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LOCAL SELF-GOVERNMENT: AN ALTERNATIVE PARADIGM IN THE REALIZATION OF THE RIGHT TO SELF-DETERMINATION AND A LEGAL-POLITICAL ANALYSIS OF INTERNATIONAL EXPERIENCE

Açar sözlər: yerli özünüidarəetmə, öz müqəddəratını təyinetmə, ərazi bütövlüyü, sessesiya, remedial sesessiya, Aland modeli, Cənubi Tirol, effektiv nəzarət.

Ключевые слова: местное самоуправление, самоопределение, территориальная целостность, сецессия, ремедиальная сецессия, модель Аландских островов, Южный Тироль, эффективный контроль.

Keywords: local self-government, self-determination, territorial integrity, secession, remedial secession, Aland model, South Tyrol, effective control.

INTRODUCTION

In the modern world order, the tension arising between the principles of state sovereignty and the inviolability of borders, on the one hand, and the right of peoples to self-determination, on the other, constitutes the most sensitive point of international relations. The state-centric system established since the Peace of Westphalia

(1648) faced two major waves of transformation in the 20th century: decolonization and the end of the Cold War. During these processes, although the concept of “self-determination” transitioned from a political lexicon to a legal plane, disputes regarding the boundaries of its application and its content have not subsided [17, p. 720].

Particularly in the ethno-political conflicts that emerged in the early 21st century, separatist forces attempt to interpret this fundamental right as a “right to statehood.” However, such an approach contradicts the spirit of the UN Charter and the imperative norms (*jus cogens*) of modern international law [2]. The primary task facing legal science is to find the “golden mean” between the development rights of peoples and the stability interests of states [9, p. 25].

The scientific hypothesis we put forward is that the solution to this contradiction lies not in changing borders, but in changing the nature of governance. In other words, the most efficient, democratic, and legal mechanism for the realization of the right to self-determination is the development of a sophisticated institution of local

self-government (municipality). The purpose of this article is to comprehensively investigate the following issues:

1. To define the theoretical boundaries of the “internal” and “external” aspects of the right to self-determination;
2. To demonstrate the position of the “remedial secession” doctrine in international law and prove its groundlessness in the context of the Karabakh conflict;
3. To show how the victory of Azerbaijan changed the legal paradigm in the region;
4. To substantiate local self-government as an alternative to separatism by analyzing successful international models (Aland Islands, South Tyrol).

1. SELF-DETERMINATION AND TERRITORIAL INTEGRITY: SCIENTIFIC-THEORETICAL PARADIGM AND EVOLUTION

In legal science, the genesis of the right to self-determination traces back to the American and French revolutions, but its transformation into a norm of international law is linked to the establishment of the UN. Paragraph 2 of Article 1 of the UN Charter lists respect for the “principle of equal rights and self-determination of peoples” as one of the main purposes [2]. However, Paragraph 4 of Article 2 of the Charter protects the territorial integrity and political independence of states.

1.1. The Concept of “People” and the Subject Problem

The issue causing the greatest debate in scientific literature is the definition of the concept of “people.” Who possesses the right to self-determination? According to the opinion of the UNESCO group of experts and the dominant position of jurists, in international law, the concept of “people” applies to two categories: The entire population under colonial rule; All citizens of an existing sovereign state (demos).

Ethnic, religious, or linguistic minorities living within a state do not automatically possess the status of a “people” and, consequently, the right to secede [16, p. 415]. Their rights are protected under Article 27 of the International Covenant on Civil and Political Rights and other conventions within the framework of “minority rights.”

1.2. The Dialectics of Internal and External Aspects Modern international law doctrine (e.g., C. Tomuschat, A. Cassese) views self-determination on two planes:

- **External Self-Determination:** This is the determination by a people of its international political status as a subject of international law. This includes gaining independence, merging with another state, or association. According to the 1970 “Declaration on Principles of International Law,” this right must be exercised without violating the territorial integrity of sovereign and independent states. That is, if a state possesses a government representing the whole people belonging to the territory without distinction as to race, creed or colour, its territorial integrity is inviolable.

