

I. The Right of Peoples to Self-Determination

“No other concept is as powerful, visceral, emotional, unruly, as steep in creating aspirations and hopes as self-determination.”⁵⁸

Introduction

The right to self-determination is the “right of a people to determine their own destiny in regards to their political status and economic, social, and cultural development.”⁵⁹ While international law is clear that the right to self-determination belongs to all peoples, in practice there is not an agreed definition of what this right entails.⁶⁰ The right is well established in the case of peoples under colonization, peoples living in dependent or non-self-governing territories (NSGTs), and peoples living in racist regimes.⁶¹ Additionally, the claims of several groups to cultural autonomy, that is the ability to develop and practice laws and customs central to a particular group’s culture, separate from the majority culture, are often recognized.⁶² On the other hand, the claims of groups that desire independence from their host state, and that are not under colonial occupation or living in racist regimes are rarely recognized.⁶³ The challenge of determining which groups’ claims of self-determination are legitimate is further complicated when it comes to defining exactly who or what can classify as “peoples.”⁶⁴ However, the United Nations (UN) Educational, Scientific and Cultural Organization (UNESCO) report *International Meeting of Experts on further study of the concept of the rights of peoples* (1989) provides a definition: “peoples” are defined as a group of people with “common historical tradition, a racial identity, a shared culture, linguistic unity, religious unity, a territorial connection and a common economic life.”⁶⁵ Yet, the fact that a group need not have all these common aspects, but rather, at least one, allows for a large number of groups to possess a claim to self-determination.⁶⁶

The *International Covenant on Civil and Political Rights* (1966) and the *International Covenant on Economic, Social, and Cultural Rights* (1966) recognize the right of self-determination.⁶⁷ However, the exact meaning, application, and which groups of peoples can claim self-determination is unclear, as evidenced by the two leading interpretations on the right to self-determination.⁶⁸ One interpretation holds that the right to self-determination applies only to states as a way to safeguard their sovereignty.⁶⁹ The other holds that the right to self-determination allows distinct ethnic, linguistic, religious, and other nationalistic groups separate from the dominant culture the right to secede from their host state.⁷⁰ Despite these differing interpretations, the position of most Member States and peoples exercising their right to self-determination is that recognition of this right is more important than whatever outcome results from this right.⁷¹ That is, the process for exercising self-determination is more significant than the outcome, which could include cultural autonomy, self-government, or even independence.⁷² This issue is made more complex in the twenty-first century, since the rise in sea level will have significant implications to the territorial integrity and self-determination of small island developing states (SIDS).⁷³ Thus, the development and application of

⁵⁸ UNPO, *Self-Determination*, 2017.

⁵⁹ Ibid.

⁶⁰ UNESCO, *International Meeting of Experts on further study of the concept of the rights of peoples*, 1989.

⁶¹ Ibid.

⁶² UNPO, *Self-Determination*, 2017.

⁶³ Ibid.

⁶⁴ UNESCO, *International Meeting of Experts on further study of the concept of the rights of peoples*, 1989.

⁶⁵ Ibid.

⁶⁶ UN General Assembly, *International Covenant on Economic, Social, and Cultural Rights, International Covenant on Civil and Political Rights and Optional Protocol to the International Covenant on Civil and Political Rights (A/RES/2200 (XXI))*, 1966.

⁶⁷ UNPO, *The Question of Self-Determination: The Cases of East Timor, Tibet, and Western Sahara*, 1996, p. 6; UN General Assembly, *International Covenant on Economic, Social, and Cultural Rights, International Covenant on Civil and Political Rights and Optional Protocol to the International Covenant on Civil and Political Rights (A/RES/2200 (XXI))*, 1966.

⁶⁸ UNPO, *The Question of Self-Determination: The Cases of East Timor, Tibet, and Western Sahara*, 1996, p. 6.

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ Ibid., pp. 5-6.

⁷² Ibid., pp. 5-6.

⁷³ Wilcox, *Climate Change Inundation, Self-Determination, and Atoll Island States*, 2016.

the right to self-determination is a complex subject, which will require Member States and the UN system to continue discussions on their role in enabling peoples to exercise their right to self-determination.⁷⁴

