NOTES

UNITED NATIONS HUMAN RIGHTS "ENTITLEMENTS": THE RIGHT TO DEVELOPMENT ANALYZED WITHIN THE APPLICATION OF THE RIGHT OF SELF-DETERMINATION

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The experiences of peoples living in the international community currently runs a wide gamut; from extreme poverty and political, social and/or cultural oppression, to extreme wealth and a wide range of freedom. Much has been written concerning the human rights of those living in conditions and cultures that are considered "sub-standard" by the wealthier world, including potential and perhaps promising solutions that attempt to decrease the extreme divide between the "developing" and "developed" worlds.¹

While international non-governmental organizations aid developing nations by donating their money, supplies and time, international law has focused on fashioning a solution from a legal perspective. Recognizing several universal human rights through declarations and binding covenants, the United Nations has attempted to reconcile the differences between states.² Where an entitlement in one country is seen as a privilege in another, these UN-created doctrines endeavor to bestow "rights" upon those who are characterized as having an unacceptable lack of access to life-sustaining elements, education,

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and opportunities in general.\textsuperscript{3} Two such rights, self-determination and the right to development, will be the focus of this Note.

The United Nations defines the right to development as "an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized."\textsuperscript{4} The right of self-determination, adopted both in the International Covenant on Civil and Political Rights (ICCPR)\textsuperscript{5} and in the International Covenant on Economic, Social and Cultural Rights (ICESCR), is defined as the right of all peoples to "freely determine their political status and freely pursue their economic, social, and cultural development."\textsuperscript{6} The right to development contains aspects from all parts of life, while the right to self-determination has characteristics of a political right through which other rights may be achieved. Although both entitlements use the word "right," it is uncertain, in the legal context, how effectively these "rights" are being bestowed upon their intended beneficiaries.

This Note will examine the relationship between the two rights, and whether the right of self-determination hinders the implementation of the right to development or bolsters the concepts embedded in the right to development. The Note will further raise the issue of the universal character of the rights as stated within the declarations and consider this universal character within the diverse cultures of countries of the international community.\textsuperscript{7} The conclusion will attempt to reconcile the implementation of these universal rights with sensitivity to the specific cultural setting. This Note takes the position that the two declarations can work together and bolster the claim to a right to development that is tailored to the specific characteristics of the culture in which it is being implemented. For example, concerning the right to political developments, it would be incorrect to take the right to political development and immediately assume that this right calls for a democracy based solely on a United States model. Instead, one might consider implementing this right by

\textsuperscript{3} See The Declaration, \textit{supra} note 2.

\textsuperscript{4} Id.

\textsuperscript{5} International Covenant on Civil and Political Rights, Mar. 23, 1976, 999 U.N.T.S. 171.


working within existing political structures, gradually introducing some form of democracy that is both fair in a universal sense, and a form that also works with the culture and pre-existing framework of the country.

Part I of this Note will give a brief history of the various theories that are reflected in international human rights. Parts II and III will discuss the background and current status of the right of self-determination and the right to development, respectively. Part IV will provide an analysis of the argument. Part V will discuss the effectiveness of the application of each of these rights. Part VI will focus on the right to development as a collective right. Finally, Part VII will propose courses of future action by the international community so that the underlying goals of rights may be successfully realized.

I. THE HISTORY OF HUMAN RIGHTS

In considering the right of self-determination and the right to development, it is first helpful to understand the theoretical and historical underpinnings of international human rights law. The modern human rights movement began immediately following World War II.\(^8\) Largely in response to the atrocities of the war, the United Nations Charter, written in 1945, embraced the principle that certain universal human rights existed and must be respected by people and governments.\(^9\) The United Nations Charter and the ideals it embodied reflected a hope for a kinder, more humanitarian community as it set up the modern system of international law.\(^10\) As a result of the recognition of human rights by the UN, even beyond their individual state, individuals had another protectorate of their rights in the framework of international law.\(^11\) In stating that war and inhumane treatment of individuals was not to be tolerated, the

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\(^10\) See Teitel, supra note 8.

international community shaped the current view of human rights by asserting in the United Nations Charter that every human life had value.\textsuperscript{12}

Prior to the Charter's universal protection of human life, the dominant theory controlling human interaction with states was the more localized social contract theory, whereby the rights possessed by individuals were the rights given to them by their respective state.\textsuperscript{13} By defining human rights as existing outside the state legal system, the international legal system imposed a system of state accountability.\textsuperscript{14} Postwar international law therefore developed a potential framework that allowed claims against the government of an individual's state if the government violated the rules set out by international law.\textsuperscript{15}

A. The Three Generations of Human Rights

In charting the progression of human rights law since World War II, the stages and theories used to describe the development of their rights are commonly described in terms of "generations".\textsuperscript{16} In the most basic sense, the first and second generation rights are categorized as being rights of individuals, while third generation rights are categorized as group rights.\textsuperscript{17} Recognized in the immediate post-World War II era, first generation rights encompass civil and political rights for individuals. Because civil and political rights were most at risk during the war, they were naturally the first rights to be protected under the umbrella of human rights.\textsuperscript{18} Furthermore, the concepts behind these rights were not new; most democratized states protected the civil and political rights of their inhabitants, and consequently, the first generation rights simply tried to extend the political protections already in place in those countries.\textsuperscript{19} A politically protective structure was generally viewed to be best achieved in a democratic and not a communist form of government.\textsuperscript{20} It is not surprising that the efforts to protect these rights were also influenced by the prevailing political climate, since the Soviet Union and China were certainly not

\textsuperscript{12} See HENKIN, supra note 11, at 3.
\textsuperscript{13} See id. at 2.
\textsuperscript{14} See Teitel, supra note 8, at 305.
\textsuperscript{15} See id.
\textsuperscript{16} Saito, supra note 9, at 389.
\textsuperscript{17} Id. at 389.
\textsuperscript{18} See Teitel, supra note 8, at 310.
\textsuperscript{19} See id.
\textsuperscript{20} See id.
advocating the implementation of a more democratic structure. In implementing these rights, governments were urged to take a tolerant, "hands-off" approach to their citizens' exercise of civil and political rights and refrain from interfering with or strongly influencing an individual's participation in civil and political matters.

The second generation rights also reflected the political climate of the Cold War. Expanding from the foundation of the first generation rights, the second generation rights included social, economic and cultural rights for individuals. Again, the hands-off, lassiez-faire approach was encouraged.

Although this expansion of human rights to include economic, social and cultural freedom was theoretically a novel and impressive achievement for the international community, in reality the implementation of these first and second generation rights was relatively ineffective. Consequently, some scholars suggested that there was a need to give rights to communities and groups so that they could collectively appeal for individual rights, because a group could more successfully petition a government than could an individual.

