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In Search of Consistency in International Law on the Right to Self-Determination, Non-Interference, and Territorial Integrity

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Abstract. The right to self-determination and its complexity in relation to non-intervention and territorial integrity continue to be the subject of numerous academic inquiries. Governments have recently encountered public demands for this right, and the people occasionally experience repression to stifle their voices. International groups that monitor and record abuses of various human rights have sparked interventions because of a post-cold war focus on defending collective rights. Even now, promoting the right to self-determination has led to international practices that have had a big effect on the principle of non-interference and gone against it. This paper focuses on the consistency or lack thereof in international law on the right of self-determination, the principle of non-interference, and the contemporary legal trend to promote the rights of all peoples within the principle of territorial integrity. While tracing the relevant legal shifts in both international legal and political practices and in emerging doctrines and principles in international law, this study provides ideas for the discussion of the concept of non-interference. International law prohibits the use of force against an independent state; the only exception is where there is a flagrant violation of human rights and a credible threat to international peace and security. As a result, force can only be used as a last resort if all other efforts to reach a peaceful settlement have failed.

Keywords. Human rights, international law, non-interference, people, self-determination, territorial integrity

1 Introduction

The International Court of Justice (ICJ) in its Advisory Opinion of July 2010 on the unilateral declaration of independence (UDI) of Kosovo submitted in its report an insufficient understanding of the spectrum and application of the principle of territorial integrity; it stated that the principle is limited to the domain of relations between states. Even though the countries involved in the dispute did not agree on how broadly the principle of territorial integrity should be applied, the international court did not give a broad legal interpretation before coming to its decision.

Self-determination and non-interference, just like territorial integrity, are two hot topics when it comes to international law. Some legal scholars argue that they are necessary to provide

relief to oppressed peoples and promote global peace and security, while others argue that they disrupt the existing peace and international order, arguing that independent states should remain independent unless mutual agreements to part ways exist.

The use of force against an independent state is prohibited in international law; the only exception to this rule is in the event of an excessive abuse of human rights and a perceivable threat to international peace and security. Force, therefore, can only be a last option when other options to reach a peaceful settlement fail. Article 51 and Chapter VII of the UN Charter are explicit about this matter. International law has only gone further when people's rights are being abused, and some analysts have said that when the UNSC uses the clause for intervention, it violates a country's territorial integrity. Whenever and wherever this happens, questions arise about whether or not it is legal and if it is in line with general international law.

The aim of this paper is to present the issue of self-determination, first as the right of a people and secondly as a principle of international law, and to dissect the inconsistencies witnessed over the years and how they interfuse with the principle of non-interference, protecting the territorial integrity of sovereign states.

2 Connecting the dots between the Principle of Territorial Integrity and the Right to Self-determination

The territorial lines drawn for state building or rebuilding, as well as the international relations that bring states together, explain why general international law, as well as humanitarian and human rights law, exist; in other words, the territorial integrity of a state is legitimized when the rights of the people are protected within the legal framework of the state and the international legal system.

Democracy and the rule of law are now common practices in the modern era with the norms of international law providing the required backing. However, for a state to be said to be legitimate, it must encourage people's participation in governance and protect their human rights within a defined territorial boundary and a government that is responsive to the people, nationality remains a key part of an individual's relationship with a state.

The struggle for international recognition has a broad ramification in the world that we live in today. From the bid of indigenous people trying to exercise their rights to self-determination and to control their own political future like Kosovo, which this thesis has extensively discussed, to the state trying to stamp its feet firmly on the ground for the protection of its sovereignty, international law intercedes to abridge any differences that might exist. For any state, territorial integrity is everything, because it is what shows its legitimacy and mandate to run the affairs of a state internally and externally.

As this work has previously discussed, the issue of territorial integrity is a core part of international law and one that comes with some ambiguity in many legal textbooks; this is always the case when the principle comes face-to-face with the right to self-determination of a people. The way and manner in which territories are protected makes it complicated to draw a line between their legal practice and that of a people that wants to determine their political destiny.

The gulf between the rights of the people to self-determination and the issue of territorial rights continues to widen within the international legal system as new states try to emerge and the old ones continue to hold to the principle of territorial integrity as enshrined in the UN Charter. The need, therefore, for international law to put into context what self-determination entails and what makes territorial integrity important in the international order becomes very

essential. Legal scholars will like to see the demise of double standards and inconsistencies in the practices of self-determination when they clash with the principle of territorial integrity.

2.1 The Issues of the Principles of Non-Interference and Territorial Integrity

A state's sovereignty means that it is recognized as an independent entity capable of effectively carrying out its international relations obligations. A state's sovereignty allows it to make foreign policy decisions and choose how to interact with other states in the international space; it decides on the type of political practice it wants to engage in and the socioeconomic measures that best fit its uniqueness and circumstances; and the state also has the responsibility to protect its territorial boundaries.

