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## THE TERRITORIAL INTEGRITY OF THE STATES AND THE PRINCIPLE ABOUT "THE RIGHT OF NATIONS TO SELF-DETERMINATION" IN THE MODERN ERA

Ağalar ABBASBEYLİ\*

### Abstract

The principle of the right of nations to self-determination is not a new concept in world politics. At different times, different states have interpreted this principle in their own way and more on the basis of their own interests. But the crux of the matter is that every nation, irrespective of geographical location and size, has the right to develop its own culture, language and customs. But all this does not mean that each of them has the right to have its own state. Having done this, it is possible to disrupt the current system of international and interstate relations.

Being a part of a multinational state, small nations, in addition to their national characteristics, must respect the customs, culture, traditions of the peoples of the given state.

In the article the "Principle" the right of nations to self-determination "in the modern era" based on the UN Charter, the Final Act of the Conference on Security and Cooperation in Europe and other international legal instruments analyzed the nature and fundamental rules states "The right of nations to self-determination."

The paper shows how this principle is distorted on the part of the Armenian Republic.

**Keywords:** Safety, Sovereignty, Self-Determination, Occupation, Capture, Autonomy.

### INTRODUCTION

The firm principle of the modern international relations is an observance of territorial integrity of any state. This principle finds its reflection in the UN Charter. Article 2.4 of the Chapter 1 says "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations" (Charter of the Organization of the United nation, 1998: 6).

More substantiation this principle found in the Final Act of the Helsinki Declaration of 1975 where it is said that "the participating States regard as inviolable all one another's frontiers as well as the frontiers of all States in Europe and therefore they will refrain now and in the future from assaulting these frontiers" (The final Act of Meeting on safety and cooperation in Europe, 1975: 4). And further, "accordingly, they will also refrain from any demand for, or act of, seizure and usurpation of part or all of the territory of any participating State" (The final Act of Meeting on safety and cooperation in Europe, 1975: 5). This document was signed by all members of OSCE and, including four of five permanent members of the UN Security Council and all three states - cochairmen of the Minsk OSCE group on settlement of the Armenian-Azerbaijani, Nagorno-Karabakh conflict. There is no signature of the People's Republic of China as it isn't European country.

At the same time, Armenian and their protectors Russian theorists have recently began to interpret the principle of inviolability of borders and the concept of self-determination of the peoples in their own way. It should be noted that this concept originally began to be used during the Age of the Enlightenment and revolutionary shocks in Europe, and, first of all, in France. Then it was spoken about existence of the natural right of the peoples to choose their destiny - either to live in the multinational state, or to create a mono-state of one nation. Later, at the Parisian peace conference U.S. President Woodrow Wilson declared that in modern era it is possible to speak "about the right of the peoples to self-determination" (Central Asia and Caucasus, 1999: 39) however in fact peoples continued to live where they lived. At the beginning of the XX century, in particular, on the eve of and during World War I this idea was developed by V. I. Lenin in such works, as "Critical notes on ethnic issue", "On the right of the peoples to self-determination" (PSS: 289) and others. Lenin's idea is the secession, for the sake of new, socialist association. Later, this principle became the cornerstone of the Constitution of the USSR. Article 206 of the Constitution of the USSR said that any Federal Republic has the right of secession of the USSR, but never and nowhere this "right" was exercised.

#### 1. The Problem of the Right of the People to Self-Determination

In the work "Discussion results on self-determination", written in the middle of 1916, Lenin wrote:

\* Professor of Historical and Political Sciences, Baku State University. E- mail: nurana.dia@mail.ru

"This way or another, you cannot escape a conclusion: annexation is the violation of self-determination of the peoples, this is an establishment of borders of the state contrary to the will of a people" (PSS: 26), in this case – the people of Ukraine, and before Azerbaijan and Georgia.

The territory of any state in the world can be changed only with consent of the state. As the subject of international law no one in the world has the right to interpret this truth in a different way. If it is to happen, it is no other than robbery, capture, annexation of the territory of another state. In this case it is annexation of the part of the Azerbaijani national territory of Nagorno-Karabakh by the Armenian Republic; the Georgian national territory - Abkhazia and South Ossetia and, at last, at the beginning of 2014 territory of Ukraine –Crimea.

