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The Paradox of Self-Determination

Lost in the discussion surrounding the referendum in the Crimea is the “legal” process. Simply put, how does part of an established nation decide to secede? Are there established protocols?

In this report, we will offer a short history of the self-determination issue. This will begin with the Treaty of Westphalia, the American and French Revolutions, and the Congress of Vienna. With this background, we will discuss President Wilson’s inclusion of self-determination in his “14-point” peace plan and examine how the U.N. has dealt with this issue. From there, we will analyze how self-determination was used as a tool during the Cold War and how those practices have continued after 1990. As always, we will conclude with market ramifications.

The History of Self-Determination

The Protestant Reformation and the Catholic Counter-Reformation led to a period of civil conflict. The last great religious war, the 30-Years War, ended with the Treaty of Westphalia. The Treaty confirmed the idea that the religion of the leader of an area would become the religion of that area. More importantly, the Treaty ended the concept of a supranational government for Europe. The Treaty, signed in 1648, created a group of nation-states all committed to their own self-interests. It is interesting to note that the EU’s current difficulties in creating a continental government structure are rooted in this history.

The goal of the Treaty was to end the rounds of bloody religious wars. However, to achieve this aim, the agreement essentially allowed those who were currently governing an area to remain in place. The Treaty tended to end the practice of princes going to war to change the religion of a neighboring nation.

The next major event in the evolution of this concept was the American Revolution. American colonists, imbued with ideas from John Locke and other Enlightenment philosophers, decided that they wanted to break away from England and form their own nation. It was the first nation in the world to establish itself on these particular principles of “life, liberty and the pursuit of happiness.” With some help from the French, the colony won its war of independence and established a country. The idea that a people could create a nation in this manner was of great concern to the kingdoms of Europe.

Their fears were realized when the French aristocracy was overthrown in the violent French Revolution. This revolution terrified the elites of Europe and the violence of the revolution even worried a number of more conservative American political figures.

Order in France was restored by Napoleon. However, after ending the revolution, he set out to conquer Europe. Although clearly a brilliant general, Napoleon overextended his military and was eventually dealt a series of critical defeats, including against Russia and at Waterloo.

In the aftermath of the Napoleonic Wars, European leaders gathered at the Congress of Vienna to establish the new Europe. Based on which nation had control, borders were generally established on a “balance of power” basis, giving nation-states enough territory to control the various ethnic groups and religious affiliations. With the eventual unification of Germany in 1870, Europe was mostly a group of empires with many of the nations holding offshore colonies as well.

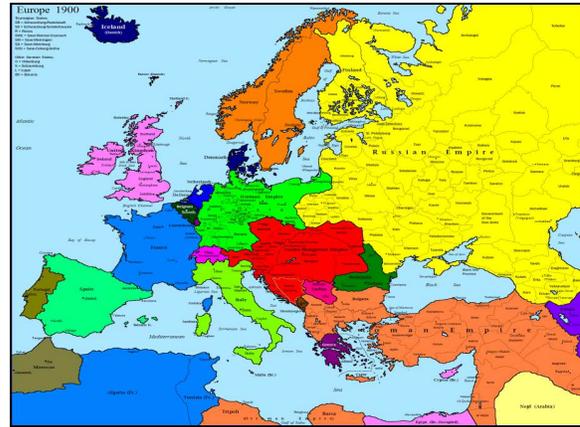
During the period of 1870 to 1914, various ethnic and cultural groups chafed at control by the various empires. Slavic groups wanted to break away from the Ottoman and Austrian empires. The Poles and Finns wanted to be free of Russian control. These tensions were partly to blame for WWI.

President Wilson and Self-Determination

After Germany surrendered in 1918, the structure that had generally held Europe together since the Congress of Vienna was unraveling. Although the major allied nations wanted to punish Germany and prevent that country from threatening the continent again, the victorious empires wanted, for the most part, to restore their pre-war positions. President Wilson, on the other hand, argued that if these insurgent ethnic and religious peoples were denied self-determination, the problems that led to the Great War would remain unresolved.

Wilson wanted to create conditions that would allow statehood for these various groups. Although France, Britain and Italy had little interest in seeing their empires dismantled, there was support for breaking up the defeated empires.

Compare the pre-war map to the post-war map; first, the pre-war map.



