

UN court upholds Kosovo's declaration of independence

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The United Nations International Court of Justice (ICJ) ruled last week by ten votes to four that Kosovo's unilateral declaration of independence from Serbia on February 17, 2008 was legal.

The ICJ agreed to rule on the legality of Kosovo's secession at the request of Serbia, which argued that the Serbian province's declaration of independence was prohibited under international law. The verdict was condemned by Serbian President Boris Tadic, who warned that the ICJ opinion could open up "an entire process of creating new states ... throughout the world, something that would destabilize many regions of the world."

The ICJ's ruling was a highly political decision of dubious legal merit. It provided judicial cover for the final act in a decade-long drive by the major Western powers to dismember Yugoslavia and weaken Serbia.

The most flagrant sophistry in the ruling was its assertion that Kosovo's declaration of independence was not connected "with the unlawful use of force or other egregious violations of norms of general international law."

Kosovo has been a constituent part of Serbia for centuries and was internationally recognised as such from 1912. It was only in the aftermath of the collapse of the Soviet Union in 1991 that the imperialist powers switched to backing agitation by Albanian Kosovars for separation as part of their broader geo-political agenda in the Balkan Peninsula.

The demands for Kosovan independence had themselves been encouraged by Western backing for Croatia and Slovenia's unilateral declarations of independence from Yugoslavia in 1991.

These actions, in which a newly unified and more assertive Germany played the lead role, shattered the delicate political and legal framework that had been established within the Yugoslav federation to protect the rights of various minorities.

The result was a series of nationalist eruptions and reprisals, which were used by the United States to assert hegemony in the Balkans. Washington seized on the Bosnian civil war of 1992 to 1995 to champion Bosnia's attempt to

break from Yugoslavia in the name of "self-determination."

The one factor unifying the Western powers was a common desire to undermine Serbia—the largest constituent part of Yugoslavia and one which traditionally had the closest relations with Russia—so as to divide the multiethnic Yugoslav state into ever-smaller autonomous units that would be more subservient to their interests.

The bloody outbreak of ethnic cleansing on the part of Croats, Bosnian Muslims and Serbs was encouraged by the West and the resulting humanitarian crisis utilised as a means of expanding imperialist military intervention in the region.

This is what determined the backing of the US and others for the Kosovo Liberation Army (KLA)—a semi-criminal organisation linked to the drug trade and supported by the CIA and British intelligence.

There is no question that Serb policy in Kosovo had, since 1989, been characterised by chauvinism and repression. But when it suited Washington's policies, as in Croatia's mass expulsion of the Krajina Serbs in 1995, such atrocities were carried out with direct US support.

In the case of Kosovo, provocations were mounted by the KLA with the intention of causing reprisals by Belgrade, which in turn were used by the US to justify a military attack on Serbia in 1999.

The massive air bombardment of Belgrade between March and June that year was illegal under international law. Never sanctioned by the United Nations Security Council, it was launched unilaterally by the US and NATO. Involving 1,000 aircraft and the use of Tomahawk cruise missiles, it killed an estimated 5,000 Serb civilians, caused a flood of refugees, and gravely intensified the humanitarian crisis as well as leading to further ethnic reprisals.

UN Resolution 1244, which ended the air war, guaranteed the territorial integrity of Serbia, including Kosovo, even as it turned the province into a de facto UN protectorate. Under UN control, Kosovo was turned over to the KLA, which proceeded to attack Kosovan Serbs, forcing thousands to flee.

In its ruling, the ICJ acknowledged that UN Resolution 1244 and subsequent agreements stipulated that any final political settlement for Kosovo was dependent upon agreement by all the parties concerned. It also accepted that under the UN Constitutional Framework for Provisional Self-Government, enacted in May 2001, Kosovo's own institutions were specifically barred from making any unilateral decisions on the province's status.

In a legal sleight of hand, the ICJ determined that the 2008 declaration of independence had not been made by the Assembly of Kosovo, even though its name was invoked at the meeting at which the declaration was issued. Rather, it stated obliquely, the declaration was made by "persons who acted together in their capacity as representatives of the people of Kosovo outside the framework of the interim administration."

In truth, the declaration was made at the behest of the US and the European Union, which had been promoting Kosovo's separation from Serbia over the preceding years.

It was the UN's special envoy in Kosovo, Martti Ahtisaari, who, under pressure from Washington, first set down explicitly the plan for the province's independence in March 2007, giving the green light for the unilateral declaration just 11 months later.

Even before the ICJ's ruling was announced, Washington made clear it would back Kosovo's declaration regardless. A White House statement "reaffirmed the United States' full support for an independent, democratic, whole and multi-ethnic Kosovo whose future lies firmly within European and Euro-Atlantic institutions."

It should be noted that within months of Kosovo's declaration of independence, Georgia attacked the separatist enclave of South Ossetia, provoking a brief war with Russia. In that instance, the US adamantly rejected South Ossetia's demand for independence and continues to do so.

Washington makes no attempt to justify this brazen double standard, other than with the legally absurd assertion that Kosovo is a unique case, which "doesn't set any precedent for other regions or states."

The ICJ has similarly declared that its ruling applies solely to Kosovo. Nor would it rule on the "legal consequences" of the unilateral declaration, or as to whether "Kosovo has achieved statehood," it stated.

The verdict is intended to legitimise Kosovo's separation from Serbia by clearing its path for membership of the UN. For this, Kosovo requires the recognition of two-thirds of the UN General Assembly. To date, 69 of the 192 member countries have done so. Following the ICJ ruling, US Secretary of State Hillary Clinton reiterated Washington's "call on those states that have not yet done so to recognise Kosovo."

Amongst those opposing UN recognition of Kosovo are Russia, China, Indonesia, Spain, Cyprus and Greece. All face secessionist movements in their own countries that will have been encouraged by the ICJ's ruling.

Condemning the ICJ's verdict, Russia's envoy to NATO, Dmitry Rogozin, stated, "We will not accept the splitting of a country that is a member of the United Nations. On principle, we consider Serbia a unified whole." China's foreign ministry spokesman, Qin Gang, said that "respecting national sovereignty and territorial integrity is a fundamental principle of international law."

Spain's deputy prime minister, Maria Fernandez de la Vega, reiterated that Spain would not "recognize the seceded Serbian province as an independent country."

Turkey, one of the first countries to recognize Kosovan independence, welcomed the ICJ verdict, hoping that it would aid its case for an independent Turkish state in Cyprus.

Talk of Kosovan independence, however, is little more than a legal fiction. Economically, it is heavily dependent on international aid and all major decisions pertaining to the economy, public spending, social programmes, security and trade are controlled by the US, the European Union and their various agencies.

More fundamentally, what the ICJ ruling has really established is a legal imprimatur for the assertion by the imperialist powers that they alone will determine who has the right to independence, based upon their interests at any given time.



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