- **Internal Self-Determination:** This is the right of a people or group to freely pursue their political, economic, social, and cultural development within an existing state. This aspect is related to the internal constitutional structure of the state. It is at this point that the institution of local self-government plays a decisive role. Local self-government is the institutional form of internal self-determination. It is not merely administrative decentralization but also the sharing of political power. As noted in our previous research, local self-government is the process of the “socialization of power” [3, p. 45; 4, p. 120]. If the population of a region can elect their representatives through local elections, form a local budget, and implement cultural and social programs, they are realizing their self-determination

on the internal plane. Local self-government occupies a unique place in the vertical division of state power. Through this institution, ethnic or regional groups integrate into the “common” state while preserving their “we” identity. This is the strongest factor eradicating the roots of separatism: when people feel they can govern themselves, the need to separate from the state diminishes. [4, p. 77]

2. THE LEGAL AND POLITICAL FALLACY OF THE “REMEDIAL SECESSION” DOCTRINE

One of the theses most frequently cited by separatist regimes in recent years is the doctrine of “remedial secession.” This theory claims that if a state systematically discriminates against a national minority, denies its right to internal self-determination, and commits mass human rights violations, that minority acquires the right to secede as a measure of last resort (*ultima ratio*) [13, p. 110]. However, this approach possesses serious flaws from both theoretical and practical perspectives.

2.1. Absence of Customary International Law

An analysis of relevant materials, particularly the research of Rokas Levinskas and Jure Vidmar, reveals that “remedial secession” is not an accepted norm of modern international law [10, p. 44; 15, p. 37]. The International Court of Justice (ICJ) or the UN has never explicitly recognized this right. For instance, although the secession of Bangladesh from Pakistan (1971) is often recalled in this context, international lawyers evaluate this not as a confirmation of the right to “remedial secession,” but as a *fait accompli* and political reality. Similarly, the 2010 Kosovo Advisory Opinion of the ICJ did not clarify this issue. The Court acted with great caution, not discussing whether Kosovo had a right to secede, but merely stating that the declaration of independence did not violate international law.

This opinion is *sui generis* in nature and cannot create a universal precedent [5]. State practice also rejects this doctrine. In the examples of Spain (Catalonia), Iraq (Kurdistan), and Ukraine (Crimea, Donbas), the international community has unequivocally supported the territorial integrity of states. This demonstrates the absence of the *opinio juris* element.

2.2. The Karabakh Conflict and the Case of “Chiragov and Others v. Armenia”

For decades, the Armenian side attempted to justify the right to secession by claiming that the Armenians of Karabakh faced an “existential threat” [6, p. 77]. However, this argumentation was shattered by two fundamental facts:

- **Fact of Occupation:** The four resolutions of the UN Security Council adopted in 1993 (822, 853, 874, 884) confirmed the occupation of Azerbaijani territories and demanded the withdrawal of occupying forces. Under conditions of occupation, any “referendum” or “election” held is considered null and void under international law.

- **Decision of the ECtHR:** The judgment of the Grand Chamber of the European Court of Human Rights in the case of “Chiragov and Others v. Armenia” (2015) is of decisive importance. The Court unequivocally established that the Republic of Armenia exercised “effective control” over Nagorno-Karabakh and the surrounding districts [7, para. 186]. This legal fact exposed the narrative of “self-determination of the Karabakh people.” It became clear that there was no group demanding internal self-government, but rather military aggression by a neighboring state [11, p. 45].

According to the principle of *ex injuria jus non oritur* (law does not arise from injustice), a situation created through ethnic cleansing and occupation cannot serve as a basis for “remedial secession.”

3. THE VICTORY ACHIEVED UNDER THE LEADERSHIP OF PRESIDENT ILHAM ALIYEV AND THE RESTORATION OF LEGAL REALITY

The Victory achieved by the Republic of Azerbaijan in the 44-day Patriotic War (2020) and the local anti-terror measures carried out in September 2023 is not only a military-political event but also the restoration of the implementation mechanism of international law. Against the backdrop of the inactivity of the OSCE Minsk Group and the double standards of international law, the Azerbaijani state restored justice based on Article 51 of the UN Charter (right to self-defense).

This historic Victory, achieved under the leadership of the President of the Republic of Azerbaijan, Victorious Commander-in-Chief Ilham Aliyev, created a completely new political and legal configuration in the region [19, p. 5]. This new reality sent the issue of “status” to the archives once and for all and directed attention to the process of “reintegration.” As declared by the head of state, the rights of Armenian residents living in Karabakh are ensured within the framework of the Constitution of Azerbaijan and the international conventions to which the country is a party. This approach is the practical application of the thesis “local self-government as an alternative to separatism” advanced in this article.

