

Sovereignty: Analysis of its Current Issues in Certain Countries

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Abstract:

The work is divided into two parts. In the first part, work describes the sovereignty of the state since its creation in the work of Jean Bodin and its subsequent development until now. This development is documented in the work of major theorists such as Bodin, Hobbes and Jellinek as well as on modern theories which are still under development, with a focus on international legal aspects of national sovereignty.

Subsequently, the second part in the work deals with recent cases relating to the sovereignty of the state. We analyze perhaps the most famous cases of countries which are seeking to gain national sovereignty with all characters. Chosen countries are briefly historically characterized with description of events, as individual countries try to obtain international acknowledgment and sovereignty. Those states (Kosovo, South Ossetia and Abkhazia, Tibet, South Sudan) still seems a long way to achieve sovereignty. In individual cases, therefore there is description of their development of those states, especially attitudes and influence of the international community and then they are partly compared individual cases with some of the theories contained in the first part. The aim is to determine whether Kosovo, South Ossetia and Abkhazia, Tibet and South Sudan can be considered as sovereign states.

Purpose and Originality: The purpose of my seminar work is analyzing of the issue of sovereignty in international law. Originality of my article is that events described in the text are for people little known.

Method: In the text I used to describe the method.

Result: I evaluated the most important facts and influences for States Kosovo, South Ossetia, Abkhazia, Tibet and South Sudan.

Society: The lives of people in the above countries, the history and present.

Limitation: I clarified the important facts and dates, also bring compararison between past and the future.

Keywords: State sovereignty, acknowledgement of the state of Kosovo, South Ossetia, Abkhazia, South Sudan, Tibet.

1 Introduction

A state sovereignty is one of the basic principles of an international law and essential expression of an international legal personality of the state. A term of sovereignty is used in many fields e.g. in political science, in constitutional law, economics etc. Each of these sectors has a different perspective on sovereignty. In all societies, the political government is carried out through government, in other words by state institutions. We do not know what

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should be an appropriate unit of political governance, over which group of people and in what limits should state power work.

The state power is one of the signs of the state, together with state sovereignty as well, which we will further discuss in greater detail. We add, for completeness, that the other characters of the state are national territory, citizenship and national symbols.

In a recent years, for such a group of people – an objective unit – is considered a „nation“. The nation state was considered the highest form of political organization and is the only legitimate political community. After World War II when the national economies integrated into the global economy and created the United Nations and the European Union, some countries argued that the international federation and world government are the only viable political units of government, but on the other hand, other states protested against the loss of national independence and national self-determination. This discussion primarily focuses on the question of sovereignty, if national sovereignty is or is not important. Who should be the proprietor of sovereignty, whether it is necessary to exercise sovereign power for the existence of a stable political community in what sovereignty should lie and who should be its proprietor.

The first part of our work will deal with the theory. We will describe the development of the concept of sovereignty and the statehood criteria. In the beginning of this part we defined the concept of sovereignty as well as three important signs of sovereignty which are authority, dominance and territoriality. In this theoretical part we described internal and external sovereignty, which are both characterized there. We described historical development of the concept of sovereignty from the Middle Ages, together with the disputes that were connected with sovereignty, to the completion of disputes by Peace of Westphalia. We also mentioned theorists who dealt with sovereignty such as J. Bodin, T. Hobbes, J. Locke, or Montesqueieu and Rousseau. We mentioned Sorensen from authors who construed modern sovereignty and in the last part we looked at sovereignty through the lens of international law.

The second part deals with selected states which have been trying to achieve its sovereignty with all the standard features for a long time. We deals with historical development of these countries with a short analysis of the existing condition. Ultimately, this unstable condition does not suit either of the interested parties of individual listed states and suitable solution cannot be found. The worst impact of the situation bear the simple people living in these countries, because on a daily basis they directly have to survive unrest and instability. They wake up to uncertainty every morning and many times they have to fight for their lives. Some of their political leaders often do not know the real fact of their sufferings and do not solve problems with the required razantnost'ou and within a reasonable timeframe which cause further misery and strengthen of nationalist sentiments before pragmatic solutions.

