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RUSSIA, CRIMEA, AND KOSOVO: RIGHT PLACE, WRONG EXAMPLE

By John R. Haines



A trustee of FPRI and Executive Director of FPRI's Princeton Committee, John Haines is a private investor and entrepreneur. His current efforts focus on the question of nuclear smuggling and terrorism, and the development of technologies to discover, detect, and characterize concealed fissile material. He has been a student of security and intelligence for many years, holding advanced degrees from the University of Pennsylvania, where he was a Fels Scholar, and from King's College in London. He is a life member of the US Naval War College Foundation and the US Naval Institute and a member of the Executive Committee of the Friends of the Institute for Advanced Study at Princeton.

"A referendum is always possible as the last means through which citizens can voice their democratic will."

Aleksandar Vučić, Serbian First Deputy Prime Minister
September 2012

There are two ways to respond to a referendum: decide to honor its results, or decide not to. Russia points to Kosovo in defense of its actions vis-à-vis Sunday's referendum in Crimea. It could be suggested Russia is looking to the right geography but the wrong example. More useful might be the example of Serbia and the 2012 North Kosovo referendum.

The Serbian example is an apt one for Russia. Of the many parallels between the two states, the role of *irredentist conflicts*—where a stranded ethnic minority's aims to join the seceded state's territory with the rump state—is perhaps most salient in light of current events. It is in this sense curious that Russia cites Kosovo as precedent for Crimea's right to secede.

In a much under-reported story, Serbian voters, also this past Sunday, took a definitive step toward European Union membership by giving the pro-EU Serbian Progressive Party a parliamentary majority. Serbia earlier met a key precondition to EU accession: that it *normalize* relations with—but not necessarily recognize¹—the Kosovo Republic under terms of the April 2013 Brussels Agreement.

Is this an instructive example of a state turning away from importuning ethnic kin? Before answering that and asking whether Serbia might provide a useful lens for Crimea, some context is in order.

Somewhat forgotten now is that two years ago, in February 2012, the four Serb-dominated municipalities of northern Kosovo bordering central Serbia—Leposavić, Zvečan, and Zubin Potok, and North Kosovska Mitrovica—approved

¹ http://www.upi.com/Top_News/World-News/2013/12/27/To-become-EU-member-Serbia-must-normalize-relations-with-Kosovo/UPI-64161388172918/ Last accessed 13 March 2014.

a referendum to reject governance by Kosovo. These *Ibarski Kolašin* municipalities constitute the largest of several Serb-dominated regions within Kosovo. The three-quarters of eligible voters that participated answered the referendum question—*Do you accept the institutions of the so-called “Republic of Kosovo”?*²—with a resounding (99.74%) “No”.

Little more than a year hence and with both Serbia and Kosovo seeking European Union membership, each agreed not to interfere with the other’s accession.³ A key term provided for governance of the *Ibarski Kolašin* by a so-called “Association/Community of Serb majority municipalities in Kosovo.” To Kosovo, this meant merely another inter-municipal association to coordinate among local governments. To North Kosovo Serbs, however, it meant a *Zajednica*, a union of municipalities based on shared values (read: ethnic identity). Here and elsewhere, *ethnicity* is all the more puissant because, as we are reminded, it exists first and last in people’s minds: “[This] does not make it ephemeral; on the contrary, it is all the more real and powerful as a result. A creation of the human mind, it is impervious to mere rational disproof.”⁴ Put another way, it is the way of separatist and irredentist forces to use of identity politics as a means of congruence between *nation*—here, notions of “Greater Serbia”—and *state*.⁵

Like many agreements among EU states, the Brussels Agreement evinced a purposeful ambiguity to sidestep political conflict where explicit terms and conditions adopted. Doing so left unresolved important questions, such as exactly where State authority was vested. The Kosovo Assembly? The Serb-majority municipalities operating under Serbian law? The newly elected municipal bodies operating under Kosovo law? Further, it implied constitutional status for the Association/Community, stating “legal guarantees will be provided by...constitutional law,” something that existed in Serbia but not Kosovo. For all its ambiguity, however, the Brussels Agreement made one thing abundantly clear: the popular preference expressed by North Kosovo voters for the status quo—to be in, but not of, Kosovo—was no longer possible.

Fast-forward ten months to February 2014. Serbian Prime Minister Ivica Dačić declared “the majority status of Kosovo Albanians did not give them the right to take unilateral decisions on independence without the agreement of the country from which they had seceded.” Russia’s Permanent U.N. Representative Vitaly Churkin concurred, stating Russia’s “position on Kosovo was consistent in its support for Serbia’s sovereignty and territorial integrity.”⁶ In other words, while Serbia’s pro-EU forces were unwilling to see accession derailed by the February 2012 referendum—a decision in which North Kosovo’s dominance by anti-EU Serbian opposition parties no doubt figured prominently—it by no means implied accedence to Kosovo’s 2008 unilateral declaration of secession⁷ let alone Kosovan sovereignty over the *Ibarski Kolašin*.

