

The President's Painted Corner

A prudent power will always seek to keep open as many options as possible in its foreign-policy making. An increasingly rigid system of alliances, coupled with mobilization blueprints and railway timetables, reduced the European powers' scope for maneuver in the summer of 1914 and contributed to the ensuing catastrophe. The United States, by contrast, entered the war in 1917 because Woodrow Wilson wanted to do so (rightly or wrongly), not because he had to do so.

A mature power will never allow its promises to foreigners to entail risks of conflict that exceed the benefits of discretion. Bismarck would have been appalled at the manner in which his inept successors had committed Wilhelmine Germany to upholding and defending the moribund Habsburg Empire, come what may. The end result was the death of both; but, without that *carte blanche* from Berlin, Austria could have behaved more responsibly in July 1914, possibly saving Europe from self-destruction.

Asensible power will not allow its weaker overseas protégés to call the shots. Algérie Française was not a colony but an integral part of metropolitan France inhabited by millions of non-Arab French citizens who believed that they were owed open-ended protection. De Gaulle told the *piets-noirs* that he "understood" them; then, he promptly cut Algeria off when he decided that the cost of keeping her exceeded any possible benefits. This painful act enabled the Fifth Republic to embark on an economic and political recovery that halted half a century of decline.

A rational power will not create new hotbeds of instability while the old ones remain unresolved. Mussolini's unprovoked attack on Greece in October 1940, while his forces in North Africa were at grave risk from the British, was a madness repeated on a grand scale in June 1941, when Hitler unleashed the Barbarossa even though England remained undefeated.

And finally, a responsible power will avoid foreign entanglements that violate its moral and cultural norms. The Crimean War was a crime; the Eastern Question, its punishment. Supporting jihadists against Christians in Bosnia in

the 1990's has yielded scores of Bosnian-trained or -connected *jihad*-terrorists.

Washington's Kosovo policy violates all five principles.

It is not prudent for the United States to insist that Kosovo should and will become independent—as President George W. Bush did in Tirana last June, followed by similar sermons from Dr. Rice and her aides on an almost daily basis—even as it is obvious that Russia will veto any attempt to achieve that goal through the U.N. Security Council, and even as the European Union is increasingly reluctant to participate in any scheme to bypass the United Nations. Statements by U.S. officials that Kosovo's independence is "inevitable" are a classic case of irresponsible policymakers painting themselves into a corner on a peripheral issue, and then claiming that the issue had morphed into a test of American resolve.

A mature, self-confident and globally hegemonic "hyperpower" would never allow Kosovo to become such a test for three reasons.

Quite apart from its historic, cultural, moral, and legal aspects, the issue of who controls the southern Serbian province is perfectly irrelevant to American interests. It is a small, land-locked piece of real estate, of dubious "objective" value, away from all major Balkan transit corridors, and not nearly as rich in natural resources as both Serbs and Albanians like to imagine. If Kosovo were to disappear tomorrow, no ordinary American would be able to tell the difference.

The change of Kosovo's status against the will of Belgrade, in addition to being a clear violation of international law, would set a precedent potentially detrimental to U.S. interests. To enable an ethnic minority to secede from an internationally recognized state on the grounds of that minority's numerical preponderance in a given locale would open a Pandora's box of claims all over the world, not least among Russian speakers in the Crimea, parts of Estonia and Latvia, northern Kazakhstan, and eastern Ukraine. It could also affect the future of Texas, New Mexico, Arizona, and perhaps even California, when Mexicans achieve a simple majority in those states. (The question is indeed



"when," not "if.") State Department officials Nicholas Burns and Daniel Fried still insist that no precedent would be set by creating an independent Kosovo, but they cannot control reality, and their assurances are nonsensical.

