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The Basic Collective Human Right to Self Determination of Peoples and Nations as a Prerequisite for Peace

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THE BASIC COLLECTIVE HUMAN RIGHT TO
SELF-DETERMINATION OF PEOPLES AND NATIONS
AS A PREREQUISITE FOR PEACE

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I. INTRODUCTION

The right to peace is closely linked to the right to self
determination of peoples and nations. The right to self-determination of
peoples and nations is a basic collective human right which is recognized
and guaranteed by the norms and principles of international law. All
persons are entitled to this right collectively as members of a greater
community, a nation or state. Political history clearly demonstrates that
the establishment, maintenance and preservation of peace is impossible
without the recognition, guarantee and strict implementation of the right
to self-determination. The Pax Romana, the Peace of Westphalia, the
Congress of Vienna, the oppressive Holy Alliance, the Treaty of

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1. See infra notes 274-320 and accompanying text.

2. See infra notes 14-26 and accompanying text.

3. The Roman Empire lasted from approximately 31 B.C. to the latter part of the
5th century A.D. and encompassed within its jurisdiction most lands of the civilized
western world. R. PALMER & J. COLTON, A HISTORY OF THE MODERN WORLD 15-16
(6th ed. 1984) [hereinafter THE MODERN WORLD]. During this time the empire enjoyed
a considerable amount of peace. Id. at 16. This period of tranquility came to be known
as the Pax Romana or literally the "roman peace." Id.

4. This Peace Treaty ended the Thirty Years' War, a predominantly religious
conflict which raged through Europe from 1618 to 1648. Id. at 139. The Peace of
Westphalia, reached in 1648, ended, for the most part, religious conflicts in Europe
because it stabilized the division between Protestant and Catholic and instituted the
modern system of nation-states. Id. at 145-46.

5. The Congress of Vienna was the conference attended by all the great powers of
Europe following the Napoleonic Wars. Id. at 418-19. The Congress, which lasted
from 1814 to 1815, redrew the map of Europe, moving borders, creating states and
installing new rulers and governments in place of old ones. Id. at 418-23. The
Congress of Vienna was one of the most far-reaching diplomatic agreements of all time
and, thanks largely to its influence, major war in Europe was averted for almost a full
Versailles and other treaties as well as the League of Nations, serve as examples of the inability to establish a genuine and durable peace, because they had neither recognized nor guaranteed the right to self-determination of peoples and nations. Accordingly, each of the foregoing periods of peace was condemned to failure. No peace can exist legally and in practice without the recognition, guarantee and implementation of the basic collective human right to self-determination of peoples and nations.

The United Nations, which was established after the defeat of Axis Powers in the Second World War, not only recognized the right to self-determination of peoples and nations, but also decolonized all colonial empires. Thus, more than a hundred peoples and nations obtained their independence and became the members of the international community. In order to complete this tremendous achievement of the United Nations, the people and nations which do not yet enjoy self-determination must be granted this basic collective human right.

century until the outbreak of World War I in 1914. Id. at 424.

6. Originally formed by Alexander I, Tsar of Russia (1801-1825), the Holy Alliance was a statement signed by many rulers of Europe following the Congress of Vienna under which "they promised to uphold Christian principles of charity and peace." Id. at 424. However, the Holy Alliance was eventually perverted into a confederation of governments which brutally suppressed both reform and revolution alike. Id. at 424, 449; see infra notes 102-04 and accompanying text.

7. This was the Treaty which followed World War I which, similar to the Congress of Vienna, redrew the map of Europe. Id. at 687-91. Although this Treaty recognized the right of self-determination, this was disregarded leading to the parceling of land away from some countries and also leading to the presence of large bodies of alien minorities within other states. Id. at 694. The Treaty also established the League of Nations at Geneva. Id. at 695.

8. This international organization was formed after World War I. However, the League was weak and doomed to failure mostly due to the lack of support by the United States and the League's ineffectiveness at handling the subsequent invasions of Manchuria, Ethiopia, Czechoslovakia and Poland by the Axis Powers. Id. at 688-90, 761, 798-99, 844.


10. See U.N. CHARTER art. 1, para. 2.

11. The United Nations had 51 original members and provided for admission of new members, including the former Axis countries and wartime neutrals, so that it could truly be an international organization. THE MODERN WORLD, supra note 3, at 844.

12. In particular, independence should be given to the peoples of Estonia, Latvia and Lithuania, which, in 1939-1940, were invaded by the Soviet armies and illegally and forcibly incorporated into the Soviet Union. Id. at 718.
A. A Definition

It is indispensable before embarking upon the principal inquiries to define the right to self-determination of peoples and nations. Many philosophers or political and social thinkers recognize the substance of the right to self-determination of peoples and nations using the term "self-government." Though the terms "self-determination" and "self-government" are not synonymous, they have some similarities. The former is much broader than the latter. Michael A. Bakunin was one of the earliest political and social thinkers to use the term self-determination. Before Bakunin, Ulysses S. Grant used the expression "the right of choice and of self-control in determination of the future condition." The term "auto-determination" is also used to express the right of self-determination. Both "self-determination" and "auto-determination" refer to the same idea, however, the term "self-determination" is most fitting because it expresses better the essence of this idea.

Bakunin wrote that "[e]very nation, every province and every commune has an unlimited right to complete self-determination, provided only its constitution does not threaten the independence and liberty of its neighbors." There is no doubt that Bakunin is right in his conclusion that every nation, people or group of people has an unlimited right to complete self-determination. However, a people or a group of people that does not formally constitute a nation, but considers itself separate and distinct, must also have the right to determine the state in which they will live and the form of government that will be implemented. In order to exercise the right to self-determination this group of people must be large

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13. Both Thomas Hobbes and John Locke used the term "self-government", though they disagreed as to whether it was necessary for the maintenance of order. Hobbes had a low opinion of human nature and concluded that people had no capacity for self-government. On the other hand, Locke believed that people were reasonable and favored some form of self-government. The Modern World, supra note 3, at 300.


enough to be capable of forming a state as a separate sovereign member of the international community.

A commune\(^\text{18}\) may enjoy some autonomy within a particular state, but not the right to self-determination because a commune is unable to form an independent State of its own.\(^\text{19}\) Bakunin's view of the right to self-determination as premised upon the ability to form a state must be rejected as practically impossible to be realized. Bakunin's view that a "province" has a right to self-determination also must be rejected because the right to self-determination applies to peoples and nations and not to geographical regions or territories. In this context, it should be further stated that the right to self-determination of peoples and nations also applies to peoples, nations or states, which have been deprived of their independence by another state, usually through conquest.

Under this view, immigrants do not have the right to self-determination or any kind of autonomy in a state in which they have settled voluntarily. Immigrants are obligated to accept the institutions of the state to which they immigrated and may not claim that they should be separate and distinct from the rest of the population of the state. It is obvious that immigrants are entitled to the enjoyment of all individual human rights without any distinction or discrimination, but they do not have the right to self-determination, any autonomy or special treatment different from the whole population of the country concerned. A different situation arises when peoples or nations have been deprived of their independence by other states. In this case, such peoples, nations or states do have the right to self-determination.

There are many definitions of the right to self-determination of peoples and nations, but no satisfactory and generally acceptable definition of this right has yet to be found.\(^\text{20}\) U. O. Umozurike, defines this right generally as "the right of a people to have a government of their choice."\(^\text{21}\) This definition is too general, too broad and, hence, unsatisfactory. Every government, to be legitimate, must be based upon the free will of its people. This basic requirement applies to all people and not only to those who are attempting to exercise their right to self-determination. The right of people to have a government of their own

\(^{18}\) A commune is defined as the smallest administrative district of a country, or a rural community organized on a communal basis. See Webster’s New Collegiate Dictionary 266 (9th ed. 1983).

\(^{19}\) Dictionary of Quotations, supra note 14 (statement of Bakunin).

\(^{20}\) See supra notes 21-24 and accompanying text.

\(^{21}\) U.O. Umozurike, Self-Determination in International Law xi (1972).
choice is only one aspect of the right to self-determination of peoples and nations. Umozurike admits this when he explains that

it is the right of all peoples to determine their political future and freely pursue their economic, social, and cultural development. Politically this is manifested through independence, as well as self-government, local autonomy, merger, association, or some other form of participation in government. It operates both externally and internally to ensure democratic government and the absence of internal and external domination. Thus the principle of self-determination is relevant to peoples in dependent and independent territories alike.  

Umozurike's definition and explanation of self-determination together express the essence of this idea.

D. B. Levin, literature educator, used a more elaborate definition of self-determination. He defined this idea as "the right of each people or nation freely, without outside pressure, to determine their state affiliation, including the right to forming an independent state, and also to determine the forms of their internal political, economic, social and cultural life, which is guaranteed by international organisations and bodies." Similarly, Cardinal Agostino Casaroli stated that the right to self-determination of peoples and nations means "the right to give themselves institutions and a freely chosen government, to develop their production and exchanges according to rules which secure justice for their own interests while respecting the rights and legitimate interests of their partner." Both of these definitions express the essence of the right to self-determination.

In a more precise way, the right to self-determination may be defined as the right of a people or a nation to determine freely, without any outside pressure, their political and legal status as a separate entity, the form of government of their choice, and the form of their economic,

22. Id. at 3.
social and cultural system. This right to self-determination of peoples and nations may be manifested through independence, which is the preferable form, or, if independence is practically impossible, through local autonomy or association with another state or group of states. This right does not necessarily imply a uniform system of government; it may be a centralized or decentralized system, according to the wishes and choice of the people. However, this right excludes the imposition from outside of an alien form of government or economic and social system against the desires of the people concerned. The people of a state are also entitled to full sovereignty over their natural resources and may exploit them in exercising their economic, social and cultural development.

B. Contents and Scope of the Right to Self-Determination

The right to self-determination of peoples and nations consists of two aspects, one internal and the other external. Alexandre Kiss defined the external aspect of self-determination as "the right to choose freely from foreign interference the political status which a people wants to adopt." He explained that this aspect of self-determination "can be identified with the traditional right to independence which is one of the fundamental rights recognized by International Law to all States." Kiss correctly stated that this right "has not only the political and legal aspects traditionally envisaged as the main components of the concept of independence, but also economic and cultural ones." The economic and cultural aspects of the right to self-determination include the permanent sovereignty over natural resources and the right to adopt the most appropriate economic and social system for the development of each person as well as the right of each people to develop its own culture.

The internal aspect of the right to self-determination of peoples and nations is also important, because "it brings a new element into International Law." Pursuant to this aspect of the right to self-determination, and as provided for in the International Covenant on Economic, Social and Cultural Rights, people are entitled to freely choose

25. See supra notes 26-34 and accompanying text.
27. Id.
28. Id.
29. Id.
30. Id. at 171.
the form of government under which they want to live and have the right
to independently pursue their economic, social and cultural
development. The internal aspect of the right to self-determination also
includes the right of people to dispose of their nation's natural wealth
resources without prejudice to any obligations arising out of international
economic co-operation. This right is based upon the principle of
mutual benefit, and international law. In no case may a people be
deprived of its own means of sustenance. Both the internal and
external aspects of the right to self-determination of peoples and nations
are constitutive and inseparable elements of this basic collective human
right.

II. THE RECOGNITION OF THE RIGHT TO SELF-DETERMINATION

The right to self-determination of peoples and nations was first
recognized and advocated by philosophers and political and social thinkers
as a moral imperative that should be applied to relations between states as
a prerequisite for the establishment, existence and preservation of genuine
and just internal and international peace. Statesmen and political and
social activists then advocated this right as a political principle necessary
for the establishment, existence and maintenance of a just and lasting
peace in the relations between men, peoples, nations and states. Finally,
the right to self-determination of peoples and nations became generally
recognized as a basic principle of contemporary international law.

A. The European Thinkers

Janusz Symonides stated that, in the 15th century, Stanislaw of
Skarbimierz, President of the Cracow Academy, advocated the idea of
self-determination of peoples and nations. Symonides asserted that the

(reprinting INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS
art. 1, para. 1 [hereinafter INTERNATIONAL COVENANT]).
32. Id. (reprinting INTERNATIONAL COVENANT, supra note 31, art. 1, para. 2).
33. Id.
34. Id.
35. See supra notes 12-34 and accompanying text.
36. See supra notes 271-318 and accompanying text.
37. Symonides, The Polish Initiative on the Preparation of Societies for Life in
Peace, 10 POLISH Y.B. INT'L L. 7 (1980).
Polish canonist had defended "what we would call at present the right to self-determination and independence of non-Christian peoples." Symonides was correct when he stated that Skarbimierz's opinion on this subject was very progressive for his time. There is also evidence that Thomas Hobbes was one of the first philosophers who recognized the idea of self-determination of peoples and nations. Hobbes stated that "[t]here are very few so foolish that they had not rather govern themselves than be governed by others." By this, Hobbes meant that the governing of one people by another or one nation by another is irrational.

Benjamin Whichcote, a philosopher, expressed a similar idea when he stated that, "[h]e that has not government of himself has no enjoyment of himself." Jeremy Bentham, also a philosopher, did not use the term self-determination. Rather, he stated that the emancipation of all the colonies was a preliminary condition to peace. He considered the conquests of colonies by Great Britain to be a violation of common sense and of basic human rights. Accordingly, peoples and nations have the right to self-determination.