This suggestion incited a third wave of theories premised on the notion that first and second generation rights had not enjoyed much success. The theory behind third generation rights attempted to bolster these individual rights by embodying "collective group rights." In calling for collective group rights, the proponents of third generation rights believed that a community first needed to assert and establish its presence, and then demand the first and second generation rights.

Although the theoretical development of human rights law has continued to advance and change, the actual implementation of these rights has been relatively stunted. There is more of a need to develop a viable system to

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21 See id.
22 See Saito, supra note 9, at 392.
23 See Teitel, supra note 8, at 311.
24 See Saito, supra note 9, at 389.
25 See Teitel, supra note 8, at 311.
26 See id.
27 See id. at 312.
28 See id.
29 Id.
30 See Saito, supra note 9, at 405-06.
31 See id.
execute these generational rights and less of a need to develop a new theory.\textsuperscript{32}

B. The Right of Self-determination and the Right to Development as Viewed Within the Generational Framework

The right to development and the right of self-determination can both be placed within the framework of the third generation rights.\textsuperscript{33} Having been defined by the United Nations, both rights have received a great amount of attention as being important concepts for the promotion of possible legal entitlements in the area of human rights.\textsuperscript{34} Both concepts are amorphous in nature; their components are difficult, sometimes impossible, to define, and their entitlements can be even more challenging to implement.

Although the right of self-determination is classified as a third generation right, its origins can be traced to the beginnings of international law. During the post-World War II era, the right of self-determination focused on national sovereignty and ending colonialism.\textsuperscript{35} The right was used to justify and promote the right of an occupied country (and later colonized countries)\textsuperscript{36} to be recognized as a sovereign state in the international community.\textsuperscript{37} This right was fundamental in international law at the time since the right of a state to be recognized as sovereign secures the respect of other sovereigns.\textsuperscript{38} This recognition ensure that the sovereign’s actions will be regarded as decisions by and for that nation and be given deference by other countries.

The right of self-determination also has characteristics of a third generation right. As a third generation right, it encompasses the rights of individual groups within a country, or a collective right.\textsuperscript{39} Self-determination under this theory can be viewed as providing a justification for groups within a country to separate from their national governing system if their rights, as a group, are threatened.\textsuperscript{40} This notion of threatened survival has been used in many

\textsuperscript{32} See Teitel, supra note 8, at 316.

\textsuperscript{33} See id. at 312.


\textsuperscript{35} See generally Antonio Cassese, Self-Determination of Peoples: A Legal Reappraisal 44 (1995).

\textsuperscript{36} See Part II.A, infra.

\textsuperscript{37} See Cassese, supra note 35, at 44.

\textsuperscript{38} See id.


\textsuperscript{40} See Hurst Hannum, Minorities, Indigenous Peoples, and Self-Determination, in Henkin
instances to illuminate the right of self-determination and includes a wide range of what constitutes "threatened" rights in order to invoke the doctrine.\textsuperscript{41} The extreme example is threatened physical survival, while the more typical example would be threatened political and social rights.\textsuperscript{42} This role of self-determination, including the threatened rights of a smaller group within the larger state, is now viewed as a prerequisite for the recognition of other important first and second generation and individual rights, such as the right to development.\textsuperscript{43}

\section*{II. THE RIGHT OF SELF-DETERMINATION}

\subsection*{A. The Evolution of the Right of Self-determination}

The right of self-determination is a constantly evolving concept—one that is difficult to define concisely.\textsuperscript{44} The right of self-determination has been applied to the rights of countries as a whole in advocating their freedom from colonial rule, and to the rights of individuals within countries, particularly in the context of minority and ethnic rights.\textsuperscript{45} Currently, the right of self-determination is being used by a growing number of scholars to refer to broader concepts. The working view is that this right is available to any "peoples" who experience violations of their human rights, are oppressed within their current state, and are unable to successfully represent their interest in the state in which they reside.\textsuperscript{46} This right can transcend physical boundaries and can be applicable to a racial or ethnic group living amongst or under a regime hostile to their existence.\textsuperscript{47}

The term "self-determination" was first coined after the first World War in response to the crumbling of the Ottoman and Austro-Hungarian Empires.\textsuperscript{48}
President Woodrow Wilson, who was influential in developing and defining this right, took a slightly Eurocentric approach. Although Wilson wanted the nations that had previously been under the command of an empire to establish their own nation states, he also was well aware of the many colonies controlled by European countries around the world, and did not want to disrupt these holdings. Therefore, the right of self-determination was limited to the peoples in Europe whose common nationalities and cultures were also conveniently divided along territorial boundaries so that they could easily form a new nation state.

The right was given more formal importance during and after the Second World War. The right of self-determination was used as one of the compelling concepts driving the Allies to liberate the sovereign countries that had fallen under Nazi control. Restoring the sovereignty of these nations was viewed as a right inherently embodied within the realm of self-determination, since the rulers of these occupied states had a right to conduct national affairs according to their own interest, and should not be submitted to the whim or control of another nation.

The right of self-determination also addressed a more human dimension, referring to the “rights of all people to choose their form of government under which they choose to live.” This right most commonly referred to situations where a previously established, “civilized” government of a country was forcibly invaded and captured, thereby substituting the will of one country’s inhabitants with the will of foreign rule. Even though the right was still being restricted to situations in Europe, the concept and phraseology had an immense amount of potential, and was seen by others as applicable to other situations, especially decolonization.

With the creation of the United Nations after World War II, the right of self-determination was included in the UN Charter as “the principle of equal...
rights and self-determination of peoples." However, this phrase did not have exactly same meaning as the right of self-determination in World War II. Instead of referring to the rights of all occupied states to sovereignty, the industrialized states understood this phrase to mean the right of individuals to political choice in government, simply crystallizing in writing a right that existed within most sovereign, democratic nation states. However, in the ensuing decades, the right was seen by colonized countries as an international legal justification for dismantling the system of colonization.

Drawing from this phrase in the Charter, states previously under colonial rule perceived a broader application of the right. The right of self-determination expanded from addressing a previously sovereign nation's right to be free from occupation, to encompass an internal, individual right to select a government, and a right of a population to its own sovereignty, free from the rule of another, regardless of whether the nation was seen as previously sovereign, occupied or colonized.

The United Nations promoted this more expansive definition and employed it to help end the period of European colonization. As a legal justification for decolonization, the right achieved influence in international law. In 1960, United Nations General Assembly Resolution 1514 (XV) was adopted, which officially and expressly applied the right of self-determination to peoples living under colonial rule.

