

8

BEYOND THE FLAWED PRINCIPLE OF NATIONAL SELF-DETERMINATION

Adam Roberts¹

In discourse on international relations, it is often assumed that the repeatedly-proclaimed right of self-determination means in practice a right of national self-determination. Yet there are grounds for doubt as to whether the right of peoples to self-determination, which is enshrined in international legal agreements, can, in general, mean a right to separate sovereign statehood. National self-determination can more usefully be viewed not as a legal right, but as a political principle – and a flawed one at that. It has often proved, in practice, disappointing and disruptive. A key question today is how international society is adapting, and moving beyond, this attractive but flawed principle; and what further steps in that direction might be taken.

The principle of national self-determination has by no means been wholly negative in twentieth-century history. Large imperial systems are inherently unstable, leading to strong pressure for self-rule in their constituent parts. At times when great empires have been threatened with defeat and collapse, the principle has been commonly advocated as a basis for a new and better order. The principle has helped to shape the responses of major powers to the break-up of empires, and it has provided a framework

*By Adam Roberts
self-determination*

within which the attainment of national aspirations was assumed to encompass self-determination in the form of democratic institutions.

The proposition that political life should be based upon rational ordering principles, rather than upon an uncritical acceptance of existing arrangements and institutions, is part of our inheritance from the European Enlightenment. The application of this proposition to international relations – so full of tragic and violent clashes between rival kingdoms and empires – is entirely natural, and the idea of national self-determination has proved a key part of that application.

The central weaknesses of the principle of national self-determination are well-known. It has no authoritative exegesis. There has been a lack of clarity as to which 'peoples' or 'nations' are its bearers and supposed beneficiaries. Some of the most deplorable features of twentieth-century international politics – including the pursuit of irredentist claims and the cruel treatment of minorities – can in part be attributed to the principle and its defects. It has always been contested, and not only by the European colonial powers. At best it is only one principle among many, and needs to be balanced against other values and tempered by other considerations.

Nevertheless, ideas of self-determination in general, or national self-determination in particular, cannot be declared dead and then buried, with or without full military honours. They have shaped the world we inhabit, addressing central and enduring problems of international relations: the ways in which states are formed, the tendency of empires to decline and break up; the nature of post-imperial arrangements; the popular control of political power; and the vulnerability felt by peoples who do not have their own state. However, the flaws of national self-determination as an ordering principle are so numerous that there is a need to explore alternative bases of international order. The project of forming fully-fledged and sovereign nation-states – a project with which the principle is closely associated – needs to take its proper and modest place as only one of several ways of tackling the status of different communities in the international system.

MEANINGS OF 'NATIONAL SELF-DETERMINATION' AND 'NATION'

The principle of national self-determination, like all abstract political terms, has in the course of time undergone changes in meaning and connotation. However, its core meaning is relatively simple and uncontested. It is, as Cobban has put it, 'the belief that each nation has a right to constitute an independent state

and determine its own government.'¹ It is generally associated with a teleological belief that when old empires are broken up into the more natural units of nation-states, there will be a better basis for democratic self-government within states, and peace between them. Although the term 'self-determination' is often used synonymously with 'national self-determination', it can also refer to other approaches to self-government, not so inextricably associated with the formation of independent states.

The core meaning of 'national self-determination' immediately raises the difficult question, what is a 'nation'? The term has a dual meaning: it can refer either to a people (even if not formed into a state), or to a state and all the inhabitants thereof. This duality is reflected in Cobban's definition of nation as 'a community that is, or wishes to be, a state'.²

In the first meaning, 'nation' can refer to a group of people who share a significant number (but seldom all) of such attributes as the following: history, language, ethnic origin, religion, political belief, fear of the same adversaries and a wish to live under political institutions which they can regard as their own. In this meaning, there is no assumption that the people concerned necessarily yet have a state. Nor need there be any assumption that they must in every case want to form one. Cobban himself, despite the words 'wishes to be' in his definition cited above, strongly opposes the idea that sovereign statehood is the only possible goal.³

In its second, and perhaps more popular, meaning, the word 'nation' refers to a political entity, namely an existing state or country, or simply to all the inhabitants thereof.⁴ This meaning has triumphed in the very word 'international', and in the titles of major world organisations: the League of Nations, founded in 1919, and the United Nations, founded in 1945. Such usage of the term 'nation' to mean the same as 'state' is particularly common in the USA, and in the media more generally. It seems to imply, romantically but inaccurately, that every country is a 'nation' – a people with a sense of common identity. The term 'nation-state', often used as if all states were nations, conveys similar messages. The co-existence of these two distinct meanings of 'nation' has not assisted clear discussion of the principle of national self-determination.

WOODROW WILSON: FLAWED ADVOCATE

Two great exponents of national self-determination in the twentieth century have been V.I. Lenin and Woodrow Wilson. Despite the differences between them – not least in their views

by Zina, in
self-determination

definition
nation

of democracy – both recognised the collapse of great empires as a central fact of their time; both saw the power of self-determination as a rallying-cry during and after the First World War; and both proved more willing in practice to ride rough-shod over the principle than their rhetoric might have suggested. Neither can be said to have developed a thorough and consistent theory about the place of self-determination in international politics.

The case of US President Woodrow Wilson is especially instructive. He is often seen as the leading visionary and advocate of the principle of national self-determination. His critics have sometimes accused him of blinkered idealism, and of conjuring up forces in Europe and beyond which he did not understand. Such views of his role in the years 1916-19 are too simplistic. True, in an important speech delivered almost a year before US entry into the war, announcing the USA's willingness to be a partner in an association of nations to secure basic principles of justice and peace, he spoke in idealistic terms: 'We believe these fundamental things: First, that every people has a right to choose the sovereignty under which they shall live...'.⁶ However, his policies were also hard-headed reactions to urgent practical problems: the inability of the Allied governments to agree on a clear set of war aims that would have public appeal; the desirability of enticing certain subject peoples to support the Allied cause; the need to cope with the collapse of the Russian, Austrian and Ottoman empires; and the requirement to respond to the strident advocacy of self-determination by Lenin and the Bolsheviks. He was attempting to bring some moral purpose and intellectual coherence to the US and allied responses to these problems.⁷

Wilson's speech of 8 January 1918, spelling out the Fourteen Points which he advanced as the essential terms for peace, is commonly cited as a high-water-mark of his advocacy of national self-determination. This conventional but mistaken view is reflected in a range of literature on the topic, and even in such mainstream sources as the *Encyclopaedia Britannica*:

In his Fourteen Points – the essential terms for peace – US president Woodrow Wilson listed self-determination as an important objective for the postwar world; the result was the fragmentation of the old Austro-Hungarian and Ottoman empires and Russia's new Baltic territories into a number of new states.⁸

This passage, and others like it, is wrong about the content of the Fourteen Points speech and its relation to events. In his speech Wilson did refer to 'the preferences of the populations', and to 'the principle of justice to all peoples and nationalities'. However, he did not use the term 'self-determination' at all, and some of his proposals implied that other principles, including

the maintenance of stability, loomed large in his mind. Like the other Allied leaders he was understandably reluctant to contemplate the collapse of the Austro-Hungarian empire.⁹ This was the subject of his tenth point, which merely stated, 'The peoples of Austria-Hungary, whose place among the nations we wish to see safeguarded and assured, should be accorded the freest opportunity of autonomous development'. As for the Ottoman Empire, addressed in his twelfth point, he again used the phrase 'autonomous development' as a means of fudging the issue of the future of subject nationalities within the Turkish portions of the empire. All this was hardly a ringing endorsement of self-determination. However, one month after the appearance of the Fourteen Points, in another address to Congress, he did declare in general terms:

National aspirations must be respected; peoples may now be dominated and governed only by their own consent. 'Self-determination' is not a mere phrase. It is an imperative principle of action, which statesmen will henceforth ignore at their peril... All the parties to this war must join in the settlement of every issue anywhere involved in it; because what we are seeking is a peace that we can all unite to guarantee and maintain and every item of it must be submitted to the common judgment whether it be right and fair, an act of justice, rather than a bargain between sovereigns.

