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## Serbia and Kosovo: A Resolution for Both Sides

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## 1

# SERBIA AND KOSOVO: A RESOLUTION FOR *BOTH SIDES*

Arielle Badger

## INTRODUCTION

“Balkanization,” a term coined for the dissolution of the Former Yugoslavia, was a messy and violent process. Borders were drawn according to historical rights to territory, many times disregarding the ethnicities that inhabited that land. Therefore, many pockets of land with a high ethnic concentration were integrated into countries with a differing ethnic majority. Even prior to the dissolution of the Former Yugoslavia, boundaries within the region have always been a source of violent contention among the various ethnicities living in the region. After the Yugoslav wars of the 1990s, new borders were drawn in the Balkans. One of the most contentious of these borders was that of Kosovo as an autonomous region within Serbia. After NATO’s illegal intervention in 1999, Kosovo was established as a UN protectorate and left in status limbo until it declared independence in 2008. This has caused serious conflict between not only Serbia and Kosovo, but within the entire international community.

The “West” wants the messy state of the Balkans to be cleaned up. The West perceives Kosovo’s independence to be the only solution. Serbia will never recognize the independence of Kosovo. The history of Kosovo and Serbia began over 600 years ago; however, the West only sees Milosevic’s atrocities in the 1980s–1990s. What must be understood is that both sides of this conflict, the Kosovars and the Serbs, both have blood on their hands. The conflict is not one sided – both parties have been victims to horrors from the other; both sides share guilt. Thus, compromises and concessions must be made on *both* sides.

It is of vital importance for the West that the Kosovo status question be resolved as quickly, and cleanly as possible. However, the West is pursuing the Kosovo status question with their own agenda, ignoring the concerns of the Serbs. Thus far, all negotiations since Kosovo’s creation in 1999 have failed, largely due to the lack of concessions from the West.

This paper proposes that in order to persuade Serbia to recognize Kosovo, new negotiations must be made. The West should consider redrawing Kosovo’s boundaries to keep the area north of the river Ibar as Serbia, and also to continue offering EU Membership to Serbia. Through these two concessions perhaps Serbia could be persuaded to recognize an

independent Kosovo.

This paper will first explore the complex history of Kosovo and Serbia from its origins in 1389 until the present day. Then it will proceed to investigate the concerns of the Serbs in regards to the validity and legality of Kosovo's independence. The questionable legality of Kosovo's declaration of independence makes it necessary for other considerations to be made for Serbia in hopes of atoning for potential violation of Serbia's sovereignty. Lastly, it will present alternative solutions to resolving the status question, namely the partition of Kosovo and Metohija, and expediting the EU accession process for Serbia.

### **HISTORY OF SERBIA AND KOSOVO**

The most influential and defining moment of Serbian history in Kosovo was the Battle of Kosovo on June 28, 1389 when the Ottoman Turks invaded the province. Prince Lazar of Serbia led Orthodox Christians to fight the invading Muslims. Although it was a military defeat for the Serbs, it was a spiritual and cultural victory; Lazar was a Serbian hero and died as a martyr for the Orthodox faith. Defeat united the Serbs religiously and politically, giving rise to Serbian nationalism (Duijzings 2000). This territory is where Serbia's history, heritage, tradition and national identity began and is still revered as the birthplace of the Serbian nation. In fact, Slobodan Milosevic in December of 1995 proclaimed Kosovo as "the heart of Serbia." For every Serb, "Kosovo is a holy [land] .... There were 200,000 Serbs living in Kosovo much before Albanians ever came from the rocky [Balkan] mountains" (Phillips 1996, 823). Kosovo Day is still celebrated in Serbia every June 18 in commemoration of the battle. Following the Battle of Kosovo, Ottoman Turks moved into the territory and introduced Islam to the culture. Kosovar Albanians converted into Islam and became the ruling class, and as such suppressed the Orthodox Serbians for almost 600 years until the fall of the Ottoman Empire in World War I.

