



Multiethnic states and minority independence tendencies in the Global World

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When Woodrow Wilson set out the right to self-determination in 1918 it was meant to create a basis for the lasting peace in Europe after the First World War. But this was appropriate at the time of the collapse of old empires within which different nationalities harbored the need for their national affirmation. The post-Second World War order was created on the presumption of dominance of the two world superpowers that were exercising their influence on the rest of the world. The fall of the Berlin wall and the ushering of democracy on the world scale created a new situation where the old rules do not seem to fit.

It looks as though the globalization has unleashed the irreversible process of dissolution of multiethnic states, which have been held together on the basis of force, ideology or have been artificially created in the follow-up of regional or world conflicts. The newly acquired freedom from the external influence coupled with the revival of ethnic identities pose the challenges of a new sort. The international institutions that have hitherto monitored the legality of international acts come short of the novel paradigms. The new circumstances that started to take shape following the end of the cold war call for a thorough debate and a constructive overhaul of the international legal system which has been designed in the aftermath of World War Second.

The European Union should use its unique experience to push for legal provisions which can be applied internationally – this is no small work, but the weakening of the nation states, both through economic globalization and through massive tendencies for self-rule of small ethnic, religious or linguistic minorities necessitate ideas for new structures and forms corresponding to the new reality.

The independence of Kosovo has never been closer and yet the opinions as to whether it is justified or not are more divided than ever before. What fuels a hot debate amongst international decision makers is not whether this Serbian province deserves to gain autonomy or not. There is little doubt that, after the suffering of the Kosovo people during the years of the Milosevic regime, few could imagine that the province might have any prospect of living peacefully under the Serbian regime, however democratic and tolerant this claim to have become. Kosovo is in fact

already independent in all but name. Even Serbia, struggling to implement reforms that will bring closer the prospect of European Union integration, would find it difficult to control the territory that has for the last eight years been under the UN protectorate and where the double digit unemployment of the predominantly young population, rampant corruption, undeveloped institutions and a high crime rate require massive investment and long term technical assistance. And what kind of policy would win the hearts and minds of Kosovo Albanians and make them feel at home as part of Serbia?

The question is therefore not, whether Kosovo deserves to be recognized as independent or whether this solution is better than any other. What is at stake is far more significant and far-reaching than the mere fate of two million people living in the European backyard. The core of the problem is whether the recognition of Kosovo independence outside the UN system creates a legal precedent that will have long term consequences in other parts of the world. Because if Kosovo is given independence, how can one then refuse it to Tibet, 50 years under Chinese occupation and where frequent human right abuses are reported, or Kashmir, the disputed territory between India and Pakistan? From Nagorno Karabach to South Ossetia or Transnistria, there are plenty of examples of minorities waiting to declare themselves free from the state to which they officially belong. Even inside the European Union, the bedrock of democracy and the rule of law, there is the unresolved Cyprus question, not to mention Flanders that finds it increasingly uncomfortable to be tied within the Belgian state.

The secessionist aspirations seem to flourish in many multi ethnic states all around the world. The end of the Cold war seems to have spawned a number of hitherto dormant ethnic ambitions not only in the countries that have lived under the totalitarian regimes but also in old democracies of Western Europe. What appears to be the main repercussion is the break down of multiethnic states, and the aspirations of minorities to seek independence. Yet, neither the UN Charter nor any other legal international treaty provide any specific guidelines for minority claims. The unsustainable status of the Kosovo is attracting most of the attention because of the need to find a rapid solution for its status after the province has been placed under the UN mandate following the NATO military intervention in 1999. But the issues raised may have further repercussions elsewhere. In this respect several questions need to be thoroughly discussed:

- First, the problem is that the act of recognition will set in motion a number of unexpected consequences that have not been thoroughly addressed over the past couple of years.
- Second, it may be appropriate to ask if the creation of a new state makes any sense in the era of increased globalization and high mobility of people and capital, and whether newly created states have capacities to sustain themselves as independent social and economic entities.

- Third, what are the guarantees that the newly created state fulfills the criteria of sustainability, viability and accountability, including economic independence?
- Fourth, do regional organizations such as the European Union, where a good part of national sovereignty is taken away by the supranational institutions, provide sufficient guarantees to appease nationalistic tendencies and set a path toward some sort of universal (European) nationality?

