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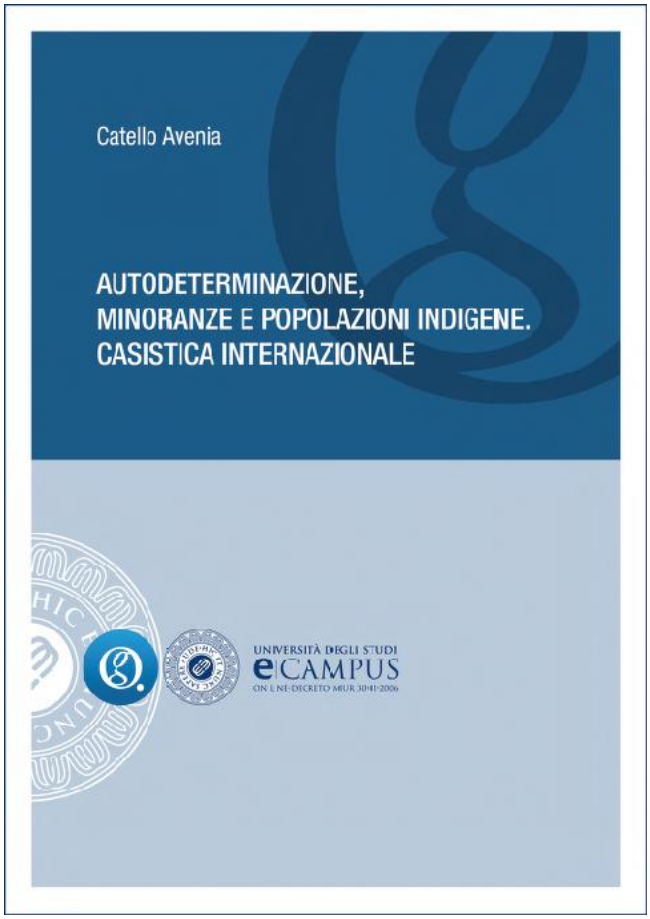


Although it isn't a subject of international law, the people - as interpreted by the UNESCO Conference in Paris - is the beneficiary and recipient of the principle of self-determination while the State is the owner. On this level fights, with unequal weapons, a multi-articulated, invasive and pervasive subject, exclusive holder of the use of force (the State) and a multitude of men, united to defend their basic rights, first of all the identity and differentiation (the people). The UN Charter does not give explicitly mention to the principle in question, but restricts the grant to protect territorial integrity. Article 55 of the UN Charter says that: "*With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:*
*a. higher standards of living, full employment, and conditions of economic and social progress and development;*
*b. solutions of international economic, social, health, and related problems; and international cultural and educational co- operation; and*
*c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion*".
The United Nations has developed the principle of self-determination with resolution n.1514 "Declaration on Granting of Independence to colonial countries and peoples", adopted by the General Assembly in 1960, the year of decolonization: "Article 2 – *All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development*". Art. 6 added: "*Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations*". It gives to article 27 of the International Covenant on Civil and Political Rights of 1976, the imposition on the States of this obligation: "*In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language*", while article 1, notes that "*All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development* (par.1)". "*All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence* (par.2)". "*The States Parties to the present Covenant, including those having responsibility for the*

*administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations* (para.3)". All that said, it collides with an equally important principle: the preservation of the sovereignty and territorial integrity and international order. We can understand the real importance of the problem, studying four cases, internationally relevant: the Kurds, Basque, Sami and Inuit. Four different stories, peoples and national approaches, aimed to the protection and respect of sovereignty. In some cases, the struggle of the people, has seen violent clashes, a fair challenge, death, anxiety, sense of loss and helplessness. At other times, the keenness of the government has permitted the peaceful and civil coexistence. Balance of over-ordered powers and interests, continuously challenged by the individual-plurality, aware of their rights, protection, own strength. In an exchange of rights and duties that, often, not satisfies the contenders. It is usual to combine the self-determination right to the concept of people, emphatically used as substitute of the term State. In reality, the situation is exactly opposite and the actual right-holder is only the State, subject of international law and sovereign entity. People is subject only under the social and moral point of view and it could be considered legal if the State is identified, not with the rulers but as the ruled. But this view is challenged on the empirical bases because people is the object, receiving rules, rights and obligations, arising only from the States. These propositions are partially correct if we consider the people as beneficiaries of rights opposed to those of the State, facing at international rules that affect the governed as opposed to the rulers, which protect people from abuses and violations of fundamental rights, caused by a government and that, however, they could be connected to a single general principle as that of self-determination. Although fundamental principle of the UN Charter and codified in numerous legal sources of primary importance, the self-determination right features as like as an anomaly in modern international law, with explosive force and virtually unlimited capacity for legal and political consequences, involving its use. It may be defined as "*the right of all peoples to determine their political future and freely to pursue their economic, social and cultural development. Politically this is manifested through independence as well as self-government, local autonomy, merger, association or some other forms of participation in government*" or as "*freedom of choice of political, economic and social regime and access to independence as a separate State, or to detach from one State to join to another one*". Looking at the issues inherent in it and seeking a definition as complete as possible, we could say that the principle of self-determination is the principle that each nation has, to "*live free from all oppression, both internal and external, prior condition for the achievement of friendly relations between Member States and for an economic progress of peoples based on equal distribution of resources*". The concept, so articulated, is taken from the *Dictionnaire de la terminologie du Droit International* which stresses on the right to be consulted on territorial concessions, on the choices of government form, protection against foreign intervention or the right to get rid themselves by an oppressor. We must identify the nature of the principle, purely political, moral or positive rule of international law, starting from its nature of general international law rule and *jus cogens rule*, to establish direct legal effects for the State community, able to take the most heterogeneous contents, due the various applications that the various sources of law containing it, have drawn. Very different is the content of law: only the right to achieve independence or to choose and change the political, economic, social and cultural regime, also? Can it be counted among the human rights? Incumbent not only to the individual but to the people, it would not fall into the category; but we can question the case, considering the fundamental values of life and freedom and if they aren't guaranteed, many other rights qualified as fundamental disappear or don't find significant conditions to be exercised. It must be emphasized that the right to self-determination is a prerequisite but not sufficient to ensure the enjoyment of individual rights, because if it's understood only as the right of people to achieve independence, it does not mean an automatic recognition of fundamental human rights. The difference with "traditional" human rights, can be found in the fact that its exercise is not left to the individual but the group of which it is part. Posted in the United Nations

