



Territorial integrity: The right to self-determination and the people to whom the right accrues

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Abstract

The acquisition of defined and fixed territory is prerequisite to the emergence of states by an act of secession. Yet the desire to protect the territorial integrity of states has far reaching manifestations for entities seeking to secede from states as the notion of territoriality itself remains contested in international law. The implication of this contest is most visible in the treatment of the right to self-determination. The principle of self-determination of peoples is one of the fundamental human rights firmly established in international law. Whether the issue of defined territories should have foremost consideration in matters of statehood is worth analyzing and thus this paper compares the legal power of the principle of self-determination and the principle of territorial integrity in international law. The hypothesis is that the principle of self-determination of peoples prevails over the principle of territorial integrity in the present international law. To assume the above position, this paper adopted the doctrinal research method which enabled a critical review of issues on the subject.

Keywords: territorial integrity, right accrues

Introduction

This paper evaluates the question whether the principle of self-determination prevails over the principle of territorial integrity. It is submitted here, that in order to retain its legitimacy, international law must reconceptualize the doctrines of territoriality and self-determination. This can be achieved by viewing self-determination as a foundational right on which the edifice of human rights can be built. However territorial integrity is the principle under international law that prohibits states from the use of force against the geographic expression or political independence of another state. It is enshrined in Article 2(4) of the United Nations Charter and has been recognized as customary international law^[1]. Conversely it states that imposition by force of a border change is an act of aggression. In recent years there has been tension between this principle and the concept of international intervention under article 73b of the United Nations Charter "to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement^[2]. The League of Nations was intended to uphold territorial integrity and other principles of international law. With the formation of the United Nations (UN) and, later, such organizations as the Conference on Security and Cooperation in Europe (now Organization for Security and Co-operation in Europe), territorial integrity became a part of international resolutions. The Helsinki Final Act dealt with both the inviolability of frontiers and the territorial integrity of States, among other things.

Concepts of States and Territorial Rights

The state is sovereign when it possesses the ability to govern itself without any external influence or interference. The state is the primary actor in international law and politics^[3] and every state acquires certain rights. These rights are more enshrined in international law in view of the conceptual implications of sovereignty. In recognition of the rights of sovereign states, article 2(7) of the United Nations (UN) Charter stipulates that:

"Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.^[4]"

The Montevideo Convention in its article 1 sets out the essential attributes of sovereignty which provides a guide on the features of statehood. It expressly states that "the state as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with other states^[5]." Although the various features have their own issues as it relates to the respective effect on statehood, the concept of 'a defined territory' stands out in matters of statehood. Deductively the international legal rule on territoriality applies only between states because 'members' under the UN Charter are only states^[6]. This leads to the conclusion that the principle of territorial integrity is the principle applied in

relations between states and not inside a single state. Thus respecting the territorial unity and integrity of a state by its own population is a domestic affair and does not fall within the international law jurisdiction.

The Concept of Peoples and Self-Determination

The principle of self-determination of peoples is one of the fundamental human rights firmly established in international law. It is very much a matter of international concern and must be applied equally and universally^[7]. International legal instruments relating to self-determination invariably refer to 'people's' as being entitled to the right of self-determination. Thus, self-determination is a collective right. The exercise of this right requires the expression of the free will of people. The Charter of the United Nations declares that one of the purposes of the United Nations is: "*to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples*^[7], and to take other appropriate measures to strengthen universal peace^[8]."

It follows that the rationale of the principle of self-determination is to foster peace. Nevertheless the UN Charter neither defines the concept of self-determination nor charged member states to respect the principle in a manner that foist same upon them as a legal obligation^[9]. The meaning of the term 'people' determines who the right of self-determination accrues to. Incidentally the concept of peoples impacts on the relations between the right of self-determination and the principle of territorial integrity. Territories are occupied by people and the same people possess the right to assert a right to determine their political status as well as their economic, social and cultural rights. Territories are spread over the universe and the principle of self-determination has a universal realization^[10]. Thus the obligations arising from the principle of self-determination is *erga omnes*^[11], therefore it applies to the whole international community. The collective forum of states may as a matter of right demand that a state depriving a 'people' of the right to determine their fate, comply with the principle of self-determination. Compliance with the principle of self-determination is a duty owed by all states^[12].

