



## حق تقرير المصير في ظل المتغيرات الدولية الراهنة المرجعية والمحفزات

أ.د. أزهار عبد الله حسن

جامعة كركوك/ كلية القانون والعلوم السياسية

The right to self-determination in light of the current international variables of reference and incentives

Mr. Dr. Flowers Abdullah Hassan

Kirkuk University/College of Law and Political Science

**المستخلص:** يمثل حق تقرير المصير احد اهم حقوق الانسان الجماعية التي لا يجوز تعديها، اذ لا يمكن المطالبة بحقوق الانسان الاخرى في إطار امة او شعب فاقد لحقه في تقرير المصير، فالتطبيق السليم له يجسد مبدأ الحرية والعدالة للفرد والامة ويحقق السلام بكل صوره، لكن في ظل المتغيرات الدولية التي شهدتها العالم منذ تسعينيات القرن الماضي ومحفزاتها الداعمة ظهر جدال واسع حول المعايير التي يتحدد وفقها نطاق الحق والمشمولين به من جهة، كما ان مسألة تطبيقه التي ارتبطت منذ ظهوره بفكرة الوحدة وشكلت أساسا لبناء الدولة القومية الموحدة، اخذت تستخدم من جهة اخرى كشعار لتسوية نزعة التفكك والتقسيم للدول وتحويلها إلى دويلات مصطنعة غير قادرة على التحكم في مصيرها، وبهذا الشكل تحولت دعوات الجماعات العرقية والقومية والتدخلات الخارجية للدول الكبرى والاقليمية هي المرجعية الاساس لحق تقرير المصير بمفهومه المعاصر . **الكلمات المفتاحية:** (تقرير المصير، المتغيرات الدولية، المحفزات).

### Abstract

Self-Determination is one of important collective human rights that should not be violated or exceeded, Human rights cannot be reclaimed within a nation or people whom have already lost their right of self-determination. The correct application of self-determination represents the principle of freedom and justice for the individuals and the nation, and achieves peace with all its forms. However, within the

changes the world had witnessed in the nineties of last century along with its supporting incentives, a wide-ranged argument appeared concerning the criteria based on which the range and beneficiaries of self-determination are designated. On the other hand, the application of self-determination, which was related to the idea of unity and constructed a foundation to build the united nationalist country ever since its appearance, was used as a slogan to justify the tendency of disintegration and partition for the countries and transform it to artificial smaller states that are unable to control their own destiny. Thereby, the callings of the racial and nationalist groups have been changed, and the interference of major outer and neighboring countries became the main reference to the right of self-determination in its modern concept.

**Keywords:** (Self-Determination, International Variables, Incentives)

### Introduction

The world had witnessed a series of global changes on different social, economic, and psychological levels in the early twentieth century. This forced people to demand their rights and change of their situation with all possibilities. Some Countries, with all its nature and all internal-races, religious, and sectarian components, deliberately melt their variations in order to keep their own existing political system entity as well as attaining the right of self-determination by independence from the colonizer and choose their own political system and constitution. This is done in accordance with the appropriate principles and references considering their commitment to the international agreements without any force or foreign interference. However, the



modern international variables that followed the Soviet Union's collapse and Yugoslavia in the early nineties have resulted to the expansion of self-determination concept. This was done through granting this right to the ethnic-groups and nationalities that have fought against their own countries in a way that led to a separation of many of them and emergence of new states. This modern concept was considered one principle of the international law which implied obligations on the global community and enforced individual and collective procedures in collaboration with the international organization to accept it as a right for the communities under some states' supremacy. Those states have deprived their communities from practicing their manifestations of supremacy on their own province generally and self-determination particularly. From the aforementioned stems the importance of the research which focuses on the topic of self-determination with its modern concept and handling it from a political and legal perspectives. It also focuses on the support of the right from some western countries which hired it to serve their own goals and interests due to the consideration of self-determination as one factor of international stability, and keeping global peace and security.

The problem is that self-determination is a collective international right that was issued by the international charters and declarations for people and nations under the yoke of the colonial authority for long periods of time. However, the transformations of the international system in early 1990's have changed it to nationalist right of self-determination. This contributed to an increase of the callings to separation under the slogan of self-determination, especially it

coincided with incentives. Some of them are the interests of the major powers to subjugate the countries that cross with their interests and goals without considering the provincial safety determinant, political unity, or the determinant of human rights declaration.

