



## Territorial integrity and self determination-approach of international law

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### Abstract

The emergence of International Law has much to do with the formation of independent states. It aims to regulate the conduct of independent states in their relations with each other through norms and standards. Territorial integrity and self-determination of nations are the two principles of the International Law, which raises a number of debates over an alleged conflict.

Territorial integrity refers to the protection of the autonomous region from invasion by other states and Self-determination is defined as the right of nations to freely decide their sovereignty and political status without external coercion or external interference. Thus, Territorial integrity is related to the relationship between the states, while Self-determination itself refers to the relationship between a state and its people.

**Keywords:** international law, territorial integrity, self-determination

### Introduction

Principles of Territorial integrity and self-determination are central to International Law. The significance of these principles is immense in the international community. The first is closely related to the basic order in foreign relations, and the second is to fundamental human rights.

The so-called conflict between the two is that the law of self-determination propels countries to freely decide their political and sovereign status without external interference which challenges the principle of Territorial integrity. This is because the provinces are made legitimate by the people, which means that the people must be given the freedom to choose the boundaries of the country and states as they wish. This commitment will therefore violate the principle of Territorial integrity that promotes organized territories among regions that should be internationally respected to avoid acts of violence. The full implementation of the principle of self-determination undermines the principle of Territorial integrity.

Both of these principles are important in defining political and international law and international law has provided each one with its own unique growth trait to meet the need for international peaceful coexistence without interference to the sovereignty from the state.

### Objective and Historical Context

What is the scope of the principles of self determination and territorial integrity in the international law? How did the principles of self determination and territorial integrity come to be what they are today in international law? What is the approach of international community and international law towards these principles? Is there any conflict between the two principles that restrict them both from a total application?

### Self-Determination

The roots of the idea of self-determination go back to the political ideas of Aristotle, later Jean-Jacques Rousseau and

John Locke. The basic philosophy of the theory was that every human has the right to control his own destiny. However, this view had not been accepted in the past. This idea was also incorporated into the Marxist doctrine of workers' right to freedom from capitalism. The progressive development of the theory brought its political effect. The rebirth of self-determination was linked to World War I. The main supporters of the idea in its political climate were V. Lenin and W. Wilson. U.S. President W. Wilson believed that national self-determination was crucial to maintaining peaceful relations with the nations. Self-determination is an ancient political right that everyone loves. The word "self-determination" is derived from the German phrase "Selbstbestimmungsrecht der Völker". While the negotiation of political rights and the principle of self-determination has a long history, the process of establishing it as a policy of international law is the latest in its history. The consolidation of international law today is most evident in the international conference held at the ambassadors' conference or, in some cases, at the UN General Assembly. The political origins of the concept of self-determination can be traced back to the American Declaration of Independence of July 4, 1776. President Woodrow Wilson, introducing this concept to the League Of Nations in 1919, described self-determination as "the right of every people to choose the sovereign under which they live, to be free of alien masters, and not to be handed about from sovereign to sovereign as if they were property.

Self-determination, as a subject of international law, began after World War I with the creation of a mandate system. The mandate system to some extent was a compromise between direct colonialism and the principles of self-determination. The mandate derived from Roman law notions under which property of certain peoples unable to regulate their own issues were put under the supervision of a guardian. Sovereignty over property remains in the ward.

Over the next two decades, the adoption of a policy of self-determination was reflected, among other things, by its

inclusion in the Soviet Constitution as Article 29 of the Constitution of the Union of Soviet Socialist Republics, adopted in 1917, stated that relations between the USSR and other provinces depended, among other things, "equal rights, people and their right to decide their future. "the equal rights of peoples and their right to decide their own destiny." And, most significantly, into article 1 of the Charter of the United Nations. The definition was further elaborated regarding the manner in which the right could be implemented. The right to self-determination can be exercised in one of three ways - integration, free association or independence - but whichever method is chosen, it is clear that it is the process itself which is the "essential feature."

The principle has been developed, confirmed, and given a more tangible form by a recurring body of state practice and has been embodied in various international instruments. Those deprived of the right of self-determination can seek forcible international support to uphold their right of self-determination.

