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THE SOVIET APPROACH TO SELF-DETERMINATION AND THE STRUCTURAL
EXCLUSION OF SOVIET PEOPLES

Master's Thesis

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TABLE OF CONTENTS

INTRODUCTION	3
I. THE SOVIET UNION AND THE ESTABLISHMENT OF THE PRINCIPLE OF SELF-DETERMINATION IN INTERNATIONAL LAW	6
1.1 LENIN AND THE ORIGINS OF SOVIET SELF-DETERMINATION DOCTRINE	6
1.2 THE SOVIET CODIFICATION STRATEGY: UN CHARTER, BANDUNG, COVENANTS	8
1.3 COLONIAL INDEPENDENCE DECLARATION AND RESOLUTION 1514	11
1.4 SALTWATER DOCTRINE	12
1.5 THE FRIENDLY RELATIONS DECLARATION	14
1.6 CONCLUSIONS FOR CHAPTER I	16
II. THE INVERTED APPLICATION: SELF-DETERMINATION AS A TOOL OF INTERVENTION AND CONTROL	18
2.1 THE SOVIET APPROACH TO THE RIGHT OF PEOPLES TO SELF-DETERMINATION	18
2.2. SELF-DETERMINATION AS A SELECTIVE AND REVERSIBLE COMMITMENT	20
2.2.1 <i>Ukraine and the Brest-Litovsk Moment</i>	21
2.2.2. <i>Recognition and Annexation of Baltic States and Georgia</i>	24
2.3. SOVIET INTERVENTIONS IN HUNGARY AND CZECHOSLOVAKIA	26
III. THE EXCLUDED PEOPLES: DENIAL OF SELF-DETERMINATION FROM WITHIN	31
3.1 THE SOVIET DEFINITION OF PEOPLES AND THE SELF-DETERMINATION EXHAUSTION PRESUMPTION	31
3.2 CONSTITUTIONAL ARCHITECTURE: ETHNOFEDERALISM	34
3.3 THE SUPPRESSION OF PEOPLES THROUGH CULTURAL AND DEMOGRAPHIC MECHANISMS ..	37
3.3.1 <i>Korenisatsiia and Great Retreat</i>	38
3.3.2 <i>Targeting Cultural Characteristics of a Nation</i>	39
3.3.3 <i>Demographic Deportations and Physical Extermination of Nations</i>	41
3.4 CONCLUSIONS FOR CHAPTER III	43
IV. POST-SOVIET CONTINUITY	44
4.1 UTI POSSIDETIS AND SOVIET ETHNOFEDERALISM	44
4.2 CHECHEN WAR	45
4.3 THE CASES OF KOSOVO, GEORGIA AND UKRAINE	46
4.3.1. <i>From Chechen Wars to Kosovo Opinion</i>	46

	2
<i>4.3.2 Crimea and parts of Donetsk and Luhansk Oblasts</i>	<i>48</i>
<i>4.3.3 Full-Scale Invasion of Ukraine.....</i>	<i>50</i>
4.4 CONCLUSIONS FOR CHAPTER 4	53
CONCLUSIONS.....	54
BIBLIOGRAPHY.....	56

INTRODUCTION

The principle of self-determination of peoples is one of the fundamental principles of modern international law, enshrined in the UN Charter, the 1966 International Covenants on Human Rights and numerous General Assembly resolutions. Despite its proclaimed universality and status as *jus cogens*, this principle took shape against the backdrop of acute ideological confrontation between two legal systems – the socialist bloc and the Western bloc. The Soviet Union played an important role in the process of codifying the right to self-determination in international law, whilst systematically applying it in a manner that diverged significantly from the declared external protection of this right.

The legal issue addressed in this paper is that the right of peoples to self-determination, despite its formally universal nature, has undergone structural fragmentation in state practice: the Soviet Union actively participated in the codification of this principle in such a way that it was primarily directed against Western colonial powers, whilst avoiding corresponding obligations in respect of itself, and simultaneously used that very same principle as a legal justification for expanding and preserving its own sphere of influence, thereby neutralising genuine demands for self-determination within the USSR.

An analysis of the available academic literature suggests that researchers generally approach this contradiction from one of two extreme positions: either they reduce the Soviet doctrine of self-determination to a purely propagandistic tool, or, conversely, they regard the USSR as the principal external defender of this right in the context of decolonisation. Lauri Mälksoo and Johannes Soher have proposed a more balanced approach in their research.¹ It rejects both extremes. Mälksoo analyses Soviet behaviour through the prism of the civilisational dimension and the regional fragmentation of international law, whilst Soher assesses contemporary Russian doctrine through three prisms – sovereignty, secession and annexation. Both authors agree that the Soviet approach, in its large part, was selective, aimed at supporting state practice rather than the principle. This work aims to introduce an additional three-level ideological-geographical perspective on the Soviet approach to self-determination.

¹ Lauri Mälksoo, 'The Soviet Approach to the Right of Peoples to Self-Determination: Russia's Farewell to *Jus Publicum Europaeum*' (2017) 19 JHIL 200; Lauri Mälksoo, *Russia, the Soviet Union, and Imperial Continuity in International Law* (OUP 2025); Johannes Soher, *Russia and the Right to Self-Determination in the Post-Soviet Space* (OUP 2021).

The objective of this study is to determine whether the Soviet approach to the right of peoples to self-determination functioned as a single, integrated legal framework in which external support for the principle and its internal undermining were not contradictory, but rather two interdependent components of a single doctrine that maintains structural continuity in the practice of the Russian Federation after 1991. This architecture encompasses three levels: the external level, at which the Soviet Union actively participated in the international discourse on self-determination, promoting its consolidation and the creation of obligations for Western states, whilst simultaneously shielding the USSR from such obligations; the regional level, where the same principle was transformed into a legal justification for interventions and the establishment of control within the sphere of immediate influence; and the domestic level, where a legal order was constructed in which the right to self-determination was formally recognised, yet simultaneously neutralised.

This study hypothesises that the Soviet legal architecture of self-determination was deliberately constructed across the three interrelated levels outlined above, enabling the Soviet Union to effectively act as one of the most active advocates of self-determination on the international stage, whilst at the same time avoiding such obligations for itself. The modern Russian has adapted this architecture to the post-Soviet context, retaining its underlying logic.

In order to achieve the objective and test the hypothesis, the following research questions are posed in this study. First, can the Soviet Union's involvement in the codification of the principle of self-determination after 1945 be characterised as promoting principle development, but with restrictions to avoid its own obligations? Second, does the 'inverted' application of the right to self-determination within the regional context of the Soviet sphere of influence constitute a consistent legal pattern, rather than a collection of isolated deviations from the doctrine? Third, does the systematic destruction of the cultural and demographic characteristics of peoples in accordance with the criteria of Stalin's definition of a nation refute the Soviet claim to 'realised self-determination' even by the standards of the Soviet doctrine itself? Fourth, has the same three-tiered architecture been preserved in the practice of the Russian Federation since 1991?

This study employs analytical, historical and comparative legal methods. The analytical method is the primary one: it is used to interpret primary and secondary sources, international treaties, UN General Assembly resolutions, Soviet legal doctrine and constitutional legislation of the USSR. The historical method is used to establish the circumstances surrounding the adoption of key international legal instruments, as well as to document specific instances of the application of the right to self-determination in the practice of the USSR. The comparative

method is used to analyse structural parallels between Soviet and post-Soviet approaches to self-determination, as well as to compare the legal status of the Ukrainian People's Republic with that of the Baltic states. The study is primarily qualitative and doctrinal in nature. The primary sources include the works of Lauri Mälksoo, Johannes Socher, Jörg Fisch, and Antonio Cassese, as well as primary legal sources such as international treaties, the constitutions of the USSR and Russia, UN resolutions and judgments of the International Court of Justice.²

The work consists of four chapters. The first examines the Soviet Union's role in the codification of the principle of self-determination, from Lenin's ideas to the UN framework, and argues that the 'saltwater doctrine' and other operational mechanisms a priori excluded the Soviet continental empire from the scope of the principle. The second chapter analyses the 'inverted' application of self-determination within the Soviet sphere of influence: from the annexation of the Ukrainian People's Republic, the Baltic states and Georgia to the interventions in Hungary and Czechoslovakia and the formulation of the Brezhnev Doctrine. The third chapter assesses the validity of the Soviet claim to the internal realisation of the right to self-determination, examining the constitutional architecture of Soviet ethno-federalism and the systematic destruction of the cultural and demographic foundations of peoples in accordance with Stalin's definition of a nation. The fourth chapter examines the structural continuity of this architecture in the practice of the Russian Federation after 1991, from the application of the *uti possidetis* principle to the invasion of Ukraine in 2022.

Keywords: the right of peoples to self-determination, international law, the Soviet Union, decolonisation, the Russian Federation.

² Jörg Fisch, *The Right of Self-Determination of Peoples: The Domestication of an Illusion* (Anita Mage tr, CUP 2015); Antonio Cassese, *Self-Determination of Peoples: A Legal Reappraisal* (CUP 1995); Mälksoo, *Imperial Continuity* (n 1); Socher (n 1); Mälksoo, 'Soviet Approach' (n 1).

I. THE SOVIET UNION AND THE ESTABLISHMENT OF THE PRINCIPLE OF SELF-DETERMINATION IN INTERNATIONAL LAW

The legal principle of self-determination underwent major development in the 20th century, especially with the adoption of the United Nations Charter. However, the operational criteria through which the principle was applied after 1945, in particular the geographical test enshrined in Resolution 1541 (XV), were formulated in a restrictive way confined to the colonial context, effectively excluding land empire-type states such as the USSR from its application. This chapter argues that the gap between the formal universality of the norm and the selectivity of its operational design was not accidental. It was the result of a multilateral codification process in which the Soviet Union played a leading role, consistently acting in a manner that allowed it to be the most vocal external defender of this principle whilst remaining outside its scope within its own borders. The legal thesis of this chapter is that, by 1970, the principle of self-determination had been codified in such a way that its operational filters a priori excluded the Soviet internal empire from its scope of application.

1.1 Lenin and the Origins of Soviet Self-Determination Doctrine

Although the ideological roots of self-determination can be traced back to antiquity, with later empowerment by the American and French Revolutions, it only took shape as a political principle towards the end of the First World War, primarily due to two ideologically opposed figures: Woodrow Wilson and Vladimir Lenin, whose competing concepts became the foundations for its recognition in international law.³ Wilson's Fourteen Points speech of 1918 became the liberal-democratic face of self-determination mainly targeting the Ottoman, Austro-Hungarian and German Empires reorganising Central and Eastern Europe.⁴ Yet, Wilson spoke of self-government as an expression of autonomy and democracy rather than of self-determination.⁵ In contrast to this stood Lenin's more absolutist concept, according to which nations should have the right to form their own states, including through secession.⁶ This was the official policy of the Bolshevik movement, as Thomas D. Musgrave notes, while the

³ Thomas M Franck, 'The Emerging Right to Democratic Governance' (1992) 86 AJIL 46, 52; Milena Sterio, *Secession in International Law: A New Framework* (Edward Elgar Publishing 2018) 13–14; Stefan Oeter, 'Self-Determination' in Bruno Simma and others (eds), *The Charter of the United Nations: A Commentary* (4th edn, OUP 2024) 461–63.

⁴ Sterio, *Secession in International Law* (n 3) 13–14; Oeter (n 3) 462–463; Franck (n 3) 53.

⁵ Fisch, (n 2) 133.

⁶ Fisch (n 2) 129–130; Tom Sparks, *Self-Determination in the International Legal System: Whose Claim, to What Right?* (Hart Publishing 2023) 91.

“provisional government promised autonomy to many regions, while the Bolsheviks promised full independence”.⁷ This made Lenin’s position broader than Wilson’s, and among scholars it is generally regarded as the more progressive of the two.⁸

However, Lenin’s concept of self-determination was not an end goal in itself, but rather a tool of international socialism.⁹ As Socher notes, drawing on Lenin’s own correspondence, the right to secession was proclaimed not “of the ideal of small states”, but rather “because we want large states and the closer unity and even fusion of the nation”.¹⁰ At the same time, Lenin’s idea clearly provided for the right to secession, even though it appears that, for Lenin, once a communist system was established, the right would no longer be necessary, as it inherently entails self-determination.¹¹ This logic also shaped the contentious issue of the subject of self-determination. Bukharin, with Stalin’s support, argued that the right belonged solely to the working majority of the nation, but not to the bourgeoisie.¹² Lenin rejected this restriction, insisting that the right should belong to the nation as a whole, as this was the only way to genuinely ensure the self-determination of the working people, becoming the dominant approach.¹³ Nevertheless, in practice, official Soviet ideology introduced a functional equivalent of Bukharin’s restriction: within the USSR, only the toilers of nations could exercise self-determination, since only the bourgeoisie would seek secession, which effectively nullified the constitutional right of the union republics to secede from the USSR.¹⁴

The Decree on Peace, drafted by Lenin and published on 8 November 1917, was the first Soviet document to proclaim the self-determination of all nations, including the right to secession, “whether this nation is in Europe or in distant, overseas countries”.¹⁵ It was a clear challenge to the Western colonial powers.¹⁶ Furthermore, the Declaration of the Rights of the Peoples of Russia, issued on 15 November 1917, proclaimed the equality and sovereignty of the peoples

⁷ Sparks (n 6) 90, citing TD Musgrave, *Self-Determination and National Minorities* (Clarendon Press 1997) 15.

⁸ Sparks (n 6) 92-94; Mälksoo, *Imperial Continuity* (n 1) 7-8.

⁹ Socher (n 1) 19.

¹⁰ Socher (n 1) 20, citing VI Lenin, 'The Revolutionary Proletariat and the Right of Nations to Self-Determination' (1915) in *Lenin Collected Works*, vol 21 (Progress Publishers 1974) 407, 413-14.

¹¹ Socher (n 1) 19-20.

¹² Socher (n 1) 20, citing N Bukharin and E Preobrazhensky, *The ABC of Communism: A Popular Explanation of the Program of the Communist Party of Russia* (Eden and Cedar Paul trs, University of Michigan Press 1966) 200.

¹³ Socher (n 1) 20-21.

¹⁴ Tero Lundstedt, 'The Changing Nature of the Contemporary Russian Interpretation of the Right to Self-Determination under International Law' in Sean P Morris (ed), *Russian Discourses on International Law: Sociological and Philosophical Phenomenon* (Routledge 2018) 197, 202.

¹⁵ Socher (n 1) 21-22; Fisch (n 2) 131, citing VI Lenin, 'Decree on Peace' (1917) in *Lenin Collected Works*, vol 26 (Progress Publishers 1964) 249, 250.

¹⁶ Fisch (n 2) 131-132.

of Russia and their right to self-determination, including the right to secession.¹⁷ Nevertheless, this right to secession, somewhat contradictory as it was, went hand in hand to create a lasting union “of the peoples of Russia”.¹⁸ A little later, as Chernev demonstrates, the Bolsheviks’ insistence on the issue of self-determination compelled the states of the Quadruple Alliance to adopt this rhetoric for their own territorial ends, which made Brest-Litovsk, rather than Paris, the moment when self-determination became a defining force in international diplomacy, pushing Woodrow Wilson and Lloyd George to a response.¹⁹ Thus, the Bolsheviks achieved a resounding victory, and the right to self-determination became established in international politics without significant opposition.²⁰ Whether that progressive appearance reflects genuine principle or tactical calculation remains contested.²¹ Nevertheless, the Bolshevik doctrine led to the regional fragmentation of international law and the emergence of two contradicting approaches to self-determination, the Western and the Soviet.²²

1.2 The Soviet Codification Strategy: UN Charter, Bandung, Covenants

The concept of self-determination underwent its most significant development and consolidation as a principle following the Second World War, with the adoption of the UN Charter. It was during this period that self-determination became one of the primary ‘vehicles of decolonisation’.²³ The Soviet doctrinal foundations of post-war codification seem to have been laid even before the San Francisco Conference. In September 1941, at the Inter-Allied Conference in London, the Soviet ambassador Ivan Maisky stated that Soviet foreign policy was guided by “the principle of self-determination of nations”, with a legal caveat: according to Maisky, the application of the principle must “necessarily adapt itself to the circumstances, needs and historic peculiarities of particular countries”.²⁴ It establishes a normative framework within which the universal proclamation of the principle could coexist with its selective application. As Socher notes, this caveat was likely a reference to the Soviet Union’s own double standards regarding the application of the principle of self-determination in the Baltic states a year earlier.²⁵ That is, even at the time the provision was incorporated into the UN Charter, the Soviet side seems to deliberately reserved the right to interpret it selectively

¹⁷ Декларация прав народов России [Declaration of the Rights of the Peoples of Russia] (15 November 1917).

¹⁸ Mälksoo, 'Soviet Approach' (n 1) 206.

¹⁹ Borislav Chernev, 'The Brest-Litovsk Moment: Self-Determination Discourse in Eastern Europe before Wilsonianism' (2011) 22(3) *Diplomacy & Statecraft* 369, 383.

²⁰ Fisch (n 2) 132.

²¹ Socher (n 1) 14-15.

²² Mälksoo, 'Soviet Approach' (n 1) 204.

²³ Sterio, *Secession in International Law* (n 3) 14.

²⁴ Socher (n 1) 24-25.

²⁵ Socher (n 1) 25.