International and Regional Framework

The *Charter of the United Nations* (1946) states in Article 1, Section 2, that the UN is “based on respect for the principle of equal rights and self-determination of peoples.”⁷⁵ The *Declaration on the Granting of Independence to Colonial Countries and Peoples* (1961) was among the first international instruments to identify the right of all peoples to self-determination as a direct result of growing anti-colonial movements following World War II.⁷⁶ The *Declaration on the Granting of Independence to Colonial Countries and Peoples* stated that colonization, domination, and exploitation are contrary to the Charter, and violate fundamental human rights.⁷⁷ An important result of the declaration is the assertion that inadequate political, economic, social, and/or educational institutions should not circumvent the independence of colonized peoples.⁷⁸ Succeeding human rights instruments, including both the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social, and Cultural Rights*, also acknowledged the right to self-determination in common Article 1.⁷⁹ Condemning in the strongest terms the subjugation, domination, and exploitation of peoples, the *Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations* (1970) further reaffirms the importance of the right to self-determination.⁸⁰ Additionally, subsequent international human rights declarations have included other cases of self-determination, including those of indigenous peoples and peoples in the former Soviet Republics.⁸¹ The *Declaration on the Rights of Indigenous Peoples* (2008), for example, outlined the inherent right of indigenous peoples to self-determination, and, in Article 26, recognized their right to the lands, territories, and resources in the area where they reside.⁸² The *Declaration on the Rights of Indigenous Peoples*, however, did not clarify if indigenous persons could seek independence from their host state, providing only cultural autonomy or self-government as outcomes of the exercise of self-determination.⁸³

Most recently, the *2030 Agenda for Sustainable Development* (2015) asserted the right to self-determination as necessary for the successful implementation of the Sustainable Development Goals (SDGs) for peoples living under colonial and foreign occupation.⁸⁴ Furthermore, the General Assembly has adopted several resolutions concerning the right to self-determination, including resolution 55/153 on “Nationality of natural persons in relation to the succession of States,” (2001) which provides several guidelines for Member States to address the nationality of peoples who form their own state or integrate into their host state.⁸⁵ General Assembly resolution 71/183 on the “Universal realization of the right of peoples to self-determination” (2017) further recognizes the right to self-determination for many peoples under colonial, foreign, and alien domination, which includes the Occupied Palestinian Territories, among others.⁸⁶ Subsequently, General Assembly resolution 71/184 on “The right of the Palestinian people to self-determination” (2017) reaffirmed the international community’s position on this matter, and further included their right to independence.⁸⁷

⁷⁴ UNESCO, *International Meeting of Experts on further study of the concept of the rights of peoples*, 1989.

⁷⁵ *Charter of the United Nations*, 1945, Art. 1.

⁷⁶ UN General Assembly, *Declaration on the Granting of Independence to Colonial Countries and Peoples (A/RES/1514 (XV))*, 1961.

⁷⁷ *Ibid.*

⁷⁸ UNPO, *The Question of Self-Determination: The Cases of East Timor, Tibet, and Western Sahara*, 1996, p. 7.

⁷⁹ UN General Assembly, *International Covenant on Economic, Social, and Cultural Rights, International Covenant on Civil and Political Rights and Optional Protocol to the International Covenant on Civil and Political Rights (A/RES/2200 (XXI))*, 1966.

⁸⁰ UN General Assembly, *Declaration on the Principles of International Law Concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (A/RES/25/2625 (XXV))*, 1970.

⁸¹ UNPO, *The Question of Self-Determination: The Cases of East Timor, Tibet, and Western Sahara*, 1996, pp. 6-7.

⁸² UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples (A/RES/61/295)*, 2007.

⁸³ *Ibid.*

⁸⁴ UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development (A/RES/70/1)*, 2017, p. 9.

⁸⁵ UN General Assembly, *Nationality of Natural Persons in Relation to the Succession of States (A/RES/55/153)*, 2000.

⁸⁶ UN General Assembly, *Universal realization of the right of peoples to self-determination (A/RES/71/183)*, 2017.

⁸⁷ UN General Assembly, *The right of the Palestinian people to self-determination (A/RES/71/184)*, 2017.

Role of the International System

Established as one of the main organs of the UN in 1960, the Trusteeship Council oversaw the administration and independence of territories that have been placed in trust with the UN by their former administering Member State (Trust Territories).⁸⁸ It maintains the official list of NSGTs, or territories that are administered by another country, including Western Sahara, Gibraltar, and Guam.⁸⁹ Since 1994, after the independence of Palau, the committee suspended its meetings and only meets occasionally as required, or by request of the majority of its members.⁹⁰ A group that continues to meet regularly, however, is the Special Committee on Decolonization, which is a significant actor in regards to the right to self-determination.⁹¹ Founded in 1961 by the General Assembly, it is tasked with observing the implementation of the *Declaration on the Granting of Independence to Colonial Countries and Peoples*.⁹² It reviews the list of NSGTs, organizes meetings regarding the political, economic, and social conditions within NSGTs, and provides recommendations to further decolonization efforts.⁹³ Recently, in June 2017, the Special Committee approved a draft resolution urging the United States to provide a means for Puerto Rico to fully exercise its right to self-determination.⁹⁴ While Puerto Rico is not listed as a NSGT, speakers at a meeting of the Special Committee urged its members to consider the situation of Puerto Rico and to add it to the list of NSGTs.⁹⁵ Including Puerto Rico on this list would not only confirm Puerto Rico as a colonized territory, but also legally obligate the United States to address its decolonization.⁹⁶ At the Caribbean Regional Seminar on Decolonization in May 2017, the Secretary-General of the UN emphasized furthering decolonization in the Caribbean, which also entailed considering the situation of Puerto Rico.⁹⁷