The research stems from a hypothesis that says, the global changes the world had witnessed in the nineties reflected in a way or another upon self-determination and its practices that was susceptible to amendment and processing. This gave it new definition and indications represented in the nationalist self-determination which entered the countries in an era of infinite segregations. This happened by supporting and urging many minorities and ethnic groups to demand their rights of self-determination from their central governments. This made the issue of dividing and dismemberment of many countries is possible.

Therefore, the goals of this research can be summarized as follows:

- To indicate the beginnings of self-determination and its references in the international declarations and charters.
- To indicate showing the incentives (supportive and obstructive incentives) of self-determination, to human communities as a whole.
- To enrich the local libraries with the resources of self-determination.

The historical curriculum research has adopted in a reference study the right of self-determination in the international declarations and charters. Also, it was adopted in the analysis of dimensions of different



cases for the topic of self-determination, its roots, and evolution. Also, the analytic predictive curriculum has been adopted in monitoring the issues regarding the concept of modern destiny and its supportive and obstructive incentives.

In order to be fully aware of the broad and complicated topic of the research, we envisaged to divide it into two chapters. The first one was about the reference of self-determination in the global declarations and charters. The first chapter included two sections; the first section included the beginnings of self-determination and its aspects. The second included the reference of self-determination in the charters of the United Nations. The second chapter was about the incentives of self-determination within the current global variations, which included two sections. The first one included the supportive incentives of self-determinations and the second included the obstructive ones. Then conclusion .

## **Chapter one**

### **The Reference of Self-Determination in the Global Charters and Declarations**

Self-determination has been through a tragic hardship and pain, and it was subjected to several explanations and interpretations. Those started to deepen figuratively and literally on a global relations level, as well as international law, in early days of last century. Since then, the anti-colonization and dependency movements were born, and they were aiming for independency and self-determination across third-world countries. Thereby, it was designated as a legal right related to the country's supremacy that the global community who admitted the

idea of supremacy of people decided to admit the right of self-determination for all people later. This indicates the deep relationship between self-determination and supremacy. However, the recent radical changes in the last decade of last century, which can be represented in many aspects such as the collapse of bipolar system, duplication of social evolution (capitalist and socialist), and the instability of the country and its outer political attitudes, have led to changes in the nature and content of global policy. Those can be detected through the recession of Ideological conflicts between capitalism and socialism. This is what paved the way to the dominance of the new liberal mottos and interference policy, which overshadowed self-determination to become in the lead of the issues that have witnessed a change or a modern interpretation. As a result, it was enforced upon all nations (dependent on independent).

#### **Section one: Beginnings of Self-Determination and its Aspects:**

The term self-determination is not modern or promptly born. It remained for a while as a non-obligatory political principle, However, the French revolution was the first to announce a decree in November 19, 1789 which implicitly admitted this right when the National Assembly of France pointed out that “they will give aid to all people whom are willing to reclaim their own freedom”( Khalaf,1986). The assembly was also ready to protect people who would have been harmed should they persevere for freedom, They were based that to the liberal ideas which were pointed out by many philosophers the European renaissance era such as (Montesquieu, Jean-Jacques



Rousseau, and John Locke) and others(Jenny,2016), This is how self-determination started.

The colonial policies, which were practiced by European countries then, were the reasons of that due to the political, economic, and legal dominance on the global community. They were applying the terms of international law from their point of view in order to legalize their colonial schemes in distributing the discovered key-regions, and enforce their dominance on the colonies(Abdulrahman,2006). However, this right has taken its way to devotion with the announcement of the fourteen principles of Woodrow Wilson, US President .Those were announce in his speech to the congress in 4<sup>th</sup> of July, 1918, which says: “It is inevitably imperative to care about the populations’ interests and desires when deciding about supremacy and territories dependency” (Ahmed,1968). The peace announcement for the Soviet Union after October revolution in 1917 has also approved self-determination for all people under Russian empire. Vladimir Lenin, Russian President pointed out to it in his announcement in 1920 about liberation movements in colonies. That came from ideological considerations saying “socialism should achieve the perfect democracy, and the right of oppressed nations to determine their destiny, i.e. their right of political separation (self-determination” ( Masoud,2007).