During the drafting of the UN Charter at Dumbarton Oaks in Washington in 1944, there was as yet no explicit reference to self-determination in the text.²⁶ At the 1945 San Francisco Conference, the Soviet Union proposed the inclusion of self-determination, whilst Western states such as Britain and France insisted on the opposite.²⁷ The compromise was to formulate the principle of self-determination not as a specific collective right, but rather as a fundamental objective of the UN, leaving the details of its application vague.²⁸ The UN Charter, in Article 1(2), proclaims one of the main purposes of the Organisation to be: ‘to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples’.²⁹ In addition, Article 55 of the UN Charter states that the Organisation shall promote ‘peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples’.³⁰ At the same time, the significance of this inclusion differed greatly between legal traditions. Western scholarship of the time held that the inclusion had no binding legal force and remained merely a political principle, whereas Soviet doctrine regarded it as the transformation of self-determination into a legally binding principle.³¹ Given that self-determination was enshrined in extremely vague terms without clear obligations and as a purpose, a significant number of scholars, including Antonio Cassese and Hans Kelsen, have concluded that Article 1 did not create obligations for the organisation’s member states.³²

The Bandung Conference of 1955, which brought together 28 Asian and African countries, was an important one. Some authors note that it was one of the major catalysts for the enshrinement of self-determination in international law, particularly in the Covenants.³³ At the same time, in Bandung itself, representatives from Iraq, Iran, the Philippines, Turkey, Pakistan and Ceylon directly accused Soviet communism of neo-colonialism.³⁴ The Prime Minister of Ceylon,

²⁶ Socher (n 1) 25.

²⁷ Oeter (n 3) 463, Socher (n 1) 25.

²⁸ Oeter (n 3) 463.

²⁹ Charter of the United Nations (adopted 26 June 1945, entered into force 24 October 1945) 1 UNTS XVI, art 1(2).

³⁰ UN Charter, art 55.

³¹ Socher (n 1) 26.

³² Sparks (n 6) 108–09, citing Hans Kelsen, *The Law of the United Nations: A Critical Analysis of Its Fundamental Problems* (Stevens & Sons 1951) 15 and Antonio Cassese, *Self-Determination of Peoples: A Legal Reappraisal* (CUP 1995) 48.

³³ Bill Bowring, 'The Soviets and the Right to Self-Determination of the Colonized: Contradictions of Soviet Diplomacy and Foreign Policy in the Era of Decolonization' in Jochen von Bernstorff and Philipp Dann (eds), *The Battle for International Law: South-North Perspectives on the Decolonization Era* (OUP 2019) 404, 407, citing Roland Burke, *Decolonization and the Evolution of International Human Rights* (University of Pennsylvania Press 2010) 13 and Steven LB Jensen, *The Making of International Human Rights: The 1960s, Decolonization and the Reconstruction of Global Values* (CUP 2016) 43.

³⁴ Mälksoo, *Imperial Continuity* (n 1) 146.

Kotelawala, asked, "If we are united in our opposition to colonialism, should it not be our duty openly to declare our opposition to Soviet colonialism as much as to Western imperialism?".³⁵ This criticism did not make it into the final document. Instead, Soviet diplomacy turned Bandung into a rhetorical tool of its own; the 'spirit of Bandung' was promoted by Soviet writers as confirmation of a united anti-colonial front.³⁶

During the negotiations within the Human Rights Commission in 1954–1955, the Soviet delegation consistently insisted on the inclusion of the right to self-determination in both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.³⁷ Western powers, particularly the colonial powers, opposed such inclusion, fearing that it would create a legal basis for demands for independence in their colonies.³⁸ The Soviet position ultimately prevailed with Article 1 of both Covenants stating that "[a]ll peoples have the right of self-determination", and, based on this right, established the possibility of "freely determine their political status and freely pursue their economic, social and cultural development".³⁹

The Soviet Union ratified both Covenants on 18 September 1973 (Covenants entered into force in 1976), thereby assuming a legal obligation under this provision.⁴⁰ Nevertheless, the prevailing interpretation of the Covenants at that time allowed non-colonised peoples to enjoy only internal self-determination, rather than independence.⁴¹ Even internal self-determination was understood by many scholars as the sovereign equality of the entire state, rather than that of parts of that state, such as the Union Republics.⁴² Chapter 3.2 provides a discussion on whether Soviet republics were sovereign. In fact, the Covenants had no significant impact on the self-determination of peoples within the USSR, whilst at the same time creating binding obligations primarily for the colonial powers.⁴³ As will be shown in Chapter 3, ratification was accompanied by a consistent doctrinal position that self-determination had already been fully realised within the USSR through the Soviet federal structure, which effectively relieved the

³⁵Mälksoo, *Imperial Continuity* (n 1) 146, citing Rose Parfitt, 'Newer is Truer' in Eslava and others (eds), *Bandung, Global History, and International Law* (2017) 51.

³⁶ Mälksoo, *Imperial Continuity* (n 1) 147.

³⁷ Socher (n 1) 27-28.

³⁸ Socher (n 1) 28.

³⁹ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 ('ICCPR'), art 1; International Covenant on Economic, Social and Cultural Rights (opened for signature 19 December 1966, entered into force 3 January 1976) 993 UNTS 3 ('ICESCR'), art 1.

⁴⁰ UN Treaty Body Database, 'Russian Federation' (OHCHR) https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=144&Lang=EN accessed 26 April 2026.

⁴¹ Sevan Poghosyan, 'Russian Approaches to the Right of Peoples to Self-Determination: From the 1966 United Nations Covenants to Crimea' (2021) 30 *Juridica International* 183, 186.

⁴² Helen Quane, 'The United Nations and the Evolving Right to Self-Determination' (1998) 47 *ICLQ* 537, 571

⁴³ Poghosyan, 'Russian Approaches' (n 41) 186.

state of any further obligations towards its own non-Russian peoples. The Soviet lawyer Blishchenko responded to this by stating that "within the USSR the republics enjoyed autonomy", however, as Bowring points out, he sidestepped the question of instances where the Soviet side resorted to force or the threat of force to compel certain nations to join the Soviet Union, as discussed in Chapter 2.⁴⁴

1.3 Colonial Independence Declaration and Resolution 1514

Although initially the principle of self-determination within the UN Charter was not intended to create specific legal obligations, its interpretation and practical application have evolved rapidly.⁴⁵ This has been greatly facilitated by the active work of the General Assembly (UN GA). One of the most significant were UN GA "Declaration on the Granting of Independence to Colonial Countries and Peoples" and Resolution 1514 (XV).⁴⁶ Although the final text of the resolution was based on a joint draft submitted by forty-three African and Asian states, it was the Soviet Union that initiated the process and submitted the first draft to the General Assembly.⁴⁷ The Declaration had a significant impact and is sometimes called the "Magna Carta of decolonisation".⁴⁸ None of the States voted against the resolution, eighty-nine countries voted in favour, whilst nine abstained, most of which were colonial powers.⁴⁹ Despite proclaiming the right of 'all peoples' to self-determination, Resolution 1514 (XV) was confined to the colonial context.⁵⁰

However, it was precisely this document that structurally embedded a mechanism which transformed a formally universal norm into one that was, in practice, limited in its application. Although many states at the time openly identified the Soviet Union and China as colonial situations, the term 'colonialism' in the text of the Declaration remained normatively undefined, and this created scope for doctrinal interpretation.⁵¹ Therefore, Resolution 1541 established that the basic colonial unit was Non-Self-Governing Territories (NSGT).⁵² In particular, the resolution set out 12 principles to guide Member States regarding their obligations in relation

⁴⁴ Bill Bowring, *Law, Rights and Ideology in Russia: Landmarks in the Destiny of a Great Power* (Routledge 2013) 85.

⁴⁵ Thomas Kleinlein, 'Article 1' in Bruno Simma and others (eds), *The Charter of the United Nations: A Commentary* (4th edn, OUP 2024) 178–79.

⁴⁶ UNGA Res 1514(XV) 'Declaration on the Granting of Independence to Colonial Countries and Peoples' (14 December 1960) UN Doc A/RES/1514(XV).

⁴⁷ Socher (n 1) 31.

⁴⁸ Héctor Gros Espiell, *The Right to Self-determination: Implementation of United Nations Resolutions*, UN Doc. E/ CN.4/ Sub.2/ 405/ Rev.1, 8. in James Summers, *Peoples and International Law* (Brill/Nijhoff 2014) 205.

⁴⁹ Fisch (n 2) 198

⁵⁰ Sparks (n 6) 121; Quane (n 42) 571.

⁵¹ Summers (n 48) 207

⁵² Summers (n 48) 215

to the pursuit of self-determination, establishing a three-step test to determine what constitutes an NSGT.⁵³ The first element enshrined in Principle IV provided for geographical separation, which became known as the “saltwater” doctrine.⁵⁴ Banivanua Mar describes it as a principle that theoretically recognised the right to self-determination as a people's right, “but only if they were separated by saltwater from the state that rendered them non-self-governing.”⁵⁵

1.4 Saltwater Doctrine

Despite the overall success of Resolution 1514, which the ICJ described as a “defining moment in the consolidation of State practice on decolonization”, the test of geographical separation established by Resolution 1541, the so-called saltwater doctrine, was a distinct and key victory for Soviet diplomacy.⁵⁶ The USSR inherited almost all of the Russian Empire's territories, which were predominantly contiguous.⁵⁷ Consequently, the narrowing of the concept of self-determination to cases of overseas dependency allowed the Soviet Union to act as the main external critic of European colonialism whilst remaining outside the scope of that very same norm regarding its own internal empire. As Nikita Khrushchev emphasised in 1960 “It may be said that it is easy for the Soviet Union to advocate the liquidation of the colonial system, since the Soviet Union has no colonies. Yes, that is so.”⁵⁸

Nevertheless, it is fair to say that, from the perspective of the Western colonial powers, ‘saltwater’ was ‘the best of a bad lot’, as it was politically hard to deny self-determination to the colonial peoples, whilst at the same time they did not wish to extend self-determination to the mainland. Although the authors of the principles stated that they were based on universal application without reference to specific territories, they were clearly tailored to Western overseas territories.⁵⁹ Some scholars, such as Anderson, argue that a narrow interpretation which confines Resolution 1514 solely to a colonial context overlooks the ‘plain and ordinary meaning’ of the term ‘peoples’, and that the resolution should be interpreted more broadly.⁶⁰ Even if this position is correct, historical practice has shown that its practical application was

⁵³ Summers (n 48) 217.

⁵⁴ Summers (n 48) 217; Tracey Banivanua Mar, *Decolonisation and the Pacific: Indigenous Globalisation and the Ends of Empire* (CUP 2016) 143.

⁵⁵ Banivanua Mar (n 54) 143.

⁵⁶ *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965* (Advisory Opinion) [2019] ICJ Rep 95, para 150; Poghosyan, ‘Russian Approaches’ (n 41) 186.

⁵⁷ Mälksoo, ‘Soviet Approach’ (n 1) 216.

⁵⁸ Soviet Union, 1960 GAOR, Plenary Meetings, 869th Meeting, UN Doc A/PV.869, para 192.

⁵⁹ Summers (n 48) 216; Theodore Christakis, ‘Self-Determination, Territorial Integrity and Fait Accompli in the Case of Crimea’ (2015) 75 *ZaöRV* 75, 83-84.

⁶⁰ Glen Anderson, ‘Who are the “Peoples” Entitled to the Right of Self-Determination?’ in RD Griffiths, A Pavković and P Radan (eds), *The Routledge Handbook of Self-Determination and Secession* (1st edn, Routledge 2023) 51.

for a long time confined solely to decolonisation, effectively excluding countries such as the Soviet Union or China.⁶¹

Nonetheless, from the objective perspective, the saltwater doctrine is not strongly supported by the functional characteristics of colonial rule.⁶² It rather reflects the political circumstances surrounding its adoption. Criticism of this approach may take two forms: substantive and geographical. As for the first point, Summers notes that, as criteria for identifying ‘colonial-type’ territories, this approach is “somewhat curious, at least if colonialism was understood as alien subjugation, domination and exploitation”.⁶³ If the discussion were specifically about these characteristics of colonial territories, the emphasis should be placed on subjugation and ethnic or cultural differences as evidence of foreign rule; geographical separation, as a general criterion, seems inappropriate.⁶⁴ For instance, Russian expansion into Central Asia and the Caucasus shared key features with Western colonialism, most notably the subjugation of culturally distinct populations, the construction of a “civilizing mission,” and the use of imperial hierarchies that framed local peoples as backward and in need of governance.⁶⁵ As Michael Khodarkovsky shows, Russia confronted similar colonial challenges as European empires, including managing legal pluralism and integrating diverse societies, while portraying indigenous peoples as inferior and governable.⁶⁶ Thus, had the Russian Empire still existed in 1960, it would have been ‘shielded’ by the saltwater doctrine.

The geographical dimension of the doctrine is no less vulnerable. Alexander Etkind, commenting on proponents of the maritime isolationist approach, notes that “overseas imperialism feels different – more adventurous, consequential, and repressive – in a word, more imperialist than terrestrial imperialism”.⁶⁷ However, in the Russian context, the landmass tended to divide rather than unite: transporting supplies from Moscow to Crimea or Alaska was often slower and more expensive than transoceanic shipping.⁶⁸ The subjugation, taxation and resettlement of various peoples across vast continental routes constituted a process of internal colonisation which, as Etkind demonstrates, absorbed the very human, military and administrative resources that might otherwise have been directed towards overseas expansion, and in fact replaced it throughout the centuries of Russian imperial history, beginning in the

⁶¹ Quane (n 42) 552.

⁶² Christakis (n 59) 83.

⁶³ Summers (n 48) 217.

⁶⁴ Summers (n 48) 217.

⁶⁵ Michael Khodarkovsky, 'Between Europe and Asia: Russia's State Colonialism in Comparative Perspective, 1550s–1900s' (2018) 52(1) *Canadian-American Slavic Studies* 1, 24–25.

⁶⁶ Khodarkovsky (n 65) 4–5.

⁶⁷ Alexander Etkind, *Internal Colonization: Russia's Imperial Experience* (Polity Press 2011) 5.

⁶⁸ Etkind (n 67) 5.

sixteenth century.⁶⁹ The geographical criterion thus does not distinguish between colonial rule and non-colonial governance on the basis of any functional characteristic, it simply distinguishes between maritime empires and continental ones.

The practical implications of the ‘saltwater doctrine’ for the configuration of self-determination in the 20th century were far-reaching. In international practice, the position became established that only ‘colonial-type’ situations were entitled to the most radical form of self-determination – secession.⁷⁰ This was, in particular, a consequence of the reluctance of Western states to allow for a broader application of the norm.⁷¹ States such as the USSR were formally subject to internal self-determination under the Covenants, though this was usually understood as applying to the population as a whole rather than distinct groups.⁷² Even under a broader, more progressive reading linked to democratic governance, the Soviet Union could claim that internal self-determination had already been fulfilled, relying on its federal structure and an expansive notion of “peoples.” This argument was strengthened by limited external access to information during the Iron Curtain period. Although some states described the USSR as resembling “neo-colonialism,” this view had little impact on self-determination debates.⁷³

1.5 The Friendly Relations Declaration

The Friendly Relations Declaration (FRD) annexed to General Assembly Resolution 2625 (XXV) of 24 October 1970, constitutes, in Kleinlein’s words, “the most authoritative and comprehensive formulation to date of the principle of self-determination”.⁷⁴ In the *Paramilitary Activities (Nicaragua v. USA)* case, the ICJ recognised it as reflecting customary international law, and in the *Kosovo Advisory Opinion*, it confirmed this conclusion.⁷⁵ As Sparks points out, one of the key innovations was a clearer distinction “between the colonial and polity-based forms of self-determination”.⁷⁶ The document was the result of many years of Soviet efforts to codify the principles of ‘peaceful coexistence’ within the foreign policy framework established at the 20th Congress of the Communist Party of the Soviet Union in 1956, according to which it was necessary to establish harmonising rules between two fundamentally different systems of international law.⁷⁷ It is interesting to note that during the drafting stage, it was the Western states that insisted on a broader interpretation of the right, namely, to all peoples of sovereign

⁶⁹ Etkind (n 67) 5.

⁷⁰ Mälksoo, ‘Soviet Approach’ (n 1) 216.

⁷¹ Christakis (n 59) 84-85;

⁷² Quane, (n 42) 571.

⁷³ Summers (n 48) 307-308.

⁷⁴ Kleinlein (n 45) 180.

⁷⁵ Sparks (n 6) 124.

⁷⁶ Sparks (n 6) 124.

⁷⁷ Socher (n 1) 33

states, as they saw this as a means of countering authoritarian regimes, including socialist states.⁷⁸ The socialist bloc sought to restrict the right as much as possible and this position ultimately prevailed.⁷⁹

One of the key aspects is paragraph 7 of the fifth principle, usually referred to as “saving clause”, which reserves the protection of territorial integrity for states that “conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.”⁸⁰ Quane derives a two-part test to identify groups entitled to secession: a territorial criterion, that is, ‘the whole people belonging to the territory’, and a personal criterion meaning the absence of discrimination on grounds of race, creed or colour.⁸¹ This certainly applies to cases such as Southern Rhodesia and the Republic of South Africa, where the majority of the population was excluded from government on racial grounds.⁸² The same author also points out that “in reality it may be difficult to invoke it [paragraph 7] unless the situation is analogous to that which existed in those territories.”⁸³ Sparks offers a broader interpretation: the saving clause does not extend its protection to states which “deny their populations’ rights to internal self-determination, access to government, or full and equal participation in the states’ political lives.”⁸⁴ Cassese elaborates that race, creed and colour was meant to be limited to racial and religious groups.⁸⁵ In the case of the USSR, the application of this criterion is less straightforward. The racial-national dimension is not directly replicated in the multinational Soviet context, where distinction was rather ideological, even though the Russians were at the top of the political hierarchy.

A particular point of contention in the Special Committee’s work was the question of whether the use of force was permissible in the exercise of the right to self-determination. The Soviet Union, together with African and Asian states, upheld the position that peoples waging an armed struggle against the forcible deprivation of self-determination were acting in self-defence and could receive assistance from third states. Western delegations consistently rejected this

⁷⁸ Cassese (n 2) 109.

⁷⁹ Cassese (n 2) 109.

⁸⁰ UNGA Res 2625(XXV) (24 October 1970) UN Doc A/RES/2625(XXV) annex (‘Friendly Relations Declaration’).

⁸¹ Quane (n 42) 563.

⁸² Quane (n 42) 563.

⁸³ Quane (n 42) 563.

⁸⁴ Sparks (n 6) 125.

