



SOFIMUN
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Website: www.sofimun.org
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"Search Of Future Ideas, Models Us Now"

COMMITTEE:
HUMAN RIGHTS COUNCIL

CHAIRPERSON:
LENA BORTH & ALBENA PETKOVA

TOPIC: (A)
DEFINING THE RIGHT OF SELF-
DETERMINATION

UNITED NATIONS HUMAN RIGHTS COUNCIL (HRC)



The United Nations Human Rights Council is created in March, 2006 and is the successor to the United Nations Commission on Human Rights, which was often criticized for the high-profile positions it gave to member states that did not guarantee the human rights of their own citizens. The Council is considered an international body within the United Nations System and its purpose is to address human rights violations.

The Council assumes all the mechanisms, mandates, functions and responsibilities of the Commission for Human Rights. At the same time, it is tasked with the review, rationalization and improvement of these. This makes up the bulk of the Council's work in its first year.

"Special procedures" is the name given to the mechanisms established by the former United Nations Commission on Human Rights and continued by the Human Rights Council to monitor human rights violations in specific countries or examine global human rights issues. Special procedures can be either individuals who are leading experts in a particular area of human rights, or working groups usually composed of five members. In order to preserve their independence they do not receive pay for their work.

More at:
www.un.org/rights



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Topic A: Defining the right of self-determination - summary

How to respond to a national or other identity group's aspirations for control over its own future (resulting from the denial of minority rights, government repressions and human rights violations).

The right to self-determination is, despite its "youth", generally recognised to be a norm of *ius cogens*.

Although mentioned in numerous documents relating to human rights (e.g. Art. 1 No. 2 of the UN Charter, Art. 1 ICCPR and Art. 1 ICESCR), they all failed to define exactly who is entitled to claim this right (a group, a people, a nation) – and what precisely the right confers.

Having been used and invoked in so many ways – for instance in the contexts of individual and minority rights, regional autonomy, government repression, territorial integrity, state sovereignty and claims to independence – the right might have enjoyed broad popularity but never reached a point of being applied in a uniform manner.



The right to self-determination, as one can see, fulfils a role as a rather ambiguous catchall element – dangerous even, when being used as a justification for bloodshed and gross human rights violations. In the past, sadly, this has happened more than once.

Today, with less than 10% of the world's states being homogenous, leaving the question of its definition open could have disastrous consequences in many regions.

Many groups that constitute minorities in their states have invoked the right to self-determination in their demands for autonomy – or in some cases, secession – and have resorted to violence to pursue their aims.

On the other hand, the demand for self-determination may be justified as a way to end years of repression and human rights violations by the major ethnic group or the central government.

Whenever the right to self-determination is invoked, however, the international community, in the absence of a clear definition, has no guiding principle with which to respond.

The thereby caused uncertainty and lost opportunity to speak with one voice undoubtedly endangers human rights and world peace.



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Topic A: Defining the right of self-determination - background guide

A LITTLE HISTORY OF THE RIGHT OF SELF – DETERMINATION

In order to better understand the complex nature of the right to self-determination, one might want to throw a glance at its history.

As a fairly recent phenomenon, it emerged in the aftermath of the First World War and the subsequent breakup of the Ottoman and Austro-Hungarian Empires as a demand for national groups seeking to divide territory.

In the early 20th century, the right to self-determination was then seen in the context of another goal: world peace. In his "Fourteen Points" speech, Woodrow Wilson addressed questions such as autonomy and minority rights. Nevertheless, although referring to minority rights (e.g. cultural and linguistic rights) within larger states, he rarely mentioned the establishment of new, independent states, being more concerned with the question of states' internal politics.



With the establishment of the UN in 1945, the right to self-determination gained more attention and a higher status, being included in the UN Charter, though it then only applied to existing states, not to peoples or national groups.

Yet, it evolved quickly from a principle to a right, especially after the 1960 UN Declaration on the Granting of Independence to Colonial Peoples. In this context, "self-determination" was not so much linked to the question of ethnicity, language or culture but rather considered a synonym for decolonisation. Still, self-determination applied to territories, not to peoples. It did not imply that all peoples had the right of self-determination, but only that all colonised states had the right to be independent.

