Introduction

THIS BOOK EXPLAINS HOW KOSOVO BECAME AN INDEPENDENT state in 2008, following more than a century of struggle to break free from political domination by others. Kosovo, formerly an autonomous province of Serbia within Yugoslavia, declared its independence on February 17, 2008, and was recognized as an independent state by fifty-four countries within a year. The recognizing states included the United States and most of the member states of the European Union (EU). The independence declaration was carefully crafted in concert among the elected officials of the provisional government of Kosovo, the United States, and the leadership of the EU. This process culminated three years of "final status" negotiations over Kosovo's future, launched by the United Nations (UN) Security Council in 2005. The key negotiations were guided by Martti Ahtisaari, former president of Finland, who subsequently won the Nobel Prize for Peace for his work on Kosovo and elsewhere. These negotiations and international diplomacy that preceded and followed them are the subject of this book.

Kosovo's independence and the diplomatic process that led up to it have significant implications for the effective conduct of multilateral decision making in the transatlantic alliance, even as they illustrate the reemergence of Russia as a thorn in the sides of those who seek broader multilateral cooperation to solve regional problems. It illustrates the limited role that international law plays in channeling the interests of major powers into established international institutions and represents yet another example of the impotence of the UN Security Council to resolve disagreements among its permanent members. It shows how the threat of violence is often an essential lever to force difficult decisions to be made, while representing the first time that a major decision with respect to conflict in the Balkans was made without an actual outbreak of sustained violence. Much uncertainty remains, however. The jury is still out on how successful Kosovo will be as an independent state. Its economy is weak and its democracy fragile. Enormous mistrust remains between its two largest ethnic communities, the dominant Kosovar Albanians and the minority Kosovo Serbs. Serbia continues to have difficulty coming to terms with its ultranationalist past, which led to the breakup of Yugoslavia and put the Kosovo crisis into motion. Serbia continues to challenge the legitimacy of Kosovo's independence in diplomatic channels and in a case brought before

the International Court of Justice (ICJ). Despite this confrontation with European policy, the EU appears on a rush to admit Serbia to the Union. The result may be further paralysis and timidity in European security policy.

Kosovo is a landlocked territory in the Western Balkans roughly the size of Connecticut, with a population of about two million people, mostly Albanians, with a substantial minority of Serbs. For more than a century, the Albanians have chafed under the rule of the Ottoman Empire and then Serbia, seeking union with the separate state of Albania, autonomy within Yugoslavia and, more recently, independence. Serbia insisted that Kosovo remain part of Serbia, viewing the territory as the historic birthplace of Serbia and of its church. Violence over Albanian separatist aspirations broke out sporadically throughout the twentieth century and intensified after Serbian President Slobodan Milošević revoked Kosovo's political autonomy in 1989.

An insurgency, led by the Kosovo Liberation Army (KLA) after 1993, resulted in a scorched-earth policy of ethnic cleansing by Serbian secret police, interior ministry police, and army that resulted in the expulsion of some eight hundred thousand Albanians from their homes in 1999. The insurgency developed slowly and initially was opposed by the Kosovar Albanian political elites. It grew in strength after the Dayton Accords settled the armed conflict in Bosnia without addressing Kosovo's status, undercutting Kosovar Albanian hopes that the West would protect it from Serbian excesses. Then Serbian counterinsurgency forces escalated the use of armed force against Kosovar Albanian civilians, and the collapse of governmental authority in Albania opened up a route for supplying arms to the insurgents. The international community's sympathies shifted toward the side of the Kosovar Albanians as Milošević's human rights' violations increased and became more public. International concerns intensified as a significant portion of the Kosovar Albanian population were driven from their homes by Serb forces who executed civilians near the village of Racak in early 1999, condemned as a "massacre" by Ambassador William Walker, who was then heading the international monitoring force in Kosovo. This resulted in a high-level diplomatic conference in Rambouillet, France, where the KLA and other Kosovar Albanians agreed to a U.S./European-crafted peace deal, but Milošević refused.

