

# Globalization, Self Determination and the End of State Sovereignty

Is Washington "Inadvertently" Making the Case for the End of State Sovereignty?

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*Are the international escapades of the United States in Afghanistan, Iraq, Libya, Syria, and now the Eastern European states, to name but a few, inadvertently resulting in the instability of the current state system itself?*

There is a plausible argument that can be made that, by the West working internationally to actively dismantle current states that do not work in the interest of the U.S., and with the domestic collapse of democratic principles and practices within the government in the U.S. (e.g. NSA spying on U.S. citizens and on England, Germany, and France; the recent Supreme Court rulings removing as many bars as they can to the power of money in the electoral process, such as in *Citizens United v. Federal Election Commission* [2010] and also *McCutcheon v. Federal Election Commission* [2014]), with various peoples' response to the nation-state breakdown in Africa, the Mideast, and Europe, from Libya to Egypt to Ukraine, combined with the fact of globalization (resulting in economic interdependency of states), there are indications that all of these U.S. intrusions into other nation-states are bringing in their wake the reduction of the primacy of the nation-state, if not its collapse altogether.

If either of these prognoses is correct, then the time is right for giving birth to a world order that focuses on human dignity and on world citizenship rather than on state sovereignty and power. It is a post-American Empire world for which we need to be planning, now. This article is an attempt to contribute to the dialogue concerning that planning. The point of this article is twofold: first, that the current operations of the U.S. in dismantling various nation-states open up the possibility of fighting against the Empire by localizing the organization of people under the banner of self-determination. Second, that the normative bases for self-determination are not only largely in place already, but that within that normative discussion is a growing recognition that self-determination can only come about by once again sharply limiting state sovereignty and power. We will begin with the latter first.

## I. The Normative Foundations of Justice and the Basis of International Law

One thing that is nearly universal in discussions of justice is that the norm of equality is primary and intrinsic to the concept of justice. The importance of the norm of equality is demonstrated by the recognition that one cannot state any other principle of justice (e.g. fairness; dignity; self-determination; human rights) without presuming a notion of equality. Even libertarians have a notion of equal freedom. Furthermore, international law is itself based on the norm of the equality of nation-states. For example, the United Nations Charter states that the U.N. is "based on the principle of the sovereign equality of all its members."

So we begin with the idea that a normative analysis must presume the value of equality as a starting condition.

In 1971, Harvard philosopher Rawls published his most important work, *A Theory of Justice*, in which equality is expressed by the phrase “justice as fairness.” There are two main principles of justice encapsulating that equality: “(1) Each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others; (2) Social and economic inequalities are to be arranged so that they are both (a) reasonable expected to be to everyone’s advantage, and (b) attached to positions and offices open to all.” These principles directly imply the right to self-determination—i.e. the right of people to determine their lives and polity by their own self-directed choices, without foreign intervention.

Later in this same work (in Chapter VI), Rawls extends this notion of domestic equality to an “international original position,” which is intended to establish norms that are not contingent on social, political, or historical biases and advantages that favor certain nation-states over others. The main principle chosen here, according to Rawls, would be, unsurprisingly, the principle of equality. This principle is sufficient to imply the right to self-determination of peoples, without external interference or intervention:

“The basic principle of the law of nations is a principle of equality. Independent peoples organized as states have certain fundamental equal rights. This principle is analogous to the equal rights of citizens in a constitutional regime. One consequence of this equality of nations is the principle of self-determination, the right of a people to settle its own affairs without the intervention of foreign powers.” (p. 378)

This brief normative analysis yields for us some specific political norms which are used not only for international law, but which provide a critical foundation for moral-political analyses. These norms include: equality of opportunity; human dignity; and human rights, specifically the rights to security and human sovereignty. This is in strong contrast to the neoliberal (and modern capitalist) position, which emphasizes equal human freedom exclusively, allowing all other actions, provided individual freedom is not violated. That this latter is an extraordinarily narrow view, normatively speaking, may be seen in the recognition that conceptions of equal freedom presuppose equal opportunity to exercise such freedom, lest only some individuals be free.

Let us call this normative platform “self-determination,” as this term takes into account the norms of human dignity, opportunity, equality, rights, and sovereignty.

## II. International Laws Concerning Self-determination

Generally speaking, most definitions of self-determination revolve around the notion that all peoples have the right to determine their own economic and political development. This right legally came into existence in international law only in 1960, when, due to decolonizing concerns, the U.N. General Assembly adopted Resolution 1514 (XV), which stated that “all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”

Perhaps the most important formulation of self-determination from the United Nations was stated in U.N. General Assembly Resolution 2625, adopted on October 24, 1970. Here are two crucial mandates from this resolution, each one salient for an international law analysis both of the situation in Ukraine and for our time:

“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”

“The establishment of a sovereign and independent state, the free association or integration with an independent state, or the emergence into any other political status freely determined by a people constitutes modes of implementing the right of self-determination.”

