

ULUSLARARASI POLİTİKADA SELF-DETERMİNASYON NE ANLAMA GELİYOR? REPUBLİKA SRPSKA VE KOSOVA VAKALARININ KARŞILAŞTIRILMASI

ÖZ

Birinci Dünya savaşından sonra Wilson Prensiplerinin açıklanmasından itibaren Uluslararası Politikanın tartışılabilir konularından birisi Self-Determinasyon olmuştur. Özellikle Berlin Duvarı'nın çökmesiyle Soğuk Savaş'ın sona ermesi, Sovyetlerin dağılması, Yugoslavya'nın parçalanması ve etnik grup ve milletlerin bağımsızlık ilan ederek kendi bağımsız devletlerini kurmaları self-determinasyon kavramının önem kazanmasına sebep oldu. Self-Determinasyonun bağımsızlık arayışı içerisinde olan gruplar açısından öneminin dışında, bu kavram uluslararası politikada kendi stratejilerini oluşturan ve sürdüren küresel aktörlerin kullanımına açık bir araç haline gelmiştir.

Bu çalışmanın konusu ABD, Rusya, Avrupa Birliği gibi küresel ve bölgesel aktörlerin self-determinasyon hususunda net bir duruşa sahip olmadıkları ve self-determinasyonu değişik şekillerde yorumlayarak kendi çıkarlarını korudukları veya bu kavramı birbirlerine karşı koz olarak kullandıklarıdır. Konu yeterince geniş ve ciddi manada uluslararası hukuk bilgisi gerektirdiği için bu makede iki spesifik olayın incelemesini yapılacaktır; Kosova'nın bağımsızlığı ve Republika Srpska'nın Bosna Hersek'ten ayrılma iddiaları incelenecektir. İlk bakışta bu iki konu karşılaştırılmaz görülebilir ancak her durum da Yugoslavya'nın dağılması ile ortaya çıkmış ve birisi bağımsızlık ile sonuçlanırken diğeri devlet içerisinde alt-devlet olarak oluşturmuştur. Giriş kısmında self-determinasyonun tanımını ve uluslararası hukuktaki uygulama alanına odaklanılarak her iki vaka için bir anlaşılabilirlik zemini oluşturacaktır. Devamında ise ABD, Rusya, Avrupa Birliği gibi her iki vakayla da yakından ilgilenen farklı bölgesel ve küresel aktörlerin bu iki vakaya yönelik uluslararası hukuku yorumlama şekillerini ve böylelikle kendi çıkarlarını koruma çabaları incelenecektir.

Anahtar Kelimeler: Self-Determinasyon, Uluslararası Politika, Uluslararası Hukuk, Kosova, Republika Srpska, Avrupa Birliği, ABD, Rusya



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Araştırma Makalesi

Başvuru Tarihi: 16.05.2019
Kabul Tarihi: 17.06.2019

WHAT SELF-DETERMINATION MEANS FOR INTERNATIONAL POLITICS? COMPARISON OF REPUBLIKA SRPSKA AND KOSOVO CASES

ABSTRACT

Self-determination has been one of the controversial topics in the field of international politics since it emerged after the 1st World War with the declaration of the Wilson Principles. Especially when the cold war era finished with the fall of Berlin Wall, Soviet Union collapsed and Yugoslavia broke up; self-determination has been taken an important place for the ethnic groups and nations to declare independence and build up their own independent states. Beside the importance of self-determination for the groups which are seeking a tool for independence, it might also become a tool for global actors to maintain their strategies and use it as a card in the international political game against each other.

Subject of study is that the global actors such as USA, Russia and the EU are not having clear standpoint on the right of self-determination and the positions of international or global actors differs according to cases which provides chance to use the self-determination issue against each other in order to maintain their interests. Since the topic is large and needed to have a great deal knowledge of the international law discipline to examine, it has decided to make it more specific by analyzing two cases; independence of Kosovo and the secession claims of BiH's Republika Srpska. Prima facie, these issues can be perceived as incomparable but both of them emerged after the breakup of Yugoslavia one of which lasts with independence and the other one become a sub-state within the state. As introduction I will try to concentrate on the definition of the self-determination and its implementation in the international law to provide a basis for brief analysis of two cases. Afterwards I will try to examine stands of the different global powers or international actors; namely the US, Russia and the EU towards both cases and their interpretations of the international law according to maintain self-interests.