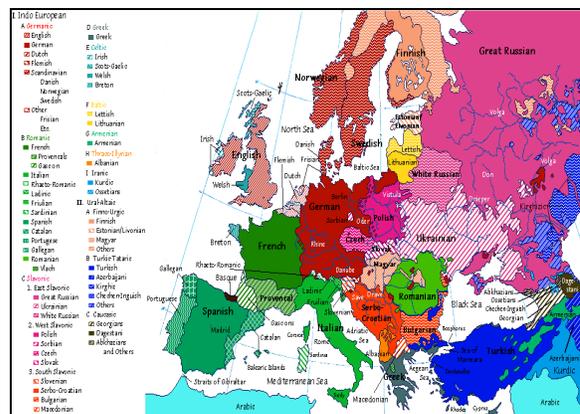
(Source: Wikipedia Commons)

Followed by the post-war map.



(Source: Wikipedia Commons)

Examining the ethno-linguistic map of Europe yields an even more complicated picture.



(Source: Wikipedia Commons)

Clearly, taking Wilson's concept to its logical conclusion would have led to a massive disintegration of Europe. In fact, the concept was probably completely unworkable without massive migrations which would have likely led to further bloodshed.

After WWII, the U.S. was determined to end Europe's colonial era. The U.N. charter on self-determination was designed to create a path to independence for Europe's colonies. However, it also required these new states to honor their colonial boundaries. This meant that many of these new nations were almost unworkable from the start. Colonial powers often structured borders in such a manner to make them easier to govern. Thus, tribes and peoples opposed to each other were sometimes put into the same territory, and larger groups that could threaten colonial control were usually separated. Hundreds of new nations were created; however, they were often plagued by a colonial legacy that made them hard to govern and often these regimes became authoritarian due to the difficulty in managing the disparate groups.¹

During the Cold War, the U.S. and U.S.S.R. tended to manage their respective spheres of control. The U.S. and NATO did not intervene when the Soviet Union sent troops into Czechoslovakia and Hungary. Although the Soviets tried to establish a military presence in Cuba, American brinkmanship during the 1962 Cuban Missile Crisis led the Soviets to back down. The Soviets supported Vietnam during the Vietnam War; the U.S. returned the favor when the U.S.S.R. invaded Afghanistan.

¹ One of the key questions in invading Iraq was, "Is Iraq the way it is because of Saddam Hussein or is Saddam Hussein the way he is because of Iraq?" History suggests that the latter was probably the case.

After the Soviet Union collapsed in the late 1980s, a new set of republics emerged in Russia's near abroad. Russia has been trying, with some success, to keep these states friendly to Russian interests.

What are the Rules?

This historical analysis shows that there isn't any consistency in how self-determination works. In some cases, nations are allowed to form; in others, global powers prevent them from developing. Despite the fact that the academic community which deals with international law has written extensively on this topic, how it actually gets practiced is another matter.

Essentially, the process of self-determination appears to be determined by global powers. For example, the American colonists may have defeated Britain without French assistance, but it clearly ended the war sooner than it would have without it. France was more than happy to use the colonial revolt to hurt its British rival. The Treaty of Westphalia and the Congress of Vienna both were designed to solidify the status quo. Wilson's push for self-determination was used by the victorious European allies to break up the German, Ottoman and Austrian Empires. It did not create states for the Basques in Spain. The thrust of self-determination after WWII was decolonization, which was America's way of undermining European power. An overall weaker Europe was less likely to start another world war.

Although the Obama administration is trying to portray Russia's actions in the Crimea as an aberration, in reality, who gets self-determination and who does not is mostly a function of power and influence. The examples abound:

