

Serbia: Reimagining Europe's Outlaw Nation

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"The fall 2000 elections have created opportunities for Serbia to shed its rogue image and enter the community of law-abiding states. The US and its allies have already expressed a willingness to imagine Serbia in terms not associated with an outlaw state. This refashioned image expands the range of policies that can be applied to Belgrade, making possible new forms of economic and political support and the integration of a new Serbia into Europe."

For more than 10 years Serbia has been a renegade government with an outlaw leader. Like the bank robber of the Wild West in John Wayne movies, Slobodan Milošević behaved as if he had removed himself and his people from the international legal system. At the same time, he was also effective at manipulating the international system and key Western leaders. Seemingly unconcerned about the possible countermeasures that could result from offending the laws of the system, Milošević operated according to his own personal code, maintaining power by all necessary means.² He encouraged the

¹ The author appreciates the research assistance of Ruth Reitan and Maryanne Yerkes, as well as the suggestions of Janet Lord.

² Marc Weller has pointed to this lack of concern as a main characteristic of a rogue state. Marc Weller, "The Changing Environment for Forcible Responses to Nontraditional Threats," *American Society of International Law Annual Proceedings*, 92 (1-4 April 1988) pp. 177-178. (Rogue states are those "which are alleged to have removed themselves somehow from the international legal system and who supposedly act as if they were, in fact, not states, but non-state entities that are unrestrained by an expectation to profit from the benefits of membership in the international system and similarly

development of a culture of self-serving lawlessness, which permeated all aspects of Serbian society. Politicians spewed hate speech against ethno-national minorities and military leaders condoned gross violations of humanitarian law. Police officers cooperated with organized crime, and nepotism became the rule of nearly every workplace. A kitsch neo-nationalist culture celebrated the gangster, the machine-gun-toting paramilitary leader, the venerated war hero.

Other states, treating Serbia as a rogue government, reinforced this culture of lawlessness. While Serbia has been cast as a rogue state in only one US government document,³ its rogue image has been a significant factor influencing the strategic policy responses of the US and its allies. The identification of Serbia as a rogue regime is problematic at first glance. Serbia lacks the defining characteristics of such paradigmatic rogue states as Iran, Iraq and North Korea in that Serbia lacks large conventional military forces that could pose a direct threat to the US, nor does it condone international terrorism and/or seek weapons of mass destruction.⁴ However, Serbia does possess three other characteristics associated with a rogue state.⁵

First, agents of Serbia have engaged in "unacceptable international conduct,"⁶ specifically war crimes, crimes against humanity and violations of international human rights standards in Serbia proper, Kosovo, Montenegro, Croatia and Bosnia-Herzegovina. Second, as with other governments earning the

unconcerned about countermeasures that may result from exceeding the rules of the system.")

³ Paul D. Hoyt, "The 'Rogue State' Image in American Foreign Policy," *Global Society*, 14(2) (2000) p. 307. (Under Secretary of State Thomas Pickering, Speech before US Military at West Point [Westchester: 10 February 1999] at http://www.state.gov/www/policy_remarks/1999/990210_pickering.html).

⁴ Raymond Tanter, *Rogue Regimes: Terrorism and Proliferation* (New York: St. Martin's Press, 1998); Michael Klare, *Rogue States and Nuclear Outlaws: America's Search for a New Foreign Policy* (New York: Hill & Wang, 1995).

⁵ Some scholars define rogue states much more broadly. For example, Jack Goldsmith and Eric Posner have defined rogue states as "states controlled by irrational or impulsive leaders, or states with unstable political systems, or states in which citizens do not enjoy stable expectations." Jack L. Goldsmith and Eric A. Posner, "A Theory of Customary International Law," *University of Chicago Law Review*, 66 (Fall 1999) pp. 1113, 1126.

⁶ Raymond Tanter, *Rogue Regimes: Terrorism and Proliferation* (New York: St. Martin's Press, 1998) pp. xi, 40.