Similarly, 18th century philosopher, Stanislaw Staszic advocated the idea of self-determination of peoples and nations. Staszic spoke of the restoration of the inalienable "right of a people to communicate freely with other peoples or to live under a freely chosen government." Even though Staszic did not use the expression "the right to self-determination of peoples" he expressed the essence of this right in his statement. In his view, self-determination meant that the peoples and nations could freely choose a form of government without any foreign interference. Immanuel Kant further explained the idea of self-determination when he indicated that "[n]o State having an existence by itself . . . shall be acquirable by another State through inheritance,

38. Id. at 8.
39. Id.
40. DICTIONARY OF QUOTATIONS, supra note 14, at 1078 (statement from T. HOBBES, LEVIATHAN: PART I (1651)).
41. Id.
42. J. Bentham, A Plea for an Universal and Perpetual Peace, and Emancipate Your Colonies, in SEARCHLIGHT ON PEACE PLANS 51 (E. Wynner & G. Lloyd eds. 1949).
43. Symonides, supra note 37, at 12.
44. Id.
45. Id.
exchange, purchase or donation."\(^4\) In Kant's view, a state "is a society of men, over which no one but itself has the right to rule or to dispose."\(^4\) Kant further stated that:

> like the stem of a tree [the state] has its own root, and to incorporate it as a graft in another State is to destroy its existence as a moral person; it is to reduce it to a thing, and thereby to contradict the idea of the original compact without which a right over a people is inconceivable.\(^4\)

Kant demanded that states which had lost their independence should have it restored and that this restitution "must not be indefinitely put off."\(^4\)

Even more remarkable for its emphasis on the independence of the states was Kant's third definitive article, wherein he asserted the right of all men to seek their freedom in as many separate states as natural conditions required, and especially in those backward areas where the state had not yet developed.\(^4\) Even though Kant, like Bentham, did not use the term self-determination, it is clear that his statements constitute a formulation and a very strong justification of the idea of self-determination of peoples and nations. Kant stressed that a particular society has the exclusive right to rule or to dispose of itself, and nobody else has such a right over it.\(^5\) It is clear from the above considerations that Kant's views constituted a great step forward in the evolution of the idea of the right to self-determination of peoples and nations.

H.N. Brailsford, English Socialist author and political journalist, also strongly supported the proposition that the right to self-determination of peoples and nations is one of the prerequisites of peace.\(^5\) In the context of World War I, he said that the "ideal solution for Poland, in a

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47. Id.
48. Id. at 297-98.
50. Id. at 65.
51. Kant, supra note 46, at 297.
52. Brailsford, On a Peace by Satisfaction, in Towards an Enduring Peace, a Symposium of Peace Proposals and Programs 1914-1916, 303-04 (R. Bourne ed. 1916) [hereinafter Towards an Enduring Peace]. According to Brailsford, peace in Europe would be satisfied only if "we can satisfy the enemy's legitimate claims while we secure justice for our friends." Id. at 303.
political sense, would be independence." Brailsford expressed this idea at the beginning of the First World War, when the recognition of the right to self-determination of peoples and nations and its practical application was considered by statesmen to be of the utmost importance for the establishment of just and lasting peace among nations. The principle of self-determination of peoples and nations was also expressed by Ed Bernstein, who maintained that "[i]n the interests of peace, all peoples of European civilization living under foreign rule in sufficient numbers to form a community in the international Concert, shall obtain political independence." Moreover, he stated that "[w]hen a sufficient number out of people incorporated by force in one State, desire to belong to another, they shall be given the right to decide by vote as to which State they will belong."

Eamon de Valera, Prime Minister of Ireland, expressed strong support for the recognition of the right to self-determination of peoples and nations. He stated that it was with feelings of intense joy that Ireland finally found itself restored again as a separate, recognized member of the European family to which it belonged after several centuries of attempted assimilation by a neighboring people. As to the realization of the right to self-determination of peoples and nations, de Valera pointed out that "we claim[ed] the right to order our own life in our way and select our own governmental institutions without interference . . . ." In his view, this right should be granted to other peoples in their respective territories. De Valera demonstrated that the

53. Id. at 304.
54. Id. at 303.
55. Bernstein, On Peace Terms, in TOWARDS AN ENDURING PEACE, supra note 52, at 318.
56. Id. at 319.
57. E. DE VALERA, PEACE AND WAR SPEECHES BY MR. DE VALERA ON INTERNATIONAL AFFAIRS 44 (1944). De Valera's speech was made when Italy invaded the Abyssinian territory. De Valera stated that the League of Nations should never allow such unbridled aggression to destroy a nation's sovereignty. He analogizes the Abyssinian crisis to that of his own country by describing the joy his people feel at having resisted assimilation and winning the right to choose their own political destiny. De Valera stressed that the League of Nations should have addressed itself to potential conflicts before they actually erupted into war. But, since hostility has arisen, all nations in the League should band together and condemn Italy for their hostility. Id. at 44-48.
58. Id. at 46.
59. Id.
60. Id.
enforcement of the realization of the right to self-determination will make a contribution to safeguarding international peace.\(^6\)

Pope Pius XII strongly recommended the recognition and observation of the right to self-determination of peoples and nations as a basic prerequisite for a "just and honorable peace."\(^6\) He asserted that for a genuine and just peace to be implemented, there must be an assurance for all nations, great or small, powerful or weak, of their right to life and independence.\(^6\) "The will of one nation to live must never mean the sentence of death passed upon another."\(^6\) Pope John XXIII also recognized the right to self-determination of peoples and nations.\(^6\) He stated that since all nations must band together in such a way that there would soon exist a world order governed by one supernational public authority.\(^6\) Pope John XXIII indicated that men all over the world were already becoming aware, not just that they are members of nation states, but that they are "living members of the universal family of mankind."\(^6\) Yet, Pope John XXIII also stated that even the creation of a supernational public authority created to govern the smaller political entities should be considered illegitimate.\(^6\)

Pope Paul VI categorically stated that the right to self-determination of peoples and nations is a prerequisite for peace.\(^6\) The Pope said that "as long as the rights of all the peoples, among them the right to self-determination and independence, are not duly recognized and honoured, there cannot be true and lasting peace, even though the abusive power of arms may for a time prevail over the reactions of those opposed."\(^6\) Pope Paul VI considered the non-realization or not adequate realization of the right to self-determination of peoples and nations as a

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61. *Id.* at 44-48.
63. *Id.*
64. *Id.*
66. *Id.*
67. *Id.*
68. *Id.*
70. *Id.*
serious obstacle to peace. Similarly, Pope John Paul II considers that the right to self-determination of peoples and nations is a prerequisite for peace. John Paul II called for the establishment of an international order in the modern world based upon a respect for the right to self-determination of peoples and nations. In his view, the claim to the right to self-determination of peoples and nations must be made in the name of justice and national dignity.

Pope John Paul II pointed out that to be effective, this right must be accompanied by the participation of individuals who strongly want to direct their own destiny and realize this basic collective human right of self-determination. He stressed the need for people and governments to unite in this struggle. John Paul II insisted that vestiges of colonialism, totalitarianism and imperialistic hegemonies must be eliminated, and the right to self-determination of peoples and nations must be granted and strictly and promptly implemented by each state. Thus, in Pope John Paul II's view, peoples and nations should take their destiny into their own hands. It is clear from the above considerations that Pope John Paul II believes that colonial systems, totalitarian regimes and imperialist hegemonies are incompatible with the genuine enjoyment of the basic collective human right to self-determination of peoples and nations.

Starting from the premise that the principles of justice establish the juridical equality of all states, Cardinal Agostino Casaroli correctly indicated that these principles also establish "the right of peoples to self-determination." Casaroli insisted that in order for there to be peace between nations, "justice must first preside over their economic relations." This means that there must be a "fair division of international work, and a setting of fair prices for raw materials,

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71. Id.
73. Id. at 470.
74. Id.
75. Id.
76. Id.
77. Id. at 471.
78. Id.
79. Address by His Eminence Cardinal Agostino Casaroli, Secretary of State, at a UNIDO Day of Peace Celebration in Vienna, Mar. 6, 1986, reprinted in PATHS TO PEACE, supra note 24, at 172.
80. Id.
agricultural or industrial products and of wages." One aspect of the realization of the right to self-determination of peoples and nations under this view is aid to developing countries. In Casaroli's view, the economic and social expansion of all peoples, "which is an exigency of justice, is a factor par excellence of promotion and peace." However, Casaroli went on to state that "this aid must not take on the forms of neo-colonialism, but must concentrate on the sectors vital for social progress." Casaroli pointed out that the goal of aid to developing countries should be "realized progressively in order to lead these countries to a position of self-reliance."

In expressing his views on self-determination, Lech Walesa, now President of Poland, had stated that every nation has the right to peace and to live in freedom and dignity. Referring to Poland, Walesa maintained that Poles have the right to decide their own affairs, and to mold their own future. At the same time, he stressed that this right does not pose danger to anybody because Poland is fully aware of its responsibility for its own fate in the complicated situation of the contemporary world. Walesa, in his statements, clearly demonstrated that every nation has a right to peace and that, like all other peoples and nations, the Polish nation has the right to self-determination; a prerequisite for peace.

B. American Statesmen

The statesmen of the United States have made great contributions to the recognition and elaboration of the right to self-determination of peoples and nations in terms of the theoretical formulation and its practical application. The American contributions can be divided into two categories, those contained in the 1776 Declaration of Independence and those made by particular statesmen.

81. Id.
82. Id. at 173.
83. Id.
84. Id.
85. Id.
87. Id.
88. Id.
89. Id.
1. American Declaration of Independence

The opening sentence of the American Declaration of Independence, which contains one of the most comprehensive expressions of the concept of self-determination, reads:

When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.90

With these words the representatives of the thirteen colonies of North America recognized the fundamental aspiration of human beings to control their own lives, to be masters of their own destinies and to enjoy self-determination. This one sentence expressed the very essence of the right to self-determination of peoples and nations even though the term self-determination is not used.

This provision was an aspirational affirmation of the right to self-determination, and, as Thomas Jefferson indicated, it was "an appeal to the tribunal of the world."91 Mortimer J. Adler, philosopher and author, and William Gorman, educator and author, stated that the first lines of the Declaration of Independence "underlines the conviction that the Americans understood themselves as acting in the moral order, in which judgments of right and wrong are applicable."92 In order to legitimate this concept it was necessary to appeal to general ideas of right and wrong because at that time the concept of self-determination had not been formerly recognized or defined as a principle of law. Therefore, The Declaration of Independence authors stated that the dissolution of political bonds is based upon the laws of nature.93 In their statements the authors of the Declaration of Independence justified why they dissolved the political bonds and thus, in practice, realized their right to self-determination. It

90. The Declaration of Independence para. 1 (U.S. 1776).
92. Id.
93. Id.
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was the moral necessity and their legal duty which constrained them to throw off the oppressive government by this extraordinary means.

2. Particular Statesmen

Alexander Hamilton, the great statesman, expressed his views on self-determination by saying that "[t]he larger the society, provided it lie within a practical sphere, the more duly capable it will be of self-government." Hamilton's equating "self-government" with "self-determination" meant that, from a practical standpoint, a group of people who claim this right must be large enough in order to exert their rights. In such a situation people are entitled to some kind of autonomy, within a state, or may form a federation with other people, but they are not entitled to form their own state.

President James Monroe, in his so called "Monroe Doctrine," expressed views regarding the self-determination of peoples. The Doctrine, which was written in 1823 as a response to threats of military intervention arising from the Holy Alliance, was the first anti colonial doctrine. The Holy Alliance, established in 1815, was instrumental in restoring Ferdinand VII to the throne of Spain, whereupon the Latin American countries in South America revolted against Spanish rule. Spain proposed to appeal to the oppressive Holy Alliance for aid in the suppression of these revolts. This proposal brought the threat of a foreign invasion into the Western Hemisphere and thus required Monroe's Declaration. In his Annual Message to Congress on December 2, 1823, President Monroe responded to this threat and informed Congress that "the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers . . . ."

Monroe maintained that "we should consider any attempt on their [European powers] part to extend their system to any portion of this

94. DICTIONARY OF QUOTATIONS, supra note 14, at 1078 (statement from ALEXANDER HAMILTON, THE FEDERALIST (1788)).
95. See supra note 6 and accompanying text.
97. Id.
hemisphere as dangerous to our peace and safety." Referring to the Latin American countries, Monroe stated that

[those] Governments who have declared their independence, and have maintained it, and whose independence we have, on great consideration and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing them or controlling in any other manner their destiny, by any European power, in any other light than as the manifestation of an unfriendly disposition toward the United States.

The central thesis of the Monroe Doctrine is that foreign domination over other peoples endangers peace. The Monroe Doctrine was, therefore, designed to preserve the right of peoples and nations to self-determination.