2 Sovereignty and features of a state

The theoretical section will be devoted to sovereignty. We will explain the term of sovereignty, we analyze the characteristics of sovereignty, historical development and we also discuss how international law looks at the sovereignty. We also define features of the state.

2.1 The concept of sovereignty

Before we deal with the historical development of sovereignty, we need to define what sovereignty is and what sovereignty is characterized by. International law defines sovereignty as an independence of state power on any other power, both in international relations as well as internal matters. (Potočný – Ondřej 2011, p. 14).

This means the outside independence and autonomy of the state as well as independence within the state itself. Furthermore a sovereign state is not limited by anything more than further sovereign rights of the other states, general international law and freely accepted international commitments. (Potočný – Ondřej 2011, p. 14).

Königová argues that sovereignty entails two important elements. The first is universality, the ability to subject all entities in a particular territory, regardless of their mode of grouping. The second element is right-creation which is characterized by the fact that all areas of activities are regulated by legal standards that are recognized by the state authorities (Königová, 2001, p. 42). Sovereignty is characterized by three important features. The first feature is the authority, the law of the state to command, and at the same time being obeyed. We must not confuse authority with power. The authority differ from the power in a way that the power is done by someone who has the ability to influence the others despite his real interests. Outside of authority and power, sovereignty also includes a supremacy and territoriality. Sovereignty is an authority within the area defined by the boundaries (Waisová, 2009, pp. 65-66).

As already noted, the state is the independent outside and separate inside. Sovereignty of the state has two dimensions, internal and external. We understand, under the internal sovereignty, sovereign rights of the state in decision-making and enforcement authority in a given territory inhabited by certain populations (Königová 2001. 42). External sovereignty of the state means acceptance of the authority by the other states. (Waisová 2009, p. 66). Furthermore, outside the internal and external sovereignty, we also distinguish absolute and non-absolute sovereignty. Absolute sovereignty means that there does not exist relevant reason to interfere in the internal affairs of the state. On the contrary, non-absolute sovereignty is based on the idea that there may be circumstances when the state sovereignty may be violated. Such circumstances may be, for example. Ongoing genocide (Waisová 2009, p. 66).

2.2 Historical development and the concept of sovereignty

The modern concept of sovereignty grew up in the Middle Ages from the victory of the state over the church. In the Middle Ages the pope had the greatest ambition to become the overlord. The medieval Catholic doctrine claimed that the king is political authority but he

respond to the spiritual authority to the pope. Thanks to the Protestant Reformation in the 16th century the requirement of the rulers was fulfilled for full and definitive property of sovereignty and it was completed by secularization of sovereignty. At that time, the principle, that the sovereign rulers and only they have the right and authority to control people and events within them controlled territory, began to be applied (Krejci, 2001, p. 233).

The medieval disputes over sovereignty ended thanks to the Peace of Westphalia. Westphalian system is built on the idea that no supranational authority has no legal jurisdiction within the states. Thanks to the Peace of Westphalia two basic dimensions of sovereignty began to be distinguished, internal and external sovereignty (Krejci, 2001, p. 234). The concept of sovereignty was first defined by J. Bodin as the defining feature of the state. Bodin defined sovereignty in the negative sense as the independence on the other institutions of power. Sovereignty is power which is absolute and permanent. Meaning of the Bodin theory about sovereignty mainly lies in refusing of influence of the church and the nobility and in the construction of the monarch as the absolute and unlimited sovereign. Bodin has been established to T. Hobbes who took over the concept of the refusal of the church and rationally justify the necessity of separation of church from state, which laid the foundations of absolutism (Tomoszek, 2011, pp. 91-92). Locke, Montesquieu and Rousseau, responded to the absolutist concept of sovereignty who laid the foundations of modern constitutionalism, which is based on the theory of social contract, separation of powers and the existence of natural rights. Contemporary, modern concept of sovereignty as sovereignty of the people which is source of all power in the state is based on these ideas. (Tomoszek, 2011, p. 92).