"rogue" nomenclature, Western journalists and policymakers have at times treated Serbia as culturally inferior. Paul Hoyt says rogue states are "commonly described as lacking in principles and morals, such states are seen as 'renegades' or 'outlaws.' They are also seen as having no respect for the international system, preferring to disrupt instead what exists."⁷ The perception of an inferior, immoral culture "lessens faith in negotiation strategies and confidence-building measures,"⁸ as well as in democratization and other forms of civil reform. When this image of the primitive Serb reinforced their political strategies, Western politicians conveniently invoked it.

Third, Serbia's conduct has at times been specifically hostile to the US and its allies, rendering it a likely candidate to be condemned for "rogue behavior."⁹ US policymakers, in particular, were forced to respond to the authoritarian nature of Milošević's leadership, which has defied US-promoted "good governance" principles of accountability, transparency and democratic participation. The value system touted by the Clinton administration emphasizing tolerance, nondiscrimination, individual justice and a "can do" optimism contrasted sharply with the chauvinist and racist rhetoric of Milošević's regime, and its condemnation of entire ethno-national groups.

The set of perceptual constructs guiding foreign policy choices toward Serbia have changed over time as the image of Serbia and its people has metamorphosed.¹⁰ The changes can be attributed to a genuine shift in perception as well as to political strategies that required a new image for support. The West's

⁷ Paul D. Hoyt, "The 'Rogue State' Image in American Foreign Policy," *Global Society*, 14(2) (2000) p. 30, 308.

⁸ Paul D. Hoyt, "The 'Rogue State' Image in American Foreign Policy," *Global Society*, 14(2) (2000) p. 30, 309.

⁹ Eric Herring, "Rogue Rage: Can We Prevent Mass Destruction?" *Journal of Strategic Studies*, 23(1) (March 2000) pp. 188-211, 192. (Toby I. Gati, "Assessing Current and Projected Threats to US National Security," Statement by Assistant Secretary for Intelligence and Research before the Senate Select Committee on Intelligence (Washington DC: 5 February 1997) at <http://www.state.gov/www/global/terrorism>

¹⁰ Cf. Kenneth Boulding, "National Images and International Systems," *Journal of Conflict Resolution*, 3 (1959) pp. 120-131; Richard Hermann et al., "Images in International Relations: An Experimental Test of Cognitive Schemata," *International Studies Quarterly*, 41 (1977) pp. 403-433.

foreign policy approach toward Serbia has passed through at least three distinct phases. Each was influenced by a variant of the rogue image and therefore has had behavioral consequences for the foreign policy choices made by the US and its allies.

When the wars in Croatia and Bosnia first began, the US responded as if leaders in the Balkans were irrationally motivated by primordial hatred. As atavistic behavior could not be changed through reason, there was little outsiders could do to change what was deemed to be an entirely "natural" course of historic animosities. At best, outsiders could manage the conflict by providing humanitarian assistance to victims and by adopting measures to prevent the further spread of violence (for example, by establishing a "firewall" of UN peacekeeping troops in Macedonia). This perspective encouraged the notion that the people of the Balkans were divided into discrete ethno-national groups that were incapable of living together in a just and democratic state. When war broke out in Bosnia, the Bush administration opted for a policy of non-engagement, initially denying any knowledge of atrocities. A principle reason for this was the upcoming presidential elections and Democratic candidate Bill Clinton's criticism of President Bush during the campaign for placing foreign policy issues above domestic ones. The administration feared that involvement in the Balkans would harm Bush's re-election chances. Bush's advisors also argued that the entire Balkan region was a potential quagmire that would require an enormous investment of forces, time and money, which the administration was not willing to commit. When confronted with increasing public disapproval for its lack of response to atrocities in Bosnia, the Bush administration argued that intervention would be stymied by the immutable ethnic hatreds in the region.¹¹ The people of Balkans were, in Janusz Bugajski's words, assigned the status of "incurable outsider."¹²