The UN Secretary-General submits reports on the “Right of peoples to self-determination” to the General Assembly upon request.⁹⁸ Moreover, several human rights bodies contribute to the work of the General Assembly, such as the Office for the UN High Commissioner for Human Rights (OHCHR), which is particularly concerned with human rights issues involving indigenous peoples, cultural minorities, and civil and political rights.⁹⁹ It provides substantive support to the Human Rights Council (HRC), one of the subsidiary bodies of the General Assembly, which adopts recommendations on human rights issues including the right to self-determination.¹⁰⁰ The General Assembly receives reports from HRC, incorporates its findings in its resolutions, and can request HRC to give attention to certain issues, as it did with resolution 71/183 regarding the universal right to self-determination.¹⁰¹ In 2016, HRC adopted resolution 31/33 on the “Right of the Palestinian people to self-determination” and resolution 31/34 on “Human rights situation in the Occupied Palestinian Territory, including East Jerusalem,” both of which reaffirmed the Palestinian peoples’ right to self-determination and called upon Israel to end its occupation of their territory.¹⁰² Additionally, in 2016 the Open Working Group on Mercenaries, established by HRC, provided a report to the General Assembly on the situation in the Central African Republic (CAR).¹⁰³ It noted that the ongoing armed conflict in CAR is exacerbated by the presence of mercenary forces aiming to destabilize the country, and that these forces encroach on CAR’s right to self-determination.¹⁰⁴ The report estimated that mercenary forces have led to the internal displacement of 380,000 people, and forcibly recruited 10,000 children as child soldiers.¹⁰⁵ To address this,

⁸⁸ UN Trusteeship Council, *Trusteeship Council*, 2016.

⁸⁹ UN DPI, *Non-Self-Governing Territories*, 2017.

⁹⁰ UN Trusteeship Council, *Trusteeship Council*, 2016.

⁹¹ UN Special Committee on Decolonization, *Committee of 24 (Special Committee on Decolonization)*.

⁹² *Ibid.*

⁹³ *Ibid.*

⁹⁴ UN DPI, *Special Committee Approves Text Calling on United States to Expedite Puerto Rico’s Self-Determination Process, Welcomes Release of Long-Timer Independence Activist*, 2017.

⁹⁵ *Ibid.*

⁹⁶ *Ibid.*

⁹⁷ UN DPI, *Secretary-General Confirms His Commitment to Decolonization Agenda in Message for Opening of Caribbean Regional Seminar*, 2017.

⁹⁸ UN General Assembly, *Report of the Secretary-General on the Right of Peoples to self-determination (A/71/326)*, 2016.

⁹⁹ UN OHCHR, *Who We Are*, 2017; UN OHCHR, *List of Human Rights Issues*, 2017.

¹⁰⁰ UN HRC, *About the United Nations Human Rights Council*, 2017.

¹⁰¹ UN General Assembly, *Universal realization of the right of peoples to self-determination (A/RES/71/183)*, 2017.

¹⁰² UN HRC, *Report of the Human Rights Council (A/71/53)*, 2015.

¹⁰³ UN OHCHR, *Urgent measures needed to deter mercenaries and foreign fighters and prevent further violence in CAR*, 2016.

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*

the General Assembly adopted resolution 71/182 on the “Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination,” (2017) which condemns the use of mercenaries in order to perpetuate armed conflict and exploitation, fight against national liberation movements, or overthrow governments.¹⁰⁶