The first problem is the issue of international law. However vociferously the defenders of Kosovo autonomy may claim that this is a unique case which will not create a precedent, it is hard to believe that the recognition of Kosovo as a sovereign state will not trigger some similar cases of people who are equally unhappy with their status. The claims that this is a *sui generis* case, as the EU is portraying it in order to maintain its unity provide little comfort. The apparent impossibility to endorse the status of independence under the UN auspices creates a situation where the particular states are going to acknowledge the coming into existence of a new state, which means outside the international legal system that has been governing international relations ever since the end of World War II. This calls into question the legitimacy of multilateral legal systems, especially the UN. True, even in the modern history there are examples of coming into being of the new states such as India and Pakistan which were created after the partition of British India along religious lines in 1947, but that was a result of the end of colonial regimes. It is interesting to note that the disputed status of Kashmir has remained unresolved until today and is still the source of a potential conflict. After fruitless efforts over more than 30 years, Lebanon seems now to be falling apart, not only because of the foreign influence but also because of the imbalance of ethnic and religious forces which are tearing the country apart. And the most crying example is of course the creation of the state of Israel on the territory of Palestine, which was once under the British mandate.

The fundamental question is whether an ethnic (or religious, or linguistic...) minority has right to independence and, if yes, under which circumstances, given that one of the major principles of the governing international law is the inviolability of state borders.

Although it is widely acknowledged that international law recognizes the self determination of sovereign nations, the definition of which group constitutes a nation, or what territory it should be given for this purpose, is quite unclear.

The issue has no relevance, of course, if the autonomy or secession is reached following agreement between the relevant parties. The dissolution of Czechoslovakia was achieved by mutual agreement between two entities - Czechs and Slovaks - who shared the same territory. Equally, the peaceful secession of Monte Negro from the Serbia & Montenegro State Union was hardly noticed by the international media. The problem arises when the parties involved cannot find a

compromise solution and when international mediation fails. This is either the case if the territory claiming independence is not ethnically compact, or if there is no agreement on the division of territory, natural resources or national wealth. What creates a particular difficulty is the existence of enclaves populated with citizens of the state from which the majority claims independence. Several examples are to be quoted.

The Arabs living on Israeli territory and not in the West Bank or Gaza have limited rights to purchase land, the right for the Palestinians to have their own state in West Bank and Gaza has been internationally acknowledged in principle almost 60 years after the territory was arbitrarily given to what was to become the State of Israel. After the first World War, the Kurds were mentioned to receive territory in the treaty of Sèvres, but five years later in the treaty of Lausanne, this right was revoked and the Kurdish territories became a part of Turkey (and of Iraq, Syria and Iran). Since then, the Kurds strive for their own nation but are denied their independence, except for in Iraq, where they are now administering the only half-way safe region in the country. Two examples showing that there is absolutely no clear rule and that the UN is rather reluctant in these cases to plead for secession and independence, the reason being the fear of Turkey and Israel to be living side by side with a potentially hostile and revanchist neighbor. This attitude does nothing of course to appease already existing hostilities and terrorist activities which use the flagrant double standards of international institutions to justify actions which only serve individual global power-games and not the population of the minority as such.

In Kosovo the biggest problem is the Serbian minority which is largely hostile to the idea of living in the independent Kosovo state. The guarantees provided by the various international proposals, including the latest Athisaari plan, do not seem to reassure the Serbs that their security, property, human and civic rights will be protected in the new circumstances. For the time being Kosovo is administrated by the UN, and the EU is bracing itself to take over the task of helping the new state to achieve a sufficient level of democracy. But in a country that has been dependent on remittances and foreign aid for years, how long does it take to ensure that the institutions begin to function, especially the police and judiciary which are meant to guarantee the protection of minorities?

How long and how far should the international community (the EU and the NATO) commit itself to the task of building a functioning state and at what costs?

One of the most feared scenarios is that if Kosovo gains full independence the Serb minority may either claim independence for its small part in turn or leave the Kosovo territory triggering a new influx of refugees and displaced persons. This is likely to have an impact on the Serbs in Bosnia and Herzegovina and on Albanians in Macedonia, who may also on their side reconsider their willingness to live within existing states.

Building ethnically divided states seems to be at present a very difficult task, not only in the Balkans but in Afghanistan and in Iraq, where in spite of heavy international/American presence the prospect of peace, stability, democracy and freedom seems hard to reach. What appears to be a pattern almost everywhere is that the prevailing tendency towards ethnically homogeneous territories is at the price of thousands of refugees, displaced persons and human suffering.