The international community responded with a bombing campaign led by the North Atlantic Treaty Organization (NATO), aimed at forcing Serbia to withdraw its security forces from Kosovo. This led to a period of UN civil administration backed up by NATO forces while Kosovo's future was sorted out, after Milošević agreed to withdraw his forces and allow NATO and the UN to enter in June 1999. Thereafter, a United Nations Interim Administration Mission (UNMIK) exercised executive, legislative, and judicial authority in Kosovo. Security Council Resolution 1244, authorizing the UN and NATO presence, acknowledged continued formal sovereignty by Serbia during an interim period while the UN actually exercised the attributes of sovereignty. The Resolution envisioned some kind of process for resolving Kosovo's final

status. Kosovar Albanians expected the process to lead to independence; the government of Serbia expected Kosovo to be returned to Serbian control. As Kosovar Albanians were elected to office in the provisional local government institutions (PISG) authorized by UNMIK, tensions grew between UNMIK and the PISG over the slow pace in devolving power to the PISG and the reluctance of the international community to grapple with Kosovo's future. Kosovar Albanian frustrations spilled over into widespread riots in March 2004, which galvanized the international community to kick-start a final status process led by Martii Ahtisaari, former president of Finland and widely respected international mediator.

Ahtisaari presided over two years of intensive negotiations involving the protagonists – the government of Serbia and the Kosovar Albanian leadership of the PISG – and the "Contact Group" – an informal committee of senior diplomats from the United States, Britain, Germany, France, Italy, and Russia. Unable to bridge the gap between Kosovar Albanian insistence on independence and Serbian insistence that Kosovo remain part of Serbia, Ahtisaari submitted a comprehensive plan for Kosovo's supervised independence to the UN Security Council in March 2007. The plan contained detailed institutional structures for protecting the human rights and self-government by Kosovo Serbs under the ultimate authority of EU and U.S. overseers. Russia blocked Security Council approval of the plan and another four months of diplomacy followed under a "Troika" of the EU, the United States, and Russia. Unable to procure agreement between Russia and Serbia on one side, and the EU, the United States, and the Kosovo political leadership on the other, the EU and the United States worked with the Kosovo political leadership to craft the declaration of independence and implementation of the Ahtisaari Plan outside the framework of a UN Security Council resolution.

This book details the steps toward Kosovo's independence finally put in motion by the 2004 riots, after a century or more of Albanian restlessness under "foreign occupation," as the Kosovar Albanians saw it. It begins with the riots themselves, and then puts the riots in the context of the political dynamics of the Albanian–Serbian struggle over Kosovo. Drawing on my work for an earlier book *Kosovo Liberation Army: The Inside Story of an Insurgency*, I explain how the KLA shaped international public opinion to expel Serbian forces from Kosovo in 1999 and to substitute the UN for Serbian exercise of the attributes of sovereignty. This book explores how UNMIK's moral authority to govern weakened between 1999 and 2004 as indigenous political leadership in Kosovo matured, sometimes split between the leaders of the now-disbanded KLA and longer-established Kosovar Albanian political elites centered in Kosovo's cities. Then it details the design and implementation of the final status process, paying close attention to the jockeying among members of the EU, the United States, Russia, the Serbian political leadership in Belgrade, and among the Kosovo Serbs and the Kosovar Albanian leadership. It reviews in some detail the issues considered during the Ahtisaari process and

the institutional approaches to protecting minority rights in an independent Kosovo reflected in the Ahtisaari Plan. It explains why the Security Council was unable to agree on the Ahtisaari Plan, and takes readers inside the Troika process that followed the impasse.

It concludes with an on-the-scene portrayal of Independence Day in Kosovo, an analysis of Kosovo's future as an independent state, and an assessment of what Kosovo's independence portends for the international order.

I have been deeply involved in Kosovo since the run-up to the 1999 NATO bombing campaign, visiting Kosovo several times a year since December 1998, getting to know its political leaders well, and deploying groups of law and engineering students on several small projects supporting Kosovo's political, economic, and legal development. For this book and for the KLA book, beginning in the spring of 2004, I interviewed more than one hundred ordinary Kosovar Albanians, Kosovo Serbs, academics, diplomats, and guerrilla and secret service personnel from the region; and European and U.S. diplomatic and military leaders. President Ahtisaari, his deputy Ambassador Albert Rohan, and U.S. Ambassador Frank Wisner provided close cooperation and encouragement.

