

An Evaluation of The Secession Demands of The Catalans in The Context of The Self-Determination Concept

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Abstract

While self-determination, an essential and controversial concept in the international relations literature, is regarded as a tool for gaining autonomy by various communities in the most general sense, it is interpreted as being an independent state by others. In the recent period, the Catalans have been the community that most strongly expressed their demands for self-determination based on secession in the European continent. Their self-determination demands, which had begun along with the demands for autonomy of Catalonia, a region in Spain, turned into a demand for separation in the historical process. This study aims to examine the demands of the Catalans, up to their desire for secession, in the context of the self-determination concept, after revealing the conceptual framework of self-determination. In other words, the study focuses on the controversial aspects of the self-determination concept and aims to address the Catalans' demands for secession within the framework of the self-determination concept.

Keywords: Self-determination, Secession, Spain, Catalonia.

Introduction

The self-determination process allows communities to freely determine their own destiny without any external pressure or coercion. In this process, the meaning of the community being free to determine its own destiny is related to what it considers fit for its destiny. In other words, if a populace wishes to determine its own destiny by gaining autonomy, the definition of self-determination will be shaped based on those demands of this population. However, if a populace intends to achieve independence by separating from the main state while determining its own destiny, concepts such as secession and becoming a state will be included in the definition of self-determination.

There are two different opinions explaining the relationship between self-determination and the right to secession. Those who support the opinion that self-determination is a constructive and positive right consider the right to secession a destructive and negative right. Those who argue that self-determination will not make sense without the right to secede consider the right to secede to be an inseparable whole with the concept of self-determination. However, as it is known, secession is not regarded legitimate in international law, except for the cases where it is freed from colonial rule and foreign domination and rarely exposed to severe human rights violations.

The present study examines the concept of self-determination in the context of its meanings, the subject and international qualification it possesses, and its relation with the right to secession. Then, the transformation process of Catalans' self-determination demands its secession to be discussed from a historical perspective. Finally, the Catalans' demands for self-determination based on separation are analyzed in the concept of self-determination.

General Framework of Self-Determination

Definition of Self-determination

Self-determination, which is one of the most important global issues, especially in the twentieth century, still rests on a political-legal basis whose standard is not fully and precisely determined. Although various commentators have interpreted this concept as the achievement of independence by leaving the main state, others use it as a tool to achieve autonomy or self-government. Some of the definitions are as follows:

According to Eisuke Suzuki (1970: p.790), the concept of self-determination is a symbolic form of expression of requests to reject the existing order to create a new model that is thought to be more desirable than a group's existing social order. In the definition of Nathaniel Berman (1992: pp.389-390), self-determination refers to the demand of a populace, which has not yet managed to establish a state under international law, to control its destiny. According to Lionel Forman (1959: p.14), self-determination is basically a population's right to determine its destiny. Within this definition, it is possible to say that self-determination means creating and leading an independent political entity in the case that this populace is part of a multiethnic state or empire.

According to another definition, self-determination is essentially a concept that emphasizes the necessity for people to have control over and make decisions about their own lives collectively and is related to many other ideas such as group autonomy, self-management, independence, democracy, and noninterference in domestic affairs (Young, 2001: p.25). Michla Pomerance (1982: p.37) defined *self-determination* as a controversial concept that explains how a populace that shares certain common characteristics can choose the form of management it lives or will live under, without any external pressure.

Given the definitions above, it is noteworthy that no clear consensus exists on the concept of self-determination. Although some academics limit the self-determination of a population to themes such as autonomy and self-management, others interpret the concept as gaining independence through secession.

Subject of Self-determination

As can be understood from the definitions offered for self-determination, the group that requests self-determination is the public. Those evaluated as being within "the public" scope can benefit from self-determination. Although an objective criterion cannot be determined for defining the public who are subjects of self-determination, the United Nations (UN) prefers "territorial criterion" over "ethnic criterion" (Pomerance, 1982: p.18). In other words, the acceptance of the UN concept of the public from the territorial perspective allows the appraisal of self-determination subject to cover all the people in the country. From this point of view, it is possible to say that the concept of the public does not belong to a particular minority or ethnic group but rather encompasses all citizens of a state who are considered human elements.