The concept of international law is premised on the existence of states within the international spectrum. Territorial integrity means that each state is free to run its own affairs domestically without any form of foreign interference or intervention. What constitutes this territorial integrity are the borders and the population. The idea of sovereign equality makes sure that all independent states follow the legal principle of territorial integrity.

The UN Charter is explicit about this obligation and elaborated on it in the UNGA Resolution on Friendly Relations, known as Resolution 2625 of 1970. The Helsinki Final Act of 1975 equally reiterated this duty by the states. It asserts that all states have equal rights and obligations within the community and are equal before each other, irrespective of political, economic, social, religious, or linguistic contrasts.

As previously explained, the territorial integrity of a state is linked with its population and border, and this assertion is derived both from international legal treaties and customary international law. A state is mandated to respect the sovereignty and territorial integrity of another state that resides within it (diplomatic mission and any other institution) and cannot compel such a foreign state to use its domestic court or legal system. The state can indeed prosecute a private businessman of a foreign country, but it cannot prosecute its diplomats or its military operatives. In the same vein, a state cannot subject its people to abject human rights treatment. The 1966 UN Covenant ensured that this was well spelled out. Specifically, this can be found in the Covenant on Civil and Political Rights and the Covenant on Economic, Social, and Cultural Rights, 1966.

International law forbids interference in the affairs of another state, but a state can request another to comply with the UN resolutions and respect human rights without being coercive about it so that it does not constitute interference. The same applies to how a state treats minorities within its space, as it is their right under international law to be treated fairly.

The inconsistency in this argument is that some states interfere under various guises and tend to look for legal precedents to defend their actions. These states, however, cannot tolerate such actions in their own territory and would use similar legal tactics to evade questions. Some forms of interference have come in the guise of economic aid, military drills, and financing of incumbent or opposition politicians. Measures against human rights abuses are legal in international law, but this notion has served as a leeway for many external governments to interfere in the affairs of others.

The use of economic sanctions or trade embargoes are forms of interference and are prohibited and perceived as illegal countermeasures against a state, even if the targeted state has been indicted for human rights abuses by the state applying the countermeasures.

With the prevalent inconsistency and complexity of territorial integrity in the context of non-interference, it is not a surprise, therefore, that these two doctrines have always been at odds and continue to be subjects of discussions in academia. The constitution protects a country

and also guides its foreign policy decisions. Some states have resorted to their legal books to meddle in the affairs of others under the guise that they feel threatened and are acting in self-defense. The US has a track record of interfering in the affairs of other independent states, particularly those closest to them, on the pretext that it is acting based on its foreign policy and self-defense.

The US actions are also covered by some bogus claims of protecting democracy and the rule of law, and sometimes, protecting the human rights of the people of another sovereign state. The government is always ready to invoke the concept of regional authorization, which it has held for a long time in the region. The US government's interventions in Nicaragua, Haiti, and Panama have all been dressed in humanitarian guises with varying degrees of plausibility.

Instances where a state gives its clear and unforced permission to another state to step in have drawn the legal community into some serious debate: could such action be classified as interference or intervention? What does the law say about such an initiative? Some argue that the legality is unclear. However, it eliminates any form of interventionary guilt on the part of the invited party.

There is some legal vagueness surrounding such an initiative and no clear explanation to describe the legality of such action. This is contentious and concerning because an unpopular government can use such an opportunity to enlist foreign assistance to help defeat a group(s) seeking self-determination.

Also, as in Haiti, the essentially unilateral move made by the United States to restore the elected government to power was undertaken with the blessing and collaboration of the UNSC after sustained brutality by a military government that had overthrown the elected civilian leadership. Given that the International Court of Justice (ICJ) ruled in the 1988 Lockerbie case that there is no review of UNSC actions taken within the formal scope of its mandate, it seems that any initiatives backed by the UNSC are automatically immune to legal accusations of intervention, at least as they are made within the UN.

It is a known fact that the doctrine of unilateral humanitarian intervention is illegal at the moment in respect to the international law, its essence occupies an essential position in international political conduct and it should therefore be allowed in situations where there is gross abuse and breach of human rights. The purpose, therefore, should be laid down in a nuanced set of rules to avoid its abuse. From the get go sovereignty has usually gone hand-in-hand with unilateral humanitarian intervention principle from the invention of the state system. Hence, it could be debatable that the traditional right of unilateral human intervention has been in existence since WWII.

3 Evaluating the Principle of Territorial Integrity in International Law

The idea of "territorial integrity" can be found in international law in three major legal texts. All other references to "territorial integrity" make reference to these texts. The whole idea behind territorial integrity and the principle of political self-determination started soon after the end of WWI. As vividly explained, Article 10 of the Covenant of the League of Nations was emphatic on those notions, as "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."