Keywords: *Self-Determination, International Politics, International Law, Kosovo, Republika Srpska, The EU, USA, Russia*



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Research Article

Date Received: 16.05.2019
Date Accepted: 17.06.2019

INTRODUCTION

Historically, the foundations of the self-determination can be grounded on the French Revolution however it has provided a controversial ground when the President Woodrow Wilson acknowledge Fourteen Points after the 1st World War including “self-determination of the peoples”.¹ While Woodrow Wilson highlighted the term, no one had clear understanding of who are those “people”, what he meant by “self-determination” and so on. During that time self-determination was perceived an ideal which has not become a legal aspect yet but it debated widely in the US by asking questions such as; who has a right to self-determination? Does self-determination a right? If yes, then who or which groups has this right and to what extend can one go seeking self-determination? Afterwards President Wilson had to clarify and made statement as: “*When I gave utterance to those words –that all nations had a right to self-determination-, I said them without the knowledge that nationalities existed, which are coming to us day after day.*”² while he was addressing the congress in late 1919.

Attempt by President Woodrow Wilson was idealization of a thought however the United Nations started the process of transforming the concept of self-determination more than mere political rhetoric by placing the term in Article 1 and connecting it to the objective of the organization.³ Despite this transformation, self-determination still remained undefined even though further attempts happened to legalize and moved the self-determination from an inspirational ideal to recognized right by inclusion it the Article 1 of both the International Covenant on Civil and Political Rights -ICCPR- and the International Covenant on Economic, Social and Cultural Rights -ICESCR- which are the cornerstone treaties on international law. This is the statement of both treaties: “All peoples have right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”⁴

While the legalization of self-determination happened by these treaties, there are still questions to be answered such as of which groups can claim a right to self-determination and what it means for the parties that the claimer of the right and the other states or institutions that supposed to whether recognize these claims or not? In the view of Hurst Hannum, well-known international human rights lawyer, from The Fletcher School of Law and Diplomacy, self-determination was understood simply as synonym of decolonization in the 1960’s. Thus makes self-determination as right for not all people but rather that all colonies.⁵

While Hurst Hannum analysed the self-determination as the term for decolonization, this analysis was regenerated by the Quebec Commission⁶ which stated that the right of self-determination is adhesive

¹ President Woodrow Wilson’s Fourteen Points, <https://www.britannica.com/event/fourteen-points>

² Margaret MacMillan, Paris 1919: Six Months that Changed the World , (Random House 2002) p. 11.

³ Article 1, paragraph 2 of the United Nations Charter, <http://www.un.org/en/documents/charter/chapter1.shtml>

⁴ International Covenant on Civil and Political Rights (1966)

<http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> , International Covenant on Economic, Social and Cultural Rights (1966), / <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

⁵ Hurst Hannum, *Autonomy, Sovereignty, and Self-Determination: The Accommodation of Conflicting Rights*, University of Pennsylvania Press, (January 1996), p. 16/33

⁶ A group of experts convened by a committee of National Assembly of Quebec to obtain advice concerning the legal issues of the hypothetical secession of Quebec

to context and has different perceptions of “peoples” that lead to varied practises of self-determination, additively it was just an expedient in the case of decolonization.⁷

Besides these two arguments made by Hurst Hannum and Quebec Commission, for the other situations the most important thing is that if the states consent a minority group; the right to use its mother tongue, can effectively participate in the political community and practice its culture freely, or not. If yes, then it is said that the minority group has internal self-determination which is favourable for the nation states rather than external self-determination or secession. Furthermore, in modern diplomacy with the emerged of the UN, external self-determination or secession is strongly disfavoured by diplomats who have been using the Article 2 of the UN Charter as an argument that underlines the territorial integrity of states. However, still no one can claim that international law does not allow and makes secession illegal, rather prefer to be remain silent regarding attempted secessions.⁸

Nevertheless, general compromise of the law of self-determination can be outlined as;

- For a colonized or supressed people allows for separation from the colonial state so that colony may become sovereign state;
- For a state to have a right to the maintain its political-economic-social objectives without any interference from outside;
- For the communities -which are not colonies and living under the existing state- to the pursuit of minority rights within the existing state⁹

Beside this general consensus, self-determination and secession have become more controversial especially after the cold war era. Several attempts for secession by claiming the right of self-determination occurred and a few of¹⁰ which have been successful so far and by contrast many¹¹ of them resulted unsuccessfully. These examples created questions; why some cases can be addressed as successful and vice versa, are the recognitions key element of making secessions whether successful or not, why some states recognize some cases and not recognise others. More specific questions occurred; why the U.S. immediately recognised Kosovo after just one day of its declaration of independence and Russia denied? In contrary when South Ossetia separated from Georgia, the first recognition came from Russia and the U.S. acted against it. How both actors will react, if Republika Srpska, sub-state of Bosnia Herzegovina, declares its independence?

