# THE ETHNIC AND POLITICAL BASES OF SELF-DETERMINATION IN POST-COLONIAL STATES

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## *MASTER OF PHILOSOPHY*

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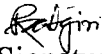New Delhi - 110067
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## CERTIFICATE

Certified that dissertation entitled **"THE ETHNIC AND POLITICAL BASES OF SELF-DETERMINATION IN POST-COLONIAL STATES"** submitted by me in partial fulfilment of the requirements for the award of the degree of MASTER OF PHILOSOPHY has not been previously submitted for any other degree of this or any other University and is my own work.

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*Dedicated to*
*Ma & Deuta*

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# INTRODUCTION

With the end of cold war, it was thought that the world would be a more peaceful and secure place to live in. Instead, the aftermath of the cold war witnessed more violence and conflicts all around the world. These post-cold war conflicts, however, differ fundamentally in their nature from the conflicts of cold war period. While conflicts during the cold war were mostly inter-state in nature, the majority of the post-cold war conflicts are largely intra-state. According to SIPRI studies, of the 35 conflicts that took place in the 1990s', only two were inter-state; the rest are classified as 'intra-state conflicts'.[1] The conflicts between various groups within states have become a worldwide phenomenon.

Behind most of these conflicts lies the demand for self-determination by various ethnic and national groups. Today, a number of ethnic and national groups all around the world are asserting or reasserting demands for their own separate states. From the Balkans to Burma, from the Caucasus to the Horn of Africa, communal groups are asserting claims for self-determination by force. The conflicts that result from these demands are the causes of the most of the current civil wars.

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[1] SIPRI Year Book, 1999 (New York: Oxford University Press), p. 9.

This ever growing demand for self-determination by different ethno-national group is posing a serious threat to the world order. With the rise of ethno-national desire for self-determination, a number of existing states today are facing the danger of breaking down into smaller units. The problem becomes much more serious when we consider the fact that today most states in the world are multi-ethnic. And if all these ethnic groups, who feel distinct from each other, start claiming separate states in the name of self-determination, then there would be "no end to the division of existing states". The former US Secretary of State, Warren Christopher, at his confirmation hearing before the Senate Foreign Relations Committee, asked "If we do not find some way that the different ethnic groups can live together in a country, how many countries we will have? We will have 5000 countries rather than hundreds plus we now have".[2] The drive toward ethnic-national self-determination has become one of the greatest challenges facing the international community in the 1990s.

With the rise of multiple demands for ethnic-national self-determination, the concept of self-determination has once again come to the fore. As a political concept, it was supported and partially applied by Woodrow Wilson when he drew the map of Europe after the First World War.[3] At that time, the legal aspects of self-determination were studied by two expert committees in the context of the

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[2] K. S. Shehadi, "Ethnic Self-determination and break up of states", *Adelphi Papers*, 283. (London: Brassey for International Institute for Strategic Studies).

[3] Hurst, Hannum, *Autonomy, Sovereignty and Self-determination: the accommodation of conflicting rights* (Philadelphia: University of Pennsylvania Press, 1990), p.32.

question of the Aaland Islands, and they reached the conclusion that it was not a binding rule of international law.[4] The principle of self-determination was mentioned in the U.N. Charter, probably not as a binding rule per se, but as a goal. It was not mentioned in the Universal Declaration of Human Rights, 1948. However the reference in article 21 to each citizen's right to take part in the government of his country, directly or through freely chosen representative, may be considered as an implied reference to the internal aspect of self-determination, that is, representative government.

Within the context of decolonisation during the 1960s, self-determination was given more weight by several landmark United Nations General Assembly Resolutions and the granting of independence to a great number of former colonies. A far reaching provision on the principle of equal rights and self-determination of people's was included in the Declaration on the Principles of International Law Concerning Friendly Relations and Cooperation among States, 1970, in accordance with the Charter of the United Nations. This Declaration, although not binding, nevertheless enjoys considerable political clout. The Helsinki Final Act 1993, of the Conference on Security and Cooperation in Europe (CSCE), also dealt with the subject. The recognition of the right to self-determination as a rule of law came in 1976 with the entry into force of the two

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[4] Hurst, Hannum, "Self-determination in Post-Colonial Era", in Donald, Clark and Robert, William, eds., *Self-determination: International Perspective* (New York: St. Martin Press, 1996), p. 15.

international covenants, one on civil and political rights, and the other on economic, social and cultural rights.

However, a close look at the principle of self-determination reveals that the concept is fraught with a number of ambiguities. Two such ambiguities are the lack of a generally accepted definition of the 'peoples' who are entitled to for self-determination, and whether sections of people within an existing independent state may also claim the right in order to justify a right of secession. These two ambiguities have become crucial in the present context when a number of ethnic groups are claiming the right to self-determination and many of them the right to secession and to form their own separate state on the basis of the right of self-determination.

The lack of a clear position over these issues has generated a lot of confusion regarding the legitimacy of ethno-national groups' claims for self-determination and to a separate state, and also the international community's support to such demands. Most of the declarations and definition of self-determination repose the right of self-determination to 'all people'. But there is no clear definition of what constitutes 'all people'. During the 19th century, when the principle first appeared, the subjects which were entitled for self-determination were considered to be all the nations. All nations, it was claimed, have the right of national self-determination. In the Wilsonian version of this principle, however, the 'self' who was to free itself from alien rule was not synonymous with the

nation.[5] And when Wilson actually implemented this principle after the First World War, the 'people' ultimately became the colonial people of Eastern Europe. The U.N. has established the right of self-determination as a right of people under non-self governing territories, trust territories and colonial domination as a whole. This right, under the U.N., belongs to the people of those territories as a whole and not to any ethnic group. This is evident from the U.N. focus on territory rather than on ethnicity. The International Covenants on Human Rights and the Declaration of Friendly Relations make those people the bearer of this right who are subjected to alien subjugation, domination and exploitation. However the problem with this kind of definition is that it does not offer any objective criterion to identify the true holders of this right. This is because, for instance, every demand for self-determination was presumably based on a subjective conviction that present rule is 'alien' or 'colonial' and its continuance can not readily be tolerated.[6]

Similarly, whether the right to self-determination applies only to colonial situations, or whether a section of peoples within existing independent (sovereign) states may also claim it in order to justify a right of secession, remains controversial. Some argue that since the right of self-determination belongs to 'all people', so sections of peoples of independent states should also have the right to

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[5] Michla, Pomerance, "The United States and Self-determination: Perspective on the Wilsonian Conception", *The American Society of International Law*, Vol. 70, 1976, p.27.
[6] Michla, Pomerance, *Self-Determination in International Law and Practice* (Oxford: Oxford University Press, 1982), p.46.

secession to establish their own self-governing states. But the existing international norms are against any violation of the territorial integrity of the existing states. More importantly, even the various declarations and formulations of the right of self-determination have condemned any attempt aimed at the partial or total breakup of states. Hence most authors consider the right of self-determination to be limited to colonial situations only. Secession is not considered to be permitted. Some other scholars have tried to strike a balance between the two norms by acknowledging secession as qualified right, permitted only under curtain conditions.

The confusion regarding the legitimacy of ethno-national claims for self-determination, however, has failed to deter such groups from raising and fighting for such demands. Thus, while scholars continue to debate over these issues, the world is witnessing ever-increasing instances of ethno-national political assertiveness. And this is not only true with regard to a particular part of the world. Third World countries are today witnessing what is called retribalisation. In the socialist countries of Eastern Europe also sub- nationalism persists unabated. But most dramatically, there is a flare of ethnic resurgence in the very archetype of nation-states, the states of the developed western world. And this brings us to the central question as to what are the causes or the bases of the rise of ethno-national demand for self-determination.

Several attempts have been made to provide a theoretical explanation of ethno-nationalism but none has proved to be totally convincing. Scholars engaged in this endeavour are widely divided on this issue. Some of them have focused on the natural or primordial bonds of such claimant groups, while others have emphasised the constructed or manipulative nature of such solidarity. In fact the whole writings on this issue can be broadly divided in to these two lines of thought -primordialist and instrumentalist/constructivist. The primordialist version considers "ethnic affiliation as assumed or given of human condition and state, parties, bureaucracies and politics are regarded largely as the public expression of these pre-existing ethnic cleavages and cultural identities".[7] Nations and ethnic communities, the proponents of this view claim, are the natural units of history and a integral element of the human experience. The sociological version of this view asserts that ethnicity is an extension of kinship and is the normal vehicle for the pursuit of collective goals in the struggle for survival. Even more important is that "such primordial ties have always divided the human species, as naturally as have sex or geography and will always do so".[8] In essence this approach considers ethnic consciousness as a natural and essential independent variable that leads to political assertiveness and separatism. On the other hand, the instrumentalist/constructionist view emphasises the plastic and malleable nature of ethnicity. This version considers this phenomenon of ethnic affiliation essentially

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[7] Anthony D. Smith, "Culture, community and territory: the politics of ethnicity and nationalism", *International Affairs*, Vol. 72, No. 3, (1996), p.446.
[8] Anthony, D. Smith, *Ethnic Origin of Nation* (Oxford: Blackwell Publishers Ltd., 1986), p.12.

as a social or political construct and as an instrument of political elites.[9] Thus in sharp contrast to the primordialists, the instrumentalists treat ethnicity as a social, political and cultural resource for different interest and status groups.

This study is an attempt to address these questions. The study has been divided into three main chapters. And each chapter deals with one of the issues concerning the right of self-determination.

In the first chapter an attempt has been made to analyse the nature of the definition of the 'people' who are the legitimate subjects of the right to self-determination. This issue has been looked into primarily in the light of the historical developments of the right and the different meaning the term 'people' has assumed at different stages of its development. In this regard special emphasis has been given to the meaning of the subjects of this right under various formulations of this right by the U.N. and other international bodies. And lastly, recent developments with regard to the scope of the subjects of this right have also been touched upon.

The second chapter deals with the bases or causes of the rise of the demands for self-determination by various ethno-national groups. For this purpose, the existing three dominant views regarding ethno-national solidarity, namely the primordialist, the instrumentalist/constructivist and ethno-symbolism

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[9] Anthony, D. Smith, n.7, p.446.

have been examined. This has been done by reviewing the main literatures representing each of these views. Finally, a critical assessment of these views is also attempted.

The questions of whether a section of the population of an existing independent state can claim the right of self-determination or not, and whether the right to self-determination implies a right of secession too, are taken up in the third chapter. In other words, this chapter deals with the legitimacy of the ethno-national groups' claims for secession. This has been done by examining the position of the right to secede under international legal norms and existing state practices. In this respect, the various arguments against the right of secession are also analysed. And finally, this chapter also highlights the particular situations under which such rights can be granted.

# CHAPTER I

## Self-determination: Who are the subjects of this right?

The concept of self-determination is ridden with number of ambiguities. The first and foremost among them is regarding the definition of the term 'self'. Who are entitled to self-determination? In other words, there is no clear definition about who are the holders of this right. Various texts have vested this right on "the peoples". But what constitute "the peoples" has remained a matter of intense debate among scholars, statesmen and diplomats, and so far there has not been any agreement as to what constitute "the peoples". This lack of a clear definition of the notion of peoples introduces a severe ambiguity and an element of subjectivity into the concept, often leading to a double standard in the recognition of the right to self-determination in specific cases. In the words of Thomas M. Franck, ambiguity in the notion of the "the peoples" has led to the gradual descent of self-determination into unprincipled conceptual incoherence.[1]

In fact, the "self" of self-determination has assumed a different meaning at different periods in history. For example, Dov Ronen has talked about five manifestations of self-determination, each of which has been dominant at successive periods, between the French Revolution and the present: mid-

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[1] Thomas M. Frank, *The Power of Legitimacy Among Nations* ( Oxford: Clarendon Press, 1990), p.153. Cited in Ruth Lapidoth, " Sovereignty in Transition", *Journal of International Affairs*, Vol. 45, No. 2, Winter 1992, p.336.

nineteenth century European national self-determination; late 19<sup>th</sup> century Marxist class self-determination; Post-World War I Wilsonian minorities' self-determination; post-world war II non-European racial self-determination; and contemporary ethnic self-determination. In each self-determination movement, the subject of this right has remained different: European nations, working class, cultural minorities, Black people of Africa and Asia and ethnic groups respectively.[2] He has also made a significant observation about the causes of the development of these various types of self-determination movements and the consequent changing meaning of the term 'self'. According to him the right to self-determination is an expression of the aspiration to rule one's self and not to be ruled by others.[3] This right has epitomized the aspiration of human beings to be free or to be 'free from' what they perceive as 'others'. So the "self" in self-determination, he argues, is the singular, individual human being and not any aggregation of human beings. In his own words "It is only because the institutionalisation of individual self-determination is not possible that the aggregation of "I"s, the "us" is substituted. But each aggregation is only a temporary "us" because it does not provide self-determination for each "I". The aggregation splits into a new "us" and "them" and becomes the stage for a new drive for self-determination, fueled by the hope that after freedom from "them" my self-determination will be realised. Because the new "us" often becomes just

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[2] Dov Ronen, *Quest For Self-Determination* (New Haven: Yale University Press, 1979), p.25.
[3] Ibid., p.7.

another framework that appears to limit the freedom of the individual, of the real "self" the perception of a new "them" is promoted and hence the formulation "us" for the further persuit of the aspired to "freedom" and "good life". And so a new quest of self-determination evolves with another new "us"; and then another, possibly ad infinitum.[4]

As mentioned above the meaning and scope of the term "self" of self-determination has not been a fixed one so far. In the different time periods, it has acquired different meaning and now again its meaning is changing. So the best way to understand the meaning of the "self" is to analysis the past, present and possible future meaning of the term.

## Meaning of the 'self' during and after the French Revolution

The age of self-determination can be said to have begun with the French Revolution. The French Revolution was a turning point in the history of self-determination, for it symbolised the recognition of the right of the "ruled" as such to turn against the "rulers".[5] The core of the principle lies in the French insistence that the government be responsible to the people.

However in the French Revolutionary thinking, the people who hold the right to self-determination had a very narrow scope. It was restricted to the right of

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[4] Ibid., p.8.
[5] Ibid., p.7.