One of the leading international non-governmental organizations (NGO) that represents groups of indigenous peoples and unrecognized or occupied territories seeking their right to self-determination is the Unrepresented Nations and Peoples Organization (UNPO).¹⁰⁷ At the 1993 Conference on Self-Determination in Relation to Individual Human Rights, Democracy and Protection of the Environment held in The Hague, Netherlands, UNPO brought together representatives of several of its members, including Abkhazia, East Turkestan, Iranian Kurdistan, Ogoni, and Taiwan.¹⁰⁸ A few of the subjects discussed included the importance of management and protection of the natural environment as part of the right to self-determination, and participants agreed that environmental degradation and denial of land rights violated the right to self-determination.¹⁰⁹ Further, Liechtenstein presented a proposal to the conference for an international convention on implementing the right to self-determination, which would outline a peaceful process for the exercise of the right to self-determination.¹¹⁰ One critical advantage of the proposal was its recognition of the legitimacy of claims to self-determination, which could allow peoples to pursue the right to self-determination without legal repercussions from their host state.¹¹¹ However, some participants that currently face the destruction of their culture, language, and even their lives, claimed that the process in the proposal was too slow, and believed that “justice delayed [was] justice denied.”¹¹² Nevertheless, the conference and ensuing proposal generated important dialogue between Member States and peoples alike, aiming to clarify the right to self-determination.¹¹³

Violence, Armed Conflict, and Self-Determination

Violence and armed conflict pose a threat to peoples’ right to exercise self-determination and the full enjoyment of human rights.¹¹⁴ Violence during the struggle for self-determination is well documented, for example with the situations of former Soviet Republics, South Sudan, and Palestine.¹¹⁵ Many of these cases stem from either the denial of the right to self-determination, or the oppression, discrimination, and arbitrary detainment by the host state of peoples claiming self-determination.¹¹⁶ Such acts by Member States only further marginalize groups claiming self-determination, and increase the likelihood of hostilities, if not outright violence and armed conflict.¹¹⁷ Without a legitimate process that recognizes peoples’ expression of their right to self-determination, the frustrations of a few groups of people can lead to tensions and even conflict.¹¹⁸

The Situation in the former Soviet Republics

Following the collapse of the Soviet Union, several former Soviet Republics, including Georgia, Estonia, and Lithuania, claimed self-determination and moved to gain recognition as sovereign states.¹¹⁹ As a result, intra-state conflicts developed across several areas, including Abkhazia, South Ossetia, and Nagorno-Karabakh.¹²⁰ In the Fall of 1990, South Ossetia, nestled within the borders of Georgia, declared itself a sovereign republic.¹²¹ The Georgian Parliament abolished the autonomy granted to South Ossetia and declared a state of emergency to curb what the

¹⁰⁶ UN General Assembly, *Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (A/RES/71/182)*, 2017, p. 3.

¹⁰⁷ UNPO, *About*, 2016.

¹⁰⁸ UNPO *Self-Determination in Relations to Individual Human Rights, Democracy, and the Protection of the Environment*, 1993, p. 4.

¹⁰⁹ *Ibid.*, p. 14.

¹¹⁰ *Ibid.*, p. 15.

¹¹¹ *Ibid.*

¹¹² *Ibid.*, p. 16.

¹¹³ *Ibid.*

¹¹⁴ UNPO, *Self-determination and Conflict Transition*, 2002.

¹¹⁵ *Ibid.*

¹¹⁶ *Ibid.*

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*

¹¹⁹ *Ibid.*

¹²⁰ Starovoitova, *Sovereignty after Empire: Self-Determination Movements in the Former Soviet Union*, 1997, p. 25.

¹²¹ *Ibid.*

Georgian government saw as efforts by separatists to undermine Georgian territorial sovereignty.¹²² This began several years of conflict between South Ossetia and the Georgian government, and resulted in several casualties before a ceasefire was enacted in 1992.¹²³ The situation is similar with Abkhazia, an autonomous region with peoples of distinct ethnic backgrounds from Georgia, who had long suffered from discrimination and harmful policies of assimilation by the Georgian government.¹²⁴ In 1992, after Abkhazia declared its right to be independence, Georgia took part in yet another conflict in the region that ended in 1994 with the implementation of a UN Observer Mission through Security Council resolution 881 (1993).¹²⁵ While most decisions on the conflicts in the region have been made by the Security Council, the General Assembly has recently addressed the plight of internally displaced persons and refugees with resolutions 62/249 (2008) on “Status of internally displaced persons and refugees from Abkhazia, Georgia” and 63/307 (2009) on “Status of internally displaced persons and refugees from Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia.”¹²⁶ However, these decisions rarely discuss the right to self-determination for Abkhazia and South Ossetia, not even in the most recent decision by the General Assembly on the issue, resolution 71/290 of June 2017.¹²⁷ Today, the General Assembly continues to remain vigilant of the situation of displaced persons and refugees, and calls upon Georgia to ensure their right of return, but has yet to directly discuss the implications the conflicts have on the groups’ right to self-determination.¹²⁸