Soon after WWII, the UN sprang up to replace the League of Nations and equally reiterated the importance of territorial integrity in the UN Charter Article 2 paragraph 4, which says that all members of the organization must not use military force against another member state or any forceful activity inconsistent with the purpose of the UN. These are the two

recognizable legal documents that discuss territorial integrity. The additional one which scholars sometimes refer to is the Helsinki Final Act (enacted on August 1, 1975) and made the rule that all participating states shall abstain from the use of military force as contained in general international law when dealing with another participating state and should respect the territorial integrity and political independence of one another.

Just like the other two legal instruments by the League of Nations after WWI and the UN Charter after WWII, the Helsinki Final Act prohibits only the use of military force by one state on another but does not discuss how to maintain the territorial integrity of a state when it comes heads-on with the bid for self-determination. It was clear in its interpretation of the use of military force against an independent state, as previously stated; however, the Act went a step further in its first chapter to assert that borders could change and state rebuilding was possible, but it had to be done in accordance with international law, which implies that it had to be peaceful and mutual.

Since inception, the whole concept behind territorial integrity has been that of protecting a state from external aggression. As repeated in legal texts, the use of military force is strongly prohibited, but the argument has not extended to the existence of the state beyond just being free from external attack. The traditional notion is that every state should respect the sovereignty of others, but when self-determination arises, the way and manner to go about it remain vague in international law.

In the present day and with the present international order that is being advanced by all major international and regional organizations, territorial integrity has been portrayed as sacred and a limitation to the exercise of the right of self-determination. In practice, this notion has significantly halted the aspirations of many people to press for an improved political future. When a government is not representative of the people and abuses the rights of the citizens, then it is exposing itself to the quest for self-determination. And when the people are pushed to the wall, the bid for autonomy and political independence becomes inevitable, therefore jeopardizing the principle of territorial integrity and bringing the whole notion of sacredness into question.

Interestingly, state building and rebuilding under international law has demonstrated that there is a limit to which a state can rely on the principle of territorial integrity to silence self-determination. The experience of Bangladesh, which seceded from Pakistan in 1971, is one example, and other examples include: Singapore from Malaysia; Belize from Guatemala; Eritrea from Ethiopia; East Timor from Indonesia; South Sudan from Sudan; and Kosovo from Serbia for those that recognize its sovereignty.

It would also be safe to talk about the dismemberment of the old Soviet Union and SFRY in the early 1990s. The above cases show that if a government doesn't respect human rights and the rule of law, groups that want self-determination and the principle of territorial integrity can take action against it.

Therefore, there is a clear message here based on the above instances: only a state that allows its citizens to participate in the political exercise of the territory and determine on their own free will the political, economic, social, cultural, and religious destinies that best suit them can possibly hold firm to the notion of territorial integrity when self-determination becomes a question.

Territorial integrity, therefore, can be authoritative when the government presents its population in the right manner and gives them little or no reason to agitate for improved political status. The government must realize that it's the right of the people to self-determine their future (internally or externally). Hence, to preserve the integrity of its territory, it must act in

accordance with the whims and aspirations of the people. Respect for the rule of law and democracy reduces the risk of a threat to territorial integrity; thus, self-determination cannot be limited by an unpopular government.

4 The Law on Territorial Protection

Under international law, territorial integrity gives the state the required protection it needs to wedge all forms of foreign aggression against it and its citizens. It invalidates any action by another state in a foreign land. The maintenance of the sovereignty of a state is, therefore, its top priority and, in international relations, this is a well understood concept. States under the UN Charter are strongly prohibited from using force against another state or even diplomatic intervention based on interest. The use of non-forceful intervention, such as border violations, flying of airplanes in foreign space or going into territorial waters of another state without consent, is also against the notion of international law.

The issue of territorial violation in international relations and the legal ramifications of it have continued to polarize members of the academic community. The prohibition on the use of force is contained in Article 2 paragraph 4 of the UN Charter and it states very plainly that all member states of the organization should refrain from the use of force against another state as it comes in contrast with the norm of territorial integrity. The cases of Russia and Ukraine threw academia into deeper confusion when the question of what truly defines territorial integrity arose. The Russia-Ukraine experience is such that military force in action belonged to neither of the states (there were hired militias) with no direct link to any government, making it impossible to hold anybody accountable. An instance like the one above heightens the tension between what territorial protection entails and what is actually the principle of territorial integrity.