The United Nations further supported the right in two subsequent binding covenants: the International Covenant on Economic, Social, and Cultural Rights and the International Covenant on Civil and Political Rights. In their Article 1 provisions, both covenants grant all peoples "the right of self-determination." By virtue of that right these peoples may "freely determine

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58 U.N. CHARTER art. 1(2).
59 See CASSESE, supra note 35, at 65.
60 See id.
61 See id.
62 See id.
63 See id.
64 See id.
their political status and freely pursue their economic, social and cultural development." Furthermore, the covenants impose the burden to uphold these guarantees on the state: "The states, parties to the present covenant . . . shall promote the realization of the right of self-determination, and shall respect that right in conformity of the Charter of the United Nations." However, the application of this "right" is a more difficult endeavor and requires much more commitment than a signature.

B. Internal vs. External Self-Determination

The right of self-determination in international law has come to encompass both the obligations of a state to its people, and the obligations of a state to other states. The phrase "freely determine their political status" has been subject to many interpretations. As applied to a population within a state, this identifies the internal right of the people to determine the political structure of the state, to have an active role in selecting its governing bodies, and to have the ability to express oneself in accordance with this right. Such rights have manifested themselves in traditionally democratic entitlements: freedom of speech, freedom of expression, and suffrage. However, the potential reach of the right is to grant a broader freedom: the freedom of individuals living in a country to voice their opinion as to the direction of their state. Thus, citizens may choose a government that does not contain all of the elements of a democratic government. The right of self-determination has been satisfied as long as the right secures continued representation of the people's will. Furthermore, the right of self-determination has been applied to representing the will of all segments of the population. Each state has an obligation to its residents to provide adequate channels through which their
will can be expressed,\textsuperscript{77} including the voices of ethnic and racial minority groups.\textsuperscript{78}

Nevertheless, the application of the right as an internal right does not allow the factions within a sovereign state to form their own state using the right of self-determination as justification.\textsuperscript{79} State sovereignty is still to be respected as an important and absolute right in international law. However, within the state, internal self-determination requires that the state be receptive to equal participation in government.\textsuperscript{80}

The Canadian Supreme Court expounded on this notion in the attempted secession of Quebec from Canada.\textsuperscript{81} The Canadian Supreme Court considered the question of Quebec's secession from Canada with respect to the international right of self-determination.\textsuperscript{82} Quebec claimed that although there was no physical threat to its survival, its culture was threatened.\textsuperscript{83} This argument was based on the "primary right" theory, which states that "secession is warranted if the cultural survival of a group of people is threatened, either as a matter of deliberate policy by the state in which the group exists or by the state's unintended actions."\textsuperscript{84} If this claim were justified, then the group should be allowed to secede, for any refusal by the state would constitute an unjust act.\textsuperscript{85}

The Canadian Supreme Court recognized this interpretation of "primary right," or the right of self-determination, as one applicable to all "peoples."\textsuperscript{86} The Court also conceded that the people of Quebec share many cultural characteristics.\textsuperscript{87} However, the Court determined that the right of self-determination did not apply to people who were not denied "meaningful exercise" of the right of self-determination within the framework of the state.\textsuperscript{88} The Supreme Court went on to define two definite instances where the international right of self-determination was applicable: where people are

\begin{footnotesize}
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\item \textsuperscript{77} See CASSESE, supra note 35, at 108-12.
\item \textsuperscript{78} See id.
\item \textsuperscript{79} See generally MacMillan, supra note 39.
\item \textsuperscript{80} See CASSESE, supra note 35, at 114.
\item \textsuperscript{81} See Reference Re Secession of Quebec, 37 I.L.M. 1340 (1998) [hereinafter Quebec Case].
\item \textsuperscript{82} See id.
\item \textsuperscript{83} See MacMillan, supra note 39, at 346.
\item \textsuperscript{84} Id. at 336.
\item \textsuperscript{85} See id.
\item \textsuperscript{86} See Quebec Case, supra note 81.
\item \textsuperscript{87} See id.
\item \textsuperscript{88} Id. at 1344.
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subject to colonial rule and where people are subject to alien subjugation. A third possible application of the right of self-determination is where people are denied any "meaningful exercise of their right of self-determination." Because the citizens of Quebec did not fall within any of the categories, the Court ruled that the right of self-determination, as available to Quebec, was to be achieved within the existing federal framework. The Court determined that when examining the right of self-determination in international law, it is necessary to take into account the circumstances of people seeking self-determination. If the circumstances are such that the government does not discriminate against a certain type of people, and each group has representation, the right to external self-determination cannot be invoked.

In customary international law, external self-determination has its roots in the campaign against colonial rule. The driving force behind the termination of colonialism in the form of a legal doctrine was that territories under colonial rule, using the right of self-determination, should be allowed to govern themselves instead of being subjected to the will of another sovereign state. The right of self-determination as applied to colonialism was also embraced by the United Nations. However, this external application of self-determination to colonialism was viewed as necessary for the political unity of all peoples living within a territory, and not as a tool to implement the right of political choice for people within the boundary. The end of colonialism was seen as a successful application of the right of self-determination not because the people within the state were able to choose their government, but because the people of the territory were no longer subject to the rule of a second sovereign nation.

The principles of external self-determination were also applied to protect the will of these newly formed countries and their longstanding sovereign

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89 See id.
90 Id.
91 See id.; see also MacMillan, supra note 39, at 353.
92 See Quebec Case, supra note 81, at 1370.
93 See id.
94 See CASSESE, supra note 35, at 71.
95 See id.
96 Id. at 72 (citing Resolution 1514, supra note 65). Resolution 1514 (XV) states, "all peoples subjected to colonial rule have a right of self-determination," that is, to "freely determine their political status and freely pursue their economic, social and cultural development."
97 See CASSESE, supra note 35, at 74.
98 See id. at 74-79.
counterparts. Each of the new countries were to respect the governing and economic policy choices made by other countries as sovereign states. Protection and recognition of state sovereignty is implicit in this application of self-determination.

When addressing the concept of external self-determination, the Supreme Court of Canada defined it to mean “the establishment of a sovereign and independent State.” When the Court evaluated Quebec’s right to external self-determination, it took into account the ability of Quebec to freely express its political status through the state government. The Court went on to assert that a state with a government that represents all of the residents within its territory without discrimination is entitled to invoke protection of its territorial integrity through external self-determination and the law of territorial integrity. Therefore, Canada could invoke this protection since the inhabitants of Quebec were represented without discrimination.

However, this view may be at odds with internal self-determination. A state may make policy decisions in the best interest of the state that are not necessarily in the best interest of the people of the state. One example of this is the exploitation and use of natural resources of the state. The state may choose to use these resources in a way that it perceives as advantageous to the state’s economic development, but it may not always reflect the will of all the people within the state. Yet, the state as the sovereign has the freedom to act in a manner chosen by that state, and is not held accountable for its decision by other states because of the principle of state sovereignty. However, one might imagine in this hypothetical that there could be a scale upon which the sovereign state’s decisions are weighed. The decision of the sovereign may be evaluated within the context of that nation. Therefore, a reasonable decision regarding the use of natural resources may not tip the balance in favor of applying the concept of self-determination as much as would, for example, complete oppression of an ethnic group.