The assassination of Archduke Franz Ferdinand of Austria in Sarajevo by the Serbian group the "Black Hand" in 1914 was the immediate spark that started World War I. This political shooting was an attempt by the south-Slavic region to gain independence from the Austria-Hungarian Empire to create a "Greater Serbia." For the duration of World War I, Austria occupied Serbia, fighting several devastating battles. Austrian planes bombed civilian refugees and soldiers indiscriminately—a quarter of a million Serbs were killed, 15% of Serbia's overall population.

In the interim between World War I and World War II, Serbia and Kosovo were integrated into the Kingdom of Yugoslavia, which encompassed the Western Balkan region. In 1941, the Axis Powers invaded and occupied the Kingdom of Yugoslavia, with Italy instating a fascist, Croatian government. The Albanian Kosovars also sided with the Italians and Axis Powers and persecuted Serbs within its boundaries. The Serbs sided with the Allied powers, and consequently 500,000 Serbians were killed by the Croatian regime. The Serbian Orthodox Church was also devastated; 217 Orthodox priests were killed.

After World War II, the Kingdom of Yugoslavia was liberated by the Allied Powers and became the Federal Republic of Yugoslavia, ruled by the iron fist of Josip Broz Tito. This new country was composed of what are now Slovenia, Croatia, Macedonia, Bosnia and Herzegovina, Serbia, and Montenegro. In 1974, Tito's Yugoslavia ratified a new constitution making it a federation of six republics with Kosovo and Vojvodina as autonomous regions within Serbia (Vidmar 2009). Kosovo was given an equal vote in national governmental bodies; however, it was not distinguished as a "nation" in the constitution (Rogel 2003). Kosovo and Vojvodina were not "nations" as Serbia, Croatia, Slovenia, Macedonia,

Montenegro and Bosnia were. Rather, the regions were comprised of “nationalities” within a “nation” (Serbia). The term “nation” applied to the “people attached to a certain republic,” while “nationality” applied to the “people attached to one of the two autonomous provinces” (Vidmar 2009). The 1974 constitution of Yugoslavia made it so that only nations were entitled to the right of self-determination and succession (Vidmar 2009). Kosovo remained an autonomous region within the “nation” of Serbia. The Kosovars were unsatisfied with this political arrangement and protested for recognition as a “nation” and thus an independent republic within Yugoslavia.

In 1989, Slobodan Milosevic was elected president of Yugoslavia. As president, Milosevic amended the constitution to essentially strip Albanians of their constitutional rights and to take autonomy away from Kosovo and Vojvodina. These two regions became subordinate to Serbian authorities and no longer enjoyed their former autonomy. This also created strict segregation policies imposed by the Serbs, increasing the tension between the Kosovars and Serbs (Wheeler 2000). In 1989, the Democratic League of Kosovo (LDK) organized to peacefully protest the mistreatment of Kosovars in Serbia. Led by Ibrahim Rugova, the LDK worked through non-violent means towards an independent Kosovo. As Slovenia and Croatia seceded from Yugoslavia in 1991, the LDK declared independence for Kosovo as well (Rogel 2003).

After the collapse of the Soviet Union, Yugoslavia was broke apart as “nations” seceded from Yugoslavia to become separate, independent states. In an attempt to contain order during this process, the European Community Members in 1991 created the Arbitration Commission of the International Conference for Peace in Yugoslavia, also known as the Badinter Commission. This was to address the legal questions of the dissolution of Yugoslavia. The European Community established set criteria to recognize the independence of any breakaway Yugoslav Republics. The Badinter Commission was to evaluate each potential state on these criteria (Vidmar 2009). The Badinter Commission ruled to uphold the principle of *uti possidetis juris*: when a territory gains independence, new international boundaries should only be drawn where there previously existed internal administrative boundaries at the time of independence (Watson 2008). Thus the historical borders remain the internationally recognized ones.

Slovenia and Croatia both seceded first; however, the president of Yugoslavia, Milosovic did not support the dissolution of Yugoslavia. Milosovic attempted to reunite the six “nations” in the region, causing the outbreak of the Yugoslav Wars in 1992. Bosnians, Croats, and Serbs engaged in ethnic cleansing and atrocities against the Muslims in the region for four years. In fact, the official term “ethnic cleansing” originated in the Bosnian War. Although there were EU and UN peacekeepers on the ground in Bosnia, NATO and many Western countries did not engage until 1995 (Roberts 1999). Rather, the international community failed to intervene because they were hesitant to enter and violate the region’s right to sovereignty in an intrinsic civil war.

