

THEORIES ON SEPARATISM AS A CHALLENGE TO STATE GOVERNANCE

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Abstract: *The paper views separatism as an ideology, which is focused on the construction of political identity of a minority group with existing cultural identity, who coexists with a majority within the territorial borders of a sovereign state. This ideology aims at political self-determination with a minimum and a maximum goal, namely - from degree(s) of territorial autonomy in the same state to full independence and acquisition of the status of a sovereign state (secession). Such political projects characterize movements, which are observable in almost all 21st century liberal democracies. They are basic challenges for the governance of the affected parent state, which is confronted with the need to keep its territory intact, without abusing the right to self-determination of the relevant group/groups on its territory. The complexity of such problems has been subject to extensive theoretical research. The paper identifies a deficit in the theoretical findings and concludes, that the global political context is a key factor of today's separatism, which needs to be operationalized and explored.*

Keywords: *cultural identity, political identity, separatism, secessionism*

JEL Codes: *F51, F53, H77*

INTRODUCTION

This paper views separatism as an ideology, which is focused on the construction of political identity of a minority group with existing cultural identity, and which coexists with a majority within the territorial borders of a sovereign state. Separatism is a political project for change and mobilize movements, that are observable in almost all 21st century liberal democracies. The claims of the minority groups may vary between different degrees of political autonomy to full independence, i.e. acquisition of the status of a sovereign state (secession). Separatism discloses one of the dilemmas of international law: *the right to self-determination of peoples* versus *the principle for territorial integrity of the state*. It is a basic challenge for the governance of the affected parent state, which is confronted with the need to keep its territory intact, without abusing the right to self-determination of the relevant group/groups on its territory. The complexity of such a political problem has been subject to extensive theoretical research. The paper identifies a deficit in the theoretical findings and concludes, that the **global political context** is a key factor of today's separatism, which needs to be operationalized and explored.

1. The right to self-determination of peoples vs. the principle for territorial integrity in practice: historical overview and legal framework

It is widely accepted that the construction of the collective right of self-determination of peoples dates back to 17th century. The first time to be used in practice is considered to be the signing of the American Declaration of independence in 1776, which sets the beginning of the American nation. Jorg Fisch points out, though, that at the heart of this event lies the classical **right to resistance**, which dates back to the Middle Ages (Fisch, 2015). The next decisive moment in European history with defining role in the building-up of the self-determination concept is the French revolution, which put an end to all-powerful absolute monarchies and affirms **national sovereignty** – democratic participation or the right of the population to express its own will on how to be governed. But the Revolution, on the other hand, produces a countermovement – the Restoration, which aims at restoring the old political order and the values before the Revolution. The ideas of this movement are at the heart of the Vienna Congress in 1814 which aims at redrawing the new political map of Europe after the Napoleonic wars; the other important principle

of the Congress is “**the balance of powers**” – but at that moment this means distributing the balance and spheres of influence between the five Great Powers at the time – Britain, Austria, Russia, France and Prussia (Schulze, 2002). Assertion of these political principles leads to the creation of another coalition of “big players” – Holy Alliance – in September 1815³.

19th century Europe is characterized by complex territorial changes, which include both separation and merging of territories. After this period, and more particularly – after the First World War – we can talk about the practical aspects and application of the right of self-determination. After the War, which involves dissolution of three big empires, the Great Powers are discussing the redrawing of the new borders of Europe. Then the American president Woodrow Wilson in his Fourteen Points Speech (Wilson, 1918) gave contents to the principle by making it equal with the democratic principle of **governance with the agreement of the governed**. Although the Allies are emphasizing this principle, again it turned out to be different from its practical usage at redrawing of the borders in Europe – especially in East and Central Europe, where there were almost no big homogenous ethnic settlements which could form independent nation-states. Here the normal situation was the mosaic of nationalities, and the requirement of unity of nation, language and state borders did not make sense. Thus the “nation-states”, which came out of the ruins of the empires in 1918 and 1919, were in reality, according to Hagen Schulze, “*state agencies of national majorities, which governed considerable national minorities*” (Schulze, 2002). The interstate antagonisms spread very fast, and the national minorities of Eastern Europe began to claim the same right to form nation-states, as this right was recognized to the other, “happier” nations. The creation of states like Yugoslavia and Czechoslovakia proves again that the right for self-determination was not a leading principle in state formation at that time.