However, in a report of 1981, Aureliu Cristescu (1981) pointed out that the public who can request self-determination does not consist of people who make up the entire population. Based on the report, it is possible to say that the public who are the subjects of self-determination may not be comprehensive enough to include all the citizens of a state; rather, the national-ethnic groups and minorities have the potential to become the public, and the state can be made up of more than one public.

Although the definition of the public from the territorial angle (defining the people only by the land on which they live) is criticized as an anti-democratic attitude that is redolent of feudalism. Clearly, the public's perception from the ethnic perspective will likewise cause other kinds of legitimacy problems (Ötkem, 2011: p.202). In other words, when the public who demands self-determination is defined as the

country's entire population, the existence and rights of people who live differently from the majority in that country can be ignored, but this will not contradict the principle of territorial integrity protected by the UN. This contradiction is the main reason why specific and objective criteria cannot define the concept of the public.

Additional to the uncertainties over the concept and scope of the public, many authors emphasize that the term "public" in the introduction part of the UN Charter is used to mean nations or states. The absence of a standard definition of the concept of the public is the reason for this confusion. People are the beneficiaries of self-determination, and the state is a means of exercising this right; it is in the hands of the people who constitute it (Özden & Golay, 2010: p.13). While the public refers to the people living in a country at present, a nation whose spiritual dimension is more prominent includes those who have lived in the past and who will live in the future and people who are living now (Renan, 2002: p.60). Although the concepts of "nation" and "public," which differ in process and scope, are occasionally used interchangeably. There is an agreement that the subject of self-determination is the public.

As a result, it is possible to say that there is no definition of the public whose borders are determined and agreed according to certain criteria and that this is essentially based on two reasons. The first reason is the fact that to assess the concept of the public from the territorial perspective is to ignore the rights and assets of minorities and ethnic groups within the country. The second reason is the belief that the ethnic interpretation of the concept will encourage separatist movements within the country and cause damage to national unity.

Is Self-Determination A Principle or A Right?

Whether self-determination is a principle or a right is one of the controversial issues of international law which does not have a consensus. Moreover, there is no consensus in the doctrine on whether the concept adheres to the standard of international law. The fact that the concept of self-determination is comprehensively included in the international agenda coincides with the aftermath of World War I. In the early twentieth century, self-determination, albeit with different emphases and motivations, was advocated by Vladimir Lenin and Woodrow Wilson as a political principle (Cassese, 1995: pp.19-24). Furthermore, although it was not evaluated under international law until World War II, it remained a political principle (Brownlie, 2003: p.553).

The conflict between Finland and Sweden regarding the Aaland Islands is a noteworthy example of self-determination as a principle, not a right, under the League of Nations. The self-determination principle, which was not welcomed by the states because it would cause political instability, was not included in the League of Nations Charter. In the process shaped by the interests and policies of the political actors of the period, the aim was to apply this principle only in Europe, and self-determination was not allowed in the colonies (Ganguly & Taras, 1998: pp.49-50).

Self-determination was essentially regarded as a political principle until included in Article 1, Paragraph 2, and Article 55 of the UN Charter. The adoption of the UN Charter included the concept in an international legal document for the first time and thus transformed it from a political concern to a legal one. However, although self-determination gained a legal angle, it remained a principle (Tuncay, 1993: p.16). In other words, the fact that the concept was included in the UN does not mean that it became a legal right.

Self-determination was expressed for the first time as a right under the “Declaration on the Granting of Independence to Colonial Countries and Peoples,” adopted by the General Assembly resolution 1514 (XV) of December 14, 1960 (Lino, 2010: p.845). With this declaration, the legal aspect was strengthened due to self-determination being converted from a principle into a right. The concept became a binding norm of international law with the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights adopted in 1966 (Wilson, 1990: pp.75-76). According to these covenants, “All peoples have the right to self-determination. Based on this right, they freely determine their own political status and freely follow their economic, social and cultural development.”

