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THE RIGHT OF PEOPLES TO SELF-DETERMINATION IN THE POST-SOVIET COUNTRIES

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The purpose of the article is to study the essence of the right of peoples to self-determination on the example of some post-Soviet countries. The methodological basis of the study consists of methods of cognition (analysis, synthesis, induction, deduction, analogy, comparison), general scientific methods, formal-logical method of interpretation of law, etc. The components of the methodological base are objectivity and a combination of critical and rational, constructive approaches. Results: after the collapse of the Soviet Union, the Socialist Republics became independent sovereign states, but formally rather than practically. The military conflicts in South Ossetia, Abkhazia and the Transnistrian Moldavian Republic, as well as Russia's ongoing war against Ukraine, have shown that there is still a need to reassess the role and importance of international political institutions and mechanisms for implementing international law. Discussion: the principles of territorial integrity of the state and the right of nations to self-determination are essentially related to the term «sovereignty», its interpretation and implementation in public policy. The different correlation of these principles in the state-building of modern countries leads to the intensification of geopolitical processes, often disintegration, which can lead to the development of various interethnic conflicts. The right to self-determination can be exercised in the form of autonomy within existing state borders, in the form of the creation of a sovereign state or in the form of the withdrawal of a certain people from the state (secession or irredentism). Following purely theoretical constructions, the «peoples» of South Ossetia, Abkhazia, and the Transnistrian Moldavian Republic have exercised their inalienable right to self-determination, and the «peoples» of Georgia and Moldova have violated their inalienable rights. Russia's aggression against Ukraine has become a shining example of the abuse of irredentist sentiments in society to justify armed aggression. A comparative analysis of irredentist attitudes in the civil society of post-Soviet countries allows us to highlight the features of such trends, as well as their impact on foreign policy.

Key words: *the right of peoples to self-determination; sovereignty; territorial integrity; independence; principles of territorial integrity of the state.*

Introduction. After the collapse of the Soviet Union, the Socialistic Republics became independent sovereign states but rather formally than practically. The military conflicts in South Ossetia, Abkhazia, and the Transnistrian Moldavian Republic, as well as the recent war in Ukraine, have shown that there is still a necessity of reassessment of the role and importance of international political insti-

tutions, mechanisms for implementing the rules of international law.

The aim of this article is an analyzation of the right of people of self-determination and the legal side of a thin difference between exercising the right of peoples to self-determination and speculating on this principle in order to violate another country's sovereignty.

The analysis of this topic will be based on studying the following aspects:

- the historical development of the principles of territorial integrity and inviolability of borders;
- the features of the institutionalization of these principles at certain stages of formation of international law;
- the main threats and challenges to ensuring the territorial integrity and inviolability of Ukraine's borders at the present stage of development of international relations;
- the mechanisms of legal regulation of the nation's right to self-determination;
- the principles and mechanism of recognition of "new" countries;
- the correlation between the right to self-determination and the principle of inviolability of borders.

Research results. It is well known that the right of peoples to self-determination is one of the basic principles of international law. This principle means the right of every people to independently decide the form of their state existence, freely determine their political status and carry out their economic and cultural development.

Nowadays, this principle of international law is especially important. The right of peoples to self-determination, along with other principles, is proclaimed in the United Nations Charter (UN Charter), which aims to "develop friendly relations between nations on the basis of respect for the principle of equality and self-determination of peoples". The same goal is set in the UN Charter in connection with the development of economic and social cooperation between states [1].

The General Assembly in the 1960 Declaration "On the Granting of Independence to Colonial Countries and Peoples" gave the principle of self-determination of peoples a clear anti-colonial orientation [2]. At the same time, the Declaration stated that "any attempt aimed at partially or completely violating the national unity or territorial integrity of the country is incompatible with the purposes and principles of the UN Charter".

In 1970, in the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States in accordance with the UN Charter, the General Assembly decided: "By

virtue of the principle of equal rights and self-determination of peoples, enshrined in the Charter of the United Nations, all peoples have the right freely to determine interference from outside its political status and to pursue its economic, social and cultural development, and every state is obliged to respect this right in accordance with the provisions of the Charter; Every State has an obligation to promote the implementation of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter, and to assist the United Nations in fulfilling the responsibilities entrusted to it by the Charter with regard to the implementation of this principle, in order to: promote friendly relations and cooperation between states; and put an immediate end to colonialism, with due respect for the freely expressed will of the peoples concerned, and bearing in mind that the subjection of peoples to foreign yoke, domination and exploitation is a violation of this principle, as well as a denial of fundamental human rights, and contrary to the Charter of the United Nations.