The above submission then begs the question of why there is no clear-cut interpretation of the principle of territorial integrity under international law. The need to include the place of non-state actors like private armies and militia becomes essential. In 1960, the UNGA Declaration on the Granting of Independence to Colonial Countries and Peoples defined territorial integrity as the exercise of a people's right to self-determination and said that the territorial integrity of non-self-governing states should be respected. But, post-colonialism, there have not been any further additions to this definition, which leaves a lot of questions unanswered.

Currently, we have some UNGA Resolutions and legal documents that point in the direction of how sub-state territories should conduct themselves, insinuating that they should respect the principle of territorial integrity. For example, the UN Declaration on the Rights of Indigenous Peoples explicitly stated that the notion should be capitalized on by any group or individual as a basis for pushing for the right to self-determination to the detriment of territorial integrity.

4.1 The Dilemma of the Law of the Principle of Territorial Integrity

Under international law, the relationship between self-determination and territorial integrity is something that international lawyers will continue to work on for a long time. The issue of independence and the respect of the will of the people has continuously come into conflict with the principle of territorial integrity; some scholars perceive it to now be a false dilemma – a situation that says one thing on paper and does another in practice.

This conundrum implies that there is a need for clarification of who a people are and their rights in secession, and how that operates without conflicting with territorial integrity.

Does it mean that the parent state has the authority to compel a group to respect the principle of territorial integrity even when there is no clear explanation of what constitutes territorial integrity in international law? Because of the ambiguous nature of this principle, states have leverage over their citizens. States can twist the argument to favour them or their interests when it's convenient; such is the dilemma of the law.

The Kosovo case demonstrates that interests sway the interpretation of territorial integrity in practice. The EU's support for Kosovo UDI from parent state Serbia works perfectly well when we discuss the principle of self-determination, but when it comes in parallel with territorial integrity, then the question becomes: why is the territorial integrity of Serbia not protected by the EU? The argument by some legal experts is that these EU members will not tolerate the actions of Kosovo in their own territories, as witnessed in Spain with Catalonia, where the government of Spain holds firmly to the principle of territorial integrity.

The principle of territorial integrity permits an adjustment to geographical demarcation under very limited circumstances; when that happens, the seceding unit and the parent state will have to agree to some legal framework on how to go about it, as witnessed in South Sudan with the referendum and subsequent independence. Most often than not, disputing states take their cases to the ICJ for adjudication, as witnessed in the Kosovo 2010 ICJ ruling.

This theory sounds very ideal and plausible, even to skeptics of secession. However, there are still some grey areas that continue to put this concept into a dilemma because territories that secede outside of the rules ascribed above are in violation of international law and yet they get recognition from some international and regional organizations. Western Sahara is one clear example of this. The state is recognized as a member of the AU even though it did not meet the conditions for statehood and is being drawn into a territorial integrity dispute with Morocco.

5 The Modification of Uti Possidetis Juris into the Principle of Territorial Territory in International Law

The debate around the concept of uti possidetis juris notwithstanding, has not stopped it from shaping and building new states in the modern era, including state building as part of the decolonization process. This concept enabled new states to destroy old colonial identities and design new ones. This notion has equally led to so many fierce wars and diplomatic bickering among existing states and presumably new ones. So many scholars have looked into the origin, concept, and mechanism of uti possidetis as it relates to self-determination and independence.

This theory was first created during the Roman dominance of the world, and it is categorized as a Roman law doctrine, and it was first experimented in the modern era in the old Spanish Empire of South America after the withdrawal of the Spanish government in that region. It could be correct to say that it was also used in Africa and Asia after its successful trial in South America. The whole idea behind implementing this concept was to help create a stable political environment in the new independent states that emerged during decolonization and to solve any possible problem that could be linked to title, boundary lines, and delamination of waters in the absence of an international treaty that previously resolved the matter. The legal makeup of this notion remains a huge debate among academics, but it has served different purposes under different circumstances, and it has been alluded to as a rule and a part and parcel of customary international law.

Historically, the contemporary international law concept of uti possidetis juris is generally perceived to have sprung up around the nineteenth century in South America, as previously mentioned, but the modern day application of the doctrine has moved away substantially from what it was during the time of the Roman dominance of the world. The

Roman idea was all about presumptive rights, but in the contemporary version of the notion, it grants absolute right or title.

Most people think that the modern international law concept of *uti possidetis juris* began in Latin America in the 1800s.³² In many ways, the international law doctrine is the opposite of its Roman-law ancestor. The Roman version established only a presumptive right, whereas the international law version establishes absolute title.

Under Roman law, the concept was more concerned with property rights, but in modern times, the notion is all about territorial sovereignty. Significantly, the Roman notion of *uti possidetis* honoured real possession with legal rights; modern international law jettisons real possession and characterization and recognizes title on the ground of colonial supervisory demarcations.