Following NATO’s intervention against Bosnian-Serb forces in spring of 1995, the Dayton Peace Accords ended the Bosnian War. Yet, this peace treaty failed to provide protection for the Albanian minority in Serbia. Rugova and the LDK were largely ignored at the peace talks. The UN did warn Belgrade that sanctions would continue until Serbia started to “deal positively and directly with the Kosovars” (Rogel 2003).

Being as non-violent, political means failed to gain independence for Kosovo, in 1996 the Kosovo Liberation Army (KLA) was formed to openly oppose Serbian rule. This group

employed guerilla tactics, with systematic bombing and terrorist actions against the Yugoslavian government. The KLA assassinated Serb officials throughout 1997 and 1998 (Rogel 2003). The Serb government cracked down on the Kosovars in response to the militant KLA. The UN condemned the violence on both sides of the conflict, particularly the "acts of terrorism" conducted by the KLA. Violence escalated as KLA offensives grew larger and bolder and in March of 1998, the Serbian Yugoslav army began retaliating militarily against the KLA.

In the fall of 1998, the Serbian government, led by President Milosevic, began a new campaign of ethnic cleansing in Kosovo (Wheeler 2000). In what became to be known as the "October Agreements," the UN Security Council tried to rectify this problem. However, Russia refused to intervene militarily to stop the ethnic cleansing in Kosovo. During this time of disagreement and lack of action, Milosevic escalated his attacks against the Kosovars and KLA. Finally, after the breakdown of diplomatic talks, NATO decided to take action on behalf of the Kosovars and KLA. Air strikes against Serbia began on March 25, 1999 and continued for 11 weeks. However, this action was taken without explicit permission from the UN (Roberts, 1999). This bombing campaign in Belgrade has been highly contested as illegitimate and against international law (Roberts, 1999). NATO forces killed more than 5,000 Yugoslav soldiers and over 500 civilians during this bombing campaign (Schwabach 2003). After the surrender of Milosevic, Kosovo became a NATO protectorate with UN assistance, but no clear roadmap was created for the future of Kosovo. The West's failure to intervene sooner in the Bosnian War resulted in ethnic cleansing of Muslims on a massive scale and destabilization in Europe. In 1999, this failure was very fresh. It is argued that NATO gave Kosovo protected autonomy as atonement to redeem its prior mistakes and lack of action in the Balkans (Roberts, 1999).

The Kosovo status process under the jurisdiction of the UN began in 2005. In 2006 international negotiations started to determine the status of Kosovo. Many parties, particularly the Serbs and Russians, were concerned with the rights and protection of the large Serbian majority north of the river Ibar. During the 1999 war, violence was conducted on both parties; the Kosovars by the Serbs and the Serbs by the Kosovars. Hundreds of Serbs in Kosovo were killed as they fled the province. Furthermore, historical Serbian Orthodox churches and landmarks were destroyed by Albanian Kosovars (Roberts 1999). The Serbs and Russians were afraid of a repeat of violence against the Serbs in northern Kosovo.

Additionally, there were several concerns that independence for Kosovo would create chaos and ignite several irredentist movements. There are several regions with pockets of a strong minority, ethnic concentration within the Balkans; many of which were as determined for independence as Kosovo. Many countries feared that this would not only reignite these irredentist movements within the Balkans, but throughout the world. During the negotiations, Serbia was willing to grant more autonomy to Kosovo, but not independence. This was fully supported by Russia and China. However, the Kosovars demanded nothing less than independence.