This war had its roots in the disregard of the rights of small nations and of nationalities which lacked the union and the force to make good their claim to determine their own allegiances and their own forms of political life. Covenantants must now be entered into which will render such things impossible for the future; and those covenantants must be backed by the united force of all the nations that love justice and are willing to maintain it at any cost.¹⁰

By October 1918, Wilson had been pressured by events to take the phrase 'self-determination' more seriously, and adopt a more radical position than he had in January on the future of Austria-Hungary. A message to the authorities in Vienna, even though it did not use the phrase 'self-determination', formally altered the tenth of his Fourteen Points:

Since that sentence was written and uttered to the Congress of the United States the Government of the United States has recognised that a state of belligerency exists between the Czechoslovaks and the German and Austro-Hungarian Empires and that the Czechoslovak National Council is a *de facto* belligerent Government clothed with proper authority to direct the military and political affairs of the Czechoslovaks. It has also recognised in the fullest manner the justice of the nationalistic aspirations of the Yugo-Slavs for freedom.

The President is, therefore, no longer at liberty to accept the mere 'autonomy' of these peoples as a basis for peace, but is obliged

W. Wilson a seigneur

to insist that they, and not he, shall be the judges of what action on the part of the Austro-Hungarian Government will satisfy their aspirations and their conception of their rights and destiny as members of the family of nations.¹¹

Wilson's application of the principle of self-determination to key problems was thus a response to events in Europe as much as it was their cause. Yet there were legitimate fears that his advocacy of self-determination would have major and adverse political repercussions. His own Secretary of State, Robert Lansing, warned on 30 December 1918:

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 minds of certain races. It is bound to be the basis of impossible demands on the Peace Congress and create trouble in many lands... The phrase is simply loaded with dynamite. It will raise hopes which can never be realised. It will, I fear, cost thousands of lives.¹²

Lansing was right to fear dynamite, but it existed anyway, at least in Europe, in the form of powerful competing nationalist movements. Perhaps the more valid part of his criticism of Wilson is that, faced with the growth of nationalist movements and numerous claims to statehood, the great prophet of self-determination was vague. Along with other statesmen of his time, he failed to make clear in public statements what was recognised well enough in the actual conduct of negotiations: that any right of self-determination could only be applied very unevenly, and with due regard to circumstances and to other principles. Frequently, indeed, Wilson betrayed the very principle he proclaimed, and did so without explanation.¹³ His defenders do not provide convincing answers to such charges.¹⁴ He tended to retreat into vacuous generalisation, as his own account of a meeting with a group of Azeris in Paris in 1919 suggests:

Do you know where Azerbaijan is? Well, one day there came in a very dignified and interesting group of gentlemen who were from Azerbaijan. I didn't have time until they were gone to find out where they came from. But I did find this out immediately - that I was talking to men who talked the same language that I did in respect of ideas, in respect of conceptions of liberty, in respect of conceptions of right and justice.¹⁵

Wilson was not alone in being uninformed about the different peoples and regions with which he had to deal. Harold Nicolson, a member of the British delegation at the Paris Peace Conference, writing a letter to his wife Vita, complained about meetings between Prime Minister David Lloyd George, French leader Georges Clemenceau and President Wilson:

But, darling, it is appalling, those three ignorant and irresponsible men cutting Asia Minor to bits as if they were dividing a cake... Isn't it terrible - the happiness of millions being decided in that way - while for the last two months we were praying and begging the Council to give us time to work out a scheme?¹⁶

WEAKNESSES OF THE PRINCIPLE OF 'NATIONAL SELF-DETERMINATION'

Although it remains a very uncertain guide to dividing the cake, the principle of national self-determination has been associated with the most important revolution of the past 50 years: the process of European decolonisation and the consequent emergence of new or reconstituted states. It contributed to the view that white racial domination is, or at least ought to be, a thing of the past. After 1989, it provided one basis for the emergence of new states from the ruins of the Soviet Union and the former Socialist Federal Republic of Yugoslavia. It helped to legitimise the single most important change of European borders since 1945, namely the unification of Germany in 1990. There is plenty of life left in this old principle.

Yet all too often the principle of national self-determination seems to be part of the problem, not part of the solution. The central weakness of the principle is that it appears to assume that each specific 'people', or 'nation', is neatly arranged on the map, and only awaits liberation from outside control in order to assume its rightful place in a peaceful and democratic international order. The vision is attractive, seductive and misleading. It has run into trouble twice in Europe: first in the period after the First World War, and second in the 1990s. It is worth examining more closely some of the problems which have arisen in practice both in Europe and elsewhere.

Which Peoples are Appropriate Candidates for Self-determination?

Perhaps the most difficult practical question arising in all the attempts to apply the principle of national self-determination in the twentieth century has been deciding which units are appropriate candidates for self-determination. This question can be put more simply as: Who is the 'self' in 'self-determination'?

The deliberations and outcomes of the 1919 Paris Peace Conference illustrate not only the difficulty of the question, but also the ways in which disputes about it can lead to new wars.

It came to be widely felt, at least in the areas concerned, that the general principle of national self-determination had not been applied at all, or had not been applied properly, to: German minorities in various countries; Hungarians left outside the reduced borders of Hungary; the inhabitants of many European colonies; and the Kurds in various countries of the Middle East. This outcome of the Paris Peace Conference arose because the rights of one nation had to be balanced against those of others, and the very principle of national self-determination had to be balanced against other principles and interests, including respect for the rights of many existing states and empires. The result was that the Paris Peace Conference was perceived as basing the international system on a principle which was not fairly implemented: this was a prime cause of the system's declining legitimacy and ultimately of war.

In the United Nations era, resolutions of the UN General Assembly (and, to a lesser extent, the Security Council) have sometimes contained more or less authoritative determinations of what constitutes an appropriate candidate for self-determination. Such resolutions have also provided one basis for states to refuse to recognise certain situations which involved a denial of self-determination. Rhodesia's unilateral declaration of independence on 11 November 1965 was opposed by the UN, and more generally by the international community, partly because the continuation of white minority rule was manifestly not a case of self-determination.¹⁷ Yet in general the UN's record in identifying candidates for self-determination is one of limited success, mainly because the task itself is so inherently problematic.

Problems of deciding on the appropriate units of self-determination sometimes arise not only where a people is denied sovereign statehood, but also in cases where a people is divided into several states. The huge 'Arab nation', encompassing as it does a large number of states, is a notable case in point. Although pan-Arabism has lost some of its force, and there is very little advocacy of a vast Arab union, the idea that there is an Arab nation highlights the artificial character of many of the territorial divisions within the Arab world. It also compounds the complexity of determining who the 'self' is in self-determination.

