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Abstract
International politics creates international law, but also international law draws the framework of international politics (for majority of the states). Cyprus issue is one of the long lasting unsolved problems of the last century. EU has made its one of the biggest historical mistakes by accepting unsolved “Cyprus” and also violated international law. After the civil politics of Turkey and the results of Annan Plan, advantage exactly dovetailed to the Turkish side, although it is the turn of the EU to play and they do not play. After the ICJ’s decision on Kosovo’s unilateral declaration of independency, TRNC gained a huge advantage on the negotiation table and also an innovative Neo-Wilsonist path reopened in international arena. Now, it is possible for TRNC to be recognized by many countries like Kosovo succeeded by 73, if she and Turkey desire it while Turkey is in the UNSC and thanks to its tailor made diplomacy. Even if they do not follow Kosovo sample, it has undoubtedly cut in favor TRNC and Turkey.

Democracy, Power and International Law
During the history of human kind international law and state sovereignty were antagonistic. Although international law was/is the fuse box of states, in the same time it is the main obstacle for illegal or extremist actions of states. On the one hand states naturally struggle to enlarge its area and sphere of influence; on the other hand international law struggles to obstacle and draws a framework to limit states in international arena.

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In contradiction domestic law is the best friend of the states because it is the main and foundational tool to keep and fortify its security, justice and system. That’s why states endeavor to protect domestic law. If international law overlaps with a state’s international politics same eagerness of that state surely can be seen in international arena. But when it contradicts with its aim, target and intentions, antagonism (Yenigun, 2001) could be seen explicitly or implicitly. In addition a lot of differences, two points could be counted as the main differences between domestic law and international law.

- There is not coercive force of international law such as police forces or jails,
- Previous judicial decisions of international law are not constituted a precedent.

First point is main hurdle of international law. Under normal circumstances, international law binds and works for “almost” all countries; but what if a very powerful country’s policies contradict with international law? Because of the lack of police forces or (very large) jail of international law, who will judge and put into force of punitive sanctions of international law against very powerful state. 2003 US’s Iraqi invasion was diametrically against to international law in terms of reasons and permission of UN Security Council (UNSC). But passionate charm of oil attracted US into Iraq by violating international law, but nobody could stop US because of two reasons:

- Decision making of the UNSC is in the hand of five permanent members by courtesy of veto right. On one side although Russia and China were against to invasion, they were coping with their own domestic issues, on the other side France by shouldering EU had not enough military and diplomatic power to confront US. UK (had) preferred to be together with the US instead of staying out of frame.
- Even if UNSC had taken the decision who was going to put this decision into action? Surely, everybody knows UN has peacekeeping and peacemaking forces, but again everybody knows in international arena without US abutment these forces cannot do big things, especially if it is against US forces.

Sometimes state and democracy contradict with each other and take antagonistic roles. If democracy keeps state’s hegemony and power in safe, democracy is good and useful tool for the state. But when democracy jeopardizes state’s sovereignty, state blocks, forbids and obstacles democracy’s toil in domestic and international milieus. The fact of international
politics lies among a triangle of democracy (legitimacy), international law (rule) and powerful states’ interest (and acceptance).

In 1945, US President Truman unilaterally declared 200 nautical miles continental shelf, although it was not exist in international law; it means directly against international law. Maybe it was one of the democratic rights of coastal states, but it was against international law. First the other states rejected, but there was no other power to stop US, then they had started to declare same claim, by time it transformed to written international law in UN Conference on the Law of the Sea (UNCLOS). Today, almost all countries execute and apply 200 nautical mile continental shelf under some special circumstances of UNCLOS. The triangle of legitimacy, rule and interest could meet and established enough habitat of international politics. Again President Wilson declared to the world self determination is the right of each nation during the World War I. The triangle again could be established. Because thanks to this policy Austria-Hungary and Ottoman States could be collapsed down and they could extend their sphere of influence towards new born states. It was put into League of Nations (LN) and UN Charters, so became an international law. During the interwar period self determination right was used by almost all new states in Africa and Asia. However during the Cold War it was not allowed to be used by the leaders of two polars, US and USSR. Because both had established their systems and they did not tolerate to spoil the hegemonies within their own pacts. Their hegemonies were not questionable because of the other pact’s threat. “If their allies go out, imperialists or communists could beat them”. Such a “fear policy” were legitimized and justified by both sides, and during this kind of cold “war” democracy and self-determination rights could/should be ignored.

