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### ACTION ESCALATES REFUGEE CRISIS

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The current war in the Balkans represents a novelty in the conduct of international affairs. NATO has attacked a sovereign country and not because one of its members has been attacked, but in the name of humanitarian concerns.

Since the Treaty of Westphalia put an end to European religious wars in 1648, one overriding principle has been at the centre of international relations: no state has the right to intervene in the domestic affairs of another sovereign state. According to the UN charter, the use of force against sovereign states is allowed only in two circumstances: self-defense against an attack, and in order to carry out a specific mandate by the UN Security Council for the maintenance of international peace and security. Thus NATO's bombing of Bosnian Serb targets during the Bosnian war, for instance, was not a NATO initiative but was carried out under authorization of the UN Security Council.

So, since no NATO country has been attacked by Serbia, and NATO has not received any authorization from the UN for its bombing of Yugoslavia, is NATO's attack illegal under current international law? From the standpoint of the long-established Westphalian tradition, the answer seems to be an obvious yes, and so think many, possibly a majority of, international lawyers and international affairs specialists. As CBC's Joe Schlesinger has reported: "In the world of diplomacy there is no bigger no-no than using military force to intervene in the internal affairs of another country."

Since the end of World War II, however, and with increasing insistence in the last decade, a new principle has been making its way into international affairs. This new principle maintains that whenever human rights are blatantly violated by some sovereign country, then the "international community" has not only the right but even the obligation to override the principle of sovereignty and intervene in the domestic affairs of that country.

The "international community" has meant the UN, particularly the UN Security Council. And indeed the UN has occasionally intervened militarily for "humanitarian reasons." Such was the case of Somalia, for instance, which in the early 1990s was ravaged by civil war. But even on that occasion the UN was careful to provide a legal justification for military intervention based on a traditional understanding of international law. Namely, it argued that the exodus of refugees from Somalia to neighboring countries represented a threat to international peace in the region. This "humanitarian" attempt to modify Westphalian principles of international law, however, has been met with scepticism: there is little evidence that a humanitarian approach will achieve its stated objectives with reasonable certainty. It has not done so in Somalia. As soon as clashes with one Somali faction produced the first casualties, the US and then other countries withdrew their

forces. The Canadian military came home to hostile media coverage in the wake of "shocking" revelations about the mistreatment of Somalis. The situation in Somalia has not noticeably improved but has simply dropped out of sight as the Western news media have moved on to new topics.

From the perspective of international law, the NATO bombing of Yugoslavia represents a dramatic extension of this UN-led humanitarian approach to international affairs. The extension has taken place by a redefinition of what constitutes the 'international community.' NATO, expecting that the UN would not authorize military intervention against the Serbs in Kosovo, declared itself the legitimate representative of the "international community." What gives NATO that right? Isn't NATO just a military alliance of Western countries acting in violation of its own Treaty, a Treaty that binds the alliance to respect the UN Charter and endorses the use of force only to repel an armed attack against one of its members? Why can't other military alliances or countries claim the right? The obvious answer is that NATO is simply the most powerful military machine on earth, as hinted by the term "cruise missile humanitarianism."

The Westphalian approach corresponds to the individual-level principle that you can kill an attacker to save your own life. NATO intervention in Yugoslavia, though conducted with stated motivations similar to those of the "Good Samaritan" who tries to stop a wife-beating, can reasonably be construed as a form of vigilantism. It has the flaws of individual-level vigilantism, and then some, even assuming that the Serbs are guilty as accused. At least with the lynching of an obviously guilty criminal, the stated objective of the vigilantes is sure to be achieved. The bombing of Yugoslavia has not produced the quick surrender by the Serbs that had been expected. It has dramatically escalated the refugee crisis, killed and injured civilians on both sides, solidified Serb support for Milosevic, threatened the precarious political stability of Macedonia and Montenegro, and has so irked the Russians they have extended to Serbia the formal political union which links Russia to Belarus. Some Russians have declared themselves ready to fight in Serbia as volunteers and others, in high places, have allegedly muttered about re-targeting nuclear warheads towards Europe.

But regardless of the eventual outcome of this particular NATO intervention, a potentially dangerous precedent has been established. If "humanitarian interventions" can be implemented by powerful states or alliances without the authorization of the UN, they will inevitably be implemented in a very selective manner even when genuinely humanitarian, and they risk becoming a smokescreen used to justify meddling into other states' affairs when special interests are involved. The current batch of NATO country leaders may seem relatively dovish to some, but who is to say that the next generation might not be decidedly more belligerent? Who can foretell the character of a self-selected "Dudley Do Good" from some other part of the globe?

It may seem that the key issue in this conflict is whether the Serbs are really as bad as they are made out to be. That's important but, looking to the future, the really big issue concerns the best approach for resolving international disputes: traditional Westphalianism, UN-led humanitarianism, or this new humanitarianism-vigilantism?