Although there is no recognized definition of the term 'people', the UNESCO offers a guide on same^[13]. Nevertheless the right to self-determination is conceived as a human right with fundamental effect. Consequently it is illogical to assume that the right is constricted and limited to only a certain category of people. Such assumptions in essence, will be to discriminate against humans who in all contexts constitute a people. Such discrimination can also be considered to be racial, ethnic, cultural or religious. It is inconceivable to imagine a definition of peoples that excludes a certain category. Nevertheless, the report of the international conference organized by the UNESCO Division of Human Rights, Democracy and Peace describes a people in the context below:

"The plain meaning of the term 'all peoples' includes peoples under colonial or alien subjugation or domination, those under occupation, indigenous peoples and other communities who satisfy the criteria generally accepted for determining the existence of a people^[14]."

Yet, the international community while removing arbitrary restrictions from which the current law suffers has to consider the reality of multiplicity of peoples who share similar commonalities in same territory. It is submitted that the definition of a people must be broad enough to include all groups who can claim a common affinity and aspirations. The various instruments considered relevant to self-determination do not suggest any limits by the plain or ordinary meaning of the expression 'all people'. Following the Vienna Convention on the Law of Treaties, a treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose^[15]. However it is doubtful whether the states intended for the phrase to be construed in its ordinary sense. It is observed here that the fear of the states while adopting the covenants was that the provision might be interpreted as conferring a right of self-determination on national minorities^[16]. As such the true intent of states from *travaux preparatoires* clearly limits the meaning of the provision by excluding minorities from the phrase 'all peoples.' It is again submitted that in order to avoid discrimination between groups of peoples it is proper to define a people as a population that makes up a certain unit. Under the present international law, a people means an entire population of an independent state, governed in a way that represents the whole population; an entire population of non-self governing territory; entire population of a particular occupied territorial unit living under foreign military occupation; entire unrepresented and oppressed part of the population of a particular territorial unit. This interpretation shows the primary connection between peoples and territory and will be amply examined in the following paragraphs.

Comparison of the Two Principles with in the Context of Their Areas of Application

The application of the principle of self-determination does seem to be annexed to the principle of territorial integrity at least in the context of international law. By its general contextual effect, the principle of territorial integrity is taken to limit the scope and actualization of self-determination. This is so, since regard is given to territorial integrity and states are often prepared not to interfere with the domestic concerns of a state. Nevertheless it is important to examine the extent to which the principles of territorial integrity scuttle the application of self-determination. The following paragraph attempts a comparative analysis of the principle of self-determination and territorial integrity as applicable within the context of international law. As it were the rule on self-determination seems to be more prominent in the area of colonial peoples. Non-self governing territories therefore have the most specified rules concerning the right of self-determination as well as the means for implementation of this right. Accordingly the United Nations General Assembly Resolution 59/134 states

that “in the process of decolonization, there is no alternative to the principle of self-determination ^[17].” Resolution 1514 (XV) entitled “The Declaration on the Granting of Independence to Colonial Countries and Peoples” ^[18] and Resolution 2625(XXV) entitled “The Declaration of Principles concerning Friendly Relations and Cooperation among states in accordance with the Charter of the United States ^[19]” proclaimed a speedy and unconditional end of colonialism in all its forms. Yet there is hardly any nation that is still subjected to colonialism in the present century. Thus the challenge is asserting the superiority of the right of self-determination over the principle of territorial integrity within the context of different categories of people in different territories as shown hereunder.

a. Unrepresented peoples

A unique exception to the concept of territorial integrity manifests in cases where a people are unrepresented even as part of an existing state or territory. In other words a section of a state may assert that although they are citizens of a state, the government does not represent them in matters of governance. Incidentally in some sense, this appears to be the claim of several secessionist groups in contemporary Nigeria. For instance, there is a widely circulated claim that the government of Nigeria does not represent the interest of the south eastern part of the country ^[20]. An exception to territorial integrity in this area permits territorial changes even inside the sovereign and independent state. In the case of non representation, the unrepresented people become separate and acquire the right to choose secession as a remedy for the political extrication or non-inclusion. The fact of non representation by a government may be construed as an abuse of rights which may lead to internal strife and breach of the peace. The United Nation’s objective to maintain order and peace may thus be defeated if the integrity of such a state is not breached in such circumstances.