The territorial integrity and protection of a state's sovereignty was the motivation behind the modern concept. The wealth and security of a state were hinged on its territorial sovereignty, therefore, making this concept very essential during decolonization in particular. This notion also helped the newly created states plan their foreign policy at the time. This concept was first included in the League of Nations Covenant as Article 10 of the Covenant. The Article read as follows: "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."

The end of WWI witnessed the experimentation of the principle and that led to it being enshrined in various international declarations and legal treaties. The notion behind documenting the concept was to help maintain the international order and preserve the status quo at the time. This concept has played a huge role in sustaining the relevance of international relations. It has enabled independent states to co-exist without many boundary issues. Of course, the world has witnessed some altercations based on cross-border discrepancies. However, this concept has contributed to taming down the number of incidents. It has equally allowed states to abstain from forceful aggression against other independent states.

This doctrine made its way to the UN Charter after WWII and was enshrined under Article 2 paragraph 4, which stresses that states are strictly prohibited from using military force against one another, and the need to respect territorial boundaries was paramount. The UN Declaration of 1960 emphatically spelled out that "any attempt aimed at the partial or total disruption of the national unity or territorial integrity of a country is incompatible with the purposes and principles of the Charter of the UN." In 1970, the UN created new laws and the principle of *uti possidetis juris*, or territorial integrity, was not referenced in one piece, but was mentioned and explained in various parts of the text.

The Helsinki Final Act of 1975 also mentioned the doctrine and stated that frontiers could be advanced but must be in concordance with the provisions of international law; which implies that it must be carried out peacefully under legal terms and agreements. In the most recent past, the EU and NATO members reach various legal agreements with neighbouring states of the EU concerning territorial boundaries; therefore, putting an end to any intended tension that could have arisen in the wake of the collapse of the Berlin Wall and dismemberment of the old Yugoslavia and the Soviet Union. Therefore, *uti possidetis juris* underlines the principle of territorial integrity and relations between members of the international community.

6 Territorial Integrity and International Law: A Doctrine That Applies Between States

The doctrine of territorial integrity, which has been explained severally in this chapter, is contained in a few international legal texts. For example, it can be referenced in the UN Charter under Article 2 Paragraph 4 where it warns states to refrain from the use of force or coercion while dealing with another state and should desist from any action that is in contrast with the objectives of the international organization as enshrined in the same article mentioned above. The UN Charter mostly deals with international relations and not groups or individual actors.

The other significant legal document that highlighted the importance of territorial integrity was the Helsinki Final Act of 1975, which this thesis has extensively discussed. The Act prohibits the use of force or coercion against the territorial integrity or any form of coercive action that will compromise the political independence of another state. The only addition to this Act is the provision made to allow states to advance their frontiers in line with international law, which implies that the action must be devoid of violence or breach of law and order. This addendum connects territorial integrity with the problem of the use of external force as it relates to signatory states. In other words, this rule between states is well-known and supported by many other legal texts that say it is wrong for one state to meddle in the affairs of another.

The main battle territorial integrity has ever fought and continues to fight under international law is the principle of the right of self-determination. As a rule of general international law and protected by many other regional legal instruments, self-determination is the right of the people which can be expressed under the working mechanism of an existing state. However, this principle has come under the hammer when groups forcefully want to secede (external self-determination) and redraw the territorial boundary of the parent state. But under the doctrine of *uti possidetis juris*, this quest could be plausible under a decolonization initiative but not under a post-colonial order.

In the case of *Quebec v Canada*, the Supreme Court of Canada opined that the secession of Quebec might be reasonable if it is the last resort after exhausting the option of internal self-determination. In practice, states have emerged without fully exercising the options of internal self-determination as ascribed in the Quebec experience, and this goes to show the inconsistency of the law and its vagueness that have made it possible for various actors to come up with varied interpretations of the law. The independence of (East Bengal), known today as Bangladesh, is one example. One can also mention the independence of Belize from Guatemala as another example.

The ICJ ruling in the case of Kosovo and its unilateral declaration of independence of 2008 is another example of how the law is incapable of determining results on a consistent basis. The court in that hearing suggested that the government of Kosovo did not violate international law by declaring independence on the basis of the question submitted to it by the UNSC. The ICJ suggests that there is no prevalent prohibition on independence declarations that has arisen from the principle of territorial integrity.

The Kosovo AO by the international court did not call into question the orthodox conviction that non-state actors are not discussed by the doctrine of territorial integrity but has given a new angle to the debate. The opinion of Serbia during the legal hearing was that the court should respect the principle of territorial integrity of states as enshrined in various international legal instruments; this position was supported by many other sovereign states.