### **Territorial Integrity**

The ideas of territorial sovereignty and political freedom arose in the years following World War I's conclusion. The Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League." according to the League of Nations Covenant. The UN Charter reaffirmed the same interpretation of territorial integrity: "All Members shall refrain in their foreign relations from the threat or use of force against the territorial integrity or political independence of any state, or any other manner inconsistent with the United Nations Purposes." The Helsinki Final Act (adopted on August 1, 1975) is another relevant international instrument that states, "The participating States will respect the territorial integrity of each of the participating States." As a result, they will refrain from any action that is inconsistent with the aims and values of the United Nations Charter, and in particular from any action that threatens or uses force against the territorial integrity, political freedom, or unity of any participating State."

The concept of territorial integrity has been inextricably linked to the issue of the use of external force since its inception in the realm of international law. To put it another way, the concept of territorial integrity has historically been linked to the prohibition of the threat or use of force, rather than the absolute protection of a state's territory. It simply prohibits the use of external force and the renunciation of the use of force by one state to conquer another state or overthrow its government, but it does not call for the full preservation of territorial integrity. It simply states that using or threatening to use external force to undermine territorial sovereignty and political independence is unacceptable. Territorial sovereignty is often misrepresented in modern political discourse as a general restriction on the right to self-determination.

### **Development**

Certain machinery is existing under the methods of settling industrial disputes which helps in regulating the settlement and handling of the dispute in a just and fair manner for the parties involved in the dispute and thereby ensure or guarantee a normalized situation under which the employer

and the employee can exist and work in a friendly manner which is required for the growth of the industry. The common mechanisms for settlement of disputes under the Industrial Dispute Act, 1947 have been explained in detail below.

Peoples' self-determination as a practice has its roots in the eighteenth-century American and French revolutions and has evolved naturally in response to racial groups' political, ethnic, and linguistic demands. In reality, during World War I, the principle of self-determination was a key weapon in forming individual nation-states from the remnants of the Austro-Hungarian and Ottoman Empires. The doctrine of self-determination was not codified or brought into the field of positive international law until the United Nations Charter was adopted in June 1945.

Fifty years after the adoption of the Charter, in the Case Concerning East Timor, the International Court of Justice affirmed that:

"The United Nations Charter and the Court's jurisprudence both recognize the right of self-determination... [and] is one of the most important concepts in modern international law."

International acts that contain and have fleshed out the principle of self-determination have essentially formulated the essence, content, and concept of self-determination in contemporary international law.

These Acts are:

1. The United Nations Charter
2. The United Nations Covenants on Human Rights
3. The Declaration on the Granting of Independence to Colonial Countries and Peoples
4. The Declaration on Friendly Relations
5. The Helsinki Final Act; and
6. The Charter of Paris and Document of Copenhagen

In a variety of cases, the International Court of Justice has recognized the concept of self-determination, primarily in the sense of decolonization. It upheld the right to self-determination as established by the United Nations in its Advisory Opinion on Namibia, declaring that "the subsequent establishment of international law regarding non-self-governing territories, as enshrined in the United Nations Charter, made the concept of self-determination applicable to all of them. Self-determination often requires respect for the freely expressed will of the nations, but this provision can and has been waived in two situations: when one isn't dealing with a "people" in the traditional sense, and when "unique circumstances" render a plebiscite or referendum unnecessary.

The right to self-determination of a people is normally fulfilled by internal self-determination – a people's pursuit of its political, economic, social, and cultural growth within the context of an established state, according to the recognized sources of international law enumerated in the ICJ Statute. As a result, the right to self-determination includes political, economic, social, and cultural elements, all of which are inextricably related. Since they are interdependent, each element can only be fully realized if the others are fully recognized and implemented. Self-determination is a universally applicable concept in international law. The right to self-determination belongs to all peoples and nations that are oppressed by others by subjugation, dominance, and exploitation—all peoples and nations, without distinction between those who have and

have not achieved statehood. This fundamental principle now states that citizens have the right to choose for themselves which sovereign umbrella they want to live under and what they want to avoid.

