

Self-determination and territorial integrity

The principle of self-determination of peoples is part of the United Nations Charter (Article 1, § 2) and has enshrined the decolonization process. It is mentioned in the statement of one of the three purposes of the United Nations: « To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples and to take other appropriate measures to strengthen world peace » (Article 1). It also opens the International Covenant on Economic, Social and Cultural Rights (1966): « All peoples have the right to self-determination. By virtue of this right they freely determine their political status and freely pursue their economic, social and cultural development. » (art. 1). The United Nations Declaration on the Rights of Indigenous Peoples (2007) explicitly extends this right to indigenous peoples (art. 3). This collective right faces an intrinsic difficulty: the lack of definition of the people and therefore of the beneficiary of this right.

Moreover, there is a principle of territorial integrity of States, expressed in particular in the Charter of the United Nations, which requires States to respect it in others: « The Members of the United Nations shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations » (Art. 2, § 4). Moreover, under international law a State has three necessary characteristics: a territory, a population and a stable government. While decolonization was recognised as an opposable right by resolution 1514 of the General Assembly of December 14, 1960, separatist secession is considered to be an act of internal law of the State, because of the principle of territorial integrity inherent in sovereignty. The Charter of the United Nations (Art. 2, § 7) also recognises a principle of non-interference, with some partial and controlled exceptions in favour of peace and human rights. There is thus a tension between the principles of self-determination of peoples and territorial integrity. In practice, self-determination enjoys primacy in the context of decolonization; it is accepted internationally in the case of nationally agreed principles, but generally takes precedence over territorial integrity in the case of secession refused by the State. The international community, anxious to preserve the stability that guarantees peace, is reluctant to admit new States resulting from unilateral self-proclamations of independence. The right to self-determination of peoples does not therefore imply the right to independence. It is significant that resolution 1514 (XV) on decolonization proclaims self-determination in its article 2 but adds, in its article 6:

« Any attempt to destroy partially or totally the national unity and territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations.»

Resolution 2625 (XXV) of 24 October 1970 states: « The establishment of a sovereign and independent State, free association or integration with an independent State or the acquisition of any other political status freely determined by a people shall be a means for that people to exercise their right of self-determination », but states that this shall not be « interpreted as authorizing or encouraging any action which would dismember or threaten, totally or partially, the territorial integrity or political unity of any sovereign and independent State. »

Resolutions 1514 and 2625 did not, however, prevent the recognition of the independence of Eritrea (1993), the 6 federated republics of Yugoslavia and the 15 federated republics of the USSR, as well as Southern Sudan (2011). That of Kosovo (2008), on the other hand, has only been recognised by part of the international community. The same principles also led to the reunification of Vietnam (1975), Germany and Yemen (1990). This tension of rights is today at the heart of many conflicts, for example in South Cameroon, Papua New Guinea and the Chinese region (Tibet, Taiwan, Xijang, Hong Kong).

From the point of view of the promotion and protection of human rights, the following topics may be considered:

1. The tension between the self-determination of peoples and the territorial integrity of States does not only imply confronting the concepts of self-determination and territorial integrity but also clarifying the relationship between people and State. Can the social thought of the Church help political philosophy and international law in this matter?
2. From the point of view of the Christian faith, does the theory of just war retain a topicality likely to reduce or at least attenuate the tension between the self-determination of peoples and the territorial integrity of States?
3. The School of Salamanca, in the Order of Preachers, has supported, in practice and in theory, the dignity of indigenous persons and human communities. How can we work as heirs of this tradition with the aggiornamento opportuno due to historical developments?
4. When human rights are denied by a government to some of its compatriots, how can these rights be defended without clashing with national sovereignty and the territorial integrity it implies? What perhaps is the power of NGOs in this regard?
5. As this tension between rights is highly politicised, under what conditions is it possible to have an ethical action in favour of the human rights involved without being the victim of political instrumentalisation, either on the part of States or on the part of communities fighting for their self-determination? Is the peaceful nature of the means a relevant criterion?