

Treason in the Age of Globalization: A Journey Through Kosovo

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On the evening of October 2nd, 1998, two friends, Ramiz Hoxha and Selman Binici, were kidnapped from their village in central Kosovo by masked assailants, forced into a vehicle, and disappeared. Ramiz's son, Enver, happened to be visiting the village that evening, no small feat considering he was a guerilla soldier in the Kosovo Liberation Army and 1998 was a hard year for the fledgling force; a Serbian counter-insurgency operation against the "terrorist" army had forced many to melt like Mao's fish into the mountains and forests that form Kosovo's frontier and have sheltered brigands, outlaws, and partisans for centuries.

Hearing of his father's abduction, Enver grabbed his gun, got into a car, and drove off in the direction they'd been seen heading. Three kilometers past a neighboring village he found them. Both had been shot in the chest and dumped in a ditch. Pinned to his father's body was a hastily written note. "For the anti-Albanian propaganda," it read, "and for the spread of fear, panic and hatred, in the name of the Albanian people and in the name of our liberation war, we sentence Ramiz Hoxha to death as a traitor of our nation.¹ Enver's father had been killed by men from his son's own unit. His crime was that he advocated for non-violent resolution to a conflict with a Serbian state he felt no loyalty towards, in the face of a violent ethnic insurgency he could not support, on the eve of a war that seemed to presage the globalization of international relations: NATO bombs fell on Serbia because, in the global age, state sovereignty is contingent.

What is the meaning of treason in the age of globalization? I argue that treason is, at its core, a question of loyalty that is rooted in both a sociological need to maintain group solidarity and, in our modern context, closely linked to ideas of state citizenship. Treason's emphasis on loyalty to the state struggles in the contemporary world, where 'terrorism' reflects one example of the anxieties associated with how these loyalties are shifting. Yet conflicting loyalties have been at the heart of understandings of treason for centuries. I anchor my discussion in Kosovo, a land where loyalty and betrayal have been mythologized for 600 years, where Ramiz Hoxha was shot for treason, where Slobodan Milosevic disproved the "end of History," and where Rebecca West reflected on sacrifice. Kosovo shows us that these anxieties around loyalty, though novel in many ways, have always existed, which is why treason continues to be germane.

¹ Transcript, Trial of Fatmir Limaj. *International Criminal Tribunal for the Former Yugoslavia*. 23 May 2005, p. 6145: lines 9-12 <http://www.icty.org/x/cases/limaj/trans/en/050523ED.htm> (Accessed 19 April 2017)

Dante reserved the lowest circle of hell for the treasonous and named it after the most famous traitor of them all, Judas Iscariot. Indeed, the word “traitor” comes to us from the Latin *tradere*, meaning to deliver or hand over to an enemy, as Judas handed over Jesus. The English Treason Act of 1351, still written in Norman French, outlines two elements of the crime: adherence to an enemy through loyalty, fidelity, or allegiance, and giving aid and comfort to that enemy. Treason, *pace* Judas, is a crime not necessarily of action but cognition: ‘adherence’ to an enemy can be a “disloyal state of mind” solely with the *intent* to give aid and comfort.² The United States Constitution, itself written by traitors, pre-empts the easy accusations that could come from the ability to punish states of mind by setting a safeguard: “unless on the testimony of two witnesses to the same overt act,” no one could be convicted of treason.³

Treason conventionally presupposes the existence of a duty of loyalty to one’s state. Its original intent dealt with one’s vertical loyalty and allegiance to the sovereign, if not the sovereign’s physical body—though physically harming or restraining the Queen still consists of treason—then the sovereign’s eternal second body, the ‘body politic’.⁴ The lesser charge of ‘petty’ treason dealt with household patterns of dominance: wife to husband, servant to master. With the rise of citizenship rights and their pretence of egalitarianism, the latter was folded into and under the more general charge of murder.⁵ ‘High’ treason lives on, however, under a liberal model of territorial citizenship organized around the relationship between state and society, with duties and obligations such as defending the nation, participating in political life, and paying taxes.⁶ In return we are entitled to protection under the law and certain civic, social, and political rights.⁷

In her account of the trial of William Joyce in 1946, West views loyalty in terms of this vertical model, as a non-voluntary debt of gratitude to the sovereign. “If the state gives a citizen protection,” she writes, “it has claims to his allegiance.” Only 30 years before, in the Casement Treason Trial during World War One, the prosecution put it rather more bluntly: “The subjects of the King owe him allegiance and the allegiance follows the person of the subject. He is the King’s

· Cramer v. United States, 325 U.S. 1, 32 (1945).

