have deliberately omitted certain criteria from my standard for advocating humanitarian intervention. I do not believe that it is the role of human rights advocates to seek military intervention to stop fighting between combatants that does not involve the large-scale slaughter of civilians. Fighting between soldiers can be tragic, but it does not inherently violate international humanitarian law, which has traditionally been the guide for the human rights movement in evaluating military conflict.

I would not insist on approval by the Security Council or other multilateral bodies as a prerequisite for military intervention. Such approval is certainly desirable and should be sought if possible, both because it is arguably legally required (though this has been debated) and because it can serve as a check on interventions that serve as mere pretexts for other ends, but I would not require it.

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## The Fallacy of Neutral Humanitarianism in Bosnia

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plans” that all involved a division of territory based on ethnicity, stood this picture of ethnic division. If it had been a true one, then the United Nations’ international diplomacy might have made sense: separate the sides to stop the killing. However, it was not true.

It was a picture that suited the nationalist politicians in Serbia and Croatia, who hoped to divide Bosnia between them. As we made friends, first with refugees, then with people in communities inside Bosnia, we started to see things differently: there were sides in the war, but not Serb, Croat, and Muslim. The sides were made up of people who were either for or against ethnic cleansing, for or against a multi-ethnic society. The United Nations, responding to international pressure to “stop the killing,” intervened in Bosnia. However, it did so by pushing forward division that, given local and popular opposition, could only be achieved by violence. On many occasions we saw UN military activity, guided by the goal of “peace through division,” directly assist the ethnic cleansers. The United Nations’ arms embargo, for example, had no effect on Milosevic’s forces, who had access to all the resources of the old Yugoslav army. It had a terrible effect, however, on the defenders of multi-ethnic society, who had few weapons.

In 1993 I attended a conference in Germany of Bosnian exiles who were trying to get food through to the besieged cities of Sarajevo and Tuzla. One young woman explained that many humanitarian organizations were able to drive through military lines and reach the people under siege only by surrendering half of their cargos to the ethnic cleansers in control of those communities. She asked, “What have

they achieved? They have simply helped prolong the agony. The people in Sarajevo or Tuzla have food for another day but so have the attackers.”

Food was used as a weapon during the war in Bosnia. Surrounded throughout the war, people of all ethnic backgrounds in the “free territory” of Tuzla fought back against ethnic partition. As a result they starved. While the nearly 60,000 refugees who had already been ethnically cleansed got some food aid from the United Nations and the humanitarian organizations working with it, the citizens of Tuzla who had resisted ethnic division got nothing. The determination of most NGOs not to take sides meant that they acted as surrogates to the United Nations’ solution. NGOs brought food but did nothing to help

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**On many occasions we saw UN military activity, guided by the goal of peace through division, directly assist the ethnic cleansers.**

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stop the murderous attack on multi-ethnic society. That was to be left to the politicians, but the politicians were pushing a peace plan that suited the ethnic cleansers. We started to call the NGOs “governmental NGOs” because their “neutral” stand so dovetailed with the policies of the United Kingdom and other governments.

In 1994 a woman manager in Tuzla’s thermoelectric power plant explained to me, “The West thinks lines can be drawn across Bosnia to bring peace. They cannot. There are two outlooks—that of the nationalists who want ethnically segregated societies and ours of a tolerant, mutual existence. These two

outlooks cannot co-exist. One must destroy the other.”

So what should the United Nations or the NGOs have done? Ask any defender of multi-ethnic Bosnia what they needed. The answer? Weapons, food, mass protests, solidarity—everything that could have helped them secure victory.

The Dayton agreement legitimized violence, ethnic cleansing, and barbarism, and the peace it brought can only be maintained with 30,000 UN personnel. In May 1995 a missile from the ethnic cleansers killed 75 young Tuzla citizens of all ethnic backgrounds. The mayor, Selim Beslagic, faxed a letter to the UN in which he wrote:

Today in the early morning at 8:30 a.m., new missiles again hit the town center. The citizens of Tuzla have nothing to say to you. The civilization of the twentieth century has nothing to say either. You stand by in silence as innocent people are killed and you do nothing to stop it. Your behavior is nothing else but collaboration in this crime against humanity.

So much for the United Nations’ humanitarian intervention.