⁸⁵ Cassese (n 2) 114.

position.⁸⁶ The compromise wording set out in paragraph 5 of the fifth principle combines the obligation of each state "refrain from any forcible action which deprives peoples [...] of their right to self-determination" recognising that peoples who resist such force, "are entitled to seek and to receive support in accordance with the purposes and principles of the Charter."⁸⁷ Wording "in accordance with the purposes and principles of the Charter" leaves open the key question of whether this 'assistance' includes military support, and the doctrinal dispute between proponents of a broad and a narrow interpretation remains unresolved.⁸⁸ Nevertheless, as demonstrated by the Soviet interventions analysed in section 2.3, this stance adopted by the Soviet Union was specifically aimed at justifying its actions.

The development of self-determination outside the colonial context shaped Soviet behaviour in the years that followed. The Soviet Union was initially rather reluctant to include the principle of self-determination in the final document of the Conference on Security and Co-operation in Europe.⁸⁹ In the end, 1975 Helsinki Final Act included, in Principle VIII, a formulation of the right of peoples to equality and self-determination, though in terms that were more cautious than those of the 1966 Covenants, with reference to peoples acting "always in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States."⁹⁰ It was precisely the territorial integrity of states that was of key importance to the Soviet Union and the Eastern Bloc, particularly in order to consolidate the borders of the parts of Finland, Romania, Poland, Germany and Czechoslovakia occupied by the Soviet Union.⁹¹ Ultimately, this analysis reveals an interesting trajectory of how the Soviet understanding of self-determination evolved and adapted tactically to circumstances, ranging from Lenin's right to secession to territorial integrity once territories came under control.

1.6 Conclusions for Chapter I

This chapter has shown that the post-1945 international legal framework on self-determination was shaped in large part with Soviet participation and that this influence left a structural imprint that still matters today. Three key conclusions follow from this. First, the Soviet contribution to codification was formative, not peripheral. It was the Bolsheviks who brought the right to

⁸⁶ Socher (n 1) 34.

⁸⁷ UNGA Res 2625(XXV) (n 80), fifth principle, paras 4–5; Socher (n 1) 34.

⁸⁸ See James Crawford, *The Creation of States in International Law* (2nd edn, OUP 2006) 135–42.

⁸⁹ Socher (n 1) 54.

⁹⁰ Conference on Security and Co-operation in Europe, Final Act, 1 August 1975, 14 ILM 1292, Principle VIII.

⁹¹ Summers (n 48) 278.

self-determination into the international debate, thereby putting pressure on the West in the context of its colonial legacy. The compromise reached in San Francisco, which gave rise to Articles 1(2) and 55 of the UN Charter, the inclusion of Article 1 in both Covenants of 1966, as well as the initiation of Resolution 1514 (XV) and the preparatory work on Resolution 1541 (XV), all bear the Soviet stamp.

Second, this formative role was never accompanied by an inclination towards a universal scope of application of the principle in its objective sense, which the Soviet Union helped to codify. Even if the Soviet Union had regarded the norm as universal, since self-determination within the USSR had already been achieved, such a statement would not stand up to objective criticism, as will be shown in the following sections. The Maisky's 1941 statement that the principle must "necessarily adapt itself to the circumstances, needs and historic peculiarities of particular countries" was a reflection on the interpretative framework that has defined Soviet practice pursuit.⁹² The Soviet approach combined universal rhetoric with selective application as a single doctrinal position, rather than as an accidental inconsistency.

Third, the limits of the practical scope of application of the law were embedded in its operational instruments through mechanisms designed to shield the USSR from its effects. The geographical test enshrined in Resolution 1541 (XV) restricted the category of colonial situations to overseas dependent territories and thus a priori excluded the Soviet continental empire, even though this test lacks a substantial basis in the functional characteristic of colonial rule. The 1970 Declaration on Friendly Relations reinforced this restriction by formulating a provision in the fifth principle through race, creed and colour which, would unlikely to be applied to USSR. The legal outcome is a structural exclusion with a norm that is universal in form yet selective in application, with this selectivity having been engineered, under the leading Soviet role.

⁹² Socher (n 1) 24-25.

II. THE INVERTED APPLICATION: SELF-DETERMINATION AS A TOOL OF INTERVENTION AND CONTROL

This chapter argues that, within its immediate sphere of influence, the Soviet state systematically employed the rhetoric of self-determination in a manner which this chapter describes as an inverted application. The very same norm that the Soviet Union universalised in international forums, it used within its own sphere of influence not as a protective right of peoples against domination, but as a legal justification for its enlargement and control. This inverted application is analysed through the prism of two historical stages. In the first stage, from 1917 to 1940, it served as a tool for the expansion of the Soviet Union through the destruction of neighbouring state entities that had declared independence on the basis of self-determination, notably the Ukrainian People's Republic, Estonia, Latvia, Lithuania and Georgia. In the second phase, from 1956 to 1968, it served as a tool for maintaining control over the Eastern Bloc states, which had formally retained their sovereignty. The culmination was the formation of Brezhnev's doctrine and so called "socialist international law".

This chapter focuses on one analytical contribution that has previously received insufficient attention in the literature on self-determination, namely the attempt at Ukrainian independence between 1917 and 1920 as a case legally analogous to the annexation of the Baltic states. The common view, which treats Ukraine as the 'core' of the Soviet Union and thus excludes it from the analysis of annexations, overlooks the structural similarity of its situation to the Baltic model, namely the existence of a state entity, a demonstrated will for self-determination, contractual recognition of independence, and subsequent forced incorporation.⁹³ The key difference lies in the speed of the occupation, the lack of international recognition and probably cultural proximity between Ukrainians and Russians as Slavic nations, which rendered the Ukrainian case doctrinally invisible, but does not legally diminish its significance.

2.1 The Soviet Approach to the Right of Peoples to Self-Determination

In the Western liberal tradition, self-determination has been regarded as a protective right, a principle that safeguards nations from foreign domination and guarantees them the freedom to determine their own political status.⁹⁴ As Franck notes, "self-determination is the historic root from which democratic entitlement grew," adding that it is key to ensuring the legitimacy of a particular authority, particularly through freedom of expression and the right to vote.⁹⁵ In

⁹³ Milena Sterio, *The Right to Self-Determination under International Law: 'Selfistans,' Secession, and the Rule of the Great Powers* (Routledge 2012) 38.

⁹⁴ Mälksoo 'The Soviet Approach' (n 1) 17.

⁹⁵ Franck (n 3) 52.

Western thought, the principle of self-determination is closely associated with a democratic political system, particularly because without it, self-determination cannot be fully realised.⁹⁶ For Lenin, however, despite his active advocacy of the idea of secession, the central idea was not the independence of such states but their integration into the socialist project.⁹⁷ As Grigory Tunkin, one of the most prominent lawyers in the USSR, noted, self-determination was a tool for ‘the liquidation of capitalism and the construction of socialism’ rather than an end in itself.⁹⁸ A striking example of the Bolsheviks’ methods of building socialism is a quote from Lenin in 1918, which stands in direct contrast to the Western understanding of self-determination: “It would be extremely stupid and absurdly utopian to assume that the transition from capitalism to socialism is possible without coercion and without dictatorship.”⁹⁹ Despite these differences, as Erez Manela notes, there was a shared understanding that self-determination had become “the centre of the discourse on legitimacy in international relations”, which inevitably led to interpretations by various actors that were favourable to them.¹⁰⁰

By the time of decolonisation, these divergent views had crystallised into two parallel models operating within the same legal framework. The USSR divided the world into two parts: one where the question of self-determination had been fully resolved, namely, the Soviet bloc and the other where this had not happened, namely, the capitalist states.¹⁰¹ As Mälksoo points out, despite the universalist wording of the right to self-determination in the 1966 covenants, in the practice of states at that time, this standard was not yet truly universal in nature.¹⁰² Socher adds that there was a certain distinction between the external and internal dimensions of Soviet self-determination: externally, the USSR was one of the greatest advocates of self-determination, whereas within the Eastern Bloc its role was, “one might say, perverted”.¹⁰³ Within the USSR itself the same scholars who condemned Western colonialism simultaneously adopted “a patronizing imperialist tone about non-Russian peoples.”¹⁰⁴

⁹⁶ Oeter (n 3) 481; Franck (n 3) 52.

⁹⁷ Poghosyan, ‘Russian Approaches’ (n 41) 184.

⁹⁸ Grigory Tunkin, *Theory of International Law* (William E Butler tr, Harvard UP 1974) cited in Poghosyan, ‘Russian Approaches’ (n 41) 184.; Socher (n 1) 44–45.

⁹⁹ VI Lenin, ‘Ocherednye zadachi Sovetskoi vlasti’ [The Immediate Tasks of Soviet Power] (1918) (Marxists Internet Archive) <<https://www.marxists.org/russkij/lenin/works/36-2.htm>> accessed 29 April 2026.

¹⁰⁰ Erez Manela, *The Wilsonian Moment: Self-Determination and the International Origins of Anticolonial Nationalism* (OUP 2007) 5, cited in Chernev (n 19) 369.

¹⁰¹ Mälksoo, ‘Soviet Approach’ (n 1) 215; Lundstedt (n 14) 200.

¹⁰² Mälksoo, ‘Soviet Approach’ (n 1) 215.

¹⁰³ Socher (n 1) 35.

¹⁰⁴ Mälksoo, *Imperial Continuity* (n 1) 149.

One of the Soviet Union's key arguments was the assertion that the right to self-determination had already been realised within the USSR, which fitted into a specific narrative concerning the legacy of the Russian Empire and its supposed overcoming by the new political system. Lenin famously characterised the Tsarist Empire as a 'prison of nations', and Soviet policy in the 1920s partly reinforced this rhetoric through a policy of *korenizatsiia* (indigenisation), promoting national languages, local elites and cultural institutions in the newly formed Soviet republics.¹⁰⁵ As Martin notes, the Bolsheviks "understood very well the danger of being labelled an empire in the age of nationalism", therefore *korenizatsiia* was intended to channel nationalist energy into support for the Soviet project.¹⁰⁶ From 1928 onwards, the central authorities became "increasingly concerned that *korenizatsiia* was abetting rather than disarming nationalism."¹⁰⁷ This was particularly evident in Ukraine, where the process of localisation led to a strengthening of national identity, whilst the project to bring Ukrainian and Russian cultures closer together failed, giving rise to a distinct movement of its own.¹⁰⁸ During the Great Retreat of 1933–1938, people under Soviet rule suffered ethnic cleansing and mass executions "because of their national identity alone," whilst Russian national culture was rehabilitated as a unifying force of the Soviet state.¹⁰⁹ *Korenizatsiia* also enabled the Soviet authorities to identify the most active persons in the national movements, who subsequently became the regime's primary targets.¹¹⁰ What was presented as the embodiment of the right to self-determination turned out to be a temporary measure rather than a right and was revoked the very moment national consciousness began the formation of a genuine autonomous political will.

2.2. Self-Determination as a Selective and Reversible Commitment

This section examines the use of self-determination to build the Soviet Union through the destruction of neighbouring states that had already declared independence. The pattern, which is repeated in all four cases discussed below, Ukraine, Estonia, Latvia, Lithuania and Georgia, is similar: the declaration of statehood, recognition by the Soviet side under a treaty, the parallel creation of a 'Soviet' duplicate of the state entity, military elimination and subsequent formal annexation in a form that mimics self-determination.

¹⁰⁵ Mäliksoo, 'Soviet Approach' (n 1) 212.

¹⁰⁶ Terry Martin, *The Affirmative Action Empire: Nations and Nationalism in the Soviet Union, 1923–1939* (Cornell University Press 2001) 19.

¹⁰⁷ Martin (n 106) 3.

¹⁰⁸ Martin (n 106) 25–27.

¹⁰⁹ Martin (n 106) 26–27.

¹¹⁰ Olena Haleta, "'Rozstriliane Vidrozhennia': vid istorii metafory do metafory istorii' ["'The Executed Renaissance': From the History of a Metaphor to the Metaphor of History'] (2012) 8 *Slovo i Chas* 58, 60.

2.2.1 Ukraine and the Brest-Litovsk Moment

One of the least studied, yet earliest, cases which proved illustrative of the Bolshevik approach to self-determination was the failed attempt at Ukrainian independence. The conventional approach, which treats Ukraine as part of the Soviet 'core' and, consequently, excludes it from analyses of annexations, obscures the structural similarity between its situation and that of the Baltic states.¹¹¹ At the time of the dissolution of the Ukrainian People's Republic (UNR), Ukraine was in a similar legal position: a state had been established, a clear will for self-determination had been expressed, independence had been recognised based on a peace treaty, and the country was subsequently forcibly incorporated into the Soviet Union. Nevertheless, it seems that for many, the speed of this annexation, lack of recognition from the international community, as well as the similarities in Slavic cultural traits, serve as justification for certain authors.¹¹²

On 20 November 1917, the Central Rada *i.e.* representative body of Ukrainian people and later the Parliament, issued the Third Universal, proclaiming the UNR a sovereign political entity within a federal Russia.¹¹³ Crucially, the *Rada* was itself a socialist body, dominated by the Ukrainian Social Democratic Labour Party and the Ukrainian Party of Socialist-Revolutionaries. Chernev describes it as "nationalist as well as socialist."¹¹⁴ Ukrainian nationalists who advocated for independence, such as Mykola Mikhnovsky, were in the minority and did not have the support of the core of the Rada.¹¹⁵ This fact has significance as the conflict between the Bolsheviks and the Rada was not a clash between socialism and bourgeois nationalism, but a clash between two competing socialist conceptions of self-determination, the one that permitted genuine national secession, and one that viewed secession as a tactical concession on the path to reintegration under the Soviet umbrella.

The Bolshevik response was rather swift, as early as 4 December 1917, the Bolshevik government recognised the independence of the parallel 'Soviet' Ukrainian People's Republic – an artificial entity created by the Bolsheviks themselves.¹¹⁶ As Mälksoo notes, Soviet Russia "appropriated self-determination claims in these secessionist territories to label national self-

¹¹¹ Sterio, *The Right to Self-Determination under International Law* (n 93) 38.

¹¹² Sterio, *The Right to Self-Determination under International Law* (n 93) 38.

¹¹³ Third Universal of the Ukrainian Central Rada (Wikisource, 20 November 1917) https://uk.wikisource.org/wiki/Третій_Універсал_Української_Центральної_Ради accessed 29 April 2026.

¹¹⁴ Chernev (n 19) 377

¹¹⁵ OD Boiko, 'Mykhnovsky Mykola Ivanovych' in VA Smolii and others (eds), *Entsyklopediia istorii Ukrainy* [Encyclopedia of the History of Ukraine], vol 6 (Naukova dumka 2009) <http://www.history.org.ua/?termin=Mikhnovsky_M_I> accessed 29 April 2026.

¹¹⁶ Mälksoo, *Imperial Continuity* (n 1) 87.

determination and even statehood as a status which was not meant to denote a genuine transfer of sovereignty from (Soviet) Russia "¹¹⁷ Subsequently, the Bolshevik offensive in eastern Ukraine forced the Rada to retreat from Kyiv to Zhytomyr in January 1918. The Rada responded not with capitulation, but by proclaiming the Fourth Universal on 22 January 1918, namely the full declaration of independence of the Ukrainian People's Republic from Russia.¹¹⁸ It is important to note that, despite its nationalist undertones, the Fourth Universal reflected socialist policies, namely the "abolition of private property and the socialisation of land" with its transfer into the hands of the "working people", "to disband the army entirely, and then, in place of a standing army, to establish a people's militia, so that our military might serve to protect the working people, rather than the whims of the ruling classes" and other provisions.¹¹⁹ The Fourth Universal was a direct realisation of the right to self-determination in the Leninist sense, namely, complete separation with the aim of building socialism, which Lenin himself proclaimed to be the logical expression of this principle. Nevertheless, it seems that for the Bolsheviks, the main concern was not the global dominance of socialism, but the dominance of socialism under Russian rule.

The arrival of the Ukrainian delegation in Brest-Litovsk in January 1918 brought this conflict to the international stage. Trotsky, who headed the Soviet Russian delegation, found himself facing an independent Ukrainian negotiating party whose claims directly undermined his own position.¹²⁰ In his memoirs, he spoke disparagingly of the *Rada*'s leaders, calling them representatives "the Ukrainian variety of Kerenskyism [Kerensky was a head of Russian Provisional Government], and differed from their Great Russian prototype only in that they were even more provincial."¹²¹ Under pressure from the German and Austro-Hungarian delegations regarding the issue of recognising Ukraine as a legitimate party to the negotiations, Trotsky reluctantly agreed to the Ukrainian delegation's participation in the peace talks.¹²² The move was purely tactical, as Chernev documents, Trotsky "had no intention of leaving things at that - he was merely waiting for his Red Guards, advancing further into Ukraine even as he recognised the independence of that country, to overthrow the Rada and establish a Soviet republic that would defer to the central Bolshevik leadership."¹²³

¹¹⁷ Mälksoo, *Imperial Continuity* (n 1) 88.

¹¹⁸ Fourth Universal of the Ukrainian Central Rada (Zakon.rada.gov.ua) <<https://zakon.rada.gov.ua/laws/show/n0001300-18#Text>> accessed 29 April 2026.

¹¹⁹ Fourth Universal (n 118).

¹²⁰ Chernev (n 19) 377-378.

¹²¹ Leon Trotsky, *My Life: An Attempt at an Autobiography* (Scribner 1930) 376, cited in Chernev (n 19) 377.

¹²² Chernev (n 19) 377-378.

¹²³ Chernev (n 19) 378.