The principles of territorial integrity of the state and the right of nations to self-determination are essentially linked to the term "sovereignty", and its interpretation and implementation in public policy. The different ratio of these principles in the state-building of modern countries leads to the intensification of geopolitical processes, often disintegration, which can lead to the development of various interethnic conflicts. The realization of the right to self-determination may take the form of autonomy within the existing borders of the state, in the form of creating its sovereign state, or in the form of leaving a certain people from the state (secession or irredentism).

For almost two centuries, the right of peoples to self-determination has been one of the fundamental principles not only of international law but also of modern political practice. After the adoption of the UN Charter, this principle turned from a purely political to a principle of positive international law. It was further developed in other international legal acts.

According to the principle of self-identification, the right to recognize oneself as a people belongs not to the state but to the community itself, and as a people, as already mentioned, a certain ethnic or

national minority and a set of ethnic groups can act. At the same time, the right to self-determination depends to a large extent on the political and ideological aspects, not to mention international legal recognition. If we follow the path of purely theoretical constructions, the "peoples" of South Ossetia, Abkhazia, and the Transnistrian Moldavian Republic exercised their inalienable right to self-determination, while the "peoples" of Georgia and Moldova suffered violations of their inalienable rights. Russia's aggression against Ukraine has become a vivid example of the abuse of irredentist sentiments in society to justify armed aggression. A comparative analysis of irredentist sentiments in the civil societies of the post-Soviet countries allows us to highlight the features of such trends, as well as their impact on foreign policy.

National self-determination is a key principle of national policy, "the fullest expression of democracy in national relations. As an internationally recognized principle, it was born from the experience of national movements and the formation of nation-states in the 18th and 19th centuries, from the world experience of solving the national question". National self-determination was embodied in the formation of new nation-states not only in Europe but also on other continents of the globe, especially after World War II, when there were just over fifty independent (sovereign) states. National self-determination presupposes good neighbourly coexistence of small and large nations, in the democratic solution of the issue of the nation's exit. from a single state and the formation of a new sovereign state, for example, the separation of Norway from Sweden in 1905, the "velvet divorce" of the Czech Republic and Slovakia in the early 90's. 20th century, etc.

In the current realities of Russia's war against Ukraine, the position of Russian and pro-Russian researchers on this issue has become clear to many scholars and practitioners. Yes, it is possible to illustrate the disrespect for the sovereignty and independence of states by such scholars by quoting the following. "In the interests of "nationwide consolidation", the Mensheviks did not allow criticism in newspapers and magazines, in general in Georgian society. The head of sovereign Menshevik Georgia, N.N. Zhordania, declared in parliament that "not a

single newspaper will be published within Georgia, whether it be Russian, Armenian or otherwise, which will not stand firmly on the basis of Georgia's independence". And the Menshevik Party understood the independence of Georgia in a very specific way: it was necessary to constantly praise the Mensheviks. Even in those cases when they deserved severe and justified criticism for serious mistakes and failures in domestic and foreign policy" [3, p. 20].

As we have showed there is a thin difference between exercising the right of peoples to self-determination and speculating on this principle in order to violate another country's sovereignty.

If some Russian politicians or scholars speak openly about the non-recognition of the independence of the post-Soviet states, it only indicates a lack of legal culture and legal awareness and a desire to move away from democracy to totalitarianism. "As for Abkhazia and South Ossetia, after the victory of the October Socialist Revolution of 1917, the national liberation struggle gained momentum, the ultimate goal of which was the practical realization of the national self-determination of the Abkhazians and South Ossetians. I also draw your attention to the fact that Abkhazia and South Ossetia have repeatedly stated to the Tbilisi authorities that they will not be part of Georgia, which withdrew from the RSFSR, choosing the path of a sovereign state system. In response, the Government of sovereign Georgia perpetrated in the territories of Abkhazia and South Ossetia in 1918-1920. the genocide of the Abkhazian and South Ossetian peoples, which received its coverage in the historiography of the Caucasus" [3, p. 20].

The quote from the scientist who published this article in Russia is just an attempt to replace the concept. The introduction in any independent state of its own language and policy, the policy of primary development of national culture, traditions and preservation of its own history, is only evidence of the development of statehood, not an attempt to downplay the achievements of foreign culture, history, language and more. Any independent state that has emerged and been recognized in a certain international legal order will not allow foreign state interference in matters of domestic policy. Moreover, as we have seen in the example of Russia's war

against Ukraine, the aggressive position and substitution of concepts only demonstrate Russia's desire to expand its territories through violent invasion.