Tuzla buried its dead youngsters together in a public park, rather than in separate religious cemeteries, in order to show the world that they had died together because they had wanted to live together. At one point, we took our food lorries to the UN military headquarters in Zagreb and blocked the compound entrances to protest their role in strangling multi-ethnic Bosnia. On our lorries we wrote, “Down with ethnic cleansing.” We had taken food to Bosnia not as charity for hungry victims, not as a way of imposing our agenda, but in solidarity with people fighting for their right to determine their own future, their right to control their own lives. ❖

### The Tragedy of Africa's Neglect

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U.S. leadership, to act in Rwanda, humanitarian intervention remains tinged with racialism and the assertion of power to further imperialist aims. Sierra Leone represents a shameful example of disregarding the plight of long-suffering black Africans; Kosovo, on the other hand, appears as a shining and dangerous example of a power foreign to a region, NATO, seeking to find a *raison d'être* in the post-Cold War era. NATO demonstrated its might, lest its imagined adversaries fail to appreciate the “new world order.”

Reasonable people can disagree about the proper criteria for humanitarian

intervention. But if genocide in Rwanda and the horrors of Sierra Leone do not qualify for attention from those countries with the capacity to provide the necessary assistance, then the notion of humanitarian intervention has no validity. Those who doubt the truth of my assertions should re-examine just what is so special about the nature of suffering in Kosovo versus that of African countries in even deeper turmoil. What justifies continuing the huge expenditure of resources on the province of a sovereign nation? One need not be an apologist for Serbia's erstwhile leaders to be puzzled by the difference in treatment—nor need one be naïve about the vagaries of international politics.

The international human rights movement must overcome its biases and argue for even a semblance of consistency. By their current practice of treating different regions of the world unequally, international NGOs and Western governments are effectively subverting the principles of human rights and humanitarianism, which have gained a measure of respectability in the aftermath of the European wars of the last century. That respectability is being called into question by the current approaches to humanitarian intervention, which serve mainly the interests of major powers. Unfortunately, humanitarian intervention has very little to do, in practice, with respect for human rights. ❖

### The Choice for the International Human Rights Movement

(continued from page 19)

Human rights activists certainly have an interest in upholding international law, as it is one of the sources of legitimacy for our movement. But there are times when international law, particularly in its current, formative stage, may be insufficient to protect core human rights values. For example, why should advocacy of military intervention be limited by the self-interested reservations of China or Russia, whose veto power can block Security Council authorization? Why are victims of atrocities less deserving of our support because, in the view of Beijing or Moscow, their territory's resemblance to Tibet or Chechnya is too close for political comfort? In such circumstances, our first loyalty should be to the victims, not the current law prescribing the UN mechanism for authorizing the use of force.

Some argue that we should insist on multilateral intervention not because

of fealty to particular institutions or interpretations of international law but as a device to avoid military ventures that are said to be launched in the name of human rights but really serve ulterior motives. That is a legitimate concern, but one we can address in other ways, such as by vigilantly scrutinizing and denouncing military interventions launched in the name of human rights that in fact have little if anything to do with stopping severe abuses. This may involve taking a stand on seemingly political issues outside the normal scope of human rights work. If we are to preserve the option of humanitarian intervention when warranted, however, we must oppose the inappropriate use of a human rights rationale.

Yet, in making this assessment, we should not be surprised that many governments act from a mixture of motives. Purely altruistic interventions are probably rare and should not be required. We should insist on military action guided foremost by a human rights rationale, not on an absence of other motivating factors.

Finally, some argue that humanitarian intervention should not be allowed if it is pursued selectively. I agree that selectivity is to be deplored. The value of human life should not vary because victims might be located at a distance from the intervening states or in a part of the world with little strategic significance. It is difficult to accept NATO's relatively eager intervention in Kosovo in light of the West's reluctance to intervene, even with the government's active encouragement, in Sierra Leone. Nonetheless, the human rights movement should not hesitate to help one set of victims simply because our efforts to assist another group have failed. Two wrongs do not make a right.

In sum, I believe that human rights advocates should allow a role for humanitarian intervention. It is not an easy option. It should be deployed with much thought and consideration. But it is an option that at times is necessary. In the circumstances I have outlined, I believe the principles of our movement require human rights activists to advocate its use. ❖

## Readers' Responses

### TNCs NEED LAWS, NOT CODES

The creation of international voluntary codes of conduct by transnational corporations (TNCs) and business associations represents a disconcerting privatization of law. These codes of conduct are primarily characterized by their voluntary nature, which means violations are not liable to be penalized. They contain no remittance to legal instruments that already exist under international law. In general, the application and implementation of these codes is insufficient. Voluntary codes do not fulfill their purpose; it is time to create a "transnational law" that encompasses the rights and responsibilities of TNCs.