The aforementioned principles and announcements were considered advanced attitudes to cure the situations of people and nations captivated by the colonial dominance then. It also founded a global stream rejecting colonization and dependency, and adhering to independence and self-determination especially after the failure of the

major countries to actually interpret their commitments to the principle of self-determination as it came in its theoretical aspect( Abdul Ghani,2002)

After World War I, the interest of self-determination has risen by people. However, the covenant of the League of Nations did not mention that explicitly, but pointed implicitly through mentioning the mandate system. This has been confirmed by the special legal committee which was founded by the league in 1920 after a conflict between Sweden and Finland about Aland Island. The committee considered that “Self-determination is an important part of the modern political school of thought, but it was not mentioned in the covenant of the league. Therefore, it is not a rule of the positive international law”( Mohammed, 2016) (Salah Aldeen, 1987). Thus, the limited practicing of this concept was not in the level that enables it to evolve to a degree of considering it an international positive law.

The evolutions of conditions and situation since World War II have cemented the existence of it as one of the commanding rules of the international law in the Atlantic speech of the American president Franklin Delano Roosevelt, US President and the prime minister Winston Leonard Spencer Churchill in August 14, 1914, They have announced that “The two countries respect the right of all people to select the shape of the government under which people are living, and they wish to see the rights of supremacy and self-governance are returned to whom have been forcefully deprived from them”( Masoud,2007). It was found also in all the statements issued afterwards such as the statements of United Nations 1942, Russia





1943, Dumbarton Oaks conference 1944, and Yalta conference 1945. Finally, came the conference of San Francisco which approved the charter of the United Nations in 1945, which in total formed the beginnings that settled the self-determination as an obligatory legal right (Abdulrahman, 2006). However, the application of this principle only limited to Europeans because it was not of the colonial European countries interest to apply it on the colonies of Africa and Asia.

In light of what's preceded, we find that self-determination was related historically to the countries' presidents more than people, and taken its legitimacy from religious, Ideological, and other considerations of interest not from Democratic or nationalist considerations. Thus, it had an important role in peace treaties after the World War I in 1919. It had no legal content and did not gain an obligatory legal foundation in the international law as it is considered as an ethical and political theory except after the World War II where it was placed as a legal principle in the general international law. This contributed in the evolution of the nature of self-determination. It also granted people their rights, and set obligations of a global nature upon the countries to represent, thereby, the formation of a collective and general global right simultaneously with interior and exterior appearance (Wael, 2001).

**1-Interior Appearance:** It is meant to be as the right of people to choose freely their own regime, and to proceed on social, economic, and cultural developing in the way that is suitable for them with no external interference. It is the right of the majority within the political unit according to the principles of international law in practicing the authority and forming the shape of the power in a way that suits that

majority. However, it does not guarantee self-determination; the minority have no right of determination or even protest it to demand separation from the original country. What the international law sets is that their rights have to be preserved by commitment of the majority of people to choose an internal system of governance which suits the interests of majority. This is applicable to the case of South Africa, for instance, where the black majority was able to establish a democratic state and end the regime of discrimination by the white minority in 1994. Thereby, people who are missing the democratic governance would have the right of self-determination and freedom in a similar way as they free themselves from colonial authority(Mohammed,2004).

2-Exterior Appearance: it means the aspiration to form an independent country similar to other countries, and the global community as a whole. This requires certain commitments from the countries' side to support and move the people's aspirations forwards to reach independence(Maya,2006). Or it means specifying the global situation for the state and the people through gaining or maintaining independence, or through combining the political unit with other unit or units within one of the combinations approved by the international law. Exterior appearance gives the political unit the right to follow the path of their choice in terms of their external relations with no external interference from people or other political units. They have the choice of establishing or withdrawing from the organizations and international bodies with due respect from the countries to their independence and supremacy.