Covenants on Human Rights of 1966, it is a legal principle that founds its roots in concepts of democracy and personal freedom, postulating the power of peoples to choose the political and institutional forms with which take place the system of international relations, and the political, economic and social regime: if a people is not free to determine themselves, cannot be defined sovereign. If theoretically the principle can be stated clearly, its practical implementation has to consider other values and principles, no less important for the international law that become limits to the full implementation of the principle. Main issue is the legal translation of the historical and political concept of people as a beneficiary of the right received over time. Objective factors such as ethnicity, history, religion and language, have been completed by the subjective factors as like as the willingness of community members to compose a single social body. Nothing is independent from the others: the objective factors alone, cannot delineate the existence of a human aggregate defined as people without the will of coexistence that would give, instead, the nature of people and subject to self-determination; as like as the coexistence without the objective. We can trace two currents of thought within the United Nations: General Assembly reserves the right of recognition only to established States, to avoid changing their boundaries already outlined; while the Covenants, created by the Commission on Human Rights, shows an interpretation of the law in question, much broader. May be useful to recall the discussions about the term people, reached at a UNESCO seminar held in Paris in 1989: a group of humans with objective factors (a common historical tradition, a racial or ethnic identity, cultural homogeneity, linguistic identity, religious or ideological affinity, territorial ties, common economic life), which represents more than a mere association of individuals within a State, identifiable as people or have aware of it, and with agencies or other means to express their characteristics and the desire of common identity. No less important is the principle of respect for political and territorial integrity of States: in any case, the recognition of the principle of self-determination may lead to dissolution of sovereign states that ensures, with their conformation and action, the respect of fundamental rights, representing the entire community united in the territory controlled by them. The prevailing doctrine was initially directed towards a very restrictive meaning of the right, limiting it to peoples under colonial, racist or foreign control, and later adopting a broader interpretation that accept a dynamic conception of people and minorities. From these few lines we can understand the revolutionary nature of the right: its implementation could mean a geopolitical restructuring, highly invasive. That's why we talk about self-determination as a right "with permanent virtuality", suggesting a free assessment about the opportunity to support an evolution. The solution may be providing adequate safeguards of the right, allowing them a peacefully exercise with instruments that are not only notices of the UN Committees or appeals to International Court, but involving the adoption of safety systems within an international dimension that summarizes the principles of independence with the disarmament, integration and international security. It has been observed, in the late '80s and '90s, the end of the political opposition and the creation of vast areas of political instability has created many conflicts claiming the right to self-determination to justify the secession of part of the territory. It is important to distinguish terrorist acts from the struggles aiming the exercise of the right to self-determination. Both acts have in common the use of weapons prohibited by the UN Charter but in the first case we must prevent and suppress acts outside the sphere of international law, while in the latter it must recognize and guarantee the exercise of a prerogative recognized by the right. There are several conventions that have underlined the difference between terrorism and self-determination as the International Convention against the taking of hostages (1983) where at the article 12 states that it will not apply "*to an act of hostage-taking committed in course of armed conflict…in which peoples fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration of Principles of International law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*". With the UN Charter of 1945, the principle is included in article 1 par.2 and article 55 where it is stated the rule according to the

relations between States must be based on equal rights of peoples and on respect of their right to self-determination but, at the same time, it is not recognized a right of peoples to self-determination and remain an obligation of States to comply with the right. Other provisions of the Charter, diminish recognition, such as article 75, which provides the right for people to access non-autonomous self-government and independence gradually[1]; while article 73 does not provide equal rights for people subject to colonial regime but reiterates to the States, responsible for dependent territories, the obligation to promote self-government, assisting the progressive development of their political institutions[2]. The principle receives different meanings because of different situations and in case of a trustee administration, it means the right to independence, while in the colonial territories does not arise immediately the problem of access to independence. The restrictive view is perhaps justified by the fact that when the UN Charter was written, the founding members of the United Nations were holding extensive colonial rule. A radical change is has been had with the Declaration on friendly relations where is speaking about self-determination, reaffirming the need to put a quickly end to colonialism, opening the possibility to claim self-determination in the presence of racist and oppressive regimes. And a double dimension of the principle, also: an external level, the claim to escape from a colonial and racist regime, and an internal level, that is the need for representative government for whole the population, without discrimination. The United Nations has played an important role in the process of delineation and affirmation of the principle. More than independence, self-determination was originally intended as self-government, protecting the territorial integrity and the power of the colonial countries, giving to the principle a negative dimension, and as an obligation for other States to not interfere on internal decisions. Between the '50s and '60s the practice changed in favor of a broader and positive principle, open the way for the decolonization process and affirm the obligation of a government occupying a territory to leave the people to determine themselves independently and without compulsion. This interpretation will be the culmination of an evolutionary process, and can be found in several General Assembly resolutions: the resolution n.1514 of 1960 where it is emphasized that the situation of foreign domination is a denial of a fundamental human right[3]; the resolution n.2160 of

[1] "The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories".

[2] "Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;

b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;

c. to further international peace and security;

d. to promote constructive measures of development, to encourage research, and to co-operate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and

e. to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply".

[3] *Declares* that:

1. The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation.

2. All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

1966[4] for which any enforcement action designed to deprive a people of its right to self-determination is a violation of the Charter; the resolution n.2625 of 1970[5] under which that people who exercise the right to self-determination have also the right to receive the support as stated by the UN Charter; the resolution n.3314 of 1974[6], under which people can use of force in the exercise of self-determination and this is not qualified as aggression. Summarizing, we can define the content of the universal principle of self-determination as the right of each people to live freely from any kind of oppression, internally or externally, essential to ensure the establishment of friendly relations among States and for an effective and general economic and social progress, based on an equitable distribution of natural and economic resources, at international and domestic level. Let us now observe rights and obligations arising from the principle of self-determination. Recipients of the obligations are the States, as Members of the UN. As for the corresponding rights, it is not the people just we speak about of "self-determination of peoples". In the process of decolonization, peoples have created an independent entity and they have conducted their struggle with success. Peoples were mere holders of instances of self-determination but independent entities have pursued and implemented, as subjects of international law, like the States. They are entitled of the right of self-determination, but can they be considered the owner? Can we recognize their legal personality and capacity to have rights and obligations? This point of view is shared by the doctrine that argues the theory of the rights of peoples who comes to understand the function of the State, operative under international law, reflecting the representative role of the people. But it is clear that international law regulates interstate relations and the States are the only subjects of international law, with legal personality. If we want to find a balanced solution, we say that the people is not a body with international legal personality, but simply the material object and beneficiary of international standards which determine rights and obligations on states. Reflections can be proposed with regard to minorities and the possibility of their self-determination, starting from the definition provided by Francesco

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3. Inadequacy of political, economic, social or educational preparedness should never serve as a pretext for delaying independence.