99 See id.
101 Quebec Case, supra note 81, at 1371 (quoting the Declaration on Friendly Relations).
102 Id.
103 Id.
104 Id.
105 See CASSESE, supra note 35, at 100 (noting that if natural resources are not used in the best interest of the people it might infringe on the peoples’ right to self-determination).
106 See id.
Because international law is based on the principle of state sovereignty and territorial integrity, and the phrase "freely pursue"\(^\text{107}\) applies to states as well as the people residing in states, self-determination as envisioned by the UN seems to implicitly favor the external approach.\(^\text{108}\) Simply stated, the will of a sovereign state should be respected by other states of the international community. This contributes to the view of the world as a collection of sovereign states, rather than an international community of people. This Note takes the position that the community view is more conducive to the promotion of human rights through international channels, but recognizes that the current system favors the former interpretation.

C. The Modern Application of the Right of Self-determination

There are two different and somewhat competing interpretations of exactly how the right of self-determination can and should be applied. Richard Falk, author of the preface to the *Collected Papers and Proceedings of the First International Conference on the Right of Self-determination and the United Nations*, writes that "no question in international law and morality is as contested as fixing limits on the right of self-determination."\(^\text{109}\) The modern application of self-determination has come to embody a variety of positions and demands depending on the agenda of the party invoking the right. As previously noted, there is an interesting tension between the first and second generation rights, and the external approach that involves a "top-down" application.\(^\text{110}\) This type of tension is exhibited most commonly where a group of people located in a specific geographic area campaign for statehood, hoping for the freedom to conduct their own affairs without interference.\(^\text{111}\) The second and later interpretation, the internal, "bottom-up" view, competes for a broader application.\(^\text{112}\) Placed in the context of the third generation, advocates of the "bottom-up" view claim that the right of self-determination exists to give every group a voice in hopes of pursuing human rights more effectively at a global level.\(^\text{113}\) According to Falk, the approach which prevails


\(^{108}\) CASSESE, *supra* note 35, at 100.


\(^{110}\) *Id.* at 6.

\(^{111}\) *Id.* at 6.

\(^{112}\) *Id.*

\(^{113}\) *Id.*

At stake is whether the criteria relied upon to clarify the right of self-
will represent the potential direction of international law in the new era: whether we, as an international community, will continue in the status quo and apply self-determination in a “territorial nationalism” fashion; or in the alternative, whether we will change direction and give economic, social, and political choice to the “peoples” of the world regardless of their nationality.\footnote{Id.}

With these two approaches, the modern era continues to provide the international community with many examples of potential self-determination claimants using either approach. One view supports the rights of individuals within distinct groups living in a state whose own right to voice their opinions and voice have become limited due to a hostile regime. One such example is the case of indigenous peoples living within a country that does not recognize their interests.\footnote{Id. (noting the Westphalian-like schemes creating modern countries according to colonial boundaries).} The other, equally strong application, refers to a call for territorial statehood of a group of peoples, as in the case of Quebec. One might then ask whether the Tibetans could assert the right of self-determination against domination by China.\footnote{See id. (noting the new colonization of Tibet and China’s efforts in ethnic dilution in that country).}

Yet the question must be raised: Are there other alternatives to implementing the goals of the right of self-determination that would encompass both objectives at the same time? One option would advocate employing a political regime that would effectively allow for all factions of society to be given a voice. This would drastically mitigate many of the conflicts concerning the individual/group quest for self-determination and territorial quests for sovereignty, both using the right of self-determination as justification.\footnote{See Amy E. Eckert, Free Determination of the Determination to be Free? Self-determination and the Democratic Entitlement, 4 UCLA J. INT’L L. & FOREIGN AFF. 55, 57 (1999).} One suggested answer is a pure democratic regime.\footnote{See id.} When every societal voice is taken into account, academics view this type of political climate as being more conducive to remedying claims of human rights violations and statehood determination are to be determined in a top-down manner through the mechanisms of statism and geopolitics or by a bottom-up approach that exhibits the vitality and potency of emergent trends favoring the extension of democratic practices and the deepening of human rights.

\footnote{Id.}

\footnote{Id. (noting the Westphalian-like schemes creating modern countries according to colonial boundaries).}

\footnote{See id. (noting the new colonization of Tibet and China’s efforts in ethnic dilution in that country).}


\footnote{See id.}
sovereignty aspirations because it allows for participation by all parts of the population.119 A democratic regime seems to be the ideal form of government for the right of self-determination in this respect since both democracy and self-determination have similar end goals: "creating opportunities for individuals to help shape their own civil societies."120 A democracy embodies the essence of the right of self-determination and, theoretically, helps to implement this right.

In examining the potential solution of democracy, it is helpful to apply this alternative to the usual situations where groups or individuals have claimed the right of self-determination. The traditional application of the right of self-determination, secession from one nation to form a new sovereign state, is the most commonly realized form of the right.121 The challenge to this type of claim concerns the validity of each group's claim for self-determination.122 In the mission for statehood, for example, it may first be necessary to distinguish between the claimants and the government from which they wish to secede. It may be difficult to weigh the claims for potential secession by a specific segment of the population against the defense of the government123 in order to determine who has a proper claim for the employment of self-determination as a legal justification. It follows that one side, either those who wish to secede or the presiding government, may have a more difficult burden to carry, depending on the strength of the adherence to the importance of state sovereignty. However, despite a finding that a group has a valid claim that their rights have been violated, a court may not allow secession if the implementation of a new democratic regime or the reform of an existing government may be easier to execute logistically than a complete secession.

119 See The Proceedings, supra note 48, at 10:

[i]there are two promising complementary ways to address the challenge of self-determination: the first is to provide a systematic way to evaluate claims and arrange for their satisfaction; the second is to create conditions that make the assertion of such claims less necessary and their satisfaction less disruptive-democracy, human rights, and participation in regional organizations can have a nullifying effect on self-determination claims.

Id.

