



## ANNEXATION OF CRIMEA TO RUSSIA: CONTRAST BETWEEN RIGHT TO SELF-DETERMINATION AND TERRITORIAL INTEGRITY PRESERVATION IN INTERNATIONAL LAW

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### ABSTRACT

*After several months of protests against Ukraine's political restructuring and the subsequent developments, finally, on March 16, 2014, Crimea announced its accession to Russia after holding a referendum. The results of the announced vote indicated that the overwhelming majority of participants in the referendum voted for the annexation of Crimea to Russia. The developments in Ukraine have created a new perspective in the international arena. Relatively intense conflict between the West and Russia over Ukraine's issues shows that in the coming years and until the formation of a specific legal system in this area, the international arena will undergo intense tensions, and these developments have triggered a lot of speculation at the international level. In terms of international law, especially after the events in Kosovo, one cannot answer in one word that whether what has happened in the Crimea peninsula is legal or illegal. For example, the advisory opinion of the Court of Justice at The Hague regarding the concept of "right to self-determination" is ambiguous and has not been clarified in the international law. The new approach to the crisis which is now happening in Crimea may become a great challenge to the future global security, because using referendum and involvement of a foreign power in the act of self-determination of a country and nation may become a legal procedure causing instability in other regions of the world; therefore, the study of the right to self-determination as one of the important principles that is applied in certain circumstances and that can lead to the destabilization of territorial integrity is very important. On the other hand, observing this principle in international law ensures respect for human rights and realization of democracy and the rights of minorities in the countries.*

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**Keywords:** International law, Right to self-determination, The principle of respect for territorial integrity, Freedom, Independence and autonomy.

### **Contribution/ Originality**

The paper's primary contribution is study of country's right to self-determination and observing this principle in international law with focus on annexation of crimea to Russia.

## **1. INTRODUCTION**

Individuals and their The right to self-determination is one of the human rights and fundamental freedoms according to which all governments can manage and administer their affairs in various political, economic and social fields (Archibugi, 2003). Right to self-determination has two aspects: external aspects, namely, the right of peoples to determination of their international situation; and the internal aspect, that is the right of people to participate in the government election, public decision making, and protecting the rights of minorities. The main principle of the territorial integrity in international law is the respect for the land or territory of other countries in the international arena. This principle suggests that the territory of a country must never be violated, invaded, or illegally disintegrated. Territory of a country is protected and cannot be disintegrated by force from the foreign countries. Issue of secessionism on the one hand is based on a right that few governments doubt its authenticity, i.e., self-determination; and on the other hand, it is in contrast to the principle that few lawyers questions its necessity, i.e. the principle of respect for territorial integrity of the counties. Therefore, determining the legitimacy of the application of the right to self-determination in contrast with the protection of territorial integrity will be effective in defining the international responsibility in dealing with the conflicts between the parties involved in the separation. Also if minorities do not have the ability to recourse to self-determination, how they can benefit from this right? Countries and governments have so far only responded to these issues in the context of their interests, rather than in accordance with legal principles. Determining what people could claim this right in a legitimate way, will cause many issues and areas to face with stalemate. Even further questions can be raised here: what right does the principle of self-determination includes? Is this part of the rights or a political demand? Can anyone benefit from it or only some have the right to take advantage of it? So far, the answer to this question is not provided clearly; even because "some experts believe that self-determination implies the probability of violations of human rights and the rights of smaller peoples; some regard the concept and the right to self-determination as peoples' opium.

## **2. HISTORY OF EVOLUTION OF THE CONCEPT OF SELF-DETERMINATION**

With almost four centuries of practical application of the principle of self-determination it must be said that this idea is not a new one by any means. In fact, the history of the plan of the principle of self-determination of the people in a way that led to the formation of a nation-state dates back to the Peace of Westphalia in 1648. However, there is no consensus about its source and origin. The concept of self-determination was implied in the Declaration of Independence of America in 1776 (happiness of people), but in terms of practice, it played a role in the unification of Germany, Italy, independence of Belgium and Greece. It aims to remove the old approach in the international arena, and instead prefers the state-centric tendencies in international relations.