4. All armed action or repressive measures of all kinds directed against dependent peoples shall cease in order to enable them to exercise peacefully and freely their right to complete independence, and the integrity of their national territory shall be respected.

5. Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence and freedom.

6. Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations.

7. All States shall observe faithfully and strictly the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the present Declaration on the basis of equality, non-interference in the internal affairs of all States, and respect for the sovereign rights of all peoples and their territorial integrity.

[4] Any forcible action, direct or indirect, which deprives peoples under foreign nomination of their right to self-determination and freedom and independence and of their right to determine freely their political status and pursue their economic, social and cultural development, constitutes a violation of the Charter of the United Nations. Accordingly, the use of force to deprive peoples of their National identity, as prohibited by the Declaration of the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty contained in General Assembly resolution 2131 (XX), constitutes a violation of their inalienable rights and of the principle of non-intervention.

[5] Every State has the duty to refrain from any forcible action which deprives peoples referred to above in the elaboration of the present principle of their right to self-determination and freedom and independence. In their actions against, and resistance to, such forcible action in pursuit of the exercise of their right to self-determination, such peoples are entitled to seek and to receive support in accordance with the purposes and principles of the Charter.

[6] Article 7: "Nothing in this Definition, and in particular article 3, could in any way prejudice the right to self-determination, freedom and independence, as derived from the Charter, of peoples forcibly deprived of that right and referred to in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, particularly peoples under colonial and racist regimes or other forms of alien domination: nor the right of these peoples to struggle to that end and to seek and receive support, in accordance with the principles of the Charter and in conformity with the above-mentioned Declaration".

Capotorti as "*group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members – being nationals of the State – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show if only implicitly a sense of solidarity, directed towards preserving their culture, traditions, religion or language*". In relation to minorities, the realization of the principle must proceed with care because the right of people to become autonomous and an independent political entity, could be a dismemberment of the State. In these cases is important to preserve the identity and the rights of the State or federation. The minorities don't ask to constitute a political entity but to have a separate autonomous land where they can join to another State, due strongest ethnic, religious, historical and political ties. It is important that the internal dimension of self-determination ensures basic human rights to minorities. To oppose the denial of basic human rights of minorities, the international community has focused on the pluralist State and on the rule of law. In this way, self-determination becomes a catalyst for all identity groups in political decisions, preventing separatist aspirations. The external self-determination must be considered as a last resort, especially in multinational or multiethnic reality where, instead to grant secessionist demands, involving the government's obligation to participate in the political and institutional life of the country, ensuring minorities, with extensive autonomy and administrative government. After the conclusion of World War the First, several conventions discipline the treatment of minorities, all inspired by the need to protect identities of those present in the territory of a State. The European Convention of Human Rights of 1950 prohibits discrimination based on belonging to a linguistic minority[7]; the final document adopted in Copenhagen in June 1990 by States participating at the Conference on Security and Cooperation in Europe recognizes important rights of persons belonging to national minorities; article 27 of the International Covenant on Civil and Political Rights provides that "*in those states where there are ethnic, religious or linguistic minorities, persons belonging to such minorities shall not be denied the right to have an own culture, to profess and practice their own religion or use their own language, in common with the other members of their group*". In addition to the people, beneficiaries of the right to self-determination are the national liberation movements, entity representative of that people to whom it has been denied instances of independence and autonomy. Some writers maintain a close relationship between the people, the liberation movement and the right in question. But in this way, the beneficiary of the principle is the liberation movement and not the people. Recognized the nature of the principle of self-determination as *jus cogens rule*, it must observe the consequences of its violation and the international responsibility of the State, author of the action. If there are doubts about the responsibility arising from the conclusion of treaties in conflict with the rules of international law - responsibility that falls on the signatory States - it is difficult to identify who is required to ascertain and report the violation, and if it should be the State, hold of interest violated and protected by the law, to highlight the issue even if it is not member of the treaty. First, there is the Convention of Vienna on the Law of Treaties that recognizes the invalid action only to the signatory State, revealed in violation; second, it must consider the universal values protected by the rules, falling into this area of international law. Any State can rely on the violation of *jus cogens*. The ability to exercise the right of reaction was also granted to third countries by the International Court of Justice, and reaffirmed by article 48 of the International Law Commission[8], governing the *erga*

[7] Article 14 contains a prohibition of discrimination. This prohibition is broad in some ways, and narrow in others. On the one hand, the article protects against discrimination based on any of a wide range of grounds. The article provides a list of such grounds, including sex, race, colour, language, religion and several other criteria, and most significantly providing that this list is non-exhaustive. On the other hand, the article's scope is limited only to discrimination with respect to rights under the Convention. Thus, an applicant must prove discrimination in the enjoyment of a specific right that is guaranteed elsewhere in the Convention (e.g. discrimination based on sex - Article 14 - in the enjoyment of the right to freedom of expression - Article 10). Protocol 12 extends this prohibition to cover discrimination in any legal right, even when that legal right is not protected under the Convention, so long as it is provided for in national law.

[8] Article 48 - Invocation of responsibility by a State other than an injured State

*omnes obligations*, where it extends the responsibility for illegal act to a different State if "*the violated obligation is due to a group of States including that State and it is established for the protection of a collective interest of the group or the violated obligation is due to the whole international community*". About the mode of reaction, international law allocates the issue to the United Nation Security Council. This ensure full international legitimacy of the decision and subsequent actions, but increases the slowness and the effectiveness of the response. It remains to consider the legality of the use of force by government against which, the principle in question is invoked. In an internal conflict, international law imposes, on the members of international community, the prohibition on intervention in domestic affairs of the State concerned by the conflict. This signify that the State may play appropriate activities to restore order, including the use of force, demanding the non-interference by third States but always in full respect of international humanitarian law. But if the State exercising its enforcement powers, humiliates the aspirations of a people to self-determination, incurs in an international responsibility which requires the intervention of the international community. In an internal armed conflict, the government in struggle with the insurgents without an independent organization, can request the intervention of third countries in support of its activities. The Institute of International Law, August 1975, intervening on the principle of non-interference in internal conflicts, confirmed the obligation for member countries to refrain from intervening on the side of one of the warring factions, and said that obligation concerns the supply of war material, financial or economic aid and other forms of assistance that could determine the outcome of the conflict. The prohibition continue in art.2.4 of the UN Charter, applied in case of colonial, racist or foreign domination by force, even if the use of force isn't the only measure to achieve the self-determination, according to the logic of the self-defense. The resolutions of the Security Council never explicitly stated what should be the means used by an oppressed people, in defense of its right. We can conclude that, at present, in international law does not emerge some solutions regarding the issue of lawfulness of the use of armed force in the exercise of the right in question, except to establish that the use is justified by international community only if it is the only way to achieve the target. To find a solution between the values of integrity and self-determination, we must first identify the importance of the inviolability of borders as a guarantee of stability and order in international relations and then assessing if this excludes secessionist claims and opt for other values of international law as the principle of self-determination. There is a timely limit of application of the principle of self-determination: the principle of non-retroactivity of legal rules. On the basis of non-retroactivity, foreign domination must not precede the same period in which the principle is affirmed. Exception to this temporal condition, is represented by the category of peoples subject to colonial rule, although this hypothesis is exceeded. About the space limitations, we can observe the trend of international practice to evolve in the opposite direction to the recognition of the legitimacy of situations that lead to secession, under the principle of territorial integrity, main limit the applicability of the right of self-determination of peoples.