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already existing nations to abandon monarchical regime.[6] And this narrow interpretation of the subjects of this right remained unchanged, when this right was formally enshrined in article 2 of Title XIII of the draft constitution presented by Condorcet to the national Convention on 15th February 1793. Under this formulation this was to be applied only to the changes in states borders. Colonial people were not deemed to have a right to self-determination; neither were minorities or ethnic, religious or cultural groups.[7] Under Article 3 of the French Declaration of the Rights of Man and the Citizen, it is the nation which is essentially the source of all sovereignty, not a fraction of the nation.[8] Moreover the French leader further restricted the scope of this right by misapplying it. They used this right mainly to justify the annexation of land belonging to other sovereigns. They conducted plebiscite in those areas belonging to other sovereigns but whose population expressed some desire to be united with the French and once the result of plebiscite was in favour of France, they annexed that territory. For example, in 1793 the French conducted plebiscite in Belgium and Palatinate and these territories were annexed in accordance with the populations' expressed desire to unite with France. Thus during the period of the French Revolution and in its

[6] Jorri C. Duursuma, *Fragmentation and the International Relation in Micro-States: Self-Determination and Statehood* ( Cambridge: Cambridge University Press, 1996), p.8.
[7] Antonio Cassese, *Self-determination of People* (Cambridge: Cambridge University Press, 1995), p.11.
[8] Duursuma, n.6, p.9.

aftermath, for all practical purposes the people who were entitled to self-determination were those who were living in the territory of an other sovereign but who expressed a desire to be united with France.

The concept of self-determination which emerged out of French Revolution soon took the form of national self-determination in Europe and more particularly in Italy and Germany. From late eighteen century onwards the right to self-determination especially stirred Germans and Italians, who had come into intense contact with French people and culture during the upheavals of the Napoleonic Wars. But in Germany and Italy the right to self-determination became the struggle for liberation of themselves and their culture from French domination.

In Italy, for example, Mazzini invoked it as a right of nations to freely choose their status.[9] In the words of Hans Kohn, "concept of French Revolution spread to Italy and Germany were eagerly learned from France. But the emphasis shifted: the tyrants to be expelled were French influence and French armies of occupation; the liberty worshipped was not so much individual freedom from authoritarian government as national freedom from foreign governments.[10] The 'us' of the people as opposed to 'them' of the authoritarian ruler changed in the nineteenth century to the 'us' of the Germans and Italian nations opposed to the 'them' of the French nation and French foreign rule. This pursuit of national self-determination spread to other European nations too. An outstanding example is

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[9] Ronnen, n.2, p.26.
[10] Cited in Dov Ronen, n.2, p.27.

Belgium. In 1830, the Walloon and Flemish peoples rose against the alien Dutch rule and then choose to remain members of a single state.[11] In this period of national self-determination, the 'them' was not a foreign ruler but the rule of alien nation. Thus once liberated from Dutch alien rule, the Belgians offered the crown to a royal heir of France and then to a German Prince. Russia, France and Britain went along with the principle of national self-determination when during the 1820, they supported the Greek rebellion against Ottoman rule.[12] Thus during this period the holders of the right to self-determination was the nation as a whole who were united against an alien nation.

## The concept of 'People' under the Marxist theory of self-determination

Almost during the same period, when the right to national self-determination was gaining firm root in Europe, there emerged another type of self-determination but it did not remain confined to Europe only and spread beyond the boundaries of Europe. This new form of self-determination was the Marxist class self-determination. Under this new formulation of self-determination, the subjects of this right also assumed a new meaning. It no longer remained the 'nation' but became the working class of the world. The right of self-determination appears in Marxist doctrine as a right of the working class only, to liberate themselves from capitalism and unify themselves for the proletarian revolution. According to Marx

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[11] Ibid., p.28.
[12] Ibid., p.28.

the fundamental dichotomy and conflicts are not between the 'us' and 'them' of nations, but between polar groups inversely related to the means of production.[13] For Marx, the alien rule is the oppression by the owners of means of production. The proletariat quest for self-determination is to establish the true community of a communist society.

## Leninist and Wilsonian theories of Self-determination

Then, with the advent of the First World War and the Bolshevik Revolution the concept of self-determination emerged in the international scene. Woodrow Wilson and Vladimir Lenin emerged as the strongest proponent of this right.

### Lenin's view

Lenin basically derived his view on self-determination from Marx. Like Marx, he was also mainly interested in the liberation of working class and the establishment of a communist society. He sought to use self-determination as a means to achieve that ultimate goal. According to him, people are yet not ready to move towards the classless world communist society and therefore the era of self-determination should constitute the transitory phase in the long march towards the world communist society. Accordingly, Lenin envisioned self-determination as having three components. First, it could be invoked by ethnic or national groups intent on deciding their own destiny freely. Second, it was a principle to be applied

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[13] Ibid., p.30.

during the aftermath of military conflicts between sovereign states, for the allocation of territories to one or another power. Third, it was an anti-colonial postulate designed to lead to the liberation of all colonial countries. Out of these three components, the first and the third throw some light on Lenin's view about the subjects of the right to self-determination. Under the first component, which granted ethnic or national groups the right to decide their destiny freely, all ethnic groups and not just those living under colonial rule, were to have the right to choose whether to secede from the power to which they were attached, or alternatively, to demand autonomy while remaining part of the larger structure. And the third component entrusted the right to self-determination to all those people who were under colonial domination.

As mentioned already, the political philosophy underpinning Lenin's concept of self-determination was socialism and his main goal was to further the cause of establishing socialism and the right to self-determination was subservient to this larger goal. Therefore, Lenin and his successor supported the cause of self-determination when such support served their larger cause of establishing socialism and denied it when it was not so. Lenin asked rhetorically "which should be put first, the right of nations to self-determination or socialism? His answer was socialism".[14] Therefore, in the subsequent period US.S.R and other socialist countries consistently supported anti-colonialism as this conformed with their

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[14] Cassese, n. 7, p.36.

political and ideological goal but such support was absent in case of the right of self-determination of various ethnic and national groups of state. Ultimately Lenin and other Soviet Leaders were more interested in the self-determination of the working class in each state rather than in the self-determination of populations in their entirety.

**Wilson's View**

At the same time as Lenin was championing self-determination with an eye towards a worldwide socialist revolution, Woodrow Wilson was developing his own thoughts on the subject. And in due course, he became one of the strongest champions of the principle of self-determination. According to him "every people has a right to choose the sovereignty under which they shall live. And no peace can last, or ought to last, which does not recognise and accept the principle that governments derive all their just power from the consent of the governed, and no right anywhere exists to hand peoples about from sovereignty to sovereignty as if they were property".[15] However, a close look reveals numerous ambiguities and internal inconsistency in his concept of self-determination. The most important among them is the ambiguity with regard to the question of who is the 'self' of self-determination. Ivor Jennings in 1956, observed: "Nearly forty years ago a professor of political science who was also president of the United States,

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[15] Cited in Michla Pomerance, "The United States and Self-Determination: Perspective on Wilsonian Conception", *The American Society of International Law*, Vol. 70, 1976, p.18.

President Wilson, enunciated a doctrine which was ridiculous but which was widely accepted as a sensible proposition, the doctrine of self-determination. On the surface it seemed reasonable. Let the people decide. It was in fact ridiculous because the people can not decide until somebody decides who are the people".[16]

The seed of the difficulty is discernible in the genesis, development, and application of the Wilsonian idea of self-determination. Wilson derived his idea of self-determination from his notion of self-government. For Wilson self-determination is the logical corollary of popular sovereignty; it was synonymous with the principle that government must be based on the consent of the governed.[17] But the term self-government had an imprecise dual connotation for Wilson.[18] On the one hand, it implied the right of a population to select its own form of government, yet on the other hand; it also strongly suggested that self-government must be a continuing process and must therefore be a synonymous with the democratic form of Government. It was further more unclear as to how universally applicable 'self-government' was. From an initial position in which he believed the capacity for self-government to be confined to the English speaking world, Wilson apparently came to posit such a capacity in all people. "When properly directed", he stated, "there is no people not fitted for self-government".[19] Wilson's pre-war thought on self-government was thus a vague amalgam of what may be

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[16] Ivor Jennings, *The Approach to Self-Government* (1956), pp. 55-56, cited in n. 15, p.16.
[17] Cassese, n. 7, p.43.
[18] Pomerance, n.15, p.17.
[19] Cited in Pomerance, n.15, p.17.

termed as internal self-determination, universal democracy and the tutelage of primitive people toward ultimate self- rule. The break up of empires on the basis of the principle of nationality was not then in contemplation; nor did the concept of 'self-government' embrace any notion of external self-determination, i.e., right of every 'people' to choose its own political allegiance and to be free of 'alien' sovereignty. Both ideas came to figure prominently only as a result of the outbreak of the war and subsequent developments.

The 'principle of nationalities', which during the war was used either interchangeably or in close association with 'the right of people to determine their own fate', was possibly one for which Wilson had not had a natural affinity.[20] The 'self' in Wilson's 'self-government' was not necessarily the nations of continental Europe. Indeed many indications point to a more atomistic and less historic view of the nation than was prevalent in Europe and a negative assessment by Wilson of European type nationalism. Thus he had contrasted unfavourably the German concept of 'Volk' as a community of blood and of origin with the Anglo-American view of the 'nation' as a 'community of organisation' of life and of tradition. But the war served to throw into high relief the question of subject nationalities, and as a result, new elements were super imposed upon Wilson's original concept of 'self-government'; thus multiplying the original ambiguities. Wilson began to include as a matter of 'consent of the governed' the right of

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[20] Ibid., p.18.

people to choose their own sovereignty and their own allegiance and not to be handed about from sovereignty to sovereignty. The problem of external self-determination was becoming more prominent in his thought but it was still not clear that the 'self' who was to free itself from alien rule was synonymous with the 'nation.' Self-determination did not necessarily require the coincidence, in so far as possible, of the ethnographic and political maps.[21]

So in the Wilson's formulation the subject of the right to self-determination remained vague and it remained unclear whether the unit in contemplation is a race, territorial area or a community.

Dov Ronnen has called Wilsonian self-determination as self-determination of minorities. According to him when Wilson appealed to "people" he did not mean human beings in general, he meant the underrepresented minorities.[22] A striking aspect of Wilson's concept of self-determination is that it referred to "those nations and territories whose destinies had to be resettled in one way or another because they had been unsettled by the war".[23] This implies that Wilson conceived self-determination as an optional means of settling limited range of problems at the close of the war. These problems included the future boundaries of Europe, the future of Germany and the maintenance of peace among nations. Wilson suggested the formula of self-determination as a solution to these problems and not as basic ideology with universal applicability.

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[21] Ibid., p.18.

[22] Ibid., p.32.

[23] Ibid., p.32.

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## The meaning of the 'people' during the inter war periods

The problem of identifying the 'self', who holds the right turned out to be one of the major obstacle in putting the principle into practice in the Paris Peace Conference. In the absence of any clear-cut definition, the self of Wilsonian self-determination came to be misconceived by many. They gave the term its most extreme meaning implying a right to political independence for every ethnic group no matter how small. In the words of Robert Lansing, Wilson's own secretary of state, "The more I think about the President's declaration as to the right of self-determination the more convinced I am of the danger of putting such ideas into the mind of certain races. It is bound to be basis of impossible demands on the Peace Congress and create trouble in many lands…. Will it not breed discontent, disorder and rebellion? The phrase is simply loaded with dynamite".[24] This together with the victor's geo-strategic, political and economic interest had ultimately prevented the leaders of Allied powers to implement this right universally. They upheld this right only with regard to the people of defeated power's territories and to the people of Europe. So during this period the subjects of the right to self-determination effectively became the people of defeated powers and Southern and Eastern Europe.

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[24] M. H. Halparin, et.al., *Self-determination in the New World Order* (New York: Carnegie Endowment for international peace, 1992) p.17.

## The concept of 'people' during and aftermath of the Second World War

During the second World War as early as 1941, the US and the UK proclaimed self-determination as one of the objective to be attained and put into practice at the end of the conflict. The Atlantic Charter drafted by U.S President Roosevelt and British Prime Minster Churchill, and made public on 14 August, 1941, proclaimed self-determination as a general standard governing territorial changes, as well as principle concerning the free choice of rulers in every sovereign state. But in the Charter the term 'self' was given a very narrow interpretation. Churchill on 9 September 1941, clearly stated in the House of Commons that the principle of self-determination proclaimed in the Charter did not apply to colonial people (in particular to India, Burma and other parts of the British Empire) but only aimed at resorting 'the sovereignty, self government and national life of the states and nations of Europe under the Nazi Yoke, besides providing for any alternations in the territorial boundaries which may have to be made".[25] After the end of the war, the Allied leaders in tune with their war time declaration agreed to include the right of self-determination in the Charter of the United Nations. Accordingly the right to self-determination was inserted in Article1 (2) and Article55 and into chapters XI and XII on decolonisation. Article1 (2) of the Charter states that one of the purpose of the U.N. is to develop friendly relation among nations based on respect for the principles of equal right and self-

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[25] Duursuma, n.6, p.25.

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determination of peoples and to take other appropriate measures to strengthen universal peace. Article 55 is a logical continuation of Article1 (2) for it enumerates the objectives the U.N. shall promote "with a view to the creation of conditions of stability and well being which are necessary for peaceful and friendly relation among nations, based on respect for the principle of equal rights and self-determination of peoples". Thus under the Charter the repository of the right to self-determination is "the peoples". But the Charter remains silent as regards the constitution of the 'people'. However from the analysis of the debate on the issue of self-determination between various delegates of different countries preceding the formal incorporation of it in the Charter, it can be suggested that the Charter instituted self-determination only for pre-existing territorial units and for Colonial people to achieve independence.[26] Minority or an ethnic group or a national group does not enjoy this right to secede from a sovereign country.

Chapter XI and XII of the Charter also hold interesting clues regarding the holder of this right. The two chapters, though they did not contain any explicit reference to 'self-determination', did establish the principle indirectly. Article73 of chapter XI calls upon states administering non-self-governing territories, territories "whose people have not yet attained full measure of self-government to promote self-government, to take due account of the political aspirations of the people and to assist them in the progressive development of their free political

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[26] K. S. Shehadi, " Ethnic Self-determination and break up of States" (Adelphi Papers, 283, London: Brassey for International Institute for Sretegic Studies), p.18.

institution". Article76 of chapter XII states that a basic objective of the U.N. trusteeships is to promote progressive development in the trust territories 'towards self-government or independence'. The important aspects of each of the chapters are its focus on territory rather than ethnicity. Progress towards self-government was to be promoted in self-governing and trust territories as a whole political entities- regardless of any internal ethnic, linguistic or religious diversities. The emphasis on territory rather than on ethnicity limited the 'self' that was entitled to move towards self-government. It also foreshadowed a future tension between the principle of self-determination and the competing principle of territorial integrity, which worked to prevent the extension of a right of self-determination to ethnic groups or minorities within territories administered as a single unit by a Colonial people.[27]

## The concept of 'people' in the decade following the Second World War

In the decade following the Second World War the demand for Self-determination by Colonial people became very intense. During this period the right to self-determination became the right of Colonial people to be free from Colonial rule. Dov Ronnen has termed this new demand for self-determination as decolonisation or the second manifestation of the African quest for self-rule.[28] The first one was the Pan Africanism, formulated in the mid nineteenth century. Pan

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[27] Halparin, n.25, p.21.
[28] Ronnen, n.2, p.35.

