

2008

From The Ashes: Jus Post Bellum And The Emergence Of Kosovo

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Recommended Citation

Gaudet, M. (2008). From The Ashes: Jus Post Bellum And The Emergence Of Kosovo. *Journal for Peace and Justice Studies*, 17(2), 43–58. <https://doi.org/10.5840/peacejustice200817211>

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From the Ashes: *Jus Post Bellum* and the Emergence of Kosovo

When the subject of war arises today, the conversation inevitably turns to the continuing conflicts in Iraq and Afghanistan. As these two conflicts rage into their fourth and sixth years respectively and the situation on the ground seems to be deteriorating, our national conversation seems primarily concerned with a timeline for exit.

The just war tradition is not immune to this conversation. In direct response to these conflicts, scholars have, for the first time, developed criteria for justly ending and exiting a war. Unfortunately, the application of these criteria has thus far been limited to Iraq and Afghanistan. While these conflicts have served as a catalyst for this advance in just war theory, and elected officials should be mindful of exiting these wars justly, the complex and ongoing nature of these conflicts makes them difficult test cases for *jus post bellum* criteria. For a more straightforward and developed case, I turn to the conflict in the former Yugoslavian province of Kosovo and the eight years of peace and reconstruction that have followed. Building on the work of the trailblazers of this field, I will show how *jus post bellum* principles have transferred into tangible results in the real life construction of a lasting peace in Kosovo.

The Construction of *Jus post bellum*

In 1994, Michael Schuck began the current conversation by defining three *jus post bellum* principles: repentance, honorable surrender, and restoration.¹ In practical terms, Schuck's principles fall short of being the well-honed criteria of a complete *jus post bellum*. They define an atmosphere of surrender and a posture of victory, but they do not define absolute criteria for

the just ending of a war.² However, building on Schuck's model and the just war theories of Michael Walzer, Brian Orend has laid out a more complete list of seven *jus post bellum* principles: punishment #1 (rights offenses), punishment #2 (wartime offenses), compensation, proportionality and publicity, rights vindication, discrimination, and rehabilitation.³ These seven principles are the most complete and most widely accepted *jus post bellum* criteria to date.

One of the first steps toward building a lasting peace is to acknowledge the ills that brought us to war, acknowledge our missteps within the war itself, then atone for both through punishment and compensation. Orend's two punishment principles reflect the need to punish the offenses that led to war (violations of *jus ad bellum*, generally levied on the defeated leadership) and the offenses committed as part of the conflict (violations of *jus in bello*, levied on soldiers of both sides). The principle of compensation states that the victor may mandate financial reparations for the war, but that these reparations are subject to both proportionality and discrimination.

Just as proper punishment is a necessary means to a lasting peace, there is also a need for healing and rebuilding. Proportionality and publicity states that a peace settlement ought to be measured and reasonable, and that it should be publicly pronounced. The *jus ad bellum* principle of comparative justice requires that the injustice the war aims at abating be greater than the injustice and suffering created by the war. Certainly, this principle must hold for the just ending of a war as well, especially if our aim is to create a lasting peace. Schuck's principle of honorable surrender states that, "Victors would be expected to construct the terms and method of surrender in a manner that protects the fundamental rights of the vanquished."⁴ Orend follows that a peace settlement should be "measured and reasonable" and that the peace process should be publicly proclaimed.

Rights vindication states that conflict should end when the victor secures the basic rights whose violation caused the conflict in the first place. It defines the end of a conflict, restrains the victor from exacting revenge, establishes rights for all parties, and works toward a lasting peace. For Orend, it should be the “main substantive goal of any peace settlement.”⁵ Furthermore, when developing a peace settlement, one must be able to separate the wartime actions of a government or military from the innocent civilians who have not offended. The principle of discrimination reflects the *jus in bello* principle of the same name, marking the distinction between combatants and noncombatants and between leaders and soldiers. Settlement should not unduly punish the civilian population for the sins of their government. Rights vindication and discrimination together render excessive postwar sanctions unjust.