The Great Return and reconstruction works initiated after the Victory actualize the role of local governance bodies in the process of restoring administration in the region. The topic of discussion is no longer some fictitious “independence,” but the formation of municipal institutions within the single legal space of Azerbaijan and the participation of citizens in this process.

4. ANALYSIS OF INTERNATIONAL EXPERIENCE: MODELS AND LESSONS

There are several classic models showing how local self-government or territorial auton-

omy resolves ethnic problems while preserving the territorial integrity of the state. A deep analysis of these models provides useful comparative legal material.

4.1. Aland Islands (Finland) – Demilitarization and Language Guarantees The Aland Islands model is a system formed by the decision of the League of Nations in 1921 that functions successfully to this day. Although the absolute majority of the population is Swedish, these islands, under Finnish sovereignty, were not annexed to Sweden. Instead, they were granted unparalleled rights of local governance.

According to the research of S.N. Pogodin and D.E. Lyubina, the main pillars of this model are [12, p. 88]:

- **Legislative Power:** The Aland Parliament (Lagting) has the authority to adopt laws in the fields of education, culture, healthcare, local transport, police, and postal services [12, p. 89].

- **Language Status:** Swedish is the sole official language in the region. The central government (Helsinki) must conduct correspondence with the Aland authorities in Swedish.

- **Regional Citizenship (Hembygdsrätt):** This is perhaps the most interesting mechanism. To buy land or own real estate in the Aland Islands, local “citizenship” (domicile status) is required. This status prevents the demographic composition of the local population from being altered by external interventions.

4.2. South Tyrol (Italy) – Financial Autonomy and Consociational Democracy

The South Tyrol (Bolzano) region in northern Italy, inhabited by a German-speaking population, experienced a serious wave of terrorism and separatism after World War II. However, the problem was resolved with the “Second Autonomy Statute” of 1972.

As noted in the “Autonomy Report South Tyrol 2025,” the secret to the model’s success lies in the economy. Approximately 90% of the taxes

collected in the region remain in the local budget [8, p. 15]. This immense financial resource allows local authorities to create high-quality infrastructure, education, and social services.

Another important element is the “Proporz” system. Public offices and budget funds are divided among the three language groups (German, Italian, Ladin) living in the region in proportion to their numbers. This system ensures that no group exercises hegemony over another.

4.3. Transnistria (Moldova) – Anatomy of Failure

The Transnistrian conflict in Moldova can be cited as a counter-example. As noted by Stefan Wolff, the problem here is not the absence of local governance, but the dominance of external factors (geopolitical interests) [18, p. 865]. Although the Moldovan government has offered broad status to Transnistria for years, the de facto regime (relying on external military support) has rejected this. Result: lack of legal recognition, economic isolation, a “grey zone,” and mass migration. This example proves that refusing peaceful integration within the framework of territorial integrity harms the people themselves [18, p. 867].

5. LOCAL SELF-GOVERNMENT AND STANDARDS OF THE VENICE COMMISSION

The European Commission for Democracy through Law (Venice Commission) of the Council of Europe views local self-government as a primary means of protecting the rights of national minorities. The Commission’s approach (Document CDL-PI(2022)049) is clear: the protection of national minorities should be implemented not through their isolation (territorial separation) but through their integration (participation in the general life of society) [14].

The European Charter of Local Self-Government (Article 3) defines local authorities as the right and the ability of local authorities “to

regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population” [1].

The Venice Commission recommends that:

- When defining the boundaries of electoral districts, territories where minorities live compactly should be taken into account (however, this does not apply to situations created as a result of “ethnic cleansing”).

- Advisory bodies should be established so that the voices of various groups are heard when local decisions are made.

The development of the municipal system in Azerbaijan serves to strengthen civil society. Holding municipal elections in the Karabakh region in the post-conflict period will ensure the participation of all citizens who will live there (regardless of ethnic affiliation) in local governance. This is the highest form of “internal self-determination.” If people participate in the management of their streets, schools, and parks, they no longer have a need for destructive ideologies like separatism.