The modern concept of sovereignty by Sorensen is based on non-intervention and reciprocity. Non-intervention means an exclusive right of the state to solve their own affairs without outside interference. Important feature of the modern concept of sovereignty is also the premise of self-help. This meant that the states are responsible for ensuring their own safety, well-being and are able to decide for themselves. The states are able to develop their own strategies, practices and are able to decide how to fulfill their interests. The modern sovereign state has a functioning national economy, efficient and effective political institutions and is supported by the population. The state is able to provide „the good life“ to its citizens (Sorensen, 2005, pp. 177-178).

Regarding negotiations with other countries, this is based on reciprocity. The hearing is symmetrical and participants and actors have the same opportunities to benefit from the bilateral and multilateral agreements. The modern sovereign state does not expect exceptional treatment and assistance from other states, but even he does not offer it to the other states. In the modern concept of sovereignty is clear distinction of what is national and what is international. (Sorensen, 2005, p. 177-178).

2.3 Sovereignty through the lens of international law

In the previous part we dealt with theoretical view of sovereignty. In this subsection we look at sovereignty through the lens of international law. International law also reflects the internal and external sovereignty of the state. The fact that the state has external sovereignty means that state is a full subject of international law, which is equal to all other sovereign states. The state is an equal member of the international community. Sovereign state has no problem to take international legal obligations, while the lack of sovereignty is manifested in inability of the state to accept international agreements (Potočný-Andrew, 2011, p. 15). Sovereign state is able to freely determine its state constitution, has complete freedom to adapt their internal affairs, has a margin of national territory and natural resources. It also has the exclusive right to their territories to all people and things. It is important that any action of a foreign state in the territory of a sovereign state is prohibited. (Potočný – Andrew, 2011, p. 15).

Sovereign state begins to exist at the moment when it is able to assert its statehood internationally and they are to keep. Generally, there are three basic elements of statehood: territory, population and exercise the law. However, These three elements are sufficient only to the expression of national statehood The expression of international statehood is required by power. (Blade – Sturm, 2008, pp. 52-53). In the past, in traditional international law was necessary, to the newly formed state was recognized by other states as legal entity, but today this is not longer necessary. In today's international law is an expression of recognition of the state of preparedness and readiness of newly formed States to establish a contractual – legal relations and diplomatic relations. As part of the international order are considered merely states that have demonstrated their statehood while diplomatically and power enforced. (Blade – Sturm, 2008, pp. 54-55).

2.4 Logo of the state

There are three basic characters of the state, the territory, population and public authorities. State gains full legal personality in the presence of all three main characters. This state becomes eligible to be negotiated from the view of national and international term. (Tomšová, 2011, p. 75).

The first character of the state is territory. The territory defines the sphere of influence of state the power. The area is made up of terrestrial and surface waters, the Earth's interior and airspace. The state has the right to dispose of state territory without the involvement of the other powers. If indeed this state law, it acquires territorial sovereignty. State should dispose with territorial highness, what is the right to issue the national territory laws, collect taxes and so on. The territory is created originally or derivatively. It originally means that the state is in the territory first, for example in settling the new territory, or natural or artificial gain. This is created derivatively, so that the state receives part of the territory at the expense of another country, which is possible in three ways; by cession, adjudication and auctions. The area is defined by the state border either orographic (natural) or geometric (artificially created). The

delimitation is generally caused by international agreements (Tomšová, 2011, pp. 77-78; Holländer, 2009, pp. 92-93).

The second feature is population, what is organized community of people on the certain area which is of staid, natural and permanent character. Natural character marks such commonalities such as population, language, culture, religion, race. Permanence is formally registered as a citizenship, which guarantees to its citizens the natural human rights, including political and economic rights. Political rights enable citizens to check power and will of the state to actively participate in it. (Tomšová, 2011, pp. 78-80).

The state has the need to regulate the activities of its inhabitants. This is done by power through certain predetermined mechanisms and rules that are called public authorities. The role of each state should be to create the order and bodies which will require maintaining of order that is the creation of rules for the functioning of operational legal system. Another task of the state is to establish standards and sanctions for non-compliance. Equally important is the system of administrative, financial, administrative and judicial organs. (Tomšová, 2011, p. 82).