Africanism, according to Geiss, is an ideology of emancipation from white supremacy.[29] It may be said to have originated in the late nineteenth and early twentieth century among black communities in the United States with the evolution of an African Consciousness. Pan Africanism did not primarily aim at liberation of Africa from the Colonial Framework. As Langley perceptively put it "In spite of all these objections to 'alien rule' there was never any mention of severing relations with the Colonial power".[30] It simply awakened the awareness of racial discrimination and aimed at personal and social equality within the framework of a given Colonial political boundary. In this type of self-determination, it was the black people of African origin who became the subject of the right to self-determination.

Decolonisation or the second phase of African quest for self-rule was on the other hand a desire for liberation from Colonial rule, a rejection of political domination by a foreign society, especially of a different race, and not merely the will to secure more rights within the Colonial Framework as during the Pan African phase. Lots of external factors contributed to the growth of this type of self-determination. But the most important cause was the internal changes in African society, which brought about the shift from Pan-Africanism to decolonisation. These internal changes included the faster spread of education of Africans in Africa and abroad, urban growth and economic growth. Only with the

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[29] Cited in Ronnen, n.2, p.35.
[30] Cited in Ronnen, n.2, p.36.

termination of foreign rule could the growth have meaning and the problems that foreign rule had created can be solved. Decolonisation was the quest for liberation from Colonial rule, prompted by the perception of this rule as the hindrance to the realisation of Pan African aspirations towards basic human equality. Thus in this phase the Colonial people became the subject of the right of self-determination.

The socialist countries and newly independent countries became the most active supporters of anti-colonial self-determination. They adopted and developed Lenin's thesis that self-determination should first and foremost be a postulate of anti-colonialism. Side by side with political doctrine, Eastern European legal literature also strongly advocated this concept. The Soviet international lawyers G. B. Staruskenko and G. Tunkin, and their East German counterparts Arginger, Steiniger and Gracefarth, underlined that above all else self-determination means the liberation of people subject to racist regimes (like that of South Africa) and Colonial Domination and its 'after-affect's.[31] Though the newly independent countries of the third world had actively supported the self-determination of Colonial people, their approach to self-determination was both less carefully developed and more linear. For these states self-determination mainly meant three things – (i) the fight against Colonialism and racism, (ii) the struggle against the domination of any alien oppressor illegally occupying a territory, (iii) the struggle against all manifestation of Colonialism and in particular the exploitation by alien

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[31] A. Cassese, *Self-determination of People* (Cambridge: Cambridge University Press, 1995), p.51.

powers of the natural resources of developing countries. Ethnic and tribal conflicts being rife in many developing countries, the third world group ignored or even explicitly denied the rights of minorities or nationalities living within sovereign states. For the most part the third world countries championed 'external', not internal self-determination, with external self-determination being granted only to limited categories of people.

## The meaning of the 'self' under the Declaration on Granting Independence to Colonial Countries and People

Out of the growing pressure from socialist countries and third world countries, the U.N. General Assembly adopted an important resolution on 14 December, in 1960, widely known as Declaration on Granting Independence to Colonial Countries and People. Paragraph 1 of this declaration state, "All peoples have the right to self-determination; by virtue of that right they freely determine their political status and pursue their economic, social and culture development".

Although the title of the Resolution 1514 could give an impression otherwise, the right proclaimed in the Declaration is formulated as a general one. Paragraph 2 aims at a universal application of the right of self-determination of people and not just of Colonial people. Paragraph 1 declares that the subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights. Subsequently, and constructed as one element or consequence of the general right to self-determination, the trust and non-self-

governing territories are granted the right to independence. A special reference to Trust and Non-self-governing territories is made in paragraph 5 of the Declaration stating: "immediate steps shall be taken in trust and non-self-governing territories or all other territories which have yet not attained independence, to transfer all powers to the people of those territories… in order to enable them to enjoy complete independence and freedom". Thus this Declaration extended the right of self-determination beyond the Colonial people to the people of non-self-governing territories. However the member's countries of the U.N., both Third World and Western Countries, were quick to ensure that this wider interpretation of the form people in the declaration did not encourage other self-determination demands. This is because the Third World countries were as vulnerable to secessionist demands as were their Colonial masters. Therefore, the very following day, they adopted another Resolution 1541 in order to uphold the principle of territorial integrity and to limit the 'self' to whom the right to self-determination could apply. The Resolution specifies that a territory would be considered non-self-governing under chapter XI of the U.N. Charter only if it were both "geographically separated and ethnically and/or culturally distinct from the country administering it". Thus strictly read Resolution 1541 rules out classifying a minority or ethnic group of a state territory as a non-self-governing entity entitled to self-determination or self-government.

## The 'self' under the International Covenants on Human Rights of 1966

In 1966, the two international covenants on human right, the U.N. Covenant on Civil and Political Rights and the U.N. Covenant on Economic and Social Right-endorsed the right of self-determination of people. Article1 of both covenants state.

1. "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.

2. All peoples may, for their own ends, freely dispense of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The states parties to the present covenant, including those having responsibility for the administration of non-self-governing and trust territories, shall promote the realisation of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nation".[32]

During the drafting process of this article the issue of what constitutes "the peoples" that are entitled to self-determination turned out to be a matter of intense

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[32] Cited in Duursuma n.6, p.42.

debate. The debate was mainly between Third World countries and Western countries. Initially the debate was mainly regarding the inclusion of this right in the covenant but later the debate shifted to the definition of the people. While most of the Third World countries favoured to limit this right to the colonial people only, the western courtiers wanted to confer this right to other people as well.

Most of the Third World countries wanted to restrict the right to colonial people only. They feared that if the scope of the right was not limited then it might be interpreted as conferring right on national minorities, which would disrupt the sovereign states. The Soviet Union insisted that self-determination should only afford a right to colonial people.[33] Similarly India explained that the word "people" was to apply only to large compact national groups... who made a conscious demand for the right of self-determination.[34] Venezuela understood the term "people" in the most general and unqualified sense and therefore as not applicable to racial, religious or other groups or minorities.[35]

On the other hand, Western countries were in favour of a wider interpretation of the term "people". These countries were initially opposed to the induction of this right in the Covenant, but once it became apparent their view would not prevail they changed their view. But they insisted that if the right to

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[33] Cited in Cassese, n.7. p.49.
[34] UN Doc. E/cn. 4/ SR. 256. (1952), p.5.
[35] Cited in Duursuma, n.6, p.47.

self-determination were incorporated, than it should also apply to the people of sovereign states oppressed by their own governments.[36]

In the end no consensus could be reached on the issue. The drafting states vaguely vest the right in peoples without clarifying what the term "people" means. However Antonio Cassese argues that the general spirit and context of Article1 and combined with the preparatory work, suggest that Article1 confers this right to the following categories of peoples, (i) entire population living in independent and sovereign countries, (ii) entire population of territories that have yet to attain independence, and (iii) population living under foreign military occupation. It is thus, according to Cassese apparent that the existence of a right to self-determination is not necessarily determined by reference to a territory's international status.[37]

## The meaning of 'self' under the Friendly Declaration of 1970

On 24 October 1970, the General Assembly adopted Resolution 2625 entitled 'the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among Nations States' in accordance with the Charter of the U.N. According to the preamble of the Declaration on Friendly Relations, the principles enunciated codified and constitute the basic principles of international law. One of the principles included in the Declaration is that the

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[36] Ibid.
[37] Duursuma, n.6, p.49.

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principle of equal rights and self-determination of peoples. The provisions regarding the self-determination of Declaration states –

(i) By virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every state has the duty to respect this right in accordance with the provisions of the Charter.

(ii) Every state has the duty to promote realisation of the principle of equal rights and self-determination of peoples.... and bearing in mind that subjection of peoples to alien subjugation, domination and exploitation constitutes a violation of the principle.

(vi) The territory of a Colony or other Non-self-governing territories has...a status separate and distinct from the territory of the state administering it.

(vii) Nothing in the foregoing paragraph shall be construed as authorising or encouraging any action which would hamper....territorial integrity of sovereign and independent states, conducting themselves in compliance 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.

During the drafting of this article the issue of defining the "peoples" came to the fore. India argued that the right to self-determination did not apply to all peoples but only to Colonial Peoples or Peoples living under alien subjugation,

domination and exploitation.[38] Ghana and Arab did not go that far, but nevertheless believed that the right to self-determination applied essentially to peoples living under Colonial domination.[39] Britain and Australia, on the other hand, protested against this narrow interpretation, stressing the universal applicability of the principle. They argue that giving the principle of self-determination any other meaning would be contrary to the Charter.[40] The joint proposal submitted by Algeria and other non-aligned states also insisted that the subjection of peoples to alien subjection, domination and exploitation as well as any other form of Colonialism constitute a violation of the principle.[41] The Algerian delegates explained that he distinguished three situations to which the right of self-determination applied. The first one was the case of independent peoples in their relations between each other. The second situation concerned self-determination of people within states. He did not accept the right of secession, as he believed it fell entirely under the domestic jurisdiction of states to grant such a right or not. The third and last case in which the right to self-determination could be invoked was in the case of oppressed people, namely those living under Colonial or racial domination. Thus this joint proposal of non-aligned states does not restrict the right of self-determination to peoples under alien subjugation, domination and exploitation, and granted this right to other people also, namely

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[38] UN Doc. A/Ac. 125/SR. 43(1966), p.16. para 40.
[39] UN Doc. A/Ac. 125/SR. 40(1966), p.8. para 11.
[40] UN Doc. A/Ac. 125/SR. 44(1966), p.8. para 14.
[41] UN Doc. A/7326 (1968), pp. 52-53.

independent people. This view that right of self-determination extended to dependent and independent peoples were shared by many delegates.

In the end a compromise was reached. Paragraph 2 of the Declaration on Friendly Relations, declares that every state has to promote the realisation of the principle of self-determination of people, bearing in mind that subjection of peoples to alien subjugation, domination and exploitation constitute a violation of this principle. Considering the preceding discussion, the bearing in mind formula does not intend to restrict violations of the right of self-determination to cases of alien subjugation, domination and exploitation. Independent peoples of existing states can see their right of self-determination violated too, though this does not necessarily imply that they are under alien subjugation, domination and exploitation.

Another issue that came up regarding the scope of the holder of the right was whether, besides independent people of existing states and colonial peoples, there are other peoples who hold the right of self-determination. Some states accepted the right of secession from existing states as inherent in the right of self-determination.[42] Other opposed this view stating that it was doubtful whether such a right existed and could be codified.[43] Under the U.S and British drafts, a limited right of secession was accepted. The US proposal included "a zone of occupation

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[42] Yugoslovia: UN Doc. A/AC. 125/SR 40(1966), p.11, para19 and Chili UN Doc. A/AC 125/SR43 (1966), p.7, para44.
[43] France: UN Doc. A/AC. 125/SR 41(1966), p.5, para13 and India: UN Doc. A/AC 125/SR43 (1966), p.16, para40.

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ensuing upon the termination of military hostilities" and a territory geographically distinct and ethnically diverse from the reminder of that state's territory, even though not as a colony or other non-self-governing territory.[44] However if a state possessed a representative government effectively representing as such all distinct peoples within its territory, the principle of self-determination was satisfied.

Ultimately the final Declaration emphasises the preservation of territorial integrity, but added a qualification. It specifies that protection of territorial integrity applies only to states "possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour". One author suggests that the provisions constitute an unambiguous affirmation of the applicability of the right of self-determination to people inside the political boundaries of existing sovereign and independent states in situations where the government does not represent the governed.[45]

However, other commentators view this provision of the Declaration as having far less sweeping implication. Noting that the requirement of 'representative government' appears in a racial context, they argue that the principle of territorial integrity is superceded by that of self-determination only in the case of racist regimes.

Thus while there is no doubt that there is an international legal right of self-determination in the context of decolonisation, the extension of that right to non-

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[44] US Draft. para 2, A(I)(b) and (2).

[45] M. G. Kaladharan Nayar "Self-determination beyond the Colonial Context: Biafra in Retrospect", Texas International law Journal, Vol. 10, 1970, p.337.

colonial situation was not clear as the cold war came to an end. Most scholars and governments had concluded that the principle of political unity prevailed over any expression of self-determination within a state. As one author has noted, the international community "subscribes to a highly conventional interpretation of the principle of national self-determination. It cannot be invoked, at least with any hope of securing widespread support, by dissatisfy minorities within the states.

The concealment of the right of self-determination to colonial people, however, did not conform to the reality. The world, particularly since the seventies have witnessed increasing demands of self-determination by different ethnic groups of the existing states. During the seventies, Van Dan Berghe, commenting upon the magnitude of this phenomenon had complained that "everybody began to talk of revival of ethnicity…. Now everybody (or nearly so) is on an ethnic kick".[46] The demand for ethnic self-determination has become more intense after the cold war. With the lifting of the constraints of the ideological war, the world today is witnessing what is come to be termed as retribalisation. This is so much so that today most of the conflicts are motivated by the factors related to ethnic self-determination. And this is not confined only to the poor and backward countries of Asia and Africa but equally prevalent in the developed countries of the West also.

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[46] Cited in Ronnen. n.2, p.47.

Different ethnic groups today all around the world are advancing their demand for self-determination. In some cases these demands for self-determination have been restricted to the demand for autonomy for the groups within the states. While in some cases it has taken the form of claim for establishment of separate state for that group.

Ethnic group can be defined as a group of people who feel distinct from others because of their different culture, religion, language and race. The ethnic groups believe that their distinct culture, religion, language and race make them a distinct people from other and therefore, according to them, they are entitled for self-determination. Every ethnic group of the world who feels separate or distinct from other because of some objective differences is the subjects of the right of self-determination. Thus under this formulation the criterion for determining who is entitled to self-determination are the same as those for identifying an ethnic nation: a common ancestry, common language, common religion, common culture or any combination thereof. The ethnic self-determination emphasised that an ethnic nation should thus have its own political institution and international recognition to give it a political identity.

**Recent Developments**

During the cold war, as mentioned earlier international law was against the extension of the right to self-determination beyond colonial people. But in post cold war, in conformity with the new realities of the proliferation of demands for

self-determination by different categories of peoples, the international law as well as states practices are beginning to move towards more accommodative stand to govern the claims of self-determination. Three developments in international law and states practices: in the protection of minorities' rights, protection of democracy and the law of recognition are indicative of these developments.

During the cold war, the concept of minority right was narrowly construed and rarely applied. In the post cold war era, however, the international law is evolving to provide greater protection for minority rights, in part because such protection has the potential to prevent dismemberment of the multi-ethnic states. In the cold war period, whatever was offered in the name of minority rights was very limited in scope and imprecise. Moreover, the major concern of that period was the protection of individual human rights rather than groups' rights of minorities. The beneficiary of minority rights was the individual member of a minority group and not the group as a whole.

