The Right to Self-Determination in International Law (From Independence to Democracy)

1. Reza Taghizadeh Aydenloo: PhD student, Department of Public International Law, Karaj Branch, Islamic Azad University, Karaj, Iran.
2. Zeinab Esmati*: Assistant Professor, Department of Public Law, Karaj Branch, Islamic Azad University, Karaj, Iran
3. Afshin Zargar: Assistant Professor, Department of Political Science, Karaj Branch, Islamic Azad University, Karaj, Iran.

*Correspondence: e-mail: esmati_tehranbar@yahoo.com

Abstract

According to international law, peoples possess the right to self-determination, which entitles them to freely determine their political status and to pursue their economic, social, and cultural development. However, the legal institutionalization and international legislation of this value became manifest after World War I and in the Treaty of Versailles. At the same time, the implementation of this right continues to face obstacles and limitations, such as the preservation of the territorial integrity of states, the principle of non-intervention in the internal affairs of states, the prohibition of secessionism, and above all, the maintenance of international peace and security. On the other hand, the growing emphasis on human rights and their universality has led to major transformations in the domain of the concept and implementation of this right, resulting in tensions between human rights and state sovereignty. Since the 1970s, the right to self-determination has increasingly come to embody the notion of democratic governance, the observance of human rights, and the protection of minority rights. The primary objective of this article is to explore the conceptual transformations, implications, and requirements of the right to self-determination, from independence to democracy, drawing upon the most recent studies in this field.

Keywords: Right to self-determination, independence, international law, democracy

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1. Introduction

The emergence and evolution of the concept of the right to self-determination in international law must be associated with the transformations of the international community during the second half of the twentieth century. One of the most significant features of this era, which has given rise to various revolutions and transformations, has been the increasing attention to fundamental human rights—rights that have gifted democracy, as a human achievement, to the members of the international community.

Proponents of democracy emphasize that the concept of freedom is regarded as an innate and natural right, and its denial is considered a denial of humanity itself. They view democratic governance, or government by the people, as the manifestation of this freedom.

Political theorists believe that since freedom is considered one of the essential human rights today, it necessitates the enjoyment of the right to self-determination—a right through which people can choose their political system, modify it, or demand fundamental reforms.

Regarding the evolution of the right to self-determination, it is worth recalling that if at one time this right was confined to legitimizing the secession of defeated states after World War I, and if in the aftermath of World War II and during the 1960s, it came to be interpreted predominantly as the sovereignty of colonized territories (external aspect), since the 1970s, what has made this right more prominent is its internal aspect and the role of the people in exercising sovereign authority to ensure the rule of law and democracy.

It is a right that enables the people to determine their political, economic, and social destinies in the best possible way. In exercising this right, people may intervene in governmental affairs, demand the necessary political and economic reforms, and in some cases, even change the ruling government and its officials.

The state, in implementing this right, is obliged to observe the fundamental rights and freedoms of the people and to take practical measures to restore those rights.

Some scholars consider the internal aspect of the right to self-determination not merely a theoretical matter, but one which includes the right of the people to participate in democratic governance, as well as the rights of minorities to collective protections—these are seen as core meanings of the internal dimension of self-determination.

The internal dimension, or the right to political, economic, and social participation, necessitates that people can take part in these processes without discrimination. Systematic denial of these rights by governments paves the way for the people to reclaim decision-making power and ultimately their destiny.

This dimension of the right to self-determination, also referred to as the principle of public participation, has been emphasized in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and certain regional human rights instruments, such as Article 23 of the American Convention on Human Rights (Fukuyama, 1992).

The essence of political theorists' views on human freedom and will is that humanity, by virtue of being human, possesses a set of fundamental rights that must not be violated under any pretext. The manifestation of these rights is freedom and autonomy.

Freedom means that people must be able to determine their destiny independently. A government that embodies this reality is referred to as a democratic government. In a democracy, governance belongs to the people, who equally share this right.

However, since it is practically impossible for all people to govern directly, they elect representatives to govern on their behalf. These representatives are considered the people's trustees and are always subject to electoral oversight.

In a democratic government, the people are the sovereigns of their own destiny; the power of the government lies in the hands of the people or their representatives, and all sovereign powers stem from the people (Rahimi, 1988).

The right to self-determination has been recognized by the international community under Article 1 of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Respect for this right is considered a binding norm in the realm of international law.

Furthermore, within the framework of third-generation human rights—which introduces a new perspective on the entirety of human rights—the right to self-determination holds significant status as a collective right for humanity.

This right is also recognized as one of the principles of international law. Accordingly, explaining the legitimacy of such a right within the framework of the philosophy of international law is of considerable importance.