Finally, if a lasting and just peace is to be obtained, the just end of a war must include an effort to rehabilitate all war torn nations. To this end, Schuck states, “as a minimal requirement, victors must return to the field of battle and help remove the instruments of war.”⁶ He specifically cites landmines as indiscriminate tools of war that should be removed for the safety of the community and the restoration of peace. Unexploded cluster bombs and depleted uranium shell casings are two other tools of war that would fall in this category.⁷ However, there is more to restoration than removing the instruments of war. Restoration involves an effort to return to a peaceful existence. While some might aim at returning to life before the conflict, according to Kenneth Himes, “Literal restoration of the state of affairs prior to a war is not possible. It is also not desirable since the prior state of affairs is what gave rise to conflict.”⁸ Therefore, we must seek a balance. We must make all efforts to restore what we can while repairing the conditions that led to war. Orend’s principle of rehabilitation aims at building or rebuilding the institutions that were destroyed by the war. Orend goes so far as to say, “the postwar environment provides a

promising opportunity to reform decrepit institutions in an aggressor regime.”⁹ In other words, we should use the opportunity of post war reconstruction to reform a corrupt or otherwise decrepit government. This is not *carte blanche* approval to reform governments according to our personal politics or philosophy, but rather an opportunity to remove unjust institutions in order to build a more just and lasting peace.

A Short History of Kosovo

Orend acknowledges that his *jus post bellum* criteria are developed in light of a conventional interstate war, but notes that “with modifications, the principles developed ... no doubt serve as a compelling moral blueprint for application to these other cases,” among which he lists Kosovo.¹⁰ I would argue that Orend’s principles can be applied to Kosovo without modification, simply by acknowledging that the ethnic cleansing campaign under Slobodan Milosevic made the Serbian government an unjust aggressor by any estimation, and warranted intervention by the international community.

That is not to say that the Kosovo conflict from start to finish is a just war, as we will see.¹¹ That said, Kosovo serves as a good case study because of its current stage in post war development and its relatively public and straightforward post war process. After eight years of establishing a stand-alone government, rebuilding infrastructure, and developing an economy, Kosovo now stands on the brink of independence from Serbia. While Russia is currently blocking this motion in the U.N. Security Council, clouding Kosovo’s future in uncertainty, the process to this point has been relatively free of confusion, probably owing to the atrocities of Serbia’s ethnic cleansing campaign and Kosovo’s 90% Albanian population, which gives it a strong mandate for self-rule, despite its long history as a part of Serbia.

Serbia's claim on Kosovo goes back to the 14th century, when Serbia fell to the Ottoman Turks, beginning 500 years of Ottoman rule of the Balkans. Serbia lost to the Turks in the legendary Battle at Kosovo in 1389. According to legend, Serbian Knez (Serbian for Czar) Lazar was by the prophet Elijah on the eve of the battle, and given a choice: he could either have an empire on earth or an eternal kingdom in heaven. Lazar chose the heavenly kingdom and lost the battle and his life after being betrayed in battle by local Serbian Lord Vuk Brankovic. However, Milos Obilic, a loyal servant of Lazar, feigned betrayal of the Serbs in order to get inside the tent of Turkish Sultan Murad. The ruse was successful and Obilic assassinated Sultan Murad, preserving Serbian dignity, even in defeat. Embedded in this legend was a redemptive promise that Lazar had made the right choice and someday Serbia would rise again as a great nation. This battle and the land of Kosovo itself continue to stand as a symbol of Serbian nationality today, ingrained in the history of the Serbian people, despite the vast Albanian majority in the region. According to Balkan historian Tim Judah, "In all European history it is impossible to find any comparison with the effect of [the battle of] Kosovo on the Serbian national psyche."¹²

In 1918, Serbia, including Kosovo, formed with its neighbors The Kingdom of Serbs, Croats, and Slovenes, the nation which would in 1929 become known as Yugoslavia, literally the "Kingdom of South Slavs."¹³ Albanians are not Slavic, and therefore held fewer rights in Yugoslavia from the start. When Josip Broz Tito and the communist party took power in Yugoslavia following World War II, he became a unifying force for Yugoslavia, uniting the republics of Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia, and Slovenia under one communist state. In the Yugoslavian constitution, these republics were identified as "nations" and granted the right to secede from Yugoslavia at will. Albanians in Kosovo and were

recognized as a “nationality,” as was the Hungarian majority in the Serbian province of Vojvodina. This diminished status denied these “nationalities” representation in the Yugoslav assembly and precluded them from seceding from Yugoslavia.

