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National Self-determination: Features of the Evolution and Functioning of the Phenomenon

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Abstract. The article analyzes the phenomenon of national self-determination in terms of evolution and functioning. The authors aim to determine the general characteristics and evolution of this phenomenon in both conceptual and applied versions. In the evolution's context of national self-determination as a theoretical concept and a political and legal principle, several stages were identified and considered. According to the authors, each stage of the phenomenon's evolution was inevitably accompanied by its qualitative transformations, both in political and legal terms. The first stage (from the end of the XVIII c. till the First World War), according to the authors, is characterized by the emergence of the idea and the formation of the socio-political concept of national self-determination, and the applied aspect of the phenomenon of national self-determination is filled with concrete content based on the ever-expanding political practice of its application. The second stage (from the First World War and the post-war reconstruction) is characterized by the transformation of self-determination from a concept into a political principle. The authors associate the third stage of the evolution of the phenomenon of national self-determination (the period after the Second World War) with the development of international relations and the formation of a global bipolar system. National self-determination turned into a principle of positive international law and laid the foundations for the future political instability of the newly independent states. Finally, the last period (the early 90s to this day) is characterized by the search and crystallization of new approaches to the principle of national self-determination and the emergence of new theories, the authors of which are trying from a political and legal point of view to substantiate the legitimacy of an expansive interpretation of this principle. The analysis allowed us to conclude that the qualitative transformations of the principle of national self-determination presented in the article did not lead to the formation of the phenomenon of national self-determination as an integral, complete, and universally recognized international political and legal norm.

Keywords: national self-determination, nation, socio-political concept, political principle, legal norm, ethnic communities and groups, internal self-determination, external self-determination, secession

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The study of national self-determination necessitates the identification of the features of the phenomenon in terms of its general characteristics and evolution, both conceptually and in its applied version. In the evolution's context of national self-determination as a theoretical concept and legal political principle, several stages can be distinguished and considered.

The first stage can be conventionally referred to as the period of the late 18th century and up to the start of World War I. This stage is characterized by the emergence of the idea and the formation of the socio-political concept of *national self-determination*. This concept becomes, in fact, the ideological and political basis for the formation of nation-states and a certain chance for peoples living in one territory to merge into a nation-state. In this context, the formation of new approaches also occurs, since “then for the first time in the system of the principle under consideration such concepts as “nation”, “language”, “culture” on the one hand, and “statehood” on the other were linked” [1]. The formation of this concept objectively led to a significant actualization of minority nationalism, expressed in practice in the growth of their aspirations for internal self-determination. It is noteworthy that demands for secession were not widespread, and requests for internal autonomy in one form or another were the most popular.

From a practical standpoint, this period was described by the fact that the phenomenon of national self-determination was given specific content based on the increasing political practice of its application when demands for self-determination were voiced by the Poles, Italians, Hungarians, and Germans. The post-revolutionary period of 1848 was characterized by the formation of two new states: Germany and Italy.

The 1878 Congress of Berlin was the first to articulate the idea of national self-determination as applied to the question of the creation of Bulgaria, Romania, and Serbia. The Congress proclaimed the independence of Serbia and Montenegro, and Bulgaria was granted the status of a self-governing principality within the Ottoman Empire. Eastern Romania was also granted autonomous status within the Ottoman Empire. Congress also raised the issue of national and religious minorities. For instance, Armenian autonomy in the Ottoman Empire was discussed. The Treaty of

Berlin, adopted at the end of the Congress, formulated the need for reforms in the Armenian provinces.

The second stage in the evolution of the phenomenon of national self-determination dates to World War I and the ensuing post-war reorganization of the world. At that time, the belligerent countries tried to support the demands for self-determination of the peoples living on the territory of their enemies.

The most vital trait of national self-determination of that period was the fact that it turned from a socio-political concept into a political principle, which acted as “a driving force for the disorganization of European empires, as well as the idea of state independence” [2]. It was this principle that was the basis for justifying the collapse of Austria-Hungary and the Ottoman Empire. The Triple Entente subsequently allowed some European nations to create their states.

The application of this principle also gave a practical opportunity to establish territorial autonomies within states and empires. It can be argued that national self-determination never became a positive norm of international law during the period under consideration and remained exclusively a political principle, which was used by the countries that won the war, as an instrument of the post-war world order.