Self-Determination as a Right to Independence

Questions of secession and independence by groups pursuing their self-determination highlight the contradiction between a peoples’ right to self-determination and Member States’ right to territorial integrity.¹²⁹ On the one hand, the right to self-determination granted to peoples safeguards their political, economic, and social development; on the other hand, Member States have a right to maintain territorial integrity, and prevent not only external threats to their sovereignty, but also internal, separatist threats.¹³⁰ The *Declaration on the Granting of Independence to Colonial Countries and Peoples*, for example, proclaims the right of all peoples to self-determination, while at the same time stating that attempts at disrupting the territorial integrity of a Member State are incompatible with the Charter.¹³¹ Similarly, the *Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations* states that any efforts meant to “disrupt the territorial integrity of a state or country or its political independence are incompatible with the principles of the Charter of the United Nations.”¹³² While some movements exercising their right to self-determination can be seen as legitimate in their cause, the governments of some Member States can and do use both declarations to delegitimize such movements.¹³³ As such, the right to secede from a Member State has had varying responses by the international community.¹³⁴

For example, in the case of Tibet, which has claimed to be under foreign occupation by the People’s Republic of China (PRC), the outcome the Tibetan population desires is independence in order to restore their autonomy.¹³⁵ While the PRC maintains that Tibet has always been a part of China, the Tibetan people believe themselves to be a sovereign state before the PRC occupied their territory in 1950.¹³⁶ The Tibetan people believe they possess the right

¹²² Ibid.

¹²³ Ibid.

¹²⁴ Ibid., p. 26.

¹²⁵ Ibid., p. 27.

¹²⁶ UN General Assembly, *Status of internally displaced persons and refugees from Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia (A/RES/71/290)*, 2017.

¹²⁷ Ibid.

¹²⁸ Ibid.

¹²⁹ UNPO, *Separatist Movements – Should Nations Have a Right to Self-Determination?*, 2008.

¹³⁰ Ibid.

¹³¹ UN General Assembly, *Declaration on the Granting of Independence to Colonial Countries and Peoples (A/RES/1514 (XV))*, 1961.

¹³² UN General Assembly, *Declaration on the Principles of International Law Concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (A/RES/25/2625 (XXV))*, 1970.

¹³³ UNPO, *Self-Determination in Relations to Individual Human Rights, Democracy, and the Protection of the Environment*, 1993.

¹³⁴ UNPO, *Separatist Movements – Should Nations Have a Right to Self-Determination?*, 2008.

¹³⁵ Herzer, *The Right to Self-Determination – The Legal Cornerstone to Tibet*, 2007.

¹³⁶ Ibid.

to self-determination under the *Declaration on the Granting of Independence to Colonial Countries and Peoples* and other international laws.¹³⁷ In support of the Tibetan people, the General Assembly adopted several resolutions recognizing and reaffirming their right to self-determination, including resolutions 1353 (1960), 1723 (1961) and 2079 (1965) on the “Question of Tibet.”¹³⁸ However, these decisions primarily support Tibet’s right to have their religious and cultural life respected, and avoid mentioning their right to independence.¹³⁹ What makes the case of Tibet perhaps more difficult to resolve are the geopolitical challenges of affirming Tibet’s claim to self-determination.¹⁴⁰ This poses a difficulty for the UN and the General Assembly Third Committee in particular, because, as consensus-building bodies, neither can significantly resolve issues of self-determination without the participation of the Member States in question.¹⁴¹ The prevailing position for many international law scholars and most Member States in regards to questions of independence and secession is that the right to self-determination is not a right to secede.¹⁴² A right to independence is generally seen as legitimate under the right of self-determination in cases where groups of peoples are denied the right to participate in democratic decision-making, and/or in cases of serious human rights violations, which, for example, has been the case for South Sudan.¹⁴³

Climate Change and the Right to Self-Determination

A result of climate change, sea-level rise has contributed to the erosion of several SIDS, and has contaminated supplies of clean drinking water due to seawater intrusion.¹⁴⁴ The projection that, by the next century, some SIDS will be underwater, poses a grave threat to the territorial integrity of those Member States.¹⁴⁵ In a statement by Rupert Colville, a spokesperson for OHCHR, he stressed that climate change will not only undermine the ability of SIDS in the Pacific to provide for their peoples, but also their right to self-determination.¹⁴⁶ The very right of self-determination, as conceived by international human rights instruments, is based on ownership of territory by a group of peoples.¹⁴⁷ As of today, no recourse or framework exists in international human rights law that provides the right to self-determination for peoples that no longer have territory to claim a sovereign right upon.¹⁴⁸ The disappearance of some SIDS as a result of sea-level rise may also result in climate change refugees that may no longer belong to an existing Member State.¹⁴⁹