Generally, the precise contemplation in the content of the two appearances of self-determination indicates not only dealing with two different rights, but the same right at first. It also indicates that there are no differences in the opinions about the physical content of them when discussing the right for people of self-determination and development of within the independent country as well as the legal basis that was used (Maya, 2006). Everyone agrees on the elements and aspects that form self-determination, which they are sometimes explained according to the criterion of different interests of the countries, The range of application of self-determination was limited to the people under the guardianship, and have no self-governance, i.e. people who are still dependent (Syed Ibrahim, 2012). However, the events in the global community since the early nineties of last century, and the emergence of freedom movements as well as religious and ethnic groups whom had wars against their governments have contributed to the expansion of the range of its applications (Husseini, 2005).

### **Section two: Self-determination in the United Nations Charter**

The actual designation of self-determination was in the United Nations' charter in 1945, specifically in Chapter article/2 which included "developing the friendship between nations on the basis of respect of equality principle between the nations, self-determination, and taking different arrangements in order to establish global peace". Chapt9/Article 55 said that "the desire of preparing the means of stability and prosperity which are necessary for peaceful friendly relations between the nations based on the principle of equality in rights

between nations, and that each of them has to have the right of self-determination”( Charter of the United Nations).

Thus, the charter was one of the initial sources of the international law as it was adopted by the United Nations in many decisions. One important decision was no.1415 in December 14, 1960 (decision of decolonization)( Khalil,1991). Article/2 said that “all people have the right of self-determination, and thereby has the right to designate their own political system freely. They also have the right to aspire to achieve their economic, social, and cultural growth accordingly”. Therefore, the committee of decolonization was established(Salahuldeen,2002). In 1986 the general assembly repeated confirmation of many of these items in their announcement about the right of development “all countries have to take decisive steps to eliminate the massive arrangements and violations of human rights, people who are affected by the cases of apartheid, and other forms of discrimination, colonization, foreign domination and occupation, aggression, and foreign interference. They also have the right to reject threats against their sovereignty, national unity, regional safety, war threats, and admitting the standard right of people to self-determination”( Father,2000). A good number of global agreements which referred to self-determination in their terms and stressed on its legal compulsory in their provisions. For example:

- a- The international bill for political and civil rights in 1966, which explicitly pointed in article/1 to: “all people have the right of self-determination and have by that the right to decide freely their



own political situation, and to freely aspire to economic, social, and cultural development”( Bushra,2009).

b– The international bill for economic, social, and cultural rights in 1966, which has the same legal obligation. Article/1 refers to the right of self–determination within the context of people’s supremacy on their own economic empowerment, and cultural heritage as well as political independence as follows(Othman,2014):

- All people have the right of self–determination, according to this right, to decide freely their political center, and the freedom to monitor the economic, social, and cultural development.
- All people, and in order to achieve their own aspirations, can act freely with their wealth and natural resources without disturbing any of their commitments to the international economic cooperation, based on the mutual advantage and international law. It is not allowed in any way that a certain nation is to be deprived from their own living means.
- All countries and parts of this covenant, including the management of the regions that have no self–governance as well as the regions under guardianship, to sustain the work of self–determination, and respect this right according to what was mentioned in the provision of the charter of the United Nations.

c– The selective protocol for the civil and political bill issued in 1977 which included an executive mechanism to monitor this right, reviewing the countries regarding it, and confirming its authenticity of execution and respect of its principles.

- d- The other international procedures which was referred to by the charter of the United Nations regarding accelerating the in self-determination of the colonized people. One of those procedures is the “trusteeship System”, which has been affirmed by the charter on its liberal principles and its structured council as well as the direct interference from the United Nations to end the occupation and grand the colonized people their independence.
- e- In addition to these international initiator agreements, there is plenty of other regional agreements that adopted it as well such as: Helsinki agreement for European countries in 1975 which assured the European borders on one hand, and the necessity to admit the right of self-determination as well as helping to apply it on the other hand. Also, the Cairo announcement for human rights in Islam in 1995, the African charter for people and human rights in 1981, and the Arabic charter for human rights in 2004(Othman,2018)
- f- From the above comes clear the importance of self-determination which was demonstrated in those several formulations and guarantees that considered this right as a basic principle on the international relations and modern law level. Therefore, it becomes a legal right that is related to the supremacy of the country, and one rule of the precepts of international law which regulates the peaceful relation of the countries. Also, it should be taken to consideration in order to achieve the principle of social and nationalist liberation for all people with no exceptions or discrimination on the bases of



race, color, fortune, or national origin with maintaining the global peace(Roza,1983).