National self-determination as a political principle found its expression in two of the most significant applied approaches of the time: Woodrow Wilson’s doctrine and Vladimir Lenin’s concept. Wilson’s doctrine, called *The Fourteen Points*, was submitted to the U.S. Congress in 1918 as a project of the post-war settlement. According to the doctrine, the people as the main source of legitimacy of power have the full right to self-determination. The fifth point stated that any redistribution of borders and the adjustment of all colonial claims because of war could only be settled with the consent of the population living in the territory and solely for their interest, and not as a result of the agreement of the belligerent countries.

Wilson’s program defined as its main backbone the principle of self-determination of peoples in the establishment of new borders in Europe, stating that “any adjustment of all colonial claims must be based on the interests of the populations living in the territory” [3]. Noteworthy, Wilson’s program also contains a reference to the principle of territorial integrity of the state (point 14). The wording of this principle inevitably led to a certain limitation of national self-determination.

The American president formulated the idea of self-determination in domestic terms, justifying it by the right of peoples to choose the most appropriate government. Wilson’s doctrine also contains the principle of external self-determination, allowing nations to form their form of sovereignty.

The right of nations to self-determination was ardently discussed at the Paris Peace Conference of 1919—1920. Wilson’s *Fourteen Points* turned into the main approach to the drafting of the Treaty of Versailles, marking a certain stage in the further evolution of the phenomenon of national self-determination. The American president’s program largely contributed to the restoration of state independence of Poland, Latvia, Lithuania, Estonia, and Finland. The principle of self-determination also formed the basis for the independence of Georgia, Azerbaijan, and Armenia.

In general, the concept of self-determination of nations, proposed by Woodrow Wilson, was liberal-democratic.

The Bolshevik, or Leninist, doctrine of self-determination contributed significantly to the development of the principle of national self-determination, going much further than Wilson's *Fourteen Points*. The Leninist doctrine recognized the necessity and legitimacy of external self-determination for small nations and peoples because it interpreted the right to self-determination as "the right to independence in the political sense, to free political separation from the oppressing nation" [4]. In this context, the right to self-determination was interpreted as the right to secession, including the formation of a nation-state. The Lenin-Bolshevik program of self-determination was outlined in Lenin's 1913 *Critical Remarks on the National Question*, 1913 *On Cultural and National Autonomy*, 1914 *The Right of Nations to Self-Determination*, 1916 *The Socialist Revolution and the Right of Nations to Self-Determination (Theses)*, 1916 *The Discussion On Self-Determination Summed Up*, and others. This issue was also included in the party program of the Russian Social Democratic Labour Party in 1903.

Compared to Wilson's moderate-liberal doctrine, Lenin's concept of self-determination was quite radical for its time, since it granted all peoples and nations the right to self-determination, including the possibility of forming their state. The reasons for such a radical approach of Lenin and the Bolsheviks to the issue of national self-determination lay mainly in the internal political struggle with Russian autocracy. The realities of this struggle meant enlisting political allies in the struggle against tsarism, and then against the White movement, which adhered to the slogan of "one and indivisible Russia." As E.S. Smolova aptly noted, "in an effort to win over the peoples of the Russian Empire, Lenin, and other Bolsheviks promised to implement the right to self-determination" [3].

Initially, the Bolsheviks tried to build their domestic and foreign policies in full accordance with their basic program developments. The first steps of the Bolshevik government in Russia legislated the principle of self-determination of peoples in their decrees. On November 2, 1917, the government of the Russian Soviet Federative Socialist Republic adopted the *Declaration of the Rights of the Peoples of Russia*, which enshrined such principles of national policy as "1. The equality and sovereignty of the peoples of Russia. 2. The right of the peoples of Russia to free self-determination, even to the point of separation and the formation of an independent state. 3. The abolition of any and all national and national-religious privileges and disabilities. 4. The free development of national minorities and ethnographic groups inhabiting the territory of Russia"¹. According to the Bolshevik approach to the national question, the USSR was created, where the issue was resolved by the territorial principle, according to which almost all national

¹ Declaration of the Rights of the Peoples of Russia. November 2 (15), 1917. Available from: <http://www.hist.msu.ru/ER/Etext/DEKRET/peoples.htm> (accessed: 13.01.2018).

minorities of the former Russian Empire were endowed with national-territorial formations—autonomies.

In the sphere of foreign policy, the Bolsheviks recognized the independence of Finland, and Poland, the self-determination of Ukraine, Belarus, Estonia, Latvia, Lithuania, and the separation of Transcaucasia. On January 11, 1918, the Bolshevik government adopted the *Decree on Turkish Armenia*, which declared support for the right of Armenians to free self-determination up to full independence.