On March 26, 2007, UN special envoy Martti Ahtisaari presented his "Report of the Special Envoy of the Secretary General on Kosovo's Future Status" to the UN Secretary General. In his proposal, Ahtisaari made the recommendation that Kosovo should become independent, subject to a period of international supervision as gradual independence was given. Specifically, this proposal provided a set route for Kosovo to follow for gradual independence. The United States, along with several other countries in Western Europe,

is highly supportive of the “Ahtisaari Plan” for Kosovo independence. This plan outlined provisions for the new Kosovo constitution, namely to ensure the rights of communities and their member and decentralization of local government. The judicial system was also addressed, to ensure justice and the rule of law. The Serbian minority was taken into great consideration. Special provisions were made in regards to respecting the Serbs’ religious and cultural heritage, including several Serbian Orthodox cathedrals and national landmarks in Kosovo. Another provision was made to protect the property of citizens as Kosovo gained independence from Serbia (Balkan Investigative Reporting Network 2007).

The main provision in this plan was to implement the European Security and Defense Policy’s Rule of Law mission in Kosovo (EULEX). This was to slowly replace the UN Mission in Kosovo as the governing international body in Kosovo. Many Western countries pledged to support the Ahtisaari plan and saw independence for Kosovo as the only viable option to resolving this status problem and bring stability to the region. (U.S Department of State 2008). However, Serbia vehemently opposed this proposition. The National Assembly of the Republic of Serbia’s “Resolution following UN Special Envoy Martti Ahtisari’s ‘Comprehensive Proposal for the Kosovo Status Settlement’ and continuation of negotiations on the future status of Kosovo–Metohija” stated that, Ahtisari Plan “breaches the fundamental principles of international law since it does not take into consideration the sovereignty and territorial integrity of the Republic of Serbia in relation to Kosovo–Metohija.” Both Russia and China support Serbia and threatened to veto this proposal if it came to the Security Council. Thus, the UN never approved the Ahtisaari Plan. However, by the end of 2007, it was clear that the U.S, France and the UK (among other countries) intended to recognize Kosovo’s independence regardless (Economist, 2007).

### **KOSOVO UNILATERALLY DECLARES INDEPENDENCE**

Kosovo unilaterally declared its independence from Serbia on February 17, 2008. While the secession of a semi-autonomous region from a state is not in itself unique, the history behind Kosovo independence is, as was explained in the previous section. Protests continue throughout both Serbia and Kosovo as the status question remains unresolved. The condition of human rights has deteriorated as violence has spread throughout both Kosovo and Serbia after Kosovo’s unilateral declaration of independence. There have been several instances where Albanian minorities have been persecuted and attacked. Serbs in Metohija have also been persecuted and attacked by Kosovars (Commission of the European Communities 2008).

The United States recognized Kosovo’s independence February 18, 2008 followed quickly by the United Kingdom, France and Germany, among others. Many European countries have already erected embassies in Kosovo and have pledged significant amount of aid to help build this new “country.” Kosovo has enjoyed the full support of two thirds of all EU Member States, the United States, Canada and other prominent international figures.

During this time, Serbian President Boris Tadic stated, “Serbia will never recognize Kosovo–Metohija’s independence directly or indirectly and will continue its diplomatic, peaceful and legal battle in defending its integrity” (Serbian Government 2009). Serbia is committed to only pursue peaceful means in dealing with the Kosovo status question. This has been made quite clear and, as of yet, no military action has been taken. Rather Serbia has attempted to bring this case from purely political to purely legal through its pursuit of an ICJ opinion on the legality of Kosovo’s independence.

## LEGALITY

Serbia feels that its territorial integrity and sovereignty were violated with Kosovo's independence. Furthermore, Serbia believes that the international community has not treated Serbia as an equal in international law.

In September of 2008, Serbia tabled a UN General Assembly Resolution with the intention to challenge the matter of Kosovo's independence from political to legal grounds (DTT News, 9/2008). In October, the UN General Assembly did adopt Resolution 63/3, which seeks the International Court of Justice's opinion on whether or not Kosovo's unilateral declaration of independence was in accordance with international law. The question referred to the ICJ reads: "Is the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo in accordance with international law?" (Vidmar 2009). After a tense voting period in the UN GA, Serbia's resolution was passed though all EU countries abstained (VIP News, 9/2008). This ICJ case will be difficult to decipher. Kosovo is an unprecedented case within itself; however, there are many clauses in international customary law that can be applied to determining the legality of Kosovo's independence.