On 9 February 1918, the Ukrainian People's Republic signed a peace treaty with the Central Powers in Brest-Litovsk, thereby securing international recognition of Ukraine's independence from Germany, Austria-Hungary, Bulgaria and the Ottoman Empire.¹²⁴ By concluding its own separate Treaty of Brest-Litovsk on 3 March 1918, Soviet Russia thereby found itself formally obliged to recognise Ukraine's independence.¹²⁵ Nevertheless, with the outbreak of the revolution in Germany, the Bolsheviks annulled the Treaty of Brest-Litovsk on 13 November 1918, and with it their recognition of Ukraine's independence.¹²⁶ As Mälksoo points out, it became standard practice in Soviet doctrine to assert that the Bolsheviks were fully entitled to annul the Treaty of Brest-Litovsk, whilst Lenin noted that this was a tactical manoeuvre designed to buy more time.¹²⁷ At the same time, the Western Entente powers were thoroughly reluctant to accept Ukrainian statehood and self-determination, and at the 1918 Paris Conference, no one spoke seriously about it.¹²⁸ Ukraine was caught between Russocentrism and Polocentrism; in particular, Polish independence was one of the main issues, given that Poland was seen as the eastern front against Germany.¹²⁹ As a result, Poland gained independence, including control over territories in Western Ukraine. As the British Prime Minister Lloyd George remarked regarding the Ukrainian leader Symon Petliura, "I only saw a Ukrainian once. It's the last Ukrainian I have seen, and I'm not sure that I want to see any more".¹³⁰

In sum, the Soviet state's actions, namely recognising a parallel "Soviet" Ukrainian People's Republic, then formally accepting the UNR's independence in the Treaty of Brest-Litovsk, only to reverse that position after the November Revolution in Germany, can be read as an example of what this study calls an "inverted" use of self-determination. Rather than serving genuine national liberation, the principle was used in a way that facilitated expansion. In the Ukrainian case, the Bolsheviks appear to have invoked self-determination largely for tactical reasons, helping to present themselves as champions of popular rights. At the same time, their behaviour suggests that, in practice, the aim was not only to advance socialism, but also to reassert and extend Russian control.

¹²⁴ Chernev (n 19) 378.

¹²⁵ Chernev (n 19) 378.

¹²⁶ Mälksoo, *Imperial Continuity* (n 1) 88.

¹²⁷ Mälksoo, *Imperial Continuity* (n 1) 88.

¹²⁸ Stephen Velychenko and Valentyn Kavunnyk, 'The Versailles Treaty and the Ukrainian National Republic: The American Refusal to Recognize Ukrainian Independence in 1919' (*Ukraina Moderna*, 8 December 2023) <<https://uamoderna.com/history/the-versailles-treaty-and-the-ukrainian-national-republic-the-american-refusal-to-recognize-ukrainian-independence-in-1919/>> accessed 29 April 2026; Chernev (n 19) 382.

¹²⁹ Velychenko and Kavunnyk (n 128).

¹³⁰ 'Vasyl Vyshyvanyi: The Habsburg Prince Who Chose Ukraine' (Porokhivnytsya, 25 May 2021) <https://porokhivnytsya.com.ua/2021/05/25/vasyl-vyshyvanyi_the-habsburg-prince-who-chose-ukrainian/> accessed 29 April 2026.

2.2.2. Recognition and Annexation of Baltic States and Georgia

The Bolsheviks' recognition of the Baltic states and Georgia marked the first instance in international law of a former empire recognising the secession of its constituent parts, based on the principle of self-determination enshrined in the treaty.¹³¹ Between February and August 1920, Soviet Russia concluded peace treaties with Estonia (2 February 1920), Georgia (7 May 1920), Lithuania (12 July 1920) and Latvia (11 August 1920), each of which was explicitly based on the right of peoples to self-determination as the legal basis for secession.¹³² Nevertheless, the conclusion of such agreements can hardly be described as a sincere expression of Russia's belief in the independence of these states. As in the case of Ukraine, the Soviets sought to establish parallel 'socialist' republics which, according to their vision, were to be the true representatives of the 'working people', whilst at the same time remaining subordinate to Moscow.¹³³ Thus, agreements were concluded with 'bourgeois' republics in cases where the Bolsheviks had failed to seize power in the country by force.¹³⁴

Article 2 of the 1920 Treaty of Tartu stated that Russia «On the basis of the right of all peoples freely to decide their own destinie [...] unreservedly recognises the independence and autonomy of the State of Esthonia, and renounces voluntarily and for ever all right of sovereignty formerly held by Russia over the Estonian people and territory.»¹³⁵ The Latvian and Lithuanian treaties essentially replicated the same structure, explicitly mentioning self-determination.¹³⁶ The 1920 Moscow Peace Treaty with Georgia was similarly based on "the right of all peoples to self-determination, including complete secession".¹³⁷ It is interesting to note that Finland, the only one of the states that seceded from Russia, signed a peace treaty with Soviet Russia on 14 October 1920 and did not have the right to self-determination enshrined in the treaty as the basis for its independence. And here lies a certain irony, which Mälksoo draws attention to: it was precisely Finland and Poland – that is, countries where self-determination was not formally enshrined – that managed to retain their independence after the Second World War, whilst those states that explicitly stipulated self-determination in their treaties were

¹³¹ Mälksoo, 'Soviet Approach' (n 1) 208.

¹³² Socher (n 1) 22-23

¹³³ Mälksoo, *Imperial Continuity* (n 1) 90.

¹³⁴ Mälksoo, *Imperial Continuity* (n 1) 90.

¹³⁵ Esthonia and Soviet Republic of Russia Peace Treaty (Treaty of Tartu), 2 February 1920, 11 LNTS 29, art 2.

¹³⁶ Lithuania and Soviet Government of Russia Peace Treaty and Protocol (Soviet–Lithuanian Peace Treaty), 12 July 1920, 3 LNTS 105; Latvia and Russia Treaty of Peace (Soviet–Latvian Peace Treaty), 11 August 1920, 2 LNTS 195.

¹³⁷ Московский договор [Treaty of Moscow] (Soviet–Georgian Peace Treaty), 7 May 1920, English translation reprinted in Walter Russell Batsell, *Soviet Rule in Russia* (Macmillan 1929) 247.

Georgia's independence was the shortest-lived of all the countries mentioned. On 26 May 1918, the National Council of Georgia declared independence, and on 7 May 1920, Soviet Russia concluded the Treaty of Moscow with the Democratic Republic of Georgia, a state led by the Mensheviks, the Social Democratic Party.¹³⁹ The Soviet-Georgian Treaty contained a "secret supplement" under which the Georgian government undertook not to hinder communist activities in the country.¹⁴⁰ Between 1920 and 1921, Georgia's independence was recognised by eleven states, including France, Great Britain and Italy; the country was in the process of joining the League of Nations.¹⁴¹ Nevertheless, unlike the Baltic states, Georgia never became a member of the League of Nations, and the treaty was not published in the League of Nations Treaty Series.¹⁴² On 25 February 1921, less than ten months after the treaty was signed, the Soviet army entered Tbilisi, and the Georgian government was forced into exile.¹⁴³ Thus, as in the case of the Treaty of Brest-Litovsk, it appears that the ability to set aside agreements tactically was central to the Bolsheviks' understanding of the principle of *pacta sunt servanda*.

In the case of the Baltic republics, independence was of a longer duration; however, throughout that entire period, the USSR sought ways to establish its own dominance. Self-determination was key in this regard, as it provided a means of asserting legitimacy. During peacetime, relations between the USSR and the Baltic republics resembled a hybrid war: on 1 December 1924, an armed group of approximately two hundred Bolshevik militants attempted an armed coup in Tallinn.¹⁴⁴ Following the Molotov–Ribbentrop Pact and its secret protocols, Stalin's emissaries Zhdanov, Vyshinsky and Dekanozov staged 'socialist revolutions' in June 1940, bringing in communist demonstrators from Russia's border regions to simulate popular uprisings.¹⁴⁵ Following the massively rigged elections of 15–16 July 1940, the new parliaments voted unanimously on 21–22 July to join the USSR. Molotov, the USSR's People's Commissar for Foreign Affairs, presented this charade to the Supreme Soviet as a genuine act of democratic self-determination: "The elections proved that the ruling bourgeois cliques of Lithuania, Latvia and Estonia did not express the will of their peoples" and that, in fact, the Baltic peoples "unanimously pronounced in favour of introducing the Soviet system and the incorporation of

¹³⁸ Mälksoo, 'Soviet Approach' (n 1) 209.

¹³⁹ Mälksoo, *Imperial Continuity* (n 1) 100.

¹⁴⁰ Mälksoo, *Imperial Continuity* (n 1) 100.

¹⁴¹ Mälksoo, *Imperial Continuity* (n 1) 100.

¹⁴² Mälksoo, 'Soviet Approach' (n 1) 211.

¹⁴³ Mälksoo, *Imperial Continuity* (n 1) 100.

¹⁴⁴ Mälksoo, 'Soviet Approach' (n 1) 211.

¹⁴⁵ Mälksoo, 'Soviet Approach' (n 1) 212.

Lithuania, Latvia and Estonia into the Union of Soviet Socialist Republics."¹⁴⁶ In Western scholarship on international law, there is a broad consensus that the incorporation of the Baltic states into the USSR constituted an illegal annexation under the rules of international law in force at the time.¹⁴⁷

In summary, the four cases of Estonia, Latvia, Lithuania and Georgia, together with the Ukrainian case examined in the previous section, demonstrate a consistent legal pattern of inverted application of self-determination in its initial historical phase. In all five cases, the Soviet state used treaty recognition as a temporary legal cover preceding actual annexation; formal incorporation was justified by the Soviet Union's own interpretation of self-determination, according to which the 'working people' of the respective nations had allegedly expressed a desire for incorporation; military liquidation preceded the legal formalisation of annexation and served as its real basis. Self-determination was therefore of key importance to the Bolsheviks, as it served as the argument for legitimising the formation of the Soviet Union.

The Second World War altered the institutional context of this inverted application, yet the essence of the distorted understanding of self-determination remained. Until 1945, the Soviet state built its empire through direct annexations of territories to which it laid claim. After 1945, with the formation of a bloc of formally sovereign socialist states, direct annexations became more complicated. Both, in view of Article 2 (4) of the UN Charter, which prohibited the use of force against the territorial integrity of states, and in view of the very construct of the 'socialist community', which the Soviet Union promoted as a voluntary union of independent states.¹⁴⁸ The inverted approach adapted to the new context: instead of direct annexation disguised as self-determination, it took the form of armed intervention in a nominally sovereign state, with the legal justification that this intervention was protecting the 'true' self-determination of the people concerned from their own government.

2.3. Soviet Interventions in Hungary and Czechoslovakia

The interventions in Hungary (1956) and Czechoslovakia (1968) represent a significant escalation in the pattern of the inverted application of the principle of self-determination to maintain control. The USSR redefined the terminology of self-determination as a positive legal

¹⁴⁶ Vyacheslav Molotov, speech before the Supreme Soviet of the USSR, *Pravda*, 2 August 1940, cited in Socher (n 1) 37.

¹⁴⁷ Socher (n 1) 37.

¹⁴⁸ UN Charter art 2(4).

justification for the armed suppression of the very peoples who were attempting to exercise that right. When the popular uprising in Hungary of October 1956 prompted Imre Nagy to declare neutrality and denounce the Warsaw Pact, Soviet troops attacked Budapest and crushed the resistance by installing a pro-Soviet government.¹⁴⁹ In particular, the Soviet authorities justified these actions by citing a request from Ernő Gerő, leader of the Hungarian Communist Party, for intervention and the restoration of order.¹⁵⁰ The original legal basis for the intervention, namely the government's consent, was fabricated from the outset.¹⁵¹ This is particularly because, under international law, a state's consent may only be given by the head of state, the head of government or the foreign minister, while Gerő did not fall into any of these categories.¹⁵² Lieblich adds that, "The USSR itself was well aware of this fact, for otherwise it would have not attempted to get Nagy, after his nomination on the 24th, to sign such a request, and when this failed, ultimately had Hegedüs sign the request retroactively".¹⁵³ The Warsaw Treaty could not serve as a legal basis either: Article 4 of that treaty concerned external attacks exclusively, not internal threats.¹⁵⁴ Western legal analysis has characterised the intervention as a direct violation of the prohibition on the use of force and the principle of non-interference.¹⁵⁵ In particular, the prevailing view in the West was that the intervention had, among other things, violated the right to self-determination guaranteed by the 1947 Peace Treaty with Hungary.¹⁵⁶

The USSR employs legal language, specifically the right to self-determination, to justify its actions. If the law were meaningless, Lieblich asks, why would a superpower feel the need to fabricate Hegedüs's consent in the first place? Why establish the Kádár government at all, just to give the intervention a semblance of legality? What was the added value of invoking the Warsaw Pact?¹⁵⁷ The Soviet Union sought to legitimise actions that, following the adoption of the UN Charter, would previously have been regarded as wrongful. This, in particular, led to the emergence of 'socialist international law', in which self-determination was one of the key arguments. As Socher points out, the ideological foundations were laid as early as in the Declaration of the Government of the USSR of 31 October 1956, which formally proclaimed "the countries of the great commonwealth of socialist nations can build their mutual relations

¹⁴⁹ Socher, (n 1) 38; Eliav Lieblich, 'The Soviet Intervention in Hungary—1956' in Tom Ruys, Olivier Corten and Alexandra Hofer (eds), *The Use of Force in International Law: A Case-Based Approach* (OUP 2018) 48.

¹⁵⁰ Lieblich (n 149) 49.

¹⁵¹ Lieblich (n 149) 60-61

¹⁵² Lieblich (n 149) 61

¹⁵³ Lieblich (n 149) 61

¹⁵⁴ Lieblich (n 149) 61, citing Treaty of Friendship, Co-operation and Mutual Assistance (Warsaw Pact), 14 May 1955, 219 UNTS 3, art 4.

¹⁵⁵ Lieblich (n 149) fn109.

¹⁵⁶ Socher (n 1) 39; Lieblich (n 149) 58.

¹⁵⁷ Lieblich (n 149) 66.

only on the principles of complete equality, of respect for territorial integrity, state independence and sovereignty, and of non-interference in one another's internal affairs" and at the same time maintained that these principles "not only does this not exclude close fraternal cooperation and mutual aid among the countries of the socialist commonwealth in the economic, political and cultural spheres; on the contrary, it presupposes these things".¹⁵⁸ Soviet doctrine also played a role in justifying the intervention. For example, Korovin insisted that a new form of cooperation between socialist states had emerged, adding that "what is genuinely beneficial for a socialist state is always beneficial also to the whole socialist camp."¹⁵⁹ Usenko was claiming that Nagy's mistake as a 'right-wing revisionist' lay in the fact that he viewed Hungary's situation solely through the prism of "'petty bourgeois nationalism' and equality of states, without considering the aspect of proletarian internationalism".¹⁶⁰

The rhetoric employed by the Soviet Union during its intervention in Hungary laid the groundwork for the subsequent Soviet invasion of Czechoslovakia and the suppression of the Prague Spring. The USSR put forward three distinct legal grounds: consent, collective self-defence under Article 4 of the Warsaw Treaty, and the "specific nature of socialist international law".¹⁶¹ As for the argument regarding consent, it appeared even weaker than in the case of Hungary in 1956.¹⁶² A letter requesting Soviet assistance was signed by the chairmen of the Praesidium of the Communist Party of Czechoslovakia, who did not possess such authority. However, no competent authority gave such consent.¹⁶³ As Hafner adds, "the Soviet Union was obviously aware of the weakness of the 'consent' argument, it is unsurprising to see that it quickly ceased to insist upon it".¹⁶⁴ The argument regarding collective self-defence again does not stand up to scrutiny. Neither the 1955 Warsaw Treaty nor Article 51 of the UN Charter established a right to intervene in the absence of an armed attack; they only provided for self-defence in the event of external intervention.¹⁶⁵ In particular, during the UN Security Council debates on 21–24 August 1968, the overwhelming majority, including Canada, the United

¹⁵⁸ Declaration of the Government of the Soviet Union, *Pravda*, 31 October 1956, cited in Paul E Zinner (ed), *Documents on American Foreign Relations 1956* (Harper & Brothers 1957) 252, 252, cited in Socher (n 1) 38–39.

¹⁵⁹ Evgeny Korovin, 'Proletarskii internatsionalizm i mezhdunarodnoe pravo' [Proletarian Internationalism and International Law] (1958) Soviet YBIL 50, 58–59, cited in Mälksoo, *Imperial Continuity* (n 1) 173–74.

¹⁶⁰ Evgeny Usenko, 'Mezhdunarodnoe pravo v vzaimootnosheniakh sotsialisticheskikh gosudarstv' [International Law in the Relations of Socialist States] (1966/67) Soviet YBIL 30, 38, cited in Mälksoo, *Imperial Continuity* (n 1) 176.

¹⁶¹ Gerhard Hafner, 'The Intervention in Czechoslovakia—1968' in Tom Ruys, Olivier Corten and Alexandra Hofer (eds), *The Use of Force in International Law: A Case-Based Approach* (OUP 2018) 147–149.

¹⁶² Hafner (n 161) 147–148, 153–154.

¹⁶³ Hafner (n 161), 147–148, 153–154.

¹⁶⁴ Hafner (n 161) 154.

¹⁶⁵ Hafner (n 161) 154–155.

Kingdom, Denmark and Paraguay, described the invasion as illegal with only the USSR and Hungary defended it.¹⁶⁶

It was precisely the “specific nature of socialist international law” that became the Soviet Union’s main argument and cemented what is referred to in academic literature as the Brezhnev Doctrine.¹⁶⁷ As Socher points out, Kovalev’s 1968 article was one of the best explanations of this phenomenon.¹⁶⁸ In essence, it reflects what this chapter refers to as the inverted application of the principle of self-determination. Kovalev argued that accusations of violating “the Marxist-Leninist principle of sovereignty and the right of the nations to self-determination” are flawed, because these principles “are based on an abstract, non-class approach”.¹⁶⁹ One of the key passages from his work is “Thus, the anti-socialist forces in Czechoslovakia were in essence using talk about the right to self-determination to cover up demands for so-called neutrality and the withdrawal of the CSSR from the socialist commonwealth. But implementation of such ‘self- determination’, [...] fundamentally contradicts the right of these peoples to socialist self-determination.”¹⁷⁰

Brezhnev cemented this framework during the 5th Congress of the Polish United Workers’ Party on 12 November 1968: “and when internal and external forces hostile to socialism attempt to steer the development of any socialist country towards the restoration of capitalist order [...] this ceases to be merely a problem for the people of that country, but becomes a common problem and a concern for all socialist countries”.¹⁷¹ The Treaty between the USSR and the Czechoslovak Socialist Republic of 6 May 1970 translated the doctrine into treaty language: Article 10 of this treaty on individual and collective self-defence established the right to intervene militarily not only to ensure the security and independence of the state, but also if the ‘socialist achievements of the peoples’ were under threat.¹⁷² Mitchell identifies four conceptual pillars in Kovalev’s argument: the class basis of law; the existence of two camps; the “indivisibility of the socialist commonwealth and of world socialism”; and the concept of

¹⁶⁶ Georges Fischer, 'Quelques problèmes juridiques découlant de l'affaire Tchécoslovaque' (1968) 14 *Annuaire français de droit international* 16, cited in Hafner (n 161) 150.