“The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States,” by which accordance with the Charter of the United Nations was adopted by the General Assembly on October 24, 1970, also accepted the right of all peoples to self-determination (Gündüz, 1998: pp.106-113).

When we look at the situations in which self-determination is considered an undisputed right, the most significant example is internal self-determination. The right of internal self-determination regarding the internal organization of a state is that the people of that state choose the form of government they desire without any external pressure (Pomerance, 1982: p.37). The right to internal self-determination is about determining the social and political structure of the system in which a people live without being exposed to external pressure and deciding on the form of administration. The legally controversial part of the self-determination right presents as external self-determination. External self-determination is about different groups

or minorities living within the boundaries of an independent country who consider themselves different from other people in the country and who want to leave the sovereign state based on this difference, causing them to strive to establish a new independent state (Verhelst, 2018: p.6). A complete contradiction between the external dimension of self-determination and territorial integrity is apparent. However, as regards territorial integrity, the right to self-determination remains secondary.

Self-determination and Secession Right

There are two different views on defining the relationship between self-determination and the right to secede. Those who see the right to secession as an inseparable whole with the concept of self-determination argue that the latter will not make sense without the former. According to those who adopt the other view, although self-determination is accepted as a constructive and positive right, the right to secede is seen as a destructive and negative right (Uz, 2007: p.72). The fact of secession, which includes the processes of both struggle and negotiation, is a form of self-determination that expresses the actions of the withdrawal of a certain part of the territory of the existing state and the emergence of another state (van den Driest, 2013: p.87).

The right of secession is basically divided into two main categories under the international literature: consensual secession and unilateral secession. According to Buchanan, one of the key theorists on the right to secession, “consensual right to secession occurs after a negotiation process or is used in accordance with the constitutional process. On the contrary, unilateral right to secession is the attempt of a group to establish its own independent political unit in a part of the territory of an existing state without constitutional authorization” (Buchanan, 2004: p.338)

Consensual right to secession is largely seen as a matter of law and requires acceptance of the constitution of secession (Muro, 2017: p.21). Unilateral secession refers to the separation of a particular part of a state’s territory without the consent of the former sovereign (Crawford, 2006: p.246). For this reason, in unilateral secessions, the main state has no consent, and such secessions may involve threat and use of force. Unilateral secession is essentially a form of revolution and often precedes irregularity characterized by political tension and social conflicts (Muro, 2017: p.22).

Regarding the right to secession theories, it is possible to characterize them under three headings based on the classification of the external secession theories of Allen

Buchanan, Margaret Moore, and Wayne Norman. These are 1) Remedial Right Only Theories, 2) Choice Theories, and 3) National Self-Determination Theories.

The Remedial Right Only Theories prioritize several reasons and special situations that justify political separation. Allen Buchanan, Wayne Norman, Lea Brilmayer, and Margaret Moore are noteworthy representatives of the Remedial Right Only Theories. These theories allow the right to secession in unfair situations such as genocide, land occupation, unjust discrimination, and marginalizing people or groups based on religion, language, culture, or ethnicity (Moore, 1998: p.6). Such theories assume that the burden of proof belongs to minorities, so they are often biased in favor of the state (Requejo & Klaus-Jürgen, 2017: p.5).

An essential advantage of such theories is that they suggest a strong internal link between the right to resistance against bullying (exploitation, oppression, genocide, land occupation) and the right to self-determination (Moore, 1998: p.4). According to Remedial Right Only Theories, the right to secession is highly similar to the right to revolution. The right to revolution is based on the John Locke theory, which is grounded in situations in which people have the right to secede from the government only when their fundamental rights are violated, and there is no longer any possibility of peaceful means (Buchanan, 1997: p.35).

Considering the problems related to the Remedial Right Only Theories, the first thing that draws attention is that such theories are focused entirely on violations of rights. These theories cannot offer any measures for situations where there is no persecution, unfair occupation, human rights violation, and discrimination, such as denial of democratic participation. Another problem is that these theories do not take into account the processes and characteristics of groups that demand the right to leave (Sheikhani, 2015: p.14).