Following Tito’s death in 1981, Yugoslavia slowly began to disassemble. The Yugoslav economy faltered in the 1980s, and the nations within Yugoslavia began to quarrel over how to proceed. During this time, Serbian nationalists began to call for a Greater Serbia to finally rise after 600 years and take over the Balkan region. On April 24th, 1987, a little known Serbian bureaucrat named Slobodan Milosevic made a name for himself by giving a speech at Kosovo Polje (the field of blackbirds), the site of the Battle of Kosovo in 1389. Milosevic was responding to Serbian complaints of oppression by the Albanian majority and police brutality in the region.¹⁴ Rather than ease the tension of the situation, he incited the crowd by asserting, “No should dare to beat you!”¹⁵ According to Miroslav Slojevic, the Kosovo Serb leader at the time, “This sentence enthroned him as [Knez]”¹⁶ He implored the Serbians not to flee in Kosovo for Serbia proper, claiming, “Yugoslavia does not exist without Kosovo...Yugoslavia and Serbia are not going to give up Kosovo!”¹⁷ The speech ignited riots and Milosevic rose to power on a wave of Serbian nationalism. He quickly became President of Serbia and eventually the President of Yugoslavia. In 1989, on the 600th anniversary of the Battle of Kosovo, Milosevic stood at Kosovo Polje again and further stoked the flames of Serbian nationalism. To understand the power of this moment, it should be noted that Serbs celebrated Knez Lazar as a Christ-like figure. His death at Kosovo marked the beginning of 500 years under Turkish (Muslim) rule. The rise of Serbia again in the 20th century was the resurrection of a people. When Milosevic rose to power, he assumed the role of Serbia’s redeemer.¹⁸ In 1989, Milosevic spoke of the battle of Kosovo as if were still being fought:

Let him who fails to join the battle of Kosovo
Fail in all he undertakes in his fields
Let his fields go barren of the good golden wheat
Let his vineyard remain without vines or grapes...¹⁹

In response, the Serbian crowd chanted, “Tsar Lazar, you were unfortunate, not to have Sloba on your side.”²⁰

This upwelling of Serbian nationalism marked the end of Yugoslavia. On June 25th, 1990 Slovenia became the first republic to secede from Yugoslavia. A ten day conflict followed, but since the secession was in accordance with the Yugoslavian Constitution and Slovenia was a generally homogeneous Slovene population, it was allowed to secede without much of a fight. The secession of Bosnia and Herzegovina, and Croatia, however, though also in accordance with the Yugoslavian Constitution, led to civil wars. The Serbian populations of both of those republics, supported by Milosevic and the Yugoslav national army, fought to remain unified with Serbia, while the Bosnian and Croatian populations favored autonomy. While Serbia was mired in these conflicts, Macedonia – who did not have a significant Serb population – was allowed to secede without the military conflict. This left Montenegro and Serbia – including Kosovo and Vojvodina – as the sole heirs to a rump Yugoslavia.²¹

In Kosovo, most historians agree that Milosevic’s Battle of Kosovo speech was a turning point in Serbian-Albanian relations. Under Tito, Kosovo Albanians had been gradually given greater and greater rights, despite never being recognized as a “nation” in the Yugoslav Constitution. Between 1968 and 1974, Kosovo gained the authority to determine their own laws, so long as those laws did not violate the Serbian and Yugoslav Constitutions. In 1974, the Yugoslav constitution was rewritten, and Kosovo was granted representation in the Yugoslav

Assembly. Under Tito, Albanians were granted Albanian language schools and in 1970, the University of Pristina became the first Albanian language University in Yugoslavia. Following Tito's death, however, Yugoslavia began stripping these rights from the Albanians. Serbia dissolved the Kosovo local and federal governments. They also converted all schools, including the University of Pristina, from Albanian to Serbian language. Milosevic's Battle of Kosovo speech only solidified these moves as a part of Serbian nationalism, and heightened animosity between Albanians and Serbs in Kosovo.