2. Theoretical Discussions

The idea of the right to self-determination in international law has been deeply influenced by developments in the theory of democracy and its paradoxes. Liberal democratic theorists, considering freedom to be an innate and natural right—whose denial equates to the denial of humanity—view its embodiment in democratic governance, or rule by the people.

Democratic thinkers argue that democracy arises from the synthesis of three concepts: liberty, equality, and the contractual nature of government. The strength of the arguments supporting democratic thought has been so compelling that democracy became the dominant discourse from the last quarter of the twentieth century onward (Fukuyama, 1992).

The core view of political thinkers on freedom and human will is that individuals possess inalienable fundamental rights by virtue of their humanity, and these cannot be violated under any circumstances. The most evident of these rights are freedom and autonomy.

Freedom implies that people should be able to determine their own destiny. A government that reflects this is called a democratic government. In a democracy, the government belongs to all people, who equally share in this right.

Since it is not practically feasible for everyone to govern, representatives are elected to govern on behalf of the people. However, these representatives, as agents of the people, are always subject to electoral oversight. In a democratic government, the people are the ultimate authority over their destiny; the power of governance lies with the people or their representatives, and all governing authority originates from the people.

Therefore, government is considered a contract entered into by free individuals to manage their affairs. Government is not permitted to violate the fundamental principle upon which the social contract is based—namely, human freedom.

Rousseau remarked: "All individuals are created free and equal, and none has superiority or the right to dominate others. Force creates no right. Therefore, the only thing that can constitute the foundation of legitimate authority and rightful governance is a contract formed with the consent of individuals" (Rahimi, 1988).

Thus, democracy presumes that people are inherently free and equal. The more a government respects people's freedoms, the more it complies with the provisions of the social contract between the people.

On the other hand, if people could practically resolve their affairs themselves—from the formation of government to participation in societal governance—they would be freer. Therefore, the fewer restrictions a government places on individuals, the more democratic it is considered.

The natural conclusion of this reasoning is that the more individuals govern their own destinies, the freer they are, and the more democratic the overseeing government is perceived.

The paradox that emerges from this reasoning is that in a political society, obtaining unanimous consent from all members is nearly impossible. Consequently, governments cannot fully reflect the will of every individual in society.

Moreover, if unanimous consent were required in decision-making processes, the entire governance mechanism would become paralyzed, and practically nothing would be achieved.

To resolve this dilemma, the majority-minority theory was proposed. That is, to advance public affairs and prevent decision-making paralysis, decisions must follow the majority rule—commonly framed as the 51 versus 49 formula.

Although this model does not align perfectly with ideal democracy, the experience of democratic societies has shown that the issue of majority-minority imbalance can be resolved within democratic processes. If a minority group can attract public attention through its proposals, it may one day become the majority, thereby organically correcting democratic flaws.

This formula of majority dominance and the rotation of majority and minority groups might be sound in a homogenous human society. But what happens if certain groups are perpetually stuck in the minority?

Human political experience has shown that in ethnically and culturally heterogeneous societies, ethnic and religious minorities must either assimilate with the majority or accept marginalization.

According to Hurst Hannum, democratic theorists had not proposed any notable solutions for this issue until the nineteenth century (Hannum, 1996).

For a political society to be democratic and for its people to be sovereign over their own destiny, or to enjoy their innate right to freedom and the preservation of their identity, measures must be taken to prevent permanent marginalization or assimilation of minority groups.

In line with the discourse of liberal democracy, the institutionalization of special minority rights—including the recognition of their identity—is a mechanism through which minorities can participate in central government decision-making and thereby have greater sovereignty over their own destiny.

International law, as a reflection of institutionalized dominant or customary ideas and practices, has codified democratic thought and its paradox resolutions in rights such as:

1. The right of peoples to freely choose their government, political system, and participate regularly in political and civic affairs (external and internal self-determination);
2. The right of minorities to preserve and develop their culture, religion, and language, and to influence political decision-making.

The first right pertains to fundamental human rights, particularly the right to freedom, which forms the basis and legitimacy of democracy—both domestically and internationally.

The second right reflects a strategy for resolving the paradoxes of democracy in protecting minority rights.

3. Political Independence and the Right to Self-Determination of Peoples

The right to self-determination has been recognized over the past half-century as one of the fundamental principles, to the extent that many consider it an essential element of legitimacy. In its advisory opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (2004), the International Court of Justice (ICJ), reaffirming its earlier position from 1971, recognized this principle as one of the core and foundational rules of contemporary international law, interpreting states' obligations concerning it as *erga omnes* (ICJ Reports, 2004).