¹⁶⁷ Socher (n 1) 39.

¹⁶⁸ Sergei Kovalev, 'Suverenitet i internatsional'nye obiazannosti sotsialisticheskikh stran' [Sovereignty and the International Obligations of Socialist Countries], *Pravda*, 26 September 1968, cited in Socher (n 1) 39.

¹⁶⁹ Socher (n 1) 39.

¹⁷⁰ Kovalev (n 168) cited in Socher (n 1) 39.

¹⁷¹ Harry Schwartz, 'The Khrushchev/Brezhnev Doctrine at Helsinki' *New York Times* (New York, 5 August 1975).

¹⁷² 'Czechoslovakia–Union of Soviet Socialist Republics: Treaty of Friendship, Cooperation, and Mutual Assistance' (1970) 9(4) *ILM* 655, cited in Hafner (n 161) 147.

“socialist self-determination and the socialist commonwealth as the guardian of sovereignty”.¹⁷³ He adds that “Brezhnev has renounced the teleology of liberation in favor of the politics of organizational survival.”¹⁷⁴ Thus, the Brezhnev Doctrine became a new instrument of control for the USSR, using the language of self-determination to legitimise its actions

2.4. Conclusions for Chapter II

This chapter has demonstrated that, within the immediate sphere of Soviet rule from 1917 to 1968, the principle of self-determination was systematically applied in a manner contrary to its external image, as analysed in Chapter I. Overall, two main conclusions can be drawn. First, this inverted application was not an episodic deviation from Soviet practice, but its consistent operational logic over the course of half a century in its ‘sphere of influence’. Initially, as a tool for expansion in the cases of Ukraine, Estonia, Latvia, Lithuania and Georgia, and as a tool for maintaining control, as in the cases of Hungary and Czechoslovakia. Common to all of them was the role of self-determination, which was key to legitimising actions of seizure or control, using fabricated consent and interpreting self-determination through the lens of socialism.

Second, the Soviet interpretation of self-determination often employed international treaties as a means of achieving its own strategic objectives, explicitly enshrining the principle of self-determination within them. In particular, the 1918 Treaty of Brest-Litovsk, in which Soviet Russia tactically recognised the Ukrainian People’s Republic as independent, was immediately violated as soon as the situation in Germany changed. The Soviet-Estonian, Soviet-Latvian, Soviet-Lithuanian and Soviet-Georgian peace treaties of 1920 legally recognised the independence of these states ‘for all time’, but served primarily as a temporary instrument. The 1970 treaty between the USSR and the Czechoslovak Socialist Republic formalised the Brezhnev Doctrine, retrospectively legitimising the 1968 intervention and establishing a legal basis for future interventions. The Soviet state did not shy away from enshrining self-determination in international treaties, on the contrary, it actively sought to do so when the treaty wording served its strategic interests, and just as actively ignored these treaties when its strategic interests changed.

¹⁷³ R Judson Mitchell, 'The Brezhnev Doctrine and Communist Ideology' (1972) 34(2) *Review of Politics* 190, 191-192.

¹⁷⁴ Mitchell (n 173) 207.

III. THE EXCLUDED PEOPLES: DENIAL OF SELF-DETERMINATION FROM WITHIN

Chapters I and II have examined the first two levels of the Soviet three-tiered architectural approach to self-determination. At the external level, the Soviet Union played a leading role in codifying the principle in a way that exempted its empire from its application. Within its immediate sphere of influence, the Soviet state systematically employed the same rhetoric to justify the suppression of claims to self-determination by neighbouring peoples and Eastern Bloc states. However, both these levels rested on a third pillar: the Soviet state's assertion that, within the USSR, the right to self-determination had already been realised through the federal structure, which relieved the Soviet authorities of further obligations towards non-Russian peoples. This section explores the third level, the one of internal denial.

This chapter argues that, within the USSR, the Soviet state constructed a legal order in which the right to self-determination was formally recognised to a greater extent than in Western doctrine, yet was simultaneously rendered operationally neutral. Namely, through what this work calls the “presumption of exhausted self-determination”, which in particular rested on the ethnofederal structure of the USSR. Nevertheless, the realisation of self-determination was undermined by the systematic destruction of the cultural and demographic conditions on which the Soviet definition of a nation rested. Applying Stalin's 1913 criteria – common language, territory, economic life, and culture – against Soviet practice reveals a contradiction: by eroding these elements, the USSR effectively negated the possibility of meaningful self-determination.

3.1 The Soviet Definition of Peoples and the Self-Determination Exhaustion Presumption

No international instrument has ever defined the term “peoples,” and the concept remains, in Summers' formulation, “effectively undefined and legendarily undefinable.”¹⁷⁵ This definitional vacuum has produced a persistent tension in the doctrine between more conservative and more progressive interpretations of who qualifies as a self-determination bearer. The conservative position, associated with Quane, restricts the subjects of this right to the entire population of a state or non-self-governing territory, viewing ‘peoples’ as correlative to the state as such.¹⁷⁶ More progressive interpretations extend this category beyond the colonial context to encompass groups defined by shared cultural, linguistic, ethnic or religious characteristics within existing states.¹⁷⁷ For example, Cassese argued that the Covenants also cover ‘national components of multinational states’, and this position was largely motivated by

¹⁷⁵ Summers (n 48) 10.

¹⁷⁶ Quane (n 42) 571.

¹⁷⁷ Anderson (n 60) 51.

the Soviet context itself.¹⁷⁸ The doctrine also distinguishes between cumulative criteria of peoplehood.¹⁷⁹ Objective criteria, such as a common language, territory, culture, history and the subjective element of collective self-identification, that is, the group's own sense of belonging and distinction from surrounding communities.¹⁸⁰ However, practice confirms that mere existence of an ethnic group is insufficient to claim self-determination.¹⁸¹

Against the backdrop of this doctrinal uncertainty, the Soviet Union developed what was, at the time, one of the most comprehensive conceptual frameworks in the discourse of international law for defining the subjects of the right to self-determination.¹⁸² The starting point was Stalin's definition from 1913: "A nation is a historically constituted, stable community of people, formed on the basis of a common language, territory, economic life, and psychological make-up manifested in a common culture."¹⁸³ Here, it is important to note a terminological distinction that has legal significance: in Russian political and legal culture, the term 'nation' (*natsiia*) is understood primarily in an ethnic sense, whereas 'people' (*narod*) is conceptually closer to the term 'people' in the context of international law.¹⁸⁴ Initially, Soviet doctrine recognised the 'nation' as the bearer of the right to self-determination. However, following the signing of the UN Charter in 1945, the wording gradually evolved into "the right of peoples and nations to self-determination" (*pravo narodov i natsii na samoopredelenie*), incorporating the nation as a separate subject of law.¹⁸⁵

As regards the scope of the right to self-determination, Soviet doctrine remained consistent throughout various periods. It explicitly provided for the right to secession. The textbook on international law published by the Academy of Sciences of the USSR stated that "under contemporary international law, both the secession of a nation from one state and the creation of a new, independent state, as well as the reverse, the incorporation of one nation based on a clear and free will of a nation into another state, is lawful."¹⁸⁶ Yevgenev, expressed himself just as clearly: "a nation has the right to choose its form of statehood, either in the form of autonomy,

¹⁷⁸ Quane (n 42) 561.

¹⁷⁹ Sterio, *The Right to Self-Determination under International Law* (n 93) 16.

¹⁸⁰ Sterio (n 3) 10; Oeter (n 3) 472. Michael P Scharf, 'Earned Sovereignty: Judicial Underpinnings' (2003) 31 *Denver J Intl L & Policy* 373, cited in Sterio (n 3) 10.

¹⁸¹ Oeter (n) 472-474.

¹⁸² Nolan Long, 'Theoretical and Practical Self-Determination of Indigenous Nations in the Soviet Union' (*Hampton Think*, 14 October 2023) <<https://www.hamptonthink.org/read/theoretical-and-practical-self-determination-of-indigenous-nations-in-the-soviet-union/>> accessed 29 April 2026.

¹⁸³ JV Stalin, *Marxism and the National and Colonial Question* (Foreign Languages Press 2021) 7.

¹⁸⁴ Şener Aktürk, 'Ethnic Diversity and State Building in Post-Soviet Russia: Removal of Ethnicity from the Internal Passport and Its Aftermath, 1992–2008' in Şener Aktürk, *Regimes of Ethnicity and Nationhood in Germany, Russia, and Turkey* (CUP 2012) 229, 229.

¹⁸⁵ Socher (n 1) 49

¹⁸⁶ Socher (n 1) 49

by way of entering into federative relations with other nations, or, finally, by seceding completely, because each nation is sovereign and all nations are equal."¹⁸⁷ In his influential monograph of 1960, Starushenko defined the scope of legal subjects even more broadly, including within it "nations and national groups, as well as peoples consisting of several nations, nationalities and national groups which have a common territory, possess one or more common traits (historic, cultural, linguistic, religious, social, etc.), and strive to achieve a common aim through self-determination."¹⁸⁸ In this concept, the term 'narod' was understood in a broader sense than 'natsiia' as for a group to be recognised as a 'narod', it was not necessary for it to meet all the criteria associated with the concept of a 'nation'.¹⁸⁹

Ultimately, the Soviet doctrine established a conceptual framework for legal subjects that was considerably broader than most of the Western states. Whilst colonial powers resisted any extension of the right to self-determination beyond the confines of the overseas colonial context, Soviet doctrine officially recognised ethnically defined sub-state communities, namely the non-Russian peoples of the USSR, as bearers of the right to self-determination.¹⁹⁰

However, this latitude was strategically neutralised by what is referred to in this paper as 'the self-determination exhaustion doctrine'. In Soviet legal thought, the expanded definition of legal subjects was rendered meaningless by the simultaneous assertion that this right had already been fully realised through the establishment of the Soviet federal structure and the advent of socialism as a whole.¹⁹¹ As Mälksoo points out, the Soviets used "a liberal vocabulary", at the same time "giving it a different content, at least in the space that they controlled", insisting that self-determination "was already realized within" the USSR, and that any legal grounds for secession from the Soviet state had ceased to exist.¹⁹² Tunkin, a leading Soviet internationalist, formulated this position in the same way as Lenin, "struggled for unification on a voluntary basis, so that individual nations exercising their right to self-determination have expressed themselves freely for unification with the other socialist Soviet republics. The Union of Soviet Socialist Republics was created on this basis."¹⁹³ The most public expression of the "the self-determination exhaustion doctrine" came in Khrushchev's

¹⁸⁷ VV Evgenev, 'Pravosub"ektnost', suverenitet i nevmeshatel'stvo v mezhdunarodnom prave' [Legal Personality, Sovereignty and Non-Interference in International Law] (1955) 17(2) Sovetskoe gosudarstvo i pravo 75, cited in Socher (n 1) 49.

¹⁸⁸ Gleb Starushenko, *The Principle of National Self-Determination in Soviet Foreign Policy* (1964) 197, cited in Socher (n 1) 48–49.

¹⁸⁹ Socher (n 1) 49.

¹⁹⁰ Socher (n 1) 49.

¹⁹¹ Lundstedt (n 14) 197.

¹⁹² Mälksoo, 'Soviet Approach' (n 1) 212–213.

¹⁹³ Grigory Tunkin, *Theory of International Law* (William E Butler tr, Harvard UP 1974) 10–11, cited in Mälksoo, 'Soviet Approach' (n 1) 213.

address to the UN General Assembly in 1960 pointing out that following the October Revolution, the peoples of Central Asia and the Transcaucasus “obtained complete freedom”, and he rhetorically asked whether the development of the Soviet Union had suffered as a result of granting these peoples the right to independence and self-determination.¹⁹⁴

The legal significance of this framework is twofold and strategically aimed at both Western and domestic audiences. Firstly, by officially recognising non-Russian peoples as holders of the right to self-determination at a broader, more definitive level than the West envisaged, the USSR established a strategic position from which it could denounce Western imperialism, contrasting this with the fact that in the USSR all people possessed the right to self-determination. The relevant peoples were recognised as subjects by Soviet doctrine itself. Secondly, by declaring the right to be exhausted through federal structure and *korenisatsiia*, the USSR could claim that all peoples within it had realised their right to self-determination within the socialist project, and that those who did not recognise this were bourgeois who should not have the right to self-determination.¹⁹⁵

3.2 Constitutional architecture: Ethnofederalism

The constitutional architecture of the Soviet Union was built on a constitutional paradox, namely simultaneously proclaimed the sovereignty of its constituent nations whilst structurally preventing their self-governance. Understanding this paradox requires an analysis of both the formal legal framework that the USSR presented to the outside world and the actual mechanisms of power that operated under its guise. The 1924 Constitution established a unique asymmetrical federal structure, which some scholars classify as ethnofederalism.¹⁹⁶ A system of hierarchical national-territorial units designed, in the words of Tero Lundstedt, to preserve “large, multinational state inherited from imperial Russia in an era of nation-states without seeming to reestablish imperialism.”¹⁹⁷ Moreover, as Terry Martin points out, “Lenin and Stalin understood very well the danger of being labeled an empire in the age of nationalism.”¹⁹⁸ Thus, fearing non-Russian nationalism, the Bolsheviks downplayed Russian self-expression, in particular by discarding the concept of a ‘state-bearing people’.¹⁹⁹ Ironically, this preserved the national structure of the old empire and made the Russians a *de facto* ‘state-bearing’.²⁰⁰

¹⁹⁴ Soviet Union, 1960 GAOR, Plenary Meetings, 869th Meeting, UN Doc A/PV.869, para 192.

¹⁹⁵ Lundstedt (n 14) 202.

¹⁹⁶ Lundstedt (n 14) 201.

¹⁹⁷ Lundstedt (n 14) 201.

¹⁹⁸ Martin (n 106) 19.

¹⁹⁹ Martin (n 106) 19.

²⁰⁰ Martin (n 106) 19.

Under this, system the USSR consisted of four hierarchical levels of self-governing units, distinguished by ethnic, linguistic and religious criteria.²⁰¹ At the top were the Soviet Socialist Republics, below them were the Autonomous Soviet Socialist Republics, and at the lowest level were the Autonomous Regions and *Okrugs*. A higher status was formally reserved for the most economically and culturally ‘progressive’ peoples, while promotion and demotion between levels remained possible.²⁰² The Constitutions of 1936 and 1977 preserved and developed this structure. Under Article 76(1) of the 1977 Constitution, a union republic was defined as a “sovereign Soviet socialist state”, formally granted the right to secede (Article 72) and limited international legal personality (Article 80).²⁰³ The 1977 Constitution declared that the entire USSR had been formed “as a result of the free self-determination of nations and the voluntary association of equal Soviet Socialist Republics”.²⁰⁴

Soviet legal doctrine made considerable efforts to provide a theoretical justification for this constitutional framework. In particular, the debate over whether the Union Republics were states and therefore sovereign played a key role.²⁰⁵ Georgian Soviet lawyer Levan Alexidze supported the view that the Soviet Union had been formed based on Treaties between independent states, describing these relations as confederal rather than strictly federal.²⁰⁶ Lepeshkin, editor of the journal *Sovetskoe Gosudarstvo i Pravo*, stated: “a Soviet Union republic, having freely united with other republics to form the Union of Soviet Socialist Republics, loses neither the supremacy, nor the autonomy, nor the independence of its state authority, since such a union was voluntary”, interpreting sovereignty through the sovereign will of the people.²⁰⁷ As Mälksoo points out, Ushakov, a former member of the International Law Commission, argued that by becoming more integrated, the Soviet peoples strengthened their sovereignty.²⁰⁸ Moreover, since the Ukrainian and Belarusian SSRs were admitted as founding members of the United Nations in 1945 independently of the USSR, the claim to sovereign status was particularly strongly voiced by these republics, giving rise to a substantial body of Soviet academic literature on the subject of their legal personality under international

²⁰¹ Lundstedt (n 14) 201.

²⁰² Lundstedt (n 14) 201.

²⁰³ Конституция Союза Советских Социалистических Республик 1977 [Constitution of the USSR 1977] art 72 and 80.

²⁰⁴ Constitution of the USSR 1977 art. 70,

²⁰⁵ AV Luzhin, *Administrativno-territorial'noe ustroistvo Sovetskogo gosudarstva* [Administrative-Territorial Structure of the Soviet State] (Iuridicheskaiia literatura 1969) 56.

²⁰⁶ LA Aleksidze, 'Znachenie obrazovania SSSR dlia obespechenia mira i mezhdunarodnoga pravoporiadka' (1982) Soviet YBIL 11, cited in Mälksoo, *Imperial Continuity* (n 1) 142.

²⁰⁷ Alexey Lepyoshkin, 'Sovereignty in the Soviet Union State and Its Consolidation in the Period of Developed Socialism' (1976) 7 SGP 26, 30.

