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# The ICJ's ruling on Kosovo sets a precedent that is dangerous only for tyrants and ethnic cleansers

By Marko Attila Hoare, 29th July 2010

## EXECUTIVE SUMMARY:

**1. The International Court of Justice's ruling, that Kosovo's declaration of independence was not contrary to international law, has sparked anger among undemocratic and tyrannical regimes such as Iran and China, which fear the consequences for their own oppressed subject peoples.**

**2. The United States and most members of the EU were established through acts of secession; secessionism is part of our heritage, and something that no genuinely democratic state has any reason to fear.**

### **3. Kosovo's independence should serve as a warning to Iran, China and other oppressive states, that their abuse of their subject peoples may not be tolerated by the international community indefinitely, and that they cannot necessarily count on unconditional international support for their territorial integrity, should their abuse continue.**

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The bile of the new champions of colonialism was flowing freely last week after the International Court of Justice (ICJ) ruled that Kosovo's declaration of independence did not violate international law. The *New York Times's* [Dan Bilefsky](#) referred opaquely to 'legal experts' and 'analysts' who warned that the ruling could be 'seized upon by secessionist movements as a pretext to declare independence in territories as diverse as Northern Cyprus, Somaliland, Nagorno-Karabakh, South Ossetia, Abkhazia, Transnistria and the Basque region.' The 'legal experts' and 'analysts' in question remain conveniently unnamed, though they are clearly not very 'expert', since if they were, they would presumably have known that most of those territories have already declared independence. The *Guardian's* [Simon Tisdall](#) claimed that the ICJ's ruling would be welcomed by 'separatists, secessionists and splittists from Taiwan, Xinjiang and Somaliland to Sri Lanka, Georgia and the West Country', leading one to wonder what the difference is between a 'separatist', a 'secessionist' and a 'splittist'.

Let's get this straight. No democratic state has anything to fear from 'separatism', and anyone who does fear 'separatism' is no democrat. I am English and British, and I do not particularly want the United Kingdom to break up. But I am not exactly shaking in fear at the prospect of the ICJ's ruling encouraging the Scots, Welsh or Northern Irish to break away. And if any of these peoples were to secede, I'd wish them well, because I am a democrat, not a national chauvinist. The Cassandras bewailing the ICJ's ruling are simply expressing a traditional colonialist mindset, which sees it as the natural order of things for powerful, predatory nations to keep enslaved smaller, weaker ones, and an enormous affront if the latter should be unwilling to bow down and kiss the jackboots of their unwanted masters. Can't those uppity natives learn their place ?!

The Western democratic order, and indeed the international order as a whole, is founded upon national separatism. The world's most powerful state and democracy, the United States of America, was of course born from a separatist (or possibly a secessionist or splittist) revolt and unilateral declaration of independence from the British empire. The American separatist revolt was sparked by resistance to British-imposed taxes without representation, which seem a less serious grievance than the sort of mass murder and ethnic cleansing to which the Kosovo Albanians were subjected by Serbia. Most European states at one time or another seceded from a larger entity: roughly in chronological order, these have been Switzerland, Sweden, the Netherlands, Portugal, Greece, Belgium, Luxemburg, Serbia, Montenegro, Romania, Norway, Bulgaria, Albania, Poland, Finland, Czechoslovakia, Ireland, Iceland, Cyprus, Malta, Lithuania, Latvia, Estonia, Georgia, Armenia, Azerbaijan, Ukraine, Belarus, Slovenia, Croatia, Macedonia, Bosnia-Herzegovina, Slovakia, the Czech Republic and Montenegro (for the second time). No doubt Northern Cyprus, Somaliland, Transnistria etc. drew some inspiration from this long separatist success story.

Serbia itself has a proud separatist tradition, going back at least as far as the First Serbian Uprising of 1804, when the separatist leader Karadjordje Petrovic attempted to bring about the country's unilateral secession from the Ottoman Empire. Some might argue that the eventual international acceptance of Serbia's independence in 1878 was not unilateral, since it was brought about by the Treaty of Berlin to which the Ottoman Empire was a signatory. But this is disingenuous, since the Ottomans only accepted Serbia's independence after they had – not for the first time – been brutally crushed in war by Russia. Undoubtedly, were Serbia to be subjected to the sort of external violent coercion to which the Ottoman Empire was repeatedly subjected by the European powers during the nineteenth century, it would rapidly accept Kosovo's independence. Let us not pretend that bilateral or multilateral declarations of independence hold the moral high ground vis-a-vis unilateral ones – they simply reflect a difference balance in power politics.