Because much of the data on which the book is based were obtained from personal observation and engagement with the Kosovar Albanian political and civil-society leadership, portions of the narrative are expressed in first person.

I conclude that Kosovo's independence was inevitable after the UN took over in 1999. The international community had great difficulty grappling with this reality, but Ahtisaari and the Troika deftly navigated the shoals of the conflict in 2006–2008 to avoid further violence in the region, and to avoid a split between the United States and the EU, a split that Russia would have welcomed. I explain why Russia's growing economic power, its assertive leadership under Vladimir Putin, and its geopolitical interests made it unlikely that the West and Russia could agree on Kosovo's future, unlike 1999 when Ahtisaari helped forge a shaky accommodation permitting the displacement of Serbian forces and the introduction of the UN and NATO. I also conclude that Kosovo's elected leadership under Prime Minister and former KLA leader Hashim Thaçi and President Fatmir Sejdiu did a good job in shepherding independence itself, but face considerable challenges in crafting a bright economic and political future for the country. For its other participants, the final status process illuminates opportunities for effective transatlantic cooperation while further exposing the limitations of the UN Security Council as the central institution for dealing with threats to international peace and security. In the long run, integration of Serbia and Kosovo into the EU holds the promise of mitigating tensions over independence. Whether Russia's perceptions of its geopolitical interests and its desire to restore Russian pride will lead to further East–West conflict or effective pursuit of mutual interests remains to be seen.

1 Riots in Kosovo

THE SIXTEENTH OF MARCH IN 2004 DAWNED CRISP AND CLEAR IN Pristina, the capital of Kosovo.[1] The chill and rain of the previous weeks had blown away, and the muddy gaps in the sidewalks were finally drying up. A few clouds skirted the blue sky as the day warmed over Kosovo, a diamond-shaped patch of land in the southwestern Balkans slightly smaller than Connecticut.

By 10 A.M., stories were already spreading about a tragedy that occurred the previous evening in Mitrovica, the tense city in Kosovo's north where Kosovo Serbs and Kosovar Albanians lived in fear of each other on opposite sides of the Ibar River. According to newspapers, radio, and gossip, four Albanian youngsters had been playing on the northern, Serb side of the river when several older Serbian youths gave chase and set a dog on them. The Albanian youngsters, terrified, tried to flee into or across the river, and three of the four drowned. Alienated from international authorities, most Kosovar Albanians throughout the rest of Kosovo did not expect the United Nations (UN) police to do anything about the tragedy, let alone arrest and punish the perpetrators. The Kosovar Albanian media fed the frenzy. They eagerly passed on information that later turned out to be wildly inaccurate, with little concern about the impact on the public mood.

Expectations were high that something significant was going to happen that day. Friction between the UN's political oversight and Kosovo's majority Albanian population had been building heat for years, and this spring looked finally to catch fire. Kosovar Albanians in the national trade union, angered by a recent halt in privatization, had organized busloads of trade unionists to come to Pristina and engage in a peaceful march on the gates of the Kosovo Trust Agency, the UN-established organization charged with privatizing socialist enterprises. Also, the War Veterans Association, in which some of the more militant elements of the former Albanian Kosovo Liberation Army (KLA) were embedded, had been talking about organizing demonstrations against the government. Meanwhile, angry at the increasingly strident

[1] The account of the events described in this chapter is drawn primarily from my personal observations. I was there during the riots, not only in Pristina but also in parts of western Kosovo.

Albanian voices calling for the separation of Kosovo from Serbia, Serbs from Çaglaviça – the enclave that lay just beyond the hill south of Pristina – had barricaded the main highway from Pristina to Skopje, Macedonia, shutting off Kosovo's main transportation lifeline.

Relationships between Kosovo's majority Albanian population and its significant Serb minority had been tense for decades. Power between them had ebbed and flowed. Establishment of the Kingdom of Serbs, Croats, and Slovenes – Yugoslavia's predecessor[2] – after World War I frustrated Albanian ambitions to be part of the separate state of Albania. Then, Albanians enjoyed a period of political autonomy during Tito's leadership of Yugoslavia after World War II. That was followed by Slobodan Milošević's revocation of autonomy in 1989, by the emergence of the KLA insurgency in the late 1990s, and finally by the displacement of Yugoslav control by a NATO bombing campaign in 1999.