### **Territorial Integrity and the definition**

"The Principle of Territorial Integrity is a significant piece of the global lawful request and is revered in the Charter of the UN, specifically in Article 2, section 4 the extent of the Principle of Territorial Integrity is kept to the circle of relations between States.

The idea of Territorial Integrity, if not the term, is just about as old as the Sovereign State. It is one of the rights characteristic in Sovereignty and autonomy. "It is quite possibly the most basic and grounded standards of International Law. Its main significance lies in the field of International Law on the utilization of power (Jus Ad Bellum). The Principle of Territorial Integrity States that Countries ought to try not to advance boundary changes or secessionist developments in different nations. This rule was created numerous hundreds of years prior because of the conviction that interrupting into another Territory is a demonstration of animosity that legitimizes war. Numerous conflicts including the First and Second World Wars have been battled because of applying the Territorial Integrity standard. The appropriation of the UN Charter by Countries upheld Territorial Integrity.

### **The Inter-Relation**

The Principles of Territorial Integrity and self-assurance are Integral pieces of International Law. The significance of these Principles is colossal in the global local area. The first is firmly associated with an essential request in Interstate relations, while the second is a crucial common freedom. Albeit the Principles have equivalent significance they ought to be carried out in various circumstances. There is a contention between the standards of Territorial Integrity and self-assurance. As the guideline of self-assurance, typically shows up along with the standard of Territorial Integrity in the writings of International law, the last is seen as restricting the degree for the understanding and use of self-determination. The Self-Determination guideline advocates for nations to openly decide their International political status and power without outside impedance which challenges the Territorial Integrity rule. This is on the grounds that states are made real by individuals, which implies that individuals ought to be given the opportunity to pick Territorial limits and States as they wish. Self-Determination, in this manner, clashes which Territorial Integrity advocates for fixed Territories among states which ought to be regarded by the remainder of the world to stay away from demonstrations of animosity.

The idea of Territorial Integrity is major toward the Westphalian State framework, and underlies the contemporary principles of International Law on the utilization of power, as typified in the Charter of the United Nations and standard International Law. Numerous presently challenge this perspective on the world. The expanding significance of International common liberties Law, including the privilege of Self-Determination, has - it is frequently proposed - made this view antiquated. However such perspectives are fundamental of a political sort, and as an issue of law, it is hard to recognize any debilitating of the Principle of Territorial Integrity. Some

would even venture to such an extreme as to recommend that during a time of globalization the Principle of Territorial Integrity no longer has the significance it once has. This is a view propounded essentially by International relations specialists. Hardly any International legal counselors would concur; the International Court has as of late reaffirmed that the Principle is "a significant piece of the International legitimate order". The right to self-determination and the territorial integrity of states are in several ways incompatible.

"Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in accordance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed, or colour".- as given under the heading 'The principle of equal rights and self-determination of peoples' of the seventh paragraph of The Friendly Relations Declaration.

### **Conclusion**

The principle of self-determination can be traced all the way back to the founding of government. The development of modern states in Europe and the rise of popular national consciousness enhanced the status of self-determination as a political principle, but it wasn't until World War I that the right to national independence became recognised as the principle of national self-determination. In general words, it was simply the belief that each nation had the right to become an independent state and establish its own government in broad terms. The principle of self-determination now occupies a prominent position in international law. In international relations, the principle has been and continues to be a strong motivator.

Meanwhile, as a result of globalization and the formation of the international community, interstate territorial boundaries are becoming less relevant. The basic premise should be that all peoples have the right to self-determination. This is a fundamental law that disregards international and domestic boundaries.

Despite the fact that the principle of territorial integrity is applied in state relations and the principle of self-determination is a right of peoples, the international community (states) is bound by the principle of territorial integrity when understanding and enforcing the principle of self-determination. Self-determination and territorial integrity are not mutually exclusive concepts. The latter denotes a relationship between states, while the former denotes a relationship between the state and its people. International legal instruments relating to self-determination invariably refer to the "peoples" as being entitled to the right of self-determination. The meaning of the term "peoples" determines who are the holders of the rights of self determination and has a primary effect on the establishment of the harmony between the principle of self-determination and the principle of territorial integrity.

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