The Montevideo Convention on the Rights and Duties of States (Secretariat of the League of Nations, 1936), document of the League of Nations from the interwar period (1933), is considered a political breakthrough with regards to defining the concept of statehood and sovereignty. In essence, it marks the first massive decolonization (of the states of Latin America) and is adopted by 16 states – former European colonies. The Convention introduces a forth criterion for statehood by postulating that the state as a subject of international law should possess the following characteristics: (a) permanent population; (b) defined territory; (c) government; (d) **capacity to enter into relations with the other states**. The accent is again on the territory and the state itself, but this time – in the context of how it stands on the international scene.

In 1945, with the end of the Second World War, the contents of the principle of self-determination changes drastically. In the decolonization era, former colonies, rather than peoples, were seeking to exercise self-determination. But the **colonies are not territories detached from an existing state**; and the right to self-determination here is based on the assumption that **the human rights of the population have been violated** and a foreign power have been ruling over them, so the act of colonization is considered unjust in the traditional, non-contradictory sense of the word.

The current international law is trying to justify contemporary claims for self-determination of national minorities on the decolonization process, and this is where misunderstanding comes from. One example are the attempts to apply the Declaration on the Granting of Independence to Colonial Peoples and Countries, signed at the United Nations in 1960. The declaration states that “*Any attempt, aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations*” (United Nations, G.A. Res. 1514, UN GAOR, 15th Session. Supp. No67, at 67, UN Doc, 1960). The text implies that **minorities don’t have right to self-determination**.

³ The Holy Alliance, or the “*Alliance of Throne and Crown*”, as it is also called, was created with the goal of uniting the efforts of all Christian rulers in Europe for preservation of the new order on the Old Continent and against the threat of other revolutions and national-liberation movements. The Holy Alliance Treaty was initially signed by Russia, Austria and Prussia – representatives of the three main branches of Christianity – Eastern Orthodox, Catholicism and Protestantism.

In Article 1 of The International Covenant on **Civil and Political Rights** (United Nations Office of the High Commissioner on Human Rights, 1966) the first paragraph says: “*All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.*” Here, though, there is no explicit definition of “people”.

The 1970 Declaration on Principles of International Law Friendly Relations and Co-Operation among States in Accordance with the Charter of the United Nations says that self-determination should not be “*interpreted as authorising or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States*” (UN, 1970). This text expresses the position of the majority of signatory states which, upon signing the Declaration, expressed their belief that **secession should not be considered a legitimate form of self-determination**. At the same time, the document stipulates, that Every State has the duty to refrain from any forcible action, which deprives peoples of their right to self-determination and freedom and independence. In their actions against, and resistance to, such forcible action **in pursuit of the exercise of their right to self-determination, such peoples are entitled to seek and to receive support** in accordance with the purposes and principles of the Charter. This part of the 1970 Declaration is to be referred to the drama of 1991–1999 Yugoslavia wars, which reshaped the political, economic and the human landscape of the region (Kornazheva, M. and K. Kornazhev, 2019). In May 1992, the UN formally recognized the republics of Slovenia, Croatia, and Bosnia-Herzegovina and they became official members of the world organization.

On 13th September 2007 the General Assembly of the United Nations adopted the Declaration on the Rights of Indigenous Peoples, which recognizes the right to self-determination of all indigenous peoples on the same formula as the International Covenant from 1966. But the Declaration – in the same manner - does not give definition to “*indigenous peoples*” (Fisch, 2015).

2. The right to self-determination of peoples and the principle for territorial integrity in the theories on separatism

Many authors try to distinguish leading arguments, or introduce a variety of criteria which would make secession legitimate from the point of view of international law, on the one hand, and practically plausible – on the other. Existing theories of separatism, though, set many barriers to secession, as again on the foreground comes the attempt by all means to keep territorial integrity of the existing state, and to allow secession only if no other measures turn effective. As most legitimate from the point of view of international law are considered secessions based on violation of human rights of the population of the seceding unit, or those caused by illegally taken territory in the past. Claims for secession based on other criteria are considered more or less problematic – or there are other limitations which they would satisfy in order to be considered legal. More contemporary theories consider acceptable secession of territories which would be politically and economically viable as independent states. And still, secession is admitted somewhat as “means of last resort” – only when all other options have been exhausted. Federalization is one of the means which is commonly accepted as effective to prevent from secession.

