Creating a Strategic Framework for Addressing the Conflict between Sovereignty and Self-Determination: Earned Sovereignty

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Good afternoon Chairman Dana Rohrabacher, Ranking Member Gregory Meeks, and members of the Sub-Committee. It is my honor to testify before you today.

The Committee has noted that with the growth of democratic governance in Europe, questions of national self-determination have become increasingly prevalent. In response, U.S. policy has generally emphasized stability and the status quo of existing borders. The Committee has asked for assistance in examining whether long term peace and stability might be better served in supporting national self-determination.

In my remarks, I will highlight the risks posed by the inherent conflict between status quo sovereignty and national self-determination in Europe and Eurasia. I will then discuss the conflict resolution approach of earned sovereignty as a means for reducing those risks.[1]

In order to understand whether long term peace and stability in Europe and Eurasia might be better served by supporting national self-determination, it is important to understand the complex nature and intractability of conflicts associated with national self-determination.

These conflicts, by their very nature, pull at the strings of the current world order. They are numerous and widespread, including throughout Europe and Eurasia. They can be deadly, durable and destabilizing. There is no agreement among the international community as to how to resolve these conflicts, other than, as the Committee has noted, to emphasize stability and the status quo of existing borders. Despite the economic and political success of the European Union, we may be entering a period of enhanced activity among national self-determination movements. The emerging conflict resolution approach of earned sovereignty provides a path forward to resolving many of these sovereignty-based conflicts.

Numerous and Widespread

National self-determination movements are a global phenomena that perpetually tug at the strings of a world order based on the principles of sovereignty and territorial integrity.[2]

National self-determination movements are numerous and widespread, including throughout Europe and Eurasia. Currently, there are over sixty national self-determination movements seeking independence or increased autonomy.[3] Overall, the states subjected to the pull of self-determination represent a wide range of geographic locations, geopolitical contexts and economic development. In Europe and Eurasia there are currently over 20 active national self-determination movements,[4] with at least 8 potentially poised to seek independence. These conflicts afflict some of America's closest and most important allies such as the United Kingdom, France, Italy and Spain. They also afflict some of America's newest and most vulnerable allies such as Armenia, Georgia and Ukraine.

Despite the near constant reaffirmation of state sovereignty and territorial integrity within the international community, in the last twenty-five years, over three-dozen new states have been created as the result of national self-determination movements. To provide a historical perspective, in 1945 there were only 55 nation states, while today there are 195. Many other national self-determination movements have attained increased autonomy and self-governance and have chosen to remain within their parent state.

Dearly, Durable and Destabilizing

Since 1990, almost half of the world's conflicts have been related to self-determination movements that seek greater autonomy or statehood.[5] Although these conflicts often appear as contained within a particular territory, such crises are intimately connected to regional and global dynamics,[6] and often give rise to the commission of mass human rights violations, population displacement, and terrorism. For instance, nearly one-third of the Designated Foreign Terrorist Organizations identified by the United States Department of State are associated with self-determination movements.[7] At their core, these conflicts are deadly, durable and destabilizing.

The predominate approaches to dealing with national self-determination, which emphasizes stability and the status quo of existing borders, creates a dynamic where parties are encouraged to fight their way to independence. Unaddressed self-determination movements yield a considerable death toll. It is estimated that from 1945 to 2014, over 20 million people around the world have died in the fight to gain independence.[8]

The twenty-year war of separation between North and South Sudan left more than two million dead, and displaced millions of others from their homes.[9] Similarly, the three-year Nigerian Biafran war for secession resulted in an estimated one million casualties, with some calculations doubling or even tripling that number.[10] In Sri Lanka, the Tamil population's efforts to secure self-determination led to over 75,000 deaths.[11] The Chechen wars for independence resulted in over 160,000 casualties.[12] In a single day, Saddam Hussein's government killed 5,000 people in the Kurdish-controlled town of Halabja through the use of gas and nerve agents in an effort to suppress Kurdish moves for self-determination.[13] Additionally, in just four years, the wars of secession in the territory of the former Yugoslavia left between 150,000 and 200,000 people dead.[14]

In addition to the devastating human toll these conflicts exact, these crises are dangerously durable. A study of sovereignty-based conflicts over nearly half a century found that only twenty-four of the seventy-two active conflicts had been resolved.[15] Furthermore, conflicts associated with national self-determination demonstrate greater longevity than other internal conflicts, with the average length of such conflicts being nearly thirty years.[16] By way of example, the self-determination aspirations of the Oromo in Ethiopia have persisted since before the 1974 fall of the imperialist regime.[17] Just last week the American-Oromo diaspora were demonstrating in front of the White House for greater US engagement in resolving the conflict. The conflicts in Europe and Eurasia are no exception, with many of them frozen or simmering for decades.