Henry Clay, famous orator and Secretary of State to President John Q. Adams, was concerned in October 1925, that Spain would transfer part of her Caribbean possessions to France. Clay, acting in conformity with the Monroe Doctrine, and under the auspices of President Adams, notified the French Government that the United States would not consent to the occupation of Cuba and Puerto Rico "by any other European power than Spain under any contingency whatever." The other European Powers were similarly notified in the belief that France might also seek to establish sovereignty over their possessions. These declarations clearly show that the United States maintained a strong anti-colonial policy, and believed that colonialism was a violation of a peoples' or a nation's right to self-determination.

On December 2, 1845, President James K. Polk, in his Annual Message, declared that it is "our settled policy that no future European colony or dominion shall, with our consent, be planted or established on any part of the North American continent . . . ." This is a clear reaffirmation that the right to self-determination of peoples and nations in

98. Id.
100. Id. at 657.
101. Id.
102. Id.
the Western hemisphere was to be preserved. Likewise, in his first Annual Message of December 6, 1869, President Ulysses S. Grant reiterated the position taken by Henry Clay that "[t]hese dependencies are no longer regarded as subject to transfer from one European power to another." Grant insisted that when "the present relations of colonies cease[s], they are to become independent powers, exercising the right of choice and of self control in the determination of their future condition and relations with other powers." This statement amounted to a mandate of the right to self-determination of peoples and nations in the Western Hemisphere.

Secretary of State Richard Olney, under the instructions of President Grover Cleveland stated that, "[n]o European power or combination of European powers should forcibly deprive an American state of the right and power of self-government and of shaping for itself its own political fortunes and destinies." Similarly, President Theodore Roosevelt, in his Annual Message of December 3, 1901, stated that "[t]he Monroe Doctrine is a declaration that there must be no territorial aggrandizement by any non-American power at the expense of any American power on American soil." These statements demonstrate that the United States has always firmly defended the right to self-determination of peoples and nations of the Western hemisphere. In 1920, Philip M. Brown admitted that self-determination was a "fundamental principle of international law and order," even though not clearly defined and although the rules for its application had not been formulated.

The Committee on International Ethics of the Catholic Association for International Peace, which was chaired by the Reverend John A. Ryan, D.D., discussed self-determination in its Report on International Ethics. The Committee indicated that "[t]he fact that a people has for

105. Id. (emphasis added).
106. Id. at 659.
107. Id.
a long time and with practical unanimity desired self-rule creates a strong presumption in favor of a right to political independence."\textsuperscript{110} This "right becomes certain as soon as independence becomes essential to the welfare of that people."\textsuperscript{111} The Reverend Ryan and other authors of this Report recognized that the right of peoples and nations to self-determination includes the right of secession.\textsuperscript{112} The Report indicates that a national group might occupy a distinct territory, might have an average capacity for self government, might have formerly enjoyed political independence, might cherish a strong and long continued desire for independence, and might be in a position to exercise it without violating the rights of the state in which it is now incorporated.\textsuperscript{113}

Accordingly, "[s]uch a group would undoubtedly possess a moral right to separation and to self rule."\textsuperscript{114}

The origins of the right of peoples to self-determination are also found in the Truman Doctrine of March 12, 1947.\textsuperscript{115} The document begins with the observation that, at that time, peoples of a number of countries of the world had totalitarian regimes forced upon them against their will.\textsuperscript{116} President Truman then stated that "the Government of the United States had made frequent protests against coercion and intimidation, in violation of the Yalta Agreement, in Poland, Rumania, and Bulgaria."\textsuperscript{117} President Truman indicated that the way of life in the Eastern European countries under Soviet domination "relies upon terror and oppression, a controlled press and radio, fixed elections, and suppression of personal freedoms."\textsuperscript{118}

Keeping in mind the situation of the Eastern European peoples under Soviet domination, Truman stated that "it must be the policy of the

\begin{itemize}
  \item \textsuperscript{110} Id. at 14.
  \item \textsuperscript{111} Id.
  \item \textsuperscript{112} Id. at 15.
  \item \textsuperscript{113} Id.
  \item \textsuperscript{114} Id.
  \item \textsuperscript{115} The Truman Doctrine, Mar. 12, 1947, \textit{reprinted in Documents of American History, supra} note 96, at 524.
  \item \textsuperscript{116} Id. at 525.
  \item \textsuperscript{117} Id.
  \item \textsuperscript{118} Id.
\end{itemize}
United States to support free peoples who are resisting attempted subjugation by armed minorities or outside pressures." President Truman correctly indicated that the United States "must assist free peoples to work out their own destinies in their own way." He was correct when he stated that in "helping free and independent nations to maintain their freedom, the United States will be giving effect to the principles of the Charter of the United Nations." President Truman maintained that "the disappearance of Greece as an independent State would have a profound effect upon those countries in Europe whose peoples were struggling against great difficulties to maintain their freedom and their independence while repairing the damages of war."

President Truman further pointed out that it would be "an unspeakable tragedy if these countries, which have struggled so long for the defense of their freedom, should lose that victory for which they sacrificed so much." Within these Eastern European countries, the "[c]ollapse of free institutions and loss of independence [would] be disastrous not only for them but for the world." Referring to the United Nations' objectives to make possible lasting freedom and independence for all its members, President Truman concluded that these objectives would not be realized "unless we are willing to help free peoples to maintain their free institutions and their national integrity against aggressive movements that seek to impose on them totalitarian regimes." This analysis of the Monroe Doctrine reveals that Truman was another ardent advocate and defender of the right to self-determination of peoples, nations and states.

Later, the right to self-determination of peoples and nations was strongly advocated by Robert F. Kennedy. Kennedy recognized that the realization of this right involved many decisions, such as the decision on what form of government, on who should own and control the means of production, how to distribute riches, how to exploit natural resources, and decisions on a range of domestic and international policies.
his view, these decisions must always be for each people and nation to make.\textsuperscript{128} So long as their choice is their own, not imposed from the outside or by a dictatorship, it must be respected by all other states.\textsuperscript{129} It must further be added to these statements that the choice and decisions on these matters must be made freely and in a democratic manner in order to be respected by other states. These are the essential elements of the right of peoples and nations to self-determination. However, the most important element of this basic collective human right was not dealt with by Kennedy; the right of the people and nation to form an independent state.\textsuperscript{130} The implementation of the right to form an independent state contains the right to secede from the state against which this right is exercised.

President Ronald W. Reagan is another strong advocate of the right of self-determination of peoples and nations.\textsuperscript{131} During his presidency he stated that "[o]ur own position is clear: As the oldest nation of the New World, as the first anticolonial power, the United States rejoiced when decolonization gave birth to so many new nations after World War II."\textsuperscript{132} Reagan also stated that "[w]e have always supported the right of the people of each nation to define their own destiny."\textsuperscript{133} He pointed out that the United States had not only supported the concept of the right of self-determination of peoples and nations but had also given $300 billion in aid, since 1945, to help people of other countries realize this right.\textsuperscript{134} Finally, Reagan indicated that the United States had tried to help other governments defend against aggression, subversion and terror and thus had defended their right of self-determination.\textsuperscript{135}

It follows from the above considerations that American statesmen have made a great contribution to the formulation and the implementation in practice of the right of peoples and nations to self-determination. American statesmen have realized this right in two ways. On the one hand, they have struggled for the liberation and independence of enslaved peoples and nations. On the other hand, they have helped independent

\textsuperscript{128} Id.
\textsuperscript{129} Id. at 160-61.
\textsuperscript{130} See id.
\textsuperscript{131} Transcript of the President's Address to the General Assembly, N.Y. Times, Oct. 25, 1985, at A11, col. 1.
\textsuperscript{132} Id. at A11, col. 4.
\textsuperscript{133} Id.
\textsuperscript{134} Id.
\textsuperscript{135} Id.
peoples and nations which were threatened by internal and/or external Communist aggressions defend their independence and preserve their free institutions. Both these aspects of the right to self-determination are equally important and one aspect cannot be disassociated from the other.

C. The Soviet Ideologists

The Soviet concept of the right of peoples and nations to self-determination is based on a combination of the Marxist-Leninist ideology and the political requirements of the Soviet Union at any given time. It should be noted that at the outset, Marxism was the enemy of nationalism. Karl Marx made a distinction between small and big powers. According to him, only the big powers such as "the British, French, Russians, Americans, Germans, Italians, Hungarians, and the Poles" had the right to an independent political existence. Marx considered that other "nations must, inevitably, lose their identity through assimilation. It is thus that Slavic groups in Austria and in the Ottoman Empire do not have the right to their own state." Marx was of the opinion that "[e]ach nation must have at least the land, the means, the waterways and the number of inhabitants necessary to create a large and strong economy."

Marx further asserted that the requirements for an independent political existence "are: a large population, continuity of the territory (Geschlossenheit), large natural resources, intellectual and manual resources, specialization, social structure, scientific progress, all of which are foundations of a rich community." Marx considered such national European movements as those of the Czechs and Irish unprogressive and counter-revolutionary. However, when his hopes of immediate revolution in the advanced states of Europe receded, Marx began to look

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136. See, e.g., Peeters, supra note 16, at 148-64.
137. See A. COBBAN, THE NATION STATE AND NATIONAL SELF-DETERMINATION 188 (1969); THE MODERN WORLD, supra note 3, at 492. "It seemed to Marx and Engels that the . . . workingman should be loyal to nothing - except his own class. Even country had become meaningless. The proletarian had no country." Id.
139. Id.
140. Id.
141. Id. at 157-58.
142. A. COBBAN, supra note 137, at 189 (citing S.F. Bloom, THE WORLD OF NATIONS, A STUDY OF THE NATIONAL IMPLICATIONS IN THE WORK OF KARL MARX 19 (1941)).
favorably on national movements in the more backward countries as a step towards proletarian revolution. In conformity with this idea, Friedrich Engels, wrote that colonies, which are simply subjugated, "must be taken over for the time being by the proletariat and led as rapidly as possible towards independence."  

V. I. Lenin believed that every oppressed nation has a democratic content and should be supported in spite of its bourgeois character. In Lenin's first writing on national self-determination in 1902, he stated that the future Republic of Russia would recognize "the right to self-determination for all nations entering into the composition of the state." In 1903, under Lenin's influence, the Second Congress of the Russian Social-Democratic Labour Party adopted as part of its program "the right to self-determination for all nations forming part of the state." In 1913 Lenin, in his Postulates on the National Question, reiterated "the right of every nation to self-determination and even to secession from Russia." Lenin again stated in 1916 that "the right to freedom of secession from Russia for all nations oppressed by Tsarism is absolutely necessary . . . [to] implement the right to self-determination of oppressed nations, i.e., the right to freedom of political secession."  

Lenin maintained that "[a] victorious proletariat cannot impose happiness on any nation whatever without thereby undermining its own victory." Lenin believed, as did Marx, that "a nation which oppresses other nations cannot be free." On April 10, 1917, Lenin published a project for an electoral platform for the proletarian Party in which he dealt with the problem of self-determination of peoples and

143. Id.  
146. A.N. TARULIS, SOVIET POLICY TOWARD THE BALTIC STATES 1918-1940, 5 (1959) (citing II LENINSKII SBORNIK 46 (1924)).  
147. Przetacznik, supra note 145, at 259.  
148. A.N. TARULIS, supra note 146, at 5 (citing XVIX V.I. LENIN, SOCHINENIIA 30, 386 (4th. ed. 1941-1951)).  
149. Id. at 7 (citing XXII LENIN, SOCHINENIIA, at 132-45).  
150. Id. (citing XXII LENIN, SOCHINENIIA, at 306-44).  
151. Id. (citing XXI LENIN, SOCHINENIIA, at 86, 265).
He maintained that the proletarian Party "must mainly favor the proclamation and immediate fulfillment of the absolute freedom to separate itself from Russia for all nations and national groups subject to Czarsim and incorporated by force in the State or held within our frontiers by force." When the Revolution broke out, Lenin, in his speech of May 1917, declared that "[i]f Finland, if Poland, if Ukraine break away from Russia, there is nothing bad about that." 

Although Joseph Stalin considered himself the specialist of the Communist Party on the question of self-determination of peoples and nations, his contribution to this problem was modest in comparison with that of Lenin. "It would be hardly an exaggeration to say that Stalin made no single statement on the problem of national self-determination that had not been made by Lenin." Stalin defined a nation as "a historically evolved stable community of language, territory, economic life and psychological make-up, manifested in a community of culture." In 1913, Stalin asserted that

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\text{[t]he right of self-determination means that a nation can arrange its life according to its own will. It has the right to arrange its life on the basis of autonomy. It has the right to enter into federal relations with other nations. It has the right to complete secession. . . . Thus, the right to self-determination is an essential element in the solution of the national problem.}
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In Stalin's view, a nation's right of self-determination is manifested through the right to arrange its life on the basis of autonomy, the right to enter into federal relations with other nations and the right to complete secession.