It should be mentioned that the functioning of the state is not excluded until for some reason loses part of its territory or occur limits or lack of efficient public authorities. Such cases are occupation, the establishment of the protectorate, anarchy or waiver of sovereignty in favor of another state. Public authorities may be absent in the case of anarchy or in the case of revolution. This causes the anarchy, which is a temporary condition and the subsequent change of state power has no effect on the existence of the state. (Tomšová, 2011, p. 76)

3 Selected States which fights for their sovereignty

3.1 Kosovo

The territory of today's Kosovo (Girgle 2009, p. 148) belonged in ancient times under the domination of the Macedonian empire, then it came under the control of the Roman Empire and after its distribution it was a part of the Eastern Rome Empire. The first Serbs in this area began to settle in the sixth century, the territory of Kosovo became a cradle of the Kingdom and the cultural center of the country. After the Battle on Kosovo field, the territory passed under the rule of the Ottoman Empire, which was its part until 1912. At this time there were many uprisings against the domination which were suppressed bloodily. (Girgle, 2009, pp 9-24).

After this battle a separate Albania was created. Kosovo Serbs captured the territory in Albania. After World War I. Kosovo became a part of the newly created Kingdom of Serbs, Croats and Slovenes. After attacking of Germany and Bulgaria in 1941 and the defeat of Kingdom, its territory was divided and part of Kosovo devolved to Italy and Bulgaria. Albanians in Kosovo regarded Italy as its liberator. Many Serbs had to leave Kosovo. After the end of World War II., a law was passed, that many Serbian settlers displaced during the

war, were prevented from returning to Kosovo, but rather opening the border with Albania, enabled the arrival of thousands of Albanian immigrants. The reason was the effort of Yugoslavia to avoid further conflict and also in those years Yugoslavia seriously considered about joining Albania. Autonomous province of Vojvodina and Kosovo – Metohija were declared in new constitution from 1945. In 1974 Kosovo was based on a new Yugoslav constitution free of control by the Serbian Government and its position was almost at the level of the Federal Republic. Based on demographic development the proportion of the Serbian population still decreased while the number of citizens of Albanian origin almost tripled since 1950 (Girgle 2009, p. 157), to which also contributed the policy of receiving refugees from Albania, which has a lower standard of living, and who received support from the Yugoslav government in Kosovo. (Girgle, 2009, pp 45- 52).

The current situation in Kosovo is the result of a long process of disintegration of Yugoslavia, which is connected with the collapse of the Soviet Union in the late 80s. The former Yugoslavia was split into 5 separate parts – Slovenia, Croatia, Bosnia and Herzegovina, Macedonia and the Federal Republic of Yugoslavia. Disintegration was accompanied by armed conflicts after declaration of independence of Croatia and Slovenia in 1991 and after independence of Bosnia and Herzegovina in 1992. The core of the conflict was particularly nationalism and the question of setting boundaries in the ethnically and religiously mixed Yugoslavia. Thus Kosovo after the breakup of Yugoslavia found itself in the newly established Federal Republic of Yugoslavia which was proclaimed on 27th of April 1992. The area of the southeastern province is 10.887 square kilometers and has approximately 2,126,708 inhabitants, of which 88% is of Albanian origin, 7% of Serbian and 5% are other nationalities. (CIA, The World Factbook, 2008).

