

LEGAL AND POLITICAL SOLUTIONS TO DISPUTES OVER SOVEREIGNTY

From Kosovo to Quebec

Faculty of Law (Belgrade)

Date: July 8-9, 2005.

Place: Faculty of Law, University of Belgrade.

Contact:
Bulevar kralja Aleksandra 67, 11000 Belgrade, Serbia and Montenegro.

There is no tuition fee.
Registration and all the queries to Ivan Nikolić, managing secretary of the Conference:
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The current unsolved territorial issues in South Eastern Europe represent the clear impediment for the faster integration of several countries of the region to the European Union. Wars that were waged on the territory of the former Yugoslavia were, at the time, seen as the only possible answer to the disputes over sovereignty, and the myriad of political solutions was abandoned for the military option. Newly founded political entities came into being largely as a result of the combined political and legal measures taken by the international community – recognition policy, legal opinions of the Badinter Commission, limited military intervention, political pressures etc. It is, however, obvious that the recurrent political processes on the ground challenge the viability of some of these political solutions. The risks that the yet unsolved disputes over sovereignty would be dealt with violently are substantially lowered, though not absolutely excluded, as the tragic events in March 2004 in Kosovo clearly demonstrate. In spite of that, the prospective political settlement of the aforementioned disputes are in the eyes of the main actors very often perceived in the highly simplistic manner, which might imply the potentially harmful zero-sum logic of political decision making.

Therefore, the region of South Eastern Europe still remains to be contested terrain for issues lying in the core of state creation and state disintegration, secession, and succession. As durable political solutions are still pending, particularly for Serbia and Montenegro, and political processes are dynamic as ever, and it is difficult to predict how they will tilt, the years of 2005 and 2006 could be decisive for the ultimate shaping of the region's landscape. Namely, by the mid of the this year, the international community will, in the case of Kosovo, assess the overall improvements with respect to the proclaimed »standards before status« policy. As for the relations between Serbia and Montenegro, 2006 will more clearly demonstrate whether the common polity is viable at all and what would be the impacts and consequences of the EU »double tracks« accession policy towards the State Union. Simultaneously, similar processes vis-à-vis the state building challenges are taking place in the region (Macedonia and Bosnia and Herzegovina), as well as in other parts of the world. Perhaps the most prominent example is that of Quebec, but disputes over sovereignty and territory are also characteristic for Northern Ireland, Jammu and Kashmir, the Basque country, Chechnya etc.

This Conference will predominantly concentrate on sovereignty disputes regarding Serbia, Montenegro and Kosovo, but in doing so it will use the comparative approach, thus testing the relevance and applicability of certain legal and political mechanisms employed in similar cases worldwide. In that respect, the Quebec case is of particular importance, for it exemplifies the attempt of a liberal-democratic state to subject the explosive issue of partition and secession under the law and to channel it through constitutional and democratic processes. Furthermore, this case illustrates the significance of the active engagement of the scientific community and the civil society in the national public debate over all relevant aspects of the sovereignty controversy. When it comes to the Serbian society, organizers are of the opinion that the intended conference format would reflect that need for overcoming the dominant one-sided, real track of political reasoning. Consequently, principal and impartial, and yet empirically based and problem-solving oriented papers, delivered by experts, would set that initial framework for the discussion of politicians, NGO representatives, scholars and students.

The key topics to be addressed:

- Constitutionalization of secession – pros. and cons.
- Viability of federal solutions for ethnoculturally divided societies
- Morality of internal and external borderlines
- The role of the *uti possidetis* principle in solving territorial disputes
- Transfers of sovereignty through instruments of direct democracy
- Territorial integrity vs. external self-determination
- »Trapped minorities« and recursive secessions
- Viability of the shared-sovereignty arrangements

Program

July 7, 2005

19.00 Dinner at the Law Faculty Club

July 8, 2005

10.00 Opening ceremony and the Dean's welcome speech

10.15 **Panel I**

Margaret Moore (Kingston): Ethics of Secession and the Problem of Constitutional Design

Aleksandar Pavković (Sidney): Normative Assessment of Secessions. Yet Another (Good) Job for Philosophers?

11.00 Coffee break and refreshment

11.25 **Peter Radan** (Sidney): The Legal Regulation of Secession. Lessons from Yugoslavia

Miodrag Jovanović (Belgrade): Final Status for Kosovo – Should We Really be Petri-fied with the »Partition Option«?

12.15 Discussion

13.30 Lunch break (Restaurant *Archive-Hotel Metropol*)

16.00 **Panel II**

Lidija R. Basta Fleiner (Fribourg): Trust and Tolerance as State Making Values in Multicultural Societies. Paradoxes and Chances of Federalism as a Conflict-Management Tool

Nicole Töpperwien (FYR Macedonia): Can Decentralisation do what Federalism promises?

16.50 Coffee break and refreshment

17.15 **Alexander Fischer** (Heidelberg): Higher Law Making as a Political Resource. Constitutional Amendments and the Constructive Fragmentation of Sovereignty in India

Tanasije Marinković (Belgrade): Constitutional Arrangements for the Ethno-cultural Justice in Kosovo and Metohia

18.05 Discussion

20.30 Dinner for the panelists at the *Lovac* Restaurant

July 9, 2005

10.00 **Panel III**

Suzanne Lalonde (Montreal): The Role of *Utī Possidetis* in Determining Boundaries. From Kosovo to Quebec

Zoran Oklopčić (Toronto): Towards a Political Theory of *Utī Possidetis* Principle

10.50 Coffee break and refreshment

11.15 **Robert Heyden** (Pittsburgh)

Kristin Henrad (Groningen): A Growing Synergy in Supporting and Promoting Participatory Rights for (National) Minorities

12.05 Discussion

13.30 Lunch break (Restaurant *Archive-Hotel Metropol*)

16.00 **Plenary session Part I**

17.15 Coffee break and refreshment

17.40 **Plenary session Part II**

20.30 Dinner for panelists