On January 3, 2006, the United States, Russia, and Ukraine, among many other nations, signed the International Covenant on Economic, Social and Cultural Rights,” which guarantees, in Part I, Article 1, that “All people have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”

Finally, the right of a people to self-determination was further underscored by The United Nations Declaration on the Rights of Indigenous People (UNDRIP) of June, 2006, in which it defines self-determination as the “right to freely determine their own political status and freely pursue their economic, social and cultural development” (Article 3). Article 4 goes further, specifying the right to self-determination as “the right to autonomy or self-government in matters relating to their internal and local affairs.”

This right of self-determination immediately raises questions concerning secession from a nation-state, as in the case of Crimea and Eastern Ukraine. Does this primacy of self-determination rights imply the right of peoples to secession from their state, as in Ukraine? To answer this, we must begin by substantiating the moral right to secede, and examine legal precedence, such as the International Court of Justice (ICJ) decision concerning Kosovo. Regarding the first issue, exactly when this moral right obtains and thus the right to secession may occur is highly contentious in normative thought. Some maintain that there must be ongoing and serious injustices and human rights abuses (referred to as “Remedial Right Only Theories), while others contend that the moral right to secession occurs even when no injustice has been experienced (called “Primary Right Theories.” For both types, see A. Buchanan, “Theories of Secession,” *Philosophy and Public Affairs*, 1997, 261: 31-61).

Legally, there are significant and notable disagreements within international law regarding secession. For example, is the right to secession intertwined with or conceptually dependent on the principle of self-determination? Further, just how does one define secession, legally? There is no agreement between international lawyers on this (See Ioana Cismas, “Secession in Theory and Practice: the Case of Kosovo and Beyond,” *Goettingen Journal of International Law* 2, 2010, 531-587). Also, legal arguments must take note of the International Court of Justice (ICJ) decision regarding the secession of Kosovo, which stated, in ruling in favor of Kosovo’s declaration of independence from Serbia, that “general international law contains no applicable prohibition of declarations of independence.”

### III. Looking forward

Analyses of the situation in the Ukraine and other specific nations need to be extended to analyses that go beyond the immediate exigencies of the local events there, and involve a wider, global analysis that examines what we should envision and work toward for the future, given the now obvious single value of rapacious greed and lust for power that pushes the U.S. government to attempt to extend its hegemony in all directions. As an answer to

that, there is an emerging international discussion, if not a consensus, on emphasizing norms that prioritize human rights, human dignity, and human security and sovereignty over state sovereignty—i.e. self-determination. Taken together with other current events, this renewed focus on self-determination of all peoples (worldwide) could result in peoples' breaking the stranglehold of U.S. Imperial policy as the latter engages in its own policy of nation-breaking. An international order of peoples would be a world order based on a community of citizens whose sovereignty means that, qua human, they are the locus of political arrangements, not state institutional arrangements or concerns. This could be secured by an international arrangement seeking to guarantee the priority of human rights to state interests. In this light, sovereignty would be defined as the right to self-determination without internal or external pressures or interference from parties whose intentions are questionable in regards to increasing the right to self-determination for all persons involved, instead of the interests of just a few elites. This will necessarily result in reducing state power and sovereignty, since people cannot control their lives when a given state yields enormous power over them. Such is the situation worldwide today, even in the U.S. The elites will not surrender their power without a fight, but if we are properly grounded in democratic moral norms, we can use that grounding to unite with others worldwide who are already engaged in this process, and thus usher in a new era of self-determination. It will be a long struggle, but the time is starting to show itself as a good time for self-determination to be the motivating wedge for bringing down Imperial powers.

Ultimately, only two things will imminently stop the U.S. Empire from continued expansion and world control. First, it could meet its natural limitation (perhaps by over-extending its consumptive reach beyond its ability to finance it; perhaps the depletion of the natural resources required to run the engine of Empire). Alternatively and/or concomitantly, the long-term strategy should be that the people in the world, independently and with a recognition that they are united with other peoples in the struggle for self-determination, begin to apply "people power" pressure on the superpower, wherever it works. This "pushback" will require and presuppose both a clear understanding of as well as an application of the very normative concepts we have discussed above, most specifically that power is about the freedom of peoples for self-determination, and that the sovereignty of the people is the value and commitment that unites them, not the governing institutions that seek their own power in contradiction to the good of their own people, and not the artificial borders that separate them.

