

THE TERRITORIAL INTEGRITY AS A STRUCTURAL AND FUNCTIONAL COMPONENT OF DEVELOPMENT OF THE MODERN STATE

Within this gender analyzes the political and legal principles of the territorial integrity of modern states and grounded approaches to their institutional framework, grounded role of the international law enforcement settlement of relevant conflicts in implementing the policy of preservation and protection of territorial integrity of states as a condition for international and national security proved that the effective application of the rules and principles of international law in the form of "soft law" serves as a warning and decide nnyu crisis, strengthening the modern concept of international security built on sovereign article establishing mutually beneficial relations between states in order to preserve their national sovereignty.

Keywords: territorial integrity, territorial integrity, national sovereignty, national sovereignty, sovereignty, integrity of the state, territorial disintegration, international peace, territorial conflicts, national security.

Territorial integrity is a structural component of the functioning and development of the modern state, the key to the stability of its domestic and international relations. In the majority of states, resolving territorial issues was accompanied by the establishment of a sovereign government, the approval of the inviolability of frontiers, preserving independence, searching a new model of national identity. As a result, territorial integrity has gained appropriate level of institutionalization and legitimization at the international and national levels, thereby becoming one of the most urgent problems of modern humanitarian science.

A number of issues related to scientific and methodological bases of territorial integrity are the subject of a separate analysis within the philosophical, political, legal, economic, historical and public administration science. However, the development of issues of territorial integrity within each of these sciences is rather fragmented. This all causes the necessity of detailed analysis of the concept of territorial integrity by disclosing its nature, identifying the methodological problems of definition and systematization of basic research approaches that have emerged within the international and national scientific thought.

Versatility and polarity of approaches to the analysis of the nature of the state territory have created conditions for the development of various theories of its research within political science. Among these theories, an *object theory* deserves special attention, according to which the territory is considered as the object of ownership of a state. This view of the national territory was formed in the period of feudalism, when land ownership was seen as "the main source of power over the population", according to this "territorial supremacy came down to the right of state to its public property" [1; 2; 3].

The theory of spatial limitation of the power of the state is also of a significant methodological value within this analysis. It emphasizes the spatial sphere of realization of state supremacy and proves that it is wrong to compare the state territory with a particular object, for it is impossible to identify the territorial supremacy with the right of the state to exercise power over people, living within its borders [4]. Following this theory, A.Kokoshyn considers the state territory as "the object of public legal authority of each state as it establishes administrative divisions, organizes the government and public administration on a territorial basis, defines and changes the modes of its borders, regulates citizenship, conditions of entry, exit and movement of foreigners, organizes the protection and defense of its territory" [4, p. 31]. Within this theory, state territory is considered as a space within which the state exercises its supreme authority, administratively organizing it and setting the appropriate legal regime.

For the first time officially the concept of “territorial integrity” was defined in the Charter of the United Nations signed on 26 June 1945, which forbade the use of force against the “territorial integrity and political independence of any state”. Then this concept was further developed in a number of international agreements, including:

- The UN Declaration on Principles of International Law and Cooperation of States [5], which concerned the system of establishing friendly relations and cooperation between states in accordance with the Charter of the United Nations;
- Final Act of the Conference on Security and Cooperation in Europe (1975) [6], which defined the inviolability of borders between states and their obligation to refrain now and in the future from any attack on these boundaries.

It should be noted that in the Charter of the United Nations and the Declaration territorial integrity is not identified as a separate principle of international law. Therefore, there are collisions of different regulatory documents regarding the use of the concepts of “compliance”, “respect”, “preservation”, “ensuring” of territorial integrity, while structurally and functionally, each of them has its own use.

Renowned American scholar *Ch.Hayd* identifying the nature of the territorial integrity pointed to the advisability of a clear distinction between notions of integrity and inviolability. In general semantic understanding, he considered integrity as a “state of internal unity of the object (single unit), its relative autonomy and independence from the environment”. While “integrity” was seen as an area that the law protects against encroachment by someone, or something that can’t be spoiled, destroyed, denigrated due to its significance, importance, etc. [7, p. 117].