According to the old approach, the international community was made up of the powerful: the states that each having its own leaders essentially follows the political interest of their rulers. Relations among international citizens actually leads to the relations among governing groups which consider the interests of their nationals only when they are threatened by foreign powers, or only when protecting these interests is in direct contact with the interests of the leadership; on the contrary, self-determination means that individuals and nations have their say in their international relations. That is because the authoritative governments cannot freely oppress them. The democratic principle, demands the satisfaction of those being ruled by the authoritative states: people should always have the right to freely choose their own leaders. Moreover, the people of each territory should be protected from any foreign pressure, especially from colonial administration. Thus, after the First World War and perhaps all of a sudden this principle became a new benchmark for judging the legitimacy of power in the international arena: respect for the wishes and aspirations of peoples and nations. This principle struck the heart of traditional arrangements and targeted the principle of territorial sovereignty; in light of the formation of international existences with an emphasis on the ideals of freedom for the beneficiary population it brought a storm for the multinational empires (Antonio, 1995). In the United Nations system also it was emphasized that the debate on the principle of self-determination is one of the areas in which accomplishments of the organization have outstanding and historical value. The increase of 51 UN members in 1945 to 149 members in 1948 was primarily due to a policy of decolonization, and its increase from 151 members in 1990 to 194 members to date is generally due to the secession. The 1960s was the peak of activities of the United Nations to promote the principle of self-determination in the context of decolonization. On 14 December 1960 the General Assembly of the United Nations passed the resolution of 1514 as the Declaration of the Granting of Independence to the countries and peoples of the colonial to establish an inevitable bond between self-determination and goal of decolonization, and to necessitate a new right based on the international law regarding the freedom for economic determination. It is stated in Article 5 of the Declaration: urgent steps should be taken for non-self-governing territories or all other territories which have not yet gained independence, until all powers be transmitted to the people of those regions in accordance with their freely expressed wishes, without any differentiation based on race, ethnicity, and color, and without preconditions and assumptions, to enable them to enjoy complete independence and freedom; in addition on December 15, 1960 the UN General Assembly adopted the 1514 Resolution as the principles that should determine for the members the presence or absence of the necessity of transmission of the required information under Article 73 of the UN Charter in Article III considering that the lack of political, economic, social, and educational preparation should never be a reason for delaying the independence (United Nations General Assembly Resolution (XVI), 1654). Full adaptation of decolonization with the principle of self-determination in 1514 is guaranteed. General Assembly's 2526 Resolution also acknowledged the right of self-determination. This procedure has had critical importance in the Declaration of Human Rights in Vienna, and decision of the International Court of Justice, and many of the resolutions of Security Council.

### 3. THE CONCEPT OF SELF-DETERMINATION

The formation of a country involves two factors: the establishment of new territorial boundaries or the change of previous territorial boundaries and the emergence of a new legal entity (Christopher, 2009). Changing the territorial boundaries of a land does not require redefinition of the country, and the change of government is either as a result of a revolution or a coup or any other constitutional reform, which except there is another agreement, is a topic that is related to the country's internal affairs. Except for the cases of racism, occupation and colonization, self-determination can be also expected in new cases such as democracy, and there is a tendency that in these cases international law investigates the government's legitimacy. Principle of Equal Rights and Self-determination of Peoples is one of the most important principles of the United Nations that is emphasized not only in paragraph 2 of Article 1, but paragraph 3 of Article 55, Articles 73-74 and Article 77. And this is due to that fact that the intention of the drafters of the Charter, like drafters of any other statute and constitution, had been based on real perceptions rather than subjective desires, and of course with consideration of the future changes and transformations (Simma *et al.*, 1995). The common Article 1 of the 1966 covenant specifies the political dimension of self-determination as the right of people to freely determine their political status. Political dimension of self-determination includes an internal aspect (government) and an external aspect (sovereignty). The internal aspect of self-determination is autonomy which widely guarantees the right to participate in democracy (Henriksen, 2008). Extending the term self-determination it can designate the free choice of personal action without external coercion (Merriam-Webster Online Dictionary, 2012). In fact there are conflicting definitions and legal criteria for determining the groups which may legitimately claim their right to self-determination (Betty Miller, 1978).

### 4. SELF-DETERMINATION IN THE INTERNATIONAL INSTRUMENTS

The general concept of self-determination as expressed in the international instruments such as the UN Charter, Covenants, Declaration on Friendly Relations, Resolution 2625, Declaration of Granting Independence to the Colonial, is defined as the right of people and nations to freely determine their political status and to freely pursue their economic, social and cultural developments (Jaber, 2010).