In fact, the Declaration on Friendly Relations and Cooperation among States (Resolution 2625(XXV)) provides that:

“Nothing...shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent states conducting themselves in compliance with the principle of equal rights and self-determination of peoples...and thus possessed of the government representing the whole people belonging to the territory without distinction as to race, creed or color ^[21].”

According to the statement, the territorial integrity and political unity of a sovereign state is sacred, except for the circumstance when such a state fails to conduct itself in compliance with the principle of equal rights and self-determination of peoples ^[22] because its government does not represent the entire interest of the population. In view of the resolution, a representation is thought to be holistic without any distinction. It can be imagined that such wholly representing government is only possible in a democratic society. However the tenets of democracy can be abused in a manner that the government fails to represent the entire population of a state. In these circumstances secession becomes permissible. Again in a state governed under non-democratic regime, secession would be permissible. However Resolution 2625(XXV) mentions only two grounds for distinction: race and religious beliefs ^[23] (race, creed and color), and if interpreted strictly, there is a potential to deny ethnic groups living in a sovereign state the right to self-determination even if they are not represented. The Vienna Declaration and Program of Action ^[24] applied a very similar language as the Declaration on Friendly Relations among States. Contextually the Vienna declaration repeats paragraph 7 of Resolution 2625 (XXV) but removed limited grounds for distinction (government representing the whole people belonging to the territory without distinction of any kind) ^[25]. The Vienna declaration in its main provides for all unrepresented people as well oppressed people in a territory regardless of sectional divides. Thus although ethnic, linguistic and religious minorities can also be discriminated by government, the declaration does not distinguish them as minorities.

It is apt to note that non representation does not *ipso facto* culminate into a right to secede from a state. This is so, because the initial remedy in cases of non representation lies in a claim to internal self-determination with an aim to achieve representation. For a claim to secession to be sustained, there must evidently be gross breaches of fundamental human rights and the exclusion of any possible peaceful solution within the existing state ^[26]. Secession under situations of gross human right abuses is considered a last resort and the sole option under the circumstances. Buchanan submits that the unilateral right to secede- the right to secede without agreement of the entire population or without constitutional authorization- should be understood as a remedial right only, a last resort response to serious injustices ^[27]. In this vein, a state gains international support against secession and in defense of her territorial integrity if it has not breached human rights of people. Thus the territorial integrity of a state shall not be disturbed unless there are serious allegations of extreme human rights abuses ^[28]. Accordingly, Van Praag submits that “a state that oppresses and destroys or unduly exploits a people or community instead of protecting it or representing its interests has no legitimate right to invoke the principle of territorial integrity against that people or community ^[29].”

It is submitted that the right to self-determination can be exercised in any situation where the free will of a people does not constitute the principles of governance. Thus the principle of territorial integrity will not hamper the exercise of the right to external self-determination as per secession. In other words secession is exercisable where the free will of a people is denied. These may arise from cases of non-representation, sectional deprivation, occupation of a territory and imputing on that territory and its population a foreign state’s

government. Such situation breaches democratic representation and the free will of a people. Nevertheless secession of an unrepresented people has not yet become international customary law, hence it is only declaratory. According to Cassese, state practice in the UN from the 1970's evidences that granting internal self-determination to racial groups persecuted by the central government has become customary international law (for example, the UN General Assembly resolutions on Southern Rhodesia and South Africa), but the possibility for racial groups to secede has not become customary law^[30]. Nevertheless the rule is emerging and the United Nations General Assembly Resolution 45/130 had reaffirmed the legitimacy of the struggle of peoples for independence and liberation from apartheid by all available means^[31]. Again the Canadian Supreme Court in its advisory opinion on secession of Quebec^[32] expressed its opinion on the right of external self-determination of unrepresented peoples, recognizing the broad scope for cases of non-representation as it was declared in the Vienna Declaration and Program of Action. The court was emphatic on the right of peoples to assert self-determination in situations where a people are colonized, oppressed as under foreign military occupation and where a definable group is denied meaningful access to government to pursue their political, economic, social and cultural development^[33]. Consequently, international law has not clearly established the right of external self-determination particularly with regards to secession. It may be inferred that the principle of territorial integrity prevails over the right of self-determination in situations of un-representation of a section of a state. This is rightly inferred since the right of external self-determination or secession is considered a remedy of last resort in cases of unrepresented people. Nevertheless it is submitted that the acknowledged right of secession in situations of gross violations of human rights creates a right, the exercise of which prevails over the principle of territorial integrity. It is further submitted that the pronouncements by the Supreme Court of Canada in the Secession of Quebec case may not represent a logical construction of the right of self-determination in situations where a people are not represented by the government of a state they belong to. Establishing the right of secession or external self-determination as a remedy of last resort does seem to undermine the gravity of the violations of rights an unrepresented people may suffer. The right of self-determination is a human right that must not be measured before its implementation. Once the human rights of a people are violated under the guise of sectionalism, they may secede on such grounds. After all, the option of internal self-determination may not provide a remedy where the government of a state is unwilling to effectively represent a section of the state.