The most common problem arising from the uncertainty about the units entitled to self-determination concerns secession. For a long time, the principle of national self-determination was advocated in the context of the break-up of formal empires, especially the European overseas empires. But there is no reason why it should stop there. The principle of self-determination can also be espoused by national groups within a state. Many contemporary conflicts are between post-colonial governments and

minorities demanding self-determination. Distinct peoples within a new state, to which they may feel little allegiance, often seek to secede and set up their own separate state. Following European decolonisation, only a few such secessionist movements have managed to create new states: Singapore, Bangladesh and Eritrea are leading examples. There is a strong presumption against secession. African governments have been opposed to changes in their post-colonial arrangements of states and frontiers, however artificial these may be, because they understandably fear that permitting secession would set a destabilising precedent.

There have been countless cases in which distinct geographical areas, containing a people who certainly have some common interests and fears, have not been considered appropriate candidates for self-determination. Two conspicuous examples under British rule have been the Falkland Islands and Hong Kong. In both cases it has been widely felt that asserting a right of self-determination would make matters worse with the major power claiming sovereignty over the territory. Thus, in the dispute with Argentina over the Falklands, the British have consistently undertaken to respect the 'interests' of the inhabitants of the Falklands, but have refrained from promising to observe their 'wishes', which would involve an implied right of self-determination.

A special difficulty has arisen concerning the possible application of the principle of national self-determination to indigenous peoples. In many countries, for example in Latin America and Australasia, there are one or more indigenous peoples who see their position as that of the colonised. The governments of the countries they inhabit are deeply reluctant to view them as possible candidates for self-determination. In discussions among representatives of indigenous peoples held under UN auspices, there have inevitably been proposals to assert a right of indigenous peoples to self-determination, which could easily be seen as implying national self-determination. These proposals have caused considerable controversy. There is the risk that they could encourage false hopes, and lead to dangerous confrontations. They have also led to an attempt to redefine self-determination in this context, that is to point it away from claims to full statehood.¹⁸

The understandable reluctance of states to see the principle of national self-determination universally applied has led to successive attempts to tame the doctrine by limiting its scope. In the twentieth century there have at various times been implicit or explicit assumptions that the principle of national self-determination only applied to: empires defeated in war (eg Habsburg, Ottoman); former European colonies, separated from

the metropolitan power by salt water, Israeli-occupied territories and South Africa; collapsed communist federations in a manifest state of turmoil.

There has also been an implicit doctrine — which emerged under communist rule in the Soviet Union and the Socialist Federal Republic of Yugoslavia, and has also been evident in the post-colonial world — that the exercise of a right of self-determination was something which only occurred once, at a specific historical moment. If a free choice had supposedly been made by, say, Croatia, to form part of the Yugoslav federation, that decision was final. Like a Catholic marriage, freely entered into, it was a decision made for life. Sometimes a more general extension of this doctrine could be detected: peoples which had failed to secure independent statehood at an earlier historical period had somehow 'missed the historical bus', and could not expect another one to turn up.

Difficulty of Determining Where Boundaries Should Lie

Even when a people has been accepted as having a right of self-determination, the question of how the boundaries of its state should be defined has proved perennially difficult. One answer frequently given has been the holding of plebiscites, through which the inhabitants of a given area can decide whether or not they wish to form part of one or another state. However, this answer is not as simple as it sounds. Someone, and usually some power, has to decide in what area such a plebiscite should be held, and what question should be asked. This often comes close to a decision on where the boundary line should run. The question of whether, and where, to hold such plebiscites is extremely controversial.

The principle of self-determination is commonly said to lead to the danger of 'balkanisation'. It has indeed been a major contributory factor in the process of fission of larger units into smaller ones which has been such a notable feature of international politics in the post-1945 period — not in principle a negative development. However, balkanisation implies not just the creation of small states, but also the continuation of conflict. In many parts of the Balkans, instability has often arisen from the fact that drawing boundaries on the basis of nationality is well-nigh impossible: any imaginable set of borders gives rise to irredentist claims and provokes conflict.

Partly because of fears such as these, outside powers negotiating settlements based on self-determination have often tried to create larger units than a strict application of the principle

might seem to require. They did so at the 1919 Paris Peace Conference, creating the huge and apparently artificial Kingdom of the Serbs, Croats and Slovenes (which from 1930 called itself Yugoslavia). The creation of Czechoslovakia (which in its original form contained many ethnic minorities) was a similar case. It was not only external powers which preferred to create a few large states rather than many smaller ones. Local political forces and leaders often had their own agendas, involving distressingly imperial elements. Power politics is by no means the exclusive preserve of the great powers.

Small national entities have often had doubts about whether they can survive and flourish within lines drawn on the map on the basis of ethnicity. Thus there are often pressures to expand their borders to include economic assets, key elements of transport networks, and strategically defensible frontier areas. Czechoslovakia, the post-1919 nation-state which had the best prospect of defence against Nazi Germany, had its defences mainly in the Sudetenland, a largely German-inhabited area which was lost at Munich in 1938 partly because of the strength of the appeal of national self-determination, both locally and in international diplomacy.

Because devising new state boundaries on the basis of ethnic or any other principles is notoriously difficult, the essentially conservative idea has developed that any new state emerging from an old empire should accept the old colonial or administrative frontiers. Not only did most European decolonisation follow this approach, but a new version of it emerged in response to the collapse of the Soviet Union and Yugoslavia from 1991 onwards. A dubious doctrine was espoused that if a federal state collapses, then its existing component parts — if they determine through democratic means that they want independence and also make appropriate commitments to uphold human rights — should be recognised as the legal successors. A central difficulty of this approach was that the internal borders of these two great federal socialist states, the Soviet Union and Yugoslavia, did not always follow clear ethnic or other defensible lines. Some of the emerging states contained large and dissatisfied minorities.

There appears to be no escape from the dilemmas which have produced these conservative doctrines regarding frontiers. Governments around the world remain unwilling to take self-determination to its logical conclusion, whereby people can 'self-determine' in what state they should live and where its boundaries should run.

Failure of New States to Remain Democratic

In much advocacy, national self-determination was coupled with democracy, and with the creation of a new order in which all citizens could have a full participatory role in the affairs of their state. As Cobban put it, 'By 1918 nationalism and democracy were generally taken as synonymous in the thought of the Western nations.'¹⁹ The reality has all too often been different. Many new states established in the name of national self-determination have not remained democratic for long, and have engaged in oppressive treatment of minorities.

Eastern Europe in the 1920s and 1930s is a case in point. Hopes that there would be a new democratic order after 1919 were quickly dashed. Within some of the new states, especially Yugoslavia, political parties were formed on an ethnic basis and assumed a conflictual character. Many of the crises of democracy were made worse by difficult external circumstances. Economic problems in the new states, leading for example to hyperinflation in Hungary, were exacerbated by the effects of the depression. By the late 1930s, only Czechoslovakia remained democratic.

Comparable problems arose in many post-colonial states from the 1960s onwards. Hopes that decolonisation would lead to a new democratic order were often disappointed. This was partly because of a flaw at the heart of the theory of national self-determination. In most countries, it is not self-evident that the 'nation' is all the inhabitants: it may merely be a dominant group, or indeed an elite claiming to represent that group. The doctrine can easily lead to the oppression of minorities by the dominant majority. Indeed, in some newly-independent successor states there may be several groups which all see themselves as oppressed 'nations', or at least demand certain distinct national rights.