As sovereignty-based conflicts persist and worsen, they have a destabilizing effect not merely internally but also regionally and even globally. The havoc these conflicts inflict generates a number of destabilizing outcomes, such as large refugee populations, the establishment of war economies, and terrorist safe havens that cause additional fighting and deaths. Further, human rights violations may emerge when self-determination movements threaten regimes. The war crimes committed to quell Kosovo's bid for self-rule in the late 1990's underscore the violence that may materialize as a reaction to national self-determination movements. These war crimes ultimately can drive refugee flows, economic disruption, and greater instability throughout the region.[18]

Conflicts relating to self-determination often result in forced displacement, which further destabilizes regions. The Nagorno-Karabakh conflict between Armenia and Azerbaijan resulted in nearly one million refugees over the course of ten years. Refugee flows, rather than being a mere externality of conflict, may actually catalyze conflict within and between states. Large influxes of refugees have been linked to destabilizing effects in the host state, such as environmental degradation and scarcity, radicalization, civil war spillover, and interstate tension and conflict.[19]

This destabilizing impact on the host state is exacerbated by resource scarcity. Refugees flee to states that may lack the capacity and infrastructure to host them and tend to remain displaced for long periods of time; the world's refugees are displaced, on average, 17 years.[20] Further, armed opposition groups within the refugee populations may seek out alliances with sympathetic local groups in the host state, thereby intensifying underlying internal strife and conflict.[21]

In politically fragile states or regions, the very specter of national self-determination can itself be destabilizing. The South Yemen independence movement was a key conflict driver in the recent destabilization of Yemen, and helped to perpetuate Yemen's descent into the current hybrid civil/international conflict.[22]

Moreover, groups seeking to destabilize the status quo may take up the cause of self-determination to establish greater legitimacy and shore up support among their desired constituency. Although these groups may seek alternative ends entirely distinct from self-determination, the groups may nonetheless co-opt self-determination into their other destabilizing activities. For instance, the Congolese Resistance Patriots in the North Kivu province have claimed separatist goals for the ethnic Mai Mai population in the region as a way to generate local support.[23] Once activated, it is often difficult to contain the pull of the desire for self-determination.[24]

Extremist groups who carry out ethnic- or religious-based violence may seek to exploit the allure of self-determination. Although they are known primarily for kidnappings and bombings, Nigeria's Boko Haram also espouses aims of establishing an Islamic state within Nigeria. Their activities against the Nigerian government have caused great instability and cost over 5,000 lives.[25] Similarly, the extremist organization known as the Islamic State has waged a destabilizing and deadly war in Iraq and Syria with the aim of creating its own state.[26] The group has engaged in countless human rights violations, from forced marriages to mass killings of civilians, including children.[27] These crimes are committed under the partial mantra of self-determination for the Sunni populations in Iraq and Syria, and do receive some local support on this basis.[28]

No Agreed Upon Approach to Resolving Sovereignty-Based Conflicts

There is no agreement among the international community as to how to resolve these conflicts, other than, as the Committee has noted, to emphasize stability and the status quo of existing borders. When self-determination is discussed in the international community, it is examined through the lens of two approaches.

Traditionally, sovereignty-based conflicts are addressed in one of two ways, the "sovereignty first" approach,[29] or the "self-determination first" approach.[30] The predominant approach of "sovereignty first" is typically used by states wishing to preserve sovereignty and territorial integrity. In this approach, sovereignty is regarded as the foundation of statehood and a cornerstone of international law. The "self-determination first" approach is most often used by national self-determination movements. This approach relies on the belief that all dependent peoples are entitled to exercise self-government and live free of persecution.

When used exclusively, neither approach has utility beyond providing a legal or political shield that states and national self-determination movements use to justify their actions or inactions. Both of these traditional approaches are inadequate because they fail to provide a path for the peaceful resolution of the conflict. Instead of providing a starting point to solve conflicts, these opposing approaches often create an ideological impasse that is difficult to navigate towards a peaceful resolution.

In order to successfully navigate self-determination movements, the international community must develop a strategic framework to guide the methods by which self-determination is realized – either internally or externally. The failure to develop a comprehensive strategic framework promotes a nebulous understanding of how to manage self-determination movements. The adherence to the status quo fosters an atmosphere of apprehension, instability and uncertainty at the mere mention of potential independence; it is within this atmosphere that conflict and violence is bred.

Recent instances of state practice provide some hope that states beset by sovereignty-based conflicts are ready to move from the sovereignty-first approach and consider more flexible responses to achieve greater self-determination. For example, when the British faced the Scottish independence movement, they chose a proactive approach, accepting the call for a referendum, and ultimately aiming to make unification attractive by offering devolution max, full fiscal autonomy, during the final days of the campaign.[31] Similarly, in Canada, the Supreme Court determined that Quebec did indeed have the legal right to enter into independence negotiations, although it could not seek independence unilaterally. The Canadian government then negotiated a referendum, which, like the Scottish referendum, ended with the population deciding to remain unified.[32]

Further illustrations of proactive state practice regarding self-determination are seen in Serbia and Montenegro and Bougainville. In Serbia and Montenegro, the international community worked closely with the parties to broker a three-year treaty that allowed for both parties to deescalate tensions and build institutions in preparation for possible independence. Montenegro's commitment to peace and stability was rewarded with recognition from the EU and the United States as well as the broader international community.