However, in the early nineties, self-determination had witnessed deviations and violations, and became under different politicized explanations stemmed from the geo-political interests. AS a result, a new concept emerged which represented in the concept of nationalist self-determination. This emerged after demanding of some minorities to independence or separation from the central country. This modern jurisprudence considered self-determination a corollary right according to the equality rule and with no discrimination. It is also the basis to reach complete independence although it is considered to some people as just a form or a mean with which the larger states can be crushed into smaller. The goal for them is to be controlled through the racial and sectarian conflicts. It happened, for example, in Othman empire when the calling for Arabic nationalism broke out to crush it. It also happened in the nineties period in which some nationalities were separated from their main states due to internal issues resulted in racial and religious conflicts as well as inherited oppressions. In addition, it resulted in outsider interferences from the western countries, As what happened in the Soviet Union when Estonia, Latvia, Lithuania became independent, and Yugoslavia was divided into seven countries: Serbia, Croatia, Bosnia Herzegovina, Macedonia, Slovenia, republic of Montenegro, and Kosovo. Czechoslovakia was divided into two nationalist countries (Czech, and Slavic). In addition, Tatar Stan was separated from Russia in 1990. Famous Application of self-determination in Africa was the independence of Eritrea from Ethiopia in 1993. In Asia, East Timor was

declared independent from Indonesia in 1999. It is worth to point out that there are some other cases in which the referendum of self-determination was delayed to long period of time up to date such as the Western Sahara, Catalonia province, Bask... etc.

This prompted the French thinker Pascal Boniface in 1999 to put the international deployment (the multitude of countries and increasing it) in the priorities of dangers that threaten the world today more than nuclear deployment(Alsayed,2001). Based on that, the tendency of separation within the borders of the central country and among its nationalist and tribal components started to spread in different regions around the world. This will lead to the disappearance of signs of the central country which comprised the political unity for the international system since the nineteenth century. This was after the racial and nationalist groups, major countries, and their own interests became the main reference to calls for separation and self-determination under the shade of international charters and declaration (Charter of United Nations) which has been adapted in a way or another to serve their own strategic trends in fragmentation of the current states and weaken and subjugate them to their domination.

## **Chapter Two**

### **Incentives of Self-Determination and its Implications**

Through this chapter, we will take the highlight of supportive and obstructive incentives of self-determination and its contents in an objective, scientific and accurate manner without subjectivity as follows:

**First: Supportive incentives:** which are follows:





1- The lack of agreement on a certain preventive and collective definition for self-determination and the beneficiaries (Father, 2000- Mohammed, 1971). Also, the difficulty of defining the people and nations, and the variation of its content and substance made its concept flexible so to speak. It also made every national group work to hire this concept for their own interests, The claim is that what they do works for their own right of self-determination. This naturally represents one of the important supportive incentives, Dependent people were struggling to oust the foreign colonization and earn their right of self-determination. The modern concept of this right was used to be applicable on the minorities that are under oppression, turmoil, or discrimination of the controlling group or country. This made the independent nations in Asia, Africa, Latin America struggle to oust dictatorship, suppression, counterfeiting people's will through unfair and non-free elections (Hosney, 1993). Self-determination is considered not limited on dependent people of the world but applicable to all people (dependent and independent).

Thereby, self-determination became not only applicable to nations and people that were forced to comply with foreign colonization in the stage of colonial tide or forceful placement within the schemes of global interests, but also for all people who reject subjection and who desire to keep their own identity and national personality. It is also applicable to nations that are striving to reclaim their independence which they had under any form they desire. It is not necessary for self-determination to

mean separation or independence as much as an impersonation, literally, to the right of living and cultural improvement for distinctive national groups as well as controlling their destinies under the shadow of justice and equality(Lorie M.,2000). It is known that every national group has its own circumstances. Some have their demands limited to a confession of their cultural, religious and lingual rights through self-governance of the central (Federal) union as a median solution between the country, which is trying to remain united and rejects the separation demands, and the region or people who want to be separated or completely independent. Such cases are located now in Catalonia and western desert. On the other hand, others prefer to remain under the supremacy of the country which is controlling them by their own free will such as Quebec province in Canada and Bask region in Spain.