Churkin’s reflection on Dačić’s declaration is curious in light of Crimea but nevertheless consistent with State practice, which suggests there is very little, if any, support for unilateral declarations of independence where a State from which a territory proposes to secede demonstrates opposition.⁸ This reflects a constitutive theory of State recognition, “that it is the act of recognition by other states that creates a new state...and not the process by which it actually obtained independence.”⁹ Indeed, Russian arguments vis-à-vis Crimea seem instead a selective reading of the letter (if not the spirit) of the Montevideo Convention, viz., “The political existence of the state is independent of recognition by the other States.”¹⁰ Indeed, looking at the Northern Kosovo and Crimean referendums side-to-

² Perhaps Russia’s interests would have been better served had Crimea mimicked the language of the North Kosovo referendum.

³ The “Brussels Agreement” or “First Agreement of Principles Governing the Normalisation of Relations.” The full text is available at <http://www.europeanvoice.com/page/3609.aspx?&blogitemid=1723>

⁴ Patrick J. Geary (2002). *The Myth of Nations: The Medieval Origins of Europe*. Princeton: Princeton University Press, p. 40.

⁵ Vesna Pešić (1996). “The War for Ethnic States.” In Nebojša Popov & Drinka Gojković, eds. *The Road to War in Serbia: Trauma and Catharsis*. Belgrade: Central European University Press, p. 15. Suranjan Das (2001) offers a similar notion of *nation* and *state* in *Kashmir and Sindh*. London: Anthem Press, p. 3.

⁶ <http://www.un.org/News/Press/docs/2014/sc11270.doc.htm> Last accessed 17 March 2014.

⁷ On 17 February 2008, the Parliament of Kosovo declared “Kosovo to be an independent and sovereign state.” The position of Serbia and Russia is that UNSC Resolution 1244 does not allow the secession of Kosovo without the agreement of Serbia, a position grounded in particular in the resolution’s preamble language “[r]eaffirming the commitment of all Member States to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia.” <http://www.asil.org/insights/volume/12/issue/2/kosovos-declaration-independence-self-determination-secession-and> Last accessed 17 March 2014.

⁸ Daniel Fierstein (2008). “Kosovo’s Declaration of Independence: An Incident Analysis of Legality, Policy and Future Implications.” *Boston University International Law Journal*. 26:2, 431.

<https://www.bu.edu/law/central/jd/organizations/journals/international/volume26n2/documents/Fierstein.pdf> Last accessed 17 March 2014.

⁹ *Ibid.*, p. 439.

¹⁰ Montevideo Convention on the Rights and Duties of States, 26 December 1933, at Article 3.

side, Russia's position seems to be, at one and the same time, "Yes, No, or Maybe."¹¹

For both Serbs and Russians, real or imagined threats posed to ethnic kin living beyond State borders may inflame domestic opinion,¹² or more cynically, give a pretense for interference. Whichever may be the case, it is foolhardy to misconstrue any state's actions in these circumstances: Serbia eschewed the North Kosovo referendum in the near term not because the *Ibarski Kolašin* failed to meet some *de minimis* standard of what constitutes a "state."¹³ Rather, it was a political expedient in deference to Serbian EU accession, as well as the utility of leaving in place the largest voting bloc of Kosovo Serbs. Given that several procedural and practical steps remain for Russia to annex Crimea fully, the possibility for parallels to emerge, here and elsewhere, intrigues.¹⁴

Like those of "Greater Serbia," Russian irredentist conflicts both hot and cold exist in many former Soviet republics. Within states with larger non-Russian populations, there are territorial enclaves with Russian majorities— Ida-Virumaa¹⁵ in northeastern Estonia; Latgale in eastern Latvia; the "Russian Altai Republic" in northern East Kazakhstan Province; and of course, Crimea in Ukraine— de facto states with Russian majorities— the "Pridnestrovian Moldavian Republic"¹⁶ (Pridnestrovye a/k/a Trans-Dniestr) and Gagauziya, both in the Republic of Moldova—and unrecognized states with Russian majorities the "Republic of Abkhazia" in Georgia, the "Nagorno-Karabakh Republic" (a/k/a "Artsakh Republic") in southwest Azerbaijan, and the "Republic of South Ossetia" in Georgia.

Whether Russia still has the option (or any wish) to cool the situation in Crimea by emulating Serbia's response to the North Kosovo referendum remains to be seen, though it may well have set into motion events it no longer can adequately contain. Looking ahead, while bilateral conflict between Russia and Ukraine over Crimea is troubling enough, the potential elsewhere for multilateral irredentist conflict to emerge is even more so.