Nonetheless, a closer examination of the principle of self-determination reveals its ambiguities. Originating from President Woodrow Wilson's address to the U.S. Congress on February 11, 1918, this principle was reiterated multiple times in his Fourteen Points. At that time, the principle was primarily understood as justifying the dissolution of the defeated empires after World War I and the establishment of the Mandate system. It was later emphasized in documents such as the Atlantic Charter and the Yalta Declaration—particularly in relation to Europe (Kliyar, 1999).

However, during that period, the concept had a limited scope. Legally, the right to self-determination was being examined by two expert committees of the League of Nations in relation to the Åland Islands, both of which concluded that it was not a binding rule of international law. They also firmly rejected any recognition of a right to secession (Report of the International Committee of Jurists, 1920, p. 5).

After World War II, the most formal articulation of the principle appeared in Paragraph 2 of Article 1 of the Charter of the United Nations, which defined it as one of the organization's goals: "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples..." (Kliyar, 1999).

Paragraph 2 of Article 1 of the UN Charter identifies the promotion of friendly relations among nations based on the principle of equality and the right of peoples to self-determination as a fundamental goal of the UN. Article 55 of the Charter reiterates this principle as a binding obligation for states. Further references to the concept appear in Subparagraphs (b) of Articles 73 and 76 of the Charter.

Although the references in the Charter to the right of peoples to self-determination are general and lack a precise definition or boundaries, subsequent developments in legal theory, as well as in the practice of the UN and its member states, have gradually given the concept substantive meaning. In practice, the principle of self-determination has been invoked as the legal foundation for decolonization and the struggle against racial discrimination.

Among these developments are the numerous resolutions adopted by the General Assembly and the Security Council concerning decolonization, as well as the articulation of principles of international law and treaties that have recognized and affirmed the principle of self-determination.

Among these documents, General Assembly Resolution 1514, titled "Declaration on the Granting of Independence to Colonial Countries and Peoples" (Kliyar, 1999), and Resolution 2625, titled "Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States," are of undeniable significance for explicitly affirming and defining the right of peoples to self-determination as a principle of international law.

In this context, on December 19, 1966, the General Assembly unanimously adopted the draft texts of two international covenants—on civil and political rights, and on economic, social, and cultural rights—and submitted them to states for signature and ratification. These covenants entered into force in 1976.

Article 1 of each of these covenants, in its first paragraph, states: "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development."

Finally, under the third paragraph of Article 1, states responsible for administering non-self-governing and trust territories are obligated, in accordance with the provisions of the UN Charter, to promote the realization of the right to self-determination and to respect it (Kliyar, 1999).

Some scholars argue that the entry into force of these two covenants in 1976 endowed the right to self-determination with binding legal force.

The predominant interpretation in major international legal sources is that all peoples possess the right to self-determination, meaning they are entitled to freely determine their political status and pursue their economic, social, and cultural development without external interference.

However, this definition remains general and lacks detailed boundaries and dimensions. One of the factors defining its scope is the historical context of its development.

The principle of self-determination evolved primarily in the post-World War II period in connection with decolonization, and most of the relevant resolutions and documents possess strong anti-colonial content. It appears that the primary aim of invoking the principle in these documents was to oppose the imposition of foreign rule on nations (Van Der Vyver, 2000).

What is clear is that the principle of self-determination, in its anti-colonial dimension, emerged as the legal basis for ending colonial rule and was applied in practice within this framework.

The major cases in which the International Court of Justice had the opportunity to examine and affirm the principle of self-determination were all related to decolonization and non-governing territories.

In its 1971 advisory opinion on Namibia (ICJ Reports, 1971) and its 1975 opinion on Western Sahara (ICJ Reports, 1975), the ICJ emphasized that the principle of self-determination is a well-established norm of customary international law, the implementation of which requires the "free and genuine expression of the will of the peoples," and that it can be invoked to bring an end to all colonial situations.

Similarly, in 1995, in the East Timor case, the ICJ recognized the territory as non-self-governing and its people as holders of the right to self-determination. In other words, the Court considered the issue substantively as part of the decolonization process rather than secessionism (www.tamilnation.org).

Thus, despite the general definition offered by the Court regarding the right of peoples to self-determination, it has not yet examined, nor has it provided an explicit opinion on, the applicability of this principle to non-colonial situations or its internal dimension.

Moreover, UN practice regarding the implementation of the right to self-determination shows that, up until the 1970s, this principle was mainly associated with colonial situations, racial discrimination, and territories under occupation or domination. In practice, the UN has intervened primarily in such contexts.