Thus, the demands of self-determination have to be equally considered. All human rights including self-determination are comprehensive in scope. The unjust application of this principle might impact the regional safety for the opponents, not mentioning the system of international law itself. Therefore, committing to the principles of equality in rights and self-determination for people of origin will not lead to political stability. It will rather lead to instability of the regional union, which is always considered a justification for not responding to these demands(Lorie M.,2000).

- 2- The violation of rights and general freedom for minorities, and preventing them from having their own civil, political, and



cultural rights as well as what comes along of forceful placement or accommodation within the dominant culture are considered incentive motivations to demand self-determination. Similarly, the intolerance of variation and multi-identity in the absence of democracy and the means of cooperation and communication, the systematic or structural discrimination specifically in some aspects of education, and preventing certain national groups from speaking their tongue in the governmental schools and facilities as well as not accepting it as a second language are all considered incentive motivations for self-determination as well. This occurs as a form of curative segregation for a certain national group that was prevented from practicing their own right in determining the internal destiny. That can be in the form of grave violation of their rights and basic freedom, and preventing them from participating in lawmaking on a national level and in their private subjects and issues under no possible settlement with the central authority. Although some denies the right of independence from any part of the provincial lands for the country if it is democratic. However, this is considered unacceptable because self-determination requires that people should remain free, i.e. capable to make decisions regarding their political situation, and to develop their economic, social, and cultural capabilities. In case of incapability, they will not be free (Josep, 2017).

- 3- Options of people and their right of change, establishing a civilized modern country which is based on democracy,

multilateralism, credible elections, and transfer of power are considered supportive incentives for self-determination. Thereby, any type of alterations from this right is considered as a further denying for peoples' right and their will of change and selection. Here, we point at the experiment separation of Quebec region from Canada, which represented the sample of the rational balance between the right, and variations and unity of the Canadian political state.

- 4- The factor of support and outer assistance of all its forms for the demands of ethnic and national groups is considered as one of many important incentives, if not the most important one, to increase the attitudes towards separation in different regions of the world. The success of separation attempts is correlated with outer interferences (of major countries, and/or the neighboring regional countries) which is guided by many reasons and motives related to a combination of interests: geo-strategic, economic, or security ones... etc. Examples of this are several. The external support that Kosovo region had can be counted the most important reason for independence which occurred in 2008.
- 5- The factor of informational and technological development is one of the key supportive incentives to separation and disintegration in the world. The success of a separatist experience in a certain country, and the transmission through social media will encourage the trends of separation for national and ethnic groups that live through similar experiences in different countries



around the world. The technological evolution in the means of contacting and communication contributes to enhance the communication between different ethnic and national groups in parts of the world. It also contributes in adapting those nations to serve and support their demands and spread their separatist callings to gain the global public opinion and nation league's sympathy. Perhaps what Catalonia had witnessed in 2017 of events for independence from Spain, and Kosovo region in 2008 was not far from the decisive impact for technical revolution and their media and propaganda roles in distributing and spreading both events for example.

### **Second: Inhibiting Incentives**

Restrictive incentives are thought of as the factors that restrict or limit the demands of people of self-determination, and thereby preventing the application of them. It is represented with:

- 1- The regional safety and political unity for the country: Although self-determination has the priority, granting it to whomever of people will impact the regional safety of the countries with supremacy as well as the global stability and security. In the United Nations' legislation of (the announcement of principles of the international law related to the friendly relationships and cooperation between the countries ...) in October 24, 1970 number 2625 article /7. The article is related to (the principle of equality for people in their rights and the right to decide its destiny by itself). It says that "nothing can be interpreted of the aforementioned items that it permits any action or encourages

any action that tears, or partially or completely disrupts regional safety or political peace for independent countries of sovereignty; countries that are committed in their acts to equality of people in the rights and their right to determine their destiny by themselves. And, thereby, they would have a government that represents all the people of the region (state) with no discrimination of race, belief, or color”( Declaration on Principles of International Law)

Regarding the risk of responding to the increasing number of self-determination, we point to what has come up in the plan of peace in the United Nations 1995 that “if a certain ethnic, religious, linguistic group demanded its own country, then segregation would have no limits, and then peace, security, and economic prosperity stages further aspiration”. Thus, the practicing of the internal self-determination by the independent countries through the participation of all people on the regional and national level according to the principle of equality with no discrimination deserves a protection of their regional safety by the international law. Thus, the international empathy along with the demand of separation and the interference of some countries, by encouraging some nationalist groups in another country to deliberately separate, are considered violation of the regional safety, disruption of the stability, and tearing off the political unity of the country. Especially, if we know that the regional territories of countries in general are considered a matter of disagreement and a continuous source for political discontent since the establishment of the countries.