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1. Any State other than an injured State is entitled to invoke the responsibility of another State in accordance with paragraph 2 if:
(a) The obligation breached is owed to a group of States including that State, and is established for the protection of a collective interest of the group; or
(b) The obligation breached is owed to the international community as a whole.
2. Any State entitled to invoke responsibility under paragraph 1 may claim from the responsible State:
(a) Cessation of the internationally wrongful act, and assurances and guarantees of non-repetition in accordance with article 30; and
(b) Performance of the obligation of reparation in accordance with the preceding articles, in the interest of the injured State or of the beneficiaries of the obligation breached.
3. The requirements for the invocation of responsibility by an injured State under articles 43, 44 and 45 apply to an invocation of responsibility by a State entitled to do so under paragraph 1.

## INTERNATIONAL CASES

### The Kurds

Observing the story of the Kurdish people, the major peculiarity is that Kurdistan is perhaps the greatest nation in the world - for geographical and population size -, without an independent and sovereign State. Point of connection between Iraq, Iran, Syria and Turkey, has never received the recognition of ethnic minority, fundamental to claim the self-determination. In Iraq, the Kurdish autonomist movement took form with the KDP (Kurdistan Democratic Party), that from 1961 began its struggle against the regime of Saddam Hussein, guilty to have implemented against Kurdish villages, repressions and brutal use of chemical weapons, hundred thousand dead and over two million of refugees. The establishment of a "no-fly zone" over northern Iraq (after Gulf War the First), the end of Saddam Hussein's regime and the new Constitution Chart of 2005, could be the prelude to better conditions of life for Kurdish people. In Iran, Kurds united under UPK - Kurdish Patriotic Union - fighting Teheran's regime since 1972, in a war that has caused 17000 deaths. The collapse of imperial power, the Iranian revolution of 1979 and the subsequent stabilization of the crisis with the Islamic regime, have created the PDKI - Democratic Party of Iranian Kurdistan - fighting for autonomy and not for independence. The Shiite power has refused every opening and caused 10.000 deaths in two years of clashes. In Syria, the Kurds living a forced assimilation that although less bloody, is no longer acceptable. Turkey has carried out a denial policy against the Kurdish people, denying them the right to self-determination, but also the most basic human rights at individual level. The Partiya Karkeren Kurdistan - the Kurdish Workers' Party founded in 1978 by Abdullah Oçalan – is the main reference for operational and ideological activities, against the turkish army, achieving the independence of Turkish Kurdistan, autonomous in Turkish Republic. On 1994, the human rights violations in the region of Tunçeli record an official admission made by Azimet Köylüoğlu, the state minister of human rights: "While acts of terrorism in other regions are done by the PKK; in Tunçeli it is State terrorism. In Tunçeli, it is the State that is evacuating and burning villages. In the southeast there are two million of people left homeless. The refugees must receive food and humanitarian assistance". The PKK has operated with a series of crimes such as abductions, murders, destruction of many Turkish properties, extortions. Deportations, mass killings, disappearances, torture, abductions and bombings: this is the framework offered by the conflict. What about the numbers of this genocide? More than 30.000 deaths, 250.000 cases of tortures perpetrates against the Kurds. We can observe three stages that characterize the action of annihilation of Kurdish identity: 1) the introduction of laws that prohibit the use of Kurdish language in all its manifestations; 2) the use of modern techniques to deport, kill and torture; 3) the systematical denial of every basic human rights that gives form of genocide at the struggle. The situation in Turkey reflects a policy of genocide, natural and cultural heritage, which not only legitimates the demand for self-determination by the Kurds, but also the proper invocation of respect for fundamental human rights. But can the Kurds claims the right, could be qualified as a people? We must consider the numerical factor: 13 million of people on an area of 250.000 kilometers squared. Another aspect: there is a representing body with international legitimacy. If there are doubts about the PKK, its operations and representative, we must consider that there is a Kurdish parliament in exile, often hosted in parliaments of different European countries. Turkey is a member of the UN and the OSCE and should therefore comply with their standards. As member of the Council of Europe, it is subject to the jurisprudence of the European Court of Human Rights. Unfortunately, Turkey has continued to refuse its protection of minority rights in adherence to the Framework Convention for the Protection of National Minorities, despite repeated requests by Council of Europe bodies to do so. Similarly in its recent adherence to the International Covenant on Civil and Political Rights, it made a declaration under Article 27, which appears to violate the essence of this Article, stating that it will attempt to limit the rights under this Article to those minorities recognized under its Constitution or the Lausanne Peace Treaty. Such a declaration violates the principle that minority groups are objectively determined and