We are seeing such a movement in its nascent form right now. On the basis of the increasing emphasis worldwide on human rights and the good of people (i.e. their sovereignty and security), international law is beginning to take note of these changes. One significant push in this direction came from a U.N.-adopted a report (in 2005) on international law of humanitarian intervention, written by the International Commission on Intervention and State Sovereignty (ICISS), and entitled "The Responsibility to Protect." The report remains controversial due to its effect of essentially weakening state sovereignty. Furthermore, it has not become international law, although, as the Report notes, it lays out the "emerging consensus" on the limits of state sovereignty by individual human rights. Although it has become a widely quoted and used document outlining the main issues of humanitarian intervention, the ICISS report noted in numerous places that there is a growing consensus on the limits of state sovereignty by human rights, including self-determination.

When this growing consensus is combined with the facts noted at the outset of this article, there are indications that the time is right for giving birth to a world order that focuses on

self-determination based human dignity and on world citizenship rather than state sovereignty. It entails the recognition that state sovereignty in practice has become the concentration of power and control over political and economic opportunities and self-determination by the people within or by any given state or set of states. It is not just that a case can be made that we are witnessing the nascent beginnings of a historical movement beyond nation-state power, but that the historical conditions are becoming ripe for making a deliberate commitment to support this normative trend toward human rights and dignity a critical goal worth pursuing as the nation-state system of governance overreaches, both internationally in the case of the U.S. and domestically, in the case of the U.S. and nations such as Egypt (whose government persecutes its domestic enemies with great force, such as the Muslim Brotherhood mass prosecution and death sentences), and subsequently diminishes or even collapses in importance.

The implication for weakened or limited state sovereignty by human rights opens the way for a global democracy. More to the point, the clear and growing interdependence of nations and peoples, economically and in terms of resources, indicates that the world's communities are becoming interlinked with one another, and as they become more intertwined, they fail to be able to provide solutions to their problems in a strictly unilateral manner. Add to that the fact the business corporations already recognize this, and are making headway, although only through strictly libertarian-capitalist ideologies, in enacting so-called "free trade agreements," allowing this economic interdependence to benefit profitability. These facts require that our norms and laws recognize this by maintaining a space for human autonomy and active citizenship. There needs to be more of a robust discussion on what type of global democracy and global citizenship will best enhance human dignity, rights, and self-determination. Principles such as globalism, universalism, participation, and procedural fairness are already in play in such discussions, resulting in distinct notions of Cosmopolitanism, which is the view that humanity is one single, but pluralistic ethical community.

#### IV. Conclusion

The culmination of the movement that the U.S. has unwittingly begun by breaking down the nation-states of the world would be the localization of political and economic decisions. Self-determination is impossible under the crushing weight of Empire or Totalitarian regimes, such as that developing in the U.S. government. Although many if not most commentators maintain that the nation-state is here to stay, at least for the foreseeable future, if the analysis presented here is correct that the nation-state as the all-powerful sovereign will soon show cracks and perhaps even decline, then we citizens will have been presented a golden opportunity to take on the responsibility of self-determination, which requires determination by the people of their institutions. It would be recognized under this philosophy that institutions—even allegedly democratic ones—have their own distinct concerns; that those concerns are not the interests of the people they ostensibly represent; that primary among those institutional interests is the growth of power toward the top levels of that institution; and that those institutional interests must be hemmed in by notions of self-determination, based on individual autonomy, guaranteed by human rights.

Although both the local and international institutional structures of such a new world order would have to be created, one goal would be to prevent the possibility of monolithic of superpowers like the current U.S. Empire (For just two forward-looking but competing views on this topic, see Richard Falk, *Achieving Human Rights*, Routledge, London, 2008 versus Jürgen Habermas, *Between Facts and Norms*, MIT Press, 1998).

If this is to happen in a world of the reduced sovereignty and power of nation-states, it remains up to the citizens of their governing institutions to initiate normative and pragmatic limitations to the natural upward power movements within ostensibly democratic government structures, so that interventions into other countries at the behest of such institutional drives for geo-political power and resource-control, such as is seen with the intervention of the U.S. and E.U. into Ukraine, will be both less likely to happen in the future, and will come with much a greater sanction against unwarranted intervening agents and municipalities.

The historical circumstances for change are beginning to open up the cracks in state hegemony and power, and the normative grounds for taking advantage of those cracks by working for the reduction of the nation-state prominence are largely already in place. The responsibility for what comes out of this historical opening lies strictly on our own shoulders as citizens and as a people.

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