

If Kosovo, Why Not Palestine?

Пише: John V. Whitbeck
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On July 22, the International Court of Justice issued an advisory opinion on the following question posed to it by Serbia: "Is the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo in accordance with international law?" By a 10-4 majority, the court ruled that, because "general international law contains no applicable prohibition of declarations of independence", Kosovo's declaration of independence in February 2008, coordinated with and supported by the American and most EU governments and subsequently recognized by 69 countries, "did not violate general international law." The clear implication is that no declarations of independence violate international law and that all are therefore "legal".

Because the court's majority chose to rephrase the question before the court (addressing violation of, rather than accordance with, international law in circumstances in which international law is silent) and to respond with wording which has permitted the supporters of Kosovo independence to claim an unequivocal victory and the American government to call publicly on all countries to recognize Kosovo as a sovereign state, not only Kosovars and the American and most EU governments will be celebrating this advisory opinion as a vindication of their positions. So will the peoples and governments of Abkhazia, South Ossetia, Transnistria, Nagorno-Karabakh, Bosnia's Republika Srpska, the Turkish Republic of Northern Cyprus and Iraqi Kurdistan. Discontented minorities and potential separatists elsewhere (including Alaska, Hawaii and Vermont) may also find cause for encouragement in this opinion.

Might the Palestinian people also find reason to celebrate, cause for encouragement or grounds for hope in this opinion?

The American and EU impatience to amputate a portion of a UN member state (universally recognized, even by them, to constitute a portion of that state's sovereign territory), ostensibly because 90% of those living in that portion of the state's territory supported separation, contrasts starkly with the unlimited patience of the U.S. and the EU when it comes to ending the 43-year-long belligerent occupation of the West Bank and the Gaza Strip (no portion of which any country recognizes as Israel's sovereign territory and as to which Israel has only even asserted sovereignty over a tiny portion, occupied East Jerusalem). Virtually every legal resident of the West Bank and the Gaza Strip seeks freedom -- and has for over 40 years. For

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doing so, they are punished, sanctioned, besieged, humiliated and, day after endless day, killed by those who claim to stand on the moral high ground.

In American and EU eyes, a Kosovar declaration of independence from Serbian sovereignty should be recognized even if Serbia does not agree. However, their attitude was radically different when Palestine declared independence from Israeli occupation on November 15, 1988. Then the U.S. and the EU countries (which, in their own eyes, constitute the "international community", to the exclusion of most of mankind) were conspicuously absent when over 100 countries recognized the new State of Palestine, and their non-recognition made this declaration of independence purely "symbolic" in their own eyes and, unfortunately, in most Palestinian and other eyes as well.

For the U.S. and the EU, any Palestinian independence, to be recognized and legally effective, must still be directly negotiated, on a wildly unequal bilateral basis, between the occupying power and the occupied people -- and must be agreed to by the occupying power. For the U.S. and the EU, the rights and desires of a long-suffering and brutalized occupied people, as well as international law, are irrelevant.

For the U.S. and the EU, Kosovar Albanians, having enjoyed almost nine years of UN administration and NATO protection, could not be expected to wait any longer for their freedom, while the Palestinians, having endured over 40 years of Israeli occupation, can wait forever.

With the "peace process" effectively brain-dead, the Kosovo precedent offers the Ramallah-based Palestinian leadership, accepted as such by the "international community" because it is perceived as serving Israeli and American interests, a golden opportunity to seize the initiative, to reset the agenda and to restore its tarnished reputation in the eyes of its own people.

If this leadership truly believes, despite all evidence to the contrary, that a decent "two-state solution" is still possible, now is an ideal moment to reaffirm the legal existence (albeit under continuing belligerent occupation) of the State of Palestine, explicitly in the entire 22% of Mandatory Palestine which was not conquered and occupied by the State of Israel until 1967, and to call on all those countries which did not extend diplomatic recognition to the State of Palestine in 1988 -- and particularly the U.S. and the EU states -- to do so now.

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Of course, to prevent the U.S. and the EU from ignoring such an initiative or treating it as a joke, there would have to be a significant and explicit consequence if they were to do so. The consequence would be the end of Palestinian adherence to the "two-state" illusion.

The Palestinian leadership would make clear that if the U.S. and most EU states, having recognized a second Albanian state on the sovereign territory of a UN member state and having called on all other states to do likewise, will not now recognize one Palestinian state on a tiny portion of the occupied Palestinian homeland, it will dissolve the "Palestinian Authority" (which, legally, should have ceased to exist in 1999, at the end of the five-year "interim period" under the Oslo Accords) and the Palestinian people will thereafter seek justice and freedom through democracy -- through the persistent, non-violent pursuit of full rights of citizenship in a single state in all of Israel/Palestine, free of any discrimination based on race and religion and with equal rights for all who live there, as in any true democracy.

Palestinian leaderships have tolerated Western hypocrisy and racism and played the role of gullible fools for far too long. It is time to kick over the table, constructively, and to shock the "international community" into taking notice that the Palestinian people simply will not tolerate unbearable injustice and abuse any longer.

If not now, when?

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