Answers behind those questions are related with international politics and best described as basic interests and strategies of actors. One can easily say that the U.S immediately recognized the independence of Kosovo in order to maintain its visibility and power in the region, by contrary to that Russia’s act towards the case of South Ossetia was kind of taking revenge of Kosovo from the U.S. Besides geo-political motivation and being rivalry in the arena of international politics, I will more

⁷Roya M. Hanna, “Right to Self-Determination in Re Secession of Quebec, Maryland Journal of International Law”, 213. (1999). Available at: <http://digitalcommons.law.umaryland.edu/mjil/vol23/iss1/9>

⁸ Borgen Christopher J., “The Language of Law and the Practice of Politics: Great Powers, Small States, and the Rhetoric of Self-Determination in the Cases of Kosovo and South Ossetia” (2009). Faculty Publications. Paper 115. Available at: http://scholarship.law.stjohns.edu/faculty_publications/115

⁹Ibid.

¹⁰Eritrea and recently Kosovo and South Sudan cases can be examples for successful secession attempts.

¹¹ Nagorno Karabakh, South Ossetia, Kurdistan, Republika Srpska, Kashmir, Tamil Elam, Gaugauzia, Abkhazia... cases can be examples for unsuccessful attempts

focus on statements made by official representatives and their interpretation of international law according to maintain self-interest and strategy or increase influence.

BACKGROUND OF THE CASE OF KOSOVO

Following the decision of declaration of independence from Serbia at parliament of Kosovo on 17 February 2008, immediately after the U.S. and several European countries recognized the independence of Kosovo which was an autonomous province¹² within the Republic of Serbia that was one of the six republics within the Socialist Federal Republic of Yugoslavia (SFRY)¹³. Ethnic makeup of Kosovo has been Albanian majority with Serb minority and its special autonomy that was given by Tito, founder and first president of Yugoslavia, in 1963 by the constitutional change, was ended by Slobodan Milosevic in 1989.¹⁴

Throughout the 1990's Kosovo remained the part of the Federal Republic of Yugoslavia, (FRY) that succeeded SFRY after republics of Croatia, Slovenia, Macedonia and Bosnia Herzegovina declared independence, but Albanians in Kosovo sought either back to their autonomy or independence. The tension increased in Kosovo in 1998 when the Milosevic government in Belgrade triggered police and military actions -outcomes were persecutions towards Albanians- in the province. Political negotiation process on the status of Kosovo failed and NATO launched airstrikes to stop the actions taken by Serbian Government's police and military forces. UN administration for Kosovo established by the UN Security Council Resolution 1244 after the NATO intervention¹⁵ and negotiation process which aimed to resolve the final legal status of Kosovo started. It took some nine years and during that period Kosovo was under the UN mandate.

Martti Ahtissari was appointed as Special Envoy by Secretary General of the United Nations for Kosovo in 2005 and he mediated fifteen months long lasted negotiations between the Serbia and Montenegro¹⁶, successor of FRY, and Kosovo. "Comprehensive Proposal for the Kosovo Status Settlement" submitted in 2007 which is known today as the Ahtissari Plan and proposed independence for Kosovo after a period of international supervision. It expectedly rejected by Serbia while leadership of Kosovo endorsed it.

In aftermath of the Serbian rejection, the EU, Russia and the U.S. –the Troika- revived the mediation process and oversaw negotiations that held by parties with the mediation by UN's Special Envoy for Kosovo, Martti Ahtissari, from August to December 2007. Secretary General of United Nations was reported by the Troika on 10 December 2007 that an agreement on the final status of Kosova cannot be reached and no party was in favour of ceding its stand on the fundamental questions of Kosovo's sovereignty.

¹² Salla, M. (1995). Kosovo, Non-violence and the break-up of Yugoslavia. *Security dialogue*, 26(4), 427–438. <https://doi.org/10.1177/0967010695026004008>

¹³ Socialist Federal Republic of Yugoslavia had six republics: Serbia, Croatia, Bosnia Herzegovina, Montenegro, Macedonia, Slovenia and two autonomous province within the Serbia that were Kosovo and Vojvodina.

¹⁴ Tim Judah, *Kosovo: What Everyone Needs to Know*, p. 130. (Oxford 2008)

¹⁵ Security Council Res. No 1244, UN Doc S/RES/1244 (1999)

¹⁶ Federal Republic of Yugoslavia was succeeded by the Federation of Serbia and Montenegro in 2003 and Federation of Serbia and Montenegro divided by the independence declaration of Montenegro in 2006.