The researcher, who proposes the first large-scale classification of theories on separatism is Alen Buchanan. He states that the theories on secession should give us answers which correspond to international law and to other practical considerations. He divides the theories in two basic types:

Primary right theories and remedial right only theories. (Buchanan, 1997). Other authors call the primary right theories *direct territorial claims* and the remedial right only theories are also called *just-cause theories*. According to primary right theories a minority group can secede from the parent-state even without any injustice is exercised upon the group – provided that secession responds to certain criteria (Buchanan calls them “*minimal realism principle*”). The leading criterion among these is **acceptability by the international community**. The just-cause theories limit the right to secession to the cases when the group has experienced repeated historical

grievances – like systematic violations of their human rights (here he gives an example with the Kurds in Iraq) or when they have been forcefully deprived of their territory. The just-cause theories Buchanan considers more legitimate in the face of international law. According to these theories, secession is considered “a remedy of last resort”, when no other measures at national level turn out to be effective in keeping the state territory intact. Lea Brilmayer put further limitations to the just-cause theories: according to her, the claimed historical grievance/unjustly taken territory could be preceded by other grievances; in this case, advantage should be given to unjust actions, done in the nearer past (previous injustices should be neglected) (Brilmayer, *Secession and Self-determination: A Territorial Interpretation*, 1991). Again she gives priority to the principle of territorial integrity, to keeping the status quo.

Further, the primary right theories can be divided into **national, attributive, associationist and plebiscitarian**. **National Primary Right Theories** argue that “*the right to self-determination does not attach to individuals... but is held collectively, by nations. Its justification does not rely on liberal arguments of individual rights, but on the groups themselves, and the role that national membership has for individuals*” (Buchanan, *Theories of Secession*, 1997). **Attributive Primary Right Theories** again claim on the collective right to secede – but the accent is on the **common attributes** these peoples share - historic, geographic, ethnic, economic, linguistic, or religious bonds. The right must be exercised for the right reasons, i.e. to secure conditions necessary for the prosperity and self-respect of the group (Margalit, 1990).

Associationist theories provide for a looser interpretation of the right to secede – they allow it not only for nations but also for other collectives which are not necessarily nations. Such theories are presented by Christopher Wellman (Wellman 2005a), Andrew Altman and Wellman (Altman and Wellman 2009), David Copp (Copp 1997; Copp, 1998) and Daniel Philpott (Philpott 1995; Philpott 1998). Here can be referred also the **plebiscitarian theories**, for which a plebiscite or referendum is a condition enough for the group to justify secession. Alen Patten is trying to introduce a middle course between the democratic plebiscitarian theory and the remedial right to secession. According to him, the ordinary plebiscitarian theory is rather tolerant to separatists – meaning it is “*too permissive*” (Patten, 2002). In his hybrid theory he sets 5 additional criteria, apart from the plebiscite, which the group has to satisfy in order to be eligible for secession – the first criterion is that citizens of the secessionist unit should have “*a valid claim*” on the territory of the unit (Patten, 2002).

Daniel Philpott says that “*out of the colonial context, self-determination is not a right, but is considered by most specialists in international law as subject to the principle for territorial integrity*” (Philpott, 1998).

In defence of territorial integrity, Harry Beran in his *Liberal Theory of Secession* points out that the right to secession should not be given to a group which occupies an area which is “*culturally, economically or militarily essential to the existing state*” or an area which has “*a disproportionately high share of the economic resources of the existing state*”.

In the more contemporary theories there is the reverse tendency: secession is practically plausible if the newly created state would be **politically and economically viable** (Brilmayer, *Secession and the Two Types of Territorial Claims*, 2015). Valentina Gentile also justifies the right to secession solely to the politically viable groups within the territory of the state (Gentile, 2014).

Among the non-permissible conditions Beran points out another argument in defense of the territorial integrity of the parent state: he considers secession should be allowed only when the seceding territory “*occupies an area not on the borders of the existing state so that secession would create an enclave*” (Beran, 1984). Modern theoreticians also support this: M. Seymour calls such minority groups “*contiguous diasporas*” and differentiates between “*national minorities*” and “*minority nations*” (Seymour, 2007). Matthew J. Webb considers the right to secession from a liberal state a contradiction (*Is There a Liberal Right to Secede from a Liberal State?*) by pointing out several arguments in defence of his thesis (Webb, 2006).