However, already after his rise to power and the formation of the USSR, Vladimir Lenin and the Bolsheviks commenced reconsidering their approaches in favor of the practical expediency of separation from the state. Now, in their opinion, the right to secession should already be considered “from the standpoint of the interests of all social development and the interests of the class struggle of the proletariat for socialism” [5].

The Bolshevik-Leninist doctrine of self-determination had a great international resonance. The practical steps taken by the Bolsheviks to put it into practice in Russia could not help but impact the rest of the world, which was forced to recognize it after the October Revolution.

Despite the significant actualization of the problem of self-determination in the conditions of post-war settlement after World War I, the principle of self-determination in none of the developed and proposed versions — neither the Wilsonian moderate-liberal nor the Bolshevik radical one — was included in the 1919 *Covenant of the League of Nations* and never became a legal norm. As A.A. Merezhko notes, “Both concepts of self-determination of nations, the radical Leninist and liberal Wilsonian ones, so efficiently neutralized each other that the 1919 *Covenant of the League of Nations* does not even mention the principle of self-determination” [6]. Overall, the doctrine of self-determination as a political rather than a legal principle had a significant impact for its time on the Interbellum international order.

National self-determination developed further (the third stage) after World War II in the context of the formation of a bipolar system of international relations.

The greatest influence on the further evolution of national self-determination in this period was the creation of the United Nations Organization. By the level of representation and the scale of its influence on world politics, the UN became quite a powerful instrument of influence on the entire world system of international relations. In addition, the emergence of the UN and all its subsequent activities led to the creation of a functioning international legal system.

This process was given particular relevance as international legal documents were being actively developed. The main qualitative changes in the evolution of national self-determination at this stage were related to the active law-making activities of the UN.

The most important in this respect was the inclusion of an increasingly important provision on national self-determination in the Charter of the United Nations, where it was devised as “the principle of equal rights and self-

determination of peoples.” It marked a new qualitative shift in global political and legal practice, when “self-determination turned from a vague political slogan into a legal principle” [7. P. 67].

The decision to include the principle of equal rights and self-determination in the UN Charter was not an uncomplicated one — at the initial stage of discussion, it was not supported by many states. Opponents focused their arguments on the claim that the principle of self-determination can be actively played by national minorities in the states where they live, which inevitably leads to the destabilization of the internal political situation. The representatives of multi-ethnic Belgium were the most active in insisting on this interpretation. According to the Egyptian delegation, the principle of self-determination could also justify armed interventions and seizures of foreign territories.

Despite objections, a comprehensive discussion in the preliminary commission resulted in a joint approach, declaring that the principles of equal rights of peoples and their self-determination are inextricably linked and must be enshrined in a single legal norm. It also pointed to the crucial role of this norm in the development of the entire system of international relations worldwide, and, above all, in the maintenance of peace and security. As a result, the principle of self-determination was included in the UN Charter.

The second major step toward the establishment of national self-determination as a working norm of international law was the *Declaration on the Granting of Independence to Colonial Countries and Peoples*, adopted by the UN General Assembly in 1960. The Declaration contained the essential thesis that colonialism as a political phenomenon impedes the development of international processes in virtually all spheres. It also hinders the development of the economic, social, and cultural life of colonial peoples dependent on metropolises. Colonialism, by its very existence, contradicts all the ideals and purposes for which the United Nations was founded. Several other resolutions adopted by the UN General Assembly have contained articles describing colonialism as a crime against humanity and a direct threat to universal peace and security.

The 1960 Declaration granted the oppressed peoples of the colonies the right to self-determination. According to Declaration’s Article 2, the peoples of the colonies could decide their political destiny and pursue their own economic, social, and cultural development. By decisions of the UN General Assembly, the Special Committee on Decolonization was established to supervise the implementation of the Declaration.

The legal significance of the Declaration was that it transformed the “principle of self-determination” in the UN Charter into the “right to self-determination.” Undoubtedly, this was an invaluable contribution to the further development and improvement of international law, as it launched the process of decolonization, during which over 80 colonial peoples gained independence. Because of this process, it can be recognized that “the right to self-determination has become a working norm of international law” [5].

However, it should be borne in mind that the right to self-determination declared by the UN applied only to the peoples of the colonies. National minorities, ethnic, religious, and other groups were not granted such rights, and their political demands remained exclusively in the sphere of domestic politics of states. The legal uncertainty of minority statuses and the ignoring of their demands and rights inevitably contributed to the destabilization of the internal political situation in the newly formed states, when “these states began to be shaken by internal inter-ethnic conflicts” [8].