Even in the 1998 report of the Secretary-General on the right to self-determination, the cases of Palestine and Western Sahara were considered examples of territories lacking self-determination, and concern was expressed over the continuation of such situations.

Clearly, in the above cases, these are regarded by the United Nations as occupied territories (Report of the Secretary-General, 1998, A/53/280).

Therefore, the interventions carried out by the UN and the political and economic support provided by other states to nations under colonial rule or racial discrimination have not only not been considered violations of international law but have been encouraged.

In some cases, UN interventions in support of peoples lacking the right to self-determination have gone beyond mere political support, with the Security Council adopting sanctions and specific enforcement measures under Chapter VII of the Charter.

The common thread in the major cases where the right to self-determination has justified UN intervention has been the struggle against external colonial domination.

However, the existence of apartheid regimes in South Africa and Rhodesia has not necessarily been regarded as external colonial rule. Rather, because of the imposition of racial discrimination from within, these situations were interpreted as violations of the right to self-determination and thus prompted international intervention.

Nevertheless, in these specific cases—despite the colonial histories of apartheid regimes in South Africa and Rhodesia—the explicit and well-established prohibition of racial discrimination as a fundamental rule of international law justified intervention in support of the right to self-determination of those peoples.

4. Implementation of the Right to Self-Determination: The Reduction of Human Rights Through State Sovereignty

To date, no precise or universally accepted definition of the right to self-determination has been provided, and attempts to comprehend its meaning have primarily relied on identifying its characteristics. Professor Michael Akehurst, in his book *Modern Introduction to International Law*, defines the right to self-determination as "a right by which the people of a territory determine the political and legal status of that territory, either by establishing a new state or by becoming part of another state."

The *Dictionary of International Relations* considers self-determination a right belonging to a group of people who consider themselves distinct from nations and who are fully entitled to choose the territory in which they wish to live and the form of government they desire.

In addition to its mention in Paragraph 2 of Article 1 and in Article 55 of the United Nations Charter, Article 1 common to both the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights* provides a clearer articulation of this right. It states that all peoples have the right to self-determination, enabling them to freely determine their political and civic status and to pursue and achieve their economic, social, and cultural development.

All peoples may utilize their natural resources and wealth to achieve their goals, provided that doing so does not violate obligations arising from international economic cooperation. Nevertheless, this right has continually faced obstacles and limitations, including the principle of non-intervention and, more significantly, the imperative of international peace and security.

Furthermore, in light of the growing number of separatist groups and minorities across the globe, the notion that the separation of such groups inherently results in disorder, chaos, and global instability—thereby endangering international peace and security—has led to a lack of recognition in international law for any right of these groups to secede from the central government, establish an independent state, or merge with another state.

Thus, a fresh perspective on the limitations of this right and the development of appropriate mechanisms within the framework of international law by its subjects (states and international organizations) are essential to ensure the proper and effective implementation of the right to self-determination.

5. Dimensions of the Right to Self-Determination

Given global developments, including the end of colonial independence struggles, the recognition of new non-colonial states, and increased emphasis on democracy and the necessity of establishing democratic governments, the scope of the right to self-determination has evolved. It is now acknowledged as an *erga omnes* obligation of sovereign states in the international arena, and its violation entails international responsibility for those states.

As a result, in addition to its external aspect—formerly limited to colonial contexts—we now also contend with the internal dimension of this right. These dimensions are elaborated below.

The *external* dimension of self-determination relates to the status of a people in connection with the state in question. It allows the population of a territory to freely decide whether to join an existing state or to establish an independent and sovereign state. While many legal scholars restrict the principle of self-determination to this external dimension and to colonial scenarios, international human rights covenants and General Assembly resolutions have extended the external right to peoples in occupied or dominated territories as well.

6. The Internal Dimension of the Right to Self-Determination

The internal dimension of the right to self-determination pertains to the right of the people within a state to freely determine their political and economic system, the structure of governance, and the degree of their participation in the administration of public affairs.

This aspect is addressed in the *International Covenant on Civil and Political Rights* as the right to political participation and the rights of minorities.

Despite obstacles and restrictions—many of which will be discussed—numerous states, through narrow interpretations, continue to restrict the right to self-determination to the context of colonial independence.

Nevertheless, subsequent developments in international law, the adoption of treaties, resolutions, and regional and global declarations, and consistent state practice have elevated the internal dimension of self-determination to the level of customary international law. It now includes the recognition of the right of all people to participate in the governance of their country and to determine their political, civil, economic, and social destiny.

Accordingly, the right to democracy mandates that all people be allowed free and meaningful participation in electing rulers and in the administration of their government, including minorities within the state.