After three months from the revived mediation process between Kosovo and Serbia, on 17th February 2008, Kosovo parliament unilaterally declared independence from Serbia which brewed storms in the globe about the self-determination and secession.

CASE OF REPUBLIKA SRPSKA

Republika Srpska was officially created as an autonomous sub-state of Bosnia Herzegovina by the Dayton Peace Accord in 1995 after the bloody war between Federal Republic of Yugoslavia (FRY), Republic of Croatia and Republic of Bosnia Herzegovina during the collapse of Yugoslavia however it was unilaterally announced as a proto-state under the control of Army of Republika Srpska during the Bosnian war. From the very beginning governments of Republika Srpska, with a majority population of Serbs has never dismissed that in the long-term agenda their main goal is secession from Bosnia Herzegovina in order to be independent state or part of Serbia. By contrary to the Kosovo case, Republika Srpska has never been a province of Yugoslavia and even more it has just created in order to stop bloody war within the Bosnia Herzegovina after the long negotiation process that included many cease fire and peace plans. All offers that made by mediators rejected by the Serbs even though aggressors were themselves. So that, Republika Srpska was made of extra ordinary conditions which decided to be an autonomous entity in order to paved a way for the outcomes from the negotiations rather than set on NATO military intervention to whole territory and people of Bosnia Herzegovina.¹⁷

One may say; if Kosovo claimed right of self-determination and declared independence from Serbia, while having its own institutions, inter-entity boundaries and so-called capital Banja Luka, Republika Srpska might do it from Bosnia Herzegovina as well. However all these information given as comparison between both cases are true, case of Republika Srpska differs from Kosovo more than it resembles. First of all Kosovo has been province since 1963 and faced by oppression from the central government which is not the issue in the case of Republika Srpska. Secondly there has been always willingness for at least being an autonomous region and moreover independence choired by the residents of Kosovo while Nikola Koljevic¹⁸ -on behalf of Republika Srpska- signed Dayton Peace Accord that ensured territorial integrity of Bosnia Herzegovina.¹⁹ Third and more importantly, while the constitution of ex-Yugoslavia left an open door for Kosovo's independence and the UN Security Council's 1244 resolution did not mentioned anything against secession of Kosovo, Dayton Peace Accord does not have any amendment or leave any space for the secession of Republika Srpska.²⁰ Lastly, Kosovo declared its independence because of there was no alternative after the long time failed negotiations under the mediating role of international community -first United Nations and then the Troika- while Republika Srpska was created as sub-state by long time negotiations with the mediating role of international community.²¹ Moreover it has created in order to stop crimes against humanity

¹⁷ Adriana Camisar; Boris DiechTiareff; Bartol Letica;Christine Switzer, "An Analysis of the Dayton Negotiations and Peace Accords", The Fletcher School of Law and Diplomacy, (2005), available at:

<http://ocw.tufts.edu/data/12/244825.pdf>

¹⁸ He was vice-president of Republika Srpska during the war in Bosnia Herzegovina. More info about him is available at: <http://www.independent.co.uk/news/people/obituary-nikola-koljevic-1276825.html>

¹⁹ Dayton Peace Accord Article, Preamble and Chapter 6, available at:

http://www.ohr.int/dpa/default.asp?content_id=372

²⁰ Ibid.

²¹ Adriana Camisar; Boris DiechTiareff; Bartol Letica;Christine Switzer, *ibid.*

under the extraordinary conditions that emerged because of the rejection of the all peace and ceasefire plans by Serb side.

However, Republika Srpska was created as one of the sub-states in Bosnia Herzegovina with the Dayton Peace Agreement in 1995, local politicians in Republika Srpska has always been using the secession argument and seeking support from the international community. However there is no evidence or public statement made by any country or international organization for in favour of Republika Srpska's secessionist will, Russian officials has never make any statement against it. Further to that, there are several examples²² that shows Russia might support the secession of Republika Srpska under the appropriate circumstances or at least use the will of Republika Srpska to manipulate stability in Bosnia Herzegovina in order to be an important actor.

INTERNATIONAL RESPONSES TOWARDS INDEPENDENCE OF KOSOVO

Kosovo parliament announced independence on 18 February 2008 and immediately after the U.S. Secretary of State Condoleezza Rice made a statement that the U.S. recognized Kosovo as an independent state only after one day. By contrary and as predictably Russia and Serbia immediately started using of the language of the international law to stand against the independence of Kosovo.