The Serbian position on territorial integrity was based on the premise that many international legal documents support the principle, and Article 2 paragraph 4 of the UN Charter was emphatic about it as well. The argument of Serbian explains that territorial demarcations and structures should be respected by all states as they constitute the key ingredient in sovereignty, equality, and peaceful co-existence among states. For the protection of international peace and security, the need to defend territory integrity becomes essential. However, the ICJ ruling came up with another argument based on the question put before it, thereby making the Serbia-Kosovo legal battle an unending one, one that will continue to be a subject of debate among international lawyers and academics.

The opinion of the ICJ was supported by the US and a few other major states who postulate that the unilateral declaration of independence of Kosovo does not breach the general doctrine of territorial integrity because it is interpreted that the doctrine operates on a different legal platform. That which the texts explain is clear and straightforward about the principle of territorial integrity; the position is that states are called upon to respect the political independence and territorial integrity of another state, but international law does not cover what happens domestically within a state; therefore, the submission that the declaration was in violation of international law was not sufficient for the court to rule against the action taken by Kosovo.

That argument of the court as supported by the US then buttresses the calculation of dominant literature on the subject matter; international lawyers sympathetic to the Kosovo action conclude that there was no violation of any law since secession is an internal issue and not an external issue as enshrined in the UN Charter, which clearly explained the principle of territorial integrity as the prohibition of force by one state against another. However, no legal text in traditional or contemporary law has explained the consequences of secession within an independent state.

In other words, the principle of territorial integrity as explained in international law is not directly connected to the bid for self-determination since the exercise is one that is carried out within an existing state. A unilateral declaration of independence is therefore regarded as a domestic political matter, but such a matter can involve international law when and if there is any form of external interference or a violation that is covered under international law; that is to say, if there has been a report of human rights violations and a breakdown of law and order that could spill over and threaten international peace and security.

Conclusively, an action such as the unilateral declaration of independence cannot be deemed to be legal or illegal in international law unless there are elements involved that violate international law; for instance, the abuse of human rights or the use of force that could compromise the territorial integrity of the state. International law, on the basis of the above explanation, stands as a neutral actor in the event of a unilateral declaration of independence as long as it does not get in the way of preemptive norms.

7 Territorial Integrity Inside States: Does International Law Deal With the Declarations of Independence?

In the Kosovo AO, the ICJ was particular about its frame and scope of assignment based on the question submitted by the UNGA, which was for the court to determine the legality of the declaration of independence based on what the texts say in international law. The ruling on that question had to do with whether international law prohibits the unilateral declaration of independence or not. The court emphasized the non-violation of the action, which was less demanding than the violation.

The decision of the ICJ after its deliberations left so much to be desired as so many issues were left unresolved and many other questions were left unanswered. The actions of the court could be seen as a new concept of managing ambiguity in international law or presenting an alternative in the event of a legal lacuna. Some scholars have argued that the framing of the question by the UNGA was not too formal and exposed the weaknesses of international law and jurisprudence. The court's attempt to look for legal reasons to authorize the declaration was not available, nor was the reason sufficient to render it illegal. The ICJ decided to settle on the substantive issues such as the international provisions that could make it possible for secession to be legal within a state.

There is an absence of rules prohibiting unilateral declaration and there are no procedural characterizations as well. However, not all attempts to secede from a state are permissible. Interestingly, there are no known laws that prohibit the practice of secession. What has been established so far is that international law does not prohibit or encourage secession. The makeup of any state is usually diverse and comes as a result of historical incidents that cannot be traced to any principle or law. In effect, international law does not support the secession of a territory from its parent state.

Secession is recognized under international law but only in rare and exceptional cases that are directly connected to self-determination and human rights violations. The question that would arise from that submission would then be: to what extent can international law weigh in on the legal nature of unilateral declarations as witnessed in Kosovo when there is no explicit interpretation of the law to cover them? Another question would be: can international law refute any claim of unilateral declaration of independence? Also, one would wonder why the international court did not see the declaration as a violation of the principle of territorial integrity in the first instance. The court in this case only paid attention to the prohibition of such action under international law.

The international court in the Kosovo hearing, the residual rule of freedom was not conferred on the disputing state but on the authors of the unilateral declaration; by such a move, the ICJ was curious to know if they acted as individuals bound by the legal framework of the UN interim government or acted outside of it. The principle of Lotus has to do with territorial integrity and, according to the ICJ, confirms that secession did not obstruct the question of whether the party did not declare independence outside the parameters of colonial rule.

The Kosovo experiment has opened up an entire world of legal debates that will not easily be dismissed. The opinion of the court has shown that a declaration of independence is not in breach of international law even when it is not directly linked with the principle of self-determination. Since international law says that the doctrine of territorial integrity has nothing to do with a state's internal affairs, the worrying question would be: What is the role of self-determination in international law, and how can it be protected outside of the boundaries of a sovereign entity?