The *Paris Agreement* on climate change, adopted in 2015, did not include any mention of how Member States could address the rights of climate change refugees.¹⁵⁰ Moreover, the pressing questions about what constitutes self-determination will require the collective efforts of Member States and the UN to be resolved, especially since the peoples of several SIDS may not possess the time to deliberate on the issue.¹⁵¹ While it is not clear when SIDS may face complete inundation from sea level rise, a 2007 report by the International Fund for Agricultural Development (IFAD) lists various issues SIDS will face, including loss of ecosystem and soil fertility.¹⁵² Additionally, to cope with rising sea levels, some SIDS have begun considering buying land from other Member States for their people to be able to relocate to, should conditions worsen.¹⁵³ However, this situation will require SIDS, the UN, and the international community to develop new frameworks and guidelines for preserving the right to self-determination.¹⁵⁴ Despite this, many SIDS have begun to look at adaptation measures and ways to improve their resilience to the

¹³⁷ Ibid.

¹³⁸ Ibid.

¹³⁹ Ibid.

¹⁴⁰ Ibid.

¹⁴¹ Ibid.

¹⁴² UNPO, *Separatist Movements – Should Nations Have a Right to Self-Determination?*, 2008.

¹⁴³ Dersso, *International law and the self-determination of South Sudan*, 2012.

¹⁴⁴ UN OHCHR, *Press briefing note on Indonesia/Death penalty and climate change and human rights*, 2016.

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

¹⁴⁷ Ibid.

¹⁴⁸ Wilcox, *Climate Change Inundation, Self-Determination, and Atoll Island States*, 2016.

¹⁴⁹ UN OHCHR, *Press briefing note on Indonesia/Death penalty and climate change and human rights*, 2016.

¹⁵⁰ UNFCCC, *Paris Agreement*, 2015.

¹⁵¹ Morris, *What Happens When Your Country Drowns?*, *Mother Jones*, 2009.

¹⁵² IFAD, *Climate Change Impacts – Pacific Islands*.

¹⁵³ Morris, *What Happens When Your Country Drowns?*, *Mother Jones*, 2009.

¹⁵⁴ Kelman & West, *Climate Change and Small Island Developing States: A Critical Review*, *Ecological and Environmental Anthropology*, 2009.

effects of climate change, viewing migration only as a last resort.¹⁵⁵ Cognizant of several of these challenges, the General Assembly has made efforts to assist SIDS for several years, including through the *Mauritius Strategy for the Further Implementation for the Programme of Action for the Sustainable Development of SIDS* (2005).¹⁵⁶ The resolution adopted by the General Assembly in 2012, “Follow up to and implementation of the Mauritius Strategy,” reaffirms the commitment by the UN and the international community to assist SIDS in overcoming challenges to sustainable development, which requires safeguarding the right to self-determination.¹⁵⁷ These efforts highlight the approach that the UN has taken to address the implications of climate change on human rights, including the right to self-determination.¹⁵⁸

Conclusion

While the outcomes for many groups seeking their self-determination are mixed, the right to self-determination is nevertheless recognized under international law for all peoples.¹⁵⁹ The *Declaration on Granting Independence to Colonial Countries and Peoples* has made clear that all peoples have a right to pursue their political, social, economic, and cultural development.¹⁶⁰ As such, organizations like the UNPO recognize the right to self-determination as a process, rather than as a right to some specific outcome such as full independence.¹⁶¹ Self-determination can take several forms, ranging from cultural autonomy to political autonomy, and sometimes independence.¹⁶² Even though the exercise of the right to self-determination has been complex and difficult for the peoples in Abkhazia, South Sudan, Tibet, and many others, the General Assembly and the UN remain committed to ensuring the peaceful implementation of the right to self-determination. In the future, as reported by the Secretary-General in his 2017 report on the “Right of peoples to self-determination,” greater efforts by Member States and the UN will be required to address the challenges of the right to self-determination.¹⁶³

Further Research

In preparing for this topic, delegates should contemplate how the General Assembly Third Committee can address the challenges posed by the ambiguity of the right to self-determination. Additionally, delegates should think about how this right can be expressed in a way that enhances or provides for the enjoyment of fundamental human rights. Delegates should consider: What groups of peoples should have their claim to self-determination recognized and why? Can a framework or criteria be developed that can fairly determine the legitimate claim of a group of people seeking their right to self-determination? How can violence and armed conflict be prevented or minimized for groups expressing their right to self-determination? How can the right to self-determination be implemented so that it allows peoples to fulfill their human rights, but also maintains the territorial integrity of Member States? What can SIDS do to safeguard their right to self-determination? Would purchases of land by SIDS in other Member States guarantee that the relocated peoples would be able to govern themselves? Could relocated peoples still claim fishing or other rights in their former territorial waters? What should the UN do to safeguard the right to self-determination for peoples that are left stateless as a result of climate change?