Serbia maintains that this action was a violation of the UN Charter because it did not respect the territorial integrity of Serbia (VIP News, 9/2008). The United Nations was founded on the principle of sovereignty. Chapter I, Article 2(1) of the United Nations Charter states that, "The Organization is based on the principle of the sovereign equality of all its Members." Serbia feels that it is not being recognized as equal subject of international law with the right of territorial integrity. This concept of sovereignty is emphasized throughout the charter along with international customary law. In particular, UN Security Council Resolution 1244 (which is the document that ended the Kosovo war of 1999 and established Kosovo) specifically calls on the international community to recognize *Serbia's* territorial integrity. In one of the perambulatory clauses in the resolution it states, "Reaffirming the commitment of all Member States to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other States of the region, as set out in the Helsinki Final Act and annex 2." It is clear that the international community had committed itself to respect the territorial integrity of Serbia; however, it does not seem as though this is the case.

The West generally upholds the values of the ICJ and supports its decisions. However, in this case, the ICJ will not change their opinion and will continue to support Kosovo's independence. Even if the ICJ does decide that Kosovo's declaration of independence was not in accordance with international law, it is unlikely to undo what has been done. The situation cannot go back to the former status quo. Kosovo will not go back to being a territory of Serbia. However, if the ICJ rules in favour of Serbia, deeming Kosovo's declaration of independence illegal, it will discredit Kosovo's actions. The ICJ opinion poses a problem to the West. This could stop other countries from recognizing Kosovo. Already, several countries have refused to give an opinion on the matter until after the ICJ opinion is released. In fact, president Boris Tadic invited those "UN members that have not recognized the province's independence to remain so until the International Court of Justice offers its opinion on the legality of this secession" (Serbian Government 2009). Although Serbia does not have much popular support due to Western opposition, it does have the law on its side. It is clear that Kosovo's declaration of independence is questionable legally. This puts the West in a precarious situation—how to atone for their lack of intervention in the Bosnian Civil War

and illegal intervention in 1999, and resolve this complex issue of Kosovo's independence?

### **WHAT CAN BE DONE NOW?**

Kosovo's declaration of independence is an irreversible process. In total, fifty-six states (as of March 2009) have recognized Kosovo's independence, including the United States and over two thirds of EU Member States. Kosovo's acceptance by such prominent international actors makes it impossible for Kosovo to return to the formerly autonomous region within Serbia. At the same time, Serbia will never let Kosovo become an independent state. The status question must be resolved, and as soon as possible. However, neither side is willing to secede to the wishes of the other. Currently, the United States and European nations have pursued settling the Kosovo status question in the same manner that it has been since 1999—complete independence for Kosovo recognized by the international community. These countries are pushing Serbia to recognize an independent Kosovo in disregard to the Serbian interests. The international community is left at a stalemate. This region is rife with historical conflict and hostilities that have been fostered for hundreds of years. The Kosovo status issue cannot be easily resolved, especially if neither side offers concessions or cooperates in negotiations.

The use of political pressure to force Serbia to recognize Kosovo's independence has pushed Serbia further from the West and towards its sympathizing neighbor Russia (Economist 2008). This could have dire consequences for the future of the Balkan region. The rift between the East and West has already been growing during the past few years and has caused relations between the two to grow cold once again. Russia warned that this obvious breach in international customary law could destabilize the whole European continent into another outbreak of Yugoslav wars. The Russians' concerns are legitimate, and thus it is eminent that the West change its plan of action.

Serbia needs to recognize Kosovo in order to establish any kind of peace or security in the region. Serbia's recognition of an independent Kosovo also legitimizes the West's actions and legitimizes Kosovo itself. Simply forcing Serbia to recognize an independent Kosovo is obviously not working. Rather, Serbia can be further encouraged to recognize Kosovo if Kosovo were to be partitioned and to continue Serbia's integration into the European Union within the next few years. These two major concessions could help to create a peaceful resolution to the Kosovo status question.

### **PARTITION OF KOSOVO**

Kosovo was created because the region is populated by a different ethnicity threatened by the ruling majority. If this is a reason for granting independence for Kosovo, then the lines ought to be drawn in accordance to the ethnicities. If borders are to be drawn for a new country on the basis of creating nation states, then it seems prudent to keep the nations within the same state borders.