Although, Kosovo is the area historically linked with the history of Serbia, at present there is clearly predominant Albanian population of Muslim faith. Religious differences, mutual hostility and nationalism are the hallmark of almost all Balkan conflicts and even while accepting the conflict between Kosovo Albanians and Serbs. The Kosovo crisis fully erupted and internationalized in February 1998. The tension between Kosovo Albanians and Serbs had deeper roots in the past. Until 1989, Kosovo enjoyed a high degree of autonomy within the former Yugoslavia. After taking the Milosevic regime in the Federal Republic of Yugoslavia this status was lost and came under the direct management of Belgrade. After this period many attempts took place to resolve the situation, but practically they still fail due to disagreement by either of the parties. It is worth noting the plan of former Finnish President Martti Ahtisaari. He suggested an independent Kosovo under the international supervision. Kosovo according to Ahtisaari should not have been fully independent and sovereign, but separate from Serbia and democratic, so that minority rights are respected there. In Kosovo, there had been established relatively strong government in order to satisfy the area inhabited by the Serbian population. In late March 2007, the plan was presented for approval in The UN Security Council. There was no consensus in The UN Security Council. Serbia disagreed with the plan supported by the Russian Federation, which blocked the Ahtisaari plan and his modifications in RB The UN Security Council. In August 2007 a new round of negotiations

began. The Contact Group summoned „Troika“ mediators – Frank Wisner representing the US, Wolfgang Ischinger for the EU and Alexander Botsan-Kchachenka for the Russian Federation. The United States was more inclined to Kosovo Albanians, while Russia has traditionally supported Serbia. EU formally supported the Ahtisaari plan and Kosovo's independence, but its members are not uniform. Slovakia, Greece, Cyprus, Romania and Spain are more *„cautious because of traditional ties with Belgrade, or fear of the repercussions of Kosovo's independence in their domestic affairs“* (Canas, 2007: 13).

Negotiations „Troika“ ended December 10, 2007, again to no avail. All subsequent attempts do not bring any solution which stakeholders would adopt and accept.

3.2 South Ossetia and Abkhazia

Abkhazia for the first time came under the influence of tsarist Russia in the second half of the 19th century. After the Great October Socialist Revolution, it was proclaimed Abkhazia Socialist Republic, which joined the Soviet Union in 1922. In the mid-thirties the status of Abkhazia was reduced to an autonomous republic within Georgia. Towards the end of World War II Abkhaz schools were closed, which were replaced by the Georgian schools and Abkhaz language stopped to be an official language. The situation changed after the death of Stalin, when the Abkhazian nation was rehabilitated, re-Abkhaz schools were opened and management area was handed over to the hands of Abkhazians.

Disorder that were in that territory escalated until 130 intellectuals demanded courageously in 1978, that the Abkhaz could join to Russia because of an infringement of Georgia's to the rights Abkhazians. The tenth years later Abkhazians demanded restoration of the status of the Federal Republic, which Abkhaz had in the twenties. Abkhaz Soviet Socialist Republic was declared in 1990, which expressed willingness to negotiate with Georgia about federated organization of the state, which would preserve the territorial integrity. However, this statement did not recognize Georgia. In the following years, the Abkhaz tried to enforce federal or confederative arrangement with Georgia, which was refused by Georgia and sent troops to Abkhazia. This army was bloody suppressed and in 1994 in Moscow was ceasefire. (Potier, 2001, p. 9)

The main issues of the peace process were political arrangement of Abkhazia and its relation to Georgia and the return of the expelled people to Abkhazia. Abkhazians rejected the return of refugees on its territory, because they feared that they would become a minority again. They linked the issue of return with the resolution of political status of the country. Abkhazia refused to become any autonomous departments within the Georgia again, denied any federal or confederative model of constitutional arrangement.

The escalation of the situation occurred in 2008. In March, Georgian President Saakashvili presented a new peace initiative for Abkhazia, including the establishment of a free trade zone, representation of Abkhazians at all levels of the Georgian government and a very wide autonomy for Abkhazia.