120 Eckert, supra note 117, at 60.

121 See Part II.A, supra.

122 See Crawford, supra note 41, at 168-74.

123 Such is the case with Quebec; there was not an immediate threat to any of the inhabitants' liberty because the governments' organization allowed for wide participation. Instead, the province wanted territorial sovereignty at the cost of breaking up a nation. See generally Quebec Case, supra note 81; Part II.B, supra.
Conversely, if it is determined that the group who desires to secede enjoys active and true participation because their government is democratic and their needs are addressed in the current framework, then arguably no international legal ground would exist for the right of self-determination to be employed. However attractive the democratic approach seems, it is somewhat implausible without the existence of a centralized international body that has the clout and enforcement power to actually facilitate such a transition. Until the United Nations becomes capable of this type of task, the more likely outcome is one that is heavily influenced by an external view of self-determination.\textsuperscript{124}

\textbf{III. ANALYSIS OF THESIS}

The right to political, social, economic and cultural development is explicitly linked with the right of self-determination by way of the International Covenant on Economic, Social and Cultural Rights, which 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.”\textsuperscript{125} While the collective right to self-determination has been criticized as being ineffective, it is important to explore how it may bolster other rights such as the right to development.\textsuperscript{126}

The right to development is a right that bestows its benefits on all human persons, and by the same token, must be enforced by all human persons as represented by the actions of sovereign states.\textsuperscript{127} It is important to bear in mind the dualistic nature of the right of self-determination as a right available internally to individual groups within a country \textit{and} as a right available to a country. If the right of self-determination is still viewed as a right to

\textsuperscript{124} See The Proceedings, \textit{supra} note 48, at 11:
[a]s a first step, the voices to heed are those of the claimants, not those of their government interlocutors. As a second step, the need is to construct a self-determination regime that operates to the extent possible in accordance with the Rule of Law, treating equals equally. Such a regime is best situated within the United Nations, with as much independence as possible. Until the time when this can happen, the torch of post-colonial self-determination must and will be carried primarily by the transnational forces of civil society.

\textit{Id.}

\textsuperscript{125} International Covenant on Economic, Social and Cultural Rights, \textit{supra} note 6.

\textsuperscript{126} HENKIN, \textit{supra} note 41, at 88 (“It has not been clear who has the obligation to respect and ensure these rights.”).

\textsuperscript{127} See The Declaration, \textit{supra} note 2, at arts. 2, 3.
sovereignty and respect, available primarily to nations, this view may hinder
the needed collective strategy for the implementation of the right to develop-
ment. However, if the two are seen as building upon one another, the right of
self-determination constructs a "channel" for the right to development. It
seems that the right of self-determination is a power that can exist for groups
within countries who feel their survival threatened. This threat can take the
form of a cultural, social or political threat; however, the power it provides is
an arguably legitimate claim (in extreme instances) to secede from their nation.
The lack of protection a peoples' rights are receiving can enhance the
implementation of the right to development.

This thesis does not advocate that the justification to secede be invoked (or
even that it would be possible to invoke in many cases). It does, however,
suggest that a group may take the core element of the right of self-determi-
nation, the power as a group to be recognized and heard within a country, and
apply this power to influencing the implementation of the right to develop-
ment. As a group right, the power of the right of self-determination lies with
its guarantees that all people shall be afforded a voice within their place of
residence. If that country does not provide this voice, the occupants may
attempt to use the declarations and invoke protection of rights through the
conduits of the international legal system. The clout provided by the right to
self-determination creates a channel for the right to development to be
legitimized and cultivated within the framework of individual groups in their
respective countries. Using this channel, the right to develop as a universal
right can be applied to countries, but on a relative scale with respect to the
particular country.

IV. THE RIGHT TO DEVELOPMENT

According to the Declaration on the Right to Development, every human
person is the "beneficiary of the right to development." However, although

\[128\] The Declaration, *supra* note 2, at arts. 1, 2(1).
1. The right to development is an inalienable human right by virtue of which
every human person and all peoples are entitled to participate in, contribute
to, and enjoy economic, social, cultural and political development, in which
all human rights and fundamental freedoms can be fully realized.
2. The human right to development also implies the full realization of the
right of peoples to self-determination, which includes, subject to the relevant
provisions of both International Covenants on Human Rights, the exercise of
their inalienable right to full sovereignty over all their natural wealth and
the words seem to imply an individualized and inclusive benefit, it is important to consider how such beneficiaries will enforce this right. The right would be difficult to enforce solely by an individual. Currently available enforcement mechanisms under international law are very limited. However, the Declaration makes it clear that the responsibility of enforcing the right vests primarily with the states and secondly with the human being, both collectively and individually.129

A. What is the “Right to Development?”

“The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to,
and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized."\textsuperscript{130}

This definition, adopted by the United Nations General Assembly in 1986, summarizes the key principles embodied in the phrase "right to development."\textsuperscript{131} It is unmistakable that this right is a fundamental and inalienable human right that should be available to all people; however, it also seems clear that to a large percentage of the world this "right" is an unattainable privilege.

What exactly is one entitled to with the right to development? The United Nations definition is broad and ambiguous and provides little guidance. An individual's answer is no less ambiguous because of the subjective nature of the question. Judge Weeramantry, Vice-President of the International Court of Justice, defines development in the context of this right to mean: "development not merely for the sake of development and economic gain it produces, but for its value in increasing the sum total of human happiness and welfare."\textsuperscript{132} This statement is also vague, but it attempts to add a more humanistic and utilitarian element by differentiating the nature of this right from its purely economic objectives. The underlying notion of the right is that each individual in any nation should be able to develop to the best of their ability without the hindrances of external disparities such as economic wealth and technological resources, from country to country.

\textbf{B. History of the Right to Development}

The concepts of individual and human rights have been present since the inception of the United Nations, but these concepts have been couched in terms of state responsibility.\textsuperscript{133} The characterization of the right to development as an individual right derives from a focus that has shifted over time from the right to development as a sovereign state to the right of an individual to develop.\textsuperscript{134}

Some scholars argue that the concept of the right to development has existed in an inchoate form since the early beginnings of the United Nations,

\textsuperscript{130} \textit{Id.} art. 1(1).
\textsuperscript{131} \textit{See id.}
\textsuperscript{133} \textit{See Araujo, supra} note 34, at 1479.
pointing to such documents as the 1948 Universal Declaration of Human Rights\textsuperscript{135} and the drafts of *The Declaration on the Rights and Duties of States*\textsuperscript{136} where a "fundamental rule of conduct in relations between States" was described as including "the right to peaceful and secure development."\textsuperscript{137} However, while the fundamentals of the right to development may have been in existence, the duty to enforce the right was thought to lie exclusively within the realm of the states, and not as a right that could stand on its own.\textsuperscript{138} In the mid-1960s, this perspective changed as many newly-sovereign states proved that the isolationist attitude of sovereign nations was not conducive to achieving success in universal human rights.\textsuperscript{139}

The catalyst for this shift in focus can be traced to the decolonization movement that began in the 1960s.\textsuperscript{140} As more nation states in Africa and Asia began to emerge from colonial rule and enter into the international political arena, an alternative perspective was introduced to the international community.\textsuperscript{141} Many of these states were unsatisfied with their position in the world.\textsuperscript{142} Although each was considered an autonomous nation, equal in the international political arena, all were economically less wealthy compared to their industrialized counterparts.\textsuperscript{143} This economic disparity was seen as directly related to the marginal living conditions experienced by the citizens of these nations.\textsuperscript{144} As a result, there were a vast number of nations that were considered poor, "developing nations," but were well represented in the United Nations General Assembly.\textsuperscript{145} These nations, joined by their Latin American counterparts, resolved themselves to changing the current economic state of affairs, stating: "The developing countries are united in their resolve to