Annotated Bibliography

Dersso, S. (2012). International law and the self-determination of South Sudan. *Institute for Security Studies Paper*, No. 231. Retrieved 28 August from: <https://www.files.ethz.ch/isn/141398/Paper231.pdf>
This article provides a comprehensive account of the South Sudanese people’s struggle for their right to self-determination. Not only does it document the basis for South Sudan’s exercise of their

¹⁵⁵ Hingley, ‘Climate Refugees’: An Oceanic Perspective, *Asia and the Pacific Policy Studies*, 2017.

¹⁵⁶ UN General Assembly, Sixty-seventh session, *Follow up to and implementation of the Mauritius Strategy for the Further Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States (A/RES/67/207)*, 2012.

¹⁵⁷ Ibid.

¹⁵⁸ UN OHCHR, *Human Rights and Climate Change*, 2017.

¹⁵⁹ UNPO, *Self-Determination*, 2017.

¹⁶⁰ UN General Assembly, *Declaration on the Granting of Independence to Colonial Countries and Peoples (A/RES/1514 (XV))*, 1961.

¹⁶¹ UNPO, *Self-determination and Conflict Transition*, 2002.

¹⁶² Ibid.

¹⁶³ UN General Assembly, *Report of the Secretary-General on the Right of Peoples to self-determination (A/71/326)*, 2016.

right, it also analyzes the wider implications of the situation in South Sudan. Ultimately, it argues that South Sudan presents a case where decades of violence and violations of human rights warranted the African Union's suspension of the principle of non-intervention in one of its member's internal affairs. This was justified in order to uphold the right to self-determination of the South Sudanese people. Delegates will find this document particularly useful in understanding how the case of South Sudan has changed the way the international community views the right to self-determination, and how it can be applied to groups of people suffering from serious violations of their human rights.

Herzer, E. (2007, June 28). *The Right to Self-Determination – The Legal Cornerstone to Tibet*. Retrieved 28 August 2017 from: <http://www.unpo.org/article/6904>

Discussing the legal position of Tibet, and that it has a right to self-determination as a formerly independent state, the author of this article provides several important points when analyzing the case study. Looking at two aspects of the right to self-determination, the article argues that Tibet possesses both a right to its territorial integrity as a former sovereign state, but also a claim to self-determination granted to its people by various international human rights instruments. Delegates will find the example of Tibet useful to better understand self-determination. For cases like that of Tibet, which have been brought before the International Court of Justice, delegates will need to understand the political ramifications of recognizing cases of self-determination, which include geopolitical constraints between and among Member States, and the dilemma of promoting self-determination at the expense of preserving territorial integrity.

Kelman, I., & J. West. (2009). Climate Change and Small Island Developing States: A Critical Review. *Ecological and Environmental Anthropology*, 5 (1). Retrieved 28 August 2017 from:

<http://www.ilankelman.org/articles/1/eea2009.pdf>

This article provides delegates with several points to consider in regards to SIDS and the threats the effects of climate change will pose to their survival. One such point is that the habitability of SIDS is threatened by more than seawater intrusion, for example through coral bleaching, which would threaten fish populations and thus the SIDS' source of sustenance. It also documents the actions by SIDS or the resources available to them to develop adaptation and mitigation plans. Lastly, the article provides a complete overview of the situation of SIDS and what steps they can take to prevent threats to their right to self-determination.

Morris, R. (2009, December). What Happens When Your Country Drowns?. *Mother Jones*. Retrieved 28 August 2017 from: <http://www.motherjones.com/environment/2009/11/tuvalu-climate-refugees/>

In a piece from Mother Jones, an American news magazine, the author elucidates the situation several low-lying Pacific Island States are experiencing due to the effects of climate change and sea-level rise. The article chronicles a Tuvaluan community who relocated to New Zealand due to the rise in sea levels. Tuvalu, one of the island states that is in peril of vanishing by the next century, has made plans to buy land in another Member State, and this article highlights the ramifications of that action. Additionally, it discusses the impact refugees, resulting from the effects of climate change, will have on Member States in the future, and how some Member States affected by sea level rise are preparing for the future effects of climate change.

