

Judging the NATO Intervention in Yugoslavia, 1999 (the "NATO Bombing" Case)



The *Independent International Commission on Kosovo* (IICK) was a commission established in August 1999, in the aftermath of the Kosovo War, by the government of Sweden. **The Commission assessed that the NATO bombing of Yugoslavia was "illegal but justified"**, in order to prevent further atrocities by Yugoslav forces, which intensified during the NATO bombing.

The crisis had been caused by ongoing human-rights violations by Yugoslav forces in Kosovo during the 1990s, although when some Kosovar Albanians shifted from unarmed to armed resistance, this heightened the

Yugoslav response which included many crimes against humanity. The Commission also reported that international presence in Kosovo did not prevent the *Kosovo Liberation Army* (KLA) and other Albanians from ethnically cleansing Kosovo ethnic minorities.

The decision of the *Chief Prosecutor of the International Criminal Tribunal for the former Yugoslavia* (ICTY) not to open an investigation against the NATO bombing was widely criticized.

As the current *Chief Prosecutor of the ICTY* you have decided to re-examine whether or not to commence an investigation against the NATO bombing.

You must review the fact pattern of the case (see project page materials & independent research) and the *Independent International Commission on Kosovo* report [[LINK TO REPORT](#)] and fully develop answers to the five tasks set out below.

You may uphold (agree with) the report findings of "illegal but justified" or overturn them (disagree with) and initiate an investigation.

PROJECT TASKS

To support your opinion on whether or not the NATO bombing was illegal but justified, submit a fully developed answer to each task below that **directly references** the resources provided and your own research:

1. Select **4 facts** that have **legal significance** to *judging the NATO bombing from the perspective of your chosen legal theory (COM – 4 marks)*. Detail each relevant fact followed by an explanation as to **why it is significant to your chosen theory** (*use of specific theory language & bullet-points is recommended*).
2. State and explain **the two most important legal questions to ask** in *judging the NATO bombing from the perspective of your chosen legal theory (COM – 4 marks)* (*use of specific theory language & bullet-points is recommended*).
3. Discuss **one** consideration a Chief Prosecutor **must follow** in *judging the NATO bombing from the perspective of your chosen legal theory (COM – 2 marks)* (*use of specific theory language & bullet-points is recommended*).

4. Using the **website materials as a foundation of knowledge**:
- a. Explain the **2 most important concepts** of *legal positivism, legal realism, natural law, and critical legal theory*. You must **directly reference** the website readings and resources provided to fully support your explanations (**KU 10 – marks [2.5 marks per theory]**) (do not discuss the facts of the case at hand in your explanations).
 - b. Explain in detail your opinion on whether or not the *NATO bombing* was illegal but justified from the perspective of **your chosen legal theory**. You must **directly reference** the website readings, your research, and the resources provided on the project page to fully support your answer (**APP – 10 marks**).
5. Defend the **legal theory that makes the most sense to you in judging NATO's actions**? Explain by **contrasting the strengths and weaknesses of the other** legal theories (**T – 10 marks**).

Your answers must be digitally produced. Maximum length is 2 pages, single-spaced, 10 — point font.