\textsuperscript{138} See Araujo, *supra* note 34, at 1480 (stating that sovereignty is also in need of protection).
\textsuperscript{139} See *id.* (refusing to suggest that sovereignty must decline in order to protect human rights).
\textsuperscript{140} See generally Barsch, *supra* note 134 (stating that this time period demonstrated that poorer countries needed an equitable distribution of economic resources).
\textsuperscript{141} See Karin Mickelson, *Rhetoric and Rage: Third World Voices in International Legal Discourse*, 16 Wis. Int'l L.J. 353, 363 (1998) (noting that emergence of third world countries to a common band with other countries striving for political and economic autonomy).
\textsuperscript{142} See *id.* (comparing third world coalition to Latin American countries that had previously achieved political independence).
\textsuperscript{143} See *id.* (noting the struggles in trying to rid countries of colonialism).
\textsuperscript{144} Id.
\textsuperscript{145} See *id.* (stating that UNCTAD is a vehicle for progressing international domestic policy).
continue the quest for redress [of centuries of injustice and neglect] and look to the entire international community for understanding and support in this endeavor."

As their numbers increased, more representatives from these nations were speaking out about a “New International Economic Order” and, in the words of the Foreign Minister of Senegal, about a “new system” that would “affirm our right to development.” Challenging the traditional notion of independence and sovereignty as the most desired status, these new sovereign nations with disadvantaged citizens campaigned for improved living conditions through a more equitable distribution of the world’s wealth.

Although unsuccessful in achieving any concrete measures that reflected the developing countries’ demands for a New International Economic Order, the international community could no longer ignore the serious discrepancy in living conditions between developing and industrialized nations. The representation within the General Assembly had quickly outnumbered the industrialized nations so that the developed nations formed a powerful voting block. The lack of economic resources had mobilized the developing countries to campaign for a change in the marginalized conditions, but soon it was apparent that the right desired by developing nations extended beyond economic development. As support for this right grew, the concept began to take on more interdisciplinary characteristics, extending its scope past the marginalized economic conditions to embody what came to be seen as fundamental human rights.

146 Id. (quoting THE THIRD WORLD WITHOUT SUPERPOWERS: THE COLLECTED DOCUMENTS OF THE GROUP OF 77 19 (Karl P. Sauvant ed., 1981)).
147 Alston, supra note 137, at 101.
148 See Mickelson, supra note 141.
149 See id. (emphasizing shifts of developing countries now striving for recognition).
150 See Alston, supra note 137, at 112 (describing the UN as an effective mechanism to secure international development).
152 See generally Barsch, supra note 134 (discussing the importance of fundamental human rights).
C. The Modern Concept of Right to Development

In 1986, the United Nations adopted the Declaration on the Right to Development. Sparked by economic disparities between nations, the Declaration also built upon several humanitarian concepts, including those embodied in both the UN Charter and Universal Declaration of Human Rights, concluding that every human was entitled to "enjoy economic, social, cultural, and political development." Not only were all four facets of the right to be bestowed on each "human person" as the "beneficiary" of this right, but this right was declared to be an "inalienable human right."

The Declaration asserts that all states shall share responsibility for creating conditions, through international cooperation and policies, to achieve the full realization of the right to development. However, fifteen years later, the international community has little to show in the way of progress toward these goals and the actual right to development has received an alarming lack of attention.

V. The Right to Development and the Right of Self-Determination: Effective as Legal Rights—Or Empty Goals?

A right, as defined by Black’s Law Dictionary, is: "1. That which is proper under law, morality, or ethics 2. Something that is due to a person by just claim, legal guarantee, or moral principle." Both definitions imply that a right can either be legal or moral, and proper under the law or principle. It may be deduced that a right is something that is deserved, should be expected, or can be enforced. Furthermore, to be considered an actual right, there must be enforceable obligations assigned to a particular group that is charged with the burden of implementing the right. In other words, in order for a right to be "due" to a person, there must be another entity from which the right will be bestowed.

153 See The Declaration, supra note 2.
154 Id. at art. 1.
155 Id. at arts. 1, 2.
156 See id. at arts. 2, 3.
157 See Bunn, supra note 151, at 1427.
158 BLACK'S LAW DICTIONARY 1322 (7th ed. 1999).
A. The Right of Self-determination as an Effective Right

The right of self-determination was enforced as a right during the period of decolonization as a legal justification for demanding the end of colonial rule. However, as an internal right available to groups, it is less clear how much strength this right carries. Many groups, such as the Separationists in Quebec, have tried to build on the external, decolonialization application to include cultural and social threats. Furthermore, in the Quebec case, the right was legally recognized as a guiding international legal principle. However, no group has attempted to use the claim to internal self-determination within the context of international law. The right of internal self-determination, for now, must rely on the strength of external self-determination for clout in the international sphere.

Embedded within the right of self-determination are policy goals that can arguably be identified by states and implemented in some form. The implementation of democracy is the key criteria identified with successful application of the right of self-determination.

B. The Right to Development as an Effective Right

The right to development seems to meet the first part of Black’s definition of a right because it seems proper for human beings to deserve or expect the right to “fundamental freedoms,” whether it be in a moral, ethical or legal context. It is the second part of the definition where one questions if the right to development is a right in the fullest sense because there is currently little obligation on the part of the states to fulfill this right. Although every human may expect this right this is simply not the reality. Taking a quick survey of international affairs and the state of populations throughout the world provides more than enough evidence that this right has not been bestowed on a large majority, nor is it being enforced.

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159 See Parker, supra note 48; see also Part II, infra.
160 See Parker, supra note 116, at 64.
161 See generally Quebec Case, supra note 81.
163 See id.
164 See Parker, supra note 116, at 64-71.
165 See Teitel, supra note 8, at 312; see also HENKIN, supra note 11, at 90.
166 See supra note 158 and accompanying text.
167 See id.
Therefore, the right to development is currently a right without obligations that requires the action of the international community to collectively enforce this right for all inhabitants. Currently, those burdened with enforcing the right to development bear no strong duty to deliver the benefits associated with the right.\(^{168}\) Within the international community, to successfully bestow the right to development to its beneficiaries, the community as a whole must charge itself with the collective obligation to deliver the entitlements of the right to development to all persons. Moreover, this collective obligation cannot be categorized by one type of obligation, such as an economic obligation, but must instead be viewed as an ethical obligation to preserve mankind.

