



Advisory Opinion: Accordance with International Law of the Unilateral Declaration of Independence In Respect of Kosovo (Islamic Republic of Iran, Ireland, Kosovo, Serbia)

ARGUED: 18 November 2018

DECIDED: 19 November 2018

1 This opinion concurring in part with the Majority opinion was signed and agreed to by Justice Edgerton. I
2 concur with the Majority on the fact that the declaration of independence is legal, but for differing reasons. I also
3 concur with the Majority's advisements.

4 I agree that The Court was asked to deliver an advisory opinion on the question, *Is the unilateral declaration*
5 *of independence by the Provisional Institutions of Self-Government of Kosovo in accordance with international law?*
6 set forth by the United Nations General Assembly in A/RES/63/3.

7 I concur with the Majority opinion that the Court has jurisdiction in this case. I agree with the Majority
8 opinion that the question posed before the Court is a legal one. But, I find that the reasons provided by the Majority
9 opinion regarding why a declaration of independence is legal in this case are too broad. I believe that this broad
10 provision could potentially encourage other regions that do not qualify for the declaration of independence to attempt
11 to do so.

12 On the first point of opinion provided by the majority, I agree that it is concerning that Serbia did not
13 follow through with S/RES/1244 and because of that, methods of declaring independence outside formal diplomatic
14 channels is warranted. In addition, I agree with the claim by the majority that they failed to find evidence of any
15 other explicit prohibitions on declarations of independence in additional bodies of international law. However, I
16 disagree with the implied premise that declarations of independence are inherently legal.

17 On the second point of opinion provided, I agree that the 1933 Montevideo Convention is important in de-
18 termining Kosovos ability to self-govern, but I find that the ability to self-govern should be separate and independent
19 of the legality of Kosovos secession.

20 With this said, I believe that there are stronger reasons for legal self-determination which are not outlined in
21 the majority opinion. First, the right to self-secession should only be reserved for peoples who are oppressed either
22 through cultural suppression or ethnic persecution in addition to seeking independence, rather than simply the desire
23 for independence in and of itself. This criterion separates the case of Kosovo from other independence movements
24 who seek to form a separate nation that is more culturally homogeneous.

25 Contrary to a majority of independence cases, the Kosovo case has legal standing due to the fact that the
26 Serbian central government is actively suppressing regional Albanian culture, as well as the unfair persecution of
27 Albanians in Kosovo. Because of the reasons previously outlined, Kosovo deserves a right to increased autonomy from
28 Serbia or a right to self-declare independence. Specifically, the case of Kosovo warrants independence mainly because
29 of the fact that calls for increased autonomy in the Kosovar region of Serbia were ignored, in addition to the fact
30 that past attempts for self-determination through diplomatic channels were ignored. Furthermore, Serbia appears
31 to reject any notion of a legitimate referendum on independence if Kosovo did drop their claims for independence.

32 Just to reiterate, although I disagree with the courts opinion on this case, I do agree with the Courts
33 jurisdiction, decision, and advisements on this case.

Signed By

Justice Donald Edgerton