Russia made clear its stand point even two days before the independence declaration of Kosovo. Foreign Minister Sergei Lavrov held meeting with the leaders of two secessionist republics in Georgia on 16 February 2008 and stated that; "The declaration and recognition of Kosovar independence will make Russia adjust its line towards Abkhazia and South Ossetia."²³ In addition to that, at the time President of Russia, Vladimir Putin asked "If people of Kosovo can be granted full independence, why then should we deny it for Abkhazia and South Ossetia? We know that Turkey, for instance, has recognised the Republic of Northern Cyprus"²⁴ in 2006.

The U.S. announcement was avoided the language of international law and stated that "The United States has today formally recognized Kosovo as a sovereign and independent state. We congratulate the people of Kosovo on this historic occasion. ... The unusual combination of factors found in the Kosovo situation – including the context of Yugoslavia's breakup, the history of ethnic cleansing and crimes against civilians in Kosovo, and the extended period of UN administration- are not found elsewhere and therefore make Kosovo a special case. Kosovo cannot be seen as a precedent for any other situation in the world".²⁵ In contrary to the Russian statement that made link between Abkhazia, South Ossetia and Kosovo, the U.S. pointed out that Kosovo case is unique by the last sentences of the official announcement.

While the U.S. created the limits and stressed that Kosovo case was unique, Russia urged the international community for not to recognize Kosovo by using the language of the international law. Russian Duma issued a statement that read, in part: "The Chamber Council of the Council of the Federation and the Chamber of the State Duma consider as unacceptable the recognition of Kosovo as an independent state, admittance of Kosovo to the UN and other international organizations which

²²These examples will be mentioned under the title; "Secessionist Will of Republika Sprska and International Responses".

²³ Russia Warns It May Back Breakaway Republics in Georgia,
http://www.nytimes.com/2008/02/16/world/europe/16breakaway.html?_r=0

²⁴ Kosovo issue inflaming separatism in EU neighbours, The Centre for Peace in the Balkans, February 2006, available at:
<http://www.balkanpeace.org/index.php?index=article&articleid=9073>

²⁵ U.S. Recognizes Kosovo as independent state; <http://2001-2009.state.gov/secretary/rm/2008/02/100973.htm>

are adherent to the basic principles of international law and call the Russian Federation leadership to undertake appropriate diplomatic efforts to prevent such developments."²⁶

The U.S. stand point on Kosovo's independence followed by other leading European countries such as United Kingdom, France, Italy and Germany while few of them that have similar types of secessionist problems –likewise Serbia- such as Spain, Romania, Greece, and Slovakia²⁷ mostly stayed tuned and did not recognize Kosovo's declaration of independence.²⁸

In other perspective it might be said that the EU divided on the case of Kosovo even though the majority of its members was in favour of Kosovo's independence. Despite the strong supportive statements made by representatives of Germany, France and UK, the EU leaders came up with the joint text read "*The council notes that member states will decide, in accordance with national practice and international law, on their relations with Kosovo*"²⁹.

STAND OF INTERNATIONAL COURT OF JUSTICE (ICJ) TOWARDS KOSOVO

After the independence of Kosovo, Serbia requested for the vote at the UN General Assembly referred the following inquiry to the ICJ for a consultative opinion: "*Is the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo in accordance with international law?*". The UN General Assembly voted of 77 for, 6 against and 74 abstaining and due to that the Secretary General requested the opinion of International Court of Justice.³⁰

ICJ finished the process on 22 July 2010 and unanimously decided that the court has jurisdiction to give requested advisory opinion which stated that the opinion of ICJ is that the declaration of independence of Kosovo adopted on 17 February 2008 did not violate international law by ten votes to four.³¹ By the advisory opinion given from the International Court of Justice, recognition of the independence of Kosovo increased and the rhetoric of international law used by Russia became meaningless despite the fact that opinion was just advisory and did not comprise any enforcement.

SECESSIONIST WILL OF REPUBLIKA SRPSKA AND INTERNATIONAL STANDPOINTS

Since the establishment of Bosnia Herzegovina by the Dayton Peace Accord in 1995, the governments of Republika Srpska have been using the rhetoric of secession. Recent crises in Crimea increased interests in the region and as expected, the President of Republika Srpska Milorad Dodik backed the

²⁶ Press Release, The Russian Parliament Statement on Kosovo's Self-declared Independence, 20 February 2008, available at: http://www.tanzania.mid.ru/press/press_e_02.html

²⁷ Respectively problems are; Catalonia, Transylvania, Northern Cyprus, Hungarians in Slovakia.