In April Abkhazia declared that Georgia reinforces troops on the border with Abkhazia and their relations remained still very tense. (Čepelka, Šturma, 2008)

A little different was the situation in South Ossetia. At the beginning of the 19th century the area together with Georgia was affiliated to Russia. After the communist coup South Ossetia in Georgia became autonomous region which was until the dissolution of the Soviet Union. After regaining independence, the South Ossetian region of Georgia retained its autonomy for a short period of. In 1991, Georgia's regional government banned regional political parties as a Osetci interpreted as an attack on their newfound autonomy and declared fully independent Ossetia republic in the Soviet Union. The Republic, however, was not accepted by the Soviet Union. Subsequently Ossetian Autonomous Region was canceled and it was declared as an integral part of Georgia. In a referendum in 1992 about the destiny of Ossetia, the majority of voters expressed for connecting South Ossetia to North Ossetia within Russia. In 1992 an agreement on ceasefire was accepted. (Potier, 2001, p.14)

Georgian President Mikhail Saakashvili after coming to power in 2004 promised, that he will unite the country again. However, these efforts were considered as an attack on the independence by Ossetia and ended in failure and nearly provoked armed conflict.

Georgia tried to resolve the situation peacefully. It began to promote alternative South Ossetian government, which has received support in the areas of South Ossetia with a majority of Georgian population. Dual power was created after the elections in November 2006, when almost two presidential elections and two referendums about the future status of the territory took place. (Konigová, 2001)

The tensions in the area began to rise again in April 2008, when Russian president Vladimir Putin instructed the Russian government and the regions to launch cooperation with the governments of South Ossetia and Abkhazia in trade, economic, social and scientific issues. Georgia interpreted this action of Russia as a step towards the legalizing of the Russian annexation of these two regions. (Čepelka, Šturma, 2008)

The situation still culminated and shoot-outs and bomb attacks were occurred. In August, the President of South Ossetia and Abkhazia appeared before the Federal Council of Russia with a request of acknowledgment of independence. On 25th August Russian parliament submitted a request to President Medvedev for acknowledgement of Abkhazia and South Ossetia as independent states. On 26th August 2008 Russian President Medvedev signed decrees recognizing Abkhazia and Ossetia as sovereign states meanwhile Russia called on other states to follow their example. (Sorensen, 2005)

Four states currently acknowledge South Ossetia and Abkhazia. Besides Russia it was Nicaragua in 2008, Venezuela in 2009 and Nauru. Western countries criticized and were opposed for the acknowledgement of South Ossetia and Abkhazia as independent states.

The European Council condemned the unilateral acknowledgment of South Ossetia and Abkhazia by Russia and called on other countries to acknowledge their independence. It also recalled that a peaceful and lasting solution to the conflict in Georgia must be based on full respect for the principles of independence, sovereignty and territorial integrity recognized by international law.

The European Parliament also joined the criticism of Russia. It urged Russia to respect the sovereignty, territorial integrity and inviolability of internationally acknowledged borders of Georgia and denoted the recognition of South Ossetia and Abkhazia by Russia in contradiction of international law. (Girgle, 2009)

The member States of the European Union, unlike Kosovo had a single position on the attitude to the acceptance of South Ossetia and Abkhaz. None of the Member states did not accept South Ossetia neither Abkhazia.

Nor the attitude of the United States of America was different. During the war, president Bush said that the Georgia is a sovereign state and its territorial integrity must be respected. (Krejčí, 2001)

Due to the strong influence of Russia, it was not possible to consider neither South Ossetia nor Abkhaz as a sovereign state.

3.3 Tibet

Interpretation of the 1400-year history of China-Tibetan relations is a textbook example of the use of history to legitimize the current political goals. The historical claim is one of the main arguments in the debate about Tibet for China. Rich Chinese sources offer many records about contacts with the surrounding empires, which are in the spirit of sinocentric perspective interpreted as unequal and on their basis China still raises its claims to sovereignty in Tibet for example, referring to the historic rights.

The current Chinese propaganda materials, as well as specialized publications present history of Tibet, as if from a political unification in the early of the 7th century, the Tibetan sense of history is joining to China.

From the point of view of extending Chinese power to Central Asia (Tibet, Mongolia, Xinjiang) crucial period was during the reign of the Qing Dynasty Manchuria and mainly 18th century. Current territorial arrangement and ethnic composition of China is the result of the expansion of the Qing Dynasty to the West Central Asia – such a dynasty never ruled in China for so long period. Due to political instability in Tibet, the Central Tibetan became a vassal of the Qing Dynasty from 1793, but even then it did not have a status of province, but separately managed dependent territory. The end of the Qing Dynasty represents turning point in history.