The Muslim world will not be appeased by Kosovo today any more than it was appeased by Bosnia a decade ago. America will not earn any brownie points among the world's "Jihadists of all color and hue" (to borrow a phrase from Rep. Tom Lantos) for creating a new Muslim state in the heart of Europe. Albanian "gratitude" would prove as valuable to America today as it has, over the years, to Fascist Italy, Nazi Germany, Soviet Russia, and Communist China. On the other hand, the failure to create an independent, internationally recognized Kosovo would be yet another sign that Emperor Bush has no clothes and that America has no sureness of touch. Furthermore, favoring the imposition of a "solution" from the outside against the will of one of the parties could set a dangerous long-term precedent for Israel.

Our policy is not sensible. It panders to the aspirations of a small and primitive, yet shrewdly opportunistic, polity with territorial pretensions against all of her neighbors. President George W. Bush declared in Tirana last June that America is committed to Kosovo's independence, and he was greeted almost as enthusiastically as Benito Mussolini, Nikita Khrushchev, and Chou En-Lai had been greeted by the Albanians over the decades. As Nicholas Stavrou noted in the *National Herald*, Mr. Bush reflects the Albanians' talent for choosing patrons who fulfill three criteria: They must be big enough, far enough, and willing to offend the interests of Albania's neighbors:

President Bush's venture into the

Balkan tinderbox is nothing short of a blatant provocation aimed at two nations that stood side by side with the United States in two wars, Serbia and Greece. It is part and parcel of a neo-conservative agenda, formulated by the same gang that produced the Iraq war . . . and threatens to engulf the Middle East into a regional conflagration. The ultimate goal, of course, is the conversion of Russia into a first class enemy. The new Cold War warriors view the Balkans as a "logical extension of the Middle East" that ought to be part of a new arrangement that would facilitate integration of Islamic and non-Islamic cultures. Russia, in their view, cannot be trusted with any role in their nefarious schemes to "modernize" Islam and redefine the Middle East as a "region that starts in the Persian Gulf and ends in Sarajevo."

It is plainly irrational to insist on Kosovo's independence, with all the risks such a policy entails, while the United States faces so much other "unfinished business" around the globe. The list is well known and depressing. Iraq is a disaster, and there is no light at the end of the tunnel. Afghanistan is a lesser calamity only when compared with Iraq. Any solution to the challenge presented by Iran will depend on Washington's ability to have Russia on its side as a partner, which is impossible if Moscow's concerns over Kosovo are treated as illegitimate. Russia is also an essential partner in helping control Kim Jong Il and devising a sustainable long-term energy policy for the Western world.

Far from being deterred by Washington's apparent commitment to Kosovo's independence, Russian President Vladimir Putin sees it as a golden opportunity to embarrass Mr. Bush and show the world that Russia can no longer be treated with the disdainful arrogance she endured under Boris Yeltsin. With the Bush administration's options diminishing, Putin's are increasing.

On the diplomatic front, Russia can and will veto any resolution presented to the Security Council that is based on Ahtisaari's moribund plan and that assumes independence as the final outcome. Resolution 1244 cannot be legally bypassed, and it is unequivocal concerning Serbia's sovereignty. If the Europe-

an Union (under American pressure) tries to bypass the United Nations, however, Putin can retaliate by playing his energy card. According to Russian and global-affairs analyst George Friedman of Stratfor,

The Russians would cut supplies if provoked. Kosovo really is that big of an issue to them. If they gave in on this, all of Putin's efforts to re-establish Russia as a great power would be undermined. Putin wants to remind Germany in particular—but also other former Soviet satellites—that thwarting Russia carries a price. If the European Union were to unilaterally [*sic*] act against Russian wishes, Putin would have to choose between appearing as if he is all talk and no action, and acting. Putin would choose the latter.

According to the same source, Putin also has a military option. Contrary to popular belief, the Russian military retains an excellent core, particularly in its airborne regiments. Moscow could fly a regiment of troops to Belgrade, use Serbian trucks to move to the administrative line dividing Kosovo from the rest of Serbia, and threaten to move into Kosovo to take their place in KFOR:

To do this, they would have to fly through Romanian or Hungarian airspace. They might be denied over-flight privileges, but the Russians might not ask permission and [the Rumanians and Hungarians] have no appetite for that kind of confrontation. Assume, then, that the troops reached the Kosovo border and crossed over. Would KFOR troops open fire on them?