One central difficulty of the application of national self-determination has always been the problem of minorities. This question arose in 1848, in relations between revolutionary Hungary and its many Serb subjects. Like leaders of many a newly-emerging nation in more recent times, the Hungarian leaders were unwilling to grant to their Serb and other minorities anything approximating to those national rights they claimed for themselves.²⁰ It was the tragedy of the Hungarian revolution of 1848-9, and of much of the history of the Magyar people, that the contribution to the emancipation of other nationalities in the region was so negative.²¹

Perhaps the worst aspect of the principle of national self-determination is the idea, from which it cannot easily be separated, that the state is the manifestation of what might be called an

'ethnos' - a particular ethnic group. Such an idea can only too easily lead to intolerance of other groups in society, even to ethnic cleansing as a cruel way of making reality conform with theoretical prescriptions.²²

Some governments and political movements have developed anti-democratic perversions of the idea of national self-determination which can be called 'national determinism'. One form is the idea that all individuals are born with an ethnic identity which cannot be varied by any act of will: whatever their actual wishes, or subjective sense of identity, destiny dictates that they are part of a given nation; they must, in a sense, be forced to be free. There is not much self-determination in this idea. The second, related, form of national determinism is based on the proposition that a given territory should be united, irrespective of the wishes of the actual current inhabitants. Such a view has at times informed the actions of the various factions of the Irish Republican Army, which has sought the unity of the island of Ireland despite the fact that a majority of those in the North (and probably also a majority in Ireland as a whole) do not want it. China's claims to Taiwan also have overtones of such 'national determinism'. The implicit endorsement by the UN General Assembly of such principles of justice as the retrocession of colonial enclaves also contains more than a hint of national determinism, and may in some instances have encouraged certain decisions to resort to force.

Potential for Internal and International Instability

The disjunction between 'nation' and 'state' has been a central cause of the great majority of wars and civil wars of the twentieth century, including two world wars and most wars of the post-1945 era. The principle of national self-determination has the merit of addressing this cause of war, but it can also have the effect of making it worse. It can provide a series of justifications for uses of force, and it can, paradoxically, help to create the circumstances in which war may break out.

The achievement of self-determination by India in 1947 is a case in point. Much of the confrontation between Indian nationalists and Britain in the four decades up to 1947 was relatively peaceful, yet the consequences of the decision to quit were violent. It was not obvious what the successor units to the British Raj should be. The decision to create the separate Muslim state of Pakistan was followed by the huge death toll in the Hindu-Muslim riots around the time of independence, and by continuing tensions between India and Pakistan, including

in practice, self-determination

several inter-state wars, one of which (in 1971) resulted in the creation of Bangladesh.

If a significant proportion of the inhabitants of a region of one state want their region to be transferred to another state (or are merely suspected of so wishing), then armed conflict within that region, and sometimes even war between the two states concerned, becomes a strong possibility. Hence the difficulties over Kashmir since 1947, the events leading to the Turkish military intervention in northern Cyprus in 1974, and the conflict in Northern Ireland from 1968 onwards.

Such problems are not surprising. The achievement of self-determination often leads to the emergence of a new entity whose constitutional system, regime, and frontiers lack legitimacy. It is no accident that the great majority of UN peacekeeping operations since 1945 have been in relation to post-colonial conflicts.

The problems faced in former Yugoslavia and the former Soviet Union were even more difficult than those encountered in European decolonisation in the years after 1945, a slower, and sometimes a more controlled, process, in some cases made easier by the distance between the metropolitan country and the colonies. It is not surprising that they caused a series of wars with a strong international dimension.

Czechoslovakia is the main exception to the generalisation that the break-up of former socialist federal states leads to conflict. The bifurcation of Czechoslovakia on 1 January 1993 was achieved without outbreaks of violence either before or after the event. There are two main reasons for the peaceful character of this process: first, the country had over centuries developed an unusually non-violent political culture, and second, the existing frontier marked a broadly acceptable line between the Czech Republic and Slovakia.

Three Disruptive Aspects of Struggles for Statehood

The struggle of a nation seeking to attain statehood poses special and potentially disruptive problems. Three which have proved perennially difficult are: what political leader or entity represents the nation? What means of struggle should be pursued? May outside powers give support to national liberation movements?

If determining which peoples are appropriate candidates for self-determination (discussed earlier) poses problems, so does the question of who represents a nation before it has attained independent statehood. There have been many tragic episodes, including several at Paris in 1919, in which unofficial representatives of subject peoples were simply ignored by the statesmen

of the time, storing up resentment and hostility for the future. Sometimes outside powers have supported different national liberation movements within a country, thus contributing to civil war there; this happened in Angola during and after Portuguese rule, leading to a disastrous war which has endured from Portugal's withdrawal in 1975 right up to the present day. Sometimes, too, there is deep rivalry between bodies based outside the territory (for example, governments in exile), and leaders operating inside.

One possible way of resolving these problems is for international organisations (whether regional or global) to decide that a particular body is (in the language used by the UN General Assembly in respect of the PLO and SWAPO) 'the sole legitimate representative' of the people concerned. This can assist in a resolution of the issue, but it involves risks: the body concerned, basking in the glow of international approval, can easily get out of touch with opinion within the territory, or become intransigent in its dealings with adversaries; and other organisations, resenting the discrimination against them, may seek allies among local powers. One normal means of resolving such disputes – the holding of elections – is usually not available in the territories concerned.

A second disruptive issue concerns the methods of struggle which may be pursued in trying to achieve statehood. The recognition of self-determination as an international right has reinforced (though it certainly did not create) the tendency of national liberation movements to view war as a legitimate means of pursuing their just aims; and it has also reinforced the tendency of interested outside powers to lend support to such struggles. In all the UN General Assembly debates touching on this matter, two issues have been largely obscured from view. First, there has been practically no discussion of the possibility that in some instances the cause of national liberation may be more effectively pursued by peaceful means, ranging from diplomatic pressure to non-violent struggle in the territory itself. Second, very little has been said about the applicability of the laws of war to combat by national liberation movements or other insurgents, a matter tackled separately, and with limited practical effect, in the 1977 Geneva Protocols I and II, additional to the four 1949 Geneva Conventions.

A third disruptive issue concerns what kind of assistance struggles for national self-determination may receive from outside. The UN General Assembly's attempt at legitimisation of such assistance (eg in the 1970 Declaration on Friendly Relations, discussed further below) actually provides a possible basis for confrontation and conflict. Equally, both the Soviet doctrine of

national liberation and the Reagan doctrine as it developed in the early 1980s provided a strong political justification for military support within other states in cases where that support was deemed to be assisting the cause of self-determination.

IS 'NATIONAL SELF-DETERMINATION' RECOGNISED IN INTERNATIONAL LAW?

The post-1945 period has seen a historically unique emphasis on the principle of self-determination. International legal agreements concluded under UN and other auspices refer to it extensively, but do not specifically mention national self-determination, whose legal status is at best ambiguous.

The *UN Charter*, Article 1(2), refers to 'equal rights and self-determination of peoples'. This phrase was unclear both about what a 'people' was and about whether self-determination required separate statehood for each people. It was deliberately used in the charter because it was imprecise. To the governments which drew up the charter it was more acceptable than the worryingly precise and heavily encrusted term 'national self-determination', which was uncomfortably definite about the rights of all nations to form sovereign states, and which was seen as having played a fateful role in the instability and conflict in Europe in the inter-war years.

In the decades after 1945, as the UN's membership grew to encompass post-colonial states, self-determination came to be increasingly emphasised, and given a more specific meaning. A number of UN General Assembly resolutions enshrined the idea of self-determination, often in language which came close to a right of national self-determination, but for the most part in the context of advocating the end of 'colonial' rule. An early example of this approach was the 1960 *Declaration on the Granting of Independence to Colonial Countries and Peoples*.²³

In October 1970, the General Assembly adopted a *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations*. This offered two potentially contradictory principles touching on the question of self-determination. On the one hand it approved: 'The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State...'