C. Implementing the Obligations of the Right to Development

The United Nations has tried to revive and strengthen the ideas put forth in the Declaration on various occasions, including the declaration that the right to development as a "universal and inalienable right and integral part of fundamental human rights" in the Vienna Declaration on Human Rights during the World Conference on Human Rights in 1993.\(^{169}\) However, the United Nations is the only organ of the international legal community that continues to proactively promote the right. The states with which the duty primarily lies seem to have done relatively little to implement measures to promote the right. Although there is no specific mention in the Declaration of delivering economic aid to developing nations, the concept is implied as a major solution in reversing the inequities within the world, and achieving the right to development.\(^{170}\) Developed nations fear the potential consequences that may occur in the international economic sphere should they adopt a proactive stance, such as foreign debt forgiveness or a higher level of economic assistance to the developing world.\(^{171}\) The nations that currently control the economic resources have no desire to fulfill their obligation under the Declaration because to do so would be disadvantageous economically to their own prosperity.\(^{172}\)

\(^{168}\) See Part II.A, supra.

\(^{169}\) See generally U.N. Doc. A/Conf. 157/24 (1993); see also Bunn, supra note 151.

\(^{170}\) See id.

\(^{171}\) See id.

\(^{172}\) See generally Barsch, supra note 134.
The United Nations has tried to discourage the strong emphasis placed on economic assistance, instead encouraging the use of globalization to its full potential in order to redistribute resources. The United Nations Millennium Declaration reasserts the importance of making the right to development a reality for the entire human race and stresses the need for cooperation between nations to solve problems of an economic, social and cultural nature. Still, many developing countries see these problems in terms of economic disparities and urge improved market access, broader debt relief and technical support. These economic requests will likely be largely disregarded by the more industrialized states within the current structure.

VI. COLLECTIVE RIGHT WITH COLLECTIVE OBLIGATIONS?

One way to implement the right to development through the framework of the right of self-determination is to use the power of the threat of secession through external self-determination in order to demand the implementation of the right to development. A distinct group within a country whose social, cultural, or perhaps physical survival is jeopardized, may threaten secession. If justified, the state where the group lives must comply with demands for secession or it will be seen as acting unjustly in international affairs. A social, cultural or physical threat to survival invoking the right of self-determination can overlap with the right to development. If a person living in a state where economic, social, cultural and political development is hindered due to the sub-standard conditions within the state, this can be used as the justification for threatening secession.

However, one immediate problem with this approach is territorial integrity and the power that sovereign states possess in the international community. Although the international community is charged with recognizing and aiding in the right to development, if there is a conflict between the right to development and the state’s interests, the right to development seems weak in light of the state’s power. However, using the threat of secession may restore a

174 See id. at 884.
175 See id.
176 See Barsch, supra note 134.
177 See Part II.B, supra.
178 See MacMillan, supra note 39, at 335.
179 See Part II.B, supra.
balance of power. While the international community may respect a nation's sovereignty, it may also be unable to deny that a group's physical or cultural survival is being threatened under current conditions and the community may therefore be under increased pressure to take action. This analysis would be undertaken on a case-by-case basis, looking at all relevant circumstances.  

A second, perhaps more idealistic, solution to implementing the right to development requires a shift in thought from an individual-centered perspective to collectivism. It requires viewing the world as a community instead of as a collection of sovereign states. Shifting the focus of international law to include collective individual and collective group rights as part of a legal entitlement is largely a concept that seems likely to require a transition period for the international community. Instead of viewing the right to development as a collective right of humanity, both its opponents and proponents have characterized it as largely an isolated, economic problem that entails individual states aiding other states. However, the Declaration establishes that the obligations to implement the right and also the benefits from the right are imposed on every state. A state must be both a defender of the right to development for the people within and without its borders, and as the obligator, the state is compelled by the Declaration to achieve conditions favorable to achieving this right. There is a need for a complete transformation from the idea of economic superiority and individuality of the states to the idea of cooperation for humanity. Because of the expectation that a state is responsible only for those inside its borders, it is difficult to implement a system of cooperation to achieve a collective goal for the international community.

A. The Role of the Right of Self-determination

The right to external self-determination has reinforced the idea of the international community as a community of autonomous nations rather than a community of people. Internal self-determination can promote the

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180 See Quebec Case, supra note 81.
181 See Part II.A, supra.
182 See generally Barsch, supra note 134.
183 See The Declaration, supra note 2.
185 See id. at 170.
186 See supra Part II.
recognition of rights of a specific group within a specific country. However, the concept as a whole focuses more on individual nations, not a global community. The largest problem with promoting the right to development is that the right currently exists in such a limiting economic sphere. Because the implementation of conditions conducive to the right to development is seen as an economic sacrifice by many individual countries instead of a human rights opportunity, there is little hope for achieving success without first implementing a new ideal.  

The burden of bestowing this right falls primarily on the states of the international community. The Declaration of the Right to Development charges the states to cooperate with one another in order to create conditions that are favorable to achieving the implementation of the right. However, there exists an interesting and tenuous connection between the dual roles of the State as both the obligators and as the beneficiaries of the collective right to development. To examine the current and actual application of this concept, it is necessary to inquire about a state's current incentives to enact programs that create favorable conditions. Economics, and especially commercial trade relations, seem to be a particularly important influence.

There are many who oppose globalization and many who embrace the increase of trade and transfers of wealth and goods that accompany globalization. Many of the criticisms concerning globalization stem from the issue of trade, and the claim that the industrialized states and multinational corporations within those states have become wealthier using the raw capital and labor of the developing nations while returning nothing. This criticism

187 See id.
188 See The Declaration, supra note 2, at arts. 2, 3.
189 See id. at arts. 3-6.
190 See Danielle S. Petito, Sovereignty and Globalization: Fallacies, Truth and Perception, 17 N.Y.L. SCH. J. HUM. RTS. 1139, 1142 (2001) ("[Globalization] represents the perception of the world as an interconnected whole and the consciousness that a number of issues can no longer be addressed purely at a local level. Globalization involves the development of transnational processes, for example labor or cross-border labor mobility and the world market with the cross-border transfer of goods, services and capital, and exists as a developing continuum. In essence, globalization is the deterritorialization of culture, and the formation of a total and integrated economic system, stimulating political interaction between states and promoting the cultural diversity of identity. Globalization strains the ideals so that people redefine groups based on culture, religion, moral and political values, instead of defining groups based on the division of borders.").
is typically espoused by developing nations, often in combination with a call for change.\textsuperscript{192} The developing nations see the imparting of knowledge and contributions in the form of economic wealth as some form of a proper return for this raw capital and labor.\textsuperscript{193} Simply stated, from this request to impart information or contribute wealth, an industrialized state believes that in order to continue to transform raw goods from developing nations, it would have to distribute its wealth in any number of ways in addition to the price paid for that specific good. Some desired examples of this distribution include debt relief and technology transfer.\textsuperscript{194} The developing countries’ request comes from a desire to achieve economic independence from their industrialized counterparts so that they can trade on a more equal footing.\textsuperscript{195} Economically successful states have viewed the request for release of resources negatively in the short term because there is no immediate return on the industrialized state’s “investment” and therefore no immediate motivation to give away its wealth.\textsuperscript{196} The developing countries also view progress in immediate terms. Developing countries want to experience immediate and drastic results.\textsuperscript{197} The developed countries see this as a nearly impossible task when considering the current vast disparity between members of the international community.\textsuperscript{198} If the states continue to think in individual and immediate terms such as this, the obligations placed on the states by the right to development do not exist.