Therefore, the territorial integrity scientist viewed as its unity and indivisibility, while inviolability – as the maintenance of the integrity of territory, its protection from encroachment by other states or other political forces. According to this point of view, the territorial integrity and inviolability of the territory are considered as a whole and its part, whereby inviolability appears as a structural component and a prerequisite of territorial integrity. A similar view within the analysis of correlation of notions of territorial integrity and inviolability is presented by *M.Lind*. He also points out that “territorial inviolability is part of the territorial integrity” [8, p. 80–83].

It should be noted that within the system of international law, and national legislation as well, concepts of “territorial integrity” and “territorial inviolability” are treated as identical values together in a single principle of “integrity and inviolability of the territory of the state”. Thus, Article 2 of the Constitution of Ukraine stipulates that “the territory of Ukraine within its present border is indivisible and inviolable”, thereby confirming the actual identification of categories of integrity and inviolability [9].

The concept by *A.Cassese* is of significant methodological value within the context of our analysis. He views the territorial integrity of the state as “an element of state unity that characterizes the immutability of state borders, territorial inviolability and unity of the state, which historically formed, and people living in a particular area” [16, p. 207]. From this scientist considers territorial integrity as the basis for strengthening the constitutional order, which in no way to be contrary to the principle of people’s right to self-determination. Following this logic *A.Cassese* emphasizes an important role played by judicial tools of resolving territorial disputes within a single constitutional space in the mechanism to ensure territorial integrity. On this basis he concludes that “the decisions of constitutional justice, directly or indirectly related to issues of territorial integrity, represent a form of constitutional control activities over public authorities” [10, p. 209].

The approach by *F.Fukuyama* is similar to the mentioned above. This scientist carries out a detailed analysis of the concepts of state unity and territorial integrity. He views the state unity as the “essential conditions of public life and the basis of peaceful coexistence of

various state entities, which is the guarantor of their stability, resists their split, unpredictability and uncontrollability” [11].

This indicates that the internal unity of the state is a prerequisite to ensure its territorial integrity. Since different disintegration factors that violate the unity within the state, destroy the potential of its “functional strength” and thus serve as a powerful “functional motivator” for violation of the integrity of its territory. To maintain state unity it is necessary to create state-legal relations, which inherently guarantee the territorial integrity of the state, which is an indicator of “full sovereignty over all its territory” [11].

Within political science, the concept by A.Eide is of a great methodological value, in the frame of which concepts of “territorial integrity”, “state integrity” and “territorial inviolability” are differentiated. Based on the logic of research the researcher has discovered relationship between the concepts of “sovereignty”, “the right of people to self-determination”, “inviolability of the territories”, “immutability of frontiers” [12]. At the same time scientist stresses the need for proper interpretation of the right to self-determination, because in most cases its interpretation is reduced to “authorization and encouragement of any action that would lead to the dismemberment or permanent violation of the territorial integrity or political unity of sovereign and independent states acting in accordance with the principle of equal rights and self-determination of peoples” [12].

To avoid certain methodological conflicts in the interpretation of the essence of the territorial integrity the scientist emphasizes the usefulness of the concepts of “moving” and “stationary area”.

The “stationary state territory” he considers as “the totality of areas of the state including those separated from the main area by the boundaries of other states; territories of legal consulates and embassies located abroad are also considered to be the territory of the State” [13, p. 43]. “Moving national territory” includes ships, airplanes, space stations, pipelines, which operate under the flag of a State and which are subject to its laws. In this regard, “the inviolability of frontiers and the stability of their assigned mode serves as a guarantee of security of the state” [13, p. 47]. Accordingly, the protection of state borders is a strategic component of modern state’s security.

The theory by *M.Dodson* is also of a great significance in the context of elaboration of the essence of territorial integrity. He pointed to its dependence on the integrity and inviolability of state borders, which automatically prohibits the threat or use of force to change borders. The nature of the territorial integrity he finds in the recognition of existing borders and the absence of territorial claims of their change now and in the future. Therefore, scientist finds it necessary to take into account the nature of the process of establishing national borders, which traditionally takes place in two stages: contractual definition of state borders (delimitation with the application of the card) and setting boundaries on the ground (demarcation) [14, p. 83].