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153. Id.
154. Przetacznik, supra note 145, at 259 (citing V.I. LENIN, FOUR SELECTED WORKS ON THE RIGHT OF NATIONS TO SELF-DETERMINATION, 1914, 310 (1936)).
155. A.N. TARULIS, supra note 146, at 8.
156. Id. at 8-9.
158. A.N. TARULIS, supra note 146, at 9 (citing I.V. STALIN, II SOCHNENIIA 310-11, 360 (1946-1951)).
159. Przetacznik, supra note 145, at 259.
Stalin also maintained that "the oppressed nations making part of Russia should be given the right to decide freely upon the question whether to remain as a part of the Russian state or to secede as an independent state." He also declared that "the Russian Social-Democrats would not be worthy of their name if they failed to acknowledge the right of the peoples of Russia to freedom of self-determination." However, many Communist ideologists believed that the right to self-determination was not complete. Lenin believed that the right of self-determination was not an absolute, but was a particle of the general socialist world movement. In individual concrete cases if a part contradicts the whole, the part must be rejected. This vague formulation meant that the realization of the right to self-determination depended upon the Soviet interests at any given moment. A similar position was taken by Stalin, who argued that "[t]he right to self-determination cannot and must not serve as an obstacle of exercise by the working class of its right to dictatorship. The former must give way to the latter." In substance, dictatorship is a complete denial of the right to self-determination of peoples and nations.

D. Self-Determination in Peace Proposals

The recognition of the principles of self-determination of peoples and nations found its expression in peace proposals advocated or submitted before and during the First and the Second World Wars. The First World War brought the principle of self-determination to the forefront of international politics. World War I is referred to as the war of self-determination because small nationalities that were dominated and oppressed by bigger ones had the opportunity of expressing their desire for freedom and self-determination. Thus, the principle of self-determination of peoples and nations was a common ideal that satisfied

160. A.N. TARULIS, supra note 146, at 9 (citing I.V. STALIN, III SOCHINENIIA 51 (1946-1951)).
161. Id. (citing I.V. STALIN, IV SOCHINENIIA 3 (1946-1951)).
162. Przetacznik, supra note 145, at 260.
163. Id. (citing V.I. LENIN, MARX, ENGELS, MARXISM 147 (1934)).
164. Id. (citing J. STALIN, MARXISM AND THE NATIONAL AND COLONIAL QUESTIONS 294 (1926); H. KELSEN, THE LAW OF THE UNITED NATIONS 840, 852, 855-57 (1951)).
165. U.O. UMIZURIKE, supra note 21, at 11.
almost every party to these peace proposals. These proposals, which contained the recognition of the principle of self-determination as the basic prerequisite for peace, may be divided into two categories, those submitted by non-governmental organizations, and those submitted by representatives of governments.

1. Non-Governmental Organizations

Before and during the First World War many non-governmental organizations advocated peace proposals which provided for the recognition and implementation of the principles of self-determination as basic prerequisite for a just and lasting peace. For example, in 1891 the International Socialist Congress of Workers and Trade Unions declared that it would defend the complete right of all nations to self-determination.

In January 1915, Henry Ford organized a non-governmental conference to work towards the achievement of an early and lasting peace. The Ford Neutral Conference considered the recognition of self-determination of peoples and nations as a prerequisite to a just and lasting peace. Referring to the right of nations to decide their own fate, the delegates of this conference stated that "history demonstrates that dispositions contrary to the wishes of the peoples concerned bring with them the danger of future wars of liberation." They further pointed out that "no transfer of territory should take place without the consent of the population involved, and that nations should have the right to decide their own fate." The Ford Conference recommended that "the principle of the right of nations to decide their own fate postulates the solution of a problem like the Polish question by guaranteeing the union of the Polish nation as an independent people."

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169. Id. at 244.
170. Id.
171. Id.
172. Id. at 245.
Similarly, thirty people from various countries met at The Hague from April 7-10, 1915, to consider how best to guarantee the right to self-determination of peoples and the future peace of the world. In their "Minimum-Program" they asserted that "[n]o annexation or transfer of territory shall be made contrary to the interests and wishes of the population concerned." A similar idea was expressed by the International Bureau of Peace, which declared that "[n]o annexations must take place without the consent of the populations concerned." Likewise, the International Congress of Women, held in April 1915, stated that "there should be no transference of territory without the consent of the men and women in it." The Resolutions of Women's International Peace Congress at the Hague on Principles of a Permanent Peace, spoke of "recognizing the right of the people to self-government" and affirmed that "there should be no transference of territory without the consent of the men and women residing therein."

The right of self-determination of peoples and nations was again recognized at the Conference of Socialists of the Allied Nations, held in London on February 14, 1915. This Conference recommended that "the question of Poland shall be settled in accordance with the wishes of the Polish people, either in the sense of autonomy in the midst of another State, or in that of complete independence." A similar idea was expressed by the Conference of Socialists held in Copenhagen January 17-18, 1915. The Conference of Socialists expressly recommended the "[r]ecognition of the right of self-determination of nations." The United States National Peace Convention held in February 1915, at


174. *Id.*

175. Statement of the International Bureau of Peace, *reprinted in* *TOWARDS AN ENDURING PEACE*, *supra* note 52, at 249 (statement by H. LaFontaine, President).

176. Resolutions of the International Congress of Women, Apr. 28-30, 1915, *reprinted in* *TOWARDS AN ENDURING PEACE*, *supra* note 52, at 252 (meeting attended by Belgian, Dutch, English, and German women).

177. *Id.* at 254-55.


179. *Id.*

180. Statement of the Conference of Socialist of Neutral Nations, Jan. 17-18, 1915, *reprinted in* *TOWARDS AN ENDURING PEACE*, *supra* note 52, at 262 (conference attendees were socialists from Denmark, Holland, Norway, and Sweden).

181. *Id.*
Chicago likewise insisted that "[n]o province should be transferred from one government to another without the consent of the population of such province." The American School Peace League also maintained that "[n]o territory should be transferred from one nation to another against the will of the inhabitants." The Socialist Party of America took a similar position when it stated that "[n]o transfer of territory [can be made], except upon consent and by vote of the people within the territory."

The British Union of Democratic Control was another advocate of the recognition and the implementation of the right to self-determination of peoples and nations. According to the Union, "[n]o Province shall be transferred from one Government to another without the consent by plebiscite or otherwise of the population of such Province." The British Independent Labor Party, at its Annual Conference in Norwich in April 5-6, 1915, expressed a similar idea, in a Resolution which stated that "the people concerned shall give consent before there is transfer of territory." Likewise, the National Peace Council of the Federation of British Peace Societies recommended that there should be no "territorial change without consent of the population involved." Similarly, the French General Confederation of Labor insisted that the "[r]ight of all peoples to dispose of themselves be safeguarded."

182. Statement of the National Peace Convention, Feb. 27-28, 1915, reprinted in TOWARDS AN ENDURING PEACE, supra note 52, at 266 (convention was held in the United States under the auspices of the Emergency Peace Federation).


184. Statement of the Socialist Party of America, reprinted in TOWARDS AN ENDURING PEACE, supra note 52, at 271.

185. Statement of Great Britain’s Union of Democratic Control, reprinted in TOWARDS AN ENDURING PEACE, supra note 52, at 277.

186. Id.


188. Statement of the National Peace Council: Federation of British Peace Societies, reprinted in TOWARDS AN ENDURING PEACE supra note 52, at 298.

189. Statement of the French General Confederation of Labor, reprinted in TOWARDS AN ENDURING PEACE supra note 52, at 322.
2. Governmental Proposals

Governmental proposals for peace, which contain the recognition of the principle of self-determination as one of the basic prerequisites for peace, may be generally divided into those proposals submitted by the Western countries and those submitted by the Soviet Union.

a. Western Countries

The recognition of the importance of the right to self-determination of peoples and nations was expressed in the Allies' Reply of January 10, 1917, to President Woodrow Wilson's Note of December 18, 1916, addressed to the Belligerents. The Allies indicated that the prerequisite for a just peace was "the liberation of the Italians, as also of the Slavs, Rumanes, and Czechoslovaks from foreign domination; [and] the setting free of the populations subject to the bloody tyranny of the Turks." Umozurike correctly stated that "[i]t fell to the President Wilson of the United States to enunciate the principle of self-determination as an honourable aim of the war." Istvan Bibo maintained that "it was a merciful miracle that an American President in a decisive position raised the banner of self-determination when that was precisely what Europe most needed, and that this principle was up to a point carried through."

In a statement on February 11, 1918, Wilson outlined his concept of a just and genuine peace. Starting from the premise that self-determination of peoples and nations is an imperative principle of action, Wilson asserted that "[n]ational aspirations must be respected; peoples may now be dominated and governed only by their consent." He pointed out that "peoples and provinces were not to be bartered about from sovereignty to sovereignty as if they were mere chattels and pawns in a game." Wilson stated that "no right anywhere exists to hand

191. Id. at 13.
193. I. Bibo, supra note 166, at 29.
195. Id.
196. Id. at 218.
peoples about from potentate to potentate as if they were property.\textsuperscript{197} As an example of the realization of the right to self-determination of peoples and nations, Wilson indicated that there should be re-established "a united, independent, and autonomous Poland."\textsuperscript{198} Wilson maintained that "[e]very territorial settlement involved in [the First World War] must be made in the interest of the populations concerned and not . . . adjustment or compromise of claim among rival states . . . ."\textsuperscript{199}

In a speech delivered at a Joint Session of the Two Houses of Congress, President Wilson recommended, in the interests of self-determination, that a state of war be declared between the United States and the Austro-Hungarian governments.\textsuperscript{200} Wilson declared that "[w]e shall hope to secure for the peoples of the Balkan peninsula and for the people of the Turkish Empire the right and opportunity to make their own lives safe, their own fortunes secure against oppression or injustice and from the dictation of foreign courts or parties."\textsuperscript{201} In his Fourteen Points of January 8, 1918, President Wilson espoused the concept of self-determination of peoples and nations as one of basic prerequisites for peace.\textsuperscript{202} Referring to the United States government's desire for a just and stable peace, Wilson stressed that in exercising her right to self-determination Belgium "must be evacuated and restored without any attempt to limit the sovereignty which she enjoys in common with all other free nations."\textsuperscript{203}

Wilson indicated that "[n]o other single act will serve as this will serve to restore confidence among the nations in the laws which they have themselves set and determined for the government of their relations with one another."\textsuperscript{204} Moreover, Wilson insisted that an "independent Polish State should be erected which should include the territories inhabited by indisputably Polish populations, which should be assured a free and secure

\begin{itemize}
  \item \textsuperscript{197} G.L. DICKINSON, \textit{supra} note 190, at 27.
  \item \textsuperscript{198} Id.
  \item \textsuperscript{199} H. Hoover & H. Gibson, \textit{supra} note 194, at 218.
  \item \textsuperscript{200} Wilson delivered this speech on December 4, 1917, where he reviewed American War Aims and recommended the declaration of a state of war. J.B. SCOTT, \textit{OFFICIAL STATEMENTS OF WAR AIMS AND PEACE PROPOSALS, DECEMBER 1916 TO NOVEMBER 1918}, 196 (Carnegie Endowment for International Peace 1921) [hereinafter \textit{OFFICIAL PEACE PROPOSALS}].
  \item \textsuperscript{201} Id.
  \item \textsuperscript{202} Id.
  \item \textsuperscript{203} G.L. DICKINSON, \textit{supra} note 190, at 120.
  \item \textsuperscript{204} Id.
\end{itemize}
access to the sea, and whose political and economic independence and territorial integrity should be guaranteed by international covenant."

The American Interpretation of the Fourteen Points, prepared by Cobb and Lippmann explained that what "is recognized as valid for the Poles will certainly have to be recognized for the Finns, the Lithuanians, the Letts and ... also for the Ukrainians." On February 11, 1918, in an Address delivered at a Joint Session of the Two Houses of Congress, Wilson asserted that "[p]eoples are not to be handed about from one sovereignty to another by an international conference or an understanding between rivals and antagonists." In Wilson's view, "peoples may now be dominated and governed by their own consent."

"Self-determination' is not a mere phrase. It is an imperative principle of action which statesmen will henceforth ignore at their peril." Wilson defended the principle of self-determination with missionary zeal and in the spirit of the American anti-colonial tradition. The general conclusion to be drawn from the above considerations is that President Wilson properly understood the importance of the principle of self-determination as a prerequisite for a genuine and just peace among men, peoples, nations and states. He worked with great dedication towards the recognition, elaboration, and practical application of the principle of self-determination of peoples and nations in order to establish a genuine, just and lasting peace in the world.

Foreign Minister Arthur J. Balfour declared the British Policy in Palestine concerning the application and practice of the principle of self-determination of peoples and nations. On November 8, 1917, Balfour declared that "[h]is Majesty's Government view with favor the establishment in Palestine of a national home for the Jewish people, and

205. Id.
206. Address by President Wilson to Congress, Jan. 8, 1918, reprinted in DOCUMENTS OF AMERICAN HISTORY, supra note 96, at 137-44.
207. G.L. DICKINSON, supra note 190, at 122 (Count Czernin Reply of Jan. 24, 1918, to President Wilson's Address of Jan. 8, 1918); id. at 125 (Count Hertling's Reply of Jan. 24, 1918, to President Wilson and Mr. Lloyd George).
208. Id. at 136.
209. Id.
211. Id. "Though Wilson's ideas were not always accepted by his own people, they retained an immense historical value and have been a source of inspiration to oppressed peoples." Id.
212. J.B. Scott, supra note 200, at 188.
will use their best endeavors to facilitate the achievement of this object." 213 This statement was of utmost importance, because it was evidence of the recognition and official declaration that the Jewish State would be established (re-established) in Palestine. The British recognized implicitly that the Jewish people, one of the oldest people of the world, who were deprived of their independence for some two thousand years, have the right to self-determination and to the re-establishment of their national independent state in Palestine. One of the serious shortcomings of the Balfour Declaration was that it did not specify the time for the re-establishment of the Jewish State.