- 2- Right protection and basic freedom for categories and national groups in countries: this international covenant of the civil and political rights had implied a commitment upon the countries with a guarantee of all the rights mentioned for all individuals in the region of the country and under its loyalty without any discrimination of race, color, gender, religion, or political opinion. Therefore, the presence of a representative government for the whole people, and based on equality and justice with no discrimination or segregation, is considered one of distinctive inhibiting incentives that results to prevention of demanding self-determination. Article/1 of Item/5 of the covenant said that there is no “provision that can be interpreted in a way that benefit retirement to any right for any country, group, a person to initiate an activity, or conducting any work that aims for wasting any of the rights or freedom admitted in the covenant or even enforcing any restrictions on them in it”. From this prospective, the commitment of the countries to self-determination is reflected in their actions that adhere to equality of their people in rights and self-determination with no discrimination of race, color, or religion. This, in turn, makes them a sight of respect by the residence groups, and rationally prevents the demands of self-determination of any group inside those countries according to the self-determination right.
- 3- The practice of self-determination right is restricted historically by many issues. They can be considered as inhibiting incentives. Such issues are: the competition of the major

countries on one hand, and other issues regarding the possible economic and political powers for the new countries on the other hand. In addition, there is that comprehensive target of maintaining the stability and the system through maintaining the current regional arrangements whenever it is possible(Hurst,1998).

- 4- Human rights in total can be an inhibiting to self-determination. Although it can provide a power on which we can lean towards in analyzing the groups of race or sect demands in self-determination, the lower limit of the groups of human rights must be specified and how it is harmonized with the criterion of self-determination in light of its international reference (Atlantic charter, Project of Declaration of Human Rights in 1943, Universal Declaration of Human Rights in 1948...)such that it must be the basis on which the demands and callings for separation can be established. That should be in light of the range of violation of the central government to the basic human rights and what is relevant to the rights of their people who are demanding self-determination(Edward A,1991).

### **Conclusion and Recommendations**

Self-determination is considered as a right which the humanitarian values, geographical and cultural facts, historic input, and global and regional evolutions support. This is because it is one of the international principles that is mandatory and must be respected. It is applicable for all nations with no exception, Therefore, the research concluded the following results:





- Self-determination is considered as a basic right of the collective human rights, which is what all the global charters and United Nations' decisions implied. Those have judged for equality of rights among people, and each of them would have the right to decide his destiny, and choose his lifestyle and system without any restrictions enforced by any external force.
- Self-determination was dedicated in the international relations after World War I, especially after the statement of fourteen points by the American president Woodrow Wilson. Then, it was confirmed in the United Nations' charter in 1945 as a basic principle and mandatory legal right. It also contributed to the liberation of many countries around the world from colonization, and establishing global organizations and forums that announced their rejection to all the forms of modern colonization.
- The changes in the nineties era of the last century have led to a sharp turn in the applications and content of self-determination, which is what represented in the emergence of the national self-determination. It grants the nationalities and ethnic groups the right of self-determination from the point that it is a right for minorities who were under violation and discrimination from the group that controls the authority in the countries. Those minorities have found in self-determination a legal right, a salvation, and an only option for their problems and issues in their countries historically. As a result, they have aspired to earn that right through political pressure backed by regional or major global powers with interests. They resorted to that option in

order to achieve their own demands of independence and the independence of Kosovo is a known evidence.

- Self-determination isn't mean an admission of the right of separation for the national group from the mother country on the basis that it has a certain language, religion, nationality. So, it is not necessarily to all the action states of self-determination to end in separation. Those national and cultural privacies can be respected by the central authority that can hire them to establish a federal system.
- Self-determination is an inseparable or dividable right, despite its forms and appearances: the external which is represented in the nations under foreign colonization to have their right of self-determination. This can be in the form of total independence and internal independence. Internal independence is represented in the right of the different groups, culturally and nationally within their country, have the right of self-determination. However, it does not guarantee separation based on having a certain religion or nationality.