Currently, Kosovo encompasses territory both north and south of the river Ibar. The northern part of Kosovo, Metohija, is predominantly populated by Serbs not Albanians. The 10% Serb population in all of Kosovo resides primarily in Metohija. One consideration during the status negotiations was to split Kosovo and Metohija, keeping Metohija as part of Serbia.

Serbia has shown deep concern for the Serb minority in Metohija, as was seen in the deployment of the European Union Rule of Law Mission in Kosovo (EULEX). Serbia has



resisted the deployment of EULEX. In order to get some form of acceptance, the United Nations and European Union altered the mission mandate in what is the "UN-Serbia Six-Point Plan." Serbia will only support a mission to Kosovo if it is in line with its demands regarding the deployment of EULEX, namely: EULEX having a neutral stance on Kosovo's status, EULEX must have no connection with the Martti Ahtisaari plan for Kosovo independence and it only be deployed with the UN Security Council approval. The UN-Serbia plan calls for the creation of separate Serbian judicial customs and police systems in the northern, Serbian area of Kosovo (DTT News, 11/2008). Kosovo initially rejected the UN-Serbia Six-Point plan, which had been approved by the UN Security Council (DTT News, 12/2008). Kosovo wishes for unconditional and full deployment of EULEX across the entire territory, supporting the Martti Ahtisaari plan. They argue that new 6-Point plan breaches Kosovo's sovereignty and territorial integrity and would lead towards partition of the area (DTT News, 11/2008). Serbia does not look at this as a partition of "Kosovo" because they do not see it as a partition of Serbia, according to Serbian Deputy Prime Minister Mr. Bozidar Djelic (Djelic, 2008). Prishtina has stated that it is unacceptable for EULEX to be deployed to Kosovo according to Serbia's conditions. The EU has called on Kosovo leaders to accept the plan, as has the UN. Kosovo finally gave into the demands of the international community and EULEX began deployment in December of 2008 (DTT News, 12/2008).

During negotiations from 2005-2007, it was proposed that the Kosovo border be redrawn to exclude Metohija; a proposition that Serbia seemed interested in. Kosovo refused to entertain the motion of partition on the grounds that it would violate their territorial integrity. However, if Kosovo is not fully recognized as an independent country, then it does not seem to be in violation of territorial integrity because both regions are in Serbia. It would seem to be in the best interest of the Serbs in Metohija to remain in Serbia. Additionally, it would seem in Kosovo's best interest as well because this concession might help its pursuit of independence.

### **EU MEMBERSHIP**

The conflict over the Kosovo question has strained Serbian-EU relations and has pushed Serbia further from the West. This is not in the interest of the EU. It is critical that Serbia and the EU be united in policy in order to bring stability to the Balkan region. The EU needs Serbia not only to stabilize the Balkans, but also to legitimize many of the EU member states' support of Kosovo. Enlargement of the EU is one of the EU's most powerful policy tools, especially in ensuring security, stability and conflict prevention (Commission of European Communities, 2007). The allure of European Union membership is a powerful incentive and the EU can use it to their advantage to settle the Kosovo status question.

The 1993 European Council in Copenhagen decided upon a core set of criteria for potential candidate countries that the country must fulfill before any negotiations can start. The "Copenhagen Criteria" states that a candidate country must have "stable institutions that guarantee democracy, the rule of law, human rights and respect for and protection of minorities; a functioning market economy, as well as the ability to cope with the pressure of competitions and market forces at work inside the Union; the ability to assume the obligations of membership, in particular adherence to the objectives of political, economic and monetary union" (European Council in Copenhagen 1993). Two years later at the Madrid European Council, these criteria were clarified: that not only will the countries need to

show their willingness to follow the criteria, but have the capacity to put the European Union rules and procedures into effect (European Council in Madrid 1995). Not only does the government need to make legislation to meet these criteria, but be able to implement and enforce new legislation through an efficient administration and judiciary.