The principle of self-determination of the people in the aftermath of World War II has mainly evolved in relation to decolonization; and the major resolutions and related documents also have anti-colonial themes, in a way that it appears in the documents the original direction of the project of self-determination of people was confronting the domination acts of a foreign power over the nations (Van Der Vyver and John, 2000). After World War II, the most formal text that has included this principle is the paragraph 2 of Article 1 of the UN Charter that has considered the mentioned principle as one of the objectives of the United Nations. This concept is further clarified in relation to paragraphs (b) of articles 73 and 76 of the Charter. The 1960 was the peak of United Nations activities to promote the principle of self-determination in the context of decolonization. Declaration Granting of Independence to Colonial Countries and Peoples was adopted with the hope of accelerating the process of decolonization. This Declaration which is known as the

Declaration of Decolonization, based on the Declaration 1514 of General Assembly, announces that everyone has the right to self-determination and colonialism should be removed immediately and unconditionally. In 1962, the General Assembly created the Special Committee on Anti-Colonialism to oversee the implementation of the Declaration and to issue recommendations for its application. Resolution 1803 of the General Assembly entitled permanent sovereignty over natural resources, issued on December 14, 1962, emphasizes the right to self-determination ([General Assembly Resolution, 1803](#)). Following the adoption of this Declaration in 1966, the International Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights was adopted. Resolution 2625 of the Declaration of Principles of Friendly Relations and Cooperation among nations refers to self-determination in one of its seven principles ([Un General Assembly Resolution 2625](#)). Regarding the exercise of the right to self-determination, the four Geneva conventions state that the national liberation movements can take advantage of the rights and obligations set out in this convention only in case that they have the valid conditions for obtaining the rights to self-determination. After the 70s, in addition to the General Assembly other international institutions frequently have referred to this principle in their documents. The active institution with regard to the principle of self-determination of the people was the UN General Assembly, but since the 1990s initiative fell into the hands of Security Council. After developments in Kosovo, when the unilateral issuance of the declaration of independence of this region by the parliament of Kosovo was an outright contradiction to the sovereignty of the former Yugoslavia, the Security Council in all resolutions 1169,1199,1239,1244 has always emphasized the need to respect the principles of national sovereignty of the people of Yugoslavia and the principle of self-determination of people of Kosovo. This indicates that the principle of self-determination has become an issue that its violation can be a threat to peace and international security, because this principle has become a peremptory norm of international law. Court of Justice in its recent trends, particularly in the case of East Timor has dealt with the necessity of application of principle of respect to self-determination, and in the advisory opinion on 22 July 2010 as an inclusive right ([Raic, 2002](#)). UN General Assembly Resolution of 13 October 2010 regarding the contradiction of the unilateral declaration of Kosovo's independence with the international law, in a way emphasizes the preference of the declaration of independence of Kosovo.

## **5. CONDITIONS FOR THE APPLICATION OF THE INTERNATIONAL RIGHT TO SELF-DETERMINATION**

Conditions for the application of the right to self-determination suffer from greater uncertainty in the positive international law. On the one hand, Resolutions 1514 and 2625 explicitly prohibited the secession or external self-determination. Opposing concept to the General Assembly resolutions implies that the respect for the territorial integrity of a country depends on compliance with two conditions: the government must be representative of all people living in the territory, non-discrimination among the groups of people. General Assembly implicitly affirms that if the government doesn't give the opportunity for activity to the minorities seeking political participation, or treat them indiscriminately, these disadvantaged minorities are no longer obliged

to respect the territorial integrity of the central government. The resolutions are addressing groups of people residing in the central government and not in the third state; therefore, the absence of these conditions does not mean that the third state too can backtrack from its obligation to respect the territorial integrity of the central government. Supreme Court of Canada too has mentioned some conditions for the necessity of adherence to the territorial integrity of countries that only in the absence of them there is possibility of secession. The court of Canada stated that the right to external self-determination is applicable only in severe cases and under certain circumstances. Canada's Supreme Court says a country that its state is representative of the people residing in its territory on the basis of equality and without discrimination is respecting the right to self-determination in the internal law and deserves to retain its territorial integrity based on the international law. Other documents, such as reports of American Regional Conference have mentioned other conditions for the secession and the international law, including human rights and pluralism (pluralistic government) (Americas, 2005). But it should be noted that currently the right to self-determination cannot be equated with democratic right, we cannot conclude that if the government of a country is nondemocratic the people have the right of secession. The reason is that the right of political participation in the Universal Declaration of Human Rights and the Covenant on Civil and Political Rights has not clarified how people should have political participation, and what is certain is that the mere participation of citizens in politics is possible in any way (Geoff, 2001).