In the aftermath of cold war, minority rights in a collective sense have found their expression in several important documents. Some of them are, Draft Declaration on the Rights of Minority, 1991, by U.N. Sub Commission on Prevention of Discrimination and Protection of Minorities, Copenhagen Documents, 1990, adopted by the Conference on Security and Cooperation in Europe (CSCE), the Charter of Paris 1990, signed by CSCE heads of state and government, the report of the Geneva CSCE meetings of Experts on National

Minorities.[47] These Declarations reaffirm the traditional linguistic, cultural, religious, social and political rights of the minorities and also extend the scope of them to include political functions and powers to minority groups as a whole. Some of them have emphasised the need of democratic governments and rule of law as necessary for protection of minorities. More importantly, issues concerning national minorities, as well as compliance with international obligation and commitment concerning rights of persons belonging to them under these Declarations no longer remain a matter of internal affairs of states but have become a matter of legitimate international concern.

Today, entitlement to democracy is seen as an emerging principle of international law. The advocacy of democratic governance as emerging principle of international law has influenced and will continue to influence both characters of self-determination movements and international communities' response to them. This will create a right or even an obligation for international community to protect and promote democracy. Today major democracies and multi-lateral institutions are extending, consolidating, and defending democratic process and principles throughout the world.

The European countries through the adoption of various documents have emphasised and committed themselves to build, promote and protection of democracies and condemned the overthrow of the elected governments and to

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[47] Cited in Halparin. n.25, p.58.

support vigorously – the legitimate organs of that state upholding human rights, democracy and rule of law. Thus the European countries have put the commitment to democratic pluralism, human rights and fundamental freedom above the legal principle of non-interference in the internal affairs of state.

Similarly, OAS has declared their purpose as to promote and consolidate representative democracy. Electoral democracy has been endorsed by the U.N. too. These growing support for democracy has been reflected in the international community's greater involvement in or greater willingness to help resolve internal dispute of states.

These democratisation processes can often resolve self-determination claims by giving rise to a political system capable of protecting and accommodating groups that would otherwise be seeking changes in political arrangement or borders.

The United States and the European Community have developed criteria for recognition for successor states, while responding to the break up of Soviet Union and Yugoslavia. Before this most of the international communities including the US had minimised the conditions as relevant to the decision of the recognition of a state or government. However the new criteria developed by the US and the European Union have begun to reverse this general practice and to inject a significant list of political condition into policies of recognition. Thus international law on recognition, minorities' rights and support for democracy is evolving to address the new demands of self-determination.

Thus the demands for self-determination have been made mainly in three categories of situations: (a) the situations of non-self-governing territories, including occupied territories; (b) the situations of independent countries where the population for some reason is unable to govern itself; (c) the situation in parts of a territory of a sovereign state where an ethnic group challenges the legitimacy of the central government to exercise authority over that group.

There is a near universal consensus that the population of non self-governing and occupied territories has a right to self-determination: the main content of the right is to determine the political status of the territory as a whole. In these cases, the beneficiary of the right (the 'people') is the population of the territory as a whole.

There is also a broadening consensus that the population in every independent state (the 'people' as a whole) has a right to self-determination. This means that population must have an effective democratic system of governance where all parts of the populations participate. It needs to underline that beneficiary of this right is the people as a whole meaning that members of the different ethnic, religious, linguistic and other groups must be allowed to participate without discrimination in the government of the country and that no part of the population can demand to govern alone.

And there is very little if any, support in international law for claims by separate ethnic, linguistic or religious groups inside sovereign states to secede from the territory of the sovereign states.

However, during the last years, there has also emerged some support for the right of other ethnic, religious or linguistic groups under some circumstances to obtain a degree of autonomy if that is required for them to be able to preserve their identity and ensure effective political participation within the national society as a whole. This scope and nature of such a right remain vague and need to be developed through future practice.

# CHAPTER II

# Self-determination: Ethno-national or Political Claim?

As there is a debate over the subjects of the right to self-determination, so also the basis of rise of such demands remains a matter of controversy. This is particularly so with regard to the demand of self-determination based on ethno-national assertion. A number of attempts have been made to provide a theoritical explanation of this phenomenon but none of them has proven to be totally all convincing. Scholars and writers engaged in this endeavour are deeply divided on this issue. Some of them have focused on the natural or primordial bonds of such claimant groups, while others have emphasised the constructive or manipulative nature of such affiliation. In fact the whole writings on this issue can be broadly divided in these two lines of thought-primordialist and instrumentalist/ constructivist. The primordial version considers ethnicity to be an assumed or given of the human condition, and state, parties, bureaucracies and politics are regarded largely as the public expression of these pre existing ethnic cleavages and cultural identities.[1] On the other hand the instrumentalist/ constructivist version believes that ethnicity is plastic and malleable, an instrument for other ends, usually of those of political elites.[2] Besides these two lines of thoughts, there is an

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[1] Anthony D. Smith, "Culture, community and territory: the politics of ethnicity and nationalism", *International Affairs*, Vol. 72, No. 3, 1996, p.446.
[2] Ibid., p.446.

alternative approach. This third line of thought is termed as ethno-symbolism. Ethno-symbolists emphasise the role of myth and symbol, arguing that they play a vital role in unifying population and ensuring their continuity of identity over many generations.

In the following section, a brief attempt would be made to introduce these different perspectives and their different explanations of ethnic affiliation or solidarity. This will be done mainly by highlighting the main writings representing these perspectives. After these, the various shortcomings and inadequacies of these perspectives will also be analysed.

## Primordialism or primordial view of ethnicity

Primordialism or primordial view of ethnicity is an approach which takes the ethnic and national solidarity as 'given' or 'assumed' or 'natural'. Edward Shils seems to have been the first to employ the term -'primordial'.[3] In his 1957 article, he uses the term in references to relationship within the family. He argues that the attachment that family members feel for each other "was not merely to the other family members as a person, but as a possessor of certain especially significant relational qualities, which could only be described as primordial".[4] This attachment is not just a function of interaction but because of certain ineffable

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[3] Jack, David Eller and Reed M. Coughlan, "The Poverty of Primordialism: the demystification of ethnic attachments", *Ethnic and Racial Studies*, Vol. 16, No. 2, 1993, p.185.
[4] Edward Shils, "Primordial, Personal, Sacred And Civil Ties", *British Journal of Sociology*, Vol. 8, No. 2, 1957, p.141.

significance attributed to the tie of blood.[5] Taking their clue from the work of Shils on the importance of 'primordial' ties based on language, religion, race, ethnicity and territory proponents of this view claim that nations and ethnic communities are the natural unit of history and integral elements of human experience. The sociological version of this argument asserts that ethnicity is an extension of kinship and that kinship is the normal vehicle for the pursuit of collective goals in the struggle for survival. Even more important, "such primordial ties based on ethnicity, race, language, religion and territory have always divided the human species as naturally as have sex and geography and will always do so".[6]

There are numbers of scholars who adhere to this view. Out of them the writings of Clifford Geertz, Steven Grosby, Pierre Van Den Berghe and Walker Connor can be considered to be most illuminating of this version. So here the focus will be mainly on the writings of these scholars.

## Clifford Geertz

Geertz was one of the earliest scholars to adopt a primordial view of ethno-national consciousness. He believes that every community is characterised by some primordial attachment. In his article 'The Integrative Revolution', he argues that primordial identities or attachments are "given", "a priori", "underived", prior

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[5] Ibid., p.141.
[6] Anthony D. Smith, *Ethnic Origin of Nation* (Oxford: Blackwell Publishers Ltd., 1986), p.12.

to all experiences or interaction.[7] By primordial attachment he meant, "one that stems from the 'givens' or more precisely, as culture inevitably involved in such matter, the assumed 'givens' of social existence: the immediate contigruity and kin connection mainly, but beyond them the givenness that stems from being born in to a particular religious community, speaking a particular language, or even a dialect of language and following particular social practices".[8] These primordial sentiments can not be analysed in relation to social interaction. If an individual is a member of a group, he or she necessarily feels certain attachment to that group and practices. "The congruities of blood, speech, customs and so on are seen to have an ineffable and at times over powering, coercieveness in and themselves. One is bound to one's kinsmen, one's neighbour, and one's fellow believer...by virtue of some unaccountable absolute import attributed to the very tie itself".[9] The strength of such primordial bonds may differ from person to person, time to time and society to society, but virtually every individual in every society at almost all times shares some attachments which emerges more from a sense of natural or spiritual affinity than from social interaction. He then argues that such primordial sentiments or loyalties often compete with civic loyalty of citizens, particularly in multi-ethnic states and ultimately threaten integrity of the nation.

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[7] Clifford Geertz, "The Integrative Revolution" in Clifford Geertz, ed., *Old Societies and New States* (New York: Free Press, 1963), p.109.
[8] Ibid., p.109.
[9] Ibid., p.109.

## Steven Grosby

Geertz mentions about the existence of primordial ties between the members of a ethnic community but does not say anything about why such ties exist. Grosby, in his article, looks in to this question. Why do people attach so much importance to primordial ties? What explains the persistence and ubiquitous belief of people about the significance of such ties? He defines primordial ties as the attachments that people feel for their kin and local of nativity. In his words, "The beliefs about the significance of birth or nativity...are the cognitive references to the objects around which various forms of kinship are formed".[10] He argues that there has been a persistence belief about the significance of birth or nativity and this is, according to him, because "it is the family, the locality and one's own people that bear, transmit, and protect life".[11] One's parents give birth to one. A person receives food necessary for life from his/her locality, and the people of locality together protect his/her life. Moreover, this power over life remains more or less beyond our manipulation. This is why, he feels that primordial ties have remained ineffable and coercive and human beings have always attributed, and will continue to attribute, so much sacredness to primordial objects and form attachment to them.

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[10] Steven, Grosby, "The Verdict of History: the inexpungeable tie of Primordiality- a response to Eller and Coughlan", *Ethnic and Racial Studies*, Vol. 17, No. 2, 1994, p.435.
[11] Ibid.

## Pierre Van Dan Berghe

Van Dan Berghe offers a socio-biological explanation of ethno-national solidarity. He argues that the root of ethno-national solidarity goes deep down to the biological formation of the human being. According to him, "social organisms including human beings are biologically programmed to be nepotistic, i.e. to behave favourably to others in proportion to their real or perceived degree of common ancestry...because altruistic investment in unrelated organism is biologically wasted".[12] Therefore, like other social organisms, human beings also identify their kith and kin and dispense the largeness and nastiness, accordingly. In order to identify their own kinship groups from hundreds of other relationship, human being generally use any readily identifiable, infalsiable marker of common ancestry. This longing of human beings to favour those related to them is the basic cause behind the phenomena of racism and ethnicity. Racism and ethno-centrism can be considered as the extended form of biologically rooted nepotism.[13] . Then he takes note of the main criticisms that are being offered against his explanation. He identifies three such criticisms. First, the common descent of ethnic group is often a myth, not a biological reality. Second, if ethnicity and race are both rooted in the biology of nepotism, why is that most ethnic groups stress cultural markers of membership rather than heritable physical ones? Third, if biological nepotism is extended to large group, which under modern conditions,

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[12] Pierre Van Dan Berghe, "Does Race Matter?" cited in John Hutchinson and Anthony D. Smith, eds., *Ethnicity* (Oxford: Oxford University Press, 1996), p.57.
[13] Ibid., p.58.

often comprises of millions of individuals, has not the concepts been diluted to the point of meaninglessness and reduced to mere analogy?

But none of these criticisms, according to Van Dan Berghe, invalidate his thesis. The reasons for this are as follows-

First, a myth to be effective has to be believed and a myth of ethnicity will only be believed if members of an ethnic group are sufficiently alike in physical appearance and culture and have live together and inter-married for a sufficient period for the myth to be developed a substantial biological truth. Ethnicity and race cannot be invented or imagined out of nothing. It can be "used, manipulated, exploited, stressed or fused but it must correlate with a pre-existing population bound by preferential endogamy and a common historical experience. Ethnicity is both instrumental and primordial".[14] Second, most ethnic groups stress cultural markers of membership rather than heritable physical features because most ethnic group seek to differentiate themselves from their immediate neighbours in situations where some short distance migration and intermarriage take place. Therefore most ethnic groups look so much like to their neighbours that they must rely on cultural markers of distinction. Third, it is true that the more distance the biological relation between the two individuals, the more diluted the benefits of nepotism become. But it does not cease to operate and there is no apriori reason why nepotistic discrimination should stop at any particular point unless it can be

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[14] Ibid., p.58.

displaced by a superior strategy of fitness maximisation. And the degree of dilution of solidarity is in proportion to size is less in ethnic groups then any other kind of groups.

## Walker Connor

Connor attempts to provide a psychological explanation of ethno-national consciousness. Connor believes that ethno-national bonds are deeply rooted in the subconscious minds of human beings or in their psychology. The ethno-national bonds are essentially psychological in nature. The objective criterion such as common language, religion and culture can not explain the phenomenon of ethno-nationalism because essence of the nation are psychological bonds that join a people and differentiate it in the subconscious conviction of its members, from all non members in a most vital way.[15]

This feeling of national bonds, he further argues, stems from a belief that they all share a common ancestry. This is not to suggest that they actually came from a common origin. In fact whether or not they actually share a common origin is not the issue. What is crucial is the belief in that because it is not what *is* but what people perceive as *is* which influences attitudes and behaviours.[16] Therefore a subconscious belief or intuitive conviction among the members of a nation about its separate origin and evolution is a basic condition for the existence of a nation.

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[15] Walker Connor, "Beyond Reason: The Nature of the Ethno-Bond", in *Ethno-nationalism: The Quest for Understanding* (Princeton University Press, 1994), p.197.
[16] Ibid., p.198.

Such belief or conviction defies any rational and logical explanation. This is because logic and rationality operates in the rational and conscious part of human mind but the conviction concerning singular origin and evolution of one's nation belongs to the subconscious and irrational realm of human mind. This is precisely why national bonds cannot be explained in rational term and national sentiment is often aroused not by appeals to reason but by appeals to emotion (appeal not to the mind but to the blood).

## Instrumentalist or Constructivist view

The instrumentalist or constructivist view considers ethnicity essentially as a social or political construct. In sharp contrast to the primordialists, the instrumentalists treat ethnicity as a social, political and cultural resource for different interest and status groups.[17] One version of this instrumentalist view focuses on the role of elites and considers ethnicity as the creation of elites. The elites in their universal struggle for wealth, power and prestige and to maintain their position, often resort to manipulation of cultural symbols for winning mass support to achieve their goal. According to this view such cultural manipulation serves the purpose other than the cultural goals which its spokesman proclaim to be its raison d'etre, but it does so by combining economic and political interest with cultural "affects".[18] Paul Brass and Eric Hobsbawm are among those scholars

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[17] John, Hutchinson and Anthony D. Smith, eds., *Ethnicity* (Oxford: Oxford University Press, 1996), p.8.
[18] Anthony D. Smith, n.17, p.10.

who adhere to this thesis. Another version of this view examines elite's strategies of maximising preferences in terms of individual 'rational choices' in a given situation; here it is assumed actors generally desires goods measured in terms of wealth, power and status and that joining ethnic and national communities help them to secure their goals. Michael Banton and Michael Hecter maintain this view.

