

Facing the Kosovo Conundrum

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After seven months of talks, negotiations on the final status of Kosovo appear to be deadlocked. While the Serbian Government is prepared to cede complete autonomy to the province, but not statehood, the Kosovo Albanian leadership will accept nothing short of full independence. Increasingly it appears likely that the final decision will rest with international mediators and the UN Security Council. They will face a major dilemma.

On the one hand, any move to formalise independence against the wishes of Belgrade would mark a dangerous precedent in international affairs. Contrary to popularly held belief, international law does not recognise an unfettered right to self-determination. At present, the principle of the inviolability of state borders trumps the right to carve out territory in the pursuit of ethnic homelands. Any move to recognise statehood against the will of the Serbian Government will mark a decisive move away from this principle. The ramifications of this could be significant. Already, Russia has said any decision on Kosovo must be seen as a universal principle, citing the effects this will have on the Caucasus and the breakaway territories of South Ossetia and Abkhazia. In neighbouring Bosnia, Serbs are increasingly agitating for their own right to secede, again citing developments in Kosovo. Meanwhile, elsewhere around the world, the outcome of the Kosovo process is being watched with interest. Attempts to find peace in Moldova, Azerbaijan, Cyprus and Sri Lanka – to name just a few examples – could all be affected by the decision taken on Kosovo.

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However, balanced against the legal implications of independence, practical politics suggests that there is no choice but to recognise the Kosovo's statehood. The simple fact is that any attempt to maintain Serbian sovereignty over the province, no matter how loosely defined, will be resisted by force. Indeed, Albanian frustration at the lack of independence is increasingly being vented against the UN administration. Many observers believe that any further delays in granting independence, let alone a decision to recognise continued Serbian authority, will lead to attacks on international personnel serving in Kosovo. Burdened by Iraq and Afghanistan, it seems unlikely that NATO, in general, or the United States, in particular, has the desire to fight yet another insurgency. Under these circumstances, the current drive to secure a final status for Kosovo is as much a result of the international community's wish to divest itself of a major security problem as it is about recognising the inherent risk of another major conflict if Serbia's continued sovereignty over the province is maintained.

Faced with the unpalatable choice of upholding international law or preventing another Balkan conflict, many diplomats (albeit privately) and analysts have suggested a third option: partition. While certainly not an ideal solution, it nevertheless offers the opportunity for compromise. Belgrade might be willing to accept this as a face-saving alternative to continued sovereignty over what is, ultimately, an unmanageable province. Such acceptance would obviously keep the principle of state creation by consent intact, therefore ensuring that Kosovo would not have a wider knock on effect. Meanwhile, the Kosovo Albanians may well see the logic of allowing the Serbian areas of northern Kosovo to go their own way. In addition to ensuring full legitimacy for their new state, they would also be freed from having to ensure Serbian participation in the machinery of governance.

However, the option of partition has been rejected by mediators for reasons that are not entirely clear, or logical. Although opposed to both independence and partition, Vojislav Kostunica, the Serbian prime minister, pointed out during his recent visit to London that while the division of Kosovo had been ruled out, few

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seemed to be concerned about the fact that granting the province independence would in fact mark the partition of Serbia.

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