The further evolution of national self-determination (the fourth stage) occurred during the most complex military-political and socio-cultural transformations in the international arena. The collapse of the bipolar world, the transformation of the USA into the leader of world politics, the actualization of nationalism in regional politics, the phenomenon of “ethnic renaissance” that put issues of self-determination on the agenda, the collapse of several socialist countries (the USSR, Yugoslavia, Czechoslovakia) and the appearance of new states throughout their space had the most powerful influence on the theory and practice of national self-determination. Under the conditions of these complex conflicts, attempts have been made to extend the right to self-determination to a broader range of subjects and to prove that “absolutely all peoples have the right to their own state” [8].

In a similar context, we can speak of attempts to add certain ethnocultural content to the right of self-determination, meaning to allow ethnic groups to form their territorial autonomies, both internal and external (the right to form their states). The focus is thus on national minorities within states that already have territorial autonomies within, or that do not have any autonomies at all. In these circumstances, the problem of defining the criteria according to which the right to self-determination could be recognized for ethnic minorities inevitably comes to the fore. In this aspect, there are considerable difficulties, prompting the researchers to admit that “if with decolonization, the criteria were sufficiently clear, and no special mechanisms of revealing the will of the ‘self-determined’ peoples had to be put forward, then in modern conditions this is one of the main issues” [9].

To justify new approaches to the right of nations to self-determination in this period, new theories were designed which attempted to justify, from a political-legal point of view, the legitimacy of an expansive interpretation of this principle. Among such theories, the *theory of remedial (rightful) secession* is widely spread. From the theory’s point of view, ethno-national minorities can be recognized as having the right to secession where they are confronted with facts of genocide, widespread warfare bordering on war crimes, and assimilationist policies exercised by the state aimed at the forced destruction of their group identity. Such an approach was applied in practice to the recognition of Kosovo when the International Court of Justice in 2010 effectively declared the Kosovo secession lawful.

However, it must be recognized that attempts to extend the right to self-determination to ethnic minorities within states remain controversial. On the one hand, the circle of subjects of the right to self-determination has not yet been

defined; on the other, the criteria by which a particular ethno-national community can be identified as a subject of self-determination have also not been defined. In addition, the political-legal criteria to recognize newly formed states remain unclear.

Conclusion

Thus, we can affirm that the emergence of the phenomenon of national self-determination and its subsequent evolution in international political and legal practice was accompanied by its significant qualitative transformations at different stages. At the same time, these processes have not yet ultimately led to the formation of the phenomenon of national self-determination as a coherent, complete, and generally accepted international political and legal norm, capable of covering and regulating a fairly wide range of problems in the sphere of self-determination of various entities, whether they are the population of territories or ethnic minorities and groups.

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Национальное самоопределение: особенности эволюции и функционирования феномена

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Аннотация. Статья посвящена исследованию феномена национального самоопределения в плане эволюции и функционирования с момента его возникновения до наших дней. Авторы ставят своей целью определить общие характеристики и эволюцию этого феномена как в концептуальном, так и в прикладном варианте. В контексте эволюции национального самоопределения как теоретического концепта и политико-правового принципа было выделено и рассмотрено несколько этапов. По мысли авторов, каждый этап эволюции данного феномена неизбежно сопровождался его качественными трансформациями, как в политическом, так и в правовом плане. Первый этап (период конца XVIII в. и до Первой мировой войны), по мнению авторов, характеризуется зарождением идеи и формированием социально-политического концепта национального самоопределения, а в прикладном аспекте феномен национального самоопределения начинает наполняться конкретным содержанием на базе все расширявшейся политической практики его применения. Для второго этапа (период Первой мировой войны и последовавшее за ней послевоенное переустройство мира) характерно то, что национальное самоопределение из социально-политического концепта превратилось в политический принцип. Третий этап эволюции национального самоопределения (после Второй мировой войны) авторы связывают с развитием международных отношений и формированием биполярной системы мира. Национальное самоопределение превратилось в принцип позитивного международного права, который закладывал основы для будущей политической нестабильности новых независимых государств. Наконец, последний период (начало 90-х гг. до наших дней) характеризуется поиском и кристаллизацией новых подходов к принципу национального самоопределения и появлением новых теорий, авторы

которых пытаются с политико-правовой точки зрения обосновать правомерность расширительного толкования данного принципа. Анализ позволил заключить, что представленные в статье качественные трансформации принципа национального самоопределения так и не привели к формированию феномена национального самоопределения как целостной, завершенной и общепризнанной международно-правовой нормы.

Ключевые слова: национальное самоопределение, нация, социально-политический концепт, политический принцип, правовая норма, этнические общности и группы, внутреннее самоопределение, внешнее самоопределение, сецессия

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