It is normal in accordance with international relations rhetoric, some new actors emerge and some others die. After communism and Warsaw Pact collapsing, within the new unipolar or hegemonic system, self determination right has resurrected. A kind of Neo-Wilsonism has shown up and many Central, Eastern European and Balkan countries were inspired by 80 years old mentality again. According to the “common rule”, if a country had a federal right before, it could put Neo-Wilsonist theory into practice. Czech Republic and Slovakia, fourteen former USSR members, six Former Yugoslavia members have enjoyed it bloody or bloodless way until 2007 (the last one Montenegro). Even in Far East, East Timor has used it by shouldering of EU especially Portugal.
Debates on the Firsts of Kosovo

Kosovo has always been “special” for everybody in the region. Ottomans entered to Balkan region by Kosovo War in 1389, it was/is sacred/holy place for Orthodox Serbians, it became a reason of war to be annexed, by two Communist leaders Enver Hoca and Tito in years of 1945-1948 and Yugoslavia’s collapsing has started by Milosevic’s speech in Kosovo Square in 1989. Two years after abolishing Kosovo’s autonomy status in 1989, Kosovars have voted referendum as 99,8% in favor of independency.

Again Kosovo’s recent story was special and it has opened a path of five innovative gates to the flu horizons.

- First time NATO forces were used in Europe,
- First time NATO forces were used against a sovereign state,
- First time a war was won without any casualty (of one side),
- First time a war was won without using ground forces, but just air forces,
- But the most importantly, first time legally an autonym region declared independency, it was recognized by 73 states (by January 2011) and International Court of Justice (ICJ).

In the beginning, Kosovo did not interfere in Bosnia-Serbia war between 1992-1995. It was Milosevic’s plan to fight and eliminate enemies one by one. Three years after Bosnia War, Milosevic attacked Kosovo, then in chateau Raumboulet (5 February 1999) two sides and six countries as mediators gathered. According to draft, after three years of process of transition Kosovo was going to hold referendum for the future of the country. Although Hasim Taci as representative of Kosovo signed the draft, Milosevic stormed out of Raumboulet and attacked Kosovo again. After 78 days of NATO bombardment, Serbia came to table and signed amended agreement. According to new agreement in June 1999, referendum for independency 3 years later was erased and UNSC was involved as peacekeeper in Kosovo. As result ceasefire could be ensured and guaranteed by the UN but any permanent solution could not be found among the pentagon of US, EU, Russia Serbia and Kosovo like Dayton Agreement. But Kosovars had already taken their lessons from Bosnia War; they had prepared for the war by Kosovo Liberation Army (KLA), they fought in the battleground and on the negotiation table.
In addition they had/have very important power in Euro-Atlantic region Albanian Diasporas and lobby capacity.

During the wars of Bosnia and Kosovo, Serbian government had claimed that NATO and the US was intervening with a sovereign state illegally. China and Russian Federation supported them vividly until Chinese Embassy was hit wrongly by a US bomb. On the other side Albanians have made very large demonstrations and intensive lobby in Europe, Turkey (Eralp, 2010) and the US during the war and after the agreement. Kosovo War has opened another debate among scholars and politicians: “If a state pursues/applies terrorist techniques or makes ethnic cleansing, could or should it be interfered in?” Because according to international law, it can be interfered in a sovereign state under two circumstances:

- UNSC decision or
- By current government’s demand for an assistance.