²⁰⁸ NA Ushakov, 'Mezhdunarodno-pravovye aspekty obrazovania Soyuza SSR' (1972) Soviet YBIL 11, 13–22, cited in Mälksoo, *Imperial Continuity* (n 1) 143.

law.²⁰⁹ Soviet scholars were well aware of the West's scepticism regarding the substance of the republics' sovereignty, but dismissed it, labelling its authors 'fabricators'.²¹⁰

Although it appeared to be a progressive administrative-territorial structure, it nevertheless concealed the centralised authority of Moscow. This has a potential impact on self-determination along two axes: external and internal. Regarding the former, the Austrian lawyer Hann-Jüri Uibopuu argued that the sovereignty of the Soviet republics was a 'fiction directed more to the outside world', which served a dual purpose: potentially to draw third countries into the Soviet Union whilst simultaneously preserving the appearance of independence for the Union republics, which had in fact lost their independence.²¹¹ The American legal scholar Jeffrey Kahn described the USSR as "a federal facade that barely masked the most centralized state in modern history."²¹² In 1990, two Armenian scholars, Karapetyan and Khachatryan, noted: "If nowadays someone tries to speak of the development, the expansion of sovereignty, of the Soviet republics, then it transforms into a game of words because in reality [Soviet] republics never enjoyed sovereignty."²¹³ Thus, the Western world did not believe in the sovereignty of the Soviet republics. This, in particular, may have contributed to the fact that, despite their membership of the UN, the Ukrainian and Belarusian Republics could hardly be recognised as states capable of exercising self-determination in sense of sovereign equality of those republics specifically, rather than of the Soviet Union. Nevertheless, as Chapter 4 will show, it was precisely to the republics that the principle of *uti possidetis* was ultimately applied, thereby guaranteeing their independence.

The internal vector can be viewed through several lenses, which are illustrative rather than exhaustive. First, Lenin's principle of democratic centralism ensured that all important political decisions were taken in Moscow by the Central Committee of the Communist Party and subsequently implemented through the party apparatuses of the respective republics.²¹⁴ Proximity to the centre of Moscow was a decisive factor in political influence as the nominal legislative bodies of the union republics effectively served as implementers of decisions taken in advance.²¹⁵ Second, personnel policy in the union republics reflected the facade of self-

²⁰⁹ Mälksoo, *Imperial Continuity* (n 1) 145.

²¹⁰ Mälksoo, *Imperial Continuity* (n 1) 145.

²¹¹ Henn-Jüri Uibopuu, *Die Völkerrechtssubjektivität der Unionsrepubliken der UdSSR* (Springer-Verlag 1975) 304–05, cited in Mälksoo, *Imperial Continuity* (n 1) 145.

²¹² Jeffrey Kahn, *Federalism, Democratization, and the Rule of Law in Russia* (OUP 2002) 1, cited in Mälksoo, *Imperial Continuity* (n 1) 185.

²¹³ LM Karapetyan and GM Khachatryan, 'Suverenitet narodov v mnogonatsional'nom gosudarstve' (1990) SGP No 11, 3, 5, cited in Mälksoo, *Imperial Continuity* (n 1) 185.

²¹⁴ William Partlett and Herbert Küpper, *The Post-Soviet as Post-Colonial: A New Paradigm for Understanding Constitutional Dynamics in the Former Soviet Empire* (Edward Elgar 2022) 21.

²¹⁵ Partlett and Küpper (n 214) 21.

governance by titular nations. Formally, senior posts were held by representatives of the titular nationality, however, as Küpper documents, Moscow carefully orchestrated the ethnic balance as immediately below the titular leader there was usually an ethnic Russian (or, in non-Slavic entities, an ethnic Belarusian or Ukrainian), followed again by a representative of the titular nationality, and so on.²¹⁶ The cumulative effect of this ‘special colonial cadre politics’ was the overall dominance of ethnic Russians throughout the Soviet apparatus.²¹⁷ This system made national representation visible, but deprived it of the substantial meaning. Third, the right to secession was stripped of its procedural substance as secession from Soviet Russia was *de facto* impossible.²¹⁸ In general, when the USSR passed a law in April 1990 designed to put this right into practice, the mechanism introduced proved so cumbersome and unworkable that none of the union republics made use of it, instead, when declaring independence in 1991, the republics bypassed the law and referred directly to Article 72.²¹⁹

The combined effect of these mechanisms gave rise to what Beissinger described as a state that was “federal in form, but unitary in substance”, in which “the Soviet Union's internal organization cloaked control in the language of self-determination and utilised norms of self-determination and sovereignty to blur the line between domination and consent.”²²⁰ In this sense, constitutions were not legal constraints on power, but instruments through which the appearance of self-determination was constructed. Furthermore, the enshrinement of voluntary union in the constitutions of the USSR ignored the fact that a significant portion of the territories had been annexed by force, as discussed in Chapter 2.

3.3 The suppression of peoples through cultural and demographic mechanisms

The starting point of analysis in this Chapter is Stalin’s own definition of a nation, *i.e.* a common language, territory, economic life and culture, that is, precisely those characteristics that distinguish a people as a subject.²²¹ If the Soviet authorities systematically destroyed these characteristics among the peoples in question, then the claim on “presumption of exhausted self-determination” does not provide much substance, regardless of whether these peoples were recognised as holders of rights in Soviet doctrine. Ironically, Stalin himself noted that “the right of self-determination means that only the nation itself has the right to determine its destiny, that

²¹⁶ Partlett and Küpper (n 215) 20.

²¹⁷ Partlett and Küpper (n 215) 20.

²¹⁸ Mälksoo, 'Soviet Approach' (n 1) 212.

²¹⁹ Socher (n 1) 97.

²²⁰ Mark R Beissinger, 'Self-Determination as a Technology of Imperialism: The Soviet and Russian Experiences' (2015) 14(5) *Ethnopolitics* 479, 481.

²²¹ Stalin (n 183) 7.

no one has the right forcibly to interfere in the life of the nation, to destroy its schools and other institutions, to violate its habits and customs, to repress its language, or curtail its rights.”.²²²

This work does not set out to resolve the debate as to whether the non-Russian peoples of the USSR were holders of the right to self-determination under general international law during the relevant period. This question remains the subject of doctrinal disputes. The subject of this chapter is narrower, namely, to assess the validity of the USSR’s own claim that the right had already been realised within its borders. Whilst the centralised nature of the USSR’s constitutional system was examined in section 3.2, this section focuses more on the policies of subjugation that the Union applied within its territories, particularly towards non-Russian populations. The topic of Soviet repression is not new and has generally been well researched in the literature; therefore, this work highlights only its main manifestations, which, in the author’s view, are most relevant in the context of self-determination.²²³ In particular, this primarily concerns cultural and linguistic repression that erodes the identity of a nation as such; secondly, it concerns demographic manipulation and the mass destruction of nations, which has driven them from their historical territories and called into question their very ability to survive and reproduce.

3.3.1 *Korenisatsiia* and Great Retreat

Soviet national cultural policy went through different contrasting phases, with 1932-1933 being a key turning point. The first phase, known as ‘*korenisantsiia*’, introduced in 1923, constituted a large-scale programme to promote the development of non-Russian languages and strengthen indigenous cultural institutions. According to Terry Martin, the aim of ‘*korenisantsiia*’ was to make Soviet power appear “native” (*rodnaia*), “intimate” (*blizkaia*), “popular” (*narodnaia*) and “comprehensible” (*poniatnaia*) to the non-Russian-speaking population.²²⁴ In particular, the Soviet Union promoted national languages by designating them as the official languages of the republics, even pushing Russians living in those republics to learn them.²²⁵ By 1932 in RSFSR, a network comprising more than “290 national raiony, 7,000 national village soviets and well over 10,000 national collective farms”.²²⁶ However, this phase did not last long, by 1928, the

²²² Stalin (n 183) 18.

²²³ See Martin (n 106).

²²⁴ Martin (n 106) 12.

²²⁵ Terry Martin, 'The Russification of the RSFSR' (1998) 39 *Cahiers du Monde russe* 96, 100.

²²⁶ Martin, 'Russification' (n 225) 104.

intelligentsia, in particular representatives of the Ukrainian Academy of Sciences, were bearing the brunt of the repressions.²²⁷

The most significant turning point came in 1932, when the Soviet authorities blamed the failure of the grain requisition campaign on the policy of Ukrainisation and abolished it within the RSFSR, directly linking the famine in Ukraine and the Kuban to the dismantling of the national and cultural policy.²²⁸ In the constituent republics, the formal system of school education based on official language status was nominally maintained, whilst in industry, the party apparatus, and higher technical and legal education, Russian had established itself as the dominant language.²²⁹ A decree of the Politburo dated 13 March 1938 made Russian a compulsory subject in all non-Russian schools across the Union, whilst a decree of December 1937 abolished schools and cultural institutions of 'diaspora' nationalities in the RSFSR.²³⁰ William Partlett and Herbert Küpper document the administrative practices that restricted access for indigenous peoples, particularly the Baltic peoples, to university education in politically and economically significant disciplines right up until the 1980s.²³¹ What began in the early 1920s as an experiment in cultural and national pluralism had, by the late 1930s, become an architecture of subordinate coexistence.

3.3.2 Targeting Cultural Characteristics of a Nation

The most direct blow to the defining characteristics of a nation was the systematic persecution of the national intelligentsia. If a nation is characterised by a shared culture, then the writers, academics, teachers, clergy and editors who create and perpetuate that culture are precisely the people whose elimination renders the very concept meaningless. Soviet policy in the late 1920s and 1930s systematically targeted these social groups according to a recognisable pattern that was repeated from Kharkiv to Minsk and Almaty. In the Ukrainian SSR, repression manifested itself, in particular, in the show trial of 1929–1930, in which forty-five representatives of the Ukrainian academic and ecclesiastical elite, including Serhii Yefremov, Vice-President of the Ukrainian Academy of Science, stood trial on trumped-up charges of membership of the 'Union for the Liberation of Ukraine'.²³² This process marked the beginning of a decade during which

²²⁷ MM Koropatnyk, 'Polityka "korenizatsii" 1920–1930-kh rokiv v Ukraini ta okremykh rehionakh Rosii: triumf i trahediia ukrainskoho vidrodzhennia' [The Policy of "Korenizatsiia" of the 1920s–1930s in Ukraine and Certain Regions of Russia: The Triumph and Tragedy of the Ukrainian Renaissance] (2020) 5 *Siverians'kyi litopys* 75, 87.

²²⁸ Martin, 'Russification' (n 225) 105.

²²⁹ Peter A Blitstein, 'Nation-Building or Russification? Obligatory Russian Instruction in the Soviet Non-Russian School, 1938–1953' in Ronald Grigor Suny and Terry Martin (eds), *A State of Nations: Empire and Nation-Making in the Age of Lenin and Stalin* (OUP 2001) 253, 253–254.

²³⁰ Blitstein (n 229) 253–254; Martin, 'Russification' (n 225) 110.

²³¹ Partlett and Küpper (n 215) 199.

²³² Danylo Kravets', 'Protsees Spilky vyzzvolennia Ukrainy (SVU) v USRR u zakhidnoukrainskii hromadsko-politychnii dumtsi' [The Trial of the Union for the Liberation of Ukraine (ULU) in the Ukrainian SSR in Western

a generation of Ukrainian writers, playwrights and scholars from the era of *korenisatsiia*, including Mykola Khvylovyi, Mykola Kulish, Les Kurbas and Valerian Pidmohyl'ny, was wiped out through suicide, executions and imprisonment.²³³ The climax came with the executions at Sandarmokh in 1937, where, during a single five-day operation, the NKVD executed over 1,100 prisoners, including a significant number of members of the Ukrainian intelligentsia.²³⁴ In Ukrainian academia, this group of artists who were killed has been given the name 'The Executed Renaissance'.¹⁰

The systematic destruction of the Belarusian intelligentsia began in late 1929, when its leaders were accused of organising a 'Belarusian national-democratic movement' allegedly aimed at Belarus's secession from the USSR, resulting in the elimination of a significant portion of the intelligentsia.²³⁵ In 1930, the crackdown mainly affected the older generation, whose ideology had taken shape before the revolution, whilst in 1933 the repression was directed primarily against Belarusians who were graduates of Soviet educational institutions.²³⁶ The culmination of this persecution was the 'Night of the Executed Poets' on the night of 29–30 October 1937, when over 100 members of the national elite, including the poet Michaś Čarot and other prominent artists, were executed at the NKVD's internal prison in Minsk.²³⁷ In Kazakhstan, the persecution of the national intelligentsia began in 1929–1931 with the arrests of leading figures in the Alash movement; by 1931 alone, 10,396 people, predominantly from the ranks of the intelligentsia, had been arrested on charges of belonging to an 'enemy group'.²³⁸ According to some estimates, 66,000 members of the Kazakh intelligentsia were subjected to repression in 1937–1938.²³⁹ The first wave of deportations from Lithuania in 1941 "mostly targeted families of the cultural, economic, and political elite: teachers, intellectuals, public servants, political

Ukrainian Social and Political Thought] (2012–2013) 13–14 Naukovi zoshyty istorichnoho fakultetu Lvivskoho universytetu 466.

²³³ Haleta (n 110) 60.

²³⁴ '1937 — pochatok naimasovishykh rozstriliv u Sandarmosi' [1937 — The Beginning of the Largest Mass Executions at Sandarmokh] (*Ukrainskyi instytut natsionalnoi pam'iaty*, 27 October) <<https://uinp.gov.ua/istorychnyy-kalendar/zhovten/27/1937-pochatok-naymasovishykh-rozstriliv-u-sandarmosi>> accessed 29 April 2026.

²³⁵ Alexandra Goujon, 'Kurapaty (1937–1941): NKVD Mass Killings in Soviet Belarus' (*Sciences Po Mass Violence and Resistance Research Network*, 27 March 2008) <<https://www.sciencespo.fr/mass-violence-war-massacre-resistance/fr/document/kurapaty-1937-1941-nkvd-mass-killings-soviet-belarus.html>> accessed 29 April 2026.

²³⁶ Goujon (n 235).

²³⁷ «Rasstrelivali sluzhachykh, rektarav, rabotnikov saŭhasau». Nia tolki litaratary. Khto jashche staŭ akhviarai "chornai nochi" ["They Shot Officials, Rectors, State Farm Workers." Not Only Writers: Who Else Became a Victim of the "Black Night"] (*Radio Svaboda*, 29 October 2025) <<https://www.svaboda.org/a/33575532.html>> accessed 29 April 2026.

²³⁸ Zhamiga T Tanatarova, 'Repressions of 1937–1938 in Kazakhstan and their Consequences' (2015) 2(1) *International Journal of Humanities Social Sciences and Education* 100, 103.

²³⁹ Tanatarova (n 238) 104.

actors, and former military officers”.²⁴⁰ The Baltic middle class was deported to Siberia with the aim of “break the Baltic peoples’ intellectual backbone”.²⁴¹ The recurrence of this pattern across vastly different national contexts constitutes the analytical core of the argument, in each case, the operation targeted precisely the demographic group that produced the ‘common culture’ which Stalin’s definition treats as constitutive. Whereas for some nations this has had almost catastrophic consequences; for example, modern-day Belarus is facing a significant crisis of national identity, with a large proportion of the population unable to speak their own language

3.3.3 Demographic Deportations and Physical Extermination of Nations

In addition to cultural annihilation, Soviet policy was also aimed at breaking nations not only culturally but also physically, notably through mass deportations and physical extermination. As Shearer noted as early as 1934 “regime’s leaders were beginning to turn their attention from class enemies and social marginals to ethnic minorities”.²⁴² Ethnic deportations began in the mid-1930s, the operations carried out by the Main Directorate of State Security in 1935–1936 affected hundreds of thousands of Finns, Poles, Germans, Koreans and Ukrainians in border areas, on suspicion of their loyalty to foreign states.²⁴³ The series of ‘national operations’ launched by the NKVD under this order accounted for almost half of the approximately 680,000 executions carried out between 1937 and 1938.²⁴⁴ During the Second World War, this practice took on a qualitatively new character; in 1943–1944, six Soviet peoples, the Crimean Tatars, Meskhetian Turks, Karachais, Ingush, Chechens and Kalmyks were almost entirely deported.²⁴⁵ Crimean Tatars who had been exiled, usually to Uzbekistan, were forbidden from returning until the collapse of the Soviet Union and the restoration of Ukraine’s independence.²⁴⁶ As Ronald Grigor Suny and Terry Martin note, the decree of November 1948 made nationality itself a ground for indefinite exile, classifying all deported peoples as ‘permanently exiled’.²⁴⁷ The Baltic republics faced some of the greatest pressure in relative terms due to their already small populations; according to the 1989 Soviet census, Russians, Ukrainians and Belarusians

²⁴⁰ Nerija Putinaite, 'Suffering, Death, and Homeland in the Memoirs of Lithuanian Deportees' in Samira Saramo and Ulla Savolainen (eds), *The Legacies of Soviet Repression and Displacement: The Multiple and Mobile Lives of Memories* (Routledge 2023) 135.

²⁴¹ Partlett and Küpper (n 215) 199

²⁴² David R Shearer, *Policing Stalin's Socialism: Repression and Social Order in the Soviet Union, 1924–1953* (Yale UP 2009) 215.

²⁴³ Shearer (n 242) 216–218.

²⁴⁴ Ronald Grigor Suny and Terry Martin (eds), *A State of Nations: Empire and Nation-Making in the Age of Lenin and Stalin* (OUP 2001). 14

²⁴⁵ Suny and Martin (n 244) 14–15.

²⁴⁶ Aurélie Campana, 'Sürgün: The Crimean Tatars' Deportation and Exile' (*Sciences Po Mass Violence and Resistance Research Network*, 16 June 2008) <<https://www.sciencespo.fr/mass-violence-war-massacre-resistance/fr/document/suerguen-crimean-tatars-deportation-and-exile.html>> accessed 29 April 2026.