The creation of a sovereign and independent state, the free accession to or association with an independent state, or the establishment of any other political status freely determined by a people, are forms of the exercise by that people of the right to self-determination. At the same time, the Declaration stated: "Nothing in the above paragraphs should be interpreted as authorizing or encouraging any action that would lead to the dismemberment or partial or complete violation of the territorial integrity or political unity of sovereign and independent states that observe in their actions the principle equal rights and self-determination of peoples, as this principle has been set forth above, and consequently having governments representing, without distinction as to race, creed or color, all the people living in a given territory. The principle of equality and self-determination of peoples was also mentioned in the International Covenants on Human Rights (1976) and some other UN decisions.

Forms of realization by this people of the right to self-determination are the creation of a sovereign and independent state, free accession to an association or association with it, or the establishment of any other political status freely determined by the people. At the same time, the Declaration stated: "Nothing in the above paragraphs shall be construed as permitting or encouraging any action that would result in the dismemberment or partial or total violation of the territorial integrity or political unity of sovereign and independent states with equal rights. . and the self-determination of peoples, as noted above, and hence the existence of governments that represent, regardless of race, religion or color, all the people living in the area. The principle of equality and self-determination of peoples was also mentioned in the International Covenants on Human Rights (1976) and some other UN decisions.

At the same time, it should be noted that on the example of Ukraine we have not only seen a vivid example of the formation and prosperity of an independent state of Ukraine, but also manipulative and aggressive actions of Russia, which "turns everything upside down". I use the term Ukrainian

people not by chance, the government is a representative of the Ukrainian people, so by accusing the Ukrainian government, Russia is accusing the Ukrainian people and each of us.

Conclusion. After the collapse of the Soviet Union, the Socialist Republics became independent sovereign states, but formally rather than practically. The military conflicts in South Ossetia, Abkhazia and the Transnistrian Moldavian Republic, as well as the recent war in Ukraine, have shown that there is still a need to reassess the role and importance of international political institutions and mechanisms for implementing international law. According to the principle of self-identification, the right to recognize oneself as a people belongs not to the state but to the community itself, but as a people, as already mentioned, a certain ethnic or national minority and a set of ethnic groups can act. At the same time, the right to self-determination largely depends on political and ideological aspects, not to mention international legal recognition. Following purely theoretical constructions, the "peoples" of South Ossetia, Abkhazia, and the Transnistrian Moldavian Republic have exercised their inalienable right to self-determination, and the "peoples" of Georgia and Moldova have violated their inalienable rights. Russia's aggression against Ukraine has become a shining example of the abuse of irredentist sentiments in society to justify armed aggression. A comparative analysis of irredentist attitudes in the civil society of post-Soviet countries allows us to highlight the features of such trends, as well as their impact on foreign policy.

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ПРАВО НАРОДІВ НА САМОВИЗНАЧЕННЯ У ПОСТРАДЯНСЬКИХ КРАЇНАХ

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*Мета статті полягає у дослідженні сутності права народів на самовизначення на прикладі деяких пострадянських країн. **Методологічна основа** дослідження складається із методів пізнання (аналіз, синтез, індукція, дедукція, аналогія, порівняння), загальнонаукових методів, формально-логічного методу тлумачення права та ін. Складовими методологічної бази є об'єктивність та поєднання підходів критичного і раціонального, конструктивного. **Результати:** після розпаду Радянського Союзу Соціалістичні Республіки стали незалежними суверенними державами, але швидше формально, ніж практично. Військові конфлікти в Південній Осетії, Абхазії та Придністровській Молдавській Республіці, а також війна Росії проти України, що триває, показали, що все ще існує необхідність переоцінки ролі та значення міжнародних політичних інститутів, механізмів імплементації правил міжнародного права. **Обговорення:** принципи територіальної цілісності держави та право націй на самовизначення по суті пов'язані з терміном «суверенітет», його тлумаченням і реалізацією в державній політиці. Різні співвідношення цих принципів у державотворенні сучасних країн призводить до активізації геополітичних процесів, часто дезінтеграції, що може призвести до розвитку різноманітних міжетнічних конфліктів. Реалізація права на самовизначення може здійснюватися у формі автономії в межах існуючих державних кордонів, у формі створення суверенної держави або у формі виходу певного народу із держави (сецесія чи іредентизм). Якщо йти шляхом суто теоретичних конструкцій, то «народи» Південної Осетії, Абхазії та Придністровської Молдавської Республіки реалізували своє невід'ємне право на самовизначення, а «народи» Грузії та Молдови зазнали порушень своїх невід'ємних прав. Російська агресія проти України стала яскравим прикладом зловживання іредентистськими настроями в суспільстві для виправдання збройної агресії. Порівняльний аналіз іредентистських настроїв у громадянському суспільстві пострадянських країн дозволяє виділити особливості таких тенденцій, а також їх вплив на зовнішню політику.*

***Ключові слова:** право народів на самовизначення; суверенітет; територіальна цілісність; незалежність; принципи територіальної цілісності держави.*

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