## 6. IDENTIFICATION OF SELF-DETERMINATION

If the central state identifies the secessionist group as rebels, we shouldn't consider this identification as the legitimacy of secession from the point of view of central state, because firstly recognition of an existence as rebel (either for secession or other motivations) is different from the identification of an existence as an independent country. Second, identification of a secessionist rebel group requires the aforementioned conditions, and if those conditions do not exist such identification is also illegitimate. However, circumstantial evidence can be found that show the central state has implicitly identified the secessionist as rebels. One of these circumstantial evidences is that the central state attributes the responsibility of the existing secessionist to them (Brad, 2000).

## 7. KOSOVO'S DECLARATION OF INDEPENDENCE

Kosovo's declaration of independence was issued on 17 February 2008, almost a decade after the last war between Kosovo and Serbia. To prevent a repetition of the catastrophe of the Balkan region the international community used all their efforts that led to the adoption of Rambouillet Accords. One of the cases of this accord was establishing democratic autonomy in Kosovo for three years within the framework of Federal Republic of Yugoslavia. This agreement was accepted by Kosovo but rejected by Serbia. Following NATO's military intervention which led to the return of Serbia to the negotiating table, the Security Council adopted Resolution 1244 and established the interim international territorial administration of Kosovo and the UN's mission in Kosovo or

UNMIK (United Nations Interim Administration Mission in Kosovo) and approved the provisional institutions of democratic self-government in Kosovo. In 2001 and in the Constitutional Framework for Provisional Self- Government in Kosovo, local political constitutions were established through regular democratic elections. Gradually, the powers and responsibilities moved from UNMIK to Kosovo's officials. In 2005, Kosovo and Serbia began their latest round of negotiations. After parliamentary elections in Kosovo in November 2007, members of parliament unanimously declared Kosovo an independent country. 69 countries, including all of Kosovo's neighbors, except for a neighboring country, and 22 countries in the Europe Union recognized the independence of Kosovo. Serbia along with Russia and such countries regarded the independence illegal. On 8 October 2008 the UN General Assembly passed a resolution in this regard. Court of Justice in its advisory opinion on 22 July 2010 discussed the principle of respect for self-determination as an all-inclusive right.

## **8. RESOLUTION 1244 AND THE CONSTITUTIONAL FRAMEWORK**

If there is no rule in the international law applicable in respect to Declaration of Independence, Constitutional Court (1244 mandate of the Security Council, 1999) refers to the *lexspecialis* of Security Council's Resolution 1244 and the constitutional framework mentioned in it. The documentation litigation were very clear; initial reports from Kosovo, a very precise collection of documents, and the rules of the International Criminal Tribunal for the former Yugoslavia were important events that eventually led to the Kosovo's declaration of independence on 17 February 2008, and valid legal assessment at the macro level was its only significant and outstanding factor. Serbia claimed that Security Council with the establishment of an interim international administration in Kosovo's has prohibited the unilateral declaration of independence. In addition, Resolution 1244 has determined the general principles of political settlement of the Kosovo crisis that the include "political process to achieve an interim political framework agreement to create a substantial autonomy in Kosovo to fulfill Rambouillet Accords and the principles of sovereignty and territorial integrity of the Federal Republic of Yugoslavia." Serbia argued that the reference to sovereignty and territorial integrity of the Federal Republic of Yugoslavia in Resolution 1244 has prohibited Kosovo from declaration of independence.

## **9. THE DECISION OF INTERNATIONAL COURT OF JUSTICE**

The decision of the International Court of Justice in the Declaration of Independence proclaimed on February 17 was not illegal under international law which relies on a particular concept. This decision expresses that what is not prohibited by the international law is *Econtrario*. The separate from legal actions illegal, a dual approach is not necessarily the International Court of Justice. The implicit message of this decision is that an act or black and white is allowed or prohibited. To separate legal actions from illegal actions, the approach of the International Court of Justice is necessarily binary. The implicit message of this decision is that an act is either black and prohibited or white and allowed. This approach was adopted from decision of the Permanent

International Court of Justice in the famous Lotus case<sup>1</sup> on September 7, 1927. ICJ's approach essentially sought to provide documentation, including defense of Mr. James Grawford for England<sup>2</sup> suggests this allegation that "silent" in the international domain has no sound. Such an approach used by the International Court's advisory opinion on Kosovo is probably only valid in a national legal system that seems to be complete. But in the international legal order, completeness of law is an issue beyond power and expectations<sup>3</sup>, and it should be considered that the international legal order has not enacted laws for all aspects of international life. International legal order has not ever been complete and still it has many gaps (Thomas, 2010).