According to Choice Theories, it is adequate that only the group expresses this request so that a group's request to leave can be considered legitimate. In addition, these theories are not concerned with whether the group demanding secession is made up of victims of injustice (Philpott, 1998: pp.81-83). Harry Beran (1993: p.484), one of the most important representatives of the Choice Theories, argues that any group feeling different and separate has a majority in a particular region and can survive as an independent political entity has the right to secession. According to David Copp (1998: p.230), every political and "territorial" group situated intensively in a particular area has the right to secession if it demands its own independence.

Choice Theories have many problems, such as allowing open disintegration even of functional states, posing serious threats to the territorial integrity of states, and

revealing the risk of violation of rights and potential for ethnic conflict, creating an unstable and chaotic environment, which are drawing attention.

Proponents of National Self-Determination Theories attribute the right to secession to nations and emphasize that nations must establish their own independent states. Avishai Margalit, Ernest Gellner, Daniel Kofman, and Joseph Raz are the most important representatives of the National Self-Determination Theories. These theorists state that minorities have the right to self-determination, including the right to establish an independent state. Moreover, these theories are based on the idea that national ties have real ethical value (Norman, 1998: p.35).

Advocates of National Self-Determination Theories argue that nations have the right to secession, regardless of the difference in their degree of liberal democratic values. One of the most important problems of these theories is seeing every nation as an equal owner of the right to secession, and this situation poses a serious risk in creating international instability. In addition, other problems include ignoring economic sustainability, which has an impact on the development of a group, potentially encouraging ethnic cleansing, increasing the risk of assimilation of minorities, ignoring human rights, and not commenting on the survival problem of the new state (Catala, 2011: pp.138-139).

Evolution of Catalans' Self-Determination-Secession Demands

Catalan nationalism was first observed in the cultural field in the history of Catalonia. It emerged with the "Renaixença" movement, which aimed to revive the Catalan language and culture by referring to the nation's medieval past. Then, this cultural dimension of Catalan nationalism has become a political ideology in the following years. While the *Renaixença* movement had a cultural character initially, it turned into a political structure over time (Balcells, 2013: pp.472-473).

In 1887, the "Lliga de Catalunya" party was founded, and it included the term "nationalist" in its political program and aimed to support Catalonia's political, cultural, and financial interests. Catalan nationalism did not have a separatist ideology during this period. The existence of separate institutions needed to develop the Catalan people, culture, and economy has been the major issue demanded (Payne, 1971: pp.20-22). In 1901, the "Lliga de Regionalista Catalunya" party was established. The party made rapid progress in all other Catalan cities, initially in Barcelona (Edles, 1999: p.319).

Catalan nationalist parties in Catalonia launched a campaign to teach Catalan in schools and use it in the official procedures. This process, which could be described as successful in Catalan nationalism, was interrupted by deepening the left/right split in Spain and Catalonia after the Bolshevik Revolution (Storm, 2018: p.18). This period of comprehensive class conflict affected the country between 1919 and 1923. General Primo de Rivera, who turned this turmoil into an opportunity, overthrew the regime and declared a military dictatorship. Following an anti-Catalanist policy, Rivera began to remove all symbols and manifestations of Catalanism after he seized power. The Rivera dictatorship lasted until April 1931 (Edles, 1999: p.320; Grejsen, 2011: p.8).

The Spanish Constitution of 1931 and the Statute of Autonomy of Catalonia of 1932 allowed Catalonia to establish its own government, declare Catalan as the official language, and follow an active policy to support the teaching of the Catalan language. As a result of Francisco Franco's victory in the Spanish Civil War (1936-1939), this autonomy was eliminated entirely in 1939. Between 1939 and 1975, the policies of oppression and intimidation against the Catalans were intense and systematic, especially in the 1940s and 1950s. The Spanish Constitution of 1978, which was proclaimed after Franco's death in 1975, became an indisputable threshold in Spain's rapid transition to democracy and updating its unique institutions within this framework. The first important step after adopting the 1978 Constitution was the ratification of the Statute of Autonomy of Catalonia following the 1979 referendum. Thus, Catalonia gained its own autonomous government and institutions, and Catalan was declared the official language of Catalonia.