The 7th paragraph of above-mentioned Declaration of the Principles of the Helsinki Conference "Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief" says: "The participating States on whose territory national minorities exist will respect the right of persons belonging to such minorities to equality before the law, will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere" (The final Act of Meeting on safety and cooperation in Europe, 1975: 5). The following 8th paragraph deals with "... equal rights of peoples and their right to self-determination" to which often refer the Armenian political scientists. However it says nothing about the right of national minorities to leave any state for any reasons. It is pure Armenian interpretation to equalize the right of the whole people of a state with "the right of a national minority" (The final Act of Meeting on Safety and Cooperation in Europe, 1975: 6). The Declaration supports the right of the peoples to carry out the political, economic, social and cultural development without intervention from the outside. Also, these paragraphs concern only indigenous peoples, and the right to self-determination is supposed relevant only for native peoples.

"Self-determination" took place in the XX century, but it was secession of forcefully annexed states. For example, Norway from Sweden, Finland from the Russian Empire, they are different peoples, the different nations, and Norwegians and Finns, indigenous people of these territories, i.e. Norway and Finland.

At the same time, any nation has the right to form own state, their national homeland. However this process can happen only once, a nation cannot self-determine itself several times depending on its geographic position. The Englishmen form the basis of the present sovereign states: Australia, New Zealand, Canada, USA, etc. However, the nations of those states are absolutely different from the nation of the UK. Armenians, as well as the Russians have already gained independence once and created the independent states - the Russian Federation and the Republic of Armenia.

The truth is that after abolition of Irevan khanate in 1828, the decree of the Russian Emperor created the "Armenian area" in 1830 which became the Armenian province later. Here are the words of the colonel of the Russian army Lazarev (ethnic Armenian) in the official report "On actions of resettlement of Christians (i.e. Armenians - A.A.) to Russia" addressed to the commander of the separate Caucasian Corps the count Paskevich : "useful to the Homeland – foreordained by you - resettlement of Christians (Armenians - A.A.) from Persian possessions to recently acquired by Russia Erivan province ... nowadays kindly named by the monarch Armenian area" (Glinka, 1891: 113). In other words, Russia created on Azerbaijani lands a basis for future Armenian state which is according to the former chairman of the Russian State Duma Mr. Gryzlov "an outpost of Russia in the south".

If such kind of interpretation of the principle of self-determination is valid then Armenian Republics can emerge in Georgia, in France, in the USA, Italy, Lebanon, Syria, in Central Asia, in the Russian Federation. There are much more Armenians in those lands than in Nagorno-Karabakh. According to this scheme the Chinese living compactly in the USA, Indonesia, Malaysia, and Singapore could strive for independence.

The same tendencies can be relevant for the South of the USA where lives large Mexican population, China with its heterogeneous ethnic composition, Iran with its more than 30 million ethnic Azerbaijanians, the Russian Federation with its Muslim-populated autonomous regions. The Armenian treatment of self-determination principle has absurd, antiscientific and adventurous character.

The world practice confirms that each nation can gain independence only once and create the national state. The same nation can't gain independence several times in the places of its residence, on the territory of the independent countries where they are citizens. Violation of this principle contradicts the Charter of the UN and all international principles. In this regard there is a natural question then - what does sovereignty mean in modern era? The state sovereignty for any state is supremacy of the State power within the country and the guarantor of its independence on the world scene.

Supremacy of the principle of independence as the sovereign basis of the state power expresses its

political and legal essence and reveals itself in corresponding forms of internal and external activity of the state. This principle is firm and nobody has the right to violate it. This idea was confirmed in «The declaration on observance of the sovereignty, territorial integrity and immunity of borders of the states - members of the Commonwealth of Independent States », signed in Moscow on April 15, 1994. The 3rd article of the Declaration says: "Claim that territory capture with use of force can't be recognized, and occupation of the territory of the states can't be used for the international recognition or imposing of change of its legal status (Diplomatic messenger, 1994: 38). The whole text of the Declaration is given entirely below. In that case it is difficult to combine this article with the occupation of the part of Ukrainian territory – the Crimea and its accession to Russia. The Declaration signed by the president of the Russian Federation as well.