cannot be limited by national governments or Constitutions. This continued reluctance by Turkey to fully accept its duty to protect all of its minorities, appears to be based on its very restrictive application of the term minority. This national application of the term minority, in breach of international standards, has the effect of denying minority rights to all groups except Armenians, Greeks and Jews. Unfortunately, there is still no sign of this approach changing (for example, the attempt to limit the application of International Covenant on Civil and Political Rights Article 27). Turkey still refers to the Lausanne Peace Treaty (signed on 24 July 1923) as the only source for its recognition and protection of minority groups. This is despite the fact that Lausanne was part of the limited League of Nations system of protection of specific minorities, which has long since evolved into today's system of the general protection of all minorities. Lausanne itself does not comply with modern standards, as it only refers to non-Muslim minorities (apart from Article 39 which refers to minorities more generally). Additionally, Turkey has restricted the Lausanne definition even further than the treaty allows, as in practice it has only been applied to Armenians, Greeks and Jews. The Turkish Constitution does not refer to minorities. The only relevant provision in the Constitution is Article 10 that guarantees all individuals "equality before the law", without any discrimination, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or other such considerations. There are no laws on the protection of minorities, or any guaranteeing protection against discrimination. Article 42 of the Turkish Constitution states: "*No language other than Turkish shall be taught as a mother tongue to Turkish citizens at any institutions of training or education,…foreign language education will be determined by law*". Article 3 states that the language of Turkey is Turkish. These Articles have been used to prevent any minority language education, private or public (with the exception of those minorities recognized under the Lausanne Treaty). Circassions[9], Kurds and Laz have been repeatedly denied either schools teaching in their respective language, or even simply their language being an optional subject in schools in areas where they are a numerical majority. There are no language or literature departments in these minorities' languages at any university in Turkey. The Political Parties Law attempts to prevent the use of minority language in politics. Article 81(b) of the Law prohibits using a language other than Turkish: "*in writing and printing party statutes or programs; at congresses; at meetings in open air or indoor gatherings; at meetings and in propaganda; in placards, picture, phonograph records, voice and visual tapes, brochures and statements*". However, the Article allows the translation of party statutes and programs into foreign languages other than those forbidden by law. This restriction discriminates between foreign and minority languages, and is particularly discriminatory against pro-Kurdish parties, many of whose voters don't speak Turkish. In practice, this provision has led to the harassment of politicians. So, Turkey opposes the European Charter for Regional or Minority Languages. The Kurds, as people who suffer for a policy of human rights violations, can claim the right to self-determination and Turkey, a member of the UN and the CSCE, has a duty to respect the right of the Kurdish people to self-determination or at least recognizes the minimum guarantees in terms of human rights policies. Finally, Turkey placed reservations on other international charters it signed which deal with minority rights as well. For example, Turkey's reservation to Article 13 of the International Covenant on Economic, Social and Cultural Rights limits education in Kurdish in Turkey. Another agreement made reservations on the International Covenant on Civil and Political Rights, signed on Aug. 15, 2000 and became effective on Sept. 23, 2003. Turkey was hesitant about ratifying the covenant in accordance with the relevant provisions and rules of the July 24, 1923 Treaty of Lausanne and its appendices. Turkey also made a reservation to Protocol No. 1 of the European Convention on Human Rights on the grounds that it was in conflict with the law on the unification of education.

[9] Circassians are the original inhabitants of the Caucasus.

## The Basque

The Basque, who live from prehistoric times on the western Pyrenees and the Bay of Biscay, are in continue struggle for its international recognized entity. The Basque have fought to keep the language – the oldest in Europe - as the cornerstone of their culture. Nevertheless, especially in the territories subject to Spanish government and especially in the twentieth century, the use and dissemination of Basque language were denied. Under the regime of Franco, the Basque people suffered the worst persecution and atrocities, elimination of all basque public symbols and the prohibition was extended to the use of basque birth names. In recent decades, thanking to private schools - the Ikastolas - the development of Basque language has been slow but constant. During the regime of Francisco Franco, was founded the political group Ekin (action) – wellknown as ETA (Euskadi ta Askatasuna, Basque Country and Freedom) -, to establish an independent homeland in the northern provinces of Spain - Vizcaya, Gipúzcoa, Álava and Navarre - and those in the south-west of France – Lupurdi, Lower Navarre, Souls. To achieve this, the organization attacks those who block the realization of self-determination, French and Spanish government, police officers and army. The Basque issue has been characterized in recent times, by two sets of items: the political and institutional opposition between Euskadi and Spain on one side and the violence of ETA, on the other side. To isolate terrorism in political and institutional dialogue, was signed on Ajuria, the Enea Pact, in 1988, with which all parties represented in the Basque Parliament, with the exception of Herri Batasuna, accepting the idea that instances of the Basque people not pass through the violence of ETA and that dialogue was the proper method for resolving disputes; insisting that any change in the institutional context has its natural status of autonomy. While the PNV condemned terrorism and supported a peaceful negotiated agreement, HB proposed a referendum on the future of the Basque lands to reciprocate a suspension of violent activities. Self-determination for the Basque people has relied on the assumption that the Basque are a people with a community of race, language and traditions. Spanish Constitution, article 2, recognizes the right to autonomy for the nationalities that are part of Spain[10]. This right was exercised primarily by historical nationalities (Basque Country, Catalonia and Galicia) and then by the rest of the Spanish provinces, creating an homogenous integrity of national territory. Among the various proposals (from independence to autonomy) attention should be give to Ibarretxe plan, which takes its name from Lehendakari - First Secretary - in charge. The Basque people has the right to decide on its future, on its political, economic, social and cultural status as well as the kind of relations to be maintained with the Spanish State. The proposed new model, takes form of a free association with Spain: only the Basque people could express consent or dissent of the proposed referendum. A State has no valid reasons to oppose against the secession of a province, where citizens have expressed unequivocally in this direction. It is true that under a dictatorial regime, aspirations to independence may seem the only way out to the oppression of an authoritarian state that denies fundamental rights and eliminates all signs of alternative identity such as language, culture, traditions. The Basque case presents reasons and limitations. In a pluralist society, such as the Basque, the stand-alone option is a compromise between the nationalist ideal and non nationalist universe. According to the Supreme Court of Canada (as stated in the case of Quebec[11]), there is the right of secession - and full political independence -, under the principle of self-determination, when the people is under domination by a foreign power, or is part of a colonial empire. In all other circumstances, self-determination must be accomplished within the

[10] National sovereignty belongs to the Spanish people from whom all State powers emanate.

[11] The Court limited the categories of peoples finding themselves in the special circumstances that would warrant secession to three groups: (a) those under colonial domination or foreign occupation; (b) peoples subject to "alien subjugation, domination or exploitation outside a colonial context";and, possibly, (c) a people "blocked from the meaningful exercise of its right to self-determination internally". The Court concluded as follows: "Such exceptional circumstances are manifestly inapplicable to Quebec under existing conditions. Accordingly, neither the population of the province of Quebec, even if characterized in terms of "people" or "peoples", nor its representative institutions, the National Assembly, the legislature or government of Quebec, possess a right, under international law, to secede unilaterally from Canada".

State. It's important to say that if Spain give self-determination, autonomy or secession to Basque Countries, it could be expelled from European Union because it is clear the un-respect of democratic freedoms and fundamental human rights. To conclude the discussion about the Basque, it must to remember that Spanish Constitutional Court declared the unconstitutionality of the referendum promoted by the Basque Parliament: is contrary to art. 149.1.32 of the Spanish Constitution[12] which confers exclusive jurisdiction of the State to consent the convocation of popular consultations.