British Prime Minister and statesman, Lloyd George, in his Speech of January 5, 1918, maintained that the principle of self-determination of peoples and nations was one of the prerequisites for a just and lasting peace. 214 George believed that, "an independent Poland, comprising all those genuinely Polish elements who desire to form part of it, is an urgent necessity for the stability of Western Europe." 215 George also considered that "unless genuine self-government on true democratic principles is granted to those Austro-Hungarian nationalities who have long desired it, it is impossible to hope for the removal of those causes of unrest in that part of Europe which have so long threatened its general peace." 216 Finally, he insisted that "a territorial settlement must be secured, [which is] based on the right of self-determination or the consent of the governed." 217

The idea of self-determination of peoples and nations was expressed in the Atlantic Charter of August 14, 1941. 218 A joint declaration of peace aims by President Franklin D. Roosevelt and Prime Minister Winston Churchill provided, that no territorial changes would be recognized that were not in accord with the wishes of the inhabitants concerned, and that the right of self-determination of all peoples would be provided for. 219 Included in this right, as well, would be the restoration of self-government to those who have been so deprived. 220

213. Id.
215. Id.
216. Id.
217. Id. at 115.
219. Id.
220. Id.
Subsequently, on February 24, 1942, President Roosevelt declared that the United States and other nations united against Nazi Germany and her allies had agreed on certain broad principles and on self-determination.\textsuperscript{221}

Taking into consideration President Roosevelt's outline of war aims, the Casablanca Conference of the United Nations, decided that "the conquered populations of today be again the masters of their destiny."\textsuperscript{222} It was stressed that there must be no doubt whatsoever that "it is [an] unalterable purpose of the United Nations to restore to conquered peoples their sacred rights."\textsuperscript{223}

b. Russian Socialist Government

The overthrow of the Tsarist regime eight months prior to the Bolshevik revolution provided oppressed peoples with an opportunity for restating their right of self-determination.\textsuperscript{224} Immediately after Nicolas II's abdication the Soviet of Workers' and Soldiers' Deputies requested to include in the provisional Government a promise of self-determination for all peoples of Russia.\textsuperscript{225} On April 10, 1917, the Russian Provisional Government, which overthrew the Tsarist regime, declared that the object of Free Russia "is to establish a durable peace on the basis of the rights of nations to decide their own destiny."\textsuperscript{226} Thus, "in the name of the

\begin{itemize}
\item \textsuperscript{221} H. Hoover & H. Gibson, \textit{supra} note 194, at 218.
\item \textsuperscript{222} Radio Address by President Roosevelt, Feb. 12, 1943, \textit{reprinted in Documents of American History, supra} note 96, at 451 (reporting to the nation the results and goals of the Casablanca Conference held in Casablanca, Jan. 14-24, 1943, and attended by President Roosevelt and Prime Minister Winston Churchill).
\item \textsuperscript{223} Id. at 475. The Yalta Agreements concerning the right to self-determination of peoples and nations or rather the perversion of this right are discussed in my study on \textit{Philosophical Concept of Freedom as a Basic Human Right}. Neither Roosevelt nor Churchill had the power to agree upon the Soviet domination over Eastern Europe. Therefore, any such agreement was invalid. It is \textit{null and void ab initio}, because it violates the right of peoples, nations and States of Eastern Europe to self-determination.
\item \textsuperscript{224} A.N. Tarulis, \textit{supra} note 146, at 1.
\item \textsuperscript{225} Id. (citing F.A. Golder, \textit{Documents of Russian History 1914-1917}, 307 (1927)).
\item \textsuperscript{226} G.L. Dickinson, \textit{supra} note 190, at 43.
\end{itemize}
higher principles of equity, it [The Provisional Government] ha[d] removed the chains which weighed upon the Polish people."\textsuperscript{227}

Tereshchenko stressed that the Russian Provisional Government "confirms its unshakable determination to realize . . . the restoration, on the basis of the free self-determination of the Polish people and with the maintenance of the ethnographic principle, of an independent Polish State formed by the unification of all lands containing a Polish majority population."\textsuperscript{228} Moreover, he indicated that at the same time "Russia is concerned that the future independent and integral Polish state should be secure in those conditions which are necessary for its economic and financial restoration."\textsuperscript{229} Finally, in its declaration of October 10, 1917, the Provisional Government promised to "recognize for all peoples the right to self-determination."\textsuperscript{230}

c. Soviets

On November 15, 1917, the Soviet Union issued the Declaration of Rights of Peoples of Russia, which provided that "the right of Russia's nationalities to free self-determination up to seceding and the organization of an independent State."\textsuperscript{231} In his Note of November 22, 1917, to the Embassies at Petrograd, Leo Trotsky, Commissary for Foreign Affairs to the Bolshevik Government, spoke of "a democratic peace . . . based on the principle of the independence of nations, and their right to determine the nature of their own development themselves."\textsuperscript{232} Tarulis indicated that the Brest-Litovsk peace treaty negotiations resounded with Bolshevik declarations about the right of people to self-determination.\textsuperscript{233} Referring

\textsuperscript{227} Id. The right to self-determination of peoples and nations was elaborated by Mr. Tereshchenko, Minister of Foreign Affairs of the Kerensky Government in his Comments of September 28, 1917, on the Central Powers' Replies to the Pope's Peace Note. Id.

\textsuperscript{228} Id. at 62.

\textsuperscript{229} Id.

\textsuperscript{230} A.N. TARULIS, supra note 146, at 2 (citing F.A. GOLDER, supra note 225, at 561).

\textsuperscript{231} The Declaration of Rights of the People of Russia para. 4 (Russia 1917), reprinted in Laserson, The Development of Soviet Foreign Policy in Europe 1917-1942: A Selection of Documents, INT'L CONCILIATION, Jan. 1943, at 11.

\textsuperscript{232} PROCEEDINGS OF THE BREST-LITOVSK PEACE CONFERENCE, THE PEACE NEGOTIATIONS BETWEEN RUSSIA AND THE CENTRAL POWERS 8 (1918) [hereinafter PROCEEDINGS].

\textsuperscript{233} A.N. TARULIS, supra note 146, at 20.
to Lenin’s view that the right to self-determination of peoples and nations was not absolute, Tarulis asserted that these declarations were "Bolshevik duplicity in the matter of recognition of the right to self-determination in practice."\(^{234}\)

On December 27, 1917, at the first public sitting of the Brest-Litovsk Conference, the Russian delegation submitted six points for the establishment of a general democratic peace. Point 2 of the Russian proposal provided for "[t]he entire restoration of the political independence of peoples who have been deprived of their independence during the course of the present war."\(^{235}\) According to Point 3, "nationalities which did not enjoy political independence before the war shall have guaranteed to them the right of deciding freely the question of whether they shall belong to one State or another, or shall enjoy national independence by means of a referendum. At the referendum entire liberty to vote shall be given to all inhabitants of the respective territories, including refugee immigrants."\(^{236}\) These points on the right to self-determination of peoples and nations were drafted in somewhat vague terms.\(^{237}\) They did not define precisely this right either in its scope or

\(^{234}\) Id. at 21.

\(^{235}\) PROCEEDINGS, supra note 232, at 39.

\(^{236}\) Id.

\(^{237}\) Id. at 38-39. The remaining proposed points, numbered 1, 4, 5 and 6 are as follows:

1. The union by violence of territories conquered during the war will not be tolerated. The troops in occupied territories shall evacuate them within a brief time.

4. In territories inhabited by different nationalities, the rights of minorities shall be guaranteed, with special rights of national independence regarding culture and administrative autonomy.

5. No belligerent country shall pay indemnity. In regard to the so-called costs of war, payments already made shall be returned. As for indemnities levied on private persons, special funds shall be constituted by proportional payments from all belligerent countries.

6. Colonial questions shall be settled in conformity with the first, second, third, and fourth clauses.

Id.
its practical application. Nor, did the proposals contain a provision allowing for the right of secession.

On December 28, 1917, at the Brest-Litovsk Conference, the German delegation submitted the first two articles of the preliminary treaty. Article 2 reads:

The Russian Government having, in accordance with its principles, proclaimed for all peoples without exception living within the Russian Empire the right of self-determination, including complete separation, takes cognizance of the decision expressing the will of the people demanding full State independence and separation from the Russian Empire for Poland, Lithuania, Courland, and portions of Estonia and Livonia. The Russian Government recognizes that in the present circumstances these manifestations must be regarded as the expression of the will of the people and is ready to draw conclusions therefrom.

It is clear from the text of Article 2 that it was a one-sided proposal because it was concerned only the right to self-determination of peoples living in the Russian Empire and stated nothing about such right of peoples living in the German and the Austro-Hungarian Empires.

On January 10, 1918, at the Brest-Litovsk Conference Mr. Bolubowiyish, the Ukrainian Secretary of State of Commerce, declared that "the peace which is to be concluded between all the Powers must be democratic, and must assure to every people, even the smallest, full and unlimited self-determination." Trotsky, the President of the Russian Delegation from the Petrograd Government, added that:

Having taken cognizance of the note of the Secretariat General of the Ukrainian People’s Republic published by the Ukrainian Delegation, the Russian Delegation on its part declares that it, in full accord with the fundamental

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238. *Id.* at 44.
239. *Id.* at 44-45.
240. *Id.* at 41.
241. *Id.* at 57. Mr. Bobubowyish is a member of the Delegation of the Council of People’s Commissaries of the Ukrainian People’s Republic, which was proclaimed by the Ukrainian Central Rada on November 20, 1917. *Id.*
recognition of the right of self-determination of every nation, even to complete severance, sees no obstacle to the participation of the Ukrainian Delegation in the peace negotiations.\textsuperscript{242}

In response to the Russian government's statement that all people living in Russia enjoy the right of self-determination, Trotsky reiterated that "]w]e fully maintain our declaration that peoples inhabiting Russian territory have the right of self-determination, without external influence, even to the point of separation."\textsuperscript{243} On January 12, 1918, the Russian Delegation declared that

\begin{quote}
[t]he main task of the present negotiations for the Russian Government does not consist therefore in defending in any way whatever a further forcible retention of the territories mentioned (Poland, Lithuania, and Courland F.P.) within the borders of the Russian Empire but in safeguarding real freedom of self-determination as to the internal State organization and the international position of such territories.\textsuperscript{244}
\end{quote}

The declaration stressed that "[t]he right to territory and self-determination belongs to nations . . . . Accordingly, the Russian Government, on its own initiative, grants the right of simultaneous self-determination also to those parts of nations which are outside the occupied regions."\textsuperscript{245}

Nicola Liubinsky, Chairman of the Ukrainian Delegation at the Brest-Litovsk Conference strongly criticized the sincerity of the Russian position on the right of people and nations to self-determination.\textsuperscript{246} He stated that "[t]he Bolshevik government has proclaimed the principle of national self-determination only to fight its application in practice yet with greater resolution."\textsuperscript{247} Liubinsky pointed out that the

Bolshevik government, . . . will never dare to implement in Russia the just principles of self-determination . . . .

\begin{flushright}
\textsuperscript{242} ld. at 59. \\
\textsuperscript{243} ld. at 67. \\
\textsuperscript{244} ld. at 81. \\
\textsuperscript{245} ld. \\
\textsuperscript{246} A.N. TARULIS, supra note 146, at 20 (citation omitted). \\
\textsuperscript{247} ld.
\end{flushright}
It is only the fear of the spreading national revolution that forces the Bolsheviks to declare, with all the inborn demagogy of theirs, both in Russia and here, at the Peace Conference, the freedom of unrestricted right of peoples to self-determination, including secession.  

History proved Liubinsky right in his prediction that the Soviets would not implement the right to self-determination of peoples and nations in their practice.

Mention also must be made of the Decree issued by the Council of People's Commissars on August 29, 1918. The Decree abrogated partition agreements with regards to Poland, between Russia on one side and Germany and Austria on the other. Article 3 of the Decree reads as follows:

All agreements and acts concluded by the Government of the former Russian Empire with the Governments of the Kingdom of Prussia and the Austro-Hungarian Empire referring to the partition of Poland are irrevocably annulled by the present Decree, since they are contrary to the principle of self-determination of peoples and to the revolutionary-legal conceptions of the Russian people.

However, as evidenced by the Secret Additional Protocol to the Molotov-Ribbentrop Pact of August 23, 1939, the Soviet abrogation of the partition of Poland agreements was in practice reversed by the new partition established by this Secret Protocol.