· U.S. Constitution, Art. III, sec. 3.

· Kantorowicz, E. *The King's Two Bodies: A Study in Medieval Political Theology*. Princeton, NJ: Princeton University Press, 1957

· Bellamy, J. G. 1970. *The Law of Treason in England in the Later Middle Ages*. Cambridge University Press, Cambridge.

· Pocock, J., 1995 [1992], “The Ideal of Citizenship since Classical Times”, in *Theorizing Citizenship*, R. Beiner (ed.), Albany: State University of New York Press, 29–53.

· Walzer, M. 1989, “Citizenship”, in *Political Innovation and Conceptual Change*, T. Ball, J. Farr, R. L. Hanson, Cambridge: Cambridge University Press, 211–220

liege wherever he may be, and he may violate his allegiance in a foreign country just as well as he may violate it in this country.”⁸

Joyce would hang based on the argument that he was in possession of a British passport when he left Britain to begin broadcasting Nazi propaganda from Berlin, despite the fact he had been born in the USA and was a naturalized American citizen. However, because his document had not yet expired, he was technically still “enjoying” the protection of the British state when he began “giving aid and comfort” to the enemy in 1940, thus breaching his allegiance to the Sovereign. Joyce’s case may have revolved around citizenship, but he hung because he was a *subject*.

Subjects, however, were increasingly being seen as *citizens*. That the object of our loyalty should be the nation-state, not a sovereign, would elicit little controversy in post-War Britain. The future of the social contract, it seemed, was in Beveridge-era welfare nationalism: full employment, subsidised housing, and universal healthcare. “I am a citizen of the National Health Service,” one writer recently declared. “A far more vital body politic,” he implied, than the outmoded notion of allegiance to a sovereign.⁹

A formal method of organizing solidarity through the increasingly social concept of citizenship meant that what was meant by ‘loyalty’ and ‘allegiance’ shifted over the years of the Cold War. Vertical loyalty to the sovereign began to be reconceptualised more as a horizontal loyalty, as the duties of fidelity and allegiance that bind us laterally to all the members of a democratic polity. The *de facto* referent object of our loyalty was now more ‘the people’ than ‘the sovereign’; yet the ‘the people’ ended at the border of the territorial state, and the “King’s enemies” still largely referred to other states, particularly those in which a state of war as recognized by international law was in effect.

If ‘Globalization’ could pick a year to declare itself it would be 1989. The twilight year of the “short twentieth century”¹⁰ was when the academic Francis Fukuyama outlined a future where liberal democracy, capitalism, and modernity had all combined to auger the “End of History”.¹¹ It was the year “When the walls came down, and the windows came up,” wrote Thomas Friedman, combining the fall of the Berlin Wall and the release of Microsoft’s operating system as the apotheosis of a newly “flattened” world.¹² Globalization would

· [1917] 1 QB 98, p.137.

· Self, Will. 2016. “Call me British, American, Jewish, Londoner – just don’t call me patriotic” *The Guardian*, 16 April 2017. (<https://www.theguardian.com/books/2017/apr/14/british-american-jewish-londoner-will-self>)

· Hobsbawm, Eric (1995). *Age of Extremes: The Short Twentieth Century, 1914-1991* (Reprint. ed.). London: Abacus. p. 3.

· Fukuyama, Francis (1989), “The End of History?” *The National Interest* (16): 3–18

· Friedman, Thomas L. 2005. *The World Is Flat: A Brief History of the Twenty-first Century*. Farrar, Straus and Giroux, New York.

fundamentally remake citizen's relations to their states: borders would be erased, identities would expand; loyalties could be multiple and states multicultural.¹³ The interregnum of a world made up of watertight, compartmentalized nation-states had ended. Exploding levels of transnational economic exchange, competition, and communication, increased migration, and the decline of state-based Cold War-era antagonists have more and more led to the contestation of the relevance and legitimacy of state sovereignty.