This involved respect for sovereignty, and might be taken to imply that states could not threaten or use force even against a state that was denying self-determination to all or part of its own

people. On the other hand, principle (c) on 'equal rights and self-determination of peoples' seemed to negate the above-mentioned rule. In its subsequent elaboration of this principle the document actually went so far as to say:

Every State has the duty to refrain from any forcible action which deprives peoples... of their right to self-determination and freedom and independence. In their actions against, and resistance to, such forcible action... such peoples are entitled to seek and to receive support in accordance with the purposes and principles of the Charter.²⁴

Similar tensions between the inviolability of sovereignty and the right to support liberation struggles arose in the Declaration of the 1993 World Conference on Human Rights in Vienna.

The right of self-determination has also found reflection in a number of formally binding legal agreements. Article 1, paragraph 1 of the *International Covenant on Civil and Political Rights*, adopted in 1966, states: '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.' Identical wording appears in the parallel *International Covenant on Economic, Social, and Cultural Rights*.

Another major treaty, the 1977 *Geneva Protocol I*, not only recognises self-determination as a legitimate goal, but also embodies a degree of legal justification for the use of force in attainment of that goal. Article 1(4) states that the Conventions and Protocol apply in:

armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist régimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations.

Thus 'self-determination' has been repeatedly proclaimed in authoritative political and international legal documents as a right of 'peoples'. Such pronouncements have led some to conclude that self-determination is a legal right which actually means in effect national self-determination,²⁵ but much legal analysis has been cautious, especially on account of the difficulty of determining which peoples are the bearers of this right and whether statehood must be their destination.²⁶

In the many pronouncements and debates in a UN framework, such delicate questions as who the appropriate candidates for self-determination are, and whether secession from existing states can be permitted, have for the most part been neglected. However, there has been a tendency to imply that

self-determination only pertains to peoples under colonial domination, alien occupation (e.g. the Israeli-occupied territories) and racist regimes (eg South Africa during the *apartheid* years). It is difficult to limit the application of broad principles in this way, and inevitably leaders of many other peoples, in justification of their particular cause, have referred to the various general UN pronouncements on self-determination. To the extent that the UN has become associated with ideas of national self-determination, it may have contributed to the growth of some conflicts as well as the resolution of others. However, it has stopped just short of upholding a general right of national self-determination.

THE LIMITS OF NATIONAL SELF-DETERMINATION IN THE 1990S

Despite all the advocacy of self-determination in a UN framework, there is evidence of growing recognition that the principle, at least when it means national self-determination, is dangerous in its practical implications. A significant sign of a shift away from general advocacy of national self-determination came from UN Secretary-General Boutros Boutros Ghali in his 1992 report *An Agenda for Peace*:

The United Nations has not closed its door. Yet if every ethnic, religious or linguistic group claimed statehood, there would be no limit to fragmentation, and peace, security and well-being for all would become ever more difficult to achieve.²⁷

The claims of many peoples to self-determination are still greeted mainly by an embarrassed silence from the international community: the cases of Chechnya, Tibet and East Timor illustrate the point. 'National self-determination' remains powerful as a battle-cry for political and military action, but it has not been advocated in the 1990s as a theory for international order, or as a possible path to international peace. The movements towards self-determination in the 1990s have taken place without the dubious benefit of any high-profile general advocacy of the idea by leading statesmen. Wilsonianism seems as dead as Leninism.

The Break-up of Yugoslavia and the Soviet Union

When the Socialist Federal Republic of Yugoslavia and the Soviet Union broke up, the principle of national self-determination made a positive contribution by assisting the creation, quite largely by consensus, of successor states. However, there was also a negative role. In many cases, peoples were not arranged on the map

in a way which enabled them to form states, and many bitter wars with an ethnic dimension resulted, as for example between Armenia and Azerbaijan, and between Serbia and Croatia. In particular, within some of the successor entities, claims to national rights by minorities (for example, the Serbs in Croatia and Bosnia) contributed to the outbreak of wars. No less bitter were the conflicts resulting from the claims to statehood of peoples within larger federations, as in the cases of Chechnya and Kosovo.

In its response to the break-up of these two great socialist federations, the international community was, as always, torn between conflicting principles of self-determination on the one hand, and preservation of order on the other. In the summer of 1991, as both Yugoslavia and the Soviet Union were disintegrating, the United States resisted the logic of collapse and opposed self-determination for longer than was prudent — just as it had been reluctant to contemplate the collapse of the Habsburg Empire three-quarters of a century earlier. In the end, a residual acceptance of self-determination, tempered by scepticism and by pressure for proper consideration of minorities, did influence the behaviour of the international community (including the USA) in response to the collapse of the Soviet Union and Yugoslavia.

Germany seems to have been motivated more than other states by a belief in national self-determination, but its resulting policies on Yugoslavia were acutely controversial. It forced the pace of European Community recognition of Croatia, which took effect on 15 January 1992, even before Croatia had met EC conditions for minority protection. This action, which exacerbated the tragic problem in Bosnia-Herzegovina, was the outcome of a feeling that Germany had recently benefited from national self-determination, and could not therefore deny the principle to others. There does not appear to have been much awareness at the time of the sheer difficulty of applying the principle of self-determination to the complex ethnic realities of former Yugoslavia, especially Bosnia, the problems of which were not well understood in Germany or indeed in the rest of Western Europe. This experience, and especially the failure to stop the wars in Bosnia and Croatia, added to the scepticism in Western Europe about the adequacy of national self-determination as a basis for order.²⁸

The Post-colonial Order

A key remaining question is the extent to which the post-colonial order, especially in Africa, is now under threat, and the ways in which this exposes weaknesses in the idea of national self-determination. By the early 1990s the old post-colonial order was

showing more signs than ever of cracking at the seams. Somalia's descent into chaos in 1992 was partly a consequence of its artificiality as a state, and its loss of superpower support once the Cold War was over. Successor entities, including Somaliland, have emerged in parts of the country, but are unrecognised. In Ethiopia, Eritrea finally succeeded in breaking away in 1993 after a long war and a UN-monitored referendum – the first major post-colonial secession since that of Bangladesh in 1971–4. Such cases show that to achieve independence it is often still necessary to fight for it. From 1994 onwards, the crises in Rwanda and Burundi showed how tragically flawed was the 'self-determination' of the post-colonial order.

The question of what are the appropriate units of self-determination remains difficult in several instances. For example, in the cases of Western Sahara and East Timor, there are strong arguments for self-determination, but the states which seized these territories militarily in 1975 and remain currently in charge (Morocco and Indonesia respectively) are reluctant to concede that they are appropriate units for statehood, and argue that these territories have never had any continuous existence as internationally recognised sovereign states.

East Asia

The question of national self-determination arises in many forms in East Asia. Korea is a relatively simple case in theory, even though turning theory into practice will be even harder than usual. Both North and South support the cause of unification. The fact that they at present have different ideas of how it should be achieved, and what the political system of a unified Korea should be, may not be a permanent obstacle – especially as the regime in the North, not being particularly successful either at building communism or at unifying the country, will not last for ever. However, the experience of Germany's absorption of East Germany (a far easier task by comparison) has contributed to extreme caution about the character, pace and direction of unification of the two Koreas. It is as if national unification could be safely advocated when it seemed unattainable, but is treated with more caution once it begins to look possible. The federal or confederal arrangements that are being considered for Korea are the only ways of approaching this issue.

China presents some of the most serious and complex challenges of national self-determination. Put at its simplest, the question has long been, and remains, whether the proper unit of self-determination is 'greater China', including for example Tibet

and Taiwan, or whether these territories themselves constitute proper units of self-determination.