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248. Id.
249. See generally A.N. Tarulis, supra note 146.
250. The Decree was partially reprinted in A.N. Tarulis, supra note 146, at 17 (citing I SOVIET DOCUMENTS ON FOREIGN POLICY 98 (J. Degras ed. 1951-53)).
251. Id.
252. General Sikorsky Historical Institute, I DOCUMENTS ON POLISH-SOVIET RELATIONS 1939-1945, 40 (1961); Przetacznik, The Soviet Type of Peaceful Coexistence is not a Prerequisite for Peace, 65 REVUE DE DROIT INT'L DE SCIENCES DIPLOMATIQUES ET POLITIQUES 202, 225-26 (1987) (the Secret Additional Protocol concerned delimitation of German and Soviet interests in Eastern Europe, under which, Poland was divided between, and invaded by Nazi Germany and the Soviet Union).
3. Self-Determination at the Paris Peace Conference

By the time of the Paris Peace Conference the principle of self-determination was already generally accepted by all the belligerents. Thus, when that Conference opened in 1919, it took on an enormous task of implementing its leading principle of self-determination for all. President Wilson's speeches "reverberated throughout the conference." The principle of self-determination was generally applied, but it was clearly impossible to satisfy all the demands of different groups of people who came to Paris seeking self-determination.

The peace conference paid great respect to the principle of self-determination by establishing several new states. It confirmed the sovereign independence of certain territories that had been under foreign domination and gave them the opportunity to determine their future. For the first time, national boundaries were fixed on the principle of nationality pursuant to the wishes of the people as expressed through plebiscites. The greatest shortcoming of the Paris Peace Conference, however, was that the right to self-determination was not granted to all colonies.

E. The United Nations' Contribution

The right to self-determination of peoples and nations also has its roots in the Charter of the United Nations and in various covenants and declarations subsequently by adopted it.

1. The Charter of the United Nations

While the Charter of the United Nations does not define the concept of self-determination it does explicitly mention the principle in two Articles. One of the purposes and principles of the United
Nations, as set forth in Article 1 of the Charter, is respect for the principle of self-determination of peoples. Commentators have noted that Article 1(2) of the Charter "has special importance because of its recognition of the principles of self-determination." Because the principle of self-determination of peoples and nations received complete and unqualified confirmation in the Charter, the principle is widely recognized by the international community and has thus become a beacon and a guiding directive of the organization.

The delegates in Committee I/1 at the San Francisco Conference, correctly emphasized that the right of self-determination of peoples and nations "corresponded closely to the will and desires of peoples everywhere and should be clearly enunciated." In recommending this provision the Technical Committee of the San Francisco Conference stated that respect of this right "is a basis for the development of friendly relations [between nations] and is one of the measures to strengthen universal peace." The respect for the right to self-determination was also expressed in general terms in Article 55 of the Charter of the United Nations.

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261. Id. art. 1.
263. Levin, supra note 23, at 46.
267. U.N. Charter art. 55 states:
With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:
(a) higher standards of living, full employment, and conditions of economic and social progress and development;
(b) solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and
One cannot underemphasize the obligations assumed by the Member States in the Charter of the United Nations with respect to self-determination of peoples and nations. These obligations are not affected by the domestic jurisdiction Article which normally precludes the United Nations from intervening in matters which are essentially within the domestic jurisdiction of a state. The United Nations has an affirmative duty to organize effective procedures for enforcing these obligations. The United Nation’s Members, "by ratifying the Charter have undertaken legal obligations in respect to self-determination of peoples within their territory." The pledge by each Member State, which indicates the acceptance of an international obligation to observe the obligations in respect to self-determination undertaken under the Charter applies to all peoples within the state’s control.

2. Covenants on Human Rights

The principle of self-determination of peoples and nations set forth in Article 1(2) and Article 55 of the Charter of the United Nations has been clarified and made more precise in the International Covenants on Human Rights. Article 1 of the International Covenant of Economic, Social and Cultural Rights and Article 1 of the International Covenant on Civil and Political Rights contain the following identical provisions: "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." It is clear from both of these Articles that, from the viewpoint of the United Nations, all people have

(c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Id.

268. Article 2(7) of the Charter provides 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." L.M. GOODRICH, UNITED NATIONS 351 (1963).


270. Id.

271. Id.


273. Id. at 171, 179.
the right to self-determination. Each of the Covenants refer to any people irrespective of the international status of the territory they inhabit.\textsuperscript{274} The right to self-determination applies "not only to the peoples of territories that have not yet attained political independence, but also to those of independent and sovereign states."\textsuperscript{275}

Accordingly, the right to self-determination also applies to the people of a sovereign state living under foreign domination, whether this domination results from annexation of territory or from direct or indirect military hegemony.\textsuperscript{276} This conclusion is borne out by the \textit{travaux préparatoires}.\textsuperscript{277} The right to self-determination has been defined as "the right to freedom from hegemony by other states"\textsuperscript{278} as well as the right "to be free from totalitarian repressive regimes."\textsuperscript{279} Eleanor Roosevelt, the United States representative at the Third Committee of the General Assembly of the United Nations and First Lady, stated that the right to self-determination applied to those peoples "which had formerly enjoyed independence but who were deprived of the possibility of governing themselves."\textsuperscript{280} Similarly, the delegate of Syria said in the General Assembly of the United Nations in 1950 that the principle of self-determination stands for a people's right to adopt representative institutions and to choose freely the form of government which they wished to adopt.\textsuperscript{281}

The right of peoples and nations to self-determination, like any other human right contained in the International Covenants on Human Rights, should be effectuated through the means provided for in the Covenants. However, the implementation of this basic collective human right is not limited to these means of implementation.\textsuperscript{282} If this right is denied by the dominating power, the peoples, nations or states have the

\begin{thebibliography}{9}
\bibitem{274} Id.
\bibitem{276} Id.
\bibitem{277} \textit{Travaux préparatoires} are, literally, the "preparatory works" or the efforts and intent of the parties to an agreement in bringing that agreement about. B.H. Weston, R.A. Frank & A. D'Amato, \textit{INTERNATIONAL LAW AND WORLD ORDER: A PROBLEM ORIENTED COURSEBOOK} 60 (2d ed. 1990). This is what would commonly be referred to in the United States, in a domestic law context, as the legislative history. \textit{Id.}
\bibitem{278} Id.
\bibitem{279} Id.
\bibitem{281} \textit{See} Cassese, \textit{supra} note 275, at 94.
\bibitem{282} \textit{Id.} at 99-100.
\end{thebibliography}
right to use any means which is effective to the realization of this right, including the use of force as a last resort. In such a situation, the dominating and oppressive power which denies the right to self-determination will be responsible for all the consequences resulting from such denial. The right of self-determination imposes an affirmative duty on all states and parties to the Covenants on Human Rights; it is the duty of the international community to force dominating and oppressive powers to implement the right to self-determination.

3. Anti-Colonial Declaration

The right to self-determination of peoples and nations was confirmed in the Declaration on the Granting of Independence to Colonial Countries and Peoples which was adopted by the General Assembly of the United Nations in 1960. The Declaration, which does not have the legal force of a covenant, expresses the principles of contemporary international law as applied to the right of self-determination of peoples and nations. It contains solutions which satisfactorily addressed and authorized colonial peoples' accession to independence. The regulations promulgated pursuant to this Declaration represent a whole complex of rules protecting and guaranteeing the right to self-determination and respect for human rights. The Declaration provides in its Articles that all peoples have the right to choose freely their political and cultural status.

Article 3 of the Declaration recognizes that inadequate development in the political, economic or social sphere, or in the educational field, cannot be used as a pretext for delaying independence. Other provisions of the Declaration represent a normative system completing the protection of the right of peoples to self-determination. The Anti-Colonial Declaration was adopted by the

283. Id. at 100-01, 102; L.M. Goodrich, E. Hambro & A.P. Simons, supra note 262, at 45.
285. Cassese, supra note 275, at 108.
286. Id. at 109. The Declaration is a general Resolution which is not binding. Id.
287. Id.
288. Przetacznik, supra note 145, at 262.
289. Id. at 262 n.148 (citing H. Kelsen, supra note 164, at 840, 852, 855-57).
290. Id. at 262.
291. Id.
United Nations and strongly supported by the Soviet Union and other Communist countries.\textsuperscript{292} From the political, economic and military points of view, the adoption has been a great success for the Soviets in their struggle against colonialism, because the granting of independence to numerous new states led to the disintegration of the colonial system and the weakening of the colonial states.\textsuperscript{293} However, the implementation of the right to self-determination of peoples and nations should not be confined only to the colonial peoples. The peoples of the Soviet Union, and in particular Estonians, Latvians and Lithuanians, are just as entitled to this basic collective human right.

4. Declaration on Friendly Relations

The principle of self-determination is also contained in the Principles of International Law concerning Friendly Relations.\textsuperscript{294} This principle provides that, "all peoples have the right to freely determine, without external interference, their political status and to pursue their economic, social and cultural development . . . ."\textsuperscript{295} Every state has the duty to respect this right in accordance with the provisions of the Charter.\textsuperscript{296} States must also promote, through joint and separate action, realization of the principle of self-determination of peoples, because subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights and is contrary to the Charter of the United Nations.\textsuperscript{297} "The establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self-determination by that people."\textsuperscript{298}

5. African Charter on Human and Peoples’ Rights

The African Charter on Human and Peoples’ Rights is the only regional convention on the protection of human rights which "enshrines

\begin{itemize}
\item 292. Id.
\item 293. Id.
\item 295. Id. at 109.
\item 296. Id.
\item 297. Id.
\item 298. Id.
\end{itemize}
the peoples' right to self-determination." Pursuant to Article 20(1) of the African Charter on Human and Peoples' Rights, all peoples have the right to existence and the unquestionable and inalienable right to self-determination. In exercising this right, people of each state are given the power to determine their political status and to pursue their economic and social development according to the policy they have freely chosen.

According to Article 20(2) of the African Charter, "colonized or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognized by the international community." Finally, Article 20(3) provides that, all peoples have the right to the assistance of the parties to this Charter in their liberation struggle against foreign domination, be it political, economic or cultural.

It is clear from these provisions that all peoples have the right to existence and self-determination, and that this is an unquestionable and inalienable right. Self-determination contains the right to determine one's political status, the right to free one's self from foreign domination, and the obligation of other states to assist oppressed peoples in their liberation from foreign domination. Article 21 of the African Charter states that all peoples have the inalienable right to dispose of their wealth and natural resources freely and that this right is to be exercised in their exclusive interest. These provisions reflect the principles contained in the 1974 Declaration on the Establishment of a New International Economic Order, which proclaims the right of each country to adopt the economic and social system that it deems the most appropriate for its own development and the full permanent sovereignty of each State over its natural resources and economic activities. The provisions of Article 21 are yet another important aspect of the right to self-determination of peoples and nations.

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299. Kiss, supra note 26, at 169.
300. Id.
302. Id. at 405.
303. Id.
304. Id.
305. Id.
306. Kiss, supra note 26, at 169.
307. Id.
F. Contemporary Scholars

Contemporary scholars, whether they are from Western, Communist or Third World countries, consider the right to self-determination of peoples and nations a basic principle of contemporary international law.

1. Western Scholars

Mark Korowicz believes that the right to self-determination of peoples and nations is a generally recognized principle of contemporary international law. Korowicz finds little reason to doubt that the principle of self-determination is recognized by the Charter as a principle of international law, all the more since it is combined with equal rights of the peoples, and the principle of equal rights of States and nations certainly is a principle of international law affirmed as such in many multilateral treaties, and in writings of publicists...

Korowicz correctly maintains that Articles 1 and 55 of the United Nations Charter made the "principle... of self-determination [of peoples and nations] an integral part of positive international law." Likewise, Elihu Lauterpacht regards the principle of self-determination as an established legal right and not merely a political principle.

Lauterpacht stated that international customary law acknowledges the principle of self-determination of peoples and nations, thus providing "the meeting point of customary international law and democratic political principle." Lauterpacht also stated that, "[i]ndeed, it is in this area of self-determination that the development of human rights in the international sphere, as governed by customary international law, has

309. Id. at 285.
310. Id. at 287.
312. Id. at 271.
made its greatest progress [to date]."\textsuperscript{313} Ian Brownlie defined the principle or right of self-determination as the right of cohesive national groups to choose for themselves a form of political organization and their relation to other groups.\textsuperscript{314} "The choice may be independence as a State, association with other groups in a federal State, or autonomy or assimilation in a unitary State."\textsuperscript{315} Finally, Brownlie stated that "self-determination is a legal principle."\textsuperscript{316}

Roman Krys utilized the premise that the right to self-determination of peoples and nations is a fundamental principle of international law.\textsuperscript{317} This premise is based on a right recognized in the United Nations Charter, one of the major sources of developments in the evolution of the concept of self-determination.\textsuperscript{318} The right to self-determination is not precise and has a universal application not limited to the colonial powers.\textsuperscript{319} The same view is expressed by Kiss, who maintained that the inclusion of self-determination as a fundamental article of international law "also results from the inclusion of the right to self-determination in Covenants [on Human Rights F.P.] that this right is to be applied all over the world, by all the States parties to the Covenants, in all situations, and not only to colonies . . . .\textsuperscript{320}

Kiss indicated that the inclusion of the right to self-determination of peoples and nations "in the two Covenants on Human Rights has undoubtedly conferred upon it the quality of a mandatory rule of International Law."\textsuperscript{321} In Kiss' view, the mere fact that the right to self-determination is considered a human right gives it a universal value which must have universal application in all situations.\textsuperscript{322} Moreover, Kiss insisted that "the peoples' right to self-determination is a part of 'jus

\textsuperscript{313} Id.
\textsuperscript{314} I. BROWNLIE, PRINCIPLES OF PUBLIC INTERNATIONAL LAW 575 (1973).
\textsuperscript{315} Id.
\textsuperscript{316} Id.
\textsuperscript{318} Id.
\textsuperscript{319} Id. at 301, 304.
\textsuperscript{320} Kiss, supra note 26, at 174.
\textsuperscript{321} Id.
\textsuperscript{322} Id.
He posited that if human rights as embodied in the Covenants are held to have this nature [jus cogens], there is no reason for denying this character to one [the right to self-determination of peoples and nations F.P.] of the rights which are guaranteed. In short, the right to self-determination of peoples and nations, equally like any other right consecrated in the Covenants on Human Rights, is part of 'jus cogens' and is a fundamental and guiding principle of international law.