## 10. PUBLIC INTERNATIONAL LAW AND THE DECLARATION OF INDEPENDENCE

Serbia and several countries argued that a unilateral declaration of independence is forbidden by virtue of the principle of territorial integrity referred to in paragraph 4 of Article 2 of the UN Charter, and also reflected in the codified documents of the customary international law. Kosovo and other countries protested that the principle of territorial integrity is only acceptable in relations among countries and is not valid in relation to the Declaration of Independence of groups of people within countries. The Court stated that the declaration of independence are issues

related to facts and power and not subjects related to law: "During the eighteenth, nineteenth and early twentieth centuries, there are many examples of the Declaration of Independence, which often are faced with opposition by the central government. In some cases, the Declaration of Independence was the result of the formation of a new country and in the other cases it is not. In none of the cases the state practice indicates that the action of those who issued the declaration is in accordance with international law".

This point was also raised that this act which was carried out in the twentieth century with the claim of self-determination of the people against the foreign occupation, domination and exploitation, and of course outside of these cases; although there is no applicable general rule in the

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<sup>1</sup>S.s. Lotus issue in 1927 PCIJ (ser.A.), the number 10 in the 19-18 7th September; Who acts better that consider Lotus in the appropriate context: Lotus was decided more than 80 years ago in various environments and less developed parts of the United Nations; although Lotus was framed as a general plan, it was more concerned with specific issues (establishing trial in criminal court), in the end, the judges' votes were isolated in Lotus, Thus Mr. Max Huber as President of the Court decided in this regard. Also refer to the Lotus doctrine regarding the legality of nuclear weapons, Advisory Opinion, No. 226, July 8, 1996, section 239. With regard to the advisory opinion of the International Law. It is remarkable to see; owl Spaiermann, Lotus dual structure and international legal issues of 131, and Daniel Bodansky, 'Non Liqueur and the Incompleteness of International Law, p.153

<sup>2</sup>Conformation of the unilateral declaration of independence with the international laws written by the provisional institutions of the self-government of Kosovo (Request for advisory opinion) CR 2009/32, 10 December 2009, paragraphs 8 and 23. Available at: <http://www.icj-cij.org/docket/index.php?p1=3&p2=4&k=21&case=141&code=kos&p3=2> (last visited 20 August 2010).

<sup>3</sup> The evolution is usually discussed in the form of the judge's role in the international law. For example, see the following: Hersch Lauterpacht, "The Evolution of the Law - as there is a need to distinguish between specific branches of legal or conventional - there is not a single supposed priority of any legal system or the prescription of positive law.



international law regarding the Declaration of Independence. The principle of territorial integrity is unrelated because this principal "is defined in the relations among countries."