The situation of Hong Kong is technically the simplest, so far as the question of national self-determination is concerned. Remarkably, although Hong Kong is one of the most flourishing and successful city-states in the contemporary world, virtually no-one has considered it a possible candidate for national self-determination. The sense of Chinese identity of its inhabitants, the fact that the New Territories were incorporated into Hong Kong by a 99-year lease signed in 1898, the territorial contiguity with China, and the vast preponderance of Chinese power have all militated against self-determination. The negotiations leading to the 1984 Sino-British Joint Declaration, ratified in 1985, centred on securing recognition for a measure of autonomy for the Hong Kong Special Administrative Region of the People's Republic of China, commencing on 1 July 1997. Thus history, especially in the form of ancient treaties, shapes current options. Critical issues regarding post-1997 Hong Kong include maintenance of an honest and impartial civil service, a respected and independent judiciary, honest competition in banking and business, and a free press. All this requires enough of a change in China's mind-set and administrative practices without raising the issue of national self-determination.

The argument about Tibet's status is largely about its history. Those who support its right to independence assert that before its incorporation into the People's Republic of China, Tibet had a high degree of independence and autonomy. Insofar as it accepted suzerainty arrangements, they were not exclusively with China. The facts of Chinese power, and the Chinese reluctance to admit criticism and to change course, militate strongly against achieving a major change of policy in the near future. Recognising this, the exiled Dalai Lama, in various proclamations in recent years, has called for an arrangement with the People's Republic of China that would not necessarily involve complete Tibetan sovereignty, but his modest proposals have not been accepted by the Chinese Government.

Taiwan similarly illustrates the importance of history, but has achieved more success in asserting a separate status. Taiwan certainly has a distinct identity, forged by its history, including the interactions of Japanese, Chinese and US influences. For much of the nineteenth century, China – with its conception of a universal state system in which aborigines were to be brought in gradually and voluntarily – exercised partial control over Taiwan.²⁶ China can only be said to have been fully recognised as controlling the whole island for a very short period: from 1874 until 1895, when Taiwan fell under Japanese control.²⁶

The claim that independence should be Taiwan's goal, not unification with China, thus has some historical basis. Proponents of this view assert that a right to self-determination means a right to separate existence as an independent sovereign state. Taiwan's abortive move in the 1990s for admission to the United Nations was destined to fail. Nonetheless, the case for maintaining Taiwan's independent identity has continued to resonate internationally because of two factors. First, China's military pressure on Taiwan has forced many countries, including the USA, to reiterate their strong opposition to the use of force over the issue. Second, Taiwan's move towards a much more democratic political system has struck chords with the USA and other countries. It is impressive that in the presidential election of 23 March 1996 some 75 percent of Taiwan's voters supported candidates who favoured open or tacit independence.

Against claims for Taiwanese independence lies the argument that it is not so long since the Taiwanese authorities themselves argued that China was one country (and they were the legitimate representatives of all of it). More important is the harsh fact that Beijing is consistently and bitterly hostile to all efforts to exclude any territories from a reuniting China. The lack of flexibility in Beijing is compounded by the fact that the regime's principal justification for maintaining its monopoly on power is essentially more national than communist: its historic mission, and a large part of its *raison d'être*, is to create a proud and independent China that can stand on its own feet. It seeks to complete that struggle against economic backwardness, military weakness and subjection to colonial indignity on which the Chinese Communist Party embarked in the years after its formation in 1921.

Thus the question of Taiwan might seem to be a classic case of a theoretically unresolvable conflict between independence on the one hand and incorporation into China on the other. Some have sought a way out of this conflict by seeing Taiwan as having a potential role in reforming China. As one writer has put it, Taiwan 'might be able to gradually democratise communist China', and its role in shaping China's 'direction, its behaviour, its politics and its defence priorities could be critical'.⁵¹ Yet there is not much sign that China will acquiesce in policies aimed at subverting its political system. An alternative approach could try to develop the idea of a Chinese commonwealth: taking the principle of 'one country, two systems' further, in the direction of recognising a variety of different statuses and administrative systems within an overarching concept of one China. This implies accepting an ambiguity about the status of Taiwan which takes us away from distinctively modern (and some would say Western) ideas of statehood.

The experience of the 1990s in East Asia and elsewhere seems to confirm a curious and paradoxical truth: a principle that was conceived as a way of providing for self-determination, implying a choice by individuals in determining the very shape of the state in which they live, has come to be reinterpreted in what might unkindly be called a reactionary way. This reinterpretation implies a right to statehood in cases where there is some previous history of independent existence as a state; or where a political entity has had previous existence as a distinct unit within a federation. The international community's emphasis on the desirability of referenda (as in the former Yugoslav republics) does involve a genuine element of determination by the 'self', but only in circumscribed ways. Any other approach, according to complete self-determination and rights to form a state to any group wanting it, is too open-ended and disruptive. We all seem to be caught in a web of history in this way: self-determination seems to yield to a kind of historical determinism.

BEYOND TRADITIONAL CONCEPTIONS OF SELF-DETERMINATION

The principle of national self-determination, though long advocated as a basic norm of international relations, might wither on the vine. Following its own successes, the principle might lose its relevance as peoples come to accept the existing order of things. This is what has in fact happened in large parts of the world, including post-colonial areas. States have a mutual interest in accepting their existing frontiers, irrespective of their dubious origins and weak ethnic logic. Their inhabitants, too, generally prefer an anomalous status quo to the uncertainties of trying to change it.

Yet such a comfortable and conservative approach is of little help with the hard cases, and it is in those cases that the principle of national self-determination is most likely to be invoked. Self-determination still lives as a powerful political presence partly because of the sheer strength of nationalism in the contemporary world. As Anthony Smith has written:

despite the capacity of nationalists to generate widespread conflict and destruction, the nation and nationalism provide the necessary socio-cultural framework for a modern politically plural order. They have no real rivals in the contemporary world.⁵²

National self-determination also flourishes because it is far from obvious what other principle can be invoked to try to explain and justify the present arrangement of the world into 185-plus sovereign states of such radically differing shapes, sizes and

national histories. The idea that there is a right to national self-determination has not been exhausted by the process of European decolonisation. It acquires a special force when peoples feel their existence or identity threatened. Where there is extreme oppression, and a reasonable prospect of establishing a new state, the case for going down the path of national self-determination is still strong.

However, there should be no illusions that this principle can always be applied, and on a basis of consensus. The theory of national self-determination was sometimes conceived of as providing a means of eliminating one of the major causes of war; but only on rare occasions has it been implemented without war. Some peoples have emerged to statehood on the basis of a remarkable degree of unanimity among their immediate neighbours and the major powers: Namibia and united Germany are recent examples. In many other cases, national self-determination has only been accepted when it has been fought for. Woodrow Wilson's reluctance to call for the destruction of the Habsburg Empire during the final year of the First World War, at least until local forces had fought for their right to independent existence, had echoes in the cautious US policies towards the former Soviet Union and Yugoslavia at the end of the Cold War.

Because of its many failures, the lesson of experience in the twentieth century is that the idea of national self-determination needs to change, and to be supplemented by other ideas.³⁵ As Antonio Cassese has put it in the concluding words of his thoughtful survey of self-determination, there is a need 'to rethink even the most fundamental, seemingly axiomatic, premises of that central concept - self-determination - which has overshadowed so much of this century'.³⁶ The following three propositions point to some obvious possible directions.