Starovoitova, G. (1997). Sovereignty after Empire: Self-Determination Movements in the Former Soviet Union. *Peaceworks*, No. 19. Retrieved 29 August 2017 from: <https://www.usip.org/sites/default/files/pwks19.pdf>

The author of this article provides a thorough account of the claims of self-determination by former Soviet Republics, and the resulting situation of each case: Abkhazia, South Ossetia, and Nagorno-Karabakh. The article details the cases of armed conflict in the various territories, and how conflict has shaped the situation of each nation's struggle for self-determination. Delegates will find it helpful to review the claims made by each group, and how their historical pursuit of self-determination remains unresolved in the present.

United Nations, General Assembly, Fifteenth session. (1961). *Declaration on the Granting of Independence to Colonial Countries and Peoples (A/RES/1514 (XV))*. Retrieved 20 July 2017 from:

[http://undocs.org/A/RES/1514\(XV\)](http://undocs.org/A/RES/1514(XV))

The Declaration on the Granting of Independence to Colonial Countries and Peoples is one of the primary documents that outlines the right to self-determination and serves as a basis for understanding the concept of the right as a whole. Delegates should examine the document thoroughly to understand how the right applies to countries and peoples that were colonized. Clause 3 states that the inadequacy of political, economic, social or educational preparedness should never be a pretext for delaying the exercise of the right to self-determination. Additionally, the document states that attempts at the partial or complete disruption of national unity or territorial integrity are incompatible with the Charter of the United Nations.

United Nations, General Assembly, Seventy-first session. (2016). *Report of the Secretary-General on the Right of Peoples to self-determination (A/71/326)*. Retrieved 20 July 2017 from: <http://undocs.org/A/71/326>

The Secretary-General summarizes the main developments relating to the right to self-determination in this 2016 report. It addresses the situation of Western Sahara, Palestine, and non-self-governing territories, among others. The report also addresses the rights of indigenous peoples to free, prior and informed consent about the exploitation of resources on their land by their host state. Additionally, the reports states that the host state must consult with indigenous peoples about the disposal of hazardous substances on their land. Delegates will find this source helpful as they formulate solutions to address the right to self-determination.

Unrepresented Nations and Peoples Organization. (1993). *Self-Determination in Relations to Individual Human Rights, Democracy, and the Protection of the Environment*. Retrieved 28 August 2017 from:

<http://unpo.org/downloads/Self-determination%20conference%201993.pdf>

At UNPO's conference held in The Hague, Netherlands in 1993, the objectives of the session included clarifying the meaning of self-determination, providing a space for those claiming the right to self-determination to voice their perspective, and considering strategies for the peaceful implementation of the right to self-determination. Several important topics that delegates will find critical to the discussion on the right to self-determination include: the affirmation that indigenous peoples have a right to the management of the natural environment in the territory they inhabit; that the principle of territorial integrity of Member States should not be an impediment to the implementation of self-determination; and the proposal by the Prince of Liechtenstein of a peaceful process for implementing the right to self-determination.

Unrepresented Nations and Peoples Organization. (1996). *The Question of Self-Determination: The Cases of East Timor, Tibet, and Western Sahara*. Retrieved 28 August 2017 from:

<http://unpo.org/downloads/Selfdetermination%20Conference1996.pdf>

This document summarizes the discussions at UNPO' conference in Geneva, Switzerland, held concurrently with the 52nd session of the United Nations Commission on Human Rights. It was convened at the initiative of the leaders of Tibet, East Timor and Western Sahara, to discuss their exercise of the right to self-determination, the challenges they face to attain this right, and what actions the United Nations could take in response. This document also outlines the development of the right to self-determination under international law, which forms the basis for the claims of self-determination for Tibet, East Timor, and Western Sahara. One important point that delegates will find helpful to understanding the right to self-determination, is that many peoples seeking self-determination agree that the right to self-determination does not necessarily lead to political independence. The conference participants believed that it should be an option available to the peoples who are claiming their right to self-determination, and that the implementation of the right to self-determination should lead to an outcome that is the result of a clear, free, and well-informed choice through a democratic process.

Wilcox, S. (2016). Climate Change Inundation, Self-Determination, and Atoll Island States. *Human Rights Quarterly*, 38 (4): 22-1037. Retrieved 20 July 2017 from: <https://muse.jhu.edu/article/636568>

This article discusses recent developments in the right to self-determination as it relates to climate change. What will be most useful for delegates is the article's clarity in describing how climate change affects the right of self-determination for many SIDS, especially through inundation from rising sea levels. Additionally, it describes the application of self-determination by the United Nations and international law, and the challenges that this categorization poses to the rights of

SIDS. Lastly, the article outlines several options that SIDS are considering in regards to their right to self-determination, if their territory is destroyed by climate change inundation.

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