7. Implementation of the Right to Self-Determination

Prior to World War II and the adoption of the UN Charter, the right to self-determination was a purely political concept limited to decolonization. Territorial integrity was of paramount importance, and this principle was accepted only insofar as it did not permit the disintegration of a state.

However, the end of the Cold War and the disintegration of the Soviet Union, Yugoslavia, and Czechoslovakia marked a significant turning point, representing the implementation of the right to self-determination in non-colonial contexts.

Simultaneously, the international community's growing emphasis on human rights, and the vast body of international obligations derived from treaties, declarations, resolutions, conferences, and human rights monitoring mechanisms—particularly regarding the right to self-determination—challenged traditional notions of state sovereignty.

An analysis of the case of Kosovo highlights the clear tension between the right to self-determination and state sovereignty.

Gradually, as the concept of self-determination evolved, so too did the concept of sovereignty and its related principles, such as the principle of non-intervention. Human rights are no longer confined to the domestic affairs of states.

Given current state practices and the positions of international organizations, we now witness interventions in domestic matters under the banners of prevention, humanitarian assistance, and the "responsibility to protect."

Consequently, with the expansion of human rights and democracy, the absolute and authoritarian scope of state sovereignty has diminished. The existence of various ethnic, linguistic, and racial separatist groups worldwide has posed significant challenges to sovereign states.

This evolution has resulted in the recognition of the right to self-determination for new groups, such as peoples under occupation or domination by racist regimes. In contrast to the past, where the right was applied exclusively to colonial situations, since 1990 numerous instances of self-determination have occurred in non-colonial contexts.

It may be argued today that the right to self-determination is applicable to all peoples subjected to oppression and domination.

One method of exercising this right is through democratic processes, particularly referenda. States must create the conditions necessary for referenda to enable all citizens to participate in determining their preferred system of governance. Through such referenda, citizens decide whether to remain part of an existing state or to join another.

Another mechanism for implementing the right to self-determination is through resolutions and decisions of international bodies such as the United Nations or through judgments of international courts.

For example, in its advisory opinion dated July 22, 2010, the International Court of Justice recognized Kosovo's independence, a recognition subsequently extended by nearly half of the world's states.

The exercise of the right to self-determination through unilateral declarations of independence may take one of three forms:

– Establishing a sovereign and independent state;

– Free association with an independent state;

– Integration into another independent state.

However, the *Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States* adds a fourth method in Paragraph 4 of the section on the principle of equal rights and self-determination. This allows for "the attainment of any other political status freely determined by a people," thereby expanding the scope of external modalities for exercising this right.

Foreign occupation of a territory is also a context for applying the right to self-determination, with the clearest example being the occupation of Palestinian territory. The Palestinian people, as the indigenous inhabitants, possess the right to determine their own future. This was explicitly affirmed in the ICJ's advisory opinion on July 9, 2004.

In addition to the above, racial discrimination is another context for the exercise of the right to self-determination.

This right is recognized for peoples subjected to systematic and widespread racial discrimination.

Notable examples include the regimes in apartheid South Africa and Southern Rhodesia, where the imposition of racial apartheid justified the invocation of the right to self-determination and resulted in international intervention.

The External Dimension of the Right to Self-Determination (Independence or Integration with an Existing State)

The right to self-determination, like many other human rights norms, has evolved in response to its ineffective implementation within domestic legal systems. Today, this right is recognized as having both internal and external dimensions, with the external aspect proving to be particularly contentious. Since the dissolution of the Austro-Hungarian and Ottoman empires following World War I, through to the independence movements of colonial territories after World War II, and continuing up to the breakup of the former Yugoslavia, tensions have persisted between efforts to exercise this right and states' desires to maintain authority and territorial integrity.

Although it was expected that such conflicts would gradually diminish with the end of colonialism, the reality is that the exercise of this right remains a source of serious dispute in many parts of the world. This is especially evident in Africa, where post-colonial borders have often forced together ethnic groups with deep-rooted hostilities. A notable example is the secession of South Sudan from Sudan.

In Africa, the first significant case involved the Katanga People's Congress, which petitioned the African Commission on Human and Peoples' Rights to recognize Katanga's right to independence from Zaire. The Commission rejected the request, reasoning that autonomy through secession is only permissible when the will of the people is denied, their participation in governance is obstructed, or gross human rights violations occur. This case thus acknowledged the possibility of recognizing independence outside the colonial or foreign domination context.

In the case of *Kevin Mgwanga Gunme et al. v. Cameroon*, the people of Southern Cameroon alleged that they were marginalized from the rest of the Cameroonian population, deprived of representation in government, and denied access to development. They claimed that the government had stripped them of their right to education and discriminated against them in legal matters and linguistic rights.