2. Communist Scholars

Communist scholars also believe that the right to self-determination of peoples and nations is a generally recognized principle of international law. They assert that this right belongs to peoples and nations, and that it is essential for peaceful coexistence. D. B. Levin asserted that "the principle of self-determination of nations, expressing the law of consciousness of the masses, has become a primary international legal principle." He asserted correctly that a nation may, in the exercise of the right of self-determination, join another State. However, if the conditions of the compact are breached, the acceding nation may secede "because all members-states of the United Nations are obligated to observe the principle of self-determination of nations and the United Nations itself has the duty of combatting its violations." In these statements, Levin expressed the view that the right to self-determination of peoples and nations is a central principle of contemporary international law.

R. L. Bobrov expressed the right to self-determination of peoples and nations in categorical terms. He indicated that this right, even "though established in international law relatively recently, has already expanded and democratised the content of a number of other basic

323. Id. Jus cogens is a peremptory norm of general international law "accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character." Vienna Convention on the Law of Treaties, 1969, art. 53.
324. Id.
325. See Levin, supra note 23, at 48.
326. Id. at 47.
327. Id. at 46.
international law institutions." Bobrov stressed that this "principle secures the right of each nation to independent existence as a state and to free choice of its social and political system, and obliges all states to respect this right in both its (interconnected) manifestations and to promote its implementations." Bobrov believed that the "interpretation by bourgeois literature of the principle of self-determination as one that is purely political, not legal is entirely unjustified."

Bobrov indicated that "the principle of the nations' right to self-determination was secured by the U.N. Charter (Para. 2, Art. 1) [which] is an international law act and its principles, being an expression of the will of states, have the power of law." Bobrov maintained that the introduction into international law of the principles concerning the states' obligations to maintain peace and the nations' right to self-determination has enriched the content of international law. Similarly, Dimitrij I. Baratashvili asserted that recognition of the moral and international legal nature of the principle of self-determination derives from the fact that it is part of the code of modern legal norms such as the United Nations Charter. Baratashvili pointed out that recognition of this right entitles nations to demand and secure the right to self-determination and independence. At the same time, it is incumbent on the United Nations Members to do all they can to facilitate the implementation of the principle of self-determination of peoples and nations. The interesting position in this respect is taken by Manfred Lachs, who insists that self-determination is a definite legal principle and it is laid down in the Charter of the United Nations, the most solemn document which is binding on . . . states of the world to-day. On this very principle other elements are built. From it flow

329. Id. at 51.
330. Id.
331. Id. at 52.
332. Id.
333. Id. at 54.
335. Id.
336. Id.
consequences which are both rights and duties in international relations.\textsuperscript{337}

Lachs maintained that the Charter of the United Nations did not create a new rule of law but merely declared an already existing principle of law.\textsuperscript{338} In his view, "[a]ll they did was to confirm and lay down in writing a principle that had long been growing and maturing in international society until it gained general recognition," thus giving expression to "one of the elements of international law of the time."\textsuperscript{339}

A similar view was expressed by H. Bokor-Szego. Bokor-Szego maintains that while the right of self-determination has become a rule of positive international law through its incorporation in the U.N. Charter, the particular rules on the content of this right and the resulting responsibilities of states have evolved.\textsuperscript{340} This evolution has been achieved through custom, by state practice observing the U.N. Charter and making up for the deficiency originating from the \textit{lex imperfecta} character of the Charter's relevant provisions.\textsuperscript{341} It follows from the above considerations that the Communist scholars also consider the right to self-determination of peoples and nations to be a generally recognized principle of international law. They further point out that the inclusion of the right to self-determination of peoples and nations into the Charter of the United Nations has instead transformed this right into a principle of positive international law.\textsuperscript{342}

3. Third World Scholars

According to Mohammed K. Nawaz the principle of self-determination is "one of the modern principles of international law."\textsuperscript{343} Nawaz indicated that the principle represents a new development in international law and has had a profound effect on contemporary world

\begin{itemize}
  \item \textsuperscript{337} Lachs, \textit{Some Reflections on the Problem of Self-Determination}, LAW SERVICE PEACE, Dec. 1957, at 60, 61 (periodical title changed in June 1958 to REV. CONTEMP. L. and the article cited herein may be obtained from a volume bound under that name).
  \item \textsuperscript{338} Lachs, \textit{supra} note 264, at 432.
  \item \textsuperscript{339} \textit{Id}.
  \item \textsuperscript{340} H. BOKOR-SZEGO, \textit{NEW STATES AND INTERNATIONAL LAW} 26-27 (1970).
  \item \textsuperscript{341} \textit{Id}.
  \item \textsuperscript{342} \textit{Id}. at 51-52.
  \item \textsuperscript{343} Nawaz, \textit{The Meaning and the Range of the Principle of Self-Determination}, 1965 DUKEL.J. 82, 99.
\end{itemize}
politics. In its application, the principle extends to economic, social and cultural matters. Nawaz also pointed out that the principle of self-determination represents an important movement away from the old legal view which applied international law rights only to states and towards a view that applies these international law rights to groups and individuals.

To Perumpidy K. Menon, the principle of self-determination has major scientific interests as well as practical significance because it declares the right of all peoples to freely determine their political status and freely pursue their social and cultural development. He pointed out that the concept of self-determination as a basic right of peoples has inspired the growth and expansion of modern democratic systems. Menon's statement that the right to self-determination is one of the most controversial subjects of the day is erroneous, because, as this article points out, this basic collective human right is now generally recognized. Serious philosophers, political or social thinkers, statesmen, or scholars do not deny the existence or importance of this right, but only differ in opinion as to its application and implementation.

Menon affirmed that the concept of self-determination is elusive and has escaped every effort of being defined precisely. He pointed out that the concept of self-determination has been "used to denote the right of self-government, the right of colonial people to independence, the right of oppressed minority groups to determine their own fate, the right of independent states to expropriate foreign property and a host of other variations on these and similar themes." Self-determination is a difficult term to define, but it is not impossible. The imperfect or unsatisfactory definitions of the right to self-determination do not discredit this right, nor do they imply that this right is not an important prerequisite

344. Id. at 90-91.
345. Id. at 100.
346. Id. at 101.
348. Id.
349. Id.
350. See supra notes 35-164 and accompanying text.
351. Menon, supra note 347, at 184.
352. Id.
for peace. This only signifies that the existing definitions of this institution can and should be improved. The importance of focusing on the substance of the institution and not pure legal formalism should also be recognized.

Self-determination of peoples and nations "is an ancient political right that is cherished by every people." 353 The principle of self-determination [of peoples and nations F.P.] developed from a philosophical to a political concept in international relations and has now matured into a fundamental principle of positive international law. 354 Umozurike also stated that the main impact of the right to self-determination is that it "should be applied with due regard to the wishes of the people most directly concerned." 355 Umozurike maintained that a "threat to world peace and stability resulting from the assertion or denial of the right [to self-determination of peoples and nations F.P.] is, a fortiori, a matter for the United Nations requiring the urgent attention of the Security Council under Chapter 7 of the Charter [of the United Nations F.P.]." 356

III. RIGHT OF SECESSION

There is a fallacious argument that one of the supposed dangers of the right to self-determination of peoples is that it might encourage secessions. 357 Lenin rejected this argument and correctly pointed out that "[a]ll declarations and manifests concerning relinquishment of annexed territories, which are not accompanied by the effective attainment of the freedom of secession are nothing but bourgeois swindles or wishes of pious little bourgeois." 358 He also stated that "[t]he right to free secession and the formulation of an independent state must be granted to all nations now belonging to Russia. - The negation of this right and the refusal of measures which guarantee the practical realization of this right is equivalent to a policy of conquest and annexation." 359 It is clear from these statements that to Lenin, the right of people to secession and to the

353. U.O. UMOZURIKE, supra note 21, at xiii.
354. Id. at 198.
355. Id. at 202.
356. Id.
358. Id.
359. Id. at 155.
formulation of an independent state was, in fact, the very essence of the right to self-determination.

"There is no rule of international law that condemns all secessions under all circumstances." Umozurike points out that "[t]he principle of fundamental human rights is as important, or perhaps more so, as that of territorial integrity." He correctly concluded that the "protection of fundamental human rights must, however, be the main objective of all political systems." Under international law, a de facto state, resulting from the exercise of self-determination in the form of secession, but which the international community could not have legally helped to create, may be recognized de jure." In Umozurike's view, international law should "protect the justifiable exercise of the right (to self-determination F.P.), while preventing its abuse." He also implicated the right when he stated that "[t]he possibility of the abuse of a right does not, however, invalidate it in law." The right of secession is one mode of implementing the realization of the right to self-determination of peoples and nations. Thus, the right of secession is one of the elements of the right to self-determination of peoples and nations. However, this right is often contradicted by those who do not understand it and who illegally deny it. In this respect, J.A. Perkins asserted that "[f]ull acceptance of a right of self-determination has long been impeded by a nagging concern that such a right would imply a right of secession by any part of a nation that wished to secede." Perkins erroneously affirmed that "the notion that a right of self-determination may imply a right of secession for any self-defined group is one of the fallacies that created skepticism about the seriousness of international law as a scheme to govern the conduct of nations." This statement clearly demonstrates that Perkins does not understand the essence of the right to self-determination of peoples and nations. The right of secession has nothing to do with the seriousness of international law. Perkins erroneously argues that "[t]he Charter [of the

360. U.O. UMOZURIKE, supra note 21, at 199.
361. Id.
362. Id.
363. Id. at 200.
364. Id.
365. Id.
367. Id.
368. Id.
United Nations], which affirmed the principle of self-determination, also recognized the legitimacy of the 'territorial integrity' of nations (Article 2(4)). This statement does not prove at all that the Charter excludes secession in the realization of the right to self-determination. The provisions concerning the right to self-determination and relating to territorial integrity of nations are contained in different Articles. The right to self-determination is included in Article 1(2) of the Charter of the United Nations and Article 2(4) relates to territorial integrity. These provisions deal with different situations and are not exclusive. The realization of the right of self-determination, concerns the internal situation of a state and has nothing to do with the threat to the territorial integrity of the States regulated in the United Nations Charter Article 2(4). Article 2(4) relates to the external threat or use of force against the territorial integrity of other state. The provisions of Article 2(4) are clear and precise. Thus, neither secession nor the right to self-determination is within Article 2(4) since they apply to the external use of force.

It is clear from the provisions of Article 1(2) and Article 2(4) of the Charter of the United Nations that the right of secession, as an essential element of the right to self-determination of peoples and nations is recognized implicitly. If this were not so, the right to self-determination would be meaningless. The denial of the right of secession is inconsistent with the generally-recognized maxim of interpretation of treaties that *ut res magis valeat quam pereat*, meaning literally "the thing may rather have effect than be destroyed." This principle has been

369. Id.
370. See U.N. CHARTER art. 1, para. 2; id. art. 2, para. 4.
371. Article 2(4) of the Charter provides that, "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations." Id. art 2, para. 4.
372. For example, the Italian invasions of Ethiopia (1935) and Albania (1939); the German invasions of Poland (1939), Denmark (1940), Belgium (1940), Luxembourg (1940), the Netherlands (1940), and Norway (1940); and the Soviet invasions of Poland (1939), Finland (1939), Estonia (1939), Latvia (1939), Lithuania (1940), and Afghanistan (1979). THE MODERN WORLD, supra note 3, at 798, 803-04, 860.
373. BLACK'S LAW DICTIONARY 1386 (5th ed. 1979).
applied by the Permanent Court of International Justice,\textsuperscript{374} and also by the International Court of Justice.\textsuperscript{375}

J. A. Perkins again is incorrect in his assertion that paragraph E7 of the 1970 Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations defines and limits the exclusion of the right of secession.\textsuperscript{376} Paragraph E7 provides that

\textit{[n]othing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity and independent status of states conducting themselves in accordance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.}\textsuperscript{377}

This paragraph has internal contradictions and does not make sense in the context of the principle of self-determination.