Many in Kosovo believed that the 1995 Dayton Accords, the peace agreement brokered as an end to the wars in Croatia and Bosnia, would include a resolution for Kosovo as well. Kosovars had largely used non-violent means to agitate for their right to sovereignty since the late 1980s. They formed nonviolent protests at the University of Pristina.²² They withdrew from Serbian schools and established an Albanian language school system in mosques and homes. Ibrahim Rugova, the elected president of Kosovo, set up a refugee government in Germany whose main functions were to present the Kosovar cause to the international world and to draw financial support for Albanian schools and other functions from Kosovars living overseas.²³ Rugova, himself, was a firm believer that the Dayton Accords would provide a final solution to the plight of Kosovo, and urged his people to wait on a peaceful solution.

When the Dayton Accords failed to recognize the plight of Kosovo, nonviolence gave way to violence and the Kosovo Liberation Army rose up to demand independence from Serbia in 1998. Serbia responded with the force of their full military to put down the rebellion and used the violence to push the cause of Serbian nationalism in Kosovo through a campaign of ethnic cleansing. The Serb military, paramilitary groups, and even Serb civilians drove Albanians from their homes. At the minimum, Kosovars were put on trains and in caravans and sent to the border

though in many cases, they were simply killed. Albanian homes were looted by their Serbian neighbors then often burned to the ground. All told, almost 850,000 Kosovars were either deported or fled Kosovo into Albania, Macedonia, Montenegro, and thousands more were killed.²⁴

The initial response of the international community to the situation in Kosovo was to try to bring about peace through a Dayton style conference in Rambouillet, France. This agreement ultimately fell apart when Milosevic began making sweeping changes to it on the eve of its signing. Thirty-four hours after the Rambouillet Accord failed, on March 24, 1999, NATO began an aerial bombing campaign. It is important to note, however, that it was not the United Nations who began the air bombardment, but NATO. In consistency with the current UN Security Council standoff, in which Russia is using its veto to support Serbia, Russia also vetoed UN military action in 1999. According to Judah, however, Russia did give implicit support to the campaign in backdoor meetings, agreeing that they would not support Serbia militarily if NATO attacked.²⁵ After the conflict concluded, the United Nations assumed authority for post war reconstruction, though NATO remains the primary security force in Kosovo, under the auspices of the UN.

Punishment and Retribution

Although the NATO campaign lasted only 78 days, anyone could see that the post war resolution of the Kosovo situation was going to be neither straightforward nor quick. The conflicting territorial claims of Albanians and Serbs were further complicated by a long history of animosity between these two peoples. This discord came to a peak with the Serbian ethnic cleansing of Albanians during the conflict. The Albanians however were not free of blame either,

because their return under NATO protection prompted retaliation in kind, and thousands of Serbs were forced to flee their homes as well. This response brings us to the first category of *jus post bellum*, punishment, which ought to be leveled on all sides of the conflict, to include the original aggressor, the victim, and the vindicator nations that have come to the aid of the victim. Thus war crimes tribunals ought to be established by a neutral international authority (preferably today, by the United Nations) to seek just punishment for injustices before and during the war, thus fulfilling the principles of just punishment. The establishment of the International Criminal Tribunal for the Former Yugoslavia (ICTY) in The Hague, Netherlands, is one of the best historical examples of this principle. Its self-described mission is:

- to bring to justice persons allegedly responsible for serious violations of international humanitarian law
- to render justice to the victims
- to deter further crimes
- to contribute to the restoration of peace by holding accountable persons responsible for serious violations of international humanitarian law²⁶

The tribunal is an international body of 28 judges from 26 countries, ensuring its neutrality. As of the end of 2006, the ICTY had charged 161 persons for war crimes, having concluded proceedings on 94 of the accused.²⁷ Only six indicted persons remained at large.²⁸ Of the trials that have concluded, there have been convictions against both Serbian military and political leaders and KLA leadership. Certainly, the most noteworthy trial of the ICTY is the prosecution of Slobodan Milosevic himself. The ICTY accused Milosevic for war crimes committed in Kosovo, Bosnia, and Croatia. His trial began on February 12, 2002 and lasted four years. Milosevic died in prison just before the trial was set to conclude.