The Commission, after assessing UNESCO expert findings to determine the concept of "people," concluded that the inhabitants of Southern Cameroon constituted a "people" entitled to exercise autonomy within an existing state framework—such as through the establishment of local government, a confederation, or a federation—unless there was a denial of participation in public affairs or widespread human rights violations.

In two consolidated cases against Sudan reviewed by the African Commission, the Commission again addressed the issue in the context of multi-ethnic states. It recognized race as a decisive factor in identifying a "people" and focused on the rights of indigenous populations and their protection from both external and internal abuses. It concluded that the people of Darfur qualify as a "people" under Article 12 of the African Charter, and that the military actions against them constituted gross violations of individual and collective rights, including a breach of Article 22 of the Charter.

The external dimension of the right to self-determination also arose in the case concerning the request for the secession of Quebec from Canada, which was brought before the Canadian Supreme Court. The Canadian federal Minister of Justice asked the Court to respond to three questions, the second of which is relevant here: Does international law grant the National Assembly or the government of Quebec the right to unilaterally secede from Canada?

The Supreme Court of Canada consulted advisory opinions from judges of the International Court of Justice and the International Law Commission. Professors James Crawford and Luzius Wildhaber argued that current international law upholds the territorial integrity of states and does not permit a portion of a state's territory to unilaterally declare independence.

In contrast, Professors Thomas Franck, Alain Pellet, and Georges Abi-Saab held that international law is silent on this issue; no rule exists that either authorizes or prohibits unilateral secession. According to their view, if a seceding territory is able to establish itself effectively, its statehood should be regarded as legitimate.

In the 2010 Kosovo case, the International Court of Justice made a distinction between the act of declaring independence and the actual separation of a territory from the parent state. The ICJ found that the mere issuance of a declaration of independence does not violate any rule of international law. However, the Court refrained from addressing whether gross human rights violations justify secession and declined to recognize any positive right to declare independence.

8. The Right of Peoples in Colonies and Non-Self-Governing Territories to Self-Determination

The right to self-determination was originally articulated in relation to territories occupied by Nazi Germany and included in Article 1 of the United Nations Charter as a general standard for territorial changes. Its aim was to restore sovereignty, autonomy, and national life to peoples who had been placed under German domination.

Following initial negotiations between Churchill and Roosevelt, Churchill promised the British House of Commons that the scope of this principle would not extend to colonial territories.

However, subsequent developments demonstrated that the rapid evolution and expansion of this principle exceeded the control of colonial powers. Gradually, the discourse emerged that the right to self-determination pertained to defined groups of people who were thereby entitled to independence—such peoples were identified by their connection to a specific territory. A narrow interpretation of the principle thus benefitted only colonies.

The first activities of the United Nations within the framework of self-determination were limited to colonies and territories under foreign domination. In 1960, the General Assembly adopted the *Declaration on the Granting of Independence to Colonial Countries and Peoples*. The 1960s marked the peak of the UN's engagement in refining the concept of self-determination and expanding its application.

Article 1, common to both Covenants, recognizes the right of all peoples to self-determination. It obligates all states to create the conditions and take steps for realizing this right as detailed in Paragraphs 1 and 2 of the respective article.

The content of Resolutions 1514 (1960), 1541 (1960), and 2625 (1970), the related deliberations, and the UN's decolonization practice together produced a set of general standards that clarified the principle of self-determination for colonial peoples. These general standards can be summarized as follows:

1. All colonial peoples have the right to self-determination, including freely determining their political status and pursuing economic, social, and cultural development.
2. This right covers the external dimension of self-determination, i.e., the international status of the people and the territory they inhabit.
3. This right belongs collectively to the entire population of the colony. Tribes and ethnic groups cannot exercise it independently, as the principle of territorial integrity overrides group or minority self-determination.

The realization of the right to self-determination in colonies may occur through:

a) independence;
b) free association with an independent state;
c) integration into another independent state.

In the first case, no referendum is required, but in the other two, public consultation is necessary.

Once the external right to self-determination is exercised, it is considered extinguished. National unity and territorial integrity then bar renewed invocation of external self-determination—though, as will be discussed later, there are exceptions.

Outside the contexts of colonization and foreign occupation, the right to self-determination must be aligned with and adapted to the principle of territorial integrity.

From 1945 to 1979, UN activities resulted in the independence of 70 territories. Between 1980 and 1995, another 28 territories gained independence. The independence of East Timor in 1999—though considered a non-self-governing territory—was the last.