b. Independent states

Independence of states does manifest a scope of autonomy that precludes interferences in a states domestic affair. This position equally affects the right of self-determination. Since the right of self-determination is exercisable at the instance of a people, it is instructive to view the term people from a certain perspective. If the term 'people' is construed to mean the entire population of a particular territorial unit, the principle of self-determination will be dependent on the collective will and assent of the entire population of a state. Thus if a part of a population in a state claims self-determination, the principle of territorial integrity which applies to relations between states may inhibit any external interference. The international recognition of the right of self-determination may diminish the importance of the principle of territorial integrity in a case where there is an attempt to make territorial changes on the grounds of self-determination. Basically discussions pertaining to the right of self-determination by minorities or indigenous populations inside a sovereign state propel apprehension on the part of the states. The fear is that any external action taken in such regard would amount to interference in the domestic affairs of sovereign states. Such interferences will disrupt and violate the principle of non-interference. In many cases the United Nations have chosen to be neutral or silent in the face of agitations for self-determination by a part of a sovereign state. The part of the state seeking to exercise the right to self-determination may be ethnic and religious minorities or indigenous peoples. According to Cassese, in various instances where, rightly or wrongly, "ethnic groups living within sovereign states invoked self-determination, the UN practice was 'at its most ineffectual^[34].' Nevertheless it is important to stress on the exceptions to the above. First a people under military occupation have the right to self-determination as separate peoples recognized by international law; secondly, unrepresented and oppressed peoples are considered as separate peoples under the UN General Assembly resolutions, although only racial non-representation have formed binding international customary law.

More so, the Helsinki Declaration at its principle 8 adopted while having the special political purpose of reuniting Germany, declared that:

"all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development^[35]."

Nevertheless the Helsinki rule is apparently limited in its scope by conformity with the purposes and principles of the United Nations Charter and with norms of international law relating to territorial integrity of states^[36]. Although the Helsinki declaration applies primarily to sovereign states, its effectiveness is put in doubt since as submitted by Cassese, there is no right to self-determination granted to minorities^[37]. Again no right to secession is recognized because territorial integrity is given paramount importance^[38]. However it is submitted that placing the principle of territorial integrity as foremost in view of the Helsinki Declaration is arguable. This is because by the wordings of the various instruments that give premium to

territorial integrity, only states are under obligation to respect territorial integrity of other states, and not a people. Consequently a people's right to self-determination cannot be scuttled by virtue of the subsisting principle of territorial integrity since there is no obligation on the part of a people to respect the integrity of a state under international law. On the part of the people, the Helsinki Declaration stipulates a right to determine their political status 'when as they wish'^[39]. Again, a further challenge to Principle 8 of the Helsinki Declaration is in view of its conformity with the Charter of the United Nations, which, according to its *travaux préparatoires*, does not include minorities as having the right of external self-determination. This implies that the decision to make territorial changes as with the case of Germany is dependent on all peoples of the state through plebiscites or referendums. Thus in a general context, for independent states the principle of self-determination of peoples prevails over the principle of territorial integrity but only where it is established that a people are foisted with the right to determine their political status and the Act places no obligation on a people to respect the integrity of a state.