Originally dependent areas, Tibet and Mongolia, took advantage of the disintegration of the empire to clearly articulate their claims to own statehood. Unlike Mongolia, which in 1924 formally gained independence thanks to political support of the Soviet Union (which meant the import of the Stalinist regime with all its horrors), Tibet was not successful. Then the 13th Dalai Lama Thubten Gyatso tried to proclaim the independence in the trilateral agreement with China and Britain in 1914, but British were not willing to compromise their own commercial interests in China and they did not want politically or even militarily involved themselves in the Chinese-Tibetan dispute. Literature on the period 1913-1950 referred to as de facto but not de jure independence of Tibet.

No State established diplomatic relations with Tibet, but political, economic or judicial power in Central Tibet was fully in the hands of the government in Lhasa, presided over by the Dalai Lama and the Chinese government there had no real influence or even their own administrative authorities. Republic of China in international forums but also in the Constitution repeatedly declared Tibet as part of its territory (as well as the Mongolian People's Republic until 1945). Constitutional status of Central Tibet remained unsolved. The change occurred after the foundation of the Chinese People's Republic of 1 October 1949.

The new power in January 1950 presented interest „liberate“ Tibet and in October, Chinese troops entered the Eastern part of Central Tibet. Lhasa government was under the threat of continuing of military incursions forced to negotiate about the status of Tibet with the new communist power in Beijing. May 23, 1951 there was signed the so-called. 17-point agreement regulating the political, administrative, economic and military process of „peaceful liberation“ which ensure central Tibet a high degree of autonomy (also guaranteed all existing rights of ruling class and not mentioned in it any changes of unfair position of farmers and nomads). 37 tis the first document in a 1400-year history of bilateral relations signed by both parties, which clearly states that Tibet is part of China. The wave of protests began to rise over the time in Tibet.

The wave of protests escalated into a large uprising in Lhasa in 1959 which were suppressed by Chinese army the inhuman bombing of civilians protesters. There were killed about 87,000 people. The Dalai Lama and the exile government fled to India, where they are till now. Even after such a time exile Tibetans elected Lobsang Sanggjäho as its political leader in 2016. Sangye will lead administration for the next five years. CTA organization, also known as the Tibetan government in exile does not recognized any country and China refuses negotiation with its representatives. The exiled prime minister – like the Dalai Lama – support the so-called middle ground, that is autonomy of Tibet within China, not its sovereignty. However, he failed to convince Beijing to dialogue during his first term.

Tibetans blame Chinese authorities for disruption of their Buddhist culture by banning religious rites and for the fact that they settle amount of Chania in this Himalayan region – the most numerous members of China's ethnic groups. Beijing argues that in this „backward areas“ brought development, and blame the Dalai Lama of disruptive sedition.

The Constitution of the People's Republic of China (as opposed to the constitution of the Soviet Union and Communist Czechoslovakia) does not recognize the right for self-determination. According to the Chinese interpretation of the various ethnic groups once and for all they decided for political bond with China. After nearly 70 years of intense propaganda, the vast majority is the majority ethnic group of China, convinced of the righteousness of the historic Chinese claim to Tibet.

The sad fact is that the situation in Tibet has not changed to this day. China continues to violate human rights, despite the fact that they are in the Constitution itself. China uses Tibet for testing the chemical weapons and for nuclear waste storage. There is no doubt that this is a genocide – the destruction of a peculiar culture and the nation of Tibetans.

China violates human rights even in children. An example is even six years old Tibetan boy who became the youngest political prisoner in the world, and nobody knows if he is still alive. Children are also often victims of protest. UN asked for an explanation of the death of several children who participated in the protest, which was forced by the police. China said that there was no shooting. The large protest was held in 2008, and subsequently Chinese police arrested around 6,000 demonstrators, and fate of thousands of them is still unknown. After the release of the prison most of arrested claim that they were beaten, tortured, not regularly fed. The use of torture is evident in the report of the United Nations.