CONCLUSION

The comprehensive analysis conducted, the provisions of the author’s dissertation and monograph, as well as the study of international experience, allow for the following final conclusions:

- **Paradigm Shift:** In the 21st century, sovereignty is transforming from an absolute and indivisible concept into a more flexible and participatory model. In this context, “self-determination” is no longer synonymous with “state creation” but is understood as “participation in governance.”

- **Legal Conclusion:** The doctrine of “remedial secession” has no normative basis in international law. The principle of the territorial integrity of states possesses superior force. Especially in cases involving the factor of occupation (the Karabakh example), any demand for unilateral secession is unlawful.

- **Institutional Solution:** The institution of local self-government is the most optimal mechanism ensuring the development of regions and ethnic groups while preserving the unitary structure of the state. The examples of Åland and South Tyrol show that strong local power weakens separatism and strengthens the state.

Proposals:

- It is expedient to increase the powers of local self-government bodies in the legislation of the Republic of Azerbaijan, particularly strengthening their role in resolving local socio-economic issues.

- When defending Azerbaijan's position in the international arena, the argument that "local self-government is a form of internal self-determination" should be used more actively. This presents the country not as a party "restricting rights," but as one "offering constructive solutions."

Thus, local self-government is not merely administrative management but also the guarantor of the state's political stability and territorial integrity.

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Hüquq fakültəsinin müəllimi

**YERLİ ÖZÜNÜİDARƏETMƏ: ÖZ MÜQƏDDƏRATINI TƏYİNƏTMƏ HÜQUQUNUN
HƏYATA KEÇİRİLMƏSİNDƏ ALTERNATİV PARADİQMA VƏ
BEYNƏLXALQ TƏCRÜBƏNİN HÜQUQİ-SİYASİ TƏHLİLİ**

XÜLASƏ

Təqdim olunan fundamental elmi məqalədə müasir beynəlxalq hüququn ən kəskin problemlərindən biri – xalqların öz müqəddəratını təyinetmə hüququ ilə dövlətlərin ərazi bütövlüyü prinsipi arasındakı kolliziya geniş təhlil edilir. Müəllif elmi dəlillərlə əsaslandırır ki, qloballaşan dünyada öz müqəddəratını təyinetmə hüququ avtomatik olaraq səs-sesiya (ayrılma) hüququnu ehtiva etmir. Məqalənin əsas elmi yeniliyi ondan ibarətdir ki, yerli özünüidarəetmə institutu öz müqəddəratını təyinetmənin "daxili aspekti" və ən optimal realizə forması kimi təqdim olunur. 44 günlük Vətən Müharibəsində Prezident İlham Əliyevin rəhbərliyi ilə qazanılan Zəfərin beynəlxalq hüququn bərpası baxımından rolu qiymətləndirilir. Aland adaları və Cənubi Tirol kimi uğurlu modellər, eləcə də Venesiya Komissiyasının rəyləri əsasında sübut olunur ki, demokratik yerli hakimiyyət separatizmin qarşısını alır. Həmçinin, "xilasedici ayrılma" (remedial secession) doktrinasının hüquqi əsassızlığı "Çiraqov Ermənistanına qarşı" işi kontekstində ifşa edilir.

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**МЕСТНОЕ САМОУПРАВЛЕНИЕ: АЛЬТЕРНАТИВНАЯ ПАРАДИГМА
В РЕАЛИЗАЦИИ ПРАВА НА САМООПРЕДЕЛЕНИЕ И ПОЛИТИКО-ПРАВОВОЙ
АНАЛИЗ МЕЖДУНАРОДНОГО ОПЫТА**

РЕЗЮМЕ

В представленной фундаментальной научной статье широко анализируется одна из наиболее острых проблем современного международного права – коллизия между правом народов на самоопределение и принципом территориальной целостности государств. Автор научно обосновывает, что в глобализирующемся мире право на самоопределение не влечет за собой автоматического права на сепессию (отделение). Основная научная новизна статьи заключается в том, что институт местного самоуправления представлен как «внутренний аспект» и наиболее оптимальная форма реализации самоопределения. В статье оценивается роль Победы, одержанной под руководством Президента Ильхама Алиева в 44-дневной Отечественной войне, в контексте восстановления международного права. На основе моделей Аландских островов и Южного Тироля, а также заключений Венецианской комиссии, доказывается, что демократическая местная власть предотвращает сепаратизм. Также разоблачается юридическая необоснованность доктрины «спасительного отделения» (remedial secession) в свете дела «Чирагов против Армении».

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