The international court in the Kosovo case did not address the issue of self-determination in relation to unilateral secession. The main crux of this right is how it could be legal in the event of external self-determination and the creation of a new state, particularly when recognition and consent are essential for the admission of the new state into the international community. Considering that there is no explicit prohibition on secession and declaration of independence in international law, the fulfillment of the conditions for statehood is the only requirement for attaining statehood.

The implication here is that the standards for state creation under international law must be met for secession to have occurred, and in the event that those standards are not adequately met, the ICJ does not provide any form of respite for the seceding group. In the submission of Ralph Wilde, the group that presses for the exercise of the right of self-determination should not look so much into what the law stipulates but focus their attention more on fulfilling the criteria for statehood and making as many international friends as possible to make their secession bid as viable as it could be before the international community.

The post-colonial world has witnessed various actions and positions based on self-determination and territorial integrity. The international community since decolonization has not recognized secession as the exercise of the right of self-determination, but rather seen it as a disruption of the international order. Some states have resigned that self-determination is legal as contained in international covenants and treaties and therefore should be respected. However, cases are being treated differently and interests sway most of the time when the bid for self-determination comes up.

Cases of self-determination and independence outside of decolonization were actualized outside the classical form of statehood and have forced the issue of territorial integrity to be revisited since the free will of the people should be respected. There is no one-size-fits-all solution for independence in the post-colonial era and that explains why it appears that each case is treated within its own merits and circumstances. This measure looks more plausible than doctrinal principles that are always subjected to various interpretations without any careful analysis of the uniqueness of the case. In Bangladesh and Kosovo, unilateral secession seemed to have worked out, but in Abkhazia, South Ossetia, and Nagorno-Karabakh, self-determination failed to outweigh territorial integrity; in effect, the world has witnessed more situations where state sovereignty has won over self-determination. The secessionist groups mentioned have one way or the other reintegrated forcefully with their parent states.

8 The Presence of De Facto States in the International Community: What are the legal ramifications?

Territories that have unilaterally declared independence can be termed as "de-facto states." What makes them de-facto is that they do not have international recognition or support. Examples of these states are Abkhazia, South Ossetia, and Transnistria, which have detached themselves from the central authorities of the parent state and have taken effective control over their "newly formed state", but for unknown reasons, academics have not received the recognition they deserve from the international community as having attained full statehood.

These territories have often claimed the right to remedial secession, but in practice they have been seen and treated as outcasts by other independent states and are often viewed as disruptors of the international order and enemies of the principle of territorial integrity. This position has not in any way changed the mindset of the secessionists, who insist that independence is the end product of the right to self-determination, which they claim takes care of the aspirations of the people and their desire to take charge of their political destiny.

Some legal scholars are of the thought that de-factor states should not be allowed to function and that their claim for remedial secession should be discarded completely. This argument, to some others, might be unjustified and harsh since self-determination is the right of the people and secession is the next level of that right. But the point that has supported the argument of the first set of scholars sounds plausible when one looks at these states and understands that most of them have not met the standards for unilateral declaration of independence, and the continuous enforcement of this claim to remedial independence

constitutes a violation of the principle of the right to self-determination and, by extension, the norms of international law.

Therefore, if the conditions for unilateral declaration of independence are not met, and a state is built nonetheless, which is in violation of international law, the other independent states are within their rights not to offer support and/or recognition, and the instances of the territories mentioned above support this school of thought.

These territories have failed to be recognized as members of the international community because they have not met the legal requirements for statehood as contained in the Montevideo Convention of 1933, and they do not have the legal impetus to press on the UNGA to grant them recognition. The cases of Abkhazia and South Ossetia are such that the territories are majorly occupied by people of different ethnic extractions without any historical connections to the secessionists, thereby making the actual seceding state an area occupied by largely foreign nationals. According to the 1933 Montevideo Convention, one of the conditions for statehood is population, which implies that the people must be in the majority and have common aspirations.

Population is very essential for the attainment of statehood, and if these territories don't meet this condition, then their claim for remedial secession becomes unattainable and void in international law. So far, the claimants need to produce serious evidence of human rights abuses before the UNGA to be forwarded to the international court so that an official investigation into the matter will resume. So far, these states (de-facto) states have not been able to come up with such claims, making it harder for them to gain sympathy from the members of the international community.

According to some scholars, the claim is the initiative to evict ethnic Georgians from South Ossetia, which was taken by the de-facto government of South Ossetia, which is determined to realize their self-determination goal. Their failure to reach an agreement with Abkhazia hampered their chances of gaining international recognition.