Neither this senseless provision nor any other provisions of the Declaration can derogate the right of secession, which is recognized and consecrated in the Charter of the United Nations, a multilateral treaty binding on its Members States.\textsuperscript{378} Paragraph E7 would only make sense if it were construed as a prohibition of the dismemberment totally or in part of the territorial integrity and independent status of states by the other states, such as the partition of Poland in the eighteenth century by Austria, Prussia and Russia,\textsuperscript{379} and in 1939 by Nazi Germany and the Soviet Union under the Molotov-Ribbentrop Pact.\textsuperscript{380} Otherwise, this paragraph makes little sense.

\begin{footnotes}
\textsuperscript{374} See Free Zone of Upper Savoy and District of Gex, 1929 P.C.I.J. (Ser. A) No. 22, at 13 (Aug. 19); Acquisition of Polish Nationality, 1923 P.C.I.J. (Ser. B) No. 7, at 74 (Sept. 15); Exchange of Greek and Turkish Population Series, 1925 P.C.I.J. (Ser. B) No. 10, at 168 (Feb. 21).
\textsuperscript{376} J.A. PERKINS, supra note 366, at 77.
\textsuperscript{377} Id.
\textsuperscript{378} U.N. CHARTER art. 1.
\textsuperscript{379} THE MODERN WORLD, supra note 3, at 238-40.
\textsuperscript{380} Id. at 803.
\end{footnotes}
If a state conducts itself in accordance with the principle of self-determination of peoples the government of such state does not represent the people who want to exercise this right nor can it represent such people against their will. Such government cannot impede the realization of the right to self-determination of peoples including the right of secession, on the false grounds that the government represents the whole people belonging to the territory and that the exercise of the right to self-determination of a single group would dismember the state. People do not belong to the land, the land belongs to the people. The medieval principle of *glebae ascriptitii*, is invalid and is generally rejected because it violates basic human rights. For these reasons, paragraph E 7 of the discussed Declaration does not pertain to the right of secession and must be disregarded.

The right of secession, as the realization of the right to self-determination of peoples and nations, has found expression in the practice of states. As indicated earlier, one of the earliest and successful expressions of this right was the secession of the American colonies from Great Britain in 1776. This secession established the United States of America, the first anti-colonial power. Subsequently, the right of secession, was exercised by the revolt of the Latin-American colonies against the Spanish rule. Similarly, Belgium, in 1831, separated herself from the Netherlands, and Norway seceded from her union with Sweden in 1905.

After the Second World War, self-determination, through secession, was realized for Algeria in 1963, Angola in 1975, Bangladesh in 1971, Indonesia in 1949 and Mozambique in 1975. These cases

381. This idea was best expressed by Thomas Jefferson, when he stated that, "the earth belongs to the living. . ." *Familiar Quotations, John Bartlett* 389 (E. Morrison Beck ed. 1982) (letter to John W. Eppes, June 24, 1813).

382. *Glebae ascriptitii* were, under old English law, villein-soemen who, owing service to a noble or other land-owner, could not be removed from the land while they performed the service due. *Black's Law Dictionary* 251 (5th ed. 1979).


384. *Id.* at 347.

385. This secession established many Latin-American States including, Argentina (1819), Bolivia (1825), Chile (1818), Colombia (1819), Honduras (1821), Mexico (1821), Nicaragua (1821), Paraguay (1811), and Peru (1824). Moreover, Uruguay (1828) and Panama (1903) exercised their right to self-determination through secession. *Id.* at 453.

386. *Id.* at 584.

387. *Id.* at 866.
clearly corroborate that the right of secession is an essential element of the right to self-determination of peoples and nations and that the realization of the right to self-determination has been generally recognized since the eighteenth century. The right of secession is essential to a people’s right of self-determination and without it, self-determination would be meaningless. In the American Civil War, the Southern States did not have the right of secession, because they were never a separate or different people, nation or independent state, and they were not deprived of such attribute by the Northern States. The residents of the Southern United States were all immigrants or settlers who had no right to self-determination.

The right to peace is closely connected with the right to self-determination of peoples and nations. The strict realization of the right to self-determination of peoples and nations is one of the basic prerequisites of a just and genuine peace. Individuals, and nations which enjoy the right to self-determination are peaceable because their basic needs are satisfied and their human rights are observed. On the other hand, peace is still endangered because individuals, peoples and nations whose individual and collective human rights are violated will always struggle and fight for the implementation of these rights. It is the enforcement of this right to self-determination which, in the interests of the international community, will make a great contribution to safeguarding international peace.

IV. CONCLUSIONS

The foregoing considerations support the following conclusions:

1 - The right to peace is closely connected with the recognition and strict implementation of the right to self-determination of peoples and nations. This basic collective human right includes the right of each people or nation to decide freely on the formation of an independent state and its international status, as well as a free choice of that state’s socio-political system. The right to self-determination of peoples and nations evolved from a political principle into a basic norm of contemporary international law. Human beings are entitled to the right to self-determination collectively as members of a greater community such as a people, nation or state. This basic collective human right, which is now generally recognized, is inherent in the nature of each people, nation and state.

388. Id. at 538-39.
The right to self-determination of peoples and nations applies to those peoples, nations or states, which have been deprived of their independence by the other state usually through conquests. However, the right to self-determination does not apply to peoples who immigrated to another state voluntarily. The will to enjoy this collective human right must be the genuine will of the whole people, nation or state in a given case, expressed in a true democratic manner. There must be no doubt that this is the collective will of the whole people, nation or state and not merely the will of their leaders.

In the case of self-determination of peoples, nations and states, the individual will of leaders or even of an elite group cannot replace a genuine general will; especially in a case where, for political or other reasons, the leaders would renounce the right to self-determination of peoples, nations or states, or limit the enjoyment of this right or delay such enjoyment. This means that the Communist rulers in the countries under Soviet domination, who do not represent the interests of the peoples of those countries, have no right to agree upon the limitation of the right to self-determination or to renounce this basic collective human right in the name of these peoples, nations and/or states.

Any renunciation of or acquiescence to the limitation of the enjoyment of the right to self-determination of peoples, nations and states by the rulers of the countries under foreign domination is invalid, because such renunciation or limitation does not constitute a general genuine will of the whole people, nation or state in such countries and, thus, should not be recognized by the international community. The Brezhnev doctrine, which denies the right to self-determination of peoples, nations and states, living in the Communist system, constitutes a violation of contemporary international law. It appears that for these reasons Mikhail S. Gorbachev implicitly renounced this doctrine.

Many philosophers or political and social thinkers recognized the substance of the right to self-determination of peoples and nations without using the term self-determination itself. Bakunin was one of the

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390. Id.
391. Id.
392. On Oct. 25, 1989, in Helsinki, Finland, President Gorbachev declared that the Soviet Union has no moral or political right to interfere in the affairs of its East European neighbors. Keller, Gorbachev, in Finland, Disavows Any Right of Regional Intervention, N.Y. Times, Oct. 26, 1989, at A1, col. 3. Gorbachev's spokesman, Gennadi I. Gerasimov, stated: "'I think the Brezhnev doctrine is dead' . . . ." Id.
first political and social thinkers who used the term self-determination. Before Bakunin, President Grant used the expressions the right of choice and of self-control in determination of the future condition. Hobbes is one of the first philosophers who recognized the idea of self-determination of peoples and nations. A similar ideal was expressed by Whichcote and Bentham. The latter asserted that a preliminary condition to peace is the emancipation of all colonies.

Likewise, Kant indicated that no state having an existence by itself could be acquirable by another state through inheritance, exchange, purchase or donation. He also argued that the restitution to certain states of the freedom of which they had been deprived could not be put off indefinitely. The American statesmen also made great contributions to the right to self-determination of people and nations. Their first collective act in this respect was the proclamation of the Declaration of Independence of the United States of America. Many particular American statesmen recognized and advocated the right to self-determination of peoples and nations. In Hamilton's view, the expression self-government signified self-determination.

The essence of this doctrine is that the extension of foreign domination over other peoples endangers peace. Henry Clay notified the French Government that the United States would not consent to the occupation of Cuba and Puerto Rico by any other European power other than Spain. Similarly, President Polk declared that no future European colony or dominion can be established on any part of the North American continent. Likewise, Grant asserted that no part of this continent can be transferred from one European power to another. Richard Olney

392. See supra notes 14-19 and accompanying text.
393. See supra note 15 and accompanying text.
394. See supra note 40 and accompanying text.
395. See supra notes 41-42 and accompanying text.
396. See supra note 42 and accompanying text.
397. See supra notes 46-51 and accompanying text.
398. Id.
399. See supra notes 90-93 and accompanying text.
400. See supra note 94 and accompanying text.
401. See supra notes 95-99 and accompanying text.
402. See supra note 101 and accompanying text.
403. See supra note 103 and accompanying text.
404. See supra note 104 and accompanying text.
declared that no European power can forcibly deprive an American state of the right of self-government and of shaping its destiny. 405

8 - Similarly, President T. Roosevelt asserted that there had to be no territorial aggrandizement by any non-American power at the expense of any American power on American soil. 406 According to President Wilson, national aspirations of peoples and nations must be respected and those people and nations may be governed only by their consent. 407 He affirmed that peoples and provinces are not to be bartered about from sovereignty to sovereignty as if they were mere chattels and pawns in a game. 408 In his view, failure to satisfy the desire for self-determination of any people in the world is likely to affect international peace. Wilson's contribution consists not merely in his having recognized the importance of the principle of self-determination of peoples and nations, but also in his having taken measures to institutionalize it.

9 - President F. D. Roosevelt and Prime Minister Winston Churchill insisted, in the Atlantic Charter, that the right to self-determination of all peoples would be provided for and that self-government would be restored to those who had lost it. 409 The right of peoples to self-determination found its expression in the Truman Doctrine as well. 410 Truman believed that the United States ought to support free peoples who are resisting attempted subjugation by outside Communist pressures. 411 Likewise, Robert Kennedy and President Reagan supported the right of the peoples of each nation to define their own destiny. 412 It follows from the above considerations that American statesmen have made a great contribution to the formulation and implementation in the practice of the right to peoples and nations to self-determination.

10 - Lenin asserted that the right to self-determination of all nations forming part of the Russian empire must be recognized. 413 However, The Soviets violated the right of states and nations to self-determination by invading them and incorporating them illegally into the

405. See supra note 106 and accompanying text.
406. See supra note 107 and accompanying text.
407. See supra note 195 and accompanying text.
408. See supra note 196 and accompanying text.
409. See supra notes 219-20 and accompanying text.
410. See supra note 115 and accompanying text.
411. See supra notes 116-20 and accompanying text.
412. See supra notes 126-35 and accompanying text.
413. See supra note 146 and accompanying text.
This seeming ambiguity is due to the fact that the Soviets treat differently the right to self-determination of peoples and nations inside and outside the Soviet bloc. In the former situation, Soviets deny the right to self-determination and in the latter situation they recognize such right and support it in order to weaken the colonial countries.

11 - The right to self-determination of peoples and nations as a prerequisite for peace again found its expression in Peace Proposals made during the First World War, in the Charter of the United Nations, in the International Covenants on Human Rights, and the African Charter on Human and Peoples' Rights. The right to self-determination of peoples and nations were confirmed in the Anti Colonial Declaration and in the Declaration on Friendly Relations as well. According to these Declarations, all peoples have the right to freely determine their political, social and cultural status.

12 - Contemporary scholars generally regard the right to self-determination of peoples and nations to be a right generally recognized as a basic principle of contemporary international law. They also consider that this basic collective human right is not merely a domestic matter. A situation involving the right to self-determination of peoples and nations cannot be excluded from the jurisdiction of the United Nations by a claim of domestic jurisdiction. International customary law is binding on all states regardless of consent, and in any event, states have bound themselves under the Charter of the United Nations to respect the right to self-determination of peoples and nations.

13 - The right of secession is one mode of implementing the right to self-determination of peoples and nations. It is clear from the provisions of article 1(2) in the Charter of the United Nations that secession, as an essential element of the right to self-determination of peoples and nations, is recognized implicitly. Along with its inclusion in the Charter of the United Nations, the right of secession, as the realization of the right to self-determination of peoples and nations, also found its expression in state practice from 1776 to 1975. Without the right of

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414. THE MODERN WORLD, supra note 3, at 718, 852.
415. See supra notes 165-217 and accompanying text.
416. See supra notes 260-71 and accompanying text.
417. See supra notes 272-84 and accompanying text.
418. See supra notes 299-305 and accompanying text.
419. See supra notes 285-98 and accompanying text.
420. U.N. CHARTER art. 1, para. 2; id. art. 55.
secession, the realization of the right to self-determination of peoples and nations would be meaningless.

14 - The right to peace is closely connected with the recognition and strict implementation of the basic collective human right to self-determination of peoples and nations. The strict realization of the right to self-determination of peoples and nations is one of the basic prerequisites of a just, genuine and lasting peace. Individuals, peoples, and nations which enjoy the right to self-determination and other individual and collective human rights are more likely to be peaceable. This is true because peoples whose basic needs are satisfied and whose human rights are observed have more respect for peace, order and tranquility. Those who respect other peoples rights will also respect world order through those rights. On the other hand, the individuals whose individual and collective human rights are violated must always struggle and fight for these rights and it is because of this deprivation that peace is endangered.