Between 1980 and 2003, the "win-win strategy," regarded as a cooperative strategy, dominated the developing relations between Catalonia and Spain. The "2006 Catalan Autonomy Statute," which aimed to expand the autonomy, was accepted by getting 74% of the votes in the referendum held in Catalonia in 2006. The Statute of Autonomy of 2006 has addressed the elements of Catalan identity in a broader framework by clearly stating the flag, anthem, and national holiday of Catalonia (Mermel, 2016: pp.21-22).

In 2010, the Spanish Constitutional Court determined that 14 articles of the Statute of Autonomy of 2006 were unconstitutional, and it was emphasized that 27 articles should be reinterpreted by questioning their constitutionality. The political parties and the Catalan people reacted against the restriction of Catalonia's autonomy, which had been tried to be expanded with the 2006 Statute, by the 2010 decisions, and they accused the Court of being politicized (Nagel & Rixen, 2015: pp.59-60). This process brought about an independence referendum in Catalonia in November 2014 under the auspices of the autonomous government that demanded secession from

Spain. Although it was previously announced that the referendum would not have legal effects, the 2014 referendum could be regarded as one of the most important demonstrations of the growing support for a radical change in the content and functioning of Catalan autonomy.

Although there were attempts to centralize in Spain in 2015 and later, others increasingly demanded independence of Catalonia to become a separate EU member state. Ultimately, on October 1, 2017, an independence referendum was held in Catalonia, and voters were asked, "Do you want Catalonia to become an independent state as a republic?". The Catalan Regional Government stated that the final turnout at elections was 43% (2.3 million) and it announced that 90.2% of the voters voted "Yes" and 7.8% voted "No" (Cetra et al., 2018). The referendum was declared illegal under the Spanish Constitution by the Spanish Supreme Court. The harsh reaction of the central government to the voters during the referendum led the supporters of the Catalan independence movement to describe Spain as an anti-democratic and anti-Catalan country.

After the referendum, when 70 of the 135 members of the Catalan Parliament voted in favor, the government of Catalonia unilaterally declared independence on October 27, 2017. Thereupon, Spanish Prime Minister Mariano Rajoy told the senators that "direct administration is needed in the region to restore law, democracy, and stability in Catalonia," and then the Spanish parliament approved direct rule over the region (Newton, 2017). Charles Puigdemont fled to Brussels to seek international support in the face of all this. During this troublesome and complicated process following the referendum, 12 Catalan politicians and NGO leaders were tried by the Spanish Supreme Court for holding an illegal referendum. The pro-independence public protested the detention of Catalan politicians and the request for imprisonment for various crimes.

It was observed that hundreds of thousands of people joined the protest marches in Barcelona, Madrid, and other Spanish cities since the referendum, either for or against independence. Despite the recent easing of tensions between Catalonia and Spain's socialist central government, the social polarization within the Catalan-Spanish society still holds crucial challenges.

Analysis of The Secession Demands of The Catalans in The Context of The Self-Determination Concept

Self-determination demands that had begun with the autonomy demand of Catalonia, a region of Spain, turned into a demand for secession in the historical process.

Catalonia has been a minority that has come to the forefront with its demands for independence, especially in recent years. Although the origins of Catalan nationalism go back to ancient times, it is possible to say that the demands for self-determination under the name of independence were not expressed until recently. While Catalans have demanded expanding their autonomy by emphasizing the internal dimension of self-determination until the last decade, they have given an external aspect to these demands, especially with the 2010 Spanish Constitutional Court decisions.

Although the external dimension of self-determination means secession from the state, there have been several limited and controversial aspects in international law. In other words, although the right of external self-determination, which expresses the right of being independent and free from foreign intervention, legitimizes separation from various aspects, no international law on self-determination does not state that communities have the right to secede just because they hold the right of self-determination. The external dimension of self-determination refers to colonialism, foreign domination, and gross and systematic human rights violations. Therefore, self-determination emerges as a right in such situations if the community demands separation from a state.