These are the criteria that Serbia, as with all other applicants, must fulfill to have official candidacy status and eventually become a member. While it is important for Serbia to also fulfill requirements defined in the Copenhagen and Madrid Criteria, it is even more pressing that the Kosovo status question be answered. Expediting the accession process of Serbia will bring Serbia closer to the EU faster. As stated earlier, accession is primarily a political act, whether explicit or not. The EU should use this political decision as leverage to further encourage Serbia to recognize Kosovo's independence.

Serbia has clearly expressed its wishes to become an EU member, and the EU shares this view. In September of 2008, Serbia's parliament ratified its Stabilization and Association Agreement with the EU, the first step towards membership. Since then, Serbia has worked on building and strengthening relations with the EU and the West in general. The government has expressed its goal for Serbia to have EU candidacy in 2009 and accession by 2015 (DTT News, 2008).

Serbia wants to become an EU member: with membership comes incredible opportunity and prosperity, particularly economically. Countries become integrated into the common European market that ultimately strengthens the countries' economies. Serbia has expressed its wish to benefit from these opportunities that the EU presents. The EU gives structural funds to help decrease the difference in living standards in its poorer regions and to boost the economies of these regions as well (Europa 2009). Serbia has one of the weaker economies in Europe, and would benefit greatly from EU integration (DTT News 2008). Serbia has already shown its determination to enter into the European free market. Even though the Dutch froze any further implementation of the SAA, Serbia has implemented the provisions of the Interim Agreement without the help of the EU. This limited access alone will improve the Serbian market substantially and help create macroeconomic stability within the region (Europa 2009). This has also allowed Serbia access into larger markets, including capital markets and has increased trade, investment flows and foreign direct investment. All of the potential opportunities for Serbia's economy to grow have provided significant fiscal incentive for Serbia's decision to apply for candidacy.

This is a powerful incentive and the EU can use it to their advantage to settle the Kosovo status question. Enlargement of the EU is one of the EU's most powerful policy tools, especially in ensuring security, stability and conflict prevention (Commission of European Communities, 2007).

Granting a country "candidacy status" for the EU has always been a political decision. This soft power of potential EU membership has encouraged several countries to improve their government's every sphere of influence and civil society to conform to EU policy. Although Serbia has signed and ratified its Stabilization and Association Agreements, it had made little progress towards meeting the established benchmarks. Currently, Serbia is not ready for candidacy, even though the Serbian government intends to submit a formal proposal for candidacy in April 2009 (Serbian Government 2009).

## CONCLUSIONS

600 years of foul relations between the Serbs and Kosovars has made the Kosovo status

question extremely complex and controversial. The recent interventions of NATO and the UN paving the road for Kosovo's independence has augmented this contentious conflict to be one of the most controversial circumstances facing the international community. Kosovo is without precedence in the new international order governed by international customary law and non-governmental organizations such as the UN and EU. Thus it is murky waters in which all parties involved tread.

International customary law, upheld by most every state on the globe, is built on the standard of respect for another state's territorial integrity and sovereignty. Yet simultaneously, the right to self-determination is also a highly valued concept as well. In the case of Kosovo and Serbia, these two foundational concepts of international customary law are at ends. Uphold Serbia's sovereignty, or support Kosovo's right to self-determination?

In 1999 the West committed its support to self-determination and thus Kosovo. As the West pursues its agenda, namely forcing Serbia to recognize Kosovo, Serbia and Serbian sympathizers grow more isolated and disgruntled by their actions. Quite simply: it's not going to work.

Concessions need to be made on both sides. The West demands for Serbia to sacrifice Kosovo, yet offers no sacrifice of their own. Kosovo means more to the Serbs than a piece of land. This is their nation's birthplace—this is where Serbia began. Kosovo is the heart of Serbia. To demand Serbia to give that up is incredibly difficult. While nothing can atone for Serbia's loss in the Serbs' point of view, the West needs to rectify this situation as best as possible. Although it is too late to find a solution that both parties can agree to, some concessions can still be made. Partitioning Kosovo to keep Metohija in Serbia and bringing Serbia into the EU fold can encourage Serbia to recognize Kosovo and to start the peace building process between the two countries.

## NOTES

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