Caught in the middle of the struggle between Kosovo Serbs and Kosovar Albanians after 1999 was the United Nations civil administration (known as UNMIK) and KFOR (Kosovo Force), the NATO peacekeeping force. NATO had bombed Serbian forces in Kosovo and in Serbia proper to end human rights abuses against the majority Albanian population of Kosovo. UNMIK had been established by UN Security Council Resolution 1244 to govern Kosovo on an interim basis while its future was sorted out. It seemed that the last piece of what remained of Yugoslavia might become independent, ending the Kosovar Albanians' century-long quest for their own state.[3] The international community, however, was not prepared to embrace independence. Neither UNMIK nor KFOR was designed as a long-term political or security entity: the Security Council resolution had been negotiated among Russia, NATO, and Yugoslavia to establish interim security and civil-administration agencies while the question of Kosovo's international status was settled. As KFOR moved in, Serbian military and police withdrew. Originally a so-called autonomous Yugoslav province with a 90 percent or more Albanian majority, Kosovo had avoided the bloody conflicts suffered in Croatia and Bosnia

[2] The Kingdom of Serbs, Croats, and Slovenes was established in 1918. It was reestablished as the Democratic Federal Yugoslavia in 1943 and renamed the Federal People's Republic of Yugoslavia in 1946. In 1963, it was renamed again as the Socialist Federal Republic of Yugoslavia (SFRY). The Federal Republic of Yugoslavia (FRY) was established on March 27, 1992, comprising Serbia and Montenegro, after Slovenia, Croatia, Bosnia, and Macedonia seceded from Yugoslavia. This "rump Yugoslavia" was renamed the State Union of Serbia and Montenegro in 2006. After Montenegro seceded in 2006, only Serbia remained. For ease in exposition, the text refers to "Yugoslavia" for the period from the end of World War I until the breakup of Yugoslavia in 1991 and to "Serbia" thereafter.

[3] From the beginning of the twentieth century until Tito's Yugoslavia, most Kosovar Albanians wanted to be included into Albania. Then, the goal of the Kosovar Albanian political elites was for Kosovo to have the status of a Yugoslav republic. Only in 1991, when the Yugoslav Federation broke apart, did independence become the goal.

as Yugoslavia broke up. By 1999, however, the breakup of Yugoslavia had pitched the former province into a legal limbo – still formally a province of Serbia, Kosovo was in fact governed by UN-supervised elected local officials. While both Albanian and Serb populations seemed to recognize the need for international peacekeepers, both sides inevitably resented the foreign presence. Kosovar Albanians welcomed KFOR as liberators, but they chafed at the exercise of political authority by UNMIK.[4] The Kosovar Albanian political culture had been forged for generations almost entirely in terms of opposing foreign occupiers, and now it seemed to many Kosovar Albanians that UNMIK had simply replaced the Serbs, and the Ottomans before them, as colonial authorities determined to emasculate Kosovar Albanian dreams for genuine self-determination and self-government. Meanwhile, Kosovo Serbs resented the UN's displacement of their political dominance over a region they still considered a sovereign part of the existing state of Serbia.

By mid-afternoon, the Pristina air was sparking with rebellion, and the excitement spilled into the streets. Leaving a meeting at the Faculty of Law, I watched as what seemed like nearly all of the ten thousand students at the University of Pristina had finished – or abandoned – their classes to swarm down the incline from the university to Mother Theresa Street, Pristina's main boulevard. Laughing and talking among themselves, they followed the swelling crowd of Albanians headed toward the barricade Serbs had established on the main highway from Pristina to Skopje. The general plan seemed to be that the students and other protesters would meet up at the barricade and simply remove it.

At the traffic circle on the southern end of Mother Theresa Street, the mass gathered momentum. Here, Albanian-driven vehicles had completely blocked the way. Some feigned breakdowns; others simply parked in the middle of the street with their doors open. As trapped Kosovo Police Service vehicles uselessly flashed their lights and blared their sirens, the stream of young Albanians mingled among the cars, walking leisurely arm in arm through the chaos. Laughing and joking, they headed up the hill and wondered aloud about where they were going and what they would do when they got there.