The companion of punishment is compensation, which Orend describes as “financial restitution” for destruction caused by the war.²⁹ There was clearly great destruction during the Kosovo conflict. Homes on both sides were looted and burned. Churches and mosques were destroyed. Yet, the Kosovars have never asked for financial reparations from Serbia. With the end of the conflict in 1999, the Kosovars set out to begin rebuilding without Serbian restitution. Today, Kosovo stands as a region in the midst of vast reconstruction. In the years directly following the conflict, international aid flowed into Kosovo. Despite the physical destruction and the nascent economy, international aid assured that the basic needs of individuals were met. Furthermore, for those with an education, particularly those who could speak English, good jobs were available with the UN and with the NGOs that followed. This, combined with an abounding hope in the future (Kosovars, for the first time, saw independence as a forthcoming reality), drove a construction boom throughout Kosovo. In the early years after the war, people and companies were grabbing plots of land and building as much and as fast as they could. The results of this can be seen today, for most of the buildings are less than 10 years old. There was never a call for financial compensation for the war because the Kosovars rebuilt using international aid money instead.

Serbians in Kosovo, on the other hand, emerged from the conflict empty handed. Forced off their land and out of their homes in the final stages of the conflict, those who still live in Kosovo generally fall in the category of Internally Displaced Persons (IDPs), refugees in their own country, having fled to enclaves throughout Kosovo or north to the still predominantly Serb municipalities of Zubin Potok, Zvecar, and Lepoavic. Often the lands and homes they owned remain deserted. The Albanians preferred to build new, rather than occupy the space of their former neighbors turned enemies. The Serbians, recognizing that it will be a long time before

they could live peacefully in their former homes have begun to ask for compensation for the lost property. The response has been mixed. Some Serbs have been able to sell off their lost property, while others are hoping that a final solution on Kosovo's status will bring forth a resolution on compensation for their property.

Orend's use of the principle of compensation was limited to financial compensation for losses. To Kosovo Albanians, however, the loss of property is minimal when compared to the loss of rights such as autonomy, freedom, and self-determination. When considering compensation, we must recognize that the ultimate solution may not be simply monetary. For the Kosovars, the only compensation they desire is independence.

Development of Peace

As this article goes to press, independence is not yet a reality, though it appears to be very close. In the summer of 2007, after 14 rounds of talks between Serbia and the Kosovar leadership, former Finnish President Martti Ahtisaari developed a plan that called for independence, but under the protection and supervision of the European Union. Serbia has rejected any plan that includes Kosovar independence and Russia has blocked the Ahtisaari plan in the UN Security Council, claiming it will not support any plan that is not supported fully by Serbia. Many believe that Kosovo is being caught in an international power struggle, for Russia has made many recent moves to reestablish territorial control of Eastern Europe. Others have noted the similarity between the Kosovar struggle and the efforts of Chechnya to secede from Russia. The rejection of the Ahtisaari plan was followed by what was billed as 120 final days of negotiations involving a "Troika" of negotiators from the EU, the US, and Russia. The US has already suggested that if a resolution is not reached through this round of talks, independence

may have to come outside of the UN.³⁰ The EU has generally agreed with that assessment, but some individual European nations are not in complete agreement with that stance, out of fear that independence could spark separatist movements elsewhere in the world. Kosovo Albanians for their part have already begun to plan for unilateral independence for early of 2008.³¹ In attempt to avoid unilateral independence the some have proposed a solution involving Serbia being placed on a fast track to entry in the EU in exchange for granting Kosovo independence. The EU would also require Serbia to transfer Bosnian Serb wartime general Ratko Mladic to the ICTY on genocide charges.³²

In seeking a just peace, we must be assured that any plan for independence upholds the principles of publicity and proportionality. All of the proposals on the table have been readily available to the public. While the situation in Kosovo has only recently reentered Western newspapers, because independence seems on the horizon, it is difficult to find a person in Kosovo who does not have intimate and detailed knowledge of the current situation. The Kosovars have demanded nothing less than full disclosure of the steps toward independence.