²⁴⁷ Suny and Martin (n 244) 14–15

accounted for over a third of the population of Estonia and two-fifths of Latvia's, whilst Latvians made up only 52% whilst Estonians made up 61.5% of the population of their respective republics.²⁴⁸

In the context of demographic suppression, the Holodomor, that is, the man-made famine in Ukraine of 1932–1933, deserves special attention, as its national focus is evident from the Soviet legislative acts themselves. The 'blacklist' system, introduced in November 1932, covered collective farms in 82 districts of Ukraine with a population of around 5 million people, and the Politburo's decision of 15 November 1932 excluded peasants from the new passport system, whilst the directive of 22 January 1933 directly prohibited the mass exodus of peasants from the Ukrainian SSR and Kuban to other regions of the USSR.²⁴⁹ Taken together, these measures created a legal framework in which death by starvation was not a side effect of the failure of agricultural policy, but its intended outcome, limited geographically to the Ukrainian population. In this regard, Raphael Lemkin's interpretation is particularly telling; in his 1953 report, he characterised Soviet policy in Ukraine as a "classic example of Soviet genocide", emphasising that the famine was merely one element of a broader process of destroying the Ukrainian nation, alongside the elimination of the intelligentsia, the undermining of church life and the destruction of the peasantry as the bearer of national identity.²⁵⁰

Consequently, the USSR declared that the right of peoples to self-determination had been fully realised within its borders, justifying this claim with a doctrinal definition of a nation that regarded a common language, territory, economic life and shared culture as its defining characteristics. However, by the end of the 1930s, the Soviet authorities had dismantled the institutional foundations of the non-Russian linguistic and educational sphere; physically destroyed the national intelligentsia that had championed the project of cultural self-determination during the decades of 'indigenisation'; deported entire peoples on the basis of ethnic identity, abolishing the relevant administrative units; carried out demographic transformations in the Baltic republics that deprived the titular nations of their majority status in their own republics; and inflicted a famine upon Ukraine. Thus, those holding the right to self-determination were deprived of the very possibility of existence as identifiable

²⁴⁸ Partlett and Küpper (n 215) 199.

²⁴⁹ Politburo TsK VKP(b), Resolution of 14 December 1932; Politburo TsK VKP(b), Resolution of 15 November 1932; TsK VKP(b) and SNK SSSR, Directive 'Pro nedopushchennia masovoho vyizdu selian' [On the Prevention of the Mass Exodus of Peasants], 22 January 1933, cited in Myroslava Antonovych, 'Legal Accountability for the Holodomor-Genocide of 1932–1933 (Great Famine) in Ukraine' (2015) 1 Kyiv-Mohyla Law and Politics Journal 159, 161–62.

²⁵⁰ Raphael Lemkin, 'Soviet Genocide in Ukraine' in Roman Serbyn (ed), *Soviet Genocide in Ukraine* (Marko Melnyk Publishing House 2020) 53.

communities and Soviet internal self-determination was operated through processes that destroy the very subject to whom it belongs.

3.4 Conclusions for Chapter III

This section has demonstrated that, at the third level of its architecture, the Soviet state combined formal recognition of the right of peoples to self-determination with its structural denial. The following conclusions can be drawn from this. First, the Soviet doctrine created a legal construct which this study defines as the presumption of exhausted self-determination; that is, the recognition of non-Russian peoples as subjects of law was coupled with a simultaneous assertion that this right had already been realised through the federal structure and the socialist project. This construct shifted the burden of proof from the Soviet state to the peoples themselves, who lacked any institutional basis for such a demonstration. Second, the constitutional framework of ethno-federalism on which the presumption was based was federal in form but unitary in substance. Democratic centralism, personnel policy, the absence of a procedural mechanism for secession prior to 1990, and the centralisation of decision-making in Moscow deprived it of any practical significance. Third, the claim that this right has been realised is refuted both by a façade of federalism and by systematic measures aimed at undermining nations as such, in accordance with Stalin's definition of a nation. Soviet policy from 1932 onwards systematically destroyed these pillars among non-Russian peoples through the dismantling of national schools, the physical extermination of the intelligentsia, demographic deportations and the Holodomor as the targeted extermination of the Ukrainian peasantry. If the Soviet doctrine proclaimed the realisation of rights within the USSR, then the destruction of the very characteristics upon which this doctrine itself based its definition of a nation refutes the claim of realisation according to the standards of the Soviet system itself.

The three levels of architecture were interlinked; in particular, the external codification described in Chapter I provided a shield against external pressure regarding internal practices; the inversion in the sphere of domination described in Chapter II eliminated alternative examples of self-determination along the Soviet border that might have called into question the claim of its realisation within the USSR. Whether this architecture has persisted in the Russian Federation following the collapse of the Soviet Union is the subject of Chapter IV.

IV. POST-SOVIET CONTINUITY

The collapse of the USSR in December 1991 transformed the international legal order, enshrining the territorial integrity of the former Soviet republics through the principle of *uti possidetis*, as reflected in the Belovezha Accords, the Alma-Ata Declaration and the CIS Charter.²⁵¹ This section proceeds from the premise that the three-tier legal architecture of the Soviet approach to self-determination did not disappear entirely after 1991, but rather adapted certain features within the practice of the Russian Federation. Accordingly, this chapter analyses: (4.1) the institutional reproduction of this architecture through *uti possidetis*; (4.2) its application in internal conflicts (Chechnya); (4.3) its external instrumentalisation (Georgia, Ukraine, Kosovo). Given that this section focuses on the Soviet period, it does not claim to be exhaustive and draws on existing research, concentrating on structural continuity rather than empirical completeness.

4.1 Uti Possidetis and Soviet Ethnofederalism

The collapse of the Soviet Union was unique in that it applied the principle of *uti possidetis* outside a colonial context to a federation built on the Soviet ethno-federal architecture analysed in section 3.2. The Belavezha Accords, the Almaty Declaration and the CIS Charter explicitly recognised the territorial integrity and inviolability of the borders of the former Soviet republics within the CIS, thereby transforming the administrative borders of the fifteen Soviet republics into the international borders of independent states.²⁵² As Socher points out, "the recognition of the former union republics' administrative boundaries as the boundaries of the newly established independent states in these documents strongly supports the argument that the dissolution process of the Soviet Union followed the principle of *uti possidetis*".²⁵³ It is interesting to note that the *uti possidetis* principle was applied exclusively to the highest level of the Soviet hierarchy, namely the Union Republics. It was these that Soviet doctrine characterised as independent, whilst Western scholars maintained that this was merely a façade.²⁵⁴ According to Fisch "in European *uti possidetis* only the member states of the first

²⁵¹ Agreement on the Creation of the Commonwealth of Independent States (Belavezha Accords), 8 December 1991; Alma-Ata Declaration, 21 December 1991; Charter of the Commonwealth of Independent States, 22 January 1993; CIS, Declaration on the Observance of Sovereignty, Territorial Integrity and Inviolability of Borders of Member States, 15 April 1994. See generally Socher (n 1) 95.

²⁵² Socher (n 1) 95.

²⁵³ Socher (n 1) 95.

²⁵⁴ See Chapter 3.2

order had a right of secession. If conflicts arose within one of the member states, then the subunits of the member states definitely had no right of secession".²⁵⁵

Autonomous republics, autonomous regions and autonomous districts that is, the lower levels of the ethno-federal structure were excluded from the right to external self-determination. This created a situation in which the right to statehood depended not on the will of the people or historical justice, but on the vagaries of Soviet administrative mapping, transforming the internal borders of a totalitarian empire into the inviolable boundaries of the democratic world.²⁵⁶ This has both practical and potential hypothetical consequences. In terms of practical consequences, many conflict zones in the post-Soviet space namely Tatarstan, Chechnya, Abkhazia, South Ossetia, Nagorno-Karabakh, Transnistria and Crimea, all had some form of autonomous status within the Soviet ethno-federal architecture. None of these territories, following the establishment of *uti possidetis*, had a formal right to external self-determination. As Fisch points out, "the disadvantages are greatest if the criteria are combined because in that case consistency is lacking. A formal or a substantive criterion is applied as needed".²⁵⁷ Hypothetical examples include the scenario where, had the Karelian-Finnish Soviet Socialist Republic not been reorganised into an Autonomous Republic in 1956, we might have seen an independent Karelian state, or its inclusion to Finland, from which part of this territory had previously been taken.²⁵⁸ Similarly, had the Transcaucasian Socialist Federative Soviet Republic survived to the present day, claims to self-determination would have been in conflict between Georgians, Armenians and Azerbaijanis, and potentially other ethnic groups. The post-Soviet legal order inherited the inconsistency built into the Soviet architecture itself; the formal hierarchy of 'peoples' laid the foundations for conflicts for generations to come.

4.2 Chechen War

The Chechen case became one of the first real tests of the post-Soviet doctrine of self-determination. As an autonomous republic within the RSFSR, it had no formal right to external self-determination under the principle of *uti possidetis*. At the same time, in practical terms, the Chechens had no fewer, and in some respects even stronger, grounds for independence than some of the union republics. As Fish notes, "regarded substantively, [Chechnya] had, especially according to the principle of self-determination, not less but rather to a much larger degree a right to political independence than, for instance, Belarus, as the objective and subjective

²⁵⁵ Fisch (n 2) 231.

²⁵⁶ Fisch (n 2) 230–231.

²⁵⁷ Fisch (n 2) 232.

²⁵⁸ USSR Law of 16 July 1956 'On the Transformation of the Karelian-Finnish SSR into the Karelian ASSR'

differences between Russians and Chechens are much greater than between Russians and Belarusians".²⁵⁹ Even some Russian lawyers acknowledged this paradox in the early 1990s, but such views soon disappeared.²⁶⁰ Chechen independence did not receive international support, although some scholars argued that it constituted a case of remedial secession given the scale of human rights violations.²⁶¹

In conclusion, the main finding of this section is that Russia established a clear bottom line from the outset regarding self-determination within its borders, namely the impossibility of secession by its autonomous regions and federal districts. As with the Soviet approach, the external stance differed, with the Russian Federation demonstrating support for 'remedial secession' in certain cases. However, it is worth noting that Russian practice has been rather inconsistent regarding support for territorial changes in other countries, which will be analysed in the next subsection, where alignment with Moscow's strategic interests was key. It appears that the structural analogy with the Maisky's 1941 position regarding the "circumstances, needs and historical peculiarities of particular countries" remains valid for contemporary Russia as well.²⁶²

4.3 The cases of Kosovo, Georgia and Ukraine

Since 2008, Russia's approach to self-determination has undergone a marked doctrinal shift: from a consistent prioritisation of territorial integrity and the rejection of unilateral secession to selective references to remedial secession. At the same time, this shift does not constitute a coherent legal position. The Russian approach remains instrumental and contextual, as evidenced by the application of double standards. In this section, the cases of Kosovo, Georgia in 2008 and Crimea in 2014 are examined as stages in this evolution — from the rejection of secession to its selective use to legitimise border changes.

4.3.1. From Chechen Wars to Kosovo Opinion

Since its inception, the Russian Federation has advocated the principle that territorial integrity takes precedence over the right to self-determination. Russia's main concerns have been the internal secessionist movements within the country, towards which it has adopted a firm

²⁵⁹ Fisch (n 2) 231.

²⁶⁰ Socher (n 1) 185 Socher (n X) 185, citing IL Petrukhin, 'Pravovaia otsenka voennogo konflikta v Chechne' in NA Kravchenko (ed), *Pravovye aspekty chechenskogo krizisa: materialy seminara* (Memorial 1995) 8, 11; VA Kikot, 'Problemy samoopredeleniia. Pravo i prikaz' ibid 40, 44.

²⁶¹ Socher (n 1) fn 170.

²⁶² Socher (n 1) 24-25.

stance²⁶³ In particular, in 1992 and 1995, the Russian Constitutional Court issued two rulings concerning Tatarstan and Chechnya, in which, citing Article 7 of the FRD, it stated that they had no right to secession.²⁶⁴ In general, Russia has maintained the 'presumption of exhausted self-determination', arguing that within Russia all nationalities have exercised their right to self-determination through the country's federal structure.²⁶⁵ As in the Soviet Union, this practice is little more than a façade, since the rights of national minorities and indigenous peoples are systematically violated, and their movements for self-determination are suppressed.²⁶⁶

It appears that the recognition of Kosovo by Western states in 2008 marked a turning point in Russia's approach to secession. In particular, Western states sought to present Kosovo's independence as a *sui generis* case so as not to set a precedent for secession; nevertheless, Russia rejected this approach.²⁶⁷ Nevertheless, it seems that most have not accepted this position, including the ICJ.²⁶⁸ In a written statement to the International Court of Justice dated 16 April 2009 in the case concerning Kosovo's declaration of independence, Russia set out a clear and restrictive position on remedial secession. The Russian Federation argued that "the primary purpose of the '[savings] clause' is to serve as a guarantee of territorial integrity of States".²⁶⁹ Although Russia acknowledged that this provision "may be construed as authorizing secession under certain conditions", it insisted that such conditions "should be limited to truly extreme circumstances, such as an outright armed attack by the parent State, threatening the very existence of the people in question. Otherwise, all efforts should be taken in order to settle the tension between the parent State and the ethnic community concerned within the framework of the existing State".²⁷⁰ It therefore appears that, whilst Russia has adopted a restrictive stance, it has not ruled out the possibility of 'remedial secession', thereby opening the door to its use within its own doctrine.

Almost immediately after Kosovo was recognised by Western states, the Russian Federation carried out an act of aggression against Georgia and formally recognised Abkhazia and South

²⁶³ Lundstedt (n 14) 198.

²⁶⁴ Christakis (n 59) 86-87.

²⁶⁵ Lundstedt (n 14) 197.

²⁶⁶ International Federation for Human Rights (FIDH), 'Russia: Inclusion of Indigenous Peoples' and National Minorities' Rights Organisations in the List of "Extremist Organisations" (2 August 2024) <<https://www.fidh.org/en/region/europe-central-asia/russia/russia-inclusion-of-indigenous-peoples-and-national-minorities-rights>> accessed 29 April 2026.

²⁶⁷ Lundstedt (n 14) 209.

²⁶⁸ Stefan Oeter, 'The Kosovo Case – An Unfortunate Precedent' in (Max Planck Institute 2015) 71–72. 71-72;

²⁶⁹ Written Statement of the Russian Federation, *Accordance with International Law of the Unilateral Declaration of Independence by the Provisional Institutions of Self-Government of Kosovo* (Request for Advisory Opinion) (16 April 2009) para 88.

²⁷⁰ Written Statement of the Russian Federation, *Kosovo* (n 269) para 88.

Ossetia on 26 August 2008.²⁷¹ Even though UNSC Resolution 1808 of 15 April 2008, less than four months before the war, reaffirmed its commitment to Georgia's territorial integrity.²⁷² Russia's position changed only after its own military operation, which is generally regarded as an unlawful use of force against Georgia. Nevertheless, Russia appears to be consistent with the position it set out in its opinion on Kosovo, namely that remedial secession is possible but only in very limited circumstances. President Dmitry Medvedev's argument at the time, though clearly unfounded, was that "Saakashvili [then president of Georgia] opted for genocide to accomplish his political objectives".²⁷³ As Socher notes, when this argument failed to stand up to scrutiny, Russia shifted its focus to paragraph 5 of Principle V of the UN Charter. In September 2009, Russia's Permanent Representative to the UN, Churkin, explicitly clarified the distinction: unlike in Kosovo, the populations of Abkhazia and South Ossetia were 'threatened' by Georgia's actions in 2008.²⁷⁴

Drawing parallels with the previous sections, it is clear that Russia was aware of its own sphere of influence, as was the case with Hungary and Czechoslovakia. One of Russia's arguments was Georgia's desire to join NATO, to which Dmitry Rogozin, then Russia's envoy to NATO, responded in early 2008, "as soon as Georgia gets some kind of prospect from Washington of NATO membership, the next day the process of real secession of these territories [Abkhazia and South Osetia] from Georgia will begin".²⁷⁵

4.3.2 Crimea and parts of Donetsk and Luhansk Oblasts

Russia's approach to the right of self-determination in Crimea and the Donbas regions represents a fundamental shift from its historical defence of territorial integrity to a strategic interpretation of international law that favours secession under specific conditions. In general, the issue of Russia's invocation of self-determination in relation to Crimea seems to have been well studied.²⁷⁶ The aim of this section is rather to draw certain parallels between the practices employed by the Soviet Union, which have been analysed in previous sections, and the Crimean case. The first argument concerns Russia's interpretation of *pacta sunt servanda*. In particular, Russia legally enshrined the recognition of Ukraine's 1991 borders in a series of international

²⁷¹ Thomas de Waal, 'Status Stalemate in the Caucasus' (*Carnegie Endowment for International Peace*, 23 August 2018) <<https://w.carnegieendowment.org/ru/europe/strategic-europe/2018/09/status-stalemate-in-the-caucasus/>> accessed 29 April 2026.

²⁷² SC Res 1808 (15 April 2008) UN Doc S/RES/1808, para 1, cited in Socher (n 1) 138.

²⁷³ Statement by President Dmitry Medvedev (26 August 2008) <<http://en.kremlin.ru/events/president/transcripts/1222>> accessed 29 April 2026.

²⁷⁴ Lundstedt (n 14), citing speech by Churkin at UN Security Council, 9 September 2009.

²⁷⁵ Russia Warns Against Georgia NATO Membership', *Reuters*, 11 March 2008, cited in Lundstedt (n 14) 210.

²⁷⁶ Socher (n 1), Lundstedt (n 14), Christakis (n 59).

agreements. Notably, this was confirmed in the Budapest Memorandum (1994) and the Treaty on the State Border (2003), in which the Russian Federation recognised the territorial integrity of the Ukrainian state. The 2014 invasion constituted a grave breach of these agreements. Just as in the cases of the Ukrainian People's Republic, the Baltic states or Georgia, the treaties were more of a temporary tactical solution.

