

# UN Cannot Foster Peace When US Sidesteps It for War

On the illegitimate 'Kosovo Model' for military intervention

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Global Research, August 28, 2013

[Common Dreams](#)

Region: [Middle East & North Africa](#)

Theme: [Militarization and WMD](#), [United Nations](#), [US NATO War Agenda](#)

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*The humanitarian bombers are back and they're relying on something they call the "Kosovo model" or the "Kosovo precedent." They claim it means that they can bomb Syria without the United Nations Security Council's authorization.*

It's true that President Clinton and NATO attacked Serbia in 1999 without Security Council authorization. They bombed Serbia into submission and pried Kosovo out of its control. Thousands of people died as a result of the bombing, which left a huge swath of misery, destruction and human rights abuses in its wake. Fourteen years after the bombing, NATO still has 5,500 troops on the ground enforcing the "independence" of Kosovo.

But the point is that the war was recognized as illegal by numerous authorities, including the President of the International Criminal Tribunal for the Former Yugoslavia, the late eminent professor of international law, Antonio Cassese. Cassese wrote that the Charter of the United Nations allowed war only where authorized by the Security Council or in self defence. According to him, the breach in the case of Kosovo was so radical, that, if the precedent were accepted it would mean a new rule had emerged.

But the precedent was not accepted. It was explicitly repudiated time and again by the vast majority of states. Following the abomination of the Iraq war, the United Nations repudiated it in several authoritative documents worth quoting literally with the appropriate emphasis:

1) *A more secure world: Our shared responsibility. Report of the High-level Panel on Threats, Challenges and Changes (2004)*

203. We endorse the emerging norm that there is a collective international responsibility to protect, **EXERCISABLE BY THE SECURITY COUNCIL** authorizing military intervention as a last resort...

2) *General Assembly of the United Nations, Resolution 60/1, 2005 World Summit Outcome (24 October 2005)*

139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, **THROUGH THE**

**SECURITY COUNCIL**, in accordance with the Charter...

3) *Security Council Resolution 1674* (28 April 2006)

The Security Council...

4. Reaffirms the provisions of paragraphs 138 and 139 of the 2005 World Summit Outcome Document regarding the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity;

These are absolutely binding affirmations, signed onto by the United States and all the members of the United Nations.

In a recent piece for Toronto's *Globe and Mail*, Lloyd Axworthy and Allan Rock, former Canadian government Ministers, try to dismiss this repeated emphasis on the Security Council.

"Although the 2005 agreement contemplated a Security Council resolution authorizing military intervention, member states surely did not intend that urgent humanitarian responses would be hostage to vetoes unreasonably exercised out of self-interest by one or more of the permanent five Council members."

In fact this was a line pushed by Axworthy when he was Canada's Foreign Minister, a post he held during the Kosovo bombing. That it was not accepted by the United Nations is clear from the lack of any mention of the possibility of unilateral action in any of these documents. If member states intended something different, "surely" they would have said something about it, some teensy little thing, but there is nothing whatsoever in the text referring to unilateral action, let alone suggesting it would be okay. It was illegal before Kosovo and it is still illegal.

The recent alleged gas attack in Syria deserves a full investigation by the Security Council. The questions are not only whether gas was used but also who used it and, most importantly, whether this justifies bombing Syria.

The Americans are pretty definitive about who used the gas, but here's another blast from the Kosovo past. The Americans promised their rebel friends an intervention by NATO if there were a sufficiently atrocious atrocity and the KLA went about inventing one, or at least deliberately provoking one - the evidence is not clear even now - in the Racak incident that was the pretext for war. Who used the gas in Syria remains a question precisely because the US promised intervention if gas were used, giving the rebels, especially the foreign rebels, now on their heels, a huge incentive to use it, and giving the regime an equally huge disincentive. The US claims as to what really happened can certainly not be taken on faith given their record of lying about weapons of mass destruction in Iraq. "Colin Powell lied and a million Iraqis died."

Axworthy and Rock argue that "urgent humanitarian responses should not be hostage to vetoes unreasonably exercised out of self-interest," but their alternative leaves everyone hostage to an unreasonable exercise out of self-interest of the war-making might of the country with a military budget equal in size to the next 17 military budgets combined.

The US clearly has geopolitical goals in Syria that transcend humanitarian concerns. Their

lack of humanitarianism has been shown by their complacency, with lots of evidence of actual complicity, with the Egyptian army's brutal coup. That the US wants Syria neutralized and Lebanon's Hezbollah disarmed for a possible joint attack with Israel on Iran is no secret. That's why Secretary of State Clinton was calling for Assad's ouster before hardly any blood was shed. American hawk Edward Luttwak argued recently in the New York Times that the American strategy should be to ensure, through carefully calibrated military intervention, that the Syrian civil war never ends.

So even if the gas attack were genuinely committed by the regime [and there is no evidence to that effect], the question of whether it is a legitimate cause for military intervention against the regime cannot be left to the Americans. And that's where the powerful, legally binding and morally impeccable presumption of the Charter of the United Nations in favour of peaceful solutions comes in. It is for the Security Council collectively, not the United States alone, to decide whether war is the answer. And if the Security Council can't agree on military intervention, then it does not happen. The idea of bombing people for their own good is as ludicrous as it sounds. A "punitive" strike by a country with this much unpunished blood on its hands seems equally ludicrous. Whether you call it "humanitarian intervention" or not, it won't make the slightest bit of difference to the victims.

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