There are currently two major international initiatives regarding the promotion of corporate responsibility: one proposed by the European Parliament in 1999 and one discussed at the working group established by the United Nations subcommission regarding the activities of TNCs (Resolution 1998/8). The European Parliament initiative is based on a voluntary code of conduct for European enterprises operating abroad and thus adds nothing new to the field. The UN working group, on the other hand, provides a real opportunity to establish a binding instrument to regulate the activities of TNCs.

*Maria Prandt, Ficat Foundation, Barcelona, Spain*

### ONLY STRONG CONTRACTS CAN IMPROVE CONDITIONS

The Farm Labor Organizing Committee (FLOC) of the AFL-CIO has been organizing migrant farm workers in the United States for more than 30 years. These workers are highly exploited and suffer long hours, low pay, and squalid and unsanitary living conditions. They work in what we call "sweatshops without walls." The growers can't afford to improve wages and conditions without an influx of money from food-processing corporations, yet these corporations claim (as do large retailers) that they don't have a direct impact on conditions and don't wish to interfere in unionization decisions. The corporations benefit from the substandard conditions, however, by keeping costs low and profits high—giving them an interest in resisting unionization.

It is our experience at the FLOC that the only way workers can guarantee improvement in living and working conditions is to organize, bargain collectively, and win a contract that ensures some measure of worker control over conditions. We have fought corporations that benefit from the slavery-like conditions in the fields by boycotting them until they agree to contracts that include workers, growers, and the food processing corporations. Our Campbell's Soup boycott, for example, led to a triparty contract and subsequent contracts with Heinz, Vlasic, and others. Contracts secure improved wages and allow for grievance procedures so workers can ensure compliance with working condi-

tion standards without fear of reprisal. It is the workers themselves who "monitor" the factories (or the farms in our case) every minute of every day. Who knows better what the conditions are, how they should be improved, and whether standards are being met, than the workers themselves?

The same basic principles apply to garment sweatshops. Periodic inspections, NGO activity, or oversight committees will never provide the improvements that strong, enforceable contracts provide. If labor relies on outside parties, laws may not be enforced, periodic inspections may not catch daily abuses, and NGOs and oversight committees may ignore violations because of their own hidden agendas. It isn't the NGOs and oversight committees that have a fundamental stake in improving conditions. And the corporations who use PR vehicles like "codes of conduct" have interests that run counter to improving conditions.

Do you want to get serious about improving living and working conditions for sweatshop labor? Empower the workers to police the factories (and fields) and there will be real progress. Push for contracts negotiated among workers, factories, and retailers (who must ultimately pay the price for any improvements). Our experience shows that anything less will have little effect.

*Steve Steel, Farm Labor Organizing Committee, AFL-CIO*

### WHAT DO YOU THINK?

Do you have a response to "Human Rights in Times of Conflict: Humanitarian Intervention"? Share it with thousands of other *Human Rights Dialogue* readers. Send your comments before March 15, 2000, to: Jess Messer, Human Rights Initiative, Carnegie Council on Ethics and International Affairs, 170 East 64th Street, New York, NY 10021-7496, USA, fax: 1 (212) 752-2432, e-mail: [jmesser@cceia.org](mailto:jmesser@cceia.org). We regret that we will not be able to print every response. Please limit your response to 300 words, and be sure to include your name and contact information. We reserve the right to edit text as necessary.

## STRENGTHENING CODES OF CONDUCT

Over the last five years Verité and a global network of NGO partners have conducted more than 600 evaluations of factories focusing on compliance with labor laws, health and safety regulations, and other human rights issues. What we have found is that workers in the world's poorest countries are severely limited in their ability to represent and advocate for themselves in the workplace. In fact, they are often systematically denied their legal rights and financial entitlements by factory management. In most cases they have no knowledge of their rights or of the laws that are supposed to offer them protection from inhumanely long work hours or illegally low compensation. We have even identified factories that provide incentives against using proper health and safety equipment by charging workers for their usage or fining them when replacements are needed.

Effectively addressing the issues raised in *Human Rights Dialogue* will involve a broad-based, multistakeholder approach that includes a discussion between consumers and shareholders, unions and NGOs, and U.S. and European corporations about their codes of conduct. The need for dialogue is urgent; in countries like Mauritius, for example, codes of conduct are the sole guideline to expectations regarding working conditions, because there are no labor laws on the books and no minimum wage.