¹¹ Note award-winning *Newsday* journalist Roy Gutman's account of how the Bush administration 'managed' the conflict: "Bush waited until the first television pictures of emaciated prisoners shocked the world, and then he engaged in a series of calculated evasions. Calling the war against Bosnia 'a blood feud' and 'a complex, convoluted conflict that grows out of age-old animosities', he did not demand that the camps be closed down and the civilians

In the second phase, the US continued to believe in the primordial nature of Balkan hatreds and the inability of Balkan people to choose their own form of fair government. At the same time, it began to understand the calculated nature of what was passing as Balkan nationalism. Unlike the first phase of foreign policy associated with Serbia, the West now saw that Milošević's brand of lawlessness was rationally motivated by Milošević's drive for power. In other words, Milošević emerged as a rational leader of an irrational people.¹³

From this vantage point, states opposed to the carnage in Bosnia could do more than "manage" it; they could halt it altogether by dealing with Milošević. The key negotiator for the US side, Richard Holbrooke, viewed Milošević as central to any long-lasting peace in the region, thereby installing him as a guarantor for the Dayton Peace Accords.¹⁴ Meanwhile, the mistaken belief

be freed. He asked only for International Red Cross access to the camps.... Using their best public relations techniques, top aides expressed the notion that the war in Bosnia was a civil war in which all sides were to blame and that all sides were crazy." Roy Gutman, *A Witness in Genocide* (New York: Macmillan Publishing Company, 1993).

¹² Janusz Bugajski, "The End of the Balkans," *Bosnia Reports*, no. 19/20 (October - December 2000). One of the commonly cited examples of how the perception of primordial hatred affected US foreign policy on the Balkans was the Clinton administration's decision in the summer of 1993 to abandon the recently endorsed option of 'lift and strike,' meaning lifting the arms embargo and using limited air strikes against military targets in Bosnia. Elizabeth Drew describes a scene in the Oval office: "...Clinton said he had been reading the book *Balkan Ghosts*, by Robert Kaplan, a haunting description of the Balkan people's historic propensity for war with each other. (Powell had read part of the book and Mrs. Clinton had read it). The book pointed out that these people had been killing each other in tribal and religious wars for centuries; the Serbs' National Day was a commemoration of the battle of Kosovo, in 1389 (which they lost to the Turks)." (Elizabeth Drew, *On the Edge: The Clinton Presidency* (New York: Simon & Schuster, 1994) pp. 157-158.)

¹³ Warren Christopher, "Advancing America's Enduring Interest" Statement Before the Senate Foreign Relations Committee (Washington, DC: 30 June 1994), US Department of State Dispatch, 5, no. 2 (11 July 1994). "Of course, it hasn't worked out so simply. 'Militant nationalism,' as President Clinton called it in his speech last week to the French National Assembly, has been on the rise. Ancient ethnic hatreds are re-inflamed not by Soviet fifth columns, but by local demagogues—who, as President Clinton put it, are 'transforming the healthy pride of nations, tribes, religious, and ethnic groups into cancerous prejudice.'"

¹⁴ Michael A. Sells' account of the Clinton administration's finally rejecting the primordial hatred discourse: "Backed by NATO air strikes on Serb army munitions dumps and communication facilities in Bosnia, Assistant Secretary of State Richard

that the Serbian populace was fervently devoted to Milošević and to rabid chauvinism continued to inform the reaction of outsiders to developments in the region.¹⁵ Because Western policymakers thought that the people of Serbia *needed* an authoritarian and nationalist leader,¹⁶ their support of politicians and journalists critical of the Milošević regime was half-hearted after Dayton. As long as the conflict in Kosovo remained at a level of low-intensity, the US and its allies could continue to act as if Milošević was the man of peace for the Balkans.

