

Layman Abstract

In 2008 Kosovo declared independence, which was recognised by the majority of the UN Members (52%), in 2014 Crimeans orchestrated an independence referendum and soon after were incorporated into the Russian Federation, in 2017 Catalonia conducted an independence referendum and promulgated independence. Furthermore, a number of secessionist claims exacerbated in Europe and around the globe (Gagauzia, Scotland, Kashmir, Kurdistan) which are likely to re-seek statehood in the near future. Against that background, two paramount questions have arisen: whether international law provides an entitlement to statehood; and if so, what are the conditions and, on the other hand, whether international law disposes of instruments which can prevent secession and what they are.

The first question has been relatively well addressed by the doctrine: self-determination could lead to the territorial disruption of existing states only in extreme instances of oppression or colonisation. On the contrary, the second question apart from situations such as the prohibition on the use of force or the prohibition on racial discrimination remains quite undetermined. In particular, it is not clear whether secession may be prevented if the local population is offered sufficient safeguards to pursue its political, social and cultural development.

This research will endeavour to analyse this problem in-depth and answer to what extent can the realisation of the internal right to self-determination be construed as an international law norm which prevents secession. To this end, the application of the norm by States and international organisations as well as its invocation by domestic courts and tribunals will be taken into account. An important aspect of the project is the scrutiny of the content of the internal self-determination norm and the determination of a threshold which would on the one hand allow secession whereas on the other, proscribe it. In other words, the project will provide the information on what exactly a State is (internationally) obliged to do towards the national minority/ethnic group to satisfy the threshold of internal self-determination and thereby avoid territorial dismemberment. The project will also consider the opinion of the local population (through interviews) in selected pro-independence regions towards the said norm and elaborate the potential obstacles to the universal application of the norm (ethno-historical narratives, economic situation etc.).

The study is worthy of attention, as if an international norm prescribed governance standard which would, on the one hand, meet the demands of legitimacy and satisfy the needs of the population concerned, while on the other obviate secession, then this would be a win-win situation strengthening the peace and stability in the world.