As for proportionality, we must recognize that independence is a severe conclusion to the Kosovo conflict and due care must be taken that such a step is proportional and necessary. Given the history of oppression between the Serbs and Albanians, it may be the only just solution. Furthermore, the 90% majority of Albanians in Kosovo makes a strong case for autonomy and self-determination. Finally, in the eight years since the conflict ended, Kosovo has essentially acted independently of Serbia. While this alone is not justification for secession, it indicates, that independence, under protection and supervision of an international authority like the UN or the EU, may be a successful way to maintain peace and uphold the rights of all.

In an independent Kosovo, the rights of the Serbs who remain in Kosovo (a mere 5% of the population) are the most in jeopardy. Despite their history as an aggressor state, the principles of rights vindication, discrimination, and proportionality all demand protection for the rights of the individual Serbs in Kosovo. The largest hurdle in restoring Kosovo after the conflict was the need to return refugees to their homes. However, this effort also marks one of the greatest failures of Kosovo's reconstruction. The return of Albanian refugees sparked a retaliation campaign that drove most of the Serbs out of their homes. For a *jus post bellum*, every effort ought to have been made to avoid this type of violence. Moreover, eight years later, many of those Serbs are still internally displaced, living either in the Serbian municipalities or in small Serbian enclaves within Albanian municipalities. Serbian authorities also estimate that 200,000 Kosovar Serbs are living outside of Kosovo. While many of these Serbs have no intention of returning to Kosovo, the fact that so many were displaced in the first place, coupled with the fact that so many remain displaced today, is a lasting indication of the failure of the principle of rights vindication.

In contrast to these early failures, the Albanian majority, under UN and EU pressure, has worked toward Serbian inclusion in recent years. Currently, Serbian language schools are funded by the Serbian government. Structures are already in place to bring these schools under the Kosovar government while maintaining them in the Serbian language. Moreover, as part of the Ahtisaari plan, the European Union would retain a certain amount of supervision authority in the initial Kosovo government, with a primary goal of upholding minority rights.

Despite all efforts, Serbs in Kosovo remain fearful of independence. Those who remain in Kosovo generally live in enclaves away from their homes in fear of revenge and hate crimes that might be aimed towards them by their former neighbors. The northern Kosovo city of

Mitrovica is a particular hotbed of this type of fear and hatred. Once a bustling mining town, the city is now divided along ethnic lines by the Ibar River that runs down its center, with the Serbs in the North and the Albanians in the south. A small “confidence zone”, including the main bridge across the river, is secured by NATO troops. The ethnic division is acute. License plates on the Northern side are generally Serbian, while cars on the opposite bank have UN Mission in Kosovo (UNMIK) issued plates. The few private cars that cross the bridge, often doing the peace building work of NGOs, generally have to be registered in a neutral country like Macedonia. Trepca mine, which once supported 20,000 employees directly and another 10,000 in supplemental industries, has been closed since the conflict, because half of its facilities lie in the Serbian part of the municipality and the other half lie in the Albanian portion. Finally, in an ironic reality, the Albanian cemetery is in the Northern part of the city, while the Serbian cemetery is in the south. Funerals require a NATO escort.

Clearly, such deeply rooted hatred will not simply go away if independence is granted. On the contrary, many have feared violent backlashes by the Serb minority in that event. Even if violence is avoided, hatred runs deep and will take a long and dedicated effort to overcome. The UN has enlisted the help of NGOs to begin to heal the divide. Catholic Relief Services (CRS) in Mitrovica is targeting the youth, in an attempt to stem the hatred before the seeds take root. This youth strategy is helped by the fact that more than 50% of Kosovo’s population is younger than 26, the youngest population in all of Europe.³³ As part of the Youth Securing the Future Project, CRS has set up a City Wide Youth Council where Serb and Albanian students come together with two goals. First is to develop interethnic relationships and build interethnic understanding and second is to advocate for better public services on both sides of the Ibar River.

Complete post war success in Kosovo will still require a great effort by all parties involved. Despite early failures, the foundation laid in recent years reflects a strong effort to develop a lasting peace through the principles of proportionality, publicity, discrimination, and an upholding of rights. Even as a just peace settlement is being determined, and punishment and retributions are being accorded, final attention must also be paid to the third pillar of *jus post bellum*, the reconstruction of economic, political, and social structures.