**Elite Manipulation and Ethno-National Consciousness**

**Paul Brass**

Paul Brass is one of the strongest advocates of the instrumentalist nature of ethnic and national solidarity. Brass emphasises the role of the elite in the rise of ethno-national consciousness arguing that ethnicity and nationalism are the tools in the hands of the elite in order to hold on to or to acquire power. In other words, ethnicity and nationalism are not "given" but social and political constructions.[19]

Brass begins by focusing on the process of identity formation and identity change. According to him any group of people dissimilar from other peoples in terms of objective cultural criteria and containing within its memberships, either in principle or in practice, the elements for complete division of labour and for reproduction, form an ethnic category.[20]

However, these objective cultural criteria are not fixed and are susceptible to change and variation. Moreover "in pre-modern society where the process of

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[19] Paul Brass, *Ethnicity and Nationalism: theory and comparison* (New Delhi: Sage Publication, 1991), p.9.
[20] Ibid., p.19.

ethnic transformation (into nationalism) has not yet begun or in post industrial society where a great deal of cultural assimilation has taken place the boundaries separating various ethnic groups are not so clear".[21]

But the boundaries between different ethnic categories become more sharp once the process of ethnic transformation begins. 'The process of ethnic transformation implies a movement of ethnic groups towards becoming communities or nationalities. In this process cultural markers are selected and used as a basis for differentiating the groups from other groups, as a focus for enhancing the internal solidarity of the groups, as a claim for particular social status, and if the ethnic groups become politicised, as justification for a demand either ethnic groups rights in an existing political systems or for recognition as a separate nation'.[22]

The mere existence of a difference in a population, however, does not ensure that ethnic group will undergo this process. Here the elites play a crucial role. According to Brass, elites, both within and among different ethnic categories, in the competition for control over a local society or for control over new opportunities in the modern segments of developing societies or over prestige and high paying position in industrial societies, often indulge in ethnic manipulation. The competition for control over local societies may take four forms- (a) between a local aristocracy attempting to maintain its privileges against an alien conqueror;

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[21] Ibid., p.62.
[22] Ibid.

(b) between competing religious elites from different ethnic groups; (c) between religious elites and the native aristocracy within an ethnic group; and (d) between native elites and alien aristocracy.[23] The second type of competition usually takes place because of an uneven process of development in multiethnic states, where often, if not always, some ethnic groups or some regions gain more than others. Such competition in developing societies typically takes the form of competition for government jobs and in industrial societies for jobs in government, industry and in the universities.[24] In such situation, competing elites manipulate ethnic symbols for ethnic and communal mobilisation to achieve their objectives.

The role of elites in the generation of ethnic or communal mobilisation is crucial but not sufficient. The sufficient condition for successful communal mobilisation are the existence of the means to communicate the selected symbol of identity to other social classes within the ethnic group, the existence of a socially mobilised population to whom the symbols may be communicated, and the absence of intense class cleavages or other difficulties in communication between elites and other social groups and classes.[25] The means necessary to promote such inter-class communication are growth in literacy rate, the development of media for mass communication, particularly newspaper, the standardisation of local language and the availability of schools or classes in which the native language and culture can be taught.

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[23] Ibid., p.26.
[24] Ibid., p.63.
[25] Ibid., p.64.

## Eric Hobsbawm

Hobsbawm, who is a distinguished Marxist scholar, takes a constructive view of ethnic and national solidarity. According to him, both nation and nationalism are products of 'social engineering'. The most important aspect of this social engineering is the case of invented tradition. By invented tradition he means "a set of practices, normally govern by overtly or tacitly accepted rules and of a ritual or symbolic nature, which seek to inculcate certain values and norms of behaviour by repetition, which automatically implies continuity with the past".[26]

He argues that nation and associated phenomena are the most pervasive examples of such invented tradition. They are historically novel but despite their historical novelty, they establish continuity with a suitable past and 'use' history as a legitimiser of action and cement group cohesion. "Invented traditions are responses to novel situation, which takes the form of reference to old situations".[27]

According to Hobsbawm, there exist two types of invention-adaptation of old tradition and institution to new situation and the deliberate invention of 'new' tradition for quite novel purposes. The former can be formed in all societies but the later occurs only in periods of rapid social change when the need to create order and unity becomes important.

Hobsbawm regards nation and its associated phenomena as products of 'social engineering', more specifically as tradition invented by ruling elites who

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[26] Eric Hobsbawm, "Introduction", in Eric Hobsbawm and Terence Ranger, eds., *The Invention of Tradition* (Cambridge: Cambridge University Press, 1984), p.1.
[27] Ibid., p.2.

fell threaten by the incursion of the masses into politics. This is best explained by looking at the period from 1870 to 1914 in Europe. This period coincides with the emergence of mass politics in Europe. The incursion of hitherto excluded sections of society into politics created unprecedented problems for the rulers who found it increasingly difficult to maintain the obedience, loyalty and cooperation of their subjects-now defined as citizens. The invention of tradition was the main strategy adopted by the ruling elites to counter the threats posed by mass democracy. Hobsbawm singles out three major innovations as particularly relevant: the development of primary education, the invention of public ceremonies and the mass production of public monuments. As a result of this processes, "nationalism became a substitute for social cohesion through a national Church, a royal family, or other cohesive tradition, or collective group self-presentation, a new secular religion".[28] Therefore, he argues that national phenomena cannot be adequately investigated without careful attention to the 'invention of tradition'.

## Abner Cohen

Cohen is another writer who takes an instrumentalist view of ethnicity. He does not believe that ethnicity is the product of cultural similarities of the people but considers it as essentially a political phenomenon. The traditional customs of group are used only as idioms and mechanism for political alignment of people

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[28] Eric Hobsbawm, "Mass Producing Tradition: Europe, 1670-1914" in Eric Hobsbawm and Terence Ranger, eds., *The Invention of Tradition* (Cambridge: Cambridge University Press, 1984) p.27.

of that group. Cultural differences did not divide people. Rather they become the cause of conflict only when such cultural differences are associated with serious political cleavages. On the other hand, people stick together because of mutual interest. For people of a tribal group may unite in order to mobilise votes in elections, to gain new benefits in development funds, or even to prevent the relatively scarce supply of woman of the ethnic group from being taken by outsiders.[29] He illustrates this view with the examples of tribal and ethnic conflict of post-colonial Africa. According to him with the withdrawal of colonial powers an intensive struggle broke out between different tribal groups over the new strategic position for power: places for employment, taxation, funds for development, education and political position. Often the chances and possibilities of winning these new positions were different for different tribal groups and so most of the struggles over these coveted positions were fought on ethnic lines. This had led different tribal and ethnic groups to mobilise support and organise themselves to fight the struggle effectively, and to achieve this they often resorted to the appeal of their traditional culture. "This gives the impression that here there was a return to tribal tradition and to tribal separatism when in fact tribalism in the contemporary situation was one type of political grouping within the framework of the new states".[30]

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[29] Abner Cohen, "Ethnicity and Politics" in *Customs and Politics in Urban Africa* (Barkely: University of California Press, 1969), p.200.
[30] Ibid., p.199.

### Rational Choice Model of ethnicity

### Michael Hechter

Hechter adopts rational choice theory to explain ethnic and racial relation. He rejects the earlier normative and structural theories, because both of them ignore individual preferences. He defines individual's common preferences in terms of more wealth, power and honour, and argues that individuals within their environmental constraints would choose the most rational and effective way to achieve them.

Given this reason, individuals will perform public functions only when they receive a net benefit by doing so. As a result both collective action and social order depend on the belief of most people that free riding and crime do not pay. The rational actors will commit crime to attain his or her goals, unless deterred by the fear of incarceration (or some other punishment). Similarly in large groups, where informal social controls lose their efficacy because individual networks rarely overlaps, collective action is problematic because free riding is hard to detect.[31]

In this regard, he believes that ethnic organisation can play a crucial role. This is so because of two reasons. First, they are the major sources of private reward and punishment that motivate the individual's decisions to participate in collective actions. Second, because the individual benefit/cost calculation

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[31] Michael Hechter, "Ethnicity and Rational Choice Theory", in D. Mason and John Rex, eds., *Theories of Race and Ethnic Relations* (Cambridge: Cambridge University Press, 1986), p.269.

depends in part upon his estimate of the probability of success of any collective action, organisations can play a crucial role by controlling the information available to their members. When members have few alternative sources of information, organisation can easily convince them that the success of a contemplated collective action is a real possibility. "On this basis the likelihood of ethnic collective action varies positively which organisational resources, monitoring capacity, solidarity, control over information, history of equitable distribution of collective benefits and adoption of non-violent tactics, while it varies negatively with organisational size and the capacity of antagonist-including the state-to punish prospective participants".[32]

But these provisions of selective incentives may not be sufficient to induce collective action, if we take into account the other two types of costs, namely, monitoring and allocation cost, in curtailing the deviance or free riding in any collective action.

This has led Hechter to look for causes other than environmental constraints exercised by ethnic organisations to explain collective actions. Here, he emphasises the role of individual preferences. He argues that under certain conditions individuals can be induced to maximise some collective, rather than individual utility schedule. In such a case people would want to act in the interest of their ethnic or racial group and would not even be tempted to take a free ride.

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[32] Ibid., p.272.

Then he goes on to show the process of preference formation to show when such a situation could arise.

He argues that preferences are formed through both selection and learning mechanisms. While the selective mechanisms obviously pushes the individual to choose the adaptive preferences, under learning mechanisms individual formed preferences through differentiated association. This is because differentiated association limits the feasible set of models or persons whose behaviour is available for observation. For this and also because the privilege status that childhood experiences plays during the rest of the life, family plays a crucial role in the individual's preference formation. Then he shows, how families of certain minority groups in America, for their own survival, mould the preferences of succeeding generation to favour group interest over individual interest by limiting and distorting informations about alternatives existing beyond the group boundaries.

## Michael Banton

Banton also argues that the actions of individuals are guided more by their personal interest than by their ethnic loyalties. He comes to this conclusions from a survey he conducted in the suburbs of Kuala Lumpur which reveals that self interest in saving money or gaining social status and sentiments of obligation to

friends, neighbours, or fellow workers were often more influential than ethnic identification.[33]

From this he argues that an individual would choose to compete for better position, money and wealth on individual basis rather than collectively when he believes that he could gain more in this way. He explains this using the prisoner's dilemma model of Game Theory. According to this model an individual would act individually when the pay off structure for individual action is better that the group action and when he associate more pay off to group action to individual action, then he would choose to act collectively.

But even when possible pay off is more for collective action than individual action, the collective action might not accrue because of the organisational cost. To have collective action one must organise and this involves costs because others would tend to be free riders. In such a case, the prospective organiser would organise collective action only when the possible benefit of such action is sufficient enough to compensate the effort of his/her involvement in it.

## Ethno Symbolism

Besides the primordial and instrumentalist view with regard to ethno-national consciousness, there is another approach, which does not share either of this two view and offers an alternative explanation of this phenomenon. This

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[33] Michael Banton, "The Actors Model of Ethnic Relation", *Ethnic and Racial Studies,* Vol. 17, No.1, (1994), p.3.

approach, which can be considered as a compromise or a kind of 'midway' between the other two approaches is known as ethno-symbolism. D. Conversi defines ethno-symbolism "as an approach that rejects the axiom that nations may be ipso-facto invented, claiming that they rely on a pre-existing tenure of myths, memories, values and symbols and which, by so doing tries to transcend the polarisation between primordialism and instrumentalism".[34] The ethno-symbolists main concern is with the persistence, change and resurgence of ethnies, and with the role of ethnic past in the shaping present cultural communities.[35] For them myths and symbols play a vital role in unifying populations and ensuring their continuity over many generations. According to them, formation of nations should be examined in a 'time dimension' of many centuries for the emergence of today's nation cannot be understood properly without taking their ethnic fore bearers into account.[36] In other words, the rise of nation needs to be contextualised within the larger framework of ethnicity, which shaped them. John Armstrong and Anthony D. Smith are the two major writers who subscribe this view.

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[34] D .Conversi, "Reassessing Current Theories of Nationalism: Nationalism as Boundary Maintenance and Creation" cited in Umut Ozkirimili, *Theories of Nationalism* (Macmillan Press Ltd., 2000), p.168.
[35] John Hutchinson and Anthony D. Smith, n.16, p.10.
[36] Umut Ozkirimili, *Theories of Nationalism* (Macmillan Press Ltd., 2000) p.168.

## John Armstrong

Armstrong can be considered as the founding father of the ethno-symbolism.[37] For Armstrong, ethnic consciousness has a long history- it can be traced back to ancient civilisation. In this sense contemporary nationalism is nothing but final stage of larger cycle of ethnic consciousness reaching back to the earliest form of collective organisations. The most important feature of this consciousness, according to him, is its persistence. Therefore the formation of ethnic identities should be examined in a time dimension of many centuries.[38]

He argues that there is nothing of 'fixed character' or 'essence' of a group because groups tend to define themselves not by references to their own characteristics but exclusion, that is, by comparison to 'strangers'. Therefore the boundaries that separate one group from another are symbolic and varies according to the perception of individuals forming the group. Thus it is more important to focus on the boundary mechanisms that distinguish a particular group from others instead of objective group characteristics.

This symbolic boundary mechanism, according to him, generally tends to be durable and persistent. For him, "myths, symbol, communication and a cluster of associated attitudinal factors are usually more persistence than purely material factors".[39] Then he identifies various factors such as way of life, religion, city

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[37] Ibid., p. 170.
[38] John Armstrong, *Nation before Nationalism* (Chapel Hill: University of North California Press, 1982) p. 4.
[39] Ibid., p.9.

life, imperial politics and language, which ensure the persistence of the symbolic

boundaries that differentiate people of one group from those of other groups.


## Anthony D. Smith

The writings of Smith can be considered as the best illustration of ethno-

symbolism. His main argument is that modern nations cannot be understood

without taking the pre-existing ethnic components into account.[40] "Usually there

has been some ethnic basis for construction for modern nations, be it only some

dim memories and elements of culture and alleged ancestry, which it has helped

to revive".[41] It implies that rise of contemporary nations should be studied in the

context of their ethnic background.

Smith argues that ethnic communities or such pre-modern identities and

legacies form the bedrock of many contemporary nations. He defines an ethnie

(ethnic community) as named human populations with shared ancestry, myths,

histories and cultures, having an association with a specific territory and a sense

of solidarity.[42] This definition shows that most of the attributes of an ethnie have

a historical and cultural contents as well as strong subjective component. Thus

Smith does not consider ethnie as a primordial but as a result of process of

formation.