c. Minorities

States have consistently opposed the formation of international law granting the self-determination to linguistic, religious, ethnic minorities (with certain exception to non-represented racial groups denied equal participation in decision making). In view of the diversity of groups who can constitute a minority in a state, the only way to define 'a minority' is to characterize these groups and to admit that other types of groups are possible. The language of article 1 of the Covenants literally would not preclude the right of self-determination for minorities if those minorities constituted 'people.' However, drafters of the Covenants did not intend to include minorities within the context of 'peoples'. According to Musgrave, a minority cannot determine its own political status, unlike a people under article 1, because the rights of minorities are protected by article 27 of the ICCPR^[40]. Under article 27 a minority group is merely entitled to cultural, religious and linguistic rights^[41]. The suggested narrow interpretation of minority rights to self-determination may lead to the clearly erroneous conclusion, that people from the minority group do not have any rights except a few ones mentioned in article 27 (for instance, the right to life is also mentioned in article 27). On the contrary, an examination of the text of the Covenants leads to the conclusion that minorities are entitled to more rights than those enumerated in article 27. If interpreted by the ordinary meaning alone 'all peoples' under article 27 of the ICCPR give unlimited scope for the principle of self-determination because of great diversity of groups who can constitute a minority in a state. Nevertheless the objectives and purpose of the contracting states prevent this interpretation. The *travaux préparatoires* reveals the intention of drafters not to treat minorities as separate peoples in the state. It can be imagined that the unconditional international recognition of minorities as separate 'peoples' in the existing state would lead to unconditional right to secede, that is the straight way to fragmentation of territories and creation of conflicting mini-states. Today's worldwide 'discussions are often polarized between those two who argue that every ethnic group has the right to unilaterally secede and form a new state and those who defend the status quo and the territorial integrity of states at all costs'^[42]. State's refusal to apply the right of self-determination to its minorities often cause armed conflicts. It is submitted that the aim of the international community should essentially be to avert conflict. This may be achieved by ascribing the status of 'people' to minorities as used in the various instruments on self-determination. The denial of the status to minorities can be reasoned to be a violation of rights in law. The definition of 'people' must be broad enough to incorporate minorities whose remedy may lie in secession in situations of non-representation by a government or sectional violation of rights. More so, prevention of conflicts must not necessarily be achieved by maintenance of the status quo but through changes occurring peacefully where necessary^[43]. First of all, recognition of the right to secede as a legal remedy of peoples unrepresented and oppressed by a government should become entrenched both in state practice and law. Such may bring the real base to solve many present conflicts inside existing states. The case of Nigeria and Biafra establishes a good example. Perhaps, an earlier acknowledgement of the right of minorities to secede would have averted the over 40 year's bloody civil war in the Sudan. Eventually it was the secession of South Sudan that quelled the crises of the Sudan. After all, many claims to secede are based on the natural wish to separate from the past oppressor, which is often still the oppressor for today. Again the amalgamation of occupied territories and regions and its fusion into one may have distorted the identity of a people who may wish to secede at this time. It is submitted that since there are populations living in territories occupied by foreign states that joined distinct populations together prior to the international ban on the use of force and since laws are not to be applied retroactively, there should be a recognized remedy by secession in the case of unrepresented people which could be applied in situation when the severe historical and cultural heritage of the past precludes an existing state and its minorities from peaceful cohabitation. It is reasoned here that the fact that at the time in history certain acts did not constitute a crime should not prevent a remedy for the injured party at present. Such remedy may lie in separation and should serve as a form of redress in order to foster peace. This is so as the purpose of existence of the state first of all should be the security and well-being of its people.

Secession as a Domestic Process

Secession occurs within a state and as such remains a domestic affair of the state. Thus secession within a single state is outside the realms of international law. T. Musgrave defines secession as a territorial change, which occurs when part of an independent state or non-self governing territory separates itself by becoming an independent state^[44]. Musgrave submits that secession is a domestic matter and does not generally fall within the

jurisdiction of international law therefore; attempts to secede do not constitute acts of self-determination in the legal sense^[45]. The interpretation of the term 'people' as used in the United Nations becomes pertinent as to ascertain the legality or otherwise of an act of secession. If the term 'a people' is construed to mean the entire population of a state, then any action by a part of that state towards secession will be void in law. It follows that a part of a population in a state does not have the right to self-determination under international law. Yet self-determination by part of the population of a state remains a realistic fact.