First, self-determination should be distinguished from national self-determination and become a more open-ended concept. Self-determination can reasonably be interpreted not in terms of one single end-result, namely sovereign statehood, but in terms of process.³⁷ It can imply a commitment to democracy, or to negotiation towards a special political status, within existing larger political frameworks. This view was taken emphatically by the Supreme Court of Canada in its 1998 landmark decision in the case of *Certain Questions Relating to the Secession of Quebec from Canada*.³⁸

In UN debates and studies in the 1990s there has been a tendency to free the idea of self-determination from its earlier association with the idea of sovereignty, and to view it much more as an entitlement to democracy. In a 1995 study of minority problems conducted under UN auspices, Asbjørn Eide, Director

of the Norwegian Institute of Human Rights, reached conclusions highly critical of national self-determination, but favourable towards a modest interpretation of self-determination as a more open-ended concept:

The controversies over alleged rights to self-determination by groups living within sovereign states have severely obstructed peaceful solutions of contemporary ethnic conflicts. It is therefore recommended that the Sub-Commission [on Prevention of Discrimination and Protection of Minorities] study the meaning and scope of self-determination for groups living within sovereign states.³⁷

It is not necessarily a matter of going back in time to the traditional attempt to devise safeguards under the heading of 'minority rights'. Some minority problems can be most usefully addressed simply as general constitutional or human rights issues, an approach which has the merit of not labelling one group as constituting a problem and receiving special benefits, ideas and practices of consociationalism also have a part to play.

Second, states need to be seen as more than merely the embodiment of a single 'nation'. In the theory of national self-determination, the state is often seen as the embodiment of one particular group, namely the 'nation', and this group is often understood in ethnic terms. Such a view, while it has great strength, especially in threatened communities, needs to be supplemented or even supplanted. There are many other visions of the role and character of states: as an administrative unit responsible for specific areas of territory and all the inhabitants thereof, as an instrument for mediating conflicts between its citizens, including group conflicts between different peoples or regions; as a mini-alliance of more or less independent entities; and as a mechanism for safeguarding certain legal, administrative, cultural or religious standards, including international human rights standards.

In any given case, even a partial redefinition of the nature and function of states along the above lines has to be managed with extreme delicacy. It does not necessarily involve either weakening the state or abandoning all aspects of a state's self-understanding. In post-Cold-War Europe, human rights and national minority questions have become a matter of international interest and involvement, including through bodies such as the Council of Europe and the Organisation for Security and Co-operation in Europe. Their approach to such questions has generally been one of accepting the continued role of strong states, regarding human rights norms as equally applicable to all states, and trying to get questions resolved without resort to such devices as the minority rights treaties imposed on certain relatively weak states after the First World War. This approach,

involving modest redefinitions of the functions of states, has had some successes.³⁵

Third, there should be more open acceptance of the possibility of variations, ambiguities and anomalies in the status of many territories. Although in theory the world of the late twentieth century is one of equal sovereign states, some ambiguities and anomalies in the status of certain territories remain; and there may be a need for more flexibility about the status of territories if many difficult contemporary problems are to be addressed effectively.

An acceptance of irregularities might seem to go against the grain of the contemporary world. The UN Charter, Article 2(1), enshrines the principle of 'the sovereign equality of all its Members'. The commitment of international organisations in the UN period to the global application of this principle is historically unparalleled. The decolonisation process has powerfully reinforced the view that full sovereign statehood is the most basic institution of the contemporary international system.

By contrast, almost all earlier systems of states contained strong elements of suzerainty and other types of formal or informal relationships of dominance.³⁶ Many such elements have remained features of international relations in the UN era, sometimes concealed behind the appearance of full statehood, sometimes more overt.

Without entering into that huge body of international relations literature on whether the role of the state may now be declining, it is clear that the contemporary world is characterised by different levels of authority (local, regional and global) for different purposes. The idea of the completely independent sovereign state is tempered by the practical need to respond to strong local identities; and also to co-operate internationally in a wide range of activities, which often means setting up authorities with some elements of supranationalism. These complex and multi-layered arrangements of the contemporary world have echoes of the Middle Ages in Europe.

Arrangements involving anything approximating to suzerainty are not likely to be openly accepted as legitimate core components of the contemporary international system. However, some aspects of such arrangements, especially the underlying idea that some territories and peoples need a special status short of full sovereign statehood, have a useful role today, and will continue to do so throughout the twenty-first century. There is a need to recognise this fact more openly, and to consider the possibilities of various types of special status in addressing contemporary problems. From Kosovo to Korea, Kurdistan to Hong Kong, Transylvania to Taiwan, there are elements of, and a continuing

need for, special arrangements which modify the concept of a separate national existence that has been the goal of movements for national self-determination.

Possible forms which such arrangements can take include autonomy, international administration, joint sovereignty, federations and confederations within a state, and commonwealths encompassing distinct entities. Such arrangements may be permanent or temporary – though in international relations, temporary arrangements sometimes last for a long time. They have disadvantages. They often seem to be a 'second best' for sovereign statehood: the latter was preferred by many of the peoples for whom Wilson proposed autonomy in January 1918. They can give outside states a legitimate interest in 'internal matters' of a country, thus providing a possible basis for certain uses of military force. They pose problems regarding membership of such entities in international organisations. Their record is mixed.³⁷ Yet they are consistent with some ideas of self-determination, and offer a more fruitful way of thinking about certain international problems than does the still-living, but all too limited, principle of national self-determination.

NOTES ON CHAPTER 8

- 1 Adam Roberts is Montague Professor of International Relations at the University of Oxford, and a Fellow of Balliol College. He is the author of many works, including *Nations in Arms*, 2nd ed. (London: Macmillan, 1986) and *Humanitarian Action in War*, IHS Adelphi Paper no. 305 (Oxford: Oxford University Press, 1996). He is grateful to Erica Benner, Paul Chen, Mary-Jane Fox and Andrew Hurrell for their suggestions and comments on earlier drafts.
- 2 Alfred Cobban, *The Nation State and National Self-Determination*, rev. ed. (London: Collins Fontana Library, 1969), p. 39.
- 3 *Ibid.*, p. 108.
- 4 *Ibid.*, eg at pp 129 and 149.
- 5 As late as 1878, the *Dictionnaire de l'Académie Française* still gave as the primary definition of the nation 'the totality of persons born in a country and living under a single government'. Here the nation is apparently seen as the reflection of a political entity – the state or country.
- 6 Woodrow Wilson, address at a banquet of the League to Enforce Peace, 27 May 1916. *Congressional Record*, vol. 53, part 4, p. 3854.
- 7 For a succinct and critical view of Woodrow Wilson's international leadership in the context of the events of 1917–19, see Arthur S. Link, *American Epoch: A History of the United States Since the 1890s* (New York: Alfred A. Knopf, 1955), pp 218–31.
- 8 Article on 'self-determination' in the *New Encyclopaedia Britannica*, 15th ed., 1989, Micropaedia, vol. 10, p. 619.