The UNSC has long pushed for a serious settlement of the crisis in the area and regrets that not many efforts have been made to bring about peace and security and protection of lives in Georgia and the seceding state. The UNSC is asking for a comprehensive settlement of the political status of the people of South Ossetia and Abkhazia. This is also the same position held by the Security Council on the self-determination bid of the peoples of Nagorno-Karabakh, but the lack of evidence of massive human rights abuses has made it impossible for any form of international humanitarian intervention to take place.

Unilateral declaration of independence has not always worked to address the problem of massive human rights abuses. The Transnistrian people may claim human rights abuses, but if the case is not presumed to be serious enough based on the standards of the Security Council, no intervention will take place. So far, Moldova's claims that there have not been any violations of human rights and, therefore, the secession attempt by the Transnistrian people is void. Hence, claims of remedial secession are not enough if other requirements under international law are not fulfilled. When the basic requirements are not met, sovereignty will always trump self-determination as expounded so far.

For emphasis, international law only reckons with territories that have met the standards for statehood as mentioned earlier, and the international community can also respond to this secession on the basis of the fulfillment of the requirements, but the principle of territorial integrity also plays a role when states are making decisions such as recognition. Self-determination can be actualized within the templates of international law but ultimately within the consensual agreement of the seceding state and the parent state. This concept has not been

very constant but has worked in many instances, as previously explained in this work. Under international law, the use of force against a sovereign state for the sake of secession is prohibited, and the UNSC has urged the de-facto states to approach their request in a peaceful and non-violent manner and to respect the principle of territorial integrity while carrying out such a bid.

What is worrisome, however, is that these quests for self-determination will not go away and de-facto states will continue one way or the other. Therefore, it is incumbent on the UNSC not to totally ignore their claims. If the international community doesn't want more groups who think they have the right to self-determination to upset the international order, there needs to be a more comprehensive and all-encompassing legal framework.

9 Conclusion

One of the main issues in this study that looks into the main subject matter brought up by this research is how the world has experienced inconsistent practices when it comes to the right of the people to self-determination and its connection to non-interference in international law with respect to sovereignty.

As practices of international law, the principles of territorial integrity, non-interference, and self-determination have been looked at, as well as how these ideas have changed a lot since the end of colonialism and the problems that have come with these changes.

The exercise of the free will of the people, which is fondly described as self-determination, has witnessed asymmetric progression with the non-interference principle playing a critical role. Suffice to say that territorial integrity is always at the center of the debate when self-determination meets humanitarian intervention and non-interference.

The subjection of the people to any form of unpopular governance provokes the principle of self-determination and with that comes the question of who interferes and who does not, and this action or inaction sometimes leads to the violation of the Declaration of Principles of International Law Concerning Friendly Relations. A lot of international legal documents and treaties have addressed the principle of self-determination and the importance of non-interference, particularly when one country uses force against another.

International law is as plain as it could be in many instances, but problems occur at the point of interpretation and sometimes application of the rules to specific situations. As we've looked at in this paper, the idea of a country's "territorial integrity" is tied to the political goals of the people who live within a clearly defined territory.

We have examined in this study cases where territorial integrity has triumphed over the will of the people, and the rule to adjudicate the quagmire has always been unbalanced. In cases of serious territorial disputes, the question that always arises is the place of the protection of the political will of the people as against the dogma of territorial integrity. International law is the only place where the idea of territorial integrity can be questioned, which is why scholars are still talking about this topic.

The principle of *uti possidetis juris* as expounded in this paper explains the administrative demarcations at the time of decolonization and its essential role in international law as it explains why any change post-colonialism is always frowned upon by the international community, even when the argument is centered on the exercise of the right of self-determination.

While it might be correct that the UN and the international community at large are taking the issue of self-determination more seriously, it is still very important to align this concept with territorial integrity and non-interference in such a way that each time they confront, the world

will not witness the breakdown of peace and security. The need for a standardized legal framework to regulate this tripartite relationship has become very critical in the day and age that we live in.

States should always consent to human rights and protect the rights of all their citizens to avoid an unrelenting call for self-determination, particularly external self-determination that threatens the principle of territorial integrity. So far, international law and the international community lack the necessary will and legal drive to deal with the never-ending question of (external) self-determination, which threatens territorial integrity and often leads to intervention and breaking of the non-interference principle.

Clearly, we saw a very passionate desire to force remedial secession through the throat of the international community in the cases of South Ossetia and Abkhazia without much success, but we also examined the successful unilateral secession of Kosovo that received the blessings and recognition of the US, UK, and a large chunk of the EU. Kosovo might have gotten away with some tidings, but the latter did not, and that explains a lot about the lopsidedness of decisions made on matters of self-determination and territorial integrity.

This paper described the conditions for successful remedial secession, which it argued that South Ossetia and Abkhazia did not meet. However, the contentious issue remains the lack of consistency on the matter of self-declaration in international law.

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