China tries to control all information which goes over the borders of Tibet. Media, internet and printing are strictly controlled and censored. That is why, „Reporters Without Borders“ placed China at the 174th place out of 179 countries on its Press Freedom Index. The issue of human rights, including the right to self-determination and the right of the Tibetan people to maintain their identity and autonomy, are, of course, legitimate objects of international interest, regardless of the legal status of Tibet. It is certain that that Tibetans are not satisfied at all with this situation and ask for assistance from the international community but many world powers keep silent because of economic issues with China.

3.4 South Sudan

Prolonged war, between the north, inhabited mostly by Muslims, and the south inhabited mostly by Christians, went on the territory of Sudan. The conflict between them took place since 1956 and ceasefire was signed in 1972. The situation changed in the eighties. South Sudan parliament was dissolved and the whole area was introduced to Islamic Sharia law. The conflict is intensifying thanks to the discovery of oil in southern Sudan. In 1989 there was a military coup when General Al Bashir took power there. Further, persecution of opponents of the regime took place and the civil war continued until 2005, when a peace agreement, called Comprehensive Peace Agreement was signed. (Potier, 2001)

The priority of each Party was united of Sudan based on the free will of its citizens, democratic governance, responsibility, equality, respect and justice for all citizens with the possibility of redress the people of Southern Sudan and satisfy their efforts in this context. Residents of southern Sudan should have the right to manage their own affairs and a fair share for the national government.

After a six-month period, in which institutions should have been based and mechanisms for the implementation of the peace plan and the evaluation committee also provided, which would oversee on the implementation of the peace plan was established six-year transition period during which the parties of the peace agreement to cooperate with the review committee and improve the institutions and agreements established under the auspices of the peace plan with a view to make the unity of Sudan attractive for the population of Southern Sudan. (Tomoszek, 2011)

At the end of the six-year transitional period it will hold an internationally monitored referendum, organized together with two parties for the people of Southern Sudan to confirm the unity of Sudan by choice for the adoption of a system of government based on a peace agreement or to establish the separation of South Sudan. The parties of the conflict during the transitional period refrain from taking any unilateral termination or withdrawal of the peace agreement. (Waisová, 2009)

Referendum took place in January 2011, and 98% of residents mostly decided for separation from Sudan. The new state should have been created in July 9, 2011. Although the referendum was accompanied by armed clashes, the president of Sudan said that the results are respected by him. (Potočný, Ondřej, 2006)

The biggest advantage of this plan is just that transitional period which both parties had, under international supervision, used to create such a position separatist region in the state, which would then remain part of the state from which they originally wanted to secede. If this fails, after a transition period, the population of the separatist region can decide in referendum about separation from the state.

Unlike the Ahtisaari plan in Kosovo, this solution gives the possibility to preserve the territorial integrity of the state. The question is, how much is likely, that the breakaway territory want to remain the part of the state, which they fought for many years against. Solution of referendum in Sudan suggests, that is not very likely, but the mere existence of the possibility of preserving the territorial integrity makes this plan more equitable, which unlike the Ahtisaari plan gives the state at least theoretical chance to influence the final status of the separatistic territory.

South Sudan declared independence on 9th July, 2011. The impetus for the creation of a new state was prepared by peace agreement in 2005 which ended the civil war between North and

South lasting since 1983. On 9th July 2011 South Sudan was established as the youngest state in the world.

4 Conclusion

The issue of the state sovereignty is a difficult topic. It touches the most basic obligations but also the rights of every sovereign state. That is why we will probably never find a clear view of the understanding of state sovereignty and its universal application in all countries. Individual states have their own characteristics and they force them to approach the issue of dealing with the national sovereignty individually and heterogeneously. It is a big shame of most developed countries, that at present there is combating a right to their own sovereignty. The above examples of some of the countries give us the truth. It does not make strong pressure on the already mentioned strongest powers in the world, which in their political or economic interests blind eye to the miscarriage of justice against small and uninteresting partners for cooperation. Disregard for vulnerable children, mothers, and other socially disadvantaged groups that are most hurting by disinterest to solve their existential problems.

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