## The Inuit

Commonly known as Eskimos – from wiyaskimowok or raw meat eaters, an odious term adopted by the Algonquin Indians **-** Inuit simply means "Men, beings with souls". The most reliable hypothesis, found their ancestors to the Arctic-Mongoloid race, came from Asia to North America during the last Ice Age, five thousand years ago. The first Inuit culture in the Arctic Canadian land is called Pre-Dorset, originated in Alaska and spread from 2000 to 800 BC across the central and eastern end of the Arctic zone to the west coast of Greenland, Labrador, Ungava and Hudson Bay. With unification in 1536, of Norwegian and Danish crowns, Greenland was under Norwegian control, but Denmark continued to claim sovereignty over the island. The separation between Norway and Denmark, in 1814, involved the transfer of sovereignty on the island. Two Landsting – Parliaments - were introduced in 1911, one for northern Greenland and one for the southern area, then joined in 1951: the decisions were taken in Copenhagen, and the Greenlanders had no representation. Meanwhile, Norway did not accept the sovereignty of the Danish island, but in 1933 the Permanent Court of International Justice, ruled in favor of Denmark, Judgement accepted by Norway. Greenland – or Kalaallit Nunaat, "land of men" - is an island of over two million square kilometers and, although geographically located in North America, is economically tied to European Union due the Danish membership[13], or at least this was the status until November, 25th 2008, when was held the referendum on full political independence from Denmark. With more than 75% of the votes in favor of independence, from June 21st, 2009, Denmark has no obligation to pay subsidies to Greenland, granting autonomy, and the island has its own parliament - the Landsting - a government and its electorate. With the referendum, it was showed to the International Community, the will of the Inuit people to secede from Denmark and to found the Kalaallit Nunaat, the "land of men", an Inuit nation with its own legal status, a police force, their own education and language. About the ethno-juridical colonization of Inuit, operated by Canada, there are no doubts: the Inuit culture has been completely disposed to an acculturation. The Canadian Statement of Reconciliation with Aboriginal peoples has made clear reference to physical and sexual abuse suffered by children in federal schools[14]. An agreement-in-principle was

[12] (1) The State shall have exclusive competence over the following matters: (32) Authorization of popular consultations through the holding of referendums.

[13] When Denmark decided to join the European Community (later European Union), the friction with the former colony grew: the Greenlanders believed that the European Customs Union hurt their businesses. On February 23, 1982, 53% of the Greenlander voted to leave the European Community.

[14] On January 7, 1998, the Canadian government issued a "Statement of Reconciliation" contained within a document entitled *Gathering Strength – Canada's Aboriginal Action Plan*. This is an excerpt from that document: "The ancestors of First Nations, Inuit and Métis peoples lived on this continent long before explorers from other continents first came to North America. For thousands of years before this country was founded, they enjoyed their own forms of government. Diverse, vibrant Aboriginal nations had ways of life rooted in fundamental values concerning their relationships to the Creator, the environment, and each other, in the role of Elders as the living memory of their ancestors, and in their responsibilities as custodians of the lands, waters and resources of their homelands. Sadly, our history with respect to the treatment of Aboriginal people is not something in which we can take pride. Attitudes of racial and cultural superiority led to a suppression of Aboriginal culture and values. As a country, we are burdened by past actions that resulted in weakening the identity of Aboriginal peoples, suppressing their languages and cultures, and outlawing spiritual practices. We must acknowledge that the result of these actions was the erosion of the political, economic and social systems of Aboriginal people and nations. The [Residential School system] separated many children from their families and communities and prevented them from speaking their own languages and from learning about their heritage

reached in 1990, a final version of which appeared in December of 1991. Members of both the Tungavik Federation of Nunavut and federal negotiating teams signed the "Nunavut Land Claims Agreement", in September of 1992. It was then put to a plebiscite in October of 1992, and saw a record turnout of voters. The Agreement passed the plebiscite with an overwhelming majority of 84.7%. Once past this hurdle, matters moved quickly. The Nunavut Land Claims Agreement Act, ratifying the agreement, and the *Nunavut Act*, which created the new territory, were both passed on June 10, 1993[15]. After ratification of the two acts in 1993, attention turned towards implementation; a deadline of April 1, 1999 had been fixed for the completion of all arrangements. It was assumed what had previously been the responsibilities of the Federation of Nunavut. Both organizations had much to do in a relatively short span of time, and had to face many challenges: a vast territory to cover, new departments to create, and employees to train. Added to these were the desire to decentralize the new government as much as possible, and the commitment to employing a percentage of Inuit representative of the general population. An election also had to be held in order to choose the nineteen members of the new legislative assembly; this took place on February 15, 1999. As with the ratification of the Nunavut Act in 1993, the actual birth of Nunavut on April 1, 1999 became an international news story. The political form of Nunavut is a federal state, not a form of ethnic self-government. A decision needed to obtain its own territory. Nunavut today is the first political state ruled by American natives.

## The Sami

According with International Law the Sami are an indigenous people with their own culture, language and traditions of the area in which allocates from a long time, dedicating to reindeer breeding. In 2007 the UN adopted the Declaration of the Rights of Indigenous Peoples, which recognizes the Sami as indigenous people who have the right to recognition of the damages, or alternatively, to exploit the land without having an host State. Sami people is located across four States, Sweden, Norway, Finland and Russia (Kola Peninsula). In 1948 was founded the first Lapp organization, the Norwegian Association of reindeer and the Sami Council in 1956. In 1969, a norwegian law guarantees the teaching of Sami language in the first six years of school and a further review recognizes the right to choose the Sami as teaching language. Four years later, in Kautokeino – Norway -, was founded the Nordic Lapp Institute, sponsored by the Nordic Council, with the aim to be a reference point for all Sami. Since 1989, the ethnic group can rely on its Parliament, flag and a capital (Karasjok, in Norway), although remains fundamental the principle that every minority belongs to the State of origin. The dispute with the three States, arises from the need to consider the reindeer breeding the main productive activity and the ethnic distinguishing item. The rights of Sami people, was raised by the UN Human Rights Committee in

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and cultures. In the worst cases, it left legacies of personal pain and distress that continue to reverberate in Aboriginal communities to this day. Tragically, some children were the victims of physical and sexual abuse. The government of Canada acknowledges the role it played in the development and administration of these schools. Particularly to those individuals who experienced the tragedy of sexual and physical abuse at residential schools, and who have carried this burden believing that in some way they must be responsible, we wish to emphasize that what you experienced was not your fault and should never have happened. To those of you who suffered this tragedy at residential schools, we are deeply sorry".