Rehabilitation

In Kosovo, rehabilitation is a broad principle that needs to incorporate everything from establishing a democratic government and modern economic system to improving the electrical grid and establishing a proper school system. If Kosovo is to avoid a relapse into war, the most important step is assuring that the basic needs of the people are met. To this end, the US government spent \$238 million on non-military aid to Kosovo between 1999 and 2004, and the EU spent nearly three times this amount.³⁴ This money went to establishing basic social, economic, and political structures and repairing those that had been weakened or destroyed by the conflict and its preceding years.

The primary concerns of rehabilitation have been government and the local economy. With the help of international expertise, UNMIK helped to establish the local “rule of law” including the creation of a local judiciary and a just election process. When businesses had trouble starting up because of a lack of capital, USAID, the US state department arm that manages all foreign aid, helped to establish the local banking system, allowing businesses the credit they needed.

On a more fundamental level, Kosovo is still plagued with blackouts due to a decrepit electrical grid, an insufficient billing system, and customers unable to pay their electric bill. In response, USAID helped to construct a modern metering system to help with the billing and funding problems and is currently funding a new, cleaner, more efficient, and more reliable energy plant, that will also meet EU environmental standards.

Despite all efforts so far, problems persist. There is vast unemployment and poverty in Kosovo, with 530 registered unemployed persons for every vacancy and 37% of the population living on less than \$2 per day.³⁵ Many attribute the lingering status question with many of Kosovo's recent economic woes. Few outside corporations are willing to invest in Kosovo until its status is determined and international organizations have been slowly withdrawing from Kosovo. Many local employers, like the closed Trepcia mine, also await a final status decision before they can operate. Even established solutions have their limits. The newly established national bank, though bought out by a larger German bank with more resources, has been reluctant to grant credit to individuals and small businesses until status is resolved. Without credit, many would be entrepreneurs, homeowners, farmers, etc. cannot expand their enterprises and thereby expand the economy.

Clearly, rehabilitation is incomplete in Kosovo. Rehabilitation efforts of the past eight years have gone a long way to creating a lasting peace in Kosovo, but there is still work to be done. When independence is finally resolved, the economy will still require tremendous foreign aid and the fledgling government will continue to need guidance from the European Union. Finally, tremendous work still needs to be done to bring final resolution and peace between the Kosovars and the Serbs.

There have been remarkable successes and glaring failures in the post war process of Kosovo. The principles of punishment have been exacted thoroughly and justly by the International War Crimes Tribunal of the former Yugoslavia. The process of deciding independence has been both proportional and public, even as it awaits a final outcome. The rights of Albanians have been vindicated, and great efforts have been made to protect the rights of Serbs, despite the failures in this regard at the end of the conflict. Tremendous time, energy, and money have also been exacted at encouraging peace and communication on both sides. Finally, international aid has helped to rehabilitate the most basic structures of government and economy.

Jus post bellum criteria have been established to ensure the just ending of a war. Using Kosovo as a test case allows us to see their utility in a relatively straightforward set of circumstances. In Kosovo, we see the glaring failure of rights vindication when the Albanians returned to their homes, and the repercussions that failure continues to have on the peace process and the healing of relations between Serbs and Albanians in Kosovo. Moreover, we see the overwhelming success of the principle of just punishment and the continued efforts of rehabilitation and can seek to use Kosovo as a positive example for these principles.