Through our interviews with thousands of workers in more than 50 countries, we have determined that the most desperate needs lie in the following areas: training for workers in the matters of labor rights and health and safety education; facilities to connect workers with existing local or national resources that they may not be aware of, but that can provide assistance; and the infrastructure to report findings back to independent unions—where they exist—and

local NGOs that are in a position to advocate on workers' behalf. There also needs to be some type of reporting mechanism that will facilitate follow-up actions and possible remedies with factory management or the U.S./European customers of the factories.

In some cases, such as legally mandated pregnancy testing of contract workers in Taiwan, government is the appropriate actor to provide industry-wide solutions. Our report on the problem and campaign to raise awareness in the Taiwanese Labor Ministry resulted in proposed legislation to end pregnancy testing. In other cases, we find that government and factory ownership interests are in collusion, resulting in few protections for workers or their efforts to unionize. Where this is the case, we believe the ability of U.S. corporations to use their bargaining power as customers of the factories can have a positive impact on enforcing codes of conduct.

The majority of workers we have interviewed worldwide do not know the basis for their wage calculations, nor do they know their entitlements concerning overtime pay and benefits. Those who handle dangerous chemicals such as dyes, solvents, and adhesives are also unaware of the hazards of these chemicals and the proper way to handle them to minimize risk to their health. Machine safety and the importance and proper use of personal protective equipment are another area where key educational work needs to be done. One of the more interesting findings we have made is that fewer than 3 percent of workers in Southern China know what a union is. In the case of China, it simply is not practical to assume that a homegrown labor movement will emerge to protect workers' rights any time soon. Other solutions therefore need to be tried.

*Heather White, Executive Director and Founder of Verité*

### *Human Rights Dialogue* Spring/Summer 2001

#### Health and Human Rights in Conflict Situations

In the Spring/Summer 2001 issue of *Human Rights Dialogue* (Series 2, Number 6), contributors will consider health and human rights in conflict situations. As part of our series examining the local legitimacy of the human rights framework, this issue will look for successful instances of the relatively new application of the human rights framework to health care as well as examples that may give rise to reservations about the its usefulness. The focus will be on six major aspects of health and human rights in contemporary situations of conflict: the impact of sanctions on health and human rights; the impact of conflict on mental health and the implications for human rights; human rights and the health of refugee populations; health of children in war; sexual violence and women's health issues in conflict; and megatrends in contemporary conflicts and their impact on the health and human rights of civilians.

To subscribe to *Human Rights Dialogue* free of charge, contact Deborah Carroll at 1 (212) 838-4120 or [dcarroll@ccea.org](mailto:dcarroll@ccea.org).

*The Carnegie Council on Ethics and International Affairs has addressed the issue of humanitarian intervention in its publications and faculty development workshops. Ethics & International Affairs, the scholarly journal of the Council, has published the following articles on the topic:*

"The Meaning of Kosovo," essays by Alberto R. Coll, Tony Smith, Richard Caplan, Carl Cavanagh Hodge, and Martin L. Cook, *EIA* 14 (2000), pp. 3-66.

Thomas G. Weiss, "Principles, Politics, and Humanitarian Action," with commentary by Cornelio Sommaruga, Joelle Tanguy and Fiona Terry, and David Rieff, *EIA* 13 (1999), pp. 1-42.

Michael J. Smith, "Humanitarian Intervention: An Overview of the Ethical Issues," *EIA* 12 (1998), pp. 63-80.

Oliver P. Ramsbotham, "Islam, Christianity, and Forcible Humanitarian Intervention," *EIA* 12 (1998), pp. 81-102.

Nancy Sherman, "Empathy, Respect, and Humanitarian Intervention," *EIA* 12 (1998), pp. 103-120.

Amir Pasic and Thomas Weiss, "The Politics of Rescue: Yugoslavia's Wars and the Humanitarian Impulse," with commentary by Andrew Natsios, Morton Winston, Alain Destexhe, and David R. Mapel, *EIA* 11 (1997), pp. 105-150.

Jeff McMahan, "Intervention and Collective Self-Determination," *EIA* 10 (1996), pp. 1-24.

Charles W. Kegley, Jr., "International Peacekeeping and Peacemaking: The Morality of Multilateral Measures," *EIA* 10 (1996), pp. 25-46.

J. Bryan Hehir, "Intervention: From Theories to Cases," *EIA* 9 (1995), pp. 1-14.

Pierre Laberge, "Humanitarian Intervention: Three Ethical Positions," *EIA* 9 (1995), pp. 15-36.

Thomas G. Weiss, "UN Responses in the Former Yugoslavia: Moral and Operational Choices," *EIA* 8 (1994), pp. 1-22.

Michael J. Smith, "Ethics and Intervention," *EIA* 3 (1989), pp. 1-26.

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