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[40] Anthony D. Smith, *The Ethnic Origin of Nations* (Oxford: Blackwell Publishers Ltd., 1986), p.17.
[41] Ibid., p.17.
[42] Ibid., p.16.

Such ethnie, once formed, tend to be exceptionally durable.[43] But this does not mean that the cultural content and demographic composition of ethnie never undergoes any changes. There are certain events that generate profound changes in the cultural content of ethnic identities. But despite changes in their demographic compositions and cultural contents, certain ethnic communities survive across the centuries mainly due to the existence of some ethnic self-renewal mechanisms. There are four such self-renewal mechanisms-religious reforms, cultural borrowing, popular participation and myths of ethnic election.[44] These mechanisms also lead to the gradual formation of what Smith called 'ethnic cores'. These cohesive and self-consciously distinctive ethnies form the basis of states and kingdoms in later periods. Most latter day nations are constructed around a dominant ethnie, which annexed or attracted other ethnic communities in to the state it founded and to which it gave a name and a cultural character.[45]

The existence of pre-modern ethnic ties help us to understand which units of population are likely to become nations, but to know how and why such transformation will occur, we need to look at the pattern of 'identity formation' and the factors that triggered their development. For this Smith identifies two types of ethnic communities – the lateral which is aristocratic and vertical. According to him these two types of ethnic communities gave birth to different patterns of nation formation. The first one becomes nation through a process

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[43] Ibid., p.32.
[44] Anthony D. Smith, *National Identity*, cited in Omut Ozkirmili, n.36, p.177.
[45] Ibid., p.177.

which smith calls 'bureaucratic incorporation'. The survival of aristocratic ethnic community depends to a large extent on its capacity to incorporate other strata of population within its cultural orbits. The primary vehicle in this process was the newly emerging bureaucratic state. The second, i.e., vertical ethnie, on the other hand become nation through vernacular mobilisation. Here the key mechanism of ethnic persistence was organised religion. It was through myths of cohesiveness, sacred text and scripts, and the prestige of the clergy that the survivals of the communal tradition were ensured.

Then he shows how this different process of nation formation led to the rise of different types of nationalism. He identifies two kinds of nationalism-territorial based on 'western' civic territorial model and ethnic based on 'eastern', ethnic-genealogical model of the nations. He argues that the bureaucratic incorporation route of lateral ethnies to become nations led to territorial nationalism and the vernacular mobilisation route of vertical ethnie led to the ethnic nationalism. This different form of nationalism, according to him, plays a crucial role in determining when and where nations will emerge.

The various explanations analysed above have been criticised on distinct grounds. In this section, I will try to introduce some of the major criticisms leveled against each of these approaches.

## Criticisms of primordial explanations

Recently a number of studies of ethnicity have questioned the primordialist belief in the given ness of ethnic and national ties. They have emphasised the role of individual choice in the construction of ethnic identities, claiming that far from being self perpetuating, they require creative effort and investment.[46] Eller and Coughlan suggest that recent studies provide a compelling ease for seeing ethnicity as a socially constructed, variable definition of self and other whose existence and meaning is continuously negotiated and revitalised.[47]

Brass also believes that primordial attachments are variable. For example, religious identification of people is subject to change. This is not only in the case with modern cosmopolitan men engaged in enlightened spiritual quest. Shift in religious practice brought about under the influence of religious reformers are common occurrences in pre-modern, modernising, and even in post-industrial societies. Sometimes such shifts are clearly designed to promote internal solidarity and external differentiation from other group.[48]

Smith also argues that ethnic ties like other social bonds are subject to economic, social and political forces, and therefore, fluctuate and change according to circumstances. Intermarriages, migration, external conquest and the

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[46] Hoban and Hefner, cited in Eller and Coughlan, n.2, p.188.
[47] Eller and Coughlan, n.2, p.188.
[48] Paul Brass, n.18, p.71.

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importation of labour have made it very unlikely for many ethnic groups to preserve 'the cultural homogeneity and pure essence'.[49]

Some primordialists, conceding that boundaries and content of ethnic identities may change over time, stand firm on one point, viz. that the essence of ethnic culture like origin, myths and symbols, persist through time. But even this bedrock position, according to Brass, has a number of problems. For while some ethnic groups such as Jews draws upon old and rich cultural heritages, many movements create their culture after-the-fact.[50] Eller and Coughlan also claim that in many parts of the world, especially in Africa, new ethnic identities and groups are being created which claim and receive from some researchers' primordial status. These new primordial identities are made, not given.[51]

Brass has also raised objections against the primordial claim that ethnic and national attachments are 'underived', and hence prior to all interaction. He argues that knowledge of ethnic cultures does not enable us to predict either which ethnic group will develop a successful political movement or what form this movement will take.[52] This criticism is valid in the case of socio-biological explanations also because such explanations based on such universal factors as blood ties, kinship relationship, and so on cannot account for the fact that while only a small

[49] Anthony D. Smith, *Nation and Nationalism in Global Era* ( Cambridge: Polity Press, 1995)
[50] Paul Brass, n. 18, p.73 .
[51] Eller and Coughlan, n .2, p.188.
[52] Paul Brass, n. 18, p.73.

proportion of ethnic groups become aware of their common identity, others disappear in the mists of history.[53]

Primordialists have also been attacked for their tendency to give priority to ethnic and national identities. Individuals have multiple identities and roles- familial, territorial, class, religious, ethnic and gender- and these identities assume different importance at different times. It is not possible to predict which identity would be dominant at a particular point of time.

Primordialists consider the primordial ties as a question of emotion and affect. This affect dimension makes the primordial identities qualitatively different from other kind of identities such as class identities. It is suggested that emotional ties are not born out of social interaction but implicit in the relationship (kin or ethnic) itself. Eller and Coughlan argue that this has led to the mystification of emotion and fallacy of dissocialising the phenomenon. The source of this fallacy according to them is the failure of Sociology and Anthropology to act intelligibly with emotion.[54]

**Problems with instrumentalist/constructivist explanations**

Like primordialism, the instrumentalist view has also been opposed on various grounds.

It is argued that instrumentalist view fails to take account of the persistence

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[53] Umut Ozkirmili, n. 24, p. 79.
[54] Eller and Coughlan, n.3, p.192.

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of ethnic ties. If ethnicity is merely constructed or result of manipulation, it is asked, what accounts for the persistence of ethnic ties. According to Smith, theories which do not take the durability of ethnic ties into consideration cannot answer questions like whether such manipulation can hope for success beyond the immediate moment. Why should the invented version of the past be more persuasive than others?[55]

On this basis Smith objected to Hobsbawn's notion of 'invented tradition' and claims that this turn out to be more akin to 'reconstruction' or 'rediscovery' of aspects of the ethnic past. He notes that although the past can be interpreted in different ways, it is not any past, rather the past of that particular community, with its distinctive pattern of events, personage and milieus. This past acts as a constraint on the manipulation of elite, hence on invention.[56]

Another criticism leveled against instrumentalist is that such accounts fail to explain why millions of people have scarified their lives for their nations. This is because, according to Smith, instrumentalists concentrate for the most on the elite manipulation of the 'masses' rather than dynamics of the mass mobilisation per se.[57] As a result, they fail to note that needs, interests, hopes and longing of ordinary people are differentiated by class, gender, religion, and ethnicity.

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[55] Anthony D. Smith, cited in Umut Ozkirmili, n.24, p.122.
[56] Ibid., p.123.
[57] Anthony D Smith. n.49.

Some critics accuse the instrumentalists of exaggerating the part played by elite in shaping national identities. Francies Robinson is one such writer. He accuses Brass of exaggerating the role of elite manipulation in the process leading up to the formation of two separate states in the Indian subcontinent and argues that values and religious- political ideas of Islam, especially those that stress the existence of a Muslim community, limited the range of actions open to Muslim elite groups. These ideas formed their own apprehensions of what was possible and of what they ought to be trying to achieve, and thus acted as a constraining factor in Hindu-Muslim cooperation. For Robinson, the religious differences between Muslims and Hindus in the nineteenth century were too great to allow peaceful coexistence. In other words, they were pre-disposed to live as separate national groups.[58]

## Inadequacies of ethno-symbolic explanations

Critics have pointed out a number of problems with ethno-symbolic explanations also.

Many critics do not share the ethno-symbolist belief in the persistence of ethnic identities. For example E. Kedourie argues that ethnic identity is not an inert or stable object. Ethnic identity has proved to be highly plastic and fluid

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[58] Francis Robinson, 'Nation Formation: The Brass Thesis and Muslim Separatism', *Journal of Commonwealth and Comparative Politics,* Vol.15, No.3, 1977, pp.215-230.

over the centuries, and has been subjected to far reaching changes and revolutions.[59]

C. Calhoun, on the other hand, argues that nationalism fundamentally transforms pre-existing ethnic identities and gives new significance to cultural inheritance.[60]

Critics have also questioned the importance of the cultural material of the past in forming national identities. J. Breuilly accepts that nationalist leaders and politician seize upon myths and symbols of the past to promote a particular national identity. However, he argues, it is very difficult to correlate their degree of success with the objective importance of myth and symbol.[61] In many cases nationalists invent myth. Moreover, there are many nationalist movements that have succeeded without having a rich ethno-history to feed upon. Colhoun also agrees with Breuilly when he observes that continuity in ethnic traditions does not explain either which of tradition last or which becomes the basis for nations and nationalist claims.[62]

Many critics do not share the ethno-symbolists analysis of the process of ethnic consciousness formation either. They criticise the element of 'solidarity' that appears in Smiths definition of ethnic community. According to them solidarity was not generated spontaneously by common communal existence, nor

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[59] E.Kedourie, *Nationalism*, cited in Umud Ozkirimili, n.34, p.187.
[60] C.Calhoun, *Nationalism*, cited in Umud Ozkirimili, n.34, p.187.
[61] J. Breuilly, 'Approaches to Nationalism' cited in Umud Ozkirimili, n.34, p.187.
[62] C. Calhoun., n.60, p.188.

by kinship, neighbourhood or religious networks. Solidarity, according to them was generated by political and socio-economic process and remained for a long time conditional upon their operation.

Some others have also accused the ethno-symbolists of being conceptually confused. According to them ethno-symbolists explanations constitute a typical example of the 'terminological chaos' that bedevils the study of nationalism. W. Connor notes that one of the most common manifestations of this confusion is the interutilisations of the terms ethnicity, ethnic group and nation.[63] Smith and Armstrong are accused of making the same mistake.

Ethno-symbolists ignore the difference between modern nations and earlier ethnic communities. K.Symmons-Symonolewiez claims that Smith eliminates the difference between ethnic and national phenomena by attributing to all ethnic groups a fully developed group consciousness and a deep sense of history. However, most pre-modern groups were not aware of the cultural idiosyncrasies that differentiate them from others. Even when a consciousness of this kind existed, it was mostly confined to an intellectual elites, as the stage was not yet set for the diffusion of ethnic sentiments to the wider public.[64]

Thus it seems that none of the above approach is full proof. Each of this approach provides us only a partial and not the full picture of the phenomenon. All of them explain the phenomena from their own point of view but, ignores the

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[63] W. Connor, *Ethnonationalism: The Quest for Understanding* (Princeton: Princeton University Press, 1994)

[64] K. Symmons-Symonolewiez, cited in, n.34, p.184.

others points of view. So they are valuable in understanding the phenomenon only to the extent that they all help us to understand a particular aspect of the phenomenon, but are handicapped in dealing with the other aspect of the phenomenon. They criticise each other for not taking in to account its view and emphasising only its own view. For example, Instrumentalists accuse Primordialist for not being subscribed to its view and vice versa.

Again some situations of ethno-national assertiveness offer themselves to be better explained in terms of one approach or another. In some cases primodialist approach seems more helpful, while in some other, instrumentalist approach may prove more effective in understanding the phenomenon. Moreover, sometimes a same situation can be explained equally convincingly by both the approaches. For example, both instrumentalists and primordialists offer their own explanations about the rise of communal tensions between Muslims and Hindus in British India and the consequent partition and both the accounts sound reasonable. Therefore, it is very difficult to say which one of them is better than the other and to put them in hierarchical order in terms of their explanatory power would be quite unreasonable.

# CHAPTER III

## Self-Determination: The Politics of Disintegration?

Self-determination has often been termed as the politics of disintegration because of its implications for secession from established states. In fact this is the issue that has made the principle or right of self-determination extremely controversial. Self-determination, according to many, implies a right to secede. It has been argued that if the right to self-determination means the right of people to freely determine their political status, and if this right is universally applicable, then a section of people of an existing independent state should also have the right to secede to form their own state. This implied right to secede, however, has also been the main ground of opposition to the right of self-determination. If self-determination also implies a right to secede, it is feared that this would totally destabilise the existing state system. This right of self-determination can be used by a section of people of an independent state to break away from their own state, thereby bringing about the dissolution of the existing states. Therefore, the practice has been to keep the right of self-determination confined to colonial people and to reject this right on the ground that it violates the basic norms of the international law such as territorial integrity, sovereign equality and non-intervention. Commenting on this apparent conflict, V.P. Nanda has stated that if self-determination refers to the "freedom of the people to choose their own

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government and institutions and to control their own resources, there seems to be a striking contradiction between the right of 'all people' to self-determination and the right of a state to its 'territorial integrity', the latter precluding secession".[1] Similarly, Rupert Emersion has commented that "the room left for self-determination in the sense of attainment of independent statehood is very slight, with the great current exception of decolonisation".[2]

Thus, there seems to be two opposite view regarding whether self-determination implies a right of secession or not. So the main challenge is how to reconcile these two seemingly conflicting views. This has led many scholars to identify conditions under which the right to secession can be given precedence over the existing norms against this right.

This chapter first tries to examine the position of the right to secede under international legal norms and existing state practice. In this respect, special attention will be given on the relation between the right to self-determination and secession. After this, the chapter will briefly introduce various arguments against the right of secession and analyse the possible conditions under which such rights could be granted.

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[1] V.P.Nanda, " Self-determination in international law: The tragic tale of two cities- Islamabad (West Pakistan) and Dacca (East Pakistan)" *American Journal of International Law,* Vol.66 (1972), p.326.
[2] Rupert Emersion, "Self-determination" *American Journal of International Law,* Vol. 65 (1971), p.459.

## Secession in the international legal framework

Whether secession enjoys any legal rights under existing rules of international law is a matter of controversy. Some scholars view the right to self-determination as a universal right and not just the right of colonial people to independence. They therefore concede this right to all people whether or not under "colonial, foreign or alien domination or under alien subjugation, domination and exploitation".[3] If this right of self-determination, which is now regarded as a customary rule of international law, is applicable to all people than a section of people of an independent state should also have the right to secede.