[15] "Chapter 29. An Act respecting an Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada. Whereas the Inuit of the Nunavut Settlement Area have asserted an aboriginal title to that Area based on their traditional and current use and occupation of the lands, waters and land-fast ice therein in accordance with their own customs and usages; whereas the Constitution Act, 1982 recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada; whereas Her Majesty the Queen in right of Canada and the Inuit of the Nunavut Settlement Area have negotiated an Agreement based on and reflecting the following objectives: to provide for certainty and clarity of rights to ownership and use of lands and resources and of rights for Inuit to participate in decision-making concerning the use, management and conservation of land, water and resources, including the offshore; to provide Inuit wit wildlife harvesting rights and rights to participate in decision-making concerning wildlife harvesting; to provide Inuit with financial compensation and means of participating in economic opportunities; to encourage self-reliance and the cultural and social well-being of Inuit".

November 1999. Considerable steps have been made by the Samediggi, about the prevalence of the Sami language, also, but the parliament should get a veto right on mining activities and natural resources exploitation. Norway has ratified the ILO Convention n.169, on indigenous and tribal peoples[16] and it has had very positive action, but Sami issue is not fully resolved. The interested States (excluding Russia) have taken various legislative and administrative measures with different results. In the late nineteenth century the Norwegian authorities carried out to a forced policy of assimilation. The situation changed only in the thirties of the twentieth century. In his speech during the official opening of the Samediggi (Sámi Parliament) in 1997, HM King Harald V emphasized that both the Sámi people and the Norwegians are an integral part of Norwegian society, and apologized for the manner in which the Sámi people had been treated in the past[17]. In 2000 the Norwegian Parliament has created a substantial fund for the Sami people, to strengthen the use of Sami language and culture and to be used as collective compensation for damages inflicted and injustices related. In June of 2004, the Norwegian Government submitted a White Paper proposing compensation under the Storting's ex gratia payment scheme to Sámi people and Kvens (people of Finnish descent living in the North) who were deprived of schooling as a result of WWII. As a result of the lack of schooling and the former Norwegianization policy, many Sámi and Kven individuals of that time never learned to read and write. The proposal will be subject to further deliberation in the Storting. The government action is rooted in art.110a of the Constitution[18] and in the ratification of several international treaties, in particular art.27 of the International Covenant on Civil and Political Rights[19]. As indigenous and ethnic minority, Sami people has a special status in international and national law. The Sami's use of natural resources was regarded as "tolerated use" by Norwegian authorities and the courts for almost a century up

[16] It contains provisions for sectors such as education, health, vocational training, employment and general business conditions. Part II of the Convention deals with land rights for indigenous peoples. Articles 14 and 15 are the articles most often referred to. Article 14 confirms the rights of ownership and possession of indigenous peoples over the lands which they traditionally occupy, and the right to use lands not exclusively occupied by them. Particular attention shall be paid to the situation of nomadic peoples. The Article also instructs the authorities to identify land areas traditionally settled by indigenous peoples. Article 15 safeguards the rights of the indigenous peoples to the natural resources pertaining to their lands. These rights include the right of these peoples to participate in the use, management and conservation of these resources. In addition, Article 6 establishes the obligation of national authorities to consult their indigenous peoples as regards new legislative or administrative measures, as well as indigenous peoples right to participate in decisions to the same extent as other sectors of the population, while Article 8 safeguards that, in applying national laws and regulations to the indigenous peoples concerned, due regard shall be had to their customs or customary laws. Article 6 (subsections 1c, 1d and 2 of the Article are omitted): 1. In applying the provisions of this Convention, Governments shall: (a) Consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly; (b) Establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision- making in elective institutions and administrative and other bodies responsible for policies and programs which concern them; Article 8 (subsections 2 and 3 of the Article are omitted): 1. In applying national laws and regulations to the peoples concerned, due regard shall be had to their customs or customary laws. Article 14 (all): 1. The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect.

[17] The State of Norway was founded on the territory of two peoples - the Sámi people and the Norwegians. Sámi history is closely intertwined with Norwegian history. Today, we express our regret on behalf of the state for the injustice committed against the Sámi people through its harsh policy of Norwegianization.

[18] Article 110: It is the responsibility of the authorities of the State to create conditions enabling every person capable of work to earn a living by his work. Specific provisions concerning the right of employees to co-determination at their work place shall be laid down by law.

Article 110a: It is the responsibility of the authorities of the State to create conditions enabling the Sami people to preserve and develop its language, culture and way of life.

[19] The Article states: In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

to the '60s. Cases concerning Sami rights were mostly concerned with reindeer husbandry, and these rights were considered fully regulated by the reindeer husbandry legislation. Based on special issues such as Sami language, culture and way of life, the Storting has since questioned whether the Sami are treated as equals by the courts, and whether Sami customs, practice and conception of justice are reflected in the courts' decisions to a sufficient degree. In 2005, an expert group presented a unanimous draft, the Nordic Sami Convention for Norway, Sweden and Finland. The recommendation consists of 51 articles divided among seven chapters dealing with general Sami rights (for example self-determination), government (the Sami parliaments and the national parliaments), language and culture, land, water and livelihoods. The Convention has been subjected to a consultation process in all three countries. In a meeting between the ministers, October 2006, it was agreed that the work would be continued[20]. Through the establishment of the Sami Parliament, Norwegian authorities created a formal arena where various Sami viewpoints may meet, while at the same time it functions as an advocate for the Sami population and as a partner for central authorities. This enabled handling of conflicts and clashes between the interests of the Sami and the interests of the majority of the population within a framework based on dialogue and regulated decision processes. The adopted Finnmark Act also entailed a change in the basis for national land legislation in relation to Sami rights. Sami policy resolutions made by central authorities can be said to have been incorporated into the Act, especially as the State's obligations under international law through ILO Convention No. 169 are stated so clearly. In 1997 Sweden recognizes the Sami as an indigenous population that, according to international law, would enjoy of those rights, granted to their status as ethnic minority. This concerns, in particular, the right of self-determination in the traditional land where they live. However, recognition of the Sami is partial because based on the ethnic minority item, only, and the relative status would not be extended to the rights guarantees by international law, situation demonstrated by 15 governmental inquiries, from 1986 to 2005. The Sami Parliament in Sweden has never been intended as a self-governing body that operates in place of the Swedish parliament or municipality, lacking the right of codecision in legislative matters, affecting the interests of the Sami. The current policy finds its basis in the Act of 1886, granting the right to breed and grazing reindeers, including the right to hunt and fish, in order to make a census of the population and the reindeers, recorded in the respective counties of residence. But this mean altering the identity of the Sami nomadic vocation and profession. Another problem is the definition of Sami: we preferred to limit the criteria: residence and birth by Sami family, devoted, to reindeer breeding. Sweden has developed the idea that the Sami are more than a privileged minority, and not at all treated equally to others. The nomad is understood as a hindrance to a full development of society and especially for the Sami community itself. Another contradiction in the relationship between State and Swedish Sami people, is the difficult to transfer the land to Sami, because the only owner is the State to which the nomads have to pay fees when moving reindeers. In 1989 was established the Sametinget, with no powers regarding the protection of language, culture and traditions, while rules for exploitation of land and water, were denied. The event is a step back at least a decade, a significant weakening of the position and status of the Sami. The status of indigenous people as ethnic minority peoples is subordinate to a classical colonialism. Because the relationship between Sweden and the Sami is not classified as colonialism, it is not possible to speak about self-determination but only of protection. If at international level, Finland is considered a defender of human rights, at national level we can register some contradictions. In 1990 the Finnish