UN activities eventually broadened the scope of self-determination beyond purely political dimensions to encompass economic, social, and cultural aspects, recognizing the newer forms of domination and colonization that continued to affect many countries.

A crucial point regarding the exercise of the right to self-determination by colonial and non-self-governing peoples is that the reading of Resolution 2625 and the *Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States* (1970) leads to the conclusion that:

First, it is the duty of states to refrain from any coercive action aimed at depriving colonial and non-self-governing peoples of the opportunity to exercise this right.

Second, the exercise of this right by such peoples is not an obligation but an option—they are not duty-bound to exercise it.

UN efforts regarding colonies have also had shortcomings. After the Cold War, the independence of these territories was followed by numerous violent conflicts.

Significantly, from the 1960s through the 1980s, the focus remained on the external aspect of self-determination, not its internal aspect. In territories lacking a democratic or participatory tradition, prioritizing territorial integrity often led to the deprivation of many peoples and ethnic groups from exercising self-determination.

Indeed, colonial peoples' desire for independence was seen as inevitable, and no referenda were held to determine the specific political preferences of major ethnic groups.

Furthermore, Chapters XI and XII of the UN Charter, concerning non-self-governing territories, made no direct reference to self-determination. Only Article 73 referred to the "sacred trust" of administering states to promote the well-being of their inhabitants.

In its first session, the General Assembly compiled a list of 74 territories to which Chapter XI applied. When some member states refused to provide information on 11 of these territories at the third session, the Assembly adopted a resolution requiring administering authorities to submit detailed information to the Secretary-General regarding structural changes. The Assembly emphasized that it alone could remove territories from the list of non-self-governing regions.

Article 73 outlines the obligations of administering powers: to respect the culture of the people, to promote their political, economic, social, and educational development, to ensure fair treatment, to protect them from abuse, and to reflect their political aspirations. Administering states were expected to prioritize the interests of the territories, assist in developing appropriate forms of autonomy, and report on progress to the UN, which monitored their advancement toward self-government.

Resolution 1514 (1960) also stressed the need for urgent measures to transfer all governmental powers to the people of these territories, unconditionally and in accordance with their wishes, without any discrimination based on race, religion, or color, thus enabling full enjoyment of independence and freedom.

In 1971, the International Court of Justice stated: "The subsequent development of international law regarding non-self-governing territories, as outlined in the UN Charter, has rendered the principle of self-determination applicable to all such territories."

The Court's statement was especially supported by Paragraph 3 of Article 1 common to both Covenants and the 1970 *Friendly Relations Declaration*.

According to Paragraph 3, the administering power is obligated—though this duty was not explicitly stated in the Charter—to assist in the realization of self-determination. In other words, it was required to help non-self-governing territories achieve independence. This clause complements the Charter provisions.

The 1970 *Friendly Relations Declaration* also explicitly mentioned the people of non-self-governing territories, aligning their status with that of colonial peoples and thereby affirming their equal entitlement to self-determination.

The ICJ declared: "The development of international law has left no doubt that the ultimate goal of the 'sacred trust' set forth in Paragraph 1 of Article 22 of the League of Nations Covenant is the self-determination of all peoples in such territories."

The Court further asserted: "The right of peoples to self-determination is today a right *erga omnes*."

State practice and UN resolutions confirm that the right to self-determination applies not only to colonial peoples but also to peoples in occupied territories.

The notion of foreign domination is embedded in Paragraph 1 of the *Declaration on the Granting of Independence*, which states: "Subjugation, domination, and exploitation of peoples by foreign powers constitute a denial of fundamental human rights and are contrary to the UN Charter, and pose obstacles to international peace and cooperation."

Article 1 of the Covenants implicitly alludes to this issue, though it does not explicitly mention foreign occupation or domination.

Eventually, the 1970 *Friendly Relations Declaration* identified several scenarios in which peoples hold the right to external self-determination—one of them being the condition of subjugation, domination, and exploitation by foreign powers.

This declaration affirms that foreign occupation or domination can exist apart from classical colonialism. This understanding is now widely accepted by states and the international community.

The UN Security Council has repeatedly declared that the acquisition of territory by force is illegal and illegitimate. The International Law Commission has also concluded that the right to self-determination applies not only to colonial peoples but also to peoples under foreign domination.

State practice supports this view.

Since "external self-determination is synonymous with the prohibition on the use of force in international relations," the violation of this right through force constitutes an indirect breach of a peremptory norm (*jus cogens*), and simultaneously a violation of a right *erga omnes*.

Security Council and General Assembly resolutions indicate that "domination" refers to situations in which a foreign power uses military force to subjugate a territory. That is, a foreign entity either initiates armed intervention or occupies a territory in the course of armed conflict.