As most effective means to prevent from secession and keep the territory of the existing state intact some authors propose federalization. Alen Buchanan (*Buchanan, Secession: The Morality*

of Political Divorce from Fort Sumter to Lithuania and Quebec, 1993), as well as Neera Chandhoke (Chandhoke, 2012), propose the borders of the ethnic groups to turn into borders between federal units within the existing state. Margaret Moore opposes the referendum against federalism as means for opposing the separatist movements. She considers federalism a realistic means which could in reality prevent attempts for secession. According to her, “*there are a lot of measures for internal autonomy or federal measures, which allow for various degrees for collective self-determination, and in most cases, in which the group is seeking higher degree of self-determination from relatively just states, these are exactly the measures, sought by the group*” (Moore, 2020). Raliza Jekova summarizes that almost all successful federations are liberal democracies (for example – Canada and Switzerland), while the federations which have dissolved, have, as a rule, functioned within an authoritarian political system (as an example she gives the USSR and former Yugoslavia) (Jekova, 2011). In the last case a federation favours secession, instead of keeping the state away from dissolution.

Theories on separatism could be regarded as based on subjective arguments (Associationist and Plebiscitarian Theories), or on objective arguments (Attributive and National Primary Right Theories), or on factors of the milieu (Just-Cause Theories). On the other hand, theories can be more or less able to justify secession and emergence of a new legitimate state: the ones that can easier justify it with the least objection on behalf of the international community, we can classify as “lose-win” theories (where the loser party is the parent state, and the winner is the secessionist territory - as long as secession can be granted easier), while the theories based on subjective arguments which are more vulnerable in the face of international law and the international community (generally – those based on subjective arguments), can be regarded as “win-lose” theories – as long as attempts for secession are less likely to be successful for the secessionist group and more likely to be successful for the parent state. In some theories federalization is considered a “win-win” strategy as it keeps the state intact by giving more power to the separatist regions (Parvanova, 2020).

3. Case studies

The case studies presented below provide evidence of **the importance of the global political context for the practice of the separatist movements**.

Such an evidence signals for a **deficit in theorising separatism**. In the analysis above we have presented a broad picture of theoretical assumptions and we have identified a range of factors impacting separatism and its outcomes, but a factor associated with the global political environment was missing.

❖ *East Timor (Timor Leste): the role of Cold War geopolitics*

East Timor (2002) is the first 21st century independent state. The country was a Portuguese colony till 1976. After that it was forcefully annexed by Indonesia. In 1991 Portugal is sewing Indonesia for a contract, which Indonesia has signed with Australia for access to natural resources in the Timor Gap. Although the international community agreed that the Indonesian annexation was illegal, from 1975 to 1999 nothing was done to help the strive for independence of the population. In 1977 an American state officer announced that Americans did nothing for the Indonesian troops to retrieve because of geopolitical reasons. Ten years after the end of the Cold War politics, East Timor was recognized as an independent state. (Sterio, 2013). Without the geopolitical transformation, the people of East Timor would have never been able to exercise their rights to self-determination.

❖ *Bangladesh: the role of geopolitics of neutrality*

Unlike secession of East Timor, which was blocked during the Cold War, secession of Bangladesh in 1971 is viewed as the only successful secession of the time and is one of the best examples of legitimate secessions after the Second World War. It satisfies the criteria of all causal and normative theories on the right for secession, and more particularly, the remedial right – the emergence of the state is due to numerous victims of bloody conflicts (Musgrove, 2015). Here,

though, there is another decisive factor: Bangladesh is known for its status of a politically neutral state and today it maintains good diplomatic relations with the world as a whole. The separatist movement in 1971 was supported basically by India, well known for its neutrality during the Cold War. USA and China were the last states, together with Pakistan, to recognize the independence of Bangladesh. Today Bangladesh maintains good relations with both USA and China, and has significant contribution to the peacekeeping missions of the United Nations. Moreover, the country is of great importance to China for its infrastructural project *Belt and Road Initiative* (BRI)- as it is part of the proposed by China economic corridor Bangladesh-China-India-Myanmar (BCIM) (Khan, 2020).

❖ *Secession of Cyprus – the role of geopolitical proxies*

In 1974 Turkish troops invaded the island to suppress a coup organized by the military junta governing Greece and aiming at annexation of the island. The Turkish Republic of Northern Cyprus proclaimed itself an independent country on the island of Cyprus in 1983. At the moment it is only Turkey, that recognizes Northern Cyprus – a ministate with a population of just around 200 000 (Nijman, 2016). The conflict is actually due to the fact, that Cypriot Greeks and Cypriot Turks are proxies of Greek and Turkish nationalists, who claim the island should belong to the territory of the Greek, and respectively, of the Turkish state.

