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## Illegal Occupation of Southern Serbia – “Kosovo”

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Serbia today is a member-State of United Nations (U.N.), after the Socialist Federal Republic of Yugoslavia was split into several nations during the early 1990's when war broke out between Serbian General Milosevic and neighboring nations. After partition, Serbia is still the most powerful “state” of the former Yugoslavia.

“Kosovo”, the term used for the territory of southern Serbia, is *de-jure* recognised as a “state” by over 110+ “states”, but is not a “state” itself, as per the *Montevideo Convention on the Rights and Duties of States (1933)*, and is not a “state” at the U.N. where 2/3<sup>rd</sup> positive vote is required by the U.N. General Assembly for “statehood”.

Article 1 of the *Montevideo Convention on the Rights and Duties of States (1933)* requires that a “state” must have the “*capacity to enter into relations with other states*” and be a “*government*”. The entity of the self-termed “government of Kosovo” has neither. The “Declaration of Independence” of “Kosovo” was upheld by an “advisory opinion” at the International Court of Justice (ICJ) in 2010, but an ICJ “advisory opinion” is not legally binding upon any member-State.

ICJ "advisory opinion" on “Kosovo” expressly states that the Court has not made any determination on whether “Kosovo” is a "state", within the definition of international law or at the U.N., as stated in paragraphs 49-56 of the ICJ advisory opinion.

Furthermore, a “Declaration of Independence” does not mean that the entity has legal rights to exercise control over the territory it claims or even the self-termed “Islamic Emirate of Afghanistan”, or the Afghan Taliban’s “Declaration of Independence” would be valid for control of the nation today, since the U.N. General Assembly passed a resolution to assist the Afghan Taliban in 1992, for state-building, when they

were controlling Afghanistan.

Since “Kosovo” is not a “state” at the U.N. as it does not have the required 2/3<sup>rd</sup> majority diplomatic recognition, it is in direct violation of Article 49 of the *Fourth Geneva Conventions (1949)*, Article 8 (b) (viii) of the *Rome Statute (2002)*, as well as Article 85 (4) of the *Additional Protocol I (1977)* since Serbia is a “state” and “Kosovo” is conducting:

*"The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory"*

Therefore, the self-termed “government of Kosovo” is not a “government” for the purpose of being a “state” as per the *Montevideo Convention on the Rights and Duties of States (1933)*, but an “Occupying power” of Serbia. The entity of “Kosovo” does not have the “capacity to enter into relations with other states” as only “governments” do, in most cases.

Key word here proving that "Kosovo" does not meet the qualifications for a "state" as per the *Montevideo Convention on the Rights and Duties of States (1933)*, as mentioned in Article 1 is it mentions "other states", implying that "Kosovo" must be a "state" itself to enter into relations with "other states".

“Kosovo” is not allowed to sign any international treaties and conventions, due to the fact that an entity needs to be a “state”, so they have not even signed the *Geneva Conventions (1949)*; one of the most basic conventions of international law, since it is based on many other conventions which preceded in relation to international humanitarian law (IHL) from the 1800’s.

Nevertheless, the entity of “Kosovo” was established by a U.N. Military Observers including the U.N. Protection Force (UNPROFOR) in 1991, U.N. Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES), etc, which were tasked with restoring peace, as well as law and order, without hindering “political independence” in the former Yugoslavia.

The principle of “political independence” was mentioned in one of the first U.N. Peacekeeping Resolutions in 1991 for the former Yugoslavia, as the U.N. Security Council Resolution which “*dispatched small group of personnel (Croatia)*” stated that:

*“...the people of peoples of Yugoslavia to decide upon and to construct their future Yugoslavia, in liaison with the International Committee of the Red Cross”.*”

The *Geneva Conventions (1949)* were in large, drafted by members of the International Committee of the Red Cross (ICRC), which “Kosovo” is not a signatory to, as it cannot sign without “statehood”.

Since Serbia is a member-State of the International Criminal Court (ICC) and “Kosovo” is not a “state”, as per international law; Serbia may

file a complaint against the “*Occupying power*” of “Kosovo” by a “*Referral of a situation by a State Party*” allowed via Article 14 of the *Rome Statute (2002)*, referring to the “situation” of the war crime of illegal occupation of southern Serbia.

The war crime of illegal occupation is being aided and abetted, in violation of Article 25 of the *Rome Statute (2002)*, by the military alliance of the North Atlantic Treaty Organization’s (NATO) division for “Kosovo”, also committing the “crime of aggression” since it does not have any U.N. Authorisation to be in Serbia.