None of them existed in Kosovo interfering and Serbian, Russian and Chinese governments were insisting on international law. But they had forgotten the first and most important purpose of international law: Protecting human kind and its rights. If there is very explicit and heavy violation of human rights by a state such as genocide or ethnic cleansing (like in Rwanda), and if international law is incommensurate to stop it because of unjust veto right in UNSC, should it be intervened with and stop or should it be waited as happened in Bosnia 1992-1995? In my debate classes in master degree in the US, Turkey, Belgium, Spain, Sweden, Macedonia, Albania and the United Arab Emirates the answer were/are same: “Yes, it should be intervened”. In all conferences until now in the last 15 years, scholars give same answer: “Yes”. It means if international law is not enough, necessary actions should be taken and out into force. Then immediately international law should also be amended. If everybody accepts in scholars and politicians level to change international law, such as “if there is state terrorism and/or genocide in a country, it should be intervened, even if UNSC does not allow it.” If it happens three dangerous results could occur:

- Firstly, international law and UNSC will be discredited,
- Secondly the world would transform to a turmoil world suddenly,
- And thirdly, all countries will be in danger with claiming there is “state genocide” or “state terrorism” in their region by postulants of independence.
Seminole Indians in the US, Chechnya in Russia, Eastern Turkistan or Xingjian in China, Karabakh in Azerbaijan, Sicily in Italy, Corsica in France and so on.

At the beginning of transformation of international system in 1991, there were a kind of customary law among the dismantling states and dominant leader such as fourteen states and Russia to dismantle. If independence postulants had federal state right they could detach from the dominant country by a mutual compromise. USSR has let them separate by different ideas. Gorbachev administration were thinking those separated countries were not going to survive economically, because they had not had any experience about governing and economic policies, so they were going to come back to Russian Federation by their own request. Consequently Russian Federation was going to have legitimacy and spiritual support which they had not had during the USSR. By this aim, new Russian Federation established Commonwealth of Independent Countries (CIS) to wait and recollect its old federal states to build such a post-colonial relations by inspiring of UK and Commonwealth countries. Regardless of reason, Gorbachev Administration has allowed almost all federations to leave with some reservations such as Chechnya because of economic, geopolitical but especially politic importance. Because Chechnya’s political situation was exactly different which was/is Republic but not autonomous Republic.

In Former Yugoslavia political situation was same. Yugoslavia reluctantly allowed Slovenia because of Germany’s backing, Macedonia because of same ethno-religion background. For example although Macedonians are completely different nation but they are Orthodox, Milosevic had very good relations with them; when they demanded independency in 1991, Milosevic Administration accepted it by the bloodless way unlike Catholic Croatia and Muslim Bosnia-Herzegovina. In 2007 same thing happened to Montenegro and they gained their independence by peaceful way and compromise; again they are Serbian and Orthodox. But all of them had same common political features like fourteen republics of Former Russia; they were all federal entities and sort of states. Even though Kosovo once had gotten same rights with the other republics, during the self-determination declaring it was not republic it was just only autonomous region with Vojvodina in Yugoslavia. Today there are a lot of autonomous regions in almost 22 federal states from Spain to Russia, from US to China.

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2 Because Milosevic nationalism was founded on religion. 64.6 % of Macedonia is Orthodox.
formally. It is also possible to find de facto (practical) autonomous regions in all countries. That’s why potentially turmoil countries have vociferated that they will not recognize Kosovo, because they have same type of regions and issues. If they have accepted Kosovo’s independence, It would have been an acceptance and would been a sample for themselves also.

But as above mentioned before, even if politics violate international law, if these politics are made and/or supported by very powerful states, international law and others’ rejections cannot work. In 1945, Truman’s Continental Shelf declaration was accepted by everybody two years later, because coiner and “protector” of international law, US, was demanding it. Karabakh region was invaded by Armenia and it is still under Armenian invasion illegally thanks to Russian shouldering. Because each international actor knows, if this issue comes to UNSC surely Russia will veto it as a permanent member. In 2003, American invasion was completely illegal, but who was going to stop hawkish administration and American army. Again Cyprus became a member of European Union (EU) illegally in 2004, because according the establishment Agreement Cyprus cannot be a member of any international organization which Turkey or Greece are not the members within. It was planned, put into force and it is still continuing illegally, because again one side contains France and United Kingdom (beyond the screen, Germany) again UNSC permanent members with veto rights and the EU is one of the most powerful actors in the world. Kosovo situation is same, although there was an intensive genocide (around 10,000 people were killed by Serbian paramilitary groups and Serbian Army) and the smashed, poor and beaten side was Kosovars, Kosovo independence was against written international law at that time.