❖ *Greenland: the role of strategic geopolitical location*

After dissolution of the union between the crown of Denmark and Norway in 1814 the former colonies, including Greenland belong to the Danish monarchy. But the island, although part of Denmark, is the biggest island on Earth and geographically is a part of North America. In April 1941 USA occupies the island in order to prevent invasion from Nazi Germany. The occupation takes place until 1945. The island is strategically important to the Americans – for several reasons. Firstly, the geographic location makes it an “earth buffer” between North America and the nations on the other side of America, many of which are perceived as its strongest adversaries: Russia, North Korea and China. Here is located the northernmost air base of the USA – the Thule Air Base – which is particularly important for America’s missile defense (Breum, 2019). The island also possesses natural resources which are not completely explored. Donald Trump during his presidential campaign even expressed his intentions to buy off the island from Denmark. In the period 1979-2009 the island received more and more autonomy and according to T. Branka, Greenland is the only Arctic territory which has real chance to receive full independence (Branka, 2018). The strategic location of the island, the favourable climate changes and the data for mineral resources make Greenland an object of interest.

❖ *Kosovo – reshaping Cold war spheres of influence under global control*

Serbia lost sovereignty over Kosovo in 1999 when NATO bombing put an end to Serbian military attacks over the province during the two-year war against the rebels. After the NATO intervention, in 1999 the United Nations Security Council drafted Resolution 1244, which gave a mandate to NATO for administration of Kosovo and set a common framework for resolving the dispute over Kosovo’s status. In 2008 Kosovo has self-proclaimed an independent state. Its international recognition is still in process – it is recognized by 110 states but not from Serbia⁴.

As a traditional ally, Russia took the Serbian side while the USA were ready to give recognition to Kosovo far before the official announcement of independence in 2008. The sharp difference in the positions of the two states can be clearly seen when comparing the statement on Kosovo’s recognition by the United States (delivered by Secretary of State Condoleezza Rice) and the statement of the Russian Duma. US Secretary of State defined Kosovo as a “*a special case*”, which “*cannot be seen as precedent for any other situation in the world today*”, that is – cannot be used for justification for other secessionist claims – because of the combination of “*the history*

⁴ Although populated by 90% ethnic Albanians, Serbia treats Kosovo as its “historic hearth”, therefore- its province, since Serbian state emerged in the mountain districts of Kosovo.

of ethnic cleansing and crimes against civilians in Kosovo, and the extended period of UN administration” which “are not found elsewhere”. The statement of the Russian Duma said that “The right of nations to self-determination cannot justify recognition of Kosovo's independence along with the simultaneous refusal to discuss similar acts by other self-proclaimed states, which have obtained *de facto* independence exclusively by themselves.” (Borgen, 2008). Here the hint is about territories with Russian influence like Abkhazia and South Ossetia in Georgia. Secession of Kosovo also opened the so far “sleeping” debates over the independence of Republica Srpska in Bosnia and Vojvodina – another province of Serbia, populated with Hungarian minority.

CONCLUSION

Separatist movements and their outcomes reflect the dilemma of the two basic principles of international law: *the right to self-determination of peoples* and *the principle for territorial integrity of the state*. The principle of territorial integrity is dominant in key historic periods of formation of new states, as well as in the theories on separatism.

Among the criteria, which consider separatist claims for secession legitimate, the right to self-determination of peoples ranks second or third, both in practice and theoretically. It is viewed as most significant only in two cases, i.e. when massive violation of the human rights of members of minorities has occurred, and when the minority group was illegally deprived of its territory.

According to us, such views continue to reflect the old paradigm of decolonization thinking, and can not be relevant in regard to contemporary separatist movements and claims for secession. We agree with Jure Vidmar (Vidmar, 2012), who finds out, that state creation nowadays is internationalized law-governed process of overcoming an applicable counterclaim to territorial integrity. In line with this idea we argue, that in 21 century the process has become more complex than ever, state territories are subject to many interests and influences, incl. hybrid and asymmetric wars, and not just to the political will of the parent state. Further more, secession of a territory creates a global fluctuation, as the newly created state would not just appear on the political map of the world, but would reshape the status quo of international relations with its foreign policy orientation in favour of certain political values and the states, that affiliate with them. Therefore, separatism should not be analyzed only as a challenge for the governance of a single state, but for the international community as a whole. This means, that ongoing theoretical analysis should aim at operationalization of the **global political context** as a key factor, impacting the practice of separatism today.

Acknowledgement: This research is a result of work by the project 2020-FBM-01, financed from the Scientific fund of the University of Ruse.

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