

# The Political and Legal Parameters of Russian Decisionmaking on Abkhazia and South Ossetia

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Kosovo's declaration of independence from Serbia on February 17, 2008, was in some ways an anticlimactic event. It was widely expected, as were the immediate reactions: recognition by the United States and a majority of European Union states, and lack of recognition by Serbia, Russia, China, and a number of European and other states harboring separatist movements within their territories.

For months prior to the event, international debates concentrated on whether the future status of Kosovo represented a precedent that could be emulated by other territories with similar status, including four in the former USSR: in Georgia (Abkhazia and South Ossetia), Moldova (Transdniestria), and Azerbaijan (Nagorno Karabakh). If, as Russia claims, Kosovo sets a precedent, then these regions could not only proclaim independence (as they already have, repeatedly), but could also count on recognition by Russia and perhaps some other states as well. This could lead to a very serious crisis in the North Caucasus – a region whose tinderbox potential equals that of the Balkans – and perhaps even an armed conflict between Russia and Georgia. On the other hand, if the Kosovo situation is indeed unique, then the present uncertain situation will continue with the possibility that these territories will eventually return (or be

returned) to their respective states.

The debate over precedent is largely futile, as the decision on whether to treat Kosovo as unique is and will be made by each state individually. Even the U.S. government indirectly recognized Kosovo's ability to set a precedent when it criticized Russia for "irresponsible" behavior, admitting, in effect, that if Moscow decides that Kosovo is a precedent there is little that Washington can do. Significantly, China apparently adheres to Russia's view, and these two states can do much to actually make Kosovar independence a precedent. The only remaining questions are whether Russia will act on its decision, and if it does which regions it will choose to recognize as independent states.

This paper reviews the variables likely to affect the Russian decision. It concludes that the levers that the West – the United States and the North Atlantic Treaty Organization – can use to influence the decision are rather weak. Unless the United States, NATO, and the EU fundamentally alter their policies towards Russia and successfully strengthen their negotiating position, both their positive and negative leverages vis-à-vis Russia will remain extremely limited. To make things even more difficult, Moscow is quite distrustful of the West and will most likely ignore any promises of future benefits – the "down payment" has become very much a part and parcel of Russia's dealings with the West.

On the positive side, despite the perception that Russia's policies have been aggressive and reckless, its position on Kosovo and other issues has actually been quite cautious. It seems likely that in the future Moscow will be just as cautious, if not more, and prefer to temporize and avoid decisions as long as possible.

### **Three Precedents**

Russia's depiction of Kosovo as a dangerous precedent is not a recent phenomenon. Russia has remained concerned over the ways in which developments surrounding Kosovo impact its own security since at least 1999. Moscow's attitude towards the Kosovo situation is also considerably more complex than that of the West. While in the West Kosovo has been regarded as a series of relatively independent crises with consecutive solutions, Moscow views the entire affair as one crisis, which is not yet over and will continue for years to come. Accordingly, Moscow sees at least three precedents generated by Kosovo:

- 1) The United States and NATO can employ force without the authorization of the United Nations Security Council (as happened in 1999), if they can plausibly claim serious reasons such as large-scale human rights violations or a major threat to international security (the second instance of this kind was the war in Iraq in 2003). Prior to 1999, the Russian government regarded its veto right in the UN Security Council as a sufficient deterrent against the threat of force on the part

of major powers. A consequence of NATO's 1999 intervention was the Russian 2000 Military Doctrine, which foresaw increased reliance on the threat of limited use of nuclear weapons to deter the use of force against Russia.

- 2) A separatist movement can create a *de facto* independent state if it is sufficiently strong to control its territory and/or enjoys sufficient external support. Up until the mid-2000s, Moscow was concerned that the "special status" of Kosovo could be used to establish the *de facto* independence of Chechnya. As recently as the fall of 2004, Vladimir Putin talked about the desire of unnamed states to "tear juicy morsels" away from Russia. This concern abated only several years ago as the situation in Chechnya gradually stabilized.
- 3) A self-proclaimed state does not need the consent of its former "host" or recognition by the UN Security Council; instead, recognition by several influential states can suffice. This procedure goes against the post-World War II experience: previously, during the breakdown of colonial empires and during the wave of emergence of new independent states at the end of the Cold War, "divorce" was consensual and newly independent states were immediately admitted into the United Nations. In theory, recognition by Russia could then legitimize separatist regions in the Caucasus.

The central problem that underlies the Russian approach to developments in and around Kosovo is the deterioration of international law and the normative framework. Significantly, both the USSR in the late 1980s and present-day Russia have demonstrated a willingness to submit to the dictums of international law (although lately Russia has added a proviso that it will do so only as long as others also abide by international law). The two norms it seems most concerned about are the legitimization of the use of force and the choice between sovereignty and self-determination (in the post-World War II period, the former had precedence except when the "divorce" was consensual). Absent a clear-cut legal framework, Russian policy becomes necessarily less predictable. Policymakers perceive a "green field" situation where policies are dictated by pure cost-benefit calculations; they can become opportunistic or seek to establish new sets of norms through the use of precedents. Since U.S. and NATO policy seems to be guided by a similar set of conditions favoring opportunism and its norm-creating possibilities, the potential for a conflict becomes uncomfortably substantial.

## **Cost-Benefit Calculations**

Russia's cost-benefit analysis to determine whether to employ a Kosovo precedent is surprisingly – and troublingly – brief. It virtually leaves the final decision either to the whims of the leadership or, even worse, to public opinion,

which appears to be even more nationalist than the Kremlin.