Kosovars have conducted a pattern of lobby with the US, firstly during the war and especially after the war; they have achieved US and EU’s support before declaration of independence in 2008. Frankly, Albanians and Kosovars have diplomatically achieved between 1999 and 2008 what Turkey could not achieve between 1974 and 2010 (Yenigün, 2010). First they have given military bases to the US in their countries; today the largest US military base in Europe is in Gjilan (Gnjilane), Kosovo. After that they struggled to get the European States on own side; for example France was against them, Kosovo Administration has given very rich mining auctions to semi-governmental French companies, so France recognized Kosovo also. Before independence, High Representative of Kosovo, Marti Ahtisaari, has announced
Kosovo Plan which included independence in 26 January 2007. Russia rejected this plan in the meeting of UNSC in April 2007. One day later Bush pointed out that Kosovo should be an independent state. At the end, on 17th of February 2008 Hasim Taci has declared Kosovo’s independence in front of five flags: Turkey, US, EU, Albania and Kosovo. Albania and Kosovo were normal but the other three flags were showing Albanian Kosovars lobby targets and backing policies: EU was crucial as second important political and first economical power for Kosovo, US was the most crucial friend as biggest military power and the leader of unipolar / hegemonic international system, Turkey was natural friend, regional power and representative in Muslim countries and Organization of Islamic Conference (OIC). Kosovo’s independency story, even if against current international law, is a perfect sample of diplomacy and lesson of lobbyism. Their aim is simple but very clever: If it is not possible to be solve the problems within the UNSC because of China and Russia’s vetoes, it is possible to be recognized by UN General Assembly’s qualified majority which is 129 states. At least they have passed half way of their targets. Until now, they have not applied for the UN membership, although they have already been accepted as a member of IMF and World Bank.

But the most important keystone of Kosovo’s independency story is ICJ decision on 22nd of July, 2010. According to the decree3, President Hisashi Owada explained ICJ’s advisory opinion as “the declaration of independence of the 17th of February 2008 did not violate general international law because international law contains no “prohibition on declarations of independence”. (ICJ, 2010a) Within the opinion it was mentioned independency decision of Kosovo did not violate UNSC Resolution 1244 (1999) also. (ICJ, 2010b) (At that time 69 states recognized Kosovo.) This decision shows that how international politics create international law, and also how lobby makes small countries very effective in international arena. During the independency day, it was against the written international law in general acceptance. Because dismantling should have been made by mutual compromise between Kosovo and Serbia, like USSR federal states and Russia. East Timor independency became with this way also. First Indonesia had receded from East Timor in 1999, later it declared independency after the referendum in 2002. But the decree of ICJ, a universal international judiciary institution, has legitimized unilateral declaration of Kosovo. Besides it has also pioneered a Neo-Wilsonism in the new world order. It is incontestable that previous decrees

3 The decision was taken by 10 vote, against 4 judges.
do not constitute a precedent in international law; it undoubtedly inspires and encourages many nations and minorities in the world such as Bask people in Spain or Chechnya people in Russia.

Comparison: Cyprus and Roadmap?

Kosovo and Cyprus have a lot of similarities in terms of social, political and historical perspectives.