## **2. The Principle of Self-Determination and Nagorno-Karabakh**

Long before the annexation of the Crimea by Russia, Armenian separatists hoped for the external support. According to "Freedom Radio": "Armenian diaspora around the world is raising funds for Karabakh" ([www.Svoboda.org/proqram.S./rH/2000/rt//3000.sthm](http://www.Svoboda.org/proqram.S./rH/2000/rt//3000.sthm), 2001). Russian journalist Oleg Panfilov says in the interview "People to whom I talked (in Karabakh) don't see the future" ([www.Svoboda.org/proqram.S./rH/2000/rt//3000.sthm](http://www.Svoboda.org/proqram.S./rH/2000/rt//3000.sthm), 2001). However Nagorno-Karabakh before the occupation was one of the developed regions of Azerbaijan. Now it is in stagnation. Promised by the adviser of the head of the Soviet state M.Gorbachev - A.Aganbekyan "economic integration" with Armenia in 1987 in France haven't been put into effect. "As the economist, I consider that Nagorno-Karabakh is more connected with Armenia, than with Azerbaijan" said he then ("Revival - the XXI century", 2001: 119). Where is the progress? There isn't any and the sooner the Armenian side accepts that the better for Armenia and the Armenians of the Nagorno-Karabakh region of the Republic of Azerbaijan. "Nagorno-Karabakh region of the Republic of Azerbaijan" is the formula used in 4 resolutions of the UN Security Council on Armenian-Azerbaijani, the Nagorno-Karabakh conflict calling for termination of occupation.

All infringements on the national territory of the sovereign Azerbaijani state should be responded to with the article "Refraining from the threat or use of force" of the final Act of Conference on Security and Cooperation in Europe.: "The participating States will refrain in their mutual relations, as well as in their international relations in general, from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations and with the present Declaration. No consideration may be invoked to serve to warrant resort to the threat or use of force in contravention of this principle" ("Revival - the XXI century", 2011: 5).

On the other hand, all four resolutions of the UN Security Council on Armenian-Azerbaijani, Nagorno-Karabakh conflict confirmed "the sovereignty and territorial integrity of Azerbaijan...". The most authoritative organization in the world recognizes the Nagorno-Karabakh region, as an integral part of the Azerbaijan Republic. However the policy of occupation of 20 percent of the territory of the Republic of Azerbaijan once again was confirmed by refusal of the President of Armenia to sign (Declaration on Observance of the Sovereignty, 1994).

Out of 12 member-states of the CIS only Armenia refused to sign this Declaration. It is necessary to emphasize that the Declaration was signed by the President of Russian Federation as well.

The Declaration says:

- Heads of members- states of the Commonwealth of Independent States,
- proceeding from aspiration of the people of the states - members of the Commonwealth of Independent States to preserving and strengthening of traditionally close friendly connections and the relations of neighborliness,
- in view of importance of the problems connected with peace and security consolidation in the territories of the states - members of Commonwealth, in the context of ensuring the all-European and international security,
- observance of the sovereignty, territorial integrity, immunity of borders of the states - participants of Commonwealth,
- expressing serious concern armed conflicts of various nature,
- being guided by the universally recognized norms of international law, the purposes and principles of Articles of organization of the United Nations, Meetings on safety and cooperation in Europe, and also fundamental documents of the Commonwealth of Independent States,
- respecting the sovereignty, and also confirming territorial integrity, inviolability of borders of each other, refusal of illegal territorial acquisitions and of any actions directed on the partition of another's territory,
- proceeding from principles of non-interference to internal affairs of each other, equality and self-determination of the people, rejecting and condemning use of force or threat by force,

- realizing coherence of safety of the states - participants of Commonwealth,
- being attached to the common goal - to strengthening of Commonwealth,

Declare that the states - members of the Commonwealth of Independent States:

1. Provide accomplishment in the relations of principles of the sovereignty, territorial integrity and inviolability of frontiers.

