Chapter 7 Post-World War 2 Exercises of Self-Determination: “Peaceful”, “Friendly”, and “Other”

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1 Introduction

The Unilateral Declaration of Independence (UDI), issued on 17 February 2008 by the Albanian authorities in the former Serb province of Kosovo, continues to generate great interest, not least because it represents a new generation of exercises by peoples in self-determination. Kosovo’s unilateral move to secede territorially from Serbia is quite remarkable because, in order to avoid wider system chaos, the majority of international political and legal efforts in the post-1945 era have been devoted to confining ‘lawful’ exercises in self-determination to peoples inhabiting former colonies or other non-self-governing territories. As Kosovo was a long-standing province of southern Serbia, it did not ‘qualify’, even though the 1974 Yugoslav Constitution granted the province the status of a highly-autonomous federal entity, with representation in the federal institutions. When Kosovo’s 2008 UDI is viewed along-

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4 The canon on self-determination is extensive, a comprehensive listing of which is found in the bibliography of Marc Weller, Escaping the Self-Determination Trap (Leiden: Martinus Nijhoff Publishers, 2008).
5 A position rather less than a full republic but much more than mere autonomy. Marc Weller, Contested Statehood: Kosovo’s Struggle for Independence (Oxford: Oxford University Press, 2009), 34.

side the continuing protest it has provoked from Serbia,\textsuperscript{6} it becomes clear that the UDI by no means constituted a ‘friendly’ exercise in secessionist self-determination. On the other hand, Serbia’s self-restraint since that time, in not resorting to armed force in response to this particular UDI, implies that Kosovo’s secession has – so far, at least - been accomplished ‘peacefully’.

Kosovo’s recent bid for independence may constitute a highly controversial exercise in self-determination, but the fact that its majority population decided to take this drastic step does not make the UDI exercise historically unusual. Instead, the action merely underscores another ‘fact’ – that of a recurring pattern in human behaviour which does not change. Whether or not the UDI ultimately attracts the necessary degree of international ‘legitimacy’ for Kosovo to attain statehood, the secession provides support for a somewhat different proposition: that questions of revolution, self-determination, and independence cannot be treated as having simple ‘right’ or ‘wrong’ answers, as to do so would only conflate solutions with causes. Inasmuch as self-determination holds a unique position in human affairs, and appeals to its rhetoric convey a sense of aspiration, a more subtle calculus in analysis is called for – one which acknowledges the burdens and benefits of differentiation as opposed to integration. Accordingly, should domestic mechanisms for managing societal change not exist, entire regions can be destabilised by self-determination.

Such destabilisation occurs largely because appeals to self-determination facilitate the generation of gyroscopic-style forces, which are capable of resisting wider, more centralising power. The term ‘self-determination’ thus implies a desire to promote the autonomous ‘self’ outside of the control of others. Moreover, exercises in self-determination by a people are as varied as the groups asserting the right, and often, the term is used merely to communicate the desire of a people to rectify or re-adjust certain social relationships between themselves and broader groupings. Accordingly, when the Serb nationalist leader Slobodan Milošević engineered amendments to Serbia’s Constitution in 1989 to revoke Kosovo’s local autonomy and the minority rights of the province’s Albanian majority,\textsuperscript{8} the latter countered with a quest for self-rule which ultimately would involve the formation of a shadow Kosovo government, an armed conflict between Serb forces and the Kosovo Liberation

\textsuperscript{6} See, e.g. UN Doc. GA/AB/3911, 63 Assembly, Fifth Committee, 51 Meeting, 3 June, 2009 (Budget Committee proposal to reduce UNMIK funding opposed by Serbia, as contradicting ‘status-neutrality’).