The fine weather lessened the usual depressing effect of their walk down Pristina's main street, framed by monotonous blocks of communist apartment buildings made of splotched and graying concrete. Satellite television antennas pointed more or less south from balconies from which wires drooped. Neither UNMIK nor the elected local government had mastered the art of trash collection, so the already narrow pedestrian pathways along the street – they

[4] According to opinion surveys reported in 2002, only 27.2 percent of the population was satisfied with UNMIK's performance, while 60.2 percent were satisfied by the PISG performance, and 69.8 percent were satisfied with KFOR's performance. UNDP Early Warning Report No. 1 (May–August 2002).

could hardly be called sidewalks – were further narrowed by piles of trash and garbage. Each of the hundreds of small shops and cafes that had been built by Albanian entrepreneurs after the Serbian forces left had its own portable generator outside the door so that business could continue when the municipal electricity supply was interrupted, as it was several times a day.

By twilight, hundreds of Albanian and Serb teenagers and twenty-somethings were throwing rocks at each other and at KFOR across the boundary of Çaglaviça. As darkness stole over the hill, hundreds of Kosovar Albanians were still trying to reach the crest, dodging clouds of tear gas and trying to get around at least one KFOR tank blocking the road. A few gunshots were heard. The protesters slipped off the pavement and into the shrubs and bushes near the top of the hill, seeking to flank the tank on either side.

As the evening wore on, packs of high-school-aged youths ran energetically through the streets of Pristina, carrying large Albanian flags and blowing whistles, chanting slogans against UNMIK. In the center of the city, UNMIK's staff was barricaded in their headquarters adjacent to the Grand Hotel. Another hulking monument to communist architecture, the hotel was anything but grand to the foreign officials and peacekeepers who were caught there. UN and other foreign officials were afraid to leave the building but also fearful of what might happen if they stayed inside and were largely without direction. Mother Theresa Street was now mostly deserted of vehicular traffic, aside from a few white UNMIK Toyota SUVs burning fiercely with no police or fire trucks in sight. Passersby ducked as tires exploded from the heat. The excited students were looking for targets for their rebellion. One ran up to a young man who looked foreign and excitedly asked, "Do you work for UNMIK?" Discovering that the foreigner was an American, the kid responded, "Ahh, an American!" He grinned. "We like you. Come with us! We want to show you what we are about to do."

By midnight, rocks and Molotov cocktails were flying. They appeared to be aimed at the symbols of UN authority as much as at the Serbs. Almost every vehicle marked with the large black initials UN against an otherwise white paint job was destroyed by rocks, overturned by hand, or set on fire. Adjacent vehicles bearing the OSCE (Organization for Security and Cooperation in Europe) logo went unmolested. Kosovo Serbs were under attack in their home enclaves as well as in their Serbian Orthodox churches. Recently built religious and educational facilities dedicated to Kosovo Serbs were particular targets. Terrified, some Serbs tried to fight back, some sought police or KFOR protection, and some simply fled. Within and without Pristina, in villages and cities, UNMIK police were on the run as Albanian crowds increased their numbers and attacks. The UNMIK police, for the most part, abandoned their vehicles and ran away when confronted by rioters. NATO's KFOR, by contrast, took no particular notice of the rioting. Despite increasingly frantic calls from UN officials to NATO commanders, the riots were dismissed as simple

spring exuberance. NATO officials calmly insisted that the night's events were not NATO concerns and could be handled easily by UNMIK and the Kosovo Police Service. The KFOR contingent responsible for Pristina dispatched a few tanks to block the route to Çaglaviça; elsewhere, other KFOR contingents responded according to their national proclivities.

Many of Kosovo's own political leaders, aware that riots could easily spill over into deadlier violence, called on the students and protesters to desist. Hashim Thaçi, former political director of the KLA and then leader of the number-two Kosovar Albanian political party, was in the United States making a speech at the United States Institute of Peace (USIP). He interrupted his trip and returned home after broadcasting an urgent call for calm in Albanian on Voice of America's Albanian service and in English on its Serbian service. Prime Minister Bajram Rexhepi, Thaçi's designee as prime minister in the coalition government, personally visited the scene of the greatest concentration of rioters near Çaglaviça and pleaded for people to go home. Ramush Haradinaj, a powerful former KLA commander and the then leader of Kosovo's third major political party, made a few statements urging calm. Meanwhile, Kosovar Albanian President Ibrahim Rugova, long an opponent of violence, remained silent.