This division is called “NATO-KFOR”, which is composed of mostly of United States (U.S.) Armed Forces which are to be prosecuted in an International Criminal Tribunal for the United States of America for *crimes against humanity, war crimes*, violations of the *Geneva Convention on the Prevention and Punishment of the Crime of Genocide (1948)*, violation of the *Chemical Weapons Convention (1997)*, as well as other serious violations of international law in the near future, as it committed these violations on its own territory as well as territories of many other nations, and where Israel, Canada, including nations are complicit in these violations.

Despite the fact that the ICC has jurisdiction on crimes from 2002 onwards, the bombings by NATO in the 1990’s against civilian targets are not to be taken lightly and can be introduced as evidence, if it is relevant to NATO-KFOR’s war crimes in Serbia today.

Serbia also has the option of charging these individuals at the International Court of Justice (ICJ), which is not a criminal court to issue arrest warrants, but can issue an order for the illegal war criminals of the war criminal entity of the “government of Kosovo”, the *Occupying power*, to evacuate the war criminal entity of the “government of Kosovo” of what is considered Serbia for all legal purposes.

This is a comparatively easy case, since the area “Kosovo” is claiming, is still part of southern Serbia. In addition, “Kosovo” has self-admitted to committing “*crimes against humanity*” as part of an “*ethnic cleansing*” campaign of Serbians, so many of the belligerent “Kosovo Liberation Army” officials are to face trial in a European Union (E.U.) Tribunal for the same.

Self-admission of “*ethnic cleansing*” by “Kosovo” only leads us to the human rights violations being committed in southern Serbia today, such as the continuing of the “*genocide*” against Serbians since there are attacks including disappearances with “*discriminatory intent*” against Serbians by this war criminal entity; which Serbia can also prosecute at the ICC, as documented by human rights organisations such as Amnesty International.

“*Discriminatory intent*” is the main criteria distinguishing “*crimes against humanity*” from “*genocide*”, and this *mens rea* or mindstate is easier to prove when there is continuing occurrences of these crimes, especially if it is part of a “policy”.

The ICC is “*complimentary*” to other national courts, so cases can proceed against this entity at the European Courts and the ICC at the same time, for the same crimes, such as the “*ethnic cleansing*” against Serbians; a watered-down term for “*genocide*” against Serbians, for

which a case can be made for, against “Kosovo”, at the ICC.

Kosovo is not depicted as a separate “state” on the U.N. World Map (Today), issued by the U.N. Secretariat, nor the U.N. Educational, Scientific, and Cultural Organisation (UNESCO)’s yearly “World Heritage Maps”. Since Kosovo is not a "state" under international law, "Kosovo" is an *Occupying power*, committing the war crime of illegal occupation against a "state"; Serbia, as per international law.

Superpower alliance of BRICS (Brasil, Russia, India, China, and South Africa) and most of its allies do not recognise this war criminal entity.

Despite the fact it is the prerogative of states to recognise other states, it can be argued that the “*other states*” that have recognised this illegal war criminal entity, have done so under false pretext, thinking it was a "state" as per the *Montevideo Convention on the Rights and Duties of States (1933)*.

Once there is “*knowledge*”, as stated in the *Rome Statute (2002)*, of a war crime, those who continue to supply arms or defence equipment, etc, are “*aiding and abetting*” those war crimes so therefore; can be held for complicity for the same crime as per Article 25 of the *Rome Statute (2002)*.

Those who recognise “Kosovo” as a separate entity can also be held accountable under Article 25 (3) (d) (i) (ii) since recognition can be considered as an act to:

1. *Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the Court;*
2. *Be made in the knowledge of the intention of the group to commit the crime;*

The presence of NATO-KFOR in "Kosovo", which consists of mostly U.S. Armed Forces, with the knowledge war crimes are occurring, makes the contingent complicit if it goes to trial at the ICC.

"Kosovo" is a rouge regime committing the war crime of illegal occupation can be prosecuted at the ICC, and should be brought to the attention of the public as well as the concerned, so no further recognitions or aid can be given to the war criminals; “the government of Kosovo” and “NATO-KFOR”, in the absence of any legal authorisation from the U.N. or a bi-lateral treaty with the “state”, which is required to be in southern Serbia, as per international law.

These persons will not be able to travel to any other member-State of the ICC, which is most of Europe, South America, and Africa, or they will be arrested for extradition, for prosecution at the ICC.

The E.U. insisting on Serbia recognising Kosovo as a separate “state”, as a pre-condition for membership, will have to retract this pre-

condition, as it is requesting Serbia to recognise war criminals.

If this “situation” is referred to the ICC, Serbia will be able to regain its land back, hold war criminals accountable for serious violations of international human rights law against Serbians, and join the E.U. on new terms.

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