As an independent state from 1878, Serbia left the ranks of the unfree nations and joined the predators, brutally conquering present-day Kosovo and Macedonia in the Balkan Wars of 1912-1913, thereby flagrantly violating the right of the Albanian and Macedonian peoples to determine their own future in the manner that the people of Serbia already had. In 1918, Serbia became hegemon of the mini-empire of Yugoslavia. So 'separatist' became a dirty word for Serbian nationalists who, in their craving to rule over foreign lands and peoples, conveniently forgot how their own national state had come into being. Nevertheless, it was Serbia under the leadership of Slobodan Milosevic whose policy of seceding from Yugoslavia from 1990 resulted in the break-up of that multinational state: Serbia's new constitution of September 1990 declared the 'sovereignty, independence, and territorial integrity of the Republic of Serbia' – nearly a year before Croatia and Slovenia declared independence from Yugoslavia. This would have been less problematic if Milosevic's Serbia had not sought to take large slices of neighbouring republics with it as it set about asserting its own, Serbian national sovereignty from the former multinational Yugoslav federation.

So, plenty of precedents from which separatists, secessionists, splittists and the like could have drawn inspiration, long before the ICJ's ruling on Kosovo. Why, then, the international disquiet at the verdict? The simple answer is that the disquiet is felt by brutal or undemocratic states that oppress their own subject peoples, and wish to continue to do so without fear that their disgraceful behaviour might eventually result in territorial loss. Thus, among the states that oppose Kosovo's independence are China, Iran, Sudan, Morocco, Sri Lanka, Indonesia and India, all of them brutally oppressing subject peoples or territories and/or attempting to hold on to ill-gotten conquests – Xinjiang, Tibet, the Ahwazi Arabs, Darfur, Western Sahara, the Tamils, West Papua, Kashmir, etc. At a more moderate level, Spain opposes Kosovo's independence because it fears a precedent that Catalonia or the Basque Country could follow. Spain is a democracy, but a flawed one; its unwillingness to recognise the right to self-determination of the Catalans and Basques echoes the policy pursued by the dictator Francisco Franco, who brutally suppressed Catalan and Basque autonomy and culture following his victory in the Spanish Civil War. Likewise, Romania and Slovakia are crude

and immature new democracies with ruling elites that mistreat their Hungarian minorities and identify with Serbia on an anti-minority basis.

Of course, states such as these will not be happy that an oppressed territory like Kosovo has succeeded in breaking away from its colonial master. But this is an additional reason for democrats to celebrate the ICJ's decision: it should serve as a warning to states that oppress subject peoples or territories, that the international community's tolerance of their bad behaviour and support for their territorial integrity may have its limits. Thus, a tyrannical state cannot necessarily brutally oppress a subject people, then bleat sanctimoniously about 'international law' and 'territorial integrity' when its oppression spawns a separatist movement that wins international acceptance: it may find that international law will not uphold its territorial integrity. Serbia's loss of Kosovo should serve as an example to all such states.

Of course, there are states, such as Georgia and Cyprus, whose fear of territorial loss is legitimate. But in this case, the problem they are facing is not separatism so much as foreign aggression and territorial conquest. The 'secession' of Abkhazia and South Ossetia from Georgia was really the so-far-successful attempt by Georgia's colonial master – Russia – to punish Georgia for its move toward independence, and exert continued control over it, by breaking off bits of its territory. Georgia was the state that was seeking national independence – from the Soviet Union and Russian domination – while the Abkhazian and South Ossetian separatists were the ones wanting to remain subject to the colonial master. In Abkhazia, it was the ethnic Georgians who formed a large plurality of the population, being two and a half times more numerous than the ethnic Abkhaz - any genuinely democratic plebiscite carried out before the massive Russian-backed ethnic cleansing of the 1990s would most likely have resulted in Abkhazia voting to remain in Georgia. South Ossetia might have a better demographic case for independence, though not as strong as the larger and more populous republic of North Ossetia in Russia, whose independence, should it ever be declared, Moscow is unlikely to recognise. In the case of Northern Cyprus, the foreign aggression was more blatant still: there was no 'Northern Cyprus' until Turkey invaded the island of Cyprus in 1974, conquered over a third of it,

expelled the Greek population and created an artificial ethnic-Turkish majority there. It is above all because of the reality of Russian and Turkish aggression against, and ethnic cleansing of, smaller and weaker peoples, that Abkhazia, South Ossetia and Northern Cyprus should not be treated as equivalent to Kosovo.

Milorad Dodik, the prime minister of Bosnia's Serb Republic (Republika Srpska – RS), has suggested that the ICJ's ruling on Kosovo opens the door to the potential secession of the RS. The RS is not a real country, but an entity created by genocide and massive ethnic cleansing; anyone who equates it with Kosovo is at best an ignoramus and at worst a moral idiot. Nevertheless, we sincerely hope that the RS's leadership be inspired by the Kosovo precedent and attempt to secede – such an attempt would inevitably end in failure, and provide an opportunity for the Bosnians and the Western alliance to abolish the RS or at least massively reduce its autonomy vis-a-vis the central Bosnian state, thereby rescuing Bosnia-Herzegovina from its current crisis and improving the prospects for long-term Balkan stability.

Finally, if the ICJ's ruling on Kosovo really does inspire other unfree peoples to fight harder for their freedom, so much the better. As the US struggle for independence inspired fighters for national independence throughout the world during the nineteenth century, so may Kosovo's example do so in the twenty first. May the tyrants and ethnic cleansers tremble, may the empires fall and may there be many more Kosovos to come.

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