On the other part, the principle of territorial integrity under the United Nations Charter applies between states and not inside a single state. Thus respect to territorial integrity of a state by its population does not come within the ambit of article 2 of the UN Charter. Consequently the Charter in its effect does not affect the domestic decision of a part of a state to secede. In essence, international law has no effect on attempts of ethnic, linguistic, religious or other group in one state to separate and form a new state, except for purposes of actuating secession as a remedy against violations of human rights. According to P. Malanczuk, 'there is no rule of international law, which forbids secession from an existing state^[46].' The reality of Malanczuk's observation is that a state which is confronted by acts of external self-determination by a part of it may resort to such means as necessary to suppress any act of territorial re-structuring. This may include the use of force which incidentally amounts to an abuse of human rights. It is difficult to crush or change the decision of a determined people without human rights violations, war crimes, genocide, etc. Yet the reality is that there will always be resistance by populations in states where the government is considered sectional in its representation. The same is true of situations of human right abuses as well as ethnic and racial discrimination of a part of peoples in a state. Consequently the remedy for such oppressed or unrepresented people in a state often lies in secession^[47]. It is submitted that the limitation of the meaning of peoples constricts the principle of self-determination and such will not help to foster peace which is an aim of the United Nations.

Conclusion and Recommendations

In conclusion the principle of territorial integrity is applied in the relations between states and not a people. By contrast, the principle of self-determination is the right of a people. The international community (states) while interpreting and applying the principle of self-determination is bound to the principle of territorial integrity. But a people are not since the instruments do not require them to respect the territorial integrity of state. International legal instruments relating to self-determination invariably refer to the 'people' as being entitled to the right of self-determination. The instruments do not stipulate any need for such people to submit to the territorial integrity of a state in exercise of the right of self-determination. It is recommended that the principle of territorial integrity therefore should not hamper the inalienable human right of a people.

Yet the meaning of the term 'peoples' determines who are the holders of the rights of self-determination and has a primary effect on the establishment of the harmony between the principle of self-determination and the principle of territorial integrity. The findings are that in matters of territorial changes for a people that are not represented by a state government, the unrepresented part of the state's population qualifies to become a separate people. Although granting the eternal self-determination rights to unrepresented people (except to occupy) has not yet become international customary law-hence it is only declaratory-it is recommended that on humanitarian grounds such people should rightfully exercise a right of self-determination as per secession. Even after recognition of the right to secede for unrepresented peoples by state practice, the principle of territorial integrity generally prevails if the right to external self-determination is only a remedy of last resort. However it is recommended that such right of secession must not be expressed as a remedy of last resort particularly given to the circumstances that may have necessitated an act of secession.

Again the present international law appears not to give recognition to minorities as separate peoples and hence precludes them from invoking the principle of self-determination. But this general rule is considered inappropriate. As there are many people's living in the territories occupied by dominant tribes or races as well as territories fused together by an act of amalgamation such as Nigeria, there should be a recognized remedy by secession, which could be applied in cases when the severe historical and cultural heritage of the past prevents the existing states and their minorities from peaceful cohabitation.

Thus, it is submitted and concluded here, that under the present international law the principle of self-determination generally prevails over the principle of territorial integrity under the condition that the term 'a people' means the entire population of a territorial unit; the distinct population of an unrepresented unit in a state and the distinct population of minorities in a state.

Reference

1. See the struggle for independence of the Basques in Luis Nunez Astrian, *The Basques: Their Struggle for Independence* (Meic Stephens trans., 1997) (discussing the Basque claim to self-determination); Deniza Kostovicova, *Kosovo: The Politics of Identity and Space* (2005) (discussing the claim to statehood in Kosovo); Kerim Yildiz, *The Hurds in Iraq: The past, Present and Future* (2004) (discussing the claims of the Kurds in the context of Iraq).
2. See Antonio Cassese, *Self-Determination of Peoples: A Legal Reappraisal* (1995); Hurst Hannum, *Autonomy, Sovereignty, and Self-Determination* (1990); Martti Koskenniemi, *National Self-Determination Today: Problems of Legal Theory and Practice*, 43 INT'L & COMP. L.Q. 857 (1994).