The riots raged on, essentially unrestricted throughout the long night, backlit by the flames of Serbian Orthodox churches and Serbian homes burning as their residents fled into the dark. Albanian rage was directed as much at ordinary Kosovo Serbs as at the symbols of international authority.

The next morning found most of Kosovo implicated in the riots. As excited news spread from Pristina, more Kosovar Albanians took up the cause. On the streets of all Kosovo's major cities and villages were scores of colorfully dressed men and women parading through muddy streets, holding banners aloft celebrating Albanian nationalism. It was a young people's rebellion: chanting patriotic and anti-UNMIK slogans, waving enormous flags, student-aged Albanians were out in force. After the first night's violence, the following days' demonstrations were mostly peaceful and entirely unrestrained by the presence of police. Still, in the city of Prizren, smoke drifted from the ruins of Serbian Orthodox monasteries and homes on the steep slope defining the southern part of the city. The few Serbs who had not fled from their villages were holed up and scrambling to protect themselves from an expected renewal of assaults from Albanian mobs.

"How did you know about it? How did you know where to go and what to do?" one young Kosovar was asked afterward. Alban Rafuna was a polite, mild-mannered, and hard-working waiter in the Hotel Victory, one of the new hotels built after the war that catered to foreigners. "That was no problem," Rafuna answered, after a slightly embarrassed smile. "We simply called each other on our cell phones or sent text messages to each other. It wasn't too hard to agree that Çaglaviça was where the action should be." It was not formally

organized, he explained. "We just decided what to do among ourselves," he said of himself and his friends. "We were fed up and we wanted to do something. Most of us were too young to have been part of the KLA, but we are not too young now to show that we have some pride, and that there are limits on what the Serbs and UNMIK can do to us."[5]

Despite its professed indifference, KFOR, comprising forces from a dozen or more member states, was in a state of confusion. Each national military contingent was seeking instruction from its national capital. The German contingent, responsible for the Prizren area, took the field to protect Serb civilians fleeing the violence but stood by as most of the buildings on the hill marking Prizren's southern boundary, including a Serbian Orthodox church, were firebombed. Protection of property was not part of their mandate, the Germans said. Swedish, Finnish, Norwegian, and Irish contingents, responsible for the Pristina area, had scrambled through the night to block reinforcements of the crowd at the top of the hill, moving a dozen tanks and armored personnel carriers on the road and on both sides of it. By the next morning, even KFOR recognized the violence as a crisis. Britain announced that it was sending some fifteen hundred troop reinforcements, but the first detachment would not arrive until the next day. International observers in Kosovo and around the world feared what might happen in the meantime. Rumors spread that a major march on UNMIK Headquarters was planned for that evening. The UN riot police hurriedly reorganized to present a more stalwart face to the rioters. UNMIK scrambled the policemen – mostly American and British Commonwealth nationals – who were already in-country – into teams bristling with automatic weapons, shotguns, and bulletproof vests, and hustled them into the Pristina streets. With the sudden increase in police presence came an increase in hostility, as unreliable rumors spread that UNMIK police or KFOR troops had shot and killed several unarmed Albanian demonstrators, and that other protesters had been shot by Serb civilians firing from balconies in residential areas near Pristina. Still, the huge new police presence succeeded in its objective: the anticipated assault on UNMIK Headquarters did not materialize, and when British reinforcements arrived the next day, the riots were over as quickly as they had started. For the moment, the international forces that kept Kosovo together had held – if barely so.

According to nongovernmental organization sources, fifty-one thousand people rioted, with the majority of the violence directed at Serb, Ashkali, and Roma minorities.[6] The United Nations reported thirty-one people died in the violence (both Crisis International and Human Rights Watch put total

[5] Conversation with Alban Rafuna, Pristina, March 17, 2004.

[6] *United Nations Peace Operations Year in Review 2004: UNMIK – Holding Kosovo to High Standards* (December 2004) located at http://www.un.org/Depts/dpko/dpko/pub/year_review04/yir2004.pdf (corroborates that large-scale violence during the March 2004 riots targeted the Serb, Ashkali, and Roma minorities).