## 11. ANNEXATION OF CRIMEA TO RUSSIA IN LEGAL TERMS

Finally, on March 16, 2014 a referendum was held by the government of Crimean peninsula to annex Crimea to Russia; 81% of the eligible population voted and 96.77% voted in favor of the reunification of the peninsula to Russia. Vladimir Putin, President of Russia, officially signed the instrument of accession to the Russian Crimea in March 18 and called Crimea an integral part of Russia. According to the principles 134 and 135 of the constitution of the Ukraine, the Autonomous Republic of Crimea is an essential and complete part of Ukraine, and the rules, regulations and decisions which are adopted by the Parliament and the Council of Ministers of the Republic must comply with the laws and decisions of the President and Cabinet of Ukrainian government. The principle 137 and 138 of this Act also refer to the duties and lawful authority of the Crimean Autonomous Republic, which includes issues such as legislation of regulations in the fields of agriculture, mining, urban management, tourism, transportation, health care, etc. Also it grants authority to the Autonomous Republic regarding setting parliament elections and local referendums, determining budget based on budget and tax policy of Ukraine, cultural and economic development, the development and implementation of the official language of government and other national languages, the realization of government's programs for returning deported people and taking measures to ensure human rights and fundamental freedoms. Authority of the Autonomous Republic of Crimea has been exclusively specified and thus there is no permission regarding granting the right for independence and secession of Crimea from Ukrainian territory. Given that Crimea is determined as a "main part" of Ukraine, the laws and decisions of the government should not be in conflict with the laws of Ukraine, a fortiori there is no right of secession from Crimea and undermining the territorial integrity of Ukraine without the consent of the country. Some defend the secession by raising the problem of "self-determination". Under the international conventions exercise of this right, except in the case of colonies and territories under the occupation or exploitation of foreigners, does not lead to the secession from the mainland. Also rereading the minorities, self-determination is only discussed when the constitutional rights of racial, ethnic or religious minority is violated, and they have no freedom of choice and civil and political participation. Even in this case, the scope of the right applies within the internal borders and usually leads to the formation of autonomous states. The right of self-determination should not be inconsistent with the principle of territorial integrity and is not applicable by force and military intervention. Crimea's situation is not subject to any of the cases of self-determination. The Peninsula is run freely by the Autonomous Republic and has the Council of Ministers and the Parliament which is elected by the residents of this area. From the perspective of international principles and norms, there is no need for the independence of the Crimea from Ukraine. Crimean Parliament has passed holding a referendum to join Russia or remain with Ukraine, while Article 73 of Ukraine constitution states: "decisions about changes in the territorial integrity of Ukraine must be made exclusively by a referendum from all the people of Ukraine". Thus, the referendum

that will be held for the secession of Crimea Peninsula from Ukraine on March 16 is justified neither according to the international rules and norms, nor by the domestic laws of Ukraine. Secessionist acts in the Crimea and the Russian military intervention, which in the past has been a the main opponents of secession of Kosovo from Serbia, is violation of international rules and will result in the disruption of international peace and security and certainly would not be accepted by the international community.

## **12. CONTRADICTION OF THE STANCE OF RUSSIAN IN RECOGNIZING REPUBLICS OF ABKHAZIA AND SOUTH OSSETIA, AND NOT RECOGNIZING KOSOVO AND VERIFICATION OF THE SECESSION OF CRIMEA**

On 26 August 2008, the self-proclaimed republics of Abkhazia and South Ossetia were recognized by Russia, areas that were considered part of the territory of Georgia by the international community. Russia's actions faced violent protests in many countries, especially Western governments. Russia is a traditional ally of Serbia and following the declaration of independence of Kosovo strongly opposed it and defended the sovereignty and territorial integrity of Serbia and still remains in its stance; on the other hand, was the first and among the few governments to recognize the republics of Abkhazia and South Ossetia. At first glance, Russia's actions seem paradoxical. Now that Russian government has decided to announce its official opinion in its bill in a comprehensive and coherent way regarding the legitimacy of secession in the international law, examining the legal stance of one of the permanent members of the Security Council is necessary. Russia didn't accept Kosovo's independence for reasons including lack of adherence to the principles of sovereignty and territorial integrity, and regarded it as contrary to the rules of general international law. Russia through citing the legal scholars and international instruments believed that "the territorial integrity is an unbreakable feature of sovereignty (Kohen, 2006). But we are now seeing that Russia in a paradoxical position has recognized the independence of Russia Crimea and has apparently violated the sovereignty of Ukraine. Paragraph 4 of Article 2 of the Charter has banned threat or the use of force against the territorial integrity of ant government. It has been stated in the introduction of the Declaration of Principles of Friendly Relations, adopted by the General Assembly in 1970: "Any attempt to harm the national unity and territorial integrity of a state or country ... is contrary to the purposes and principles of the Charter. Final Declaration of Helsinki also speaks of the principles of territorial integrity as one of the new International Relations and commits all member states of the Organization for Security and Cooperation in Europe to refrain from any kind of action against the territorial integrity or unity of any country."

Russia in its bill emphasized that the principles of international law should be interpreted and applied in light of each other. According to Russia, the basis of the relationship between the principles of self-determination and territorial integrity must be "Safeguard Clause ", set forth in the Declaration of Principles adopted by the 1970 General Assembly, which was repeated with slight changes in the Declaration of the United Nations World Conference on Human Rights in

Vienna in 1993": The right to self-determination should not be interpreted as encouraging secession or undermining partial or total territorial integrity or political unity of sovereign and independent states; the states that will observe the principles of equal rights and self-determination of the people and have the government that represent the whole people belonging to the territory without differentiation of any kind. According to Russia, the logic of the mentioned principle implies that if any government respect the rights of people who are living in the land, it will protect the principle of territorial integrity of the country against the implementation of the right to self-determination in the form (separation of the external right to self-determination). And as the proof of this claim it invoked legal doctrine (Antonio, 1995; James, 2006).