3. Corten, Olivier. "Territorial Integrity Narrowly Interpreted: Reasserting the Classical Inter-State Paradigm of International Law". *Leiden Journal of International Law*. via Hein Online, 2011:87:88.
4. UN Charter, Chapter 9.
5. See Joshua Castellino, *International Law and Self-Determination: The Interplay of the Politics of Territorial Possession with Formulations of Post-Colonial "National" Identity*. See also J.A Andrews, *The Concept of Statehood and the Acquisition of Territory in the Nineteenth Century*, 94 L.Q. Rev. 408 (1978) (providing insight into how the state was perceived in the context of colonization); David Armstrong, *Globalization and the Social State*, 24 REV. INT'L STUD. 461 (1998); J. Samuel Barkin & Bruce Cronin, *The State & the Nation: Changing Norms and the Rules of Sovereignty in International Relations*, 48 INT'L ORG. (1994), 2000, 75-108.
6. Charter UN art. 2(7). See also *The Charter of the United Nations: A Commentary* 148-163 (Bruno Simma, Hermann Mosler & Andreas Paulus eds., 2002).
7. Montevideo Convention on the Rights and Duties of States, Art 1. Dec. 26, 1933, 49 stat. 3097, T.S 881.
8. 'The original members of the United Nations shall be the states' (Charter of the United Nations, article 3); 'Membership in the United Nations is open to all other peace-loving states.'
9. The implementation of the right to self-determination as a contribution to conflict prevention, Report of the international conference of experts organized by the UNESCO Division of Human Rights, Democracy and Peace and the UNESCO Centre of Catalonia (21-27 11 1998, Barcelona <http://www.unpo.org/print.php?arg=01&par=446>, accessed 06 03 20).
10. There could be an argument that the preamble of the UN Charter starting with the words 'we the peoples of the United Nations' indicates to peoples as member states. But a term 'peoples' further appears only in the context to Self-Determination. The *travaux preparatoires* to the UN Charter reveal that drafters of Article 1(2) did not intend and mean the word 'peoples' to signify 'states'. Thomas D. Musgrave, *Self-Determination and National Minorities*, (Oxford: Clarendon Press), 1997, 181.
11. Charter of the United Nations (26 06 1945, San Francisco), 59 Stat. 1031, T.S. No. 993, entered into force, 1945, 24(10).
12. Antonio Cassese, *Self-Determination of Peoples: A Legal Reappraisal* (Cambridge University Press), 1995, 129.
13. See for instance, the United Nations General Assembly Resolution 51/84 (adopted 28 02 1997), which reaffirms 'universal realization of the right of peoples to self-determination.'
14. The International Court of Justice has affirmed *erga omnes* in the East Timor Case; Advisory opinion of the ICJ on "Legal consequences of the construction of a wall in the occupied Palestinian territory" (09 07 2004, No. 131).
15. Antonio Cassese, *Self-Determination of Peoples: A legal reappraisal* (Cambridge University Press), 1995, 129.
16. The UNESCO International Meeting of Experts for the Elucidation of the Concepts of Rights of Peoples (held in 1989) developed the definition of 'a people' as a group of individual human beings who enjoy some or all of the following common features: a common historical tradition; racial or ethnic identity; cultural homogeneity; linguistic unity; religious or ideological affinity; territorial connection; common economic life.
17. The implementation of the right to self-determination as a contribution to conflict prevention, Report of the international conference of experts organized by the UNESCO Division of Human Rights, Democracy and Peace and the UNESCO Centre of Catalonia (21-27 11 1998, Barcelona). The term 'indigenous people' is just a technical term, which allows a number of peoples to participate, albeit in limited way, in international discussions affecting their situation.
18. See the Vienna Convention on the Law of Treaties (23 05 1969, Vienna; UN Doc. A/CONF. 39/27; entered into force 27 01 1980, article 31, paragraph 1).
19. Antonio Cassese, *Self-determination of peoples: A legal reappraisal* (Cambridge University Press), 1995, 129.
20. UN General Assembly Resolution 59/134 (adopted 25 01 2005), name such non-self governing territories remaining: American Samoa, Anguilla, Bermuda, the British Virgin Islands, The Cayman Islands, Guam, Montserrat, Pitcam, Saint Helena, the Turks and Caicos Islands, the US Virgin Islands.
21. The UN General Assembly Resolution 1514 (XV), adopted in 1960.
22. The UN General Assembly Resolution 2625 (XXV), adopted in 1970.
23. See the rationale for the Biafran Agitation in Okechukwu Ibeanu and ors, *Biafra Separatism; Causes, Consequences and Remedies*. Institute for Innovations in Development, 2016.
24. The UNGA Resolution 2625 (XXV), paragraph 7, adopted in 1970.
25. Generally for the Resolution 2625 (XXV), 'a people' means a whole population of a territorial unit, but not for this exception.
26. According to A. Cassese, "Creed" should be interpreted strictly, as covering only religious beliefs; if creed also embraced political opinions, any political group (a political party) not 'represented' by government would claim the right to self-determination. Antonio Cassese, *Self-Determination of Peoples: A Legal Reappraisal* (Cambridge University Press), 1995, 113.