[20] Central elements of the agreement:
– The Sami Parliament will receive complete information on relevant issues in individual cases.
– The Sami Parliament will have time to consider relevant issues and provide feedback.
– The consultation process should not be terminated as long as the Sami Parliament and the State believe it is possible to reach an agreement.
– In the event the Sami Parliament and the responsible ministry do not reach an agreement, the opinion of the Sami Parliament regarding the matter must be stated clearly.
– Minutes must be kept from all consultation meetings.

government failed to ratify the ILO Convention Nr. 169 Concerning Indigenous and Tribal Peoples in Independent Countries, which would have formally recognized the Sami's claim on their homeland, because they did not acknowledge the rights of ownership and possession over the lands they traditionally occupy. In 2006 Finland received a formal invitation to ratify ILO Convention n.169 of 1989 and although it has not fulfilled, was admitted to the UN Human Rights Council, as a member. In 1999, the Minister of Justice initiated an investigation on the Rights of the Sami in general and on land and water in particular, recruiting academics and international experts, but the conclusion was unanimous: the non-ratification of ILO Convention n.169 is the real problem which is additional to the slowness they dealt any legal matter concerning the Sami. Unlike Norway and Sweden, in Finland reindeers breeding is not legally reserved to the Sami. To graze reindeer, it had to enroll, in the districts and State, the exact number of animals in order to quantify economically, the damage done by animals and determine the taxes owed by the Sami. In the Finnish Reindeer Act of 1948 every Finnish citizen was granted the right to raise reindeer, upon registration and payment, removing the traditional character of an activity that for centuries has been attributed to the Sami people. Thus, from indigenous population level has gone to ethnic minority. The most recent piece of legislation is the Reindeer Herding Law of 1990, which isn't all that different from the older laws it was intended to replace. In 2004, Finland received a call from the UN Committee on Human Rights (now Human Rights Council), for the way it treated the issue, showing that the country has not solved the problem of land rights and waters for the Sami and called upon to undertake any activity that could solve the question[21]. In response, Finland has maintained its sovereignty and constitutional recognition of the Sami as indigenous people with the establishment of a representative body to which, however, will not be granted administrative autonomy. Remains in the limbo of philosophical reflection, the constitutionality of recognition and the non-ratification of ILO Convention n.169 of 1989. We can close the reflection about Sami people treatment, observing a map, the diffusion on Scandinavian and Kola Peninsulas, offering a question: what could happen in case of Sami self-determination? Maybe, the dismemberment of four sovereign States with the creation of a new State, Samiland. And this is not planned in any Charter, Declaration, Convention or Agreement actually in use.

[21] "[…] The Committee regrets that it has not received a clear answer concerning the rights of the Sami as an indigenous people (Constitution, sect. 17, subsect. 3), in the light of article 1 of the Covenant. It reiterates its concern over the failure to settle the question of Sami rights to land ownership and the various public and private uses of land that affect the Sami's traditional means of subsistence - in particular reindeer breeding - thus endangering their traditional culture and way of life, and hence their identity. The State party should, in conjunction with the Sami people, swiftly take decisive action to arrive at an appropriate solution to the land dispute with due regard for the need to preserve the Sami identity in accordance with article 27 of the Covenant. Meanwhile it is requested to refrain from any action that might adversely prejudice settlement of the issue of Sami land rights".

## Conclusion

Closely related to self-determination, is the concept of international stability. Its classical definition remains connected with the state-as-actor acting in an essentially anarchical environment. This classical definition, however, says very little about its own relationships with the concept of self-determination. These two concepts are related only when the former is observed by a different perspective, focusing on the sources of international (in)stability. This segment covers the issue of the internal dynamics of the so-called failed states that came to the surface. The externalization of the internal dynamics of these states has in recent years proved to be a huge source of international instability because these dynamics were usually associated with ethnic or nationalist conflicts developing within them. The very survival and further development of these states, rests with the rules, norms, and institutions and principles of the current international regime. There are two sets of questions in every case related to self-determination. One is the would-be unit of self-determination and the other is the potential body entrusted with the right to decide about potential self-determination units. Both of these questions are closely connected. The answer to them, settles the crucial dilemma as to whether today's self-determination is territorially or ethnically based. The would-be units of self-determination have changed over time. At the beginning as such were considered to be former colonies only. A later addition to this list has been the category of the federated states, that is, the federal units of certain federations. It has been, and still remains, that territory serves as a basis for the determination of the would-be units of self-determination, despite the fact that self-determination claims have usually been triggered by ethnic factors. This is the prevailing stance in today's international community that has been crystallized over decades following the Second World War. The international community in its call for democracy, the rule of law and the respect for human and minority rights allowed for process to begin for the actual realization of self-determination within the accepted norms of international law relating to self-determination. Clearly, self-determination as a principle has not been altered. What existed prior to the 1990 events that caused international intrusion, existed after the events. The difference is that the crises and the international response to these crises made the principle a potential realty but not necessarily an universal norm. Comparing this experience with that of colonialism and the self-determination process associated with its end, provides substantial differences. While in colonialism there was no insistence on preconditions, for example the democracy, the rule of law, and the respect for human and minority rights, in this instance they became a *condictio sine qua non* for the realization of any self-determination regime, be it internal or external. Observing the above cases – and however in absolute – we can conclude that no binding principle of self-determination can signify the death of State integrity and sovereignty. Even if this may mean the mortification of some fundamental men’s rights and freedoms.