²⁸ By this time of writing, 23 out of 28 members of the EU states recognized Kosovo and the total number of the states that recognized Kosovo is 108.

²⁹ "EU Divisions Shine Through in Kosovo 'Agreement'", *Spiegel Online International*, 19 February 2008, available at: <http://www.spiegel.de/international/europe/united-we-fall-eu-divisions-shine-through-in-kosovo-agreement-a-536279.html>

³⁰ Resolution adopted by the General Assembly, 8 October 2008, 63/3, available at: <http://www.worldlii.org/int/other/UNGARsn/2008/43.pdf>

³¹ Accordance with international law of the unilateral declaration of independence in respect of Kosovo, Summary of the Advisory Opinion, 22 July 2010, available at: <http://www.icj-cij.org/docket/files/141/16010.pdf>

referenda for the Crimea's secession from the Ukraine and its decision to join Russia which increased the tension between the U.S., the EU and Russia.³²

Although The Badinter Commission had previously rejected secession claims of Republika Srpska as a matter of international law, Bosnian-Serbs had earlier stated that, should Kosovo declare independence, they would seek independence for their entity.³³ In 2008, after the Kosovo's independence declaration, Prime Minister Milorad Dodik stated that "In the case of unilateral declaration of Kosovo's independence, others can also develop such ideas too."³⁴

However the idea of secession has always been kept alive especially for the sake of collecting nationalists votes when the elections getting closer in Bosnia Herzegovina and its sub-state Republika Srpska, no official step or evident can be shown through it. This is because of the pressure from the Office of High Representative (OHR), which is the highest authority in Bosnia Herzegovina and responsible for maintaining peace and stability, and implementing Dayton Peace Accord. High Representative has power and authority to unseat elected governments or leaders who act against Dayton Peace Accord or violate it. Considering that Dayton Peace Accord guarantees the territorial integrity of Bosnia Herzegovina, any serious and official step to secession can be prevented by High Representative.³⁵

The U.S and the EU has always been strictly in favour of the territorial integrity of the Bosnia Herzegovina with its institutions in the country. Presence of the institutions such as EUFOR, NATO Headquarters Sarajevo, IMF and The Delegation of European Commission in Bosnia Herzegovina is prove of the Euro-Atlantic support which is also the main target of the foreign policy of Bosnia Herzegovina that of to be part of NATO and the EU.³⁶

By contrary to the Euro-Atlantic will for the unity and territorial integrity of Bosnia Herzegovina, Russia trying to undermine it by using its positions in Peace Implementation Council's (PIC) Steering Board. In fact the relations between Russia and Republika Srpska deepened right after the Russian seizure of Crimea. President of Republika Srpska Milorad Dodik, openly related Crimea's independence referendum for Republika Srpska to break away from Bosnia Herzegovina while having Russian Ambassador Botsan Kharchenko seated his side in a press conference on 18 March 2014.³⁷

Another aspect of the Russian's spoiler stance in Bosnia Herzegovina might be address regarding financial credits that Russia offered some 70 million Euros which followed by 200 million Euros to Republika Srpska, that was pave way to refuse the terms demanded by the International Monetary Fund (IMF) for a new Stand-by Agreement. However the situation was like that the deal between Russia and

³²Zorana Suvakovic, The Balkans, Crimea and the Boomerang Effect, Aljazeera Online (April 2014), available at: <http://www.aljazeera.com/indepth/opinion/2014/03/balkans-crimea-boomerang-effect-20143318373738630.html>

³³ Robert M. Hayden, "Bosnia's Internal War and the International Criminal Tribunal", The Fletcher Forum of World Affairs, vol.22.1, Winter/Spring 1998, p. 58.

³⁴ Bosnian Serb Nationalists threaten secession, Setimes, http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2008/02/15/feature-01

³⁵ The General Framework of Dayton Peace Agreement, Annex 10, Article 1, http://www.ohr.int/dpa/default.asp?content_id=366

³⁶ Basic Directions of BiH Foreign Policy, http://www.mvp.gov.ba/vanjska_politika_bih/osnovni_pravci_vanjske_politike_bih/?id=2

³⁷ Congratulations to the People of Crimea on a Legal Referendum, SRNA, <http://www.srna.rs/novosti/188331/congratulations-to-the-people-of-crimea-on-a-legal-referendum.htm>

Republika Srpska were never publicized and in the end because of the catastrophic floods that hit Republika Srpska heavily, deal did not materialize.³⁸