Second, the use of the 'will of the people' as the key justification for self-determination and annexation. Some authors note that in Crimea, Russia did not refer directly to remedial secession..²⁷⁷ Others say that, in Russia's view, this was the 'extreme instance' it referred to in its comments on the Kosovo Opinion, as the Ukrainian revolution appeared to be hindering Crimea's self-determination.²⁷⁸ Nevertheless, it can be said with certainty that Russia has reduced its legal justification to the very fact that the referendum was held on 16 March 2014. As Borgen demonstrates, in this framework "the process of the referendum becomes a substitute for the substantive law of self-determination."²⁷⁹ The structural parallels are visible, the 1940 Baltic 'elections' and the 2014 Crimean referendum follow the same pattern, with a military presence creating the 'conditions' for an expression of will, which is then presented as a free act of self-determination. Nevertheless, a referendum held 'in front of guns and tanks' has no legal consequences under international law; Russian practice exploits the form of the referendum, stripping it of its substantive content.²⁸⁰ Just as in Soviet times, Russian scholars began to find justification for such a doctrine; for instance, Tolstykh proposed the concept of the 'general will' as the basis for self-determination, arguing that the Maidan had broken the social contract and excluded the population of Crimea from political discourse.²⁸¹ Kagramanov, having explicitly included the Crimean case in his draft declaration as an example of lawful remedial secession.²⁸²

Third, the doctrinal justifications put forward for these actions reflect the Soviet tradition of instrumental legal thinking. Mälksoo documents that in 2014, Velyaminov defended the annexation by invoking the *clausula rebus sic stantibus*: the 1994 Budapest Memorandum was concluded under circumstances which, in his view, "no longer existed in Ukraine in 2014."²⁸³

²⁷⁷ Lundstedt (n 14), 215, Christakis (n 59) 88,

²⁷⁸ Socher (n 1) 174.

²⁷⁹ Christopher Borgen, 'Law, Rhetoric, Strategy: Russia and Self-Determination Before and After Crimea' (2015) 91 International Law Studies 216, 248, cited in Lundstedt (n 14) 216

²⁸⁰ Socher, (n 1) 163-164

²⁸¹ Vladislav Tolstykh, 'Three Ideas of Self-Determination in International Law and the Reunification of Crimea with Russia' (2015) 75 ZaōRV 119, 134-36.

²⁸² AK Kagramanov, 'K proektu Deklaratsii o prave narodov na samoopredelenie i formakh ego realizatsii' (2022) 2 Moskovskii zhurnal mezhdunarodnogo prava 101, 108.

²⁸³ Mälksoo, *Imperial Continuity* (n 1) 196, citing GM Velyaminov, 'Vossoedinenie Kryma s Rossiei: pravovoi rakurs' (2014) 9 GP 12, 16.

The structural similarity with Lenin's annulment of the Treaty of Brest-Litovsk, analysed in section 2.2.1, is striking: in both cases, a treaty containing a recognition of territorial integrity is unilaterally regarded as null and void as soon as the political circumstances change. Voronin, Kulebyakin and Nikolaev argued in Mälksoo's opinion that "enforcing the right of peoples to self-determination is not aggression"²⁸⁴

Fourth, just as in the cases of Czechoslovakia and Hungary, Russia attempted to invoke the argument of intervention at the request of the affected state. In particular, following the seizure of power in Crimea, the former pro-Russian president Viktor Yanukovich, who had been ousted by the 2014 Revolution of Dignity, and the newly appointed by Russia head of Crimea, Aksyonov, asked Putin to help 'restore calm in Crimea'.²⁸⁵ Nevertheless, according to Article 85(23) of the Ukrainian Constitution, such a right is reserved solely for the Ukrainian Parliament.²⁸⁶ As Socher notes, this argument was not actually utilised.²⁸⁷ Nevertheless, the fact of such a tactic and its similarity to requests from the leaders of the Communist Parties of Hungary and Czechoslovakia remains relevant.

4.3.3 Full-Scale Invasion of Ukraine

With the start of Russia's full-scale invasion of Ukraine on 24 February 2022, the Russian approach to self-determination has arguably taken on its most robust form. The invasion clearly constitutes an illegal use of force and a violation of Article 2(4) of the UN Charter. Russia has put forward various justifications for its invasion; nevertheless, the dominant arguments concern collective self-defence and humanitarian intervention.²⁸⁸ Russia, in particular, strategically exploited the principle of self-determination to justify its intervention. On 21 February 2022, Russia signed treaties "On friendship, cooperation and mutual assistance between the Russian Federation and ..." with the so-called Donetsk and Luhansk People's Republics (DPR/LPR).²⁸⁹

²⁸⁴ Mälksoo, *Imperial Continuity* (n 1) 196–197.

²⁸⁵ Christakis (n 59) 98; Lundstedt (n 14) 216.

²⁸⁶ Constitution of Ukraine, art 85(23).

²⁸⁷ Socher (n 1) 158

²⁸⁸ René Värk, 'Russia's Legal Arguments to Justify its Aggression Against Ukraine' (International Centre for Defence and Security, November 2022) <https://icds.ce/wp-content/uploads/dlm_uploads/2022/11/ICDS_Analysis_Russias_Legal_Arguments_to_Justify_its_Aggression_Against_Ukraine_Rene_Vark_November_2022.pdf> accessed 29 April 2026.

²⁸⁹ Treaty on Friendship, Cooperation and Mutual Assistance between the Russian Federation and the Donetsk People's Republic, 21 February 2022 <<http://publication.pravo.gov.ru/Document/View/0001202202280001>> accessed 29 April 2026; Treaty on Friendship, Cooperation and Mutual Assistance between the Russian Federation and the Luhansk People's Republic, 21 February 2022 <<http://publication.pravo.gov.ru/Document/View/0001202202280002>> accessed 29 April 2026.

In line with the practice described earlier, the leaders of these so-called republics sought recognition from Russia in order to legitimise their authority, evidently without having the authority to do so.²⁹⁰ In particular, Article 4 of these treaties provided that the states would provide mutual support, including military, should the need arise within the framework of Article 51 of the UN Charter.²⁹¹ The very next day, the Russian Foreign Ministry issued a statement claiming that Ukraine was committing genocide against the population of Donbas, and that their independence was based on the will of these residents, citing the UN Charter and the FRD.²⁹² It is interesting to note that whilst the agreement refers to the populations of Russia and the DNR/LNR as “the peoples of both states”, the Foreign Ministry’s statement refers to them as “residents”. In his statement of 24 February, Putin also does not refer to the residents of the DNR/LNR as a people, whilst at the same time claiming that Ukraine is destroying its own “peoples”.²⁹³ Such rhetoric may not be coincidental, given that, according to objective criteria of peoplehood, there is no distinct “people” of the so-called DNR/LNR, and the territory is predominantly inhabited by ethnic Ukrainians and Russians. Furthermore, the so-called DPR/LPR did not have autonomous status during the Soviet Union, which may have complicated Russia’s justification for its secession prior to 2022.²⁹⁴ The recognition of the DPR/LPR appears to mark a clear return to Russia’s support for ‘remedial secession’ in the sense set out in its comments on the Kosovo AO. That is, only in the most extreme cases, such as alleged genocide. Subsequently, on 23 February, the leaders of the DPR/LPR asked Putin for help in defending themselves against Ukraine.²⁹⁵ The following day, 24 February 2022, Russia launched a full-scale invasion of Ukraine, invoking the right to collective self-defence in conjunction with the DPR and LPR. As Putin himself stated when announcing the so-called special military operation, its aim is to stop the “genocide perpetrated by the Kyiv regime”, alongside the rather vague objectives of “demilitarising and denazifying Ukraine”.²⁹⁶ Clearly,

²⁹⁰ 'Den' vossoedineniia: istoriia vkhozhdeniia novykh regionov v sostav Rossii' [Day of Reunification: The History of the Entry of New Regions into Russia] (*DOSAUF Ural*) <<https://dosaaf-ural.ru/den-vossoedineniya-istoriya-vkhozhdeniya-novykh-regionov-v-sostav-rossii/>> accessed 29 April 2026.

²⁹¹ Treaty on Friendship ... Donetsk (n 289) art 4; Treaty on Friendship ... Luhansk (n 289) art 4.

²⁹² Ministry of Foreign Affairs of the Russian Federation, 'Zaiavlenie MID Rossii o priznanii nezavisimosti Donetskoi i Luganskoi narodnykh respublik' [Statement of the Russian MFA on the Recognition of the Independence of the Donetsk and Luhansk People's Republics] (22 February 2022) <https://www.mid.ru/ru/foreign_policy/vnesnepoliticeskoe-dos-e/problematika-prostranstva-sng/situacia-na-ugo-vostoce-ukrainy/1799883/> accessed 29 April 2026.

²⁹³ Address by President of the Russian Federation (24 February 2022) <<http://kremlin.ru/events/president/news/67843>> accessed 29 April 2026.

²⁹⁴ Lundstedt (n 14) 215

²⁹⁵ 'Glavy DNR i LNR poprosili Putina pomoch' v "otrazhenii agressii" Ukrainy' [Heads of the DPR and LPR Asked Putin to Help "Repel the Aggression" of Ukraine] (*Meduza*, 23 February 2022) <<https://meduza.io/news/2022/02/23/peskov-glavy-dnr-i-lnr-poprosili-putina-pomoch-v-otrazhenii-agressii-ukrainy>> accessed 29 April 2026.

²⁹⁶ Address by President of the Russian Federation (n 293).

these claims are unfounded, as confirmed by reports from the OSCE and the UN Monitoring Mission.²⁹⁷

In autumn 2022, fictitious referendums were held in the Donetsk, Luhansk, Zaporizhzhia and Kherson regions, with up to 97% of participants voting in favour of joining the Russian Federation.²⁹⁸ It is interesting to note that Article 3 of the Federal Constitutional Law of the Russian Federation on the accession of these regions stipulates that their territories form part of the Russian Federation within the same boundaries as at the time of their accession.²⁹⁹ However, a significant portion of these territories remains under Ukrainian control which creates the inverse argument that Ukraine wants to seize part of Russian territory. On 28 September, representatives of these regions appealed to the Russian president to request their incorporation into the Russian Federation, and on 29–30 September, decrees recognising the independence of certain territories and treaties on their accession were signed.³⁰⁰ The Russian side justified these actions by invoking the right to self-determination, citing the provisions of international law and the case law of the International Court of Justice regarding Kosovo.³⁰¹

Ultimately, the annexation of Ukrainian regions by Russia represents the most radical form of the Russian Federation's current, inverted application of the principle of self-determination. Russia actively employs international mechanisms, as well as the ruling on Kosovo, to support its own arguments, even though this ruling is vague and not binding at all. Nevertheless, as in the cases of Czechoslovakia and Hungary, Russia is using its own interpretation of the rules to legitimise its own expansion. It is interesting to note that channels associated with the Russian security services have recently begun to spread across social media, calling for the secession of Narva, a region of Estonia predominantly inhabited by ethnic Russians.³⁰² A similar scenario unfolded in 2014 in the Donetsk and Luhansk regions. It seems that just as the Brezhnev

²⁹⁷ OSCE Special Monitoring Mission to Ukraine <<https://www.osce.org/ukraine-smm/reports>> accessed 29 April 2026. UN Human Rights Monitoring Mission in Ukraine <<https://www.ohchr.org/en/countries/ukraine/our-presence>> accessed 29 April 2026

²⁹⁸ Sergei Mingazov, 'Za vkhozhdenie v Rossiю progolosovali ot 87% do 99% uchastnikov chetyrekh referendumov' [Between 87% and 99% of Participants in Four Referendums Voted to Join Russia] (*Forbes Russia*, 28 September 2022) <<https://www.forbes.ru/society/478269-za-vhozhdenie-v-rossiu-progolosovali-ot-87-do-99-uchastnikov-chetyrekh-referendumov>> accessed 29 April 2026.

²⁹⁹ Federal Constitutional Law No 7-FKZ of 4 October 2022 'On the Admission of the Zaporizhzhia Oblast into the Russian Federation and the Formation of a New Subject of the Russian Federation — the Zaporizhzhia Oblast'; Federal Constitutional Law No 8-FKZ of 4 October 2022 'On the Admission of the Kherson Oblast into the Russian Federation and the Formation of a New Subject of the Russian Federation — the Kherson Oblast'.

³⁰⁰ 'Den' vossoedineniia' (n 290)

³⁰¹ 'Den' vossoedineniia' (n 290)

³⁰² 'V sotssetiakh poiavilis' gruppy s prizyvami k sozdaniyu "Narvskoi narodnoi respubliki" [Social Media Groups Calling for the Creation of a "Narva People's Republic" Have Appeared] (*Meduza*, 21 March 2026) <<https://meduza.io/feature/2026/03/21/v-sotssetyah-poyavilis-gruppy-s-prizyvami-k-sozdaniyu-narvskoy-narodnoy-respubliki>> accessed 29 April 2026.

Doctrine and ‘socialist international law’ emerged, providing for intervention to protect socialism, in the coming decades, we may see a ‘doctrine of protection of the Russian-speaking/Russian population’, which would provide for the possibility of taking action if, in Russia’s view, the Russian population is being oppressed in a particular country.

4.4 Conclusions for Chapter 4

This chapter has shown that the collapse of the Soviet Union did not abolish the fundamental logic of the Soviet approach to self-determination, but rather adapted it to the contemporary framework of the Russian Federation’s practice. The application of the principle of *uti possidetis* to the Soviet ethno-federal structure of self-determination was granted only to a handful of entities at the highest level. In this sense, the post-Soviet legal order inherited not only the borders but also the internal contradictions inherent in the Soviet system, effectively enshrining them in the international order. At the same time, Russia’s approach to internal conflicts, particularly in Chechnya, confirms the preservation of a strict internal restriction on external self-determination within the Russian Federation. Secession within the Russian Federation was regarded as legally impermissible regardless of substantive requirements, reinforcing a position analogous to the Soviet rejection of self-determination on its own territory. This internal ‘red line’ was established at an early stage and has remained largely unchanged. By contrast, Russia’s external practice demonstrates a markedly different approach. In particular, since 2008, the Russian Federation has increasingly employed the rhetoric of justifying secession and the ‘will of the people’ in a selective and instrumental manner. The cases of Georgia and Ukraine illustrate a pattern in which self-determination is applied not as a consistent legal principle, but rather is mobilised to legitimise geopolitical objectives, often in conjunction with the use of force. Taken together, these elements point to the continuity of the Soviet three-tier architecture of self-determination, namely external promotion, regional instrumentalisation and internal denial. In the post-Soviet context, this architecture operates through a combination of formal legal arguments and strategic selectivity, preserving the basic logic of the Soviet approach.

CONCLUSIONS

This study aimed to determine whether the Soviet approach to the right of peoples to self-determination functioned as a single, integrated legal framework, in which external support for the principle and its internal mitigation were not contradictory but rather two interdependent components of a single doctrine. The hypothesis put forward is confirmed as this study argues, the architecture was purposefully constructed on three interrelated levels, namely the external, regional and internal, of which the latter two retained their basic logic in the practice of the Russian Federation after 1991.

In response to the first research question, the first chapter demonstrated that the Soviet Union's involvement in the codification of the principle of self-determination after 1945 contributed to its development, yet simultaneously established limitations that shielded the USSR itself from corresponding obligations. Soviet diplomacy initiated the inclusion of self-determination in the UN Charter, proposed the first draft of the 1960 Declaration, and insisted on the inclusion of Article 1 in both 1966 Covenants. Nevertheless, the geographical criterion enshrined in Resolution 1541 (XV) restricted the principle exclusively to overseas dependent territories, thereby a priori excluding the continental Soviet empire from its scope. The 'safeguard clause' of the 1970 Declaration on Principles further reinforced this restriction through the criteria of race, creed, and colour, which could hardly have been applied to the USSR. Moreover, the USSR was taking a restrictive position on the widening of the application. The result was a norm that was universal in form but selective in application, which was greatly favourable for the Soviet Union.

In addressing the second research question, the second chapter confirmed that the 'reversed' application of self-determination in a regional context constitutes a consistent legal pattern rather than a collection of random deviations. In all five cases of the first phase—namely the UNR, Estonia, Latvia, Lithuania and Georgia—the Soviet state used treaty recognition as a temporary legal cover preceding actual annexation, justifying the incorporation through its own interpretation of the will of the 'working people'. In the second stage, in Hungary and Czechoslovakia, the USSR redefined the very terminology of self-determination as a legal justification for the armed suppression of those peoples who sought to exercise that right. The Brezhnev Doctrine and 'socialist international law' are not a departure from legal thinking, but its logical continuation: class replaced the people as the criterion for the legitimacy of self-determination.

The third research question concerned whether the systematic destruction of the cultural and demographic characteristics of peoples undermines the Soviet claim to ‘realised self-determination’, even by the standards of Soviet doctrine itself. The third chapter provided an affirmative answer. The starting point is Stalin’s 1913 definition of a nation, a common language, territory, economic life and culture, upon which the Soviet doctrine of subjects of self-determination was based. However, by the end of the 1930s, the Soviet state had physically destroyed the national intelligentsia as the bearer of ‘common culture’, dismantled the institutional foundations of non-Russian education, deported entire peoples on ethnic grounds, and organised the Holodomor as the deliberate extermination of the Ukrainian peasantry. Thus, those who had the right to self-determination were deprived of the very possibility of existence as an identifiable community. The claim to the realisation of this right is refuted by the very criteria proclaimed by the Soviet doctrine itself.

In response to the fourth research question, Chapter 4 demonstrated that, at the very least, the regional and domestic practices of this architecture are preserved in the Russian Federation, albeit with adapted content. The application of *uti possidetis* exclusively to the union republics has entrenched the contradictions inherent in Soviet architecture. The Chechen case has confirmed the persistence of a strict internal ban on external self-determination for the constituent entities of the Russian Federation. External practice demonstrates a fundamentally different approach: since 2008, Russia has been using the rhetoric of self-determination in an increasingly selective manner to legitimise its geopolitical goals. The parallel between the ‘elections’ in the Baltic states in 1940 and the Crimean referendum in 2014, between the annulment of the Treaty of Brest-Litovsk and the rejection of the Budapest Memorandum, and between the fabrication of requests by Geró and Aksyonov, these structural analogies testify to the continuity not only of practice but also of legal logic.

In conclusion, it can be noted that throughout its existence, the Soviet Union developed an extensive doctrine that operated on at least three levels and served the strategic interests of the Soviet Union. In particular, it imposed obligations on Western states whilst shielding its own, maintained regional control by using self-determination as a justification, and strengthened internal control through a façade of self-determination.

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