The impact of Kosovar independence on Chechnya is no longer considered significant, as Russia has firmly established its control over the region through the use of local warlords who have pledged their allegiance to Moscow. The same applies to other regions of the Russian North Caucasus. The situation continues to be volatile, but there is no longer a serious concern about secession. Russia no longer perceives a direct link between its decisions to support Kosovo's independence or recognize Abkhazia and South Ossetia, and its own territorial integrity.

Opponents of the Kremlin's current policy on Kosovo frequently invoke the argument that Russia will face worsening ties with the West in the fields of strategic, economic, and human/scientific exchange should it decide to recognize or openly encourage self-proclaimed states in the former USSR. However, a closer look reveals that this cost is almost non-existent. Moscow appears to believe that new disagreements will not significantly worsen its already frayed relationship with the EU and NATO. Similarly, if Russia decides to side with the West and recognize Kosovo's independence, it will hardly gain any significant improvements vis-à-vis its other strategic priorities (for example, World Trade Organization membership, visa-free travel in Europe, Western support for gas pipelines that circumvent Ukraine and Poland, and investment opportunities in Europe for Russian companies). A lesson learned from past years is that the West pockets unilateral Russian concessions without giving anything in return and that Western concessions can only be achieved as part of hard bargains.

The states of the Caucasus that contain separatist regions provide another input in Russia's cost-benefit analysis for recognizing a Kosovo precedent. Here the situation is not uniform. Relations with Georgia are not only bad, but are regarded by many as beyond repair. There are therefore practically no additional costs incurred by providing greater support (or recognition) to Abkhazia and/or South Ossetia. Similarly, there are few positive incentives Georgia can offer Russia. The only matter of serious interest to Russia – Georgian neutrality – is in direct opposition to Georgia's long-term goal of joining NATO. Thus, cost-benefit calculations simply have little bearing on Russian policy toward Abkhazia and South Ossetia. Russia also seems confident that it can prevail if Georgia decides to use force to prevent the independence of these breakaway regions.

The situation is different where Azerbaijan is concerned: the country plays a significant role in Russia's long-term oil and gas export strategy. Azerbaijan is in a sense a competitor, as it is central to Western plans to reduce Europe's dependence on Russian oil and gas. Yet on another level, as an oil exporting country, Azerbaijan is a Russian ally and is not considered in Moscow to be hostile (unlike Georgia). The game played by the two states is very complex and intricate, and the level of cooperation between them is rather high. Recognizing

Nagorno Karabakh as an independent state or as a part of Armenia would seriously damage this relationship.

Russian recognition of Transdniestria does not appear to involve significant costs, but abandoning the region also does not confer any benefits. A more important variable in this case is the simple fact that Russia cannot provide tangible support to Transdniestria. Should Moscow desire to support the region's quest for independence, Ukraine will hardly be forthcoming with the necessary transit rights.

## **Will Russia Act?**

A brief cost-benefit analysis of the Kosovo precedent suggests that Russia could very well make the decision to support and recognize Abkhazia and South Ossetia. But will it? After all, its ability to act does not necessarily translate into action.

Although the costs of action appear to be minimal, the recognition of Abkhazia and South Ossetia as independent states or their admission into Russia does not seem likely. Instead, Russia will probably make a series of strong statements hinting at its ability and right to act, but it will still prefer to keep the situation as is. An inconclusive and drawn-out conflict will likely remain preferable to a direct settlement, as any solution will almost certainly generate conflict (except, of course, a negotiated consensus, which Russia prefers but which is almost inconceivable). The main reasons pushing Russia to abstain from action are as follows.

First, Russia's insistence that all breakaway regions should be treated the same will make it difficult for Moscow to recognize only two breakaway regions. This could change if Georgia attempts to change the status quo (as it has been trying to do for the last several years). If the situation around Abkhazia and South Ossetia becomes sufficiently different from the other two separatist regions, consistency will become less of a constraining factor for Russia.

Second, Russia has demonstrated considerable caution in international relations during the last fifteen years, even if the image prevalent in the West has been different. It has made loud and often threatening statements but practiced risk-avoidance. Where breakaway regions are concerned, Moscow seems to prefer the unstable status quo to the uncertainties of possible resolution. Rather than being a threat to destabilize the situation in the former USSR, Russia's criticism of Kosovar independence stems from its fear that the breakaway regions themselves could destabilize the situation, provoking the states from which they want to secede (especially Georgia) and leaving Russia with little choice but to interfere.

Instead of upsetting the present delicate balance of forces, which satisfies no one but at least keeps conflicts frozen, Russia is likely to adhere to the same

principles it has promoted in the past: territorial integrity should prevail over separatism and the right to self-determination, and it should be achieved through negotiation by consensus and compromise between central governments and breakaway regions.

Paradoxically, “managed democracy” favors risk-avoidance. Russian president-elect Dmitri Medvedev seems to prefer caution and appears unwilling to upset the status quo. Completely free elections could easily result in a more nationalist president willing to exercise Russia’s newfound power. Such a president would likely favor “decisive” acts in foreign policy, including recognizing Abkhazian and South Ossetian independence and potentially resorting to force to achieve this end.

Although this analysis seems to predict minimal upheaval as far as the separatist regimes are concerned, it is worth keeping in mind that the foundations for this moderate approach remain shaky. At present, Russia has few concerns that a more assertive policy will incur significant costs, and there are few expectations that siding with the West will bring significant benefits. To a large extent, the final choice depends on the personal preferences of a rather small elite and is susceptible to changes within the domestic and international situation. The Kosovo precedent could yet trigger significant destabilization in the former USSR and even Russia’s own North Caucasus region.

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