The end of the cold war and the thriving of new democracies freed from the yoke of totalitarian regimes ushered the new era of globalization. The people and capital were started to move at the scale unprecedented in human history. The terms as the “global village” entered the everyday terminology signaling the overwhelming tendency of falling borders and rapidly increasing connectivity between the people on the planetary scale. The logical consequence of such a speedy development should have been a decrease of the feeling of national, let alone ethnic belonging. Yet just the opposite seems to happen. Not only that the globalization did not tame the national feelings but has set off a new enthusiasm for religious, ethnic and nationalistic identity, supplemented by the aspirations of independency. This is even more curious considering the fact that in the global world the small states have little chance for competing in the global market, unless they are a part of some bigger entities, be it states or supranational international organizations. Yet, it doesn't seem to discourage ethnic, religious or other minority aspirations for independence. Somehow, the size of the state doesn't seem to fit into the global equilibrium.

So what does it take to build a legitimate functioning state?

One of the reasons why the secessionists' intentions are tarred by the suspicion of the minorities is the lack of confidence in the newly created state's ability to function properly. Institution building is a long and complicated process, requiring not only a democratic culture but also bravery in consistent and fair application and defense of the rule of law. In this system of values corruption is the biggest threat that may undermine and boycott the whole system. Yet this is precisely the “maladie d'enfance” from which young democracies are mostly suffering.

The lack of trust in the efficiency and fairness of the state is not only the problem of fledgling democracies, but also occurs in the most developed democracies, such as the US which is founded on the principle of checks and balances and of independent justice. The “war on terror” waged since September 11th 2001 has revealed serious loopholes in the US executive and judicial system and has opened up the possibility of interrogation practices which should not be permitted in any democratic state. From this perspective it is quite understandable that the Serbs in Kosovo or any other ethnic minority in a newly created state may fear for their security and protection of their rights. Can the EU, when taking over the protective role from NATO fill the security gap? Are we capable to transmit our value system and overall mission and make it functional?

This is precisely the question for Serbs in Kosovo. The presence of international organizations, such as the UN and the EU is viewed as a panacea for closing the gap between the law and its implementation. However, there is no guarantee that international technical assistance, together with institution and capacity building, can ensure a fully functioning democracy in the long run. The question is how long it takes to build a structure of trust and democracy in which both the majority and the minority can feel comfortable.

Is the EU membership a guarantee for conflict resolution?

The main reason of the creation of the European Union was to prevent future conflicts between the old enemies France and Germany that have waged wars along the centuries. The EU is often quoted as the most successful pacifier with a tremendous power of transforming the states into real democracies. However, it is far less certain whether the EU is able to prevent, let alone resolve the ongoing conflicts.

In 2004 the International Commission for the Balkans composed of some respective former heads of states and governments issued a report contending that the Balkan conflicts, including the Kosovo-Serbia one will be resolved once these countries join the European Union. This was based on a presumption that the EU provides a broader framework where the national competences are assigned to the supranational institutions and where the notion of the EU belonging prevails over the parochial nationalistic feelings. But however the EU was successful in precluding a German French conflict it has not demonstrated that it possesses mechanisms for conflict resolution in its own courtyard:

The Northern Ireland conflict continued to last over thirty years, well after the UK and Ireland became part of the European Communities. The EU had minor if any impact on the conflict, albeit the Irish economic growth following the EC accession played a role in supporting the much poorer Catholic community to get on with economic development. Yet, even if the conflict has been largely resolved Belfast remains a walled city where the multiethnic areas are hardly existent. The price of peace seems to be a separation.

Another example is the Cyprus conflict where the last UN attempt undertaken in 2004 just before the accession of Cyprus in the EU failed to find a solution for the divided island.

In the case of the Kosovo recognition the EU is in a rather peculiar position, trying to play a key role in recognizing the Kosovo independence on one hand, while having some examples of wary EU states that fear for their own internal stability on the other hand. Slovakia, Romania, Spain, Greece and especially Cyprus remain reserved as to the quick recognition after Kosovo proclaims its independence without the UN resolution. Slovakia and Romania have a sizable Hungarian minority, whereas Spain fears that the recognition would incite old Basque claims for independence and

encourage Catalans to pursue bolder reforms aimed at larger independence from the central government. The Belgian state crisis in 2007 was a terrible warning that the specter of secession can show his head even in the mainland of the oldest supporters of the European integration process.

The most concerned however is the Cyprus government who dreads that the Kosovo independence could prompt the Northern Cyprus Turkish part to go the same way. The island has been divided ever since the Turks seized the north in 1974 in response to the Greek coup aimed at unifying the island with Greece. Cyprus recognition of Kosovo independence could have unforeseeable consequences for the status of the island, especially in the situation when the pace of Turkish EU accession is seriously put into question.