An alternative is shifting states’ position on international affairs to include a deep sense of collective responsibility. Stemming from the individual citizens of the states but carried out collectively, a state should have some sense of social responsibility due to other nations. It is only if states can think in the collective sense and view goals in the long term that true obligations attach to this right. Yet, this view seems too unrealistic in nature and requires a great deal of time to complete this paradigm shift.

Additionally, instead of focusing with the most intensity on the economic disparity and emphasizing an economic solution, it may be more advantageous

\textsuperscript{192} See id.
\textsuperscript{193} See id.
\textsuperscript{194} See generally Barsch, supra note 134.
\textsuperscript{195} See id.
\textsuperscript{196} See id.
\textsuperscript{198} See generally Barsch, supra note 134.
to encourage the role of the right to development as a human right as the United Nations has done.\textsuperscript{199}

Realizing the right to development as more than an economic right that involves only a basic human right, the right to development will continue to be recognized as a basic element of life that cannot be ignored. This brings in the collective concept that it is a universal moral and ethical obligation to promote basic human rights and to look for ways to make this promotion possible. By extending the obligation beyond a sovereign state to the peoples living both within and without its borders, it becomes a collective, universal obligation.\textsuperscript{200}

The right to development as an internationally recognizable right available to all human persons does not preclude its application as an internal right.

\textbf{B. An Alternative Application of Right to Development}

The right to development has been discussed in this Note as an international right to be collectively obtained and enforced by the people of the international community. In this context, the right of self-determination is somewhat of an impediment. However, an alternative to this position is to view the right to development as an “internal” right available to be enforced by the people living within a state. Every group that lives in a comparatively substandard economic, social, political and cultural condition has the right to demand an equal right to the development of these values. In this way, the right to development works in conjunction with the internal right of self-determination, expanding the right to include not only equal participation in policy, but equal standards in all aspects of life.

External self-determination seems contradictory to the international, communal notion of the right of self-determination because it encourages isolation at the threat of human rights violations or other oppressive conduct. Since each country is viewed as an autonomous nation whose affairs are protected by virtue of being a sovereign state, other states have no incentive to intervene. The alternative to external self-determination as being an impediment to the right to development is to view the right as a tool for comparative equality. A state that does not have the resources for its citizens to live like those in a more industrialized nation or whose culture is not in harmonization with Western culture should not be held to a standard that is unachievable or undesired. By allowing each state to afford their citizen groups the right to

\footnotesize{\textsuperscript{199} See Barsch, supra note 134.}
\footnotesize{\textsuperscript{200} See Bunn, supra note 79.}
fully develop economically, socially, culturally, and politically relative to that state and not in comparison to an arbitrary universal standard, the right of self-determination allows each state to install an individualized system of values.

Although these rights are seen as "universal" in concept, their definitions remain adaptable to the environment. An example of using external self-determination as applied to the right to development can be found in its application to the wages of workers. Although it is a universal human right to have economic development, this right is not universal in its actual, specific implementation. It would be impossible to state a numeric value for the universal right to economic development. Instead, the standard is universal, but how it applies to the country is relative. Workers in developing countries do not need to get paid the equivalent to the minimum wage in the United States, but all workers from all groups must be paid a wage that fairly represents their work within the comparative standards of their country. The wage should also be fair in the sense that it encourages the realization of social development, such as allowing enough of an excess to purchase educational materials, not just life-sustaining elements. Therefore, the implementation of the right would reflect the circumstances of a particular country. Using the groups within the country to enforce these universal rights of development in a relative context may be an alternative to a universal and common application.

VII. CONCLUSION

The need to close the gap on the disparity of living conditions amongst the people of the world is becoming increasingly more apparent. Whether the vehicle to achieve this is the threat of secession, the linking of the right to a universal human right to be collectively enforced by the international community, or challenging each country to achieve an internal standard that fairly represents the interests of all groups residing within their country, the end result must be a constant striving to achieve a higher standard of living for the international community as a whole. International law has provided a binding right, the right of self-determination, as one channel of enforcement. This right has a flexible application. However, the direction that this right will take, whether external or internal, remains unknown. The need for an international institution that provides the international community with

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200 See generally Donoho, supra note 8. One qualification, of course, is that there are many cultural standards that can and are viewed as being violations of universal human rights, such as genital mutilation. While this is an important topic, it is not the focus of this Note.
guidance in regards to setting concrete standards backed up with enforcement possibilities is the most desired solution. However, unless states universally cede some of their sovereignty to the United Nations, this solution is far from being a reality. Nevertheless, the potential power in the phrasing of this right for diverse groups of peoples and individuals predicts whether there will be continued challenge to the application of the right, and a working definition will inevitably give way to a standard application based on the actual use of the right.

For the international community to achieve a certain status using the legal channel of the right to development, it may enjoy the most success if the right applied to work with the right of self-determination, thereby enforced as a third generation group right within states. From this perspective, the increase in living standards within countries may be achieved as an internal goal, with a relative universal standard. Building upon this, once the countries of the international community have made significant progress in achieving the right to development within their respective countries, than the international community can focus on enforcing the collective right to development.

Because the right to development is amorphous in nature and has less legal force than the United Nations Covenant, focusing first on the situations within countries will achieve gradual progress toward the realization of this right. As awareness of the right grows, the measures required to implement this right will also become more fully developed and concrete.

In conclusion, the large gap in living conditions between the nations of the world is growing and the interaction between countries is dramatically increasing in this age of globalization is the reality. Both developed and developing countries must see the connectedness of each other’s worlds. The developed nations must recognize the potential and current influence of the developing world, such as raw materials, the numbers of inhabitants in these nations and their growing representation in international politics. The developing world does recognize the benefits the developed world holds, such as information technology and economic influence in trade, foreign aid, etc.; but industrialized nations must also appreciate the gradual, less immediate shift in the thoughts and practices of these nations. Encasing both of these realities is the moral obligation that every person has to every other person to provide the basic right to economic, social, political and cultural development.

In order to use the vehicle of international law to implement the right, it is necessary to work within the pre-existing structure while slowly adding a more communal element. The right of self-determination is an integral part of achieving the right to development. As an international community, the duty
lies in using whatever means are available to close the current gap of inequity within the world.