In addition to Russian speculative financial role in Republika Sprska, the statement of the Russian representative was remarkable at the last UN's Security Council meeting on November 2014. Most of the 15 members of the UN Security Council made statements that addressed the importance and their unwavering support to the territorial integrity of Bosnia Herzegovina while Russian Ambassador was avoided to mention it and said *"The elections proved that local populations were able to shape their future; that should happen without inappropriate external intervention. Application of the 5+2 plan was a priority and it should not be complicated with arrangements for European integration. External oversight had exhausted itself and its rapid conclusion should be pursued. International criticism of Bosnian Serbs and Croats added to tensions."*³⁹

While Russian ambassador at the UN's Security Council was evoke the "will of peoples" by mentioning the ability of the local people through shaping their future and addressing the pressures on Serbs and Croats as indicator of increased tension, ambassador of the U.S. David Pressman affirmed that "the U.S respected the territorial integrity of Bosnia Herzegovina" and the ambassador of the UK Michael Tatham declared that "the reconsidering of the map in the Balkans is finished".⁴⁰ Thus clearly reveals the clashes of views between the Russian and the North-Atlantic sides on the case of Republika Srpska.

COMPARISON OF THE RHETORIC USED BY THE U.S. AND RUSSIA TOWARDS CASES

The hypothesis of this article is claimed that there is no concrete definition and understanding of the self-determination issue in the international politics even though there has been many international agreements⁴¹ signed by many countries after the Second World War. International Law has been increasing its importance and one may show some examples that coped successfully with the principle of the international law, however, the main source that drives international politics is interpretation of law which made by great powers.

Both cases of Kosovo and Republika Srpska have been evident that the principles of international law can easily differ for great powers from situation to situation in order to maintain their strategies. The U.S and Russia used international law rhetoric when the cases are relatively simple to define and the act works in favour of their policies. For example, Russia mostly used rhetoric of the international law through the case of Kosovo but beware to made any statement in order to show respect to Dayton Peace Accord when the territorial integrity of Bosnia Herzegovina was the issue. That applies to the U.S. as well when it was the first country that recognized Kosovo's independence but stated it as unique to avoid future legal precedents or has always been in favour of the territorial integrity of Bosnia Herzegovina by contrary to the Serbian territorial integrity regarding to case of Kosovo.

³⁸ "Bosnian Serbs Seek Russian Loan to Replace IMF", *Balkan Insight*, April 2014, available at: <http://www.balkaninsight.com/en/article/russian-credit-to-replace-the-imf-in-republika-srpska>

³⁹ Following Protracted 'Downward Trajectory' of Bosnia and Herzegovina, New Leaders have Chance to Make Headway, High Representative Tells Security Council, 11 November 2014, SC/11642, 7308th Meeting, Security Council Meetings Coverage, available at: <http://www.un.org/press/en/2014/sc11642.doc.htm>

⁴⁰ Ibid.

⁴¹ International Agreements are one of the main sources of the International Law.

Russia has practiced language of the international law towards the case of Kosovo to play to the audiences, especially the countries that have similar secessionist demands within their borders, in order to maintain support from them. In contrary to that while recognizing Kosovo the U.S made statement that pointed the case as unique for paving the way more recognition from other states which possibly provides leading role the U.S. in international politics.

Alternatively, the U.S. could have use the legal argument in the case of Kosovo by stated that secession is not illegal while there is no right to remedial secession according to international law. The U.S. did not take advantage of this argument, in contrast Russia placed its argument according to international law even though its weakness because of the standard interpretations of it. Consequently, Russia maintains rhetoric which shows its anxieties for the norms of international law while the U.S try to evade the issue of legality because of that its purposes did not fulfil by the international law.

The exact opposite situation occurs in the case of Republika Sprska for the both actors. The U.S. underlines the territorial integrity of Bosnia Herzegovina by referring the Dayton Peace Accord which is one of the main sources of international law. By contrary Russia remains silent neither on the territorial integrity of Bosnia Herzegovina nor on the remedial secession of Republika Sprska and this type of behaviour paves a way to maintain its provocative role in the issue or use the issue just as a trump card.

From another perspective the U.S and partially the EU guaranteed to be able to underline basic rules of international law at the moment when Russia occupy another member states of United Nations such as Ukraine and Georgia⁴², by not stated anything related with the international law by the time of independence of Kosovo and adding that the case of Kosovo was unique. In contrary to that Russia has been using the rhetoric of that “if Kosovo’s independence was legal, why not Crimea” recently by avoiding the basic rules such as territorial integrity, independence, sovereignty.⁴³

CONCLUSION

In the light of abovementioned information, it is evident that international/regional powers and have tendency to use the language of international law politically. Furthermore, great powers and other states use or not use legal arguments depending on the estimation of their political goals that include many different aspects such as reputation, public diplomacy, solidity, as well as their interests in maintaining or sabotaging the legal situation.