Of course not. Western Europe is heavily dependent on Russian natural gas, and it cannot afford to follow Washington into an open-ended confrontation over a peripheral issue. Signals from Moscow indicate that challenging Kosovo's independence militarily would prompt Russia to call NATO defense capabilities into question, which could leave the Europe-

ans even more fractured. "Do not assume that the Russians would not dare try such a move," the Russian source insists:

The Russians are itching for an opportunity to confront the West—and win. In the case of Kosovo, should they choose to make an issue of it, they have the diplomatic, economic and military options to force the West to back down. Condoleezza Rice has said that Kosovo will never be returned to Serbian rule. Putin would love to demonstrate that it doesn't matter what the U.S. secretary of state wants.

In short, Kosovo is an asymmetric issue. Mr. Bush cares about it only as it relates to U.S. "credibility." The second greatest blunder of his presidency may result from his willingness to accept the assurances of inherited Clintonite bureaucrats of Mr. Burns' ilk, who have insisted that the Serbs will cave in and that the Russians will budge.

If push comes to shove, Mr. Bush will face Moscow all alone. There is a great deal of dissent in Europe, from Madrid to Athens to Bucharest and Bratislava, but not even those Europeans who are nominally pro-independence—notably, the Germans—would sacrifice a single day's supply of natural gas over Albanian claims. By contrast, this is, for Serbia, an existential issue and, for Russia, a litmus test of her ability to be a great power once again.

The most important reason the United States should not support Kosovo's independence is and always has been cultural and civilizational; but trying to explain that to the chief executive who is fanatically supportive of a blanket amnesty for tens of millions of illegal aliens in the United States is as futile as trying to reform Islam.

George W. Bush has painted himself into a tight corner in the Balkans, and he will get a bloody nose if he does not relent. That is bad news for the church-burning Albanian Muslims of Kosovo, and bad news for their heroin-financed lobby in Washington, but it is very good news for America and the civilized world.

News & Views by Srdja Trifkovic

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THE COURTS

The Coming Slap
in the Face

by Kenneth Zaretzke

In June 2005, the U.S. Supreme Court handed down its decision in *Kelo v. City of New London*, depriving property owners of rights that virtually everyone has always assumed they had. Very soon—before you can say “sequel to *Lawrence v. Texas*”—the Supreme Court will no doubt take up the issue of same-sex marriage. You think a majority of justices of the current Supreme Court won’t rule in favor of same-sex marriage—overthrowing a few dozen centuries of nearly universal social practice and moral understanding? Don’t bet the ranch.

Vis-à-vis the Supreme Court, an ordinary citizen today is like a man in a Honda Civic who has just been hit in front by a slow-moving Ford Explorer. Still strapped in to the driver’s seat and stretching his neck, he is relieved to find that the whiplash was negligible, too slight to have hurt him, when, suddenly, he is rammed from behind by a Hummer doing 50 miles per hour.

Like distinguishing degrees of physical injury, we hapless subjects of the new era of judicial supremacy need to distinguish unfortunate but bearable or tolerable constitutional decisions from intolerable ones (bearing in mind that *tolerable* does not mean *acceptable*). Constitutionally speaking, it makes sense to see *Kelo* as a very unfortunate but not disastrous decision, while regarding *Planned Parenthood v. Casey* (1992) as a disaster. Indeed, *Casey* (which reaffirmed *Roe v. Wade*) is likely to be the necessary precursor of any future pro-same-sex marriage decision.

