



Self-determination of peoples - the West bends the law as it pleases

The population of Crimea joined Russia in February 2014; in April 2014, the populations of Donetsk and Lugansk declared independence; and in September 2022, Kherson, Zaporizhzhya, Donetsk, and Lugansk joined Russia after what the West called sham referendums. What basic principles of international law are clashing? Why did the West easily approve the secession of Kosovo and ridicule Russia on the same legal issue: Camp Bondsteel?

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Introduction

In connection with my research for an article concerning the Rand Corporation, which will be published soon, I came across a very interesting question.

Already in 2014, the West already qualified the annexation of Crimea and the declaration of independence of Donetsk and Lugansk in as illegal under international law and thus legally irrelevant.

I am not a scholar of international law and thus I cannot give a conclusive answer to this highly explosive question. Therefore, in this short article, I will limit myself to only asking questions and to point out that the West is making it too easy for itself with buzzwords such as "sham referendums" and "contrary to international law."

Voting results not challenged by Rand Corporation

In its 2019 report "Extending Russia," the U.S. think tank Rand Corporation makes interesting points.

The voting results in the September 2022 referenda were clear: according to the results published by the [Russian Central Election Commission](#) through its departments in the DPR and LPR, 99.23% (2,116,800 voters) in Donetsk and 98.42% (1,636,302 voters) in Luhansk supported annexation. Turnout was 97.51% (2,131,207 voters) and 94.15% (1,662,607 voters), respectively.

Naturally, the West again spoke of voting shenanigans and doubted the results. It called them sham referendums. This is not at all surprising in the current geopolitical situation, but to be expected.

The same was claimed regarding the 2014 votes in Crimea and Donbass, where over 90% of the population also approved the referenda. However, in the aforementioned 2019 report, the Rand Corporation did not question the 2014 results, which is a surprise in itself.

The best proof, however, that the results correctly reflect the mood of the population are the facts: Since 2014, there is no tension in these areas among the population: I personally was there before the war and I can confirm this after talking to residents - Russians and Ukrainians.

Thus, for the purpose of this paper, I do not question the results of the referenda in September 2022.

Right of self-determination of peoples

The right of peoples to self-determination is a fundamental right of international law. It is enshrined in the UN Charter and has been recognized under international treaty law since 1966 and thus applies universally.

The relevant Covenant on Economic, Social and Cultural Rights defines this concept as follows:

"a people [has] the right [...] freely to determine its political status, its form of state and government, and its economic, social, and cultural development."

Territorial integrity

The concept of territorial integrity is also enshrined in the UN Charter, Art. 2(4), and reads as follows:

"All members shall refrain in their inter-national relations from any threat or use of force against the territorial integrity or political independence of any State or otherwise inconsistent with the purposes of the United Nations."

Area of tension between the right of peoples to self-determination and the territorial integrity of states

Already in the 1970s, the renowned German international law scholar Karl Doehring dealt in detail with the tension between territorial integrity and the fundamental right of self-determination.

According to Doehring, the right of self-determination has the status of a right of self-defense when an ethnic group - in this case the Ukrainians of Russian origin - is discriminated against in a fundamental way: In this case, they are entitled to a right of secession. I refer to Doehring's theses on the occasion of a 1974 paper ([in German](#)).

The Göttingen professor Andreas Paulus (until 2022 judge at the Federal Constitutional Court) also saw it that way at an event of the German Bundestag on November 17, 2015.

"But if peoples could no longer exist free from discrimination in an existing system, then a legitimate reason would arise to leave the existing territorial state and establish a new state entity"

professor Andreas Paulus

Paulus went into detail about the competition between the principles of territorial integrity of states and the right of self-determination of peoples. The territorial secession of parts of a country would face high hurdles. Both in the history of international law and in current international security policy, territorial integrity and the inviolability of borders represent a very high legal asset for preventing or resolving interstate conflicts, Paulus said.

However, if peoples could no longer exist free of discrimination in an existing system, then a legitimate reason would arise to leave the previous territorial state and establish a new state entity; as a last resort, this had been allowed in the case of Kosovo in 2008. Paul made it clear that it was ultimately a question of reasonableness whether a region remained in a state union, and that a weighing of each individual case was required.", [said Paulus \(source in German\)](#).

Kosovo - Yes! - Crimea, Kherson, Zaporizhzhya, Donetsk and Lugansk - No!

In the case of discrimination against the Kosovo Albanians, the case-by-case assessment led to secession being advocated by the West. In this case, the emergency right of a discriminated ethnic group was upheld.

To what extent were and are the ethnic Russians in Ukraine discriminated against? Here I did not rely on Russian sources, but on a source of the EU Parliament from 2018. There you can find the following [statement of facts](#):

In September 2018, the Lviv City Council had banned the public performance of works in Russian. The ban affected, among other things, films, songs, books, plays and concerts in Russian. Earlier, Ukraine had banned about 40 medicines from Russia or with Russian PILs and labels.

A no less serious case of discrimination was reported from eastern Ukraine: There, according to media reports, the Donetsk city government wants to revoke the status of Russian as an official regional language.

There is no evidence of such discrimination against the Kosovo Albanians by the Serbs; rather, the Kosovo Albanians have had a degree of autonomy as a Serbian constituent republic since Tito. Nevertheless, the secession of the Kosovo Albanians was supported - also by Switzerland - and Kosovo was recognized.



Camp Bondsteel, Kosovo
Source: Wikipedia

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