A third phase began when it became apparent that attempts to stem the outbreak of all-out war in Kosovo were failing and mass evictions and deportations were beginning. The exact timing and nature of this failure is open to dispute.¹⁷ At some point, however, the NATO allies concluded that Milošević was indeed an outlaw leader. Milošević was rational, and yet he persisted in acting as though he were beyond the reach of law. This perception sparked a new approach to dealing with Milošević: not through reason, but through force. During the NATO bombing campaign, outsiders adopted a new stance

Holbrooke led negotiations that resulted in the Dayton peace agreement of November 22, 1995. Soon after, Deputy Secretary of State Strobe Talbot denounced the idea that the Bosnia tragedy was the inevitable result of 'ancient hatreds'—the Balkanist stereotype that had been propounded by the same administration for two years" (Michael A. Sells, *The Bridge Betrayed: Religion and Genocide in Bosnia* [Berkeley and Los Angeles: University of California Press, 1996] pp. 126-128.

¹⁵ Francis Wheelen, "How our politicians helped keep the Butcher of the Balkans in power," *Guardian*, 11 (October 2000) p. 5.

¹⁶ A particularly good collection of essays discussing media depictions of Serbs as rabid chauvinists can be found in Philip Hammond and Edward S. Herman, *Degraded Capacity: The Media and the Kosovo Crisis* (London and Sterling, VA: Pluto Press, 2000).

¹⁷ Some commentators would argue that the potential for peaceful negotiations over Kosovo never passed and that, instead of bombing, the NATO allies could have continued to negotiate with Milošević long after the Rambouillet negotiations were said to have collapsed. (Robin Blackburn, "Kosovo: The War of NATO Expansion," pp. 360-380 in Tariq Ali, ed., *Masters of the Universe: NATO's Balkan Crusade* (London and New York: Verso, 2000). Others, however, suggest that Rambouillet had failed before it began. In other words, it was specifically designed to fail. (See Noam Chomsky, *A New Generation Draws the Line: Kosovo, East Timor and the Standards of the West* (London and New York: Verso, 2000), pp. 123-124; Peter Gowan, "The Euro-Atlantic Origins of NATO's Attack on Yugoslavia," in Tariq Ali, ed., *Masters of the Universe: NATO's Balkan Crusade* (London and New York: Verso, 2000), p. 8. Nonetheless, at some point the international community, rightly or wrongly, determined that negotiations had collapsed.

toward the Serbian people. NATO officials announced that the West was not directing its attack against average Serbs; its quarrel was with the Milošević government, not the Serbian people. No longer regarded as primitives motivated by ancient primordial hatreds, Serbs were deemed capable of choosing their own form of government—one that would not include Milošević. The US and many of its allies stepped up support for anti-Milošević individuals and groups within Serbia with the articulated hope of prompting his downfall.

TOWARD LAWFUL STATUS

Serbia took a giant step toward becoming a lawful government when Vojislav Koštunica was elected president of Yugoslavia in September 2000 and Serb reformers swept to a landslide victory in parliamentary elections three months later.¹⁸ The defeat of Milošević and the accession of more moderate leaders throughout Serbia have demonstrated that the Serbian people are indeed willing and able to choose their own democratic government. Yet Serbia has not completely disowned its outlaw behavior and shed its rogue image. As Bob Dole opined in the *Washington Post*: "Koštunica's election was a democratic triumph for the Serbian people. But it does not mean that Koštunica is a democrat or Serbia a democracy."¹⁹ On the contrary, Koštunica is a nationalist who has yet to demonstrate that he truly believes in participatory democracy and human rights. The danger, as Sonja Biserko, a long-time proponent of civil society in Serbia, warns us, is that "[w]ith Koštunica's victory the nationalist bloc has for the first time acquired democratic legitimacy and international support."²⁰ This bloc, however, has yet to abandon many of the beliefs and practices that continue to forestall its participation in the community of nations. As of this writing, they have yet to agree to deliver Milošević and others indicted as

¹⁸ The Democratic Opposition of Serbia (DOS) won 176 seats in the 250-seat parliament, while the Socialist Party won just 37 seats. Gillian Sanford, "Landslide Victory for Serb Reformers," *The Guardian*, 27 December 2000.