The EU is struggling to achieve unity over Kosovo status in order to show its maturity as a respectable international player. Failure to agree on the common position would be a bad harbinger for the Lisbon Treaty signed on 13 December 2007 by EU Member States. This will be especially relevant at a later stage when Kosovo undertakes the accession process, the aim which seems to be as important as its independent status. Latest rumors want it that the price for the independence of Kosovo is to be the opening of accession negotiations with Serbia. The Slovenian presidency might be tempted to push in this direction as the declaration of independence of Slovenia marked the bloody start of the Yugoslavian war and the falling apart of the state. Yet, EU membership is worth more than a trade off.

One of the main novelties in the Treaty consists of invigorating the EU Foreign Common and Security policy and creating the post of EU Foreign affairs representative. The deployment of a 1,800-strong police and civilian mission to Kosovo that will replace the UN UNMIK administration has been already agreed upon at the EU summit in December 2007, marking the end of the EU Portuguese presidency. It will be the most important EU foreign operation so far and represents a big test of the European Foreign policy capacities and ambitions. Failure to successfully accomplish this mission would deal a blow not only to the EU foreign policy ambitious but to its reputation of a peacemaker.

Is ethnicity stronger link than economy?

The tendency of a break up of state along the ethnic line, ushered by the dissolution of Yugoslavia, seem to continue in different places of the world, notwithstanding the level of economic development or longevity of multiethnic state.

Although it is still premature to talk about the final set up of Iraq there are strong indications that the country is drifting apart along the ethnic lines. The country's bloodshed may have dropped a little in the last months but it does not seem to stop the disintegration of the territory into the areas controlled by tribes. Even Bagdad, which was a multiethnic city before the American invasion in 2003 seems to be

divided between Sunnis and Shiites. In the North of the country the Kurds are holding on their autonomy and the progress of the central government formation remains slow. As long as the country is under the American occupation it is inappropriate to dwell on the final set up of the country, but the tendency towards ethnic splintering is hard to ignore in spite of the American efforts to set the basis for a democratic state, based on the free elections and the rule of law.

It appears that ushering democracy into the former totalitarian states only fuels ethnic divisions and encourages sectarian violence. But secession does not give the answer whether the disintegration should ultimately give way to democracy. The form of the regime doesn't appear to be the main concern, but rather the functioning supply of goods and services and a feeling of security for one's enlarged family.

The end of the cold war has triggered a situation where we are heading towards very few big Superpowers, on the one hand and which have control over many, small, ethnically homogeneous and almost feudal –type micro-nations, living in a state of permanent dependency. A new type of colonialism is coming into being.

The current Kosovo conundrum may be the first signal of the need for the systematic structural changes that need to be undertaken to accommodate the world in which we live.

After the Second World War, the United Nations were the answer to incommensurable suffering. Slowly, staggeringly they have gained credibility and shaped their possibilities of reaction, from mostly humanitarian responses to Blue helmets. Now their activities have to be consolidated by legal provisions based on equal rights and equal access to resources. International treaties in the future have to take into account economic viability as much as ethnic composition. The first case to show this willingness would be the fair creation of a true Palestinian state.

The EU is in a unique position to influence these changes, while it is still trying to come to grips with its own multi-ethnicity. The EU should therefore start thinking about its policy towards minorities while launching a thorough discussion on the differences between ethnic minorities and migrant minorities which although fundamentally different are dealt with on an equal footing.

The Fundamental Rights Agency and the Charter of Fundamental Rights, annexed to the Lisbon Treaty are a step forward in the right direction. It remains though to be seen to what extent these instruments will be sufficient in the longer run and whether the Member States will show enough political will to delegate their powers and to allow the Agency to deal with sensitive political issues beyond integration or discrimination of minorities.

The EU can find supporters for these new legal provisions in the framework of its neighborhood policy, through the MEDA context and the Barcelona process. The solution can not be to try and offer membership in the EU as a way of bringing together what is driving apart. We have seen this in the accession of Cyprus. The solution can not be to offer international administrations to entities which are not able to work out viable economic structures but claim their right to independence. The solution should be based on avoiding double standards in international recognition of secessionist tendencies – there are no “good” or “bad” Kurds, according to whether they are Iraqi or Turkish citizens, there are no “good” or “bad” Palestinians, according to whether they have voted for the party that pleases the international community, there are no “good” or “bad” Albanians, whether they live in Serbia or Macedonia.

What we urgently need is a debate on the structure of the world in the new era of post nation-states.