27. Vienna Declaration and Program of Action, adopted by the World Conference on Human Rights (25 06 1993, Vienna), A/CONF 157/23.
28. Ibid 662, part 1, paragraph 2.
29. Antonio Cassese, *Self-Determination of Peoples: A Legal Reappraisal* (Cambridge University Press), 1995, 120.
30. Allen Buchanan, *Justice, Legitimacy, and Self-Determination* (Oxford Scholarship Online), 2003. <http://www.oxfordscholarship.com/oso/public/content/politicalscience/0198295359/toc.html> accessed 6 07 20.
31. Secession, *Stanford Encyclopedia of Philosophy*.
32. See the Implementation of the right to self-determination as a contribution to conflict prevention, Report of the International Conference of experts organized by the UNESCO Division of Human Rights, Democracy and Peace and the UNESCO Centre of Catalonia (21-27 11 1998, Barcelona).
33. Antonio Cassese, *Self-Determination of Peoples: A Legal Reappraisal* (Cambridge University Press), 1995, 120-121.
34. UN General Assembly Resolution 45/130 (adopted 14 12 1990), paragraph 2.
35. Supreme Court of Canada: Reference re Secession of Quebec, 2 S.C.R 217 (1998).
36. Ibid 670.
37. Antonio Cassese, *Self-Determination of Peoples: A Legal Reappraisal* (Cambridge University Press), 1995, 108.
38. Helsinki Declaration (Helsinki Final Act) adopted by the Conference on Security and Co-operation in Europe (CSCE) (01 08 1975), 14 ILM 1292, Principle VIII.
39. See the Helsinki Declaration, *Ibid*, Principle VIII.
40. Antonio Cassese, *Self-Determination of Peoples: A Legal Reappraisal* (Cambridge University Press), 1995, 287.
41. *Ibid* n. 675.
42. See the Helsinki Declaration (Helsinki Final Act) (CSCE) (01 08 1975), 14 ILM 1292, Principle VIII.
43. In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right...to enjoy their own culture, profess and practice their own religion, or use their own language'. See the International Covenant on Civil and political Rights (ICCPR) (declared open for signature and ratification 19 12 1966, entered into force 23 03 1976) m999 UNTS 171.
44. See Thomas Mulgrave, *Self-Determination and National minorities*, (Oxford University Press), 1997, 168.
45. See the implementation of the right to self-determination as a contribution to conflict prevention. Report of the international conference of experts organized by the UNESCO Division of Human Rights, Democracy and Peace and the UNESCO Centre of Catalonia (21 27 11, 1998, Barcelona).
46. *Ibid* n. 692.
47. See Thomas D. Musgrave, *Self-Determination and National Minorities*, (Oxford: Clarendon Press), 1997, 181.
48. See Thomas D. Musgrave, *Self-Determination and National Minorities*, (Oxford: Clarendon Press), 1997, 210.
49. See Peter Malanczuk, *Akehurst's Modern Introduction to International Law, Seventh Revised Edition* (Routledge), 1997, 78.
50. The cases of Kosovo, South Sudan and the ongoing strife in Nigeria and Biafra as well as Spain and Catalonia stresses the point that an unrepresented and oppressed people may resort to secession.