But 1989 was also the year that the Serbian leader Slobodan Milosevic delivered a speech that was a suitably Hegelian antithesis to Fukuyama's sense of "History". Marking the 600-year anniversary of the Battle of Kosovo, Milosevic stood on the very spot where medieval Serbia was martyred by the Turks and declared to a country teetering on a precipice: "We are again engaged in battles... they are not armed battles but such things cannot be excluded."¹⁴ Then his country fell apart, into a deadly mosaic of "ancient" ethnic warfare, just as Europe was supposed to be coming together.¹⁵ After 1989, both the teleological, supra-national optimism of globalisation and the parochial undercurrents that threatened it increasingly took place beyond the nation-state framework.

Ramiz Hoxha was shot by members of a non-state insurgent group, the Kosovo Liberation Army, on the pretext that he had 'betrayed' their cause. For the KLA, loyalty was decidedly horizontal: it was the Albanian people as an *ethnos*—as a homogenous ethnic nation—that was sovereign, even if they did not at the time have recognized state borders to legitimate them at the international level.¹⁶ Killing Ramiz was a way to maintain the solidarity of the people in the face of what was a struggle of existential proportions, fighting off the yoke of Serbian subjugation much like, as Rebecca West had mused on her travels through Kosovo, the Serbs had themselves thrown off Turkish subjugation over a century before. In this sense, the role of the traitor has a much more ancient lineage. From ostracism in the Greek polis¹⁷ to the honour killings in medieval Maghreb society described by ibn Khaldun,¹⁸ group solidarity requires enforcement. "Betrayal threatens the conditions for trust," one legal scholar recently noted in her justification of the continued relevance of the charge of treason. "[It] diminishes the strength of the social contract, and ultimately

· Kymlicka, W., 1995, *Multicultural Citizenship*, Oxford: Oxford University Press

· Sell, L. (2002). *Slobodan Milosevic and the Destruction of Yugoslavia*. Durham and London: Duke University Press, p. 89

· Kaplan, Robert. 1993. *Balkan Ghosts: A Journey Through History*. Pan Macmillan, New York

· Mann, Michael. 2005. *The Dark Side of Democracy: Explaining Ethnic Cleansing*. Cambridge University Press, Cambridge.

· C. A. Robinson, Jr. "Cleisthenes and Ostracism" *American Journal of Archaeology* Vol. 56, No. 1 (Jan., 1952), pp. 23-26

· Ibn Khaldun (2005 [1377]) *The Muqaddimah: An Introduction to History*. Princeton: Princeton University Press.

threatens the survival of the group.”¹⁹ Therefore, prosecuting treason “directly reinforces the duty of allegiance and social cohesion by reminding the rest of society that the allegiance is due.”²⁰

Like William Joyce, and more recently Adam Gadahn—who, after appearing in Al Qaeda videos, remains the only person indicted for treason in the USA since World War Two²¹—Ramiz Hoxha was accused of spreading propaganda, a peculiarly apt treasonous activity in that the main aim is to spread “disloyal states of mind” that undercut the legitimacy of, and thus one’s loyalty to, an authority. Treason in this sense addresses a fundamental problem of politics. Just as the Latin root of traitor (*tradere*) is to give or hand over, our voluntary compliance with political authority—our loyalty—is something that is given. Loyalty is the “endorphin of the democratic body politic,” the substance that “oils the machinery of democracy, reducing the friction that inevitably arises when people are not able to get everything they want from politics.”²² Without loyalty, the only way rule can exist is through coercion. It is for this reason that propaganda, which seeks to weaken or shift our loyalty, is a fundamental threat to the solidarity of the nation-state.