- Cypriot Turks and Greeks had established one state as two nations like Kosovars and Serbians by London and Zurich Agreements in 1959 and 1960,
- Like Serbians Cypriot Greeks have strived to eliminate Turks from the island two times in history,
- Both sides nationalities and religions are different Muslim Turks and Orthodox (Greeks) Rums in Cyprus, like Muslim Albanians and Orthodox Serbians in Kosovo,
- Cypriot Greeks and Turks were/are separated nations and they were living in different areas even during the establishment of state; like Kosovars and Serbians,
- Kosovo Albanians and Cypriot Turks were beaten by the state facilities indirectly, it can be named as “state terrorism”,
- Both regions’ borders have been waiting by UN peacekeeping forces, UNFICYP\(^4\) (1964) and UNMIK (1999) and by the EU, EULEX\(^5\) (2008 December).

On the other side there are differences between Kosovo and Cyprus cases:

- Although Kosovo Albanians and Serbs lived in different areas, their cultures music and kitchen resemble each other; as result some marriages could be seen in history. In Cyprus even if the culture of both sides on some areas are close each other, marriages were/are very rare and was considered “abnormal” in history, as result they did not mix each other.

\(^4\) Total strength (military personnel and civilian police) of UNFICYP is 920 individuals. The 858 military personnel are from Argentina, Austria, Brazil, Canada, Chile, Croatia, Hungary, Paraguay, Peru, Serbia, Slovakia and the United Kingdom.

\(^5\) European Union Rule of Law Mission in Kosovo EULEX. EULEX assists and supports the Kosovo authorities in the rule of law area, specifically in the police, judiciary and customs areas.
• Historically Kosovars and Serbians are autochthon people of the Balkan area, they have been there for thousands years according to both sides history books. In contrary, Cyprus was put under Muslim Arab rule in 648 by Hz. Osman, centuries later Venetian Ducat invaded the island, they massacred Muslims and island became fully Catholic. After the conquering of Ottomans in 1570, Orthodoxy and Islam were left at liberty and were brought from the other regions by Ottoman. So both religions were brought by Ottomans in the same time.

• In judicial perspective, Cyprus intervention was made by Turkey on 20th of July 1974 in accordance with 4th article of 1959 London Treaty, as a guarantor of peace. It was legal action in international law. Kosovo intervention was made by NATO forces against a sovereign state. According to written international law, it was impossible to do it, but it was exactly legitimate according to world’s public opinion.

• As a futuristic desire, both Kosovars and Serbians do not want to live together. But as a dominant power Serbian side demands just territory of Kosovo. As smashed side Kosovars demanded independency around 98% (1991 and 2006). In Cyprus, Cypriot Turks want(ed) to live together by 65% in Annan Plan (2004), Cypriot Greeks do not want to live together or to be under same state by 76% vote in Annan Plan.

• Kosovo was/is backed by the US and Turkey totally, Cyprus Greeks is backed by the EU explicitly.

Can Kosovo be a sample for Northern Cyprus? According to international law, previous decisions are not become a precedent. But practically especially after the advisory opinion of ICJ in 2010, it surely will be inspirational way and another option for Cyprus and Cypriot Turks. The main debate case is intensified on two issues which are the most important differences between Kosovo and Cyprus:

• What do Turkey and Cypriot Turks want?
• What should be done to reach this target?

Kosovars and Albanian have focused on unique plan and one target from the beginning: independency. Turkey and indirectly Cypriot Turks did not have a unique plan, target or roadmap. Cyprus politics had been changed very frequently depending on cyclical administration in Turkish political life from 1959 to 2002. During London and Zurich
Agreements, February 1959, Turkish Government was exactly pro-American and Western, so they did not even negotiate, that’s why they did not take any extra benefit because of lack of diplomacy and negotiation. Unfortunately, during the establishment of Cyprus state, in 16 August 1960, Turkey was under unluckiness, 27 May Military Coup. Military junta was struggling to legitimize itself; they did not give importance Cyprus at that time. During the ethnic cleansing in 1963, İnönü Government was in charge in Turkey. Because of “balance policy” of İnönü during the World War II, İnönü did not have good relations with Europe unfortunately. With the Johnson letter, Turkey became in danger of USSR, and became silent.