In the case of Catalonia, none of these situations exist. Therefore, there is no legal basis for Catalonia to secede from Spain. The declaration of independence made by the Catalanian Parliament after the independence referendum has been considered as a unilateral secession. According to the 1978 Spanish Constitution, it is not legal to organize and hold the referendum without the central government's consent and to declare independence based on this referendum. Therefore, the motherland, namely Spain, has no consent for Catalonia's unilateral declaration of independence. As a result, many states reacted to the issue after the Catalan Parliament unilaterally declared independence from Spain following the Catalan independence referendum on October 1, 2017.

Since Catalans' declaration of independence may encourage other separatist regions, thereby strengthening the possibility of deterioration of the territorial integrity of the states, the issue had repercussions in the international arena. For instance, the EU opposes this independence decision with the thought that it would set an example for other separatist movements (Basque Region, Flemish Region, Corsica, Bavaria, South Tyrol, etc.) within its structure and therefore will prevent EU integration. Accordingly, the EU states that it recognizes Catalonia only as a part of Spain.

Typically, in unilateral separations, the new state faces the issue of not being recognized by other states. The problem that an unrecognized state will face is quite

a lot. Some of these problems include not being able to participate in international institutions, sign international agreements, maintain normal economic-diplomatic relations, and be a party to international agreements (Fabry, 2012). The fact that the communities, which resorted to secession, as a different form of self-determination, to separate from the state they belong to mostly faced a painful recognition issue, supports the prediction that Catalans will experience similar processes.

Conclusion

The self-determination criteria are still unclear, and by definition, there are no clear agreed-upon boundaries. In the most general sense, it is possible to say that self-determination is a process that allows a community to freely determine its own destiny without any external pressure or coercion. In this context, the communities' free determination of their own destinies is related to what they see fit for their destinies. Today, while self-determination creates a right for its owner with its internal dimension, whether the concept is a right or a principle with its external dimension differs according to the existence of a concrete event. Although the right of external self-determination, which refers to the right of communities to be independent and free from foreign intervention, legitimizes separation from various aspects, no international law on self-determination states that communities have the right to secession just because they hold the right to self-determination.

Self-determination and the right to secede are still discussed in the European continent and beyond. The European continent is one of the regions where the demands for self-determination based on secession are experienced the most. Among the separatist movements on the continent, Catalonia has been the region that expressed the demands for secession most intensely and strongly. The demands of Catalonia, one of the seventeen autonomous regions of Spain, began with a demand for autonomy in the past; then, they turned into a demand for separation over time. Catalonia, which had a self-government institution (Generalitat) for the first time in the 14th century, lost, regained, or expanded this autonomy from time to time, depending on the developments in history.

Until the last decade, the Catalans have demanded expanding their autonomy by emphasizing the internal dimension of self-determination. However, the Catalan people have begun to give an external aspect to their demands following the 2010 Spanish Constitutional Court's decisions that annulled 14 articles in the Statute of Autonomy of 2006. For many Catalans, the annulment decision closed all the doors that would enable the integration of Catalonia to Spain and thus paved the way for

the separatist movement to strengthen. This process brought about the unofficial independence referendums of Catalonia in November 2014 and October 2017.

The unilateral declaration of independence of the Catalan Parliament after the 2017 referendum led to international reactions. In international law, secession is not regarded as legitimate, except for the cases of liberation from colonial rule and foreign domination, and rarely, exposure to serious human rights violations. Given this situation, there is no legal basis to allow Catalonia to secede from Spain. In other words, considering the conceptual framework of self-determination, the UN resolutions, and the 1978 Spanish Constitution, it is possible to state that the Catalans' demands for secession lack legal grounds.

Therefore, it is seen as the most reasonable option for the region's well-being that the Catalans should be content with their broad autonomy demands and stay away from the option of unilateral secession. Otherwise, in case of separation from the motherland, Catalonia is likely to encounter several problems, such as recognition and isolation by the EU. With the confidence of regarding themselves as an indispensable region for Spain, the Catalans should not resort to the option of secession and allow their economic, social, and political conditions to deteriorate.

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