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- ¹ Michael Schuck, "When the Shooting Stops: Missing Elements in Just War Theory," *The Christian Century* 101 (October 26, 1994): 982-984.
- ² That said, Schuck should be credited with recognizing that war in the 21st century would require a just exit strategy and with giving us the spirit within which we can build such a strategy.
- ³ Brian Orend, "Justice After War" *Ethics and International Affairs* 16 (2002) 43-56 and Brian Orend, *The Morality of War* (Peterborough, ON: Broadview Press, 2006).
- ⁴ Schuck, "When the Shooting Stops," 982.
- ⁵ Orend, "Justice After War," 55.
- ⁶ Schuck, "When the Shooting Stops," 982.
- ⁷ Landmines, cluster bombs and depleted uranium shells though generally prohibited *jus in bello* because of their indiscriminate nature, are still used regularly.
- ⁸ Kenneth Himes, "Intervention, Just War, and U.S. National Security," *Theological Studies* 65 (2004): 141-157, 154.
- ⁹ Orend, "Justice After War," 55.
- ¹⁰ *Ibid*, 56.
- ¹¹ I do not wish to try the entire Kosovo conflict against just war criteria here. Rather, this history is meant to set the stage for my *jus post bellum* argument. For an excellent *jus ad bellum* analysis of the Kosovo conflict, please see Bryan Hehir's article "Kosovo: A War of Values and the Values of War," *America* 180 no 17 (May 15, 1999), 7-12.
- ¹² Tim Judah, *The Serbs: History, Myth, and the Destruction of Yugoslavia*. (New Haven: Yale University Press, 1997), 30.
- ¹³ Noel Malcolm, *Kosovo: A Short History* (New York: New York University Press, 1998), 264.
- ¹⁴ Carole Rogel, *The Breakup of Yugoslavia and Its Aftermath*, Revised Edition (Westport, CT: Greenwood Press, 2004), 17.
- ¹⁵ Judah, *The Serbs*, 162.
- ¹⁶ *Ibid*.
- ¹⁷ *Ibid*, 29.
- ¹⁸ *Ibid*, 162-4.
- ¹⁹ Julie A. Mertus, *Kosovo: How Myths and Truths Started a War* (Berkeley: University of California Press, 1999), 184.
- ²⁰ Tim Judah, *Kosovo: War and Revenge* (New Haven: Yale University Press, 2000), 56.
- ²¹ Judah, *The Serbs*, 178-193.
- ²² Kosovar is a term that once included all residents of Kosovo. My usage here reflects the more common usage today, which limits the term to refer to only the Albanian population in Kosovo.
- ²³ Judah, *Kosovo*, 68-9.
- ²⁴ *Ibid*, 226, 241, 250.
- ²⁵ *Ibid*, 183.
- ²⁶ International Criminal Tribunal for the Former Yugoslavia website, <http://www.un.org/icty/glance-e/index.htm>, accessed July 27, 2007.
- ²⁷ *Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991* (August 21, 2006). Available at <http://www.un.org/icty/rappannu-e/2006/AR06.pdf>, accessed July 27, 2007.
- ²⁸ *Letter dated 15 November 2006 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council*. Available at <http://www.un.org/icty/rappannu-e/2006/AR06.pdf>, accessed July 27, 2007.
- ²⁹ Orend, "Justice after War," 55.
- ³⁰ US Secretary of State, Condoleezza Rice has made strong claims about the future of Kosovo: "We're committed to an independent Kosovo and we will get there one way or another." (US Federal News Service, "Secretary Rice Briefs Press en Route to Lisbon, Portugal" *US Federal News Service, Including US State News*, July 17, 2007); "It is very important to recognize that Kosovo will no longer be a part of Serbia, it is not possible." ("Rice says Kosovo can never be part of Serbia in Russian radio interview," *BBC Monitoring Former Soviet Union*, May 15, 2007.)

³¹ “UN Gets Report on Failed Kosovo Talks,” Yahoo News, December 7, 2007,

http://news.yahoo.com/s/ap/20071207/ap_on_re_eu/un_kosovo, Accessed 12/15/07.

³² “EU Agrees to Send Mission to Kosovo,” Reuters Wire Report, December 14, 2007,

<http://www.reuters.com/article/topNews/idUSL1459796920071214?feedType=RSS&feedName=topNews&pageNumber=2&virtualBrandChannel=0>, Accessed 12/15/07.

³³ *UN Human Development Report, Kosovo, 2006* (Kosovo: UNDP, 2006), 13.

³⁴ USAID website, http://www.usaid.gov/missions/kosovo/about_usaid/about_usaid_kosovo.htm, accessed 7/30/07. and *UN Human Development Report, Kosovo, 2006* (Kosovo: UNDP, 2006), 27.

³⁵ *UN Human Development Report, Kosovo, 2006* (Kosovo: UNDP, 2006), 29.