In 1974, after the intervention American embargo had continued between February 1975 and September 1978. In 1975 the "Turkish Federative State of Cyprus" (Kıbrıs Türk Federe Devleti) was declared as a first step towards a future federated Cypriot state, but was rejected by the UN. Until 1983, Turkey’s Cyprus policy was established on protecting Northern side and Turkish people. In 1983 during the declaration of independence of TRNC, Turkish military government made big mistakes (Yenigün, 2010) which Turkey and TRNC has been still suffering:

- First they did not have any diplomatic experience.
- Second they did not have good relations with democratic countries because of being coup government.
- Third they did not do any preparation or lobby before declaration, nobody recognized TRNC (Güney, 2007), except two more countries. It was totally one-night and posthaste decision,
- Although military administration ensured declaration of independence of TRNC, they did not have an absolute policy; they changed their policy mentality within 24 hours. Then this defectiveness and malfunction reflected and continued in ongoing years.

Former President Denktaş points out this military cobweb as:

“On the one hand, we declared independence, on the other hand we were striving to continue federation bargaining. In 1983, we declared independence, and immediately we were invited to the UNSC. In the UNSC, I pointed out as “Cypriot Greeks are government, we are a community, this is an imbalanced position, if this position continues and agreement will not be made.” Pakistan presented a speech better than me and recognized us. 24 hours later I was called back to Turkey. Administration told me “arms embargo continues, we are on a razor situation. Please tell them, you are
ready to talk, we want federation and we will establish a common one state again. The lion, roaring in previous meeting, was bleating now. Pakistan approached and told me “we supported you with bated breath, now you are explicitly declaring that you are going to unify again; why do you put us on the spot? Namely, our policy has handicapped our own recognition by the others” (Bilici, 2008)

After 1983, Turkey’s Cyprus policy has changed three times as hither and thither depending on changing governments and coalitions and military pressures, federation, confederation and continuing “independence” as de facto. Actually the main and the most important difference between Albania / Kosovo and Turkey / TRNC is the indeterminateness.

When AK Party came in charge, they found Cyprus issue as heritage from its heirs of 40 years; and none of them found a concrete, determined Cyprus policy. The current system was continuing as de facto situation. In 2004 thanks to Greece’s perfect diplomacy, the actors of Cyprus problem increased and tied with a knot by taking the EU (Özer, 2010) into play. Membership of Cyprus was/is totally illegal in accordance with London Agreement; but as mentioned at the beginning power/ politics make law, and if law contradicts with a powerful actor, law becomes quiet because of lack of police force of international law.

Actually in the last eight years a lot of things were achieved in Cyprus story in compare with its history: In 2004, the OIC upgraded the delegation of the Turkish Cypriot Muslim community from "observer community" to that of a constituent state with the designation "Turkish Cypriot State", making Northern Cyprus an observer member of the organization. A number of high level formal meetings have also taken place with foreign politicians including the former US Secretary of State Condoleezza Rice, the then British Foreign Minister, Jack Straw and former Pakistani President Pervez Musharraf and Ban Ki Moon. Economy quadrupled in the last decade. (TRNC State Planning Organization, 2008) Especially by the Annan Plan, Turkey and TRNC kept their words, now it is EU’s turn, and admittedly there is no place to move the pawn for the EU.

As majorities accepted Turkey has been orchestrating “knotted” Cyprus issue perfectly in the last decade. As a first time Turkey manages integrity on Cyprus policy, although our bad history of “mixed politics” encouraged the EU and the other players. If Turkey and Cyprus

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6 TRNC had gotten “Observer Community” status in the OIC in 1979.
want to integrate with the South, a lot of good efforts were performed. But if they think and have some plans to be recognized by the other countries, the time and environment is very suitable after the ICJ’s decision in 2010, while Turkey is the member of UNSC. And EU knows that Turkey and the TRNC might pursue Kosovo’s path, accepted and legitimized by the ICJ as Neo-Wilsonist idea. That gives at least extra advantages and moving area of diplomacy for the TRNC.
References