UN practice since the 1970 *Friendly Relations Declaration* shows that the majority of states have refrained from extending the concept of foreign domination to include economic exploitation or neocolonialism.

For this reason, General Assembly resolutions on economic matters have not categorized economic intervention as a violation of the principle of self-determination.

However, military intervention, armed aggression, and foreign military occupation have been deemed gross violations of the right to self-determination.

In practice, states have agreed that the term "foreign domination" refers exclusively to intervention through force and military occupation.

This does not mean that external self-determination cannot be invoked in situations other than foreign occupation or colonialism.

Paragraph 2 of Article 1, common to both Covenants, specifically addresses one such scenario. This provision reflects the UN and its members' response to post-colonial and emerging challenges.

In matters concerning natural resources, it was initially the ruling states—not the people—who were directly affected.

The UN's main concern was to balance and uphold two core principles simultaneously:

1. The respect for and protection of developing countries' sovereignty over their natural resources;
2. The establishment of safeguards for foreign investors.

The Human Rights Committee, interpreting Paragraph 2 of Article 1 of the *International Covenant on Civil and Political Rights*, asserts that this right imposes equal and parallel obligations on all states and the international community.

Professor Cassese, in analyzing Paragraph 2, identifies the following implications:

1. Peoples must be governed by rulers of their own choosing;
2. They may demand that their elected leaders use natural resources for their benefit;
3. The right to control and exploit the natural resources of a territory belongs to the inhabitants of that territory.

In addition to instruments such as the Declaration of Independence and the Covenants, the General Assembly addressed control over natural resources in a separate document.

Resolution 1803, titled *Permanent Sovereignty Over Natural Resources*, was adopted by the General Assembly on December 14, 1962.

This resolution "did not codify customary law nor did it become customary law," but some of its general principles contributed to the development of customary rules:

1. Peoples under colonial or foreign domination have the right to freely use and exploit their natural resources.
2. Since this right is exercised for national development and public welfare, any exploitation of natural resources by a colonial or foreign power that does not serve the absolute interests of the affected people constitutes a gross violation of the right to self-determination.

9. Conclusion

The conceptual evolution of the right to self-determination in international law can be examined across three historical phases. Initially, this notion aimed to legitimize the dissolution of defeated empires following World War I. However, after World War II, the meaning of the right to self-determination shifted more toward the sovereignty of territories under colonial domination and foreign subjugation. Since the 1970s, this right has increasingly oriented itself toward the realization of democratic governance and the protection of minority rights.

While international law respects fundamental principles such as state sovereignty, territorial integrity, and non-intervention, it has suggested that, to both guarantee the territorial integrity of states and respond to the demands of national groups and ethnic or sectarian minorities, the primary solution lies in establishing democratic systems and, in exceptional cases, granting autonomy to minorities.

Although the autonomy model has proven effective in preserving minority identity and resolving ethnic conflicts—and has been implemented in several countries—international law does not impose it as a binding rule upon states. Rather, it is viewed as one possible method of realizing the right to self-determination.

International law also rejects the conflation of secession with self-determination. Even when recognizing the new states that emerged from the breakup of the former Yugoslavia and Soviet Union, the terminology used was "dissolution" or "disintegration," not "secession." The international community fears that recognizing a right to unilateral secession could destabilize the international order and provoke chaos and disorder.

In international law, unilateral secession has not been recognized. Ethnic and minority groups cannot invoke international law to justify unilateral separation. The right to self-determination within a state means the participation of groups and people in the political system while respecting the state's territorial integrity.

Even in the face of persistent and strong demands for independence, it is exclusively the central government’s prerogative to determine how to respond to such demands. Since 1945, there is no precedent in which a part of an established, sovereign state's territory has attempted to secede and received United Nations endorsement.

The right to self-determination, particularly since the drafting and entry into force of the two Covenants, has expanded conceptually to encompass the right of people to determine the political, economic, and social system under which they live.

The end of the Cold War, like many transformative and unprecedented developments, significantly influenced the principle of self-determination.

The growing focus on democracy, the values of democratic governance, and human rights on the one hand, and minority rights on the other, has enriched and strengthened the conceptual scope of this principle.

Now that colonialism is no longer a dominant issue, the right to self-determination has become closely linked with human rights and democracy. As such, in the international legal discourse of the third millennium, there is increasing reference to a "right to democracy"—a modern interpretation of the right to self-determination.

Ethical Considerations

All procedures performed in this study were under the ethical standards.

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Conflict of Interest

The authors report no conflict of interest.

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