- South Sudan became a state mostly due to celebrity agitation. Darfur became a *cause celebre* for Hollywood due to Sudan's genocidal policies against the south. The uproar led to the partition of the nation; however, tensions between the two states, South Sudan and Sudan, remain very high.
- Tibetan independence also has celebrity support but, thus far, Chinese power has been more than enough to prevent Tibet from separating from China.
- The Kurds are a distinctive people and culture; their population spans parts of Iran, Iraq, Turkey and Syria. Despite promises of statehood from outside powers going back to WWI, the Kurds have never been granted a state.² However, there are indications that Syria (and for that matter, Iraq) could break apart, leading to a homeland. At present, Turkey, which seems to have aims of reconstituting the Ottoman Empire, is supporting Kurdish aspirations after brutally suppressing such desires for decades. Iraq, on the other hand, remains strongly opposed to Kurdish autonomy.
- Iraq's annexation of Kuwait in 1990 was rebuffed by the United States. President Bush assembled a coalition to oust Saddam Hussein's troops from Kuwait to restore the state. It should be noted that there are colonial maps that suggest Kuwait was part of Iraq, and Hussein's claim that Kuwait was horizontal drilling into Iraq's oil fields was probably accurate. Still, Iraq was not allowed to keep Kuwait.
- The Baloch people occupy eastern Iran and southern Pakistan and, like the Kurds, represent a distinct group. Both Iran and Pakistan suppress Baloch separatism.
- The separation of Kosovo from Serbia was mostly supported by Europe and the U.S. due to atrocities being committed by Serbia. However, support was not universal. Not only did Russia oppose creating a Muslim-dominated state, but Spain, worried about the precedent set for its own Basque separatists, opposed force by NATO and statehood for Kosovo.
- French Canadians in Quebec have persistently flirted with separation. Although referendums were held in 1980 and 1995, Quebec voters rejected separation in both cases. Interestingly enough, First Nation members of the Cree tribe in Quebec strongly opposed separation and threatened armed insurrection if the referendum had carried the day.

These examples are in no way exhaustive. Whether a self-determined group can attain statehood mostly depends on whether regional and superpowers will permit the new state to emerge. If the U.S. had not provided the military force to support Kosovo, Serbia would still control that region (although it would likely be dealing with a persistent insurgency). China's power would need to suffer a major decline to lose Tibet. The Kurds will get a homeland only if it serves Turkey's aims to project power, meaning that a Kurdistan state would be beholden to Turkey's support.

So, was Russia's incursion into the Crimea legal? Since there is no supranational law or

² There was a provision for a Kurdish territory in the Treaty of Sevres after WWI. However, this treaty was never ratified. In the Treaty of Lausanne, the Kurds did not receive a state.

body to enforce its removal, the case is similar to Iraq's incursion into Kuwait. Conditions on the ground will only change if the U.S. decides that it will go to war to push Russia out of the Crimea and give it back to Ukraine. Given the lack of key natural resources in the Crimea and the fact that Russia has nuclear weapons, it is highly unlikely the U.S. will use military force to remove Russian troops from the region.

Ramifications

The key point of this analysis is to show that there really isn't any "law" of self-determination. Essentially, it comes down to "might makes right." However, what makes this issue tricky is that the U.S., which, for the most part, decides who gets a self-determined state and who does not, is rather inconsistent in applying rules to these issues. For Russia, Kosovo was an illegal removal of Serbian territory. Russia is using the Kosovo precedent to justify its actions in the Crimea. The Kurds, who probably have a stronger claim than the Kosovars in terms of having a culture, language and evidence of suppression, haven't gotten statehood because the U.S. had other geopolitical goals in the region that made Kurdish statehood impossible. However, we note that since the 1991 Persian Gulf War, the U.S. has generally supported Kurdish autonomy, in part, to undermine the Hussein regime.

For the American public, the self-determination issue is a delicate one. Given that the U.S. began as a democratic revolution, Americans are sympathetic to the goals and aspirations of people who long for

freedom from tyranny. However, the reality is often more complicated. South Sudan is clearly not a model democracy. Ethnic cleansing in the Balkans was not just a Serbian atrocity. Sometimes there are broader geopolitical goals that make supporting breakaway groups difficult.

This issue becomes a problem for markets when uncertainty about U.S. policy increases market volatility. A good example was the Iraqi invasion of Kuwait in 1990. There was great uncertainty as to whether the U.S. would actually oust Iraq or acquiesce to Iraq's *fait accompli*.³ Thus, oil prices became quite volatile as the world awaited the decision to oust Iraq or not. A less volatile but similar situation has developed with the Crimea; markets have settled down but we could see renewed weakness if Putin decides to expand his reach. We don't expect the U.S. to develop a consistent policy with regard to this issue; American presidents want the flexibility that this uncertainty gives them. Investors have to be aware that no two situations are the same and neither will be the reactions of U.S. administrations.

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³ It was in the run-up to the conflict that British PM Thatcher warned President Bush, "...George, this is no time to go wobbly." This event has been disputed by some figures in the Bush administration.

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