In the late 1970s, when decolonisation slowly drew to a close, the third era of self-determination began. At this point, a trend towards combining the ideas of minority rights and decolonisation emerged, and the result has been a tendency on the part of some advocates to define self-determination as conferring the right to independent statehood on every distinctive ethnic group.

After 1989, the issue of self-determination became acute again in the former Soviet Union and Eastern Europe. In the Caucasus, Azerbaijanis, Armenians, Georgians and Chechens all demanded states on the basis of self-determination. In Yugoslavia, the Slovenes, the Serbs and Croats managed to carve out independent republics in the early 1990s.

In some cases, as history has shown, the right to self-determination led to bloodshed, genocide and massive human rights violations.



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Self-Determination has turned out to be an ambiguous international right that sometimes creates as many problems as it solves. Concerns (that have often been proven right) include, inter alia, that it fuels violence in independence movements. Its potential for violence and instability becomes even more obvious when one considers that some still very large empires, such as Russia and China are affected by contemporary independence movements.

INTERPRETATIONS NOWADAYS

Possible interpretations of the right to self-determination are numerous, reaching from the modest approach of using it as a synonym for minority rights up to seeing it as the legal basis for secession.



Intermediate interpretations include the right of self-determination as prerequisite to exercise individual human rights, as a collective right of the 3rd generation, or as a right of a people to form its own state (but not necessarily to secede).

Although liberation movements often like to reinterpret the right to self-determination as a right to secession, this approach is not recognised by international law.

Absolute demands for self-determination, especially when seen as a justification for secession are likely to become a source of endless violence.

Consequently, an absolute rejection is not possible either, since both states' repression and genocide in the name of territorial integrity are just as intolerable.

Alternately, intermediate categories of statehood, focusing on a non territorial demand, that can address minority groups' interests and aspirations, may well be considered.

SOLVING THE PROBLEM

The growing number of independence movements, having its origins in denial of minority rights as well as government repression and territorial disputes, are a clear indicator that defining the right to self-determination is not a problem that can be avoided any longer.

What needs to be done, therefore, is to establish a more concise and workable definition.

States should identify and explicitly define self-determination and the criteria that determine which entities are entitled to exercise the right and under what conditions, thereby preventing contemporary political independence and secessions movement from using violence.



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Moreover, the international community should develop some parameters that determine exactly what the right to self-determination includes.

Delegates should consider options such as decentralised and local forms of government, as well as concentrate on possible enforcement mechanisms of the right to self-determination and its scrutiny by an appropriate body.

Most importantly, when addressing this issue, delegates should bear in mind the importance of territorial integrity and states sovereignty that must not be neglected at any time.



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Suggested Reading and Additional Sources

Topic A: Defining the right of self-determination

For a better understanding of the issue, the following sources should be consulted, but they are not exhaustive, therefore it is recommended that the delegates research the topic on their own, both through academic sources, as well as informal channels.

Mandatory

1. [Human Rights Council](#)
2. [UN Human Rights – Office of the High Commissioner on Human Rights](#)
3. [UN Charter](#)
4. [International Covenant on Civil and Political Rights](#)
5. [International Covenant on Economic, Social and Cultural Rights](#)
6. ["Friendly Relations Declaration" of 1970 - \(Declaration on Principles of International Law on Friendly Relations and Co-operation among States in Accordance with Charter of the United Nations\)](#)
7. [Granting of Independence to Colonial Countries and Peoples](#)
8. [Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities](#)

Suggested

9. [Understanding Self-Determination: The Basics \(by Karen Parker\)](#)
10. [In pursuit of sovereignty and self-determination: Peoples, states and secession in the international order. \(Authors: Aleksandar Pavković and Peter Radan\)](#)
11. [The Dark Side of Self-Determination \(By Joseph S. Nye, professor at Harvard\)](#)
12. [\(Office of the High Commissioner for Human Rights\) - General Comment No. 12: The right to self-determination of peoples \(Art. 1\): .13/03/84](#)
13. [The Use of Force In Relation To Self-Determination in International Law \(by Mustafa Şahin\), 1999](#)