2. Confirm that, building the relations as friendly, the states will abstain from military, political, economic or any other uniform of pressure, including blockade, and also supports and uses of separatism against territorial integrity and immunity, and also political independence any of the states - members of Commonwealth.

3. Claim that territory capture with use of force can't be recognized, and occupation of the territory of the states can't be used for the international recognition or imposing of change of its legal status.

4. Express confidence that observance of the principle of non-interference with internal affairs of each other is an important condition of strengthening friendship and partnership between the states – members of Commonwealth.

5. Will prevent according to the national legislation creation and activity on their territories of the organizations and groups, and also the actions of individuals directed against independence, territorial integrity of the states – members of Commonwealth, or on an aggravation of the international relations.

6. Reaffirm their willingness to contribute to the settlement of disputes and conflicts through the use of agreed case by case arrangements envisaged for this purpose in the relevant documents adopted within the Commonwealth of Independent States, the United Nations and the Conference on Security and Cooperation in Europe.

7. Will regularly during meetings of heads of states - members of Commonwealth discuss issues related to the implementation of the fundamental documents of the Commonwealth of Independent States, international treaties and agreements dealt with in this Declaration issues for their effective compliance.

Done in Moscow on 15 April 1994, in one original copy in Russian. The original copy is kept in the archives of the Government of the Republic of Belarus, which will send to the signatory States the present declaration, a certified copy. The states that signed the declaration are:

- |                                  |                 |
|----------------------------------|-----------------|
| • For the Republic of Azerbaijan | H. Aliyev       |
| • For the Republic of Armenia    |                 |
| • For the Republic of Belarus    | M.Grib          |
| • For the Republic of Georgia    | E. Shevardnadze |
| • For the Republic of Kazakhstan | E. Asanbayev    |
| • For the Kyrgyz Republic        | A. Akayev       |
| • For the Republic of Moldova    | M. Snegur       |
| • For the Russian Federation     | B. Yeltsin      |
| • For the Republic of Tajikistan | İ. Rakhmonov    |
| • For Turkmenistan               | S. Niyazov      |
| • For the Republic of Uzbekistan | Karimov         |
| • For Ukraine                    | L. Kravchuk.    |

The above-stated Declaration puts it "... respecting the sovereignty, and also confirming territorial integrity, inviolability of borders of each other, refusal of illegal territorial acquisitions and of any actions directed on the partition of another's territory" (Declaration on Observance of the Sovereignty, 1994).

Armenia's refusal to sign the Declaration exposed it as a country occupying the territory of another country; otherwise the reason of the refusal remains unclear.

It is necessary to look through other fundamental documents of the international organizations, to which the Armenian theorists and nationalists often refer. So, according to the Declaration on the rights of the persons belonging to national, ethnic, religious and linguistic minorities adopted at session of the General Assembly of the United Nations on December 18, 1992 "Persons belonging to national or ethnic, religious and linguistic minorities (in this case the Armenian minority in the territory of the Nagorno-Karabakh region of the Republic of Azerbaijan - A.A.) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination, as well as have the right to establish and maintain (United by the Nation organization, 1998: 273) without any discrimination, free and peaceful contacts with other members of their group (in this case Armenians living in other countries of the world - A.A.). The same was reaffirmed in the documents of the World conference on human rights which took place in the capital of the Republic of Austria in Vienna in 1993. At the same time, no document of the UN and OSCE says about

secession or violent or voluntary accession to other state. Moreover, all documents without exception reaffirm the principle of inviolability of borders and territorial integrity of any state.