Interrelation of these stages is determined by many factors, including: the political conditions of the state borders formation, the nature of the neighborhood, foreign policy, the impact of globalization challenges, the geopolitical level of transparency, the level of national consciousness and identity. All this arises the issue of the protection of territorial integrity as an important attribute of the state sovereignty.

According to *A.Ertely* “every nation values its nationality as the result of historical development, the preservation of its integrity is one of its major benefits, which is why, the protection of its integrity is among main objectives of the state. But nations who profess a certain level of culture and are within a civilization, seek not only to maintain their typicality, but try also to distribute it on the outside, they seek not only to their development in a progressive sense, but to expansion of the area of their state. This raises the possibility of

conflict of interests and the fight against neighbors, and therefore the right to protection from external attacks” [15, p. 341].

In the modern variant, to ensure its territorial integrity and inviolability, state activity should be regulated by relevant international legal commitments. These within the system of international law are: 1) not to take someone else's territory by the threat or use of force; 2) to respect the inviolability of frontiers; 3) not to use a foreign territory without the consent of the sovereign; 4) not to use one's own territory so that this cause harm to other states; 5) not to make the violent dismemberment of a state; 6) not to recognize territorial changes that resulted from the use of force; 7) not to inspire and encourage separatist movements for the purpose of division of territory [16, p. 407].

Conclusions. The carried out analysis allowed us to find out the essence of the concepts of the state border, territorial integrity, territorial inviolability by systematization of basic research approaches that have emerged in the context of world and national scientific thought. On this basis structural and functional content of the national territory has been revealed, including clarification of its composition, formation history, morphology, location and characteristics of borders. The economic and political features of its development are investigated; the interrelation between the structure of the state territory and territorial management structure is analyzed; the content territorial disputes and claims between states, as well as the nature of the relevant territorial and ethnic conflicts that lead to the violation of its integrity is studied. Concepts of territorial integrity and territorial inviolability are delimited. The first one includes the unity and indivisibility, while the second one means the maintenance of the integrity of territory, protection against attacks from other states or other forces.

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В межах даної статті здійснено аналіз політико-правових принципів збереження територіальної цілісності сучасних держав та обґрунтовано підходи до їх інституційного оформлення, обґрунтовано роль міжнародної правозастосовної практики врегулювання відповідних конфліктних ситуацій у сфері реалізації політики збереження та захисту територіальної цілісності держав як умови міжнародної та національної безпеки, доведено, що ефективно застосування норм та принципів міжнародного права у формі «м'якого права» слугує попередженню та вирішенню кризових ситуацій, утвердженню новітньої концепції міжнародної безпеки побудованої на суверенних артікулях налагодження взаємовигідних відносин між державами з метою збереження їх національно-державного суверенітету.

Ключові слова: територіальна цілісність, територіальна недоторканість, державний суверенітет, національно-державний суверенітет, суверенітет держави, цілісність держави, територіальна дезінтеграція, міжнародний мир, територіальні конфлікти, національна безпека.

В пределах данной статьи осуществлен анализ политико-правовых принципов сохранения территориальной целостности современных государств и обоснованы подходы к их институциональному оформлению, обоснована роль международной правоприменимой практики урегулирования соответствующих конфликтных ситуаций в сфере реализации политики сохранения и защиты территориальной целостности государств как условия международной и национальной безопасности, доказано, что эффективное применение норм и принципов международного права в форме "мягкого права" служит предупреждению и решению кризисных ситуаций, утверждению новейшей концепции международной безопасности построенной на суверенных артікулях налаживания взаимовыгодных отношений между государствами с целью сохранения их национально-государственного суверенитета.

Ключевые слова: территориальная целостность, территориальная неприкосновенность, государственный суверенитет, национально-государственный суверенитет, суверенитет государства, целостность государства, территориальная дезінтеграція, международный мир, территориальные конфликты.