Kelo is bad in the same way that *Lochner v. New York* was bad: It bulldozes past reality. In *Lochner*, the ignored reality was the almost total imbalance of power between employees and their employers. Employees were at risk of becoming capitalist serfs. In *Kelo*, the ignored reality is that residential property is so important to individuals that it should not be taken

away from them by the government, even with “compensation,” except for important governmental purposes. Exactly one century stands between *Kelo* and *Lochner*, but the same bluff capitalism animates both of them.

Such constitutional folly pales in comparison with the constitutional recklessness of *Planned Parenthood v. Casey*. Certainly, any decision that pointedly describes the people who agree with it as “the thoughtful part of the [n]ation,” as *Casey* does, will not exactly allay suspicions that the Court has a secret contempt for ordinary citizens.

The plurality opinion in *Casey*—written by Justices Souter, Kennedy, and O’Connor—gives a few nods to the existence of reasonable disagreement among citizens, but, for the most part, *Casey* runs roughshod over the reality of moral disagreement. The opinion deals with moral disagreement as if it were disconnected from constitutional decisionmaking. We are aware, says the Court, that impassioned feelings are held by many people who oppose abortion as a grave moral wrong, but our duty is to proclaim the liberty of all, not the morality of a few. That oh-so-convenient dodge ignores the fact that what constitutes liberty depends on our view of morality. Suppose that someone claims a liberty to have sex with animals on the good Millian grounds that the only “harm” done is an attenuated and general moral harm to a community that does not want to condone bestiality—presumably just because it regards man-on-animal sex as degrading and revolting. For a Supreme Court that says, as it does in *Casey*, that its sole duty is to define the bounds of liberty, exclusive of contestable moral beliefs, there can be no principled objection to the constitutional protection of bestiality.

After adopting the premise that liberty is somehow independent of morality, *Casey* goes on to weave an entire fabric of constitutional law around that misbegotten idea. The new norm is the incredible idea that the Court must actively resist, rather than seriously consider, points of view that are strongly opposed to its decisions, at least when those points of view are not in wide circulation among the elite. This means embracing radical feminism while downgrading the once respectable idea that an unborn child ought

not to be killed. It means adopting *Casey*’s view that moral considerations are less important than social stability or legal precedent, as if those two things can be measured or defined apart from morality.

As the moral arguments of the pro-life side are eminently reasonable, *Casey*’s (and *Roe*’s) defenders can only argue, as a last resort, that “forced” pregnancy violates the 13th Amendment’s prohibition on involuntary servitude. This is the claim of Yale Law Prof. Jed Rubenfeld in his recent book *Revolution by Judiciary*. Never mind that the fetus or embryo is wholly innocent of any wrongdoing. No, he must be presumed—constitutionally presumed—to be guilty of imposing servitude on the woman and hence deserving, in effect, of being executed. Professor Rubenfeld’s interpretation of the 13th Amendment would avoid the cruel irony of the fetus’s being killed not only without due process of law but in the very name of (so-called substantive) due process. Nevertheless, it strains credulity to suggest, as Professor Rubenfeld does, that the “involuntary servitude” of pregnancy is a matter of straightforward constitutional meaning.

Regardless, *Casey* and *Roe* are worse than *Lochner* and *Kelo* because they involve quintessentially moral issues. And *Casey*, even more than *Roe*, cheapens the currency of morality by pretending, first, that liberty can be defined apart from morality, and, second, that pragmatic concerns are more important than moral ones, especially when the moral issues are “contestable.” (Pragmatic issues aren’t contestable? Are we really sure we know what social stability requires or what weight a given precedent objectively carries?)

And yet, *Casey* may not long remain the worst Supreme Court ruling of our lifetime. That honor may soon belong to a Supreme Court decision legitimizing same-sex marriage.

It is an insult to citizens for the courts even to be deciding the issue of same-sex marriage. It’s not just that marriage is a vital social institution whose definition and scope should be left to the people. Nor is it simply that traditional marriage—the union of male and female—has been the exclusive practice for two millennia. Above and beyond such considerations is a practical reality: The institution of marriage presupposes the fact of procreation,