Russia, referring to the legal doctrine stated that "it is necessary to note that self-determination can be exercised within the framework of the present government. In fact, applying the "internal self-determination" is preferred in the postcolonial world. " (Christian, 1993)

The first thing to be noted is that in terms of international law, particularly after the Kosovo events, it cannot be answered in one word whether what has happened in the Crimean peninsula is legal or illegal. For example, the Advisory Opinion of the Court of Justice at The Hague in connection with the concept of "self-determination" is ambiguous and is not clarified in international law. Some raise the issue of "self-determination" in defense of secession. In the international conventions exercise of this right except in the case of colonies and territories under domination or occupation of the foreigners, does not lead to secession from the mainland. Regarding minorities only when there is talk of self-determination that the basic rights of the discussed racial, ethnic or religious minorities is violated, and they are devoid of freedom of choice and political and civic participation.

In this case, also, the scope of this right's application is limited to the internal borders and usually leads to the formation of autonomous states. Self-determination should not be inconsistent with the principle of territorial integrity and it cannot be implemented by force and military intervention. Crimea's status is not subject to any of the cases of self-determination.

However, it is not clear what nation with which feature has the right to self-determination and independence. Court's advisory opinion states that people only have the right to declare their independence, but acceptance of this declared independence is a separate discussion.

It has been the procedure that the mother state agreed upon the separation of a piece of land. Such as what has happened in separation of Bahrain from Iran. Even in the case of Kosovo, because the state mother did not consent to the separation, recognition of more than sixty countries cause the recognitions of the country; although the country is still not recognized by the UN as an independent country, the principle of independence and self-determination is a serious challenge. In fact, given that the Crimea is determined the "main part" of Ukraine determined and the laws and government decisions should not be inconsistent with the laws of Ukraine, a fortiori right of Crimean separatism and undermining the territorial integrity of Ukraine without the consent of the country does not exist.

Secondly, the independence of the peninsula was decided upon by a referendum. While this referendum was held when the foreign military forces had been present on the island, therefore, the legitimacy of the referendum is legally questionable.

Third, Article 73 of the Ukrainian constitution states: Decisions on the changes in the territorial integrity of Ukraine should be made exclusively by a referendum involving all the people of Ukraine. Therefore, the referendum held in the Crimean peninsula for secession from Ukraine had no legal justification not only in terms of international rules and norms, but also on the basis of the internal laws of Ukraine. Secessionist actions in Crimea and the Russian military intervention, which itself had been main opponents of the secession of Kosovo from Serbia in the past is a violation of international regulations and might disturb international peace and security.

The final point is that the new procedure which is taking place in the Crimea crisis in the future might seriously challenges the global security, because holding referendums and the involvement of a foreign power in the self-determination of a country and nation might become a legal procedure causing instability in the global regions; for example, in the future China might invade Taiwan, demanding Taiwan's accession to China; or Armenia or Azerbaijan might storm the Karabakh region, demanding accession of this region to their own countries.

### **13. CONCLUSIONS**

The documents reflecting the principle of self-determination contain contradictory evidences on this issue. On the one hand, the given definition of the principle of self-determination is general and not specified and is applicable to all the nations and territories, including non-colonial territories and the ones with international legal personality; on the other hand, most of the present documents and resolutions prevent actions which might jeopardize the territorial integrity and political independence of the existing ruling states. To fight against secessionism and to maintain the country's territorial integrity the political community should be more democratic and people should be in control of their own fates; measures should be taken to prevent permanently the integration and seclusion of minority groups. Moreover, by institutionalizing the special rights of minorities, recognition of their identity, allowing greater participation in decisions of the central government, we will be faced less than before with the phenomenon of secessionism. Finally, all of these cases including the developments in Ukraine and the Crimea and the conflict between great powers illustrate that international order is collapsing. Other institutions and international norms are unable to maintain the global order; and every day we witness the pursuit of self-interest and interpretation of the rules of international law in favor of the major powers by them. Therefore, we expect witness the institutionalization of a new order and changes in the procedures and rules of international law for justification of the new order.

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