However the overwhelming view is that secession is not presently recognised as a right under international law. The right to independent statehood has not yet been recognised by international law to apply to non-colonial 'people' or minority within an existing state.[4] This right of secession is opposed on the ground that it contradicts the rules of international legitimacy, those fundamental legal and political principles that govern the present inter-state system. The chief among them is the principle of self-determination, the very norm ironically that such movements invoke.[5] Highly unfavorable also are two other groups of norms,

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[3] Jorri C. Duursma, *Fragmentation and the International Relation of Micro-States : Self-detemination and Statehood* (Cambridge : Cambridge University Press, 1996) p.78.
[4] Hurst Hannum, "Self-determination in Post Colonial Era", in Donald Clarke and Robert Williamson, eds., *Self-determination : International Perspective,* (New York : St. Martin's Press, 1996), p.23.
[5] Alexis Heraclides, *The Self-determination of Minorities in International Politics,* ( London: Frank Cass, 1991), p.21.

both linked today with self-determination: the principle applicable to state

formation and recognition and the principle of non-intervention in the internal

affairs of the states.


## Self-determination and the right of secession

From its very inception self-determination has been viewed as a disruptive

force. In its original conceptualisations in the nineteenth century, the principle of

national self-determination was undoubtedly explosive. It was in essence a form of

self-assertion against any form of domination[6] and served to destroy empire and

forced governments to be more responsive to the governed.[7]

It was this fact about self-determination that led statesmen after the Second

World War to limit the principle of self-determination. Since then it has been the

endeavour of statesmen to ensure that the right of self-determination remained

confined to colonial people and does not include the right of minorities of

independent states to secede from their existing states. This is evident in the

various formulation of the principle (or right) of self-determination after the

Second World War in the United Nations and other international fora.

The opposition to the right of secession, however, surfaced even before the

mid-twentieth century. For example, Wilson's own Secretary of State, Robert

Lansing, had objected to the Wilsonian concept of national self-determination on

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[6] Ibid., p.22.
[7] Amitai Etzioni, "The Evils of Self-determination", *Foreign Policy*, Winter, 1992/93, p.21.

the ground that it would lead to endless demand for states from various faction of population of existing states.[8] Other national leaders of that period too shared his apprehension. And it is this apprehension that prevented the leaders of the Paris Peace Conference from including the right of self-determination in the Covenants of the League of Nation.[9] The mood of that period was perhaps best expressed in the observation made by two expert committees, while addressing the meaning of self-determination and whether it implied the possibility of secession from an existing state in reference to the question of Aland Island. The first report noted positive 'international law' does not recognise the right of national groups, as such, to separate themselves from the state of which they form a part by the simple expression of a wish, any more than it recognises the right of the states to claim such separation .Generally speaking the grant or refusal of the right to a portion of its population of determining its own political fate by plebiscite or by other method, is exclusively an attribute of sovereignty of every state which is definitely constituted.[10] The second report also made a similar observation: to concede to minorities either of language or religion, or to any fraction of a population the right of withdrawing from the community to which they belong, because it is their wish or their good pleasure, would damage order and stability within states and inaugurate anarchy in international life. It should be tantamount to upholding a

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[8] Morton H. Halparin, et.al., *Self-determination in the New World Order* (New York : Carnegie Endowment for International Peace, 1992), p.18.
[9] Ibid., p.19.
[10] Hurst Hannum, Autonomy, Sovereignty and Self-determination : *The Accommodation of Conflicting Rights* (Philadelphia : University of Pennsylvania Press, 1990), p.29.

theory incompatible with the very idea of the state as a territorial and political unity.[11]

The Czech leader Jan Masaryk also argued that self-determination does not carry with it an unconditional right to political independence.[12] The League of Nations scheme for minority protection was in part designed to provide what might be termed as cultural self-determination to those groups whose demand for fuller political recognition were denied by great powers.[13]

Probably Lenin and Stalin were only leaders of that period who recognised self-determination as implying a right of secession for national groups. However, their support for the right of secession of national groups was only in so far as its exercise would promote the interest of class struggle. Secession was to be promoted as a tactic to fight oppressor nations: the right of nations to self-determination implied exclusively the right to independence in the political sense, the right to free political separation from oppressor nations. Specifically, this demand for political democracy implied complete freedom to agitate for secession. It implied only a consistent expression of struggle against all national oppression.[14] Communist support for national self-determination and secession was a tactical rather than a philosophical decision. So while the Soviet Union

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[11] Ibid., p.30.
[12] Cited in Alfred Cobban, *The Nation State and National Self-determination* (London: Collins, 1969), p.69.
[13] Hurst Hannum, n.10, p.29.
[14] Hurst Hannum, n.4, p.32.

recognised the right of secession, in practice it rejected any such demand on the ground that such is detrimental to the interest of the working class.

The process to stop the disintegration process of self-determination started with the U.N. Charter. The Charter of the United Nations mentioned self-determination not as a right but only as a principle. There is probably a consensus among scholars that whatever its political significance, the principle of self-determination did not rise to the level of rule of international law at the time of drafting of the Charter. The principle of self-determination is mentioned twice in the Charter, namely in Article 1 Paragraph 2 and in Article 55, both times in the context of developing friendly relations among nations and in conjunction with the principle of equal rights of people. The Charter remains vague as to whether this principle of self-determination implies a legal right of secede, but generally scholars are of the opinion that the principle as enumerated in the Charter does not imply a right of secession.[15] They came to this conclusion on the basis of the context under which the principle was formulated and the proceedings of the drafting of this principle.

Similarly the next important formulation of the principle of self-determination, namely the Declaration on the Granting of Independence to Colonial Countries and People adopted by the General Assembly, also rejected the right of secession. It declares that all people have the right to self-determination,

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[15] Kelson, R. Emerson and Lee C. Buchheit hold such opinion. Cited in Jorric Dubersma, *Fragmentation and international Relation of Micro States : Self-determination and Statehood* (Cambridge : Cambridge University Press, 1996), p.15.

by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. But at the same time the declaration in Paragraph 6 emphasises that any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations.[16]

The Declaration on Friendly Relations adopted by the General Assembly in 1970 reiterated this position. This declaration, which also upheld the principle of equal rights and self-determination, clearly rejected the right of secession and condemned any "action aimed at partial or total disruption of the national unity and territorial integrity of any other states or country".[17] Under this Declaration the territorial integrity and political independence of states are inviolable so long as states conduct themselves in compliance with the principle of equal rights and self-determination of peoples and do possess a government representing the whole people belonging to the territory without distinction as to race, creed and colour.

Thus by the late 1960s under the various U.N. formulations the principle of self-determination has evolved into a right. But this right was effectively confined to colonial people and excluded the people of the independent states. It was no longer the right of nations but the right of a colony to independence or union with

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[16] Cited in Antonio, Cassese, *Self-determination of peoples : A legal Reappraisal* (Cambridge : Cambridge University Press, 1995)
[17] Cited in Duursuma, n.3, p.20.

other states and the right of the majority within a colony or state. The basis was now territorial instead of ethnic or cultural.

This interpretation of the right to self-determination which excludes the right of secession of a section of the people of independent states may not be theoretically sound, but it had the support of almost all states. Only very few states, most notably Somalia, have now and again indicated that they regard the right of secession as inherent in the right of self-determination.[18]

The support of states to above interpretation is further demonstrated by the various regional approaches to this issue.

## The European Approach[19]

The European approach to the right of self-determination has been consistent with the United Nations formulation of this right. The European position on this issue can best be found in the Helsinki Final Act, adopted by the Conference on Security and Co-operation in Europe in 1975. This Act recognised the respect of equal rights and self-determination of peoples as one of the principle guiding relation between participatory states. However this act also proclaims the principle of inviobility of frontiers (principle III) and the territorial integrity of states (principle V). Read with these two principles, self-determination as

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[18] Alexis Heraclides, n.5, p.23.
[19] The following writings on European approach is based Hurst Hannum article, "*Self-determination in post colonial era*", n.4, pp.22-24.

formulated under this Act does not seem to concede the right of secession. There was no suggestion at the Helsinki or subsequent CSCE that the right of self-determination could justify secession by an oppressed religious, racial, ethnic, and national or other group. It seems that the right of self-determination cannot be realised on account of territorial integrity and secure borders and so does not imply the right of secession.

The contemporary European attitude towards secession as a component of self-determination was best illustrated by the attitude towards the break up of Yugoslavia adopted by the twelve members of the European Community. Initially, the US and the European Community had opposed recognition of new states and supported Yugoslavia's unity. This was in conformity with the CSCE restrictive legal formulation of the right of self-determination. In 1991, the European Community adopted a common position on the process of recognition of new states. Notably, this declaration did not make any reference to the right of secession. Recognition of new states in the 1990s has been based either on the argument of the component parts of the states concerned (USSR, Ethiopia, Czechoslovakia) or on the factual determination that the state no longer existed.

## The African Approach

Nearly all African states, which were among the leaders in developing the post 1945 'right' to self-determination in the context of decolonisation, have

adopted a very narrow interpretation of the right in the post colonial context of independence.

Because of the extreme ethnic heterogeneity of most African states and the resulting difficulties in developing a sense of nationhood in the post independence period, the principles of territorial integrity and national unity have been determined to be more fundamental then that of self-determination. In 1964, the Second Assembly of Heads of States and Government of the Organisation of African Unity (OAU) decided to accept the existing colonial frontiers as definitive with regard to minority secession or even the adjustment of borders – "the idea of ethnical self-determination or the creation of new states of the existing states was rejected categorically... The whole task of national integration and nation building may require the denial of the right to ethnic self-determination in most territory as they emerge from dependency".[20] During the Biafran struggle for independence, OAU favoured a unified Nigeria and assert that the national unity of individual African states is preferable because it is believe to be an essential ingredient for the realisation of the larger and greater objective of African unity.[21]

Thus, the U.N. and other inter-governmental organisations, while supporting the right of self-determination of people, refuse to accept the position that the right to secession is inherent in the right of self-determination. The U.N. practices support this conclusion. For instance, in the Nigerian conflict, only five

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[20] Hurst Hannum, n.4, p.24.
[21] V. P. Nanda, n.3, p.327.

states recognised the Biafran claim to independence and despite a protracted struggle lasting over two and one half years neither the United Nations nor the Organisation of African Unity spoke in favour of Biafran self-determination. It should be noted that while the U.N. did not even consider the question, the OAU strongly favoured a united Nigeria.[22] Earlier, during the Congo crisis, the U.N. had been responsible for offering an organised opposition which prevented the Katangan claim to secession. The mood of the U.N. in this regard had been succinctly summarised by the U.N. Secretary General U Thant when he stated that "the U.N. has never accepted and does not accept and I don't believe it will ever accept the principle of secession of a part of its member states".[23]

The opposition of the U.N. and other IGOs to the secessionist self-determination is quite understandable, for it is obvious that "they would be placing themselves in an almost untenable position if they were to interpret self-determination in such a way as to invite or justify attacks on the unity and integrity of their member states".[24]

## State Formation and Recognition

The existing rules of state formation and recognition of a state also go against the right of secession.

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[22] Ibid,, p.327.
[23] Cited in V. P. Nanda, n.3, p.327.
[24] Van Dyke, *Human Rights, U.N. and World Community*, 1970, p.327.

New states can come into existence through the granting of independence, by the acknowledgement of already existing de facto independence, from the dissolution of an empire or federation, by the merger of two or more states or units, by partition and the seizure of independence. Thus under existing procedures of state formation, there is no provision of state formation through secession.

Recognition of an entity by third states has always been important for the new entity to achieve statehood. This is true particularly with regard to secessionist declaration of independence. But the principle of self-determination allows states to recognise only those entities which are self-determination units. An entity that bears the marks of statehood but is not a self-determination unit cannot be recognised by the third state. Any such recognition defies the principle of self-determination of the majority in a state and is regarded at the very least as premature, hence unwarrantable intervention in the internal affairs of another state. On the other hand if an entity is a self-determination unit, but does not meet the strict criteria of statehood, there is far greater leniency and third state may recognised such entities without being regarded as patently intervening in the internal affairs of another state. [25]

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[25] Heraclides, n.5, p.25.

## The Non-Intervention Norm

The third and final legal hurdle against secessionist self-determination .is the norm of non-intervention. The principle of non-intervention in the internal affairs of the state is one of the cardinal principles of international law and can be seen as complementary to the non-use of force prohibition (Article 2, Para 7 and Article 42, Para 4 of the U.N. Charter). Violation of this norm is justified only in exceptional circumstances and for such reasons as defense, peace and security and in rare cases for humanitarian considerations, in particular in flagrant instances of institutionalised racism and violence against the majority and in classical colonialism. Secessionist movements are meticulously excluded from such right to seek and be given support, despite their claim that in substance their situation is not different from institutionalised domination and exploitation by aliens. At the same time the secessionists cannot hope that non-intervention will work for both sides. States are entitled to request from any third states the aid that it deems necessary. But third state cannot assist secessionists, for they would in effect be using force against territorial integrity of independence states. The legal basis for preventing a state from supporting secessionist is the sovereign equality of independence and territorial integrity of states. And from the international politics point of view the basis seems to be practical. It is designed to discourage states from becoming involved in unstable and ambiguous situations.

## Arguments against Secessionist Self-Determination

The above mentioned legal norms against secessionist self-determination are founded on some solid legal and non-legal arguments.

Lee C. Buchheit has summarised some of those legal and non-legal arguments that have been provided throughout the years. [26]

**Legal Arguments**

(i)    That the right of the self-determination can only be exercised once on the basis of maxim pacta sunt servanta,

(ii)   International law is the law of states and not of peoples or individuals. States are the subjects of international law and peoples (majority or minority) are the objects of that law,

(iii)  the so called argument from mutuality; as state cannot oust one of their provinces, equally a province cannot secede from the state.

**Non-legal Arguments**

(i)    The fear of Balkanization, the domino theory, or the specter of the Pandora's Box,

(ii)   the fear of indefinite divisibility, because very few states are ethnically homogeneous and often neither are the secessionist territories themselves,

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[26] Lee C. Buchheit, *Secession : The legitimacy of Self–determination* ( New Haven; Yale University Press, 1978), p.23.

(iii)    the fear of the effect such a right could have on a democratic system, by

         providing a minority with an opportunity for a constant blackmail

         threatening to secede if there is no conformity with its wishes,

(iv)     the danger of giving birth to non-viable and particularly small entities

         which would rely on extensive international aid,

(v)      the fear of trapped minorities within the seceding state who presumably

         cannot themselves secede in turn,

(vi)     the fear of "stranded majorities" in cases where the seceding territory is

         economically or strategically crucial to the original state.

Amitai Etzioni has also brought out some of the disadvantages associated with the secessionist self-determination.[27]

Economic disadvantages of secession, according to him, are many and obvious. Countries that fragment into smaller economics pay economic penalties. For instance Slovakia, a source of many raw materials has split from Czech Republic, a place where raw materials have been turned into products. As a result both the units have economically suffered.