There are many reasons to make states use of legal arguments; firstly, states prefer to obscure their actions by using legal language to amplify reputations of being respectful actors of the international law. This is simply because of the allowance to being more credible in the international politics while negotiating or ratifying an agreement with other states.

Secondly, more important than the first one, sometimes interpretation of international law likely changes the state of law without any negotiations on the treaty or a single word. This is basically arguments of constructivist theory of international relations that based on social environment and its

⁴² South Ossetia case in Georgia and recently case of Crimea in Ukraine are emerged problems because of the interpretation of international law in order to maintain power. For more info: <http://www.interpretermag.com/crimea-shows-russia-can-absorb-south-ossetia-now-without-worrying-about-west-amelina-says/>

⁴³ Putin: Crimea similar to Kosovo, West is rewriting its own rule book, 18 March 2014, available at: <http://rt.com/news/putin-address-parliament-crimea-562/>

interactions in terms of language. According to Alexander Wendt, constructivism argues that individuals do not exist detachedly from social environment and its collective common values systems.⁴⁴ So the use of language when defining the terms of secession and self-determination, and answering the questions such as “who has the right of self-determination, what means and covers the word of -all peoples-” plays important role for the creation of social environment that can be addressed as international law in this case. Furthermore the mean of legitimacy might be change by the use of such language and ended up the change of the rules as interpretation rather than change of words. Kosovo’s independence can be an essential example for change of interpretation of international law regarding the consultative opinion of the ICJ. Numbers of the states that recognise Kosovo likely increased after the declaration of the opinion of ICJ while there had not been any change in international law on the right of self-determination.

As a result, international law presumably more than its definitive meaning regarding to the constructivist perception and the example cases that analysed in this article. However, international law is the key grammar of international politics and relations; the definition of different cases might affect on this grammar and can change the substance of international law that causes another change in the interpretation of society according to international law. Alternatively, it can be said that international law is made of international politics which is creation of societies and vice versa.

The case of Republika Srpska mostly understood in different perceptions both in Russia, and the U.S. and the EU states regarding the war that happened in Bosnia Herzegovina. For the western part of the world, Republika Srpska was the aggressor and tried to divide Bosnia Herzegovina in favour of Serbian territorial expansion which in contrary mostly perceived as freedom fight in Russia. Thus, society’s effect on motivation of International Politics in which rhetorical effect might happen on the interpretation of international law. In short, societies of the U.S. and the EU states consider Serbian side as aggressor in both cases of Kosovo and Republika Srpska and it might effects the policies of their governments. This can be applied for the Russian side also.

Beside the constructivist perception, making change on international law in order to maintain power or reputation as being an international political actor is based on believability of the claims. This is the main competition of the Russian and American claims on whether the right of self-determination favours secession or not. In this situation the most believable actor which can attract others interest and lead highest number of states can make a new interpretation of international law as it happened in the case of Kosovo by the U.S. In contrary to that Russia has not been successful yet for the cases of South Ossetia, Abkhazia and for the any change in status of Republika Srpska.

As the hypothesis of this article claimed that great powers are likely interpreting international law in order to achieving their goals. Kosovo and Republika Srpska cases might be address as litmus paper to understand the motivations of Russia and the U.S. when the issue is interpretation of international law. Likewise South Ossetia case and recent crisis in Crimea can be also good examples to discover that the great powers likely act under the rule of international law if the order of the international law fulfils their interests. Otherwise they attempt to utilize the international law consciously by interpretations as it is obvious in the cases of Kosovo and Republika Srpska.

In light of this research; however the international law provides a basis for legal actions of the states in international politics, the different approaches taken by Russia and the U.S. towards the Kosovo and Republika Sprska cases has proven that there is no certain understanding of self-determination and

⁴⁴ Wendt Alexander, *Social Theory of International Politics*, Cambridge University Press, (1999)

secession. Consequently, global actors' perceptions vary case to case according to their adverse interests as it has analysed on Kosovo and Republika Srpska. In addition to these, any state might choose a policy which can force the limits of the existing international law in order to make change in favour of its strategies but the result strongly depends on its ability to persuade other states to begin to use new interpretation. As an example of this, it might be said that the U.S. was successful in the case of Kosovo while Russia has not achieved any results by provoking the case of Republika Srpska yet.

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