¹⁹ Bob Dole, "Beware Yugo-phoria," *The Washington Post*, 12 October 2000.

²⁰ Sonja Biserko, "Revival of Old Dreams," Bosnia Institute.

war criminals to the international war crimes tribunal and to cooperate fully with its investigations.

In order to transform itself from renegade to lawful society, Serbia must do a number of things. As this article goes to press, the most immediate issue facing the newly elected Serbian government is the conflict between Albanians and Serbs in the Presevo Valley, the region in southern Serbia bordering Kosovo. Koštunica's government has proposed a peace plan for the Presevo Valley that would demilitarize the region, bolster the economy with economic support and provide ethnic Albanians with more equitable representation in government and police structures. Yet most of the Albanian rebels fighting in Presevo are from Kosovo and they care little about these terms. The conciliatory stance in Belgrade is a step in the right direction, but this plan falls short in one crucial respect. It fails to take the status of Kosovo into account. Resolution of the status of Kosovo remains the key to long-term security in the region.

The rebel campaign in Presevo is directly linked to the ongoing uncertainty over the status of Kosovo. Through their insurrection, the rebels seek to create conditions on the ground that would be incorporated into any agreement on boundary lines for a new state of Kosovo. By provoking a militant Serbian response, the rebels also hope to improve their posture at an eventual bargaining table. Albanian revenge attacks against the remaining Serbs and Roma in Kosovo also form part of this strategy. The failure to resolve the status of Kosovo will destabilize Serbia's new government and distract Koštunica and Prime Minister Zoran Djindjić from addressing any other long-term problems. And yet the future of Kosovo is the future of Serbia. In order to join international society as a lawful member, Serbia must first reach an agreement with the international community on the future of Kosovo. The course it takes in Kosovo will have a direct and immediate impact on its course of action in Montenegro and on the future of peace and security in the entire region.

SETTLING KOSOVO

A durable solution for the dispute over Kosovo must satisfy the criteria of legality, legitimacy and morality. As a matter of international law, an array of solutions for Kosovo is now on the table. Nearly all commentators misinterpret UN Security Council Resolution 1244, the document that provides authority for the international mission in Kosovo.²¹ While many claim that this document resolves the future status of Kosovo in the Serbs' favor as a matter of law,²² it does nothing of the sort. Resolution 1244 does confirm the commitment of Member States of the United Nations "to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia." It does call for the "establishment of an interim political framework agreement providing for a substantial self-government for Kosovo" in line with "principles of sovereignty and territorial integrity..." Nonetheless, the use of the words "sovereignty" and "territorial integrity" does not mean that Kosovo is automatically to remain part of Serbia. Rather than settling the matter, these words invoke the principles that must weigh heavily in any final settlement. These principles weigh not on the side of any particular group, but in favor of respect for international human rights standards for all.

The concept of sovereignty today refers not only to the sovereignty of states but also to the sovereign rights of people to affect choices regarding how they should be governed and by whom.²³ Those who threaten that ability to make governance choices (be they internal or external in origin) violate the sovereignty of the people.²⁴ Accordingly, as Michael Reisman has noted, when another state intervenes to protect human rights in such circumstances, it is not violating a principle of sovereignty

²¹ Report of the Secretary-General to the Security Council, 12 June 1999, UN Document 1999/779.

²² The same critics may say that as a matter of politics, the likelihood that Kosovo will effectively exert control over Kosovo is remote at best.

²³ Michael Reisman, "Sovereignty and Human Rights in Contemporary International Law," *American Journal of International Law*. (1990) pp. 866, 869.

²⁴ See Christian Tomuschat, *Modern Law of Self-Determination* (1993) p. 229.