



KOSOVO

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Why Kosovo matters in Georgia

By Ilana Bet-El, The Guardian

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It will take some time for the implications of the conflict between Georgia and Russia to be truly understood. Between the unfolding facts on the ground and the flurry of diplomatic activity in the EU and by the US, there is an impression of developments and change – but these can only be seen as short term, since the issues at the heart of this situation are far broader than a specific border or state. Indeed, they encompass the very meaning of the international system, and especially the interpretation of international law. Neither an emergency EU summit nor a visit by US vice-president Dick Cheney to the region will address these, nor will bellicose declarations by Russia. And since the UN is effectively neutralised, due to Russia's refusal to allow a debate on the Georgian conflict, it is unclear when a proper consideration of these core issues can even begin to take place.

While any attempt to reduce this debate to simple propositions will do none justice, for the purposes of clarity it is possible to suggest that the western approach holds international law as an absolute arbiter on all issues, both between states and within them. In other words, it is there for state, peoples and individuals alike – and it tends to attempt to uphold the rights of all three, though in reality it usually comes down firmly on behalf of the state, and so by default sanctifying the integrity of states and international borders, while accepting alterations, such as in the case of Kosovo. Russia, China and other non-democratic regimes see the issue entirely differently. For them international law is solely about the interaction of states: its viability and jurisdiction stops at a state border and national law reigns supreme within any state. The individual, and a people, are therefore beyond the scope of international law within this approach, while territorial integrity and the inviolability of borders are enshrined – with no exceptions. Within this reading, Kosovo is an unacceptable heresy, to be ruthlessly stamped out.

Kosovo keeps coming up because it has become the nub of the Georgian conflict – which only underlines the need for a far more fundamental debate. And while the west adamantly refutes any comparison between the two, Russia is equally adamant it has served as a precedent for its own actions. Neither side is correct.

Within the western perspective, the liberation of Kosovo from Serbia – starting from a lengthy bombing campaign in 1999, followed by a UN administration of a de facto separate Kosovo, and ending with its self-declared independence – was a necessity driven by Serbia's systematic abuse of the Albanian majority in Kosovo. As such, it has been defined as a "unique case" rather than a precedent in international law, since the circumstances were deemed to be sui generic, not least because the Kosovo issue



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could be seen as the last unresolved part of the long wars of Yugoslav secession. In truth, this perspective is at best flawed – there was unfortunately remarkably little that was unique about the circumstances of Kosovo, in which Milosevic let his forces loose upon unprotected civilians: another unchecked despot, whose crimes and misdemeanours were awful but never plumbed the depths of a Mugabe or the Burmese junta, to mention just two of the current cast. What was unique was the guilt of the west over the Yugoslav wars, and especially the Srebrenica massacre – and the need to assuage it with a large gesture. Moreover, the fact that the west has adamantly refused to act over other despots who decimate their own populations has definitely underlined its belief that Kosovo was unique, and its lack of intention in repeating the move.

From the Russian perspective, the 1999 Nato bombing of Kosovo – and ultimately Serbia – was unacceptable on two counts: first, it was illegal, since all the action was undertaken without a UN security council resolution. Second, it was a violation of the two issues of international law Russia considers most crucial: absolute acceptance of international borders and territorial integrity; and the inapplicability of international law within a nation state. Within this reading Kosovo was recognised as part of Serbia, and there it had to stay – while the international community was not at liberty to intervene in the affairs of another state, even if it was persecuting its citizens. To make matters worse, little recognition was given to Russia's crucial role in delivering a halt to the bombing in 1999: working through the OSCE, it was Russia that brought Serbia to the table rather than Maarti Ahtisaari, though the west has always given all credit to the latter. And while Russia was party to security council resolution 1244, which gave Kosovo de facto independence under a UN administration, Russia always maintained that it was unacceptable for it to become independent de jure, since this would be a violation of international law. It has therefore refused to recognise an independent Kosovo, and blocked any attempt to address the matter in the security council over the past six months.

The Russian invasion of Georgia, and its decision to keep a presence within that state in violation of its signature upon the ceasefire agreement brokered by France, undermines its own argument about respecting territorial integrity and international law. If it had stuck with South Ossetia and Abkhazia, which are recognised internationally as part of Georgia, it would have been on sticky ground – but it could still have claimed to have done no more nor less than the west did in Kosovo, including its unilateral recognition of the two regions' independence. It would have been a tenuous proposition, but nonetheless one far more difficult to counter in the west than the one currently maintained by Russia. For by entering Georgia proper, destroying its military infrastructure, and now declaring its democratically elected ruler a "political corpse" as in one who cannot be dealt with, Russia has basically shown its intentions have little bearing on asserting international law.

The west, on the other hand, must stop pretending Kosovo was anything but a dangerous precedent in international law and the viability of the international system.



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It is. And if it becomes possible to twist out of the current situation due to Russia's excesses – it will no doubt happen again, somewhere else. Maybe the Kurds, or the Transnistrians, or the Chechens – the world is full of peoples who want to shake off unacceptable rule and become independent states. Ironically, Georgia, much like many other former Soviet states, was deeply worried about the precedent of Kosovo before it took place, fearing the South Ossetians and the Abkhazians would use it to break away and declare independence – a move that would have been difficult to counter in the international community. In the event, by Russia taking the step – or rather several steps too far – the two regions have lost the opportunity.