**Recommendations:**

- It is necessary for the United Nations as an international organization to construct an apparent and explicit definition without confusion and ambiguity based on a constitutional statement. Such statement is agreed-upon internationally for self-determination with specification of categories of countries and national and ethnic groups that have the right to practicing it and enjoying it. It is not rational to grant and practice any right



that is non-agreed upon internationally. Also, it has to be adapted with the international variables such that it doesn't disrupt its core and content naturally, especially under the globalization and the development of communication technologies and international economy in a different way from what it was in the mid twentieth century. It is like principles of supremacy, independence, international economic law, and human rights ... etc.

- It is necessary for the international community to take an opposition attitude towards the one-sided separation cases, which can affectively create an adverse tension in the global relations. Also, it is necessary not to give an international legal legitimacy upon the callings of some national, religious, and ethnic separate groups as it will open the gate wide to unclear and different or even undisciplined explanations for the legal right of self-determination. In addition, it will make it applicable to ethnic and religious groups demanding the right of self-determination of their regions of living and off the mother countries. As a result, it will increase the number of the international units. On the other hand, it will also aggravate the fights and internal conflicts inside the countries, especially those whom their population is based on a multi-racial or multi-religion relations and bonds. This will create dangerous internal consequences. This will open space for regional and international countries of different interests. As a result, they will be able to invest those interests to interfere in the internal affairs

of the countries, to press them, and violate its national supremacy. This is done through agitating racism, sectarianism trends reaching to the demolishing of the country itself. Also, it will composed a grave threat for firm and settled-upon principles like national supremacy, and non-interference of other countries' matters. Those are considered as a safety valve to achieve balance and stability in the global society as a whole.

- It is vital to specify the right of self-determination as a legal right with a set of terms and conditions supported by constitutional scripts for the issue of applying it. It is impossible to consider it as an absolute right that people can apply with absolute freedom because it will lead a global chaos. Applying such a right in the mid twenty century was based on a united nation's decision which was formed originally for the people under colonization to gain independence and supremacy. This concept was legislated by the international law and plied by the international organizations especially the United Nations based on the decision 1415 in 1960. As a result, it should not be applicable afterwards on regions inside the country that gained its independence as it will open room continuously for the segregations threatening the unity of the country. On the other hand, practicing it is complicated when it comes to ethnic or sectarian groups.
- It is necessary for the countries to treat their various components in justice and equality, and to consider the rights of minorities and ethnic groups effectively and seriously. So, the



countries have to take in consideration the variety in rights so that it would become an element of strength not division. This will eventually prevent the demands of separation from these groups.

- Taking benefit from people's experiences and countries which was involving the right of self-determination as well as taking examples and models from it is considered necessary. This is because not all referendums end in independence which contracts with fundamental principles in the international law such as (regional safety, political unity, and supremacy). Consequently, the act of self-determination for any national group would mean inducing a state of global chaos and instability especially because most of the countries around the world live in a state of coexistence among different ethnic and religious groups.
- Avoiding the selective attitude for the concept of self-determination as it will encourage some ethnic or religious groups, by an external support, to demand self-determination against the unity of the countries with a structure of a sectarian cultural and racial majority. This will not only demolish the political unity for the countries and segregate it into several smaller states based on the number of the religious sects and ethnic minorities, but also it will destroy the complete frame of the continent. Asia and Africa are examples of such case as they contain many ethnic, religious, and sectarian communities.

- The issue of independence according to the right of self-determination is considered as one of the solutions in case of tyranny and oppression against a certain community and it can be proposed as a final option. This, however, has to follow certain conditions: The oppression and injustice has reached a high level of danger in violation of human rights especially in the disappearance of the local and international alternatives. Others are related to the constitutional and legal mechanisms that is agreed-upon with other national and regional communities. Even if their existence is not voluntary with other communities, their independence should be based on an agreement with everyone.
- The national communities demanding independence should consider their political and economic capabilities. They should also consider other issues related to settlement of assets and national and private funds with the central authority, which is eligible to practice such a right. Those issues contribute in creating many problems more than solutions to the national and other groups within the country.

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