Europe is No Exception

Despite the economic and political success of the European Union, we may be entering a period of enhanced activity among European national self-determination movements. The very existence of the EU was partly intended to quell self-determination movements by ushering in an era of post-sovereignty, based on economic prosperity and regional integration. However, Europe nevertheless faces increasing calls for self-determination and independence by national self-determination movements.[33]

The EU unfortunately has failed to develop a coherent policy in response to self-determination movements both within and outside its borders. For a brief period of time in the early 1990s, the EU attempted to develop such a policy. During the breakup of the former Yugoslavia, the European Community established the Badinter Arbitration Commission to determine the merit of claims for independence. The Commission's first opinion determined that Yugoslavia was "in the process of dissolution,"[34] prompting the EU to adopt two declarations, one of which was a common recognition policy intended to assist member states in deciding whether to recognize states emerging from the breakup of Yugoslavia. The policy indicated the willingness of EU member states to recognize emerging states provided that they demonstrated that they possessed a "democratic basis, had accepted the appropriate international obligations and had committed themselves in good faith to a peaceful process and to negotiations."[35]

The failure of member states to act in concert and abide by the common recognition policy ultimately forced many member states into recognizing states that they believed had not met the requisite qualifications enumerated in the policy. Specifically, Germany's unconditional recognition of Slovenia and Croatia prompted many member states to recognize these states over the EU's own objections for the sake of maintaining a common policy.[36] The common policy dissolved with respect to Kosovo, and today 23 of the 28 member states recognize Kosovo. Despite the non-recognition by five EU member states, Kosovo and the EU are putting the final touches on a Stabilization and Association Agreement.

More recently, Europe has avoided developing a common, or even coherent, policy on recognition, particularly for self-determination movements within the EU's borders. In the case of Cyprus for instance, the EU's failure to deal with Northern Cyprus has created a half-member EU state in which all Cypriots are EU citizens, but EU laws and regulations govern only half the country.

The continent's phobia of self-determination and its lack of any cohesive approach to newly independent states leaves it ill-prepared to address emerging self-determination movements within the EU, which will strain the very foundation of Europe.[37] Nowhere was this more evident than in the European Commission's initial refusal to officially comment on the status of an independent Scotland, followed by inconsistent comments and signals that then affected Spain.[38] For example, Commission President Jose Manuel Barosso declared in February 2014 that it would be "very difficult, if not impossible" for Scotland to join the EU.[39] However, the Commission failed to clarify these statements during the lead up to the independence referendum.[40]

This lack of transparency led to significant speculation and posturing on both sides of the issue. With no clear signal from the Commission, Spain was free to threaten that it would block Scottish membership in the EU. On the other hand, the leadership of the Scottish referendum promised that accession could be fast-tracked in as little as eighteen months. The United Kingdom remained silent. With their EU membership still uncertain, the Scots ultimately voted against independence on September 18, 2014, by a margin of 10.6 percent.[41] By failing to establish a strategic framework for managing calls for independence, the EU is ignoring a continually relevant issue that has the potential to breed further uncertainty and instability in the region.

Once the Scottish referendum was put to rest, the EU immediately faced another self-determination crisis—this time in Catalonia. On November 9, 2014, almost 2 million Catalonian voters turned out to participate in a non-binding referendum for independence. Eighty percent of those who voted favored independence from Spain.[42] The referendum was approved by the Catalonian Parliament on September 27, 2014, and was originally slated to be a binding vote similar to the one held in Scotland. In the run up to the referendum, Catalonian regional Premier Atur Mas set forth a legal basis for a binding referendum.[43] The Spanish Prime Minister, Rajoy, however, vowed to use the Spanish courts to block what he considered an unconstitutional vote.[44] Within two days of the announcement of the referendum date, the Spanish government filed a request for the Constitutional Court to declare the referendum illegal.[45]

Interestingly, despite the potentially destabilizing impact of this ongoing dispute within Spain, the domestic legal debate may be largely irrelevant to the EU. If Catalonians eventually choose independence, they will seek international recognition as an independent state based on the will of the people, not on provisions of the Spanish constitution. As the International Court of Justice (ICJ) noted when reviewing the legality of Kosovo's declaration of independence, there is no international legal bar against a sub-state entity declaring independence.

Without a coherent and cohesive approach to these movements, the EU has placed itself in an impossible and precarious position. If the EU were to consider