At the same time Serbia was entering into the Brussels Agreement, in April 2013, a leading Iranian figure claimed "the people of 17 cities across Caucasus"—all cities "separated from Iran under the rule of the Qajar dynasty," including the Azeri capital city, Baku—"are interested in their cities getting annexed to the Islamic Republic of Iran."¹⁷ In the same period, the managing editor of the Iranian newspaper *Kayhan* (said to reflect the views of Supreme Leader Ayatollah Ali Khamenei) called for a referendum in southern Azerbaijan on joining the Iran.¹⁸ More recently, the Iranian Parliament reportedly discussed the possibility of relocating the nation's capital from Tehran to Tabriz in northern Iran. The fourth largest city of Iran and the administrative center of the Iranian province of South Azerbaijan, Tabriz is more important in this context as the historic center of Azerbaijani culture.¹⁹

¹¹ Credit to Arnold Beichman's "Brezhnev Doctrine: Is It Yes, No, or Maybe?" See: Beichman (1991). *The Long Pretense*. New Brunswick: Transaction Publishers, p. 205.

¹² The author is indebted to the excellent treatment of this subject by Anna Batta (2013) in her dissertation *Ethnic Politics in New States: Russian and Serbian Minorities After Secession*. http://digital.library.unt.edu/ark:/67531/metadc271779/m2/1/high_res_d/dissertation.pdf Last accessed 13 March 2014.

¹³ Article 1 of the Montevideo Convention reads: "The State as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with other States." At some level at least, *Ibarski Kolašin* met each criterion.

¹⁴ As to a likely "elsewhere", see footnote (16), below.

¹⁵ The former Estonia SSR Kohtla-Järve district.

¹⁶ On 18 March 2014, Mikhail Burla, Chairman of the Supreme Council of the self-proclaimed Pridnestrovian Moldavian Republic, requested Russian State Duma speaker Sergei Naryshkin include it in a bill submitted by A Just Russia (*Spravedlivaya Rossiya*) party deputies to sanction the annexation of territories not governed by an "effective legislative authority" who vote by referendum to join Russia. Burla, who is seeking annexation of the disputed region of Moldova, asked Naryshkin to amend the legislation as Moldovan authorities cannot explicitly be called "ineffective," according to a *Vedomosti* report. <http://www.vedomosti.ru/politics/news/24095441/pridnestrove-kak-krym> Last accessed 18 March 2014. However, A Just Russia withdrew the bill so as not want to "interfere with the rapid annexation of Crimea under a different scheme." <http://www.themoscowtimes.com/news/article/transdnestr-asks-to-be-included-in-annexation-legislation/496397.html> Last accessed 18 March 2014. See also <http://vestnikkavkaza.net/news/politics/52743.html> Last accessed 18 March 2014.

¹⁷ Mansour Haqiqatpour, a member of Iran Majlis National Security and Foreign Policy Committee, quoted in "17 Caucasus cities seek annexation to Iran: Lawmaker." *Press TV*. 4 April 2013. <http://www.presstv.ir/detail/2013/04/04/296503/17-caucasus-cities-seek-iran-annexation/> Last accessed 18 March 2014. Haqiqatpour was referring to the 1828 Treaty of Turkmenchay, in which Russia and Persia agreed to a border between the territories they effectively controlled in the Caucasus. See: Alexandros Petersen (2013). "Iran Threatens Azerbaijan." *The National Interest*. Online edition, 29 April 2013. <http://nationalinterest.org/commentary/iran-threatens-azerbaijan-8407> Last accessed 17 March 2014.

¹⁸ Hossein Shariatmadari, speaking at a conference "Tomorrow of the Contemporary Southern Azerbaijan" organized by a little known group called the "National Liberation Front of Southern Azerbaijan." See: Golnaz Esfandiari (2013). "Hard-Line Tehran Daily Says Azerbaijan Should Hold Referendum On Joining Iran." *Radio Free Europe-Radio Liberty*. Online edition 4 April 2013. <http://www.rferl.org/content/shariatmadari-hard-line-daily-referendum-azerbaijan-joining-iran/24948274.html> Last accessed 18 March 2014.

¹⁹ Samma Mammadova (2014). "Iran's Capital Relocation Threatens Azerbaijani Minorities." *Harvard International Review*. Online edition 8

The possibility of an Azerbaijan rent by a process of “secession by referendum”—in Nagorno-Karabakh Republic to the west (where Iran actively supported Armenia during the Artsakh Liberation War) and in “Northern Azerbaijan” in the Azerbaijan Republic’s south—should be cautionary to all parties, especially Russia.

FPRI, 1528 Walnut Street, Suite 610, Philadelphia, PA 19102-3684

For more information, contact Eli Gilman at 215-732-3774, ext. 255, email fpri@fpri.org, or visit us at www.fpri.org.