Prosecuting treason in a globalized age of liberal multiculturalism is an awkward trick. As writers from Alexis de Touquville to Robert Putnam have noted, voluntary associations and our loyalties to them are vital for robust civil society.²³ Yet some loyalties—to violent terrorist organizations, millennial religious networks, or secessionist ethnic groups—may clearly be contradictory to peaceful democratic politics. Liberal states are catching up. The Adam Gadahn case is the first of its kind to allege that a terrorist organization can be considered an enemy for the purposes of treason.²⁴

Yet the need for cautious balance is clear. A “disloyal state of mind” is still only a state of mind, and loyalty cannot be compelled. Moreover, though the vertical loyalty between sovereign and subject that the 1351 Treason Act implies is now as archaic as the Norman French it was written in, horizontal loyalty to “the people” also entails dangers; in the “People’s community” of the Nazi regime, all

¹⁹ Eichensehr, Kristen. 2009. “Treason in the Age of Terrorism: An Explanation and Evaluation of Treason’s Return in Democratic States” *Vanderbilt Journal of Transnational Law*, 42, p. 1487

²⁰ Ibid, p. 1489

²¹ Khatchadourian, Raffi. 2007. “Azzam The American: Making of an Al Qaeda Homegrown” *The New Yorker*, Jan 22

²² Gibson JL. 2004. *Overcoming Apartheid: Can Truth Reconcile a Divided Nation?* Russell Sage, New York, p. 289

²³ Tocqueville, Alexis de. *Democracy in America*, Chicago: University of Chicago, 2000; Putnam, Robert D. (2001). *Bowling Alone: The Collapse and Revival of American Community*. New York: Touchstone

²⁴ First Superseding Indictment, United States v. Adam Gadahn a.k.a. Azzam al-Amriki, SA CR 05-254(A) (C.D. Cal. Oct. 11, 2006), available at http://www.usdoj.gov/opa/documents/adam_indictment.pdf

crime was a form of treason against the collective.²⁵ Multiple loyalties are not a threat to the nation, but a foundation of its democratic politics.

60 years before Ramiz was shot for treason, Rebecca West picnicked on the field in Kosovo where the medieval Serbian Kingdom was defeated in 1389 by the Ottoman Turks and listened to a poem:

*There flies a grey bird, a falcon,
From Jerusalem the holy...
He comes to the Tsar at Kosovo.*

The poem describes how the Prophet Elijah, in the shape of the grey falcon, asked the Serb Tsar, Lazar, to choose between a heavenly and an earthly kingdom. In the ultimate Christian sacrifice, Lazar chooses the heavenly kingdom, and thus he and his army are destroyed. Yet the myth of the Battle of Kosovo is also built on treachery. At a banquet on the eve of the battle, the knight Vuk Branković accused another knight, Miloš Obilić, of treason. To prove his loyalty to Lazar, Miloš slipped away to the Turkish camp feigning desertion. Presented to the Sultan, Miloš drew his dagger and in an act of martyrdom killed the Ottoman leader. Yet during the battle Vuk is revealed to be the real traitor. He abandons the Serbs for the Turks. “They had evolved a myth which accounted for their defeat by treachery within their own ranks,” West wrote.²⁶ Miloš stood for absolute allegiance and loyalty to his sovereign, a conviction for which he paid with his life. Vuk stood for betrayal and treason; a Judas figure who hands the field and his Tsar to the Turk.

Treason confronts us with what it means to be loyal, for loyalty continues to be at the root of the meaning of treason. In Kosovo, Rebecca West reflects on the meaning of loyalty, sacrifice, and duty in a Europe that was on the brink of catastrophe. *Black Lamb and Grey Falcon* was a challenge to Britain to cherish and defend an image of Europe in its full moral and political dimensions, just as *The Meaning of Treason* was a challenge to defend the notion of loyalty to one’s state. Globalization confronts us with the prospect of multiple loyalties and a challenge to our state-centric understanding of treason. Yet, treason continues to have relevance in a global world, just as it has had for centuries.

²⁵ Johnson, E. A. (2011) ‘Criminal Justice, Coercion and Consent in “Totalitarian” Society’, *British Journal of Criminology* 51, p. 601

²⁶ West, R. 1940. *Black Lamb and Grey Falcon: A Journey Through Yugoslavia*. Penguin Books, London, p. 1424 (ePub version)