It is sometimes said that disintegration of states does not have any economic significance in today's world of truly free trade where it does not matter where national borders are drawn. But Etzioni finds out that under existing

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[27] Amitai, Etzioni, "The Evils of Self-determination", *Foreign Policy*, Winter 1992/93, pp.345-636.

conditions national borders retain considerable economic significance. This significance can be gauged from the tendency of citizens to buy domestically produced goods even when there are no legal restrictions on imports, and in industrial policies aimed at giving domestic industries a comparative advantage.

It is also said that once the various national states find their national expression through secession, they can form a common market. But it is very difficult to do so and in fact it rarely happens that way. Indeed the African experience makes evident the great difficulty, indeed the near impossibility, of forming new unions once various territories have become independent states.

Secessionist self-determination also deprives the large multi-ethnic states of the advantages of economies of scale.

Another problem that Etzioni identifies with secessionist self-determination is that such movements work against democratisation and threaten democracy in countries that have already attained it.

The essence of democratic structure is that it faciliates smooth changes of those in power. When the government fails to respond to the needs and aspiration of all, then the government is replaced by another one without much difficulty. In order to maintain this basic characteristic a democratic society should posses a plurality of groups. Only plurality of social, cultural and economic loyalties and power centers within society makes it possible for new groups to be break upon the political scene, find allies, build coalitions and effect change. In other words, social pluralism supports democratic government. But, in contrast, breakaway

states based on ethnicity tend to fashion communities that are more sociologically monolithic than their parent states. Ethnically based breakaway states generally result in more ethnic homogeneity and less pluralism, meaning that they often lack the deeper sociological foundation of democracy.

Self-determination or secessionist self-determination is often demanded in the names of protecting or preserving a separate ethnic culture, tradition, religion or language. However, within a truly democratic state a pattern of integration can be created that preserves distinct identities without breaking up the encompassing societies. In a truly democratic state, there is no reason for one culture to try to suppress others as long as the other seeks self-determination rather than cultural domination. All people must develop more tolerance for those with different backgrounds and culture. Ethnic identities can be expressed within existing national entities without threatening national unity.

Thus, the overwhelming position so far is against the right of secession. The legal position and state practice have been an outright rejection of any such secessionist right. The existing legal norm does not recognise secessionist right on any ground. Similarly state practice so far is clearly against any such demand of secession, whether such a demand is made on a valid ground or not.

But the reality of growing secessionist movements continues to contradict the theory. While on the one hand there is a complete taboo against secession, on the other hand, the world is witnessing a growing number of secessionist demands. Surely the legal ban and state opposition have failed to deter people from raising

such demands and to fight for such demands. As a result, what is being witnessed today is an increasing number of internal conflicts within states, often triggered by issues relating to secessionist self-determination, with many of them having the potential to threaten world peace. Thus it is obvious that the existing taboo against such demands has not helped to solve the problem and that the world community can no longer afford to ignore them. Such silence would be politically impossible and in some cases morally objectionable.[28] This has led many scholars to distinguish good cases and bad cases of secessionist self-determination and to develop guideline for the granting of the right to secede in certain conditions. Alexis Heraclides, Allen Buchhanan, Hurst Hannum, V.P. Nanda are some of them.

Heraclides has identified four such conditions under which the right of secession can be granted.[29]

*Discrimination*

Deliberate and systematic discrimination and injustice that does not hold realistic prospects for remedy, according to Heraclides, can constitute a reasonable ground for secession. It should be clear, as Onyanoro Kamanu has put it, on the basis of hard empirical evidence that members of seceding groups can no longer

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[28] Hurst Hannum, "The Specter of Secession : Responding to Claims for Ethnic Self-determination", *Foreign Affairs*, Vol. 77, No. 2, March/April 1998, p.14.

[29] Alexis Heraclides, "Secession, Self-determination and Non-intervention : In Quest for a Normative Symbiosis", *Journal of International Affairs*, Vol. 45, Winter 1992, pp.335-420.

live in peace and security or fulfill their legitimate individual aspiration within the larger political community.[30] However, what is important in this respect is to establish whether or not discrimination is the result of a consistent and deliberate policy on the part of the central government with regard to the minority community in question.

*Distinct societies*

If a community or society declares themselves as distinct from the dominant communal group of the state, then this can be also be a ground for secession. But what is important in this regard is that the people in question should live in a distinct, compact and fairly integrated society and that the majority of such people should support the demand for secession. Another important point here is to know how determined the group is to have separation and whether they would content with something less.

*Prospect for Conflict Resolution*

A good case of secession or separatism should contribute to the resolution of conflict. A separatist demand can be justified if such separation or secession holds a good prospect for resolving the conflict and leading to peace and understanding in and between countries. In other words, if such a separation instead, causes infinite internal conflict and disintegration within a new state or in

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[30] Cited in Heraclides, n.29, p.411.

the rump state, or becomes the ground for expansionism and interstate conflict, then such a demand for secession should be rejected.

*Reaction by the Centre*

Non response or lack of positive response to the separatist demands can also constitute a rightful ground for separatism. Separatist movements can claim legitimacy if it is obvious that central government is not prepared to negotiate or otherwise afford a degree of meaningful self-rule to the separatist group. If a state is not prepared to accept a more diversified image and to provide for effective participation when confronted with the reality of sizable politicised minority residing compactly in the country, then it should consent to partition.

According to Hurst Hannum there are two instances in which secession can be justified.[31]

The first occurs when massive discriminatory human rights violations approaching the scale of genocide are being perpetrated. If there is no likelihood of change in the attitude of the central government, or if the majority of the population supports the repression, secession may be the only effective remedy for the besieged group. It is important to remember, however, such exceptions are based primarily on the need to alleviate human suffering, not on the acceptance of the impossible equation of one nation to one state.

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[31] Hurst Hannum, n.28, pp.16-17.

Secondly, a right of secession might be justified if reasonable demands for the local self–government or minority rights have been arbitrarily rejected by a central government even without accompanying large scale violence. This exception, however, would come in to play only when even the most minimal demands are rejected.

Allen Buchhanan has identified another such three grounds under which section of population of independent states can legitimately claim the right to secession.[32]

*Discriminatory Redistribution*

Victimization of certain people through state policy of discriminatory redistribution, according to him, provide a reasonable ground to the people concerned for the demand of secession. A state engaged in discriminatory redistribution whenever it implements taxation schemes, regulatory policies or economic progress that systematically works to the disadvantage of some groups while benefiting others in morally arbitrary ways. A clear example would be government imposing taxes on one group while spending less on it or placing special economic restrictions on the region the group occupies, without any sound moral justification for the unequal treatment.

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[32] Allen Buchhanan, "Self-determination and the right to secede", *Journal of International Affairs*, Vol. 45, Winter 1992, pp.354-367.

*Rectificatory Justice*

The most obvious and common justification of secession stems from rectificatory justice. The arguments stem from the assumption that secession is simply the reappropriation by the legitimate owners of stolen property. The right to secede under these circumstances is just the right to reclaim what is one's own.

This view may be called the historical grievance version of the territoriality thesis. The territoriality thesis states that every sound justification for secession must include a valid claim[33] to territory on the part of the secessionists. The historical grievance version asserts that the valid claim to territory necessary for every sound justification for secession must be granted in a historical grievance concerning a pre-existing right to the territory.

*Cultural self-preservation*

Buchhanan does not altogether support secession on the grounds cultural self-preservation, but says that such a cause can also be a valid ground for secession under five conditions-

(i) The culture in question is truly threatened or at the very least, its prospect of the demise in the near future must be significantly greater than the risk all cultures face,

(ii) less drastic means of preserving the culture than secession must be

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[33] Lea, A. Brilmayer, "Secession and Self-determination : A territorial reinterpretation", *Yale Journal of International Law*, Vol. 16, No. 1, 1991, p.177.

unavailable or inadequate,

(iii) the culture in question must meet minimal standards of moral decency,

(iv) the seceding group is not seeking independence in order to establish a state that violates basic civil and political rights and from which free exit is denied to those who don't wish to be subjected to these rights violations,

(v) and lastly neither the state nor a third party has a vital claim to the seceding territory.

V. P. Nanda, taking his clue from the East Pakistani conflict, which is the only successful case of secession so far and which is recognised by the international community, has suggested that under special circumstances, even in a non colonial setting, secession may be valid. Such circumstances according to him include the followings:[34]

(i) If there is a physical separation of two regions of one state and domination of one region by another,

(ii) substantial difference in the nature of the linguistic, cultural and ethnicity of the population of the two regions,

(iii) problem of regional disparity in economic growth and economic domination and exploitation of one region by another,

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[34] V. P. Nanda, n.1, p.328,336.

(iv) clear expression or mandate for regional autonomy or separation by the people of one region,

(v) brutal suppression of secessionist demand amounting to genocide and denial of human rights.

Nanda has argued that if any instance of secession meets the above criteria, then the demands for self-determination can be placed above those of "territorial integrity" and "non-intervention" by the U.N.

Thus there is a tendency among many scholars and writers to interpret the right of self-determination as implying a right of secession too. This is particularly true with regard to the leaders of the various secessionist movements. They claim that the right of secession is inherent in the right of self-determination and invoke the right of self-determination in favour of their secessionist demands.

But such interpretation is ill founded. The right to self-determination does not imply the right of secession. This becomes obvious from the various formulations of this right under the U.N., and states practices of this right. Instead the right of self-determination as formulated by the U.N. and other inter-state bodies are categorically opposed the right of secession.

Of late, against this initial outright rejection of secessionist demand, a view is slowly emerging which has sought to concede such demands in some specific situations. According to this view the outright denial of secessionist demands does not help to solve the problem and is not always justified. There should be a

qualified approach to the demand of secession and such a demand should be examined on its merits.

Attempts have also been made to explore alternative mechanisms to accommodate the demand for secessionist self-determination. Autonomy is seen as such an alternative and is increasingly being viewed as an effective solution to the demand of secessionist self-determination.

# CONCLUSION

Today, international opinion is strongly divided on the issue of self-determination. Some see it as a constructive way for groups to obtain control over their own fate and preserve their identity. Others see the quest for self-determination, particularly in its national version, as one of the greatest threats not only to peace and security, but also to human rights and individual dignity.

The division regarding the support for self-determination is also reflected on the issue of the definition of the subjects of the right of self-determination. It should be pointed out that the opposition to the right of self-determination is not against the right as such (or as a whole).The rights of the population of non-self-governing territories and occupied territories to self-determination have been universally accepted. There is even a broadening consensus that the population of an independent state as a whole is also entitled to the right of self-determination. The content of the right here is to be able to determine the economic, social and cultural development of the country concerned. The opposition to the right to self-determination is mainly with regard to the claims for self-determination by various ethnic and national groups within the sovereign independent countries. There is very little if any, support in international law for claims by separate ethnic, linguistic or religious groups inside sovereign states for self-determination.

Despite the opposition, however, the demand for self-determination by various ethnic and national groups within the independent states is increasing.

After the decolonisation, which was almost completed by late 1960s, it was thought that the right of self-determination would be a thing of past. But this did not happen. Instead, the world has witnessed increasing demands for self-determination, now coming from within these newly independent countries. Various ethnic, national, linguistic, and religious groups of these post colonial states are now raising demands for self-determination.

A significant amount of effort has gone in to understanding the bases or reasons for the rise of demands of self-determination in the post-colonial states. Many have interpreted the basis of such demand as ethno-national. By this, they mean that the main reasons for the rise of claims of self-determination in the post-colonial states are the 'natural' bonds within various ethnic and national groups. The members of an ethnic or a national group, according to them, feel some sort of natural affiliation or attachment for each others. These attachments or bonds among them are natural in the sense that they are prior to any kind of interaction. And whenever these natural affiliations among the members of ethnic and national groups get transformed into a political identity, the demands for self-determination by these ethnic and national groups emerge. According to them, this is the case with most of the demands for self-determination in the post-colonial states. This becomes further clear when we take into account the fact that most of the claimants of self-determination in the post-colonial states are ethnic and national groups. Therefore, the argument goes, the basis of self-determination in post-colonial states are ethnic.

But other scholars strongly object to such explanations of the basis of self-determination in the post-colonial states. This group of scholars believes that the reasons for the emergence of such demands are not ethnic but political. According to them the demands for self-determination are often the results of manipulation of members of ethnic and national groups by the elites of those groups and rational calculations of individuals of those groups to act collectively for their own benefits. The elites of the various ethnic and national groups, it is said, often resort to manipulation of cultural symbols of such groups in order to rally people behind them in their struggles for power, prestige and wealth. As the elites mobilise public support by appealing to common cultural symbols, such mobilisations often assumes the colour of ethnic and national solidarity, while in fact they are nothing but political mobilisations for political ends. Sometimes, even when there is no elites' manipulation, individuals of a particular group, out of their rational calculations, choose to act collectively for their own interests. They do so when they believe that such collective actions would yield more benefits than their individual actions. So according to this group of scholars the reasons for the rise of the demands for self-determination in most of the post-colonial states are not ethnic but political.

But it is very difficult to settle for one or the other view. Both these views have their relative merits and demerits. For example, those who focus on the natural ethnic ties of the members of ethnic groups as the main cause for the demand of self-determination, fail to explain why particular ethnic communities

emerge, change and dissolve. Similarly those who subscribe to the political version of the basis of self-determination cannot account for why masses should be so readily respond to the call of ethnic origin and culture. But at the same time both view points are also helpful to understand some aspects of the phenomenon. For example, while the former view helps us to understand the persistence of ethnic ties, the latter one is effective in understanding the role of elites behind the formation of political assertiveness of ethnic or national groups.

In other words, the explanations offered by both the view points regarding the formation of demands of self-determination in post-colonial states are only partial and not complete. Both of them highlight one or two aspects of the phenomenon and ignore some others. Moreover, some of the actual situations of such ethno-national assertiveness can be understood by one view better than the other, while in some other cases the opposite is true. Sometimes, even the same situation can be interpreted equally well from both view point. Therefore, it is very difficult to pronounce a final word about whether the basis for self-determination in post-colonial states is ethnic or political. So far the issue remains contentious.

In many cases, the demand for self-determination by ethnic and national groups within an independent state has taken the form of demand for secession from the existing state. These ethnic and national groups have advanced their claim for secession on the basis of their assumption that the right of self-determination implies a right of secession also. But the claim for secession by ethnic and national groups from their existing states have found very little if any,

support from the international community. The dominant position so far is that the right of secession is not inherent in the right of self-determination. In fact, various formulations of the right of self-determination have categorically condemned any attempt aimed at the partial or total break up of the existing states. This is so, because it is believed that recognition of the right of secession as inherent in the right of self-determination would destabilise the existing state system. The right to secede, therefore, is completely rejected. However there is an emerging view that such outright denial of the right of secession of different groups of existing states is not helpful to the solution of the problem and is not always justified. Therefore, attempts have been made to make the demand for secession a qualified right permitted only under special circumstances and also to find out some other alternative mode of accommodation of such demands.

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