There is a question – what can happen if the world community or three cochairmen of the OSCEs Minsk group on Armenian-Azerbaijani, Nagorno-Karabakh conflict will let themselves be led by the Armenian aggressors on the issue of annexation of Azerbaijani territory where Azerbaijanis lived with Armenians, and also newly appeared Russian theorists on annexation of Crimea. In that case it is necessary to remake all map of modern Europe, America, Asia and Africa. Texas should be then returned to Mexico; Quebec - to France and etc. We can continue this list. Why is what possible for Armenians or Russians is impossible for other peoples? Absurdity of this idea has no the slightest basis. It is pure annexation of the territory of other state. The question is that Armenian or Russian legal adventurism can cost much to mankind. It can create temptation for many states of the world and, in particular, Asia and Africa. In that case, it will be difficult to predict the modern world in near future. The world can be involved in whirlpool of reshaping world map. The mankind can bring itself to the abyss of hundreds of international conflicts, to serious and unpredictable consequences. Pyrrhic victory of Russia can cause world fire, with universal shocks. Therefore, the world community has to be thoughtful about modern Bonapartes at the beginning of the XXI century.

It is necessary to touch upon one more issue which Russian theorists with special persistence insist on. It is a question of so-called "common-state". This idea was supported with the assistance of the Armenian advisers by one of the former leaders of the Russian Federation. The question is that neither in the past, nor in the present there formation of that type. It looks like symbiosis of a federal state. In this case, the Nagorno-Karabakh region of the Republic of Azerbaijan gets the status of the subject of international law and voluntarily at any time could terminate this agreement. And it means that, later, in "a lawful way" as independent state entity, by a national referendum, Nagorno-Karabakh can unite with Armenia. Everything was shown and confirmed with the examples of the Crimea and Sevastopol. In that case, there is a question to the colleagues on the ideas of "common-state". Why not to form common-state in the Russian Federation with the Chechen Republic, or with Tatarstan and Bashkortostan? Russia is a great power and could set an example for others how to form "common-state".

At the same time, there is a concept of the confederative state. In this case the countries forming confederation are subjects of international law, members of the international organizations, they lead independent foreign policy, have own armed forces, the legislative and executive bodies. In the second half of the XX century similar entities took place in Africa Senegambiya - Senegal and Gambia, the Integrated Arab Republic - Egypt and Syria, the Integrated Republics - the Libyan Jamahiriya and Tunisia which broke up after a while, without leaving behind any trace.

In the modern world there is a concept of a federal state which consists of the certain subjects who aren't subjects of international law. In the USA, Brazil, Mexico, Australia, India the territory of the country consists of separate states; in Argentina and Canada of provinces, Switzerland of cantons, Germany and the Republic of Austria of lands and so on.

In the federal state subjects have neither armed forces nor external political connections or actions, however they enjoy uniform currency, uniform general federal budget and so on. Constitutions of such states as Argentina, Canada, the USA, Germany, Switzerland, don't recognize federated members' right to secession.

Nowadays, Russia has exploited "self-determination of the peoples" principle more than any other. Some time ago Russia under the slogans of "rescue" of its citizens in sovereign Georgia tore away from it Abkhazia and South Ossetia, and now using the principle of "self-determination of the peoples" is tearing away from sovereign Ukraine its part – Crimea (based on the expression of the will of the population of Crimea). Following this principle Russia can distribute further to everyone Russian passport, to the citizens living in the adjacent countries, and first of all in those sovereign countries which were formed in the post-soviet area. And it means that Russia will under the slogan of protection of the citizens on "a lawful basis" under the machine guns take and attach new territories to Russia. Thanks God, we have «self-determination of peoples" principle which, as the president of Russian Federation once said, nobody has cancelled yet. Bravo! Then why Russia didn't allow the risen Chechen people to use this principle. During second Chechen war in which hundreds thousands Chechens died, the same Russian officials declared: "We restore the Constitutional order on our land". In that case, why Azerbaijanians, Georgians, Ukrainians cannot restore territorial integrity and constitutional order on their own territory? In Chechnya they called insurgents terrorists, in Ukraine – militiaman, rebels. Where is the logic? This is the logic of substitution of the law with force.

## CONCLUSION

Newly-fledged theorists on "self-determination of peoples" principle should take a look at a

Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations adopted at UN General Assembly session on 24 October 1970. It says, "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 compliance 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 color». And further "Every State shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other State or country."

The above-mentioned claims that neither UN nor OSCE has the power to preserve the inviolability of the national territory of any subject of international law. In that case we will return to the past when "divide and conquer" principle dominated. However it is XXI century on the calendar. Time of robbery is consigned to the past.

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