- 9 The Fourteen Points, contained in Address of the President of the United States Delivered at a Joint Session of the Two Houses of Congress, 8 January 1918: *Papers Relating to the Foreign Relations of the United States*, 1918, Supplement 1, The World War (Washington DC: US Government Printing Office, 1933), vol. 1, pp 12-15.
- 10 President Wilson, Address at a Joint Session of the Two Houses of Congress, 11 February 1918, *ibid.*, 1918, pp 110-11.
- 11 Robert Lansing, Secretary of State, to the Swedish Minister (Ekegren), 19 October 1918, for transmittal to the Austro-Hungarian Government. Text in *ibid.*, p 368.
- 12 Robert Lansing, *The Peace Negotiations: A Personal Narrative* (London: Constable, 1921), p 87.
- 13 For details of the numerous departures from self-determination in the Paris negotiations at the end of the First World War, see Lansing, *The Peace Negotiations*, *op. cit.*, pp 85-7. On Wilson's vagueness about the conduct of negotiations, see ch. xv, 'Lack of an American Programme', pp 169-89.
- 14 For a stout defence of Woodrow Wilson's role in the Paris negotiations, and of his advocacy of self-determination, see Ray Stannard Baker, *Woodrow Wilson and World Settlement: Written from his Unpublished and Personal Material* (New York: Doubleday, 3 vols., 1922), vol. 1, pp 11-22.
- 15 Woodrow Wilson, Luncheon Address in San Francisco, 18 September 1919: Text in Arthur S. Link (ed.), *The Papers of Woodrow Wilson* (Princeton: Princeton University Press, 1990), vol. 63, p 348. See also the similar remarks eight days earlier: *ibid.*, p 157.
- 16 Harold to Vita, Paris, 4 May 1919: text in Nigel Nicolson (ed.), *Vita and Harold: The Letters of Vita Sackville-West and Harold Nicolson* (London: Weidenfeld & Nicolson, 1992), p 83.
- 17 James Crawford, *The Creation of States in International Law* (Oxford: Oxford University Press, 1979), pp 104-6.
- 18 See Christian Tomuschat (ed.), *Modern Law of Self-Determination* (Dordrecht: Martinus Nijhoff, 1993), esp. Gudmundur Alfredsson, 'The Right of Self-Determination and Indigenous Peoples' and Douglas Sanders, 'Self-Determination and Indigenous Peoples'.
- 19 Cobban, *The Nation State and National Self-Determination*, *op. cit.*, p 43.
- 20 R. W. Seton-Watson, *The Southern Slav Question and the Habsburg Monarchy* (London: Constable, 1911) pp 46-7.
- 21 A theme stressed in Robert A. Kann, *The Multinational Empire: Nationalism and National Reform in the Habsburg Monarchy 1848-1918*, vol. 1, *Empire and Nationalities* (New York: Columbia University Press, 1950), pp 123-4.
- 22 The practice of 'ethnic cleansing' is of long standing. Theories of national self-determination did not create it, but may have made the practice worse in the twentieth century. For a succinct survey, see Andrew Bell-Flalkoff, 'A Brief History of Ethnic Cleansing', *Foreign Affairs*, New York, vol. 72, no. 3 (Summer 1993), pp 110-21.

- 23 Annexed to GA Res. 1514 (XV) of 14 December 1960. On the basis of this declaration, the General Assembly established a 'Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples'.
- 24 Annexed to GA Res. 2625 (XXV) of 24 Oct. 1970.
- 25 For a measured exposition of the view that the right of self-determination has acquired a true legal status in the UN era, largely due to the sheer political pressure stemming from the decolonisation process, see A. Rigo Sureda, *The Evolution of the Right of Self-Determination: A Study of United Nations Practice* (Leiden: Sijthoff, 1973), esp. at pp 26-7 and 3526.
- 26 For judicious and critical evaluations, including of UN documents and debates, see Muhammad Aziz Shukri, *The Concept of Self-Determination in the United Nations* (Damascus: Al Jaddidah Press, 1965); Michla Pomerance, *Self-Determination in Law and Practice: The New Doctrine in the United Nations* (The Hague: Nijhoff, 1982); Antonio Cassese, *Self-Determination of Peoples: A Legal Reappraisal* (Cambridge: Cambridge University Press, 1995).
- 27 Boutros Boutros-Ghali, *An Agenda for Peace* (New York: United Nations, 1992), para. 17.
- 28 For a critical evaluation of the European Community and US record on self-determination with respect to Yugoslavia, and of the work of the Badinter Commission, see Kamal S. Shehadi, *Ethnic Self-Determination and the Break-up of States*, Adelphi Paper 283 (London: Brassey's for International Institute for Strategic Studies, 1993), pp 28-31.
- 29 Sophia Su-wei Yen, *Taiwan in China's Foreign Relations, 1836-1874* (Hamden, CT: Shoe String Press, 1965), pp 290-1.
- 30 Some even put the starting date for full Chinese control later: in 1887, when the island was made a province. See eg Laura Tyson, 'Strained Relations in Family Feud', *Financial Times*, London, 2 June 1995, p 13.
- 31 Gary Klintworth, *New Taiwan, New China: Taiwan's Changing Role in the Asia-Pacific Region* (Melbourne: Longman: New York: St Martin's Press, 1995), pp 242, 243.
- 32 Anthony Smith, 'Yes That Bind', *LSE Magazine*, London, vol. 5, no. 1 (Spring 1993), p 11.
- 33 Contemporary attitudes to self-determination, including reconsideration of several aspects, are usefully presented in Donald Clark and Robert Williamson (eds), *Self-Determination: International Perspectives* (London: Macmillan, 1996).
- 34 Cassese, *Self-Determination of Peoples: A Legal Reappraisal*, *op. cit.*, p 365.
- 35 For a rich discussion of this issue, see Benedict Kingsbury, 'Claims by Non-State Groups in International Law', *Cornell International Law Journal*, vol. 25, no. 3 (1992), esp. at pp 486-8 and 500-3.
- 36 Richard G. Dearden, 'Can the Government of Quebec Break up Canada Unilaterally Under International Law?', *International Law*

News, Section of International Law and Practice, American Bar Association, Washington DC, vol. 28, no. 1 (Winter 1999), pp 15, 16, 23.

37 Asbjørn Eide, *Peaceful and Constructive Resolution of Situations Involving Minorities* (Oslo: Norwegian Institute of Human Rights, 1995), p 155. See also his chapter 'In Search of Constructive Alternatives to Secession', in Tomuschat (ed.), *Modern Law of Self-Determination*, *op. cit.*, pp 139-76.

38 For a succinct survey of these developments in Europe from 1990 onwards, see Jennifer Jackson Preece, *National Minorities and the European Nation-States System* (Oxford: Clarendon Press, 1998), pp 123-77.

39 Adam Watson, *The Evolution of International Society: A Comparative Historical Analysis* (London: Routledge, 1992).

40 For a useful and succinct survey of autonomy arrangements around the world, see Ruth Lapidoth, 'Autonomy: Potential and Limitations', *International Journal on Group Rights* (Dordrecht), vol. 1 (1994), pp 269-90. For a fuller study, see the same author's *Flexible Solutions to Ethnic Conflicts* (Washington, DC: US Institute of Peace Press, 1997).

9

THE RIGHT OF SELF-

DETERMINATION

Danilo Türk¹

GENERAL REFLECTIONS

Everybody will agree that the issues of self-determination are politically sensitive and that consequently a great deal of caution is required in dealing with the abstract concepts pertaining to self-determination.

A recent UN experience can be mentioned as one among many illustrations. In 1993, the General Assembly discussed the proposal made by Liechtenstein to study the realisation of self-determination through the principle of autonomy. The basic idea of that proposal, namely to explore the possibilities of using 'autonomy' to address issues of territorial integrity of existing states, seemed promising. However, in a political context such as that of the UN, the fear of unwanted political consequences prevailed over an idea which appealed to common sense. Hence, the General Assembly decided at the same session in 1993 to defer further discussion of the Liechtenstein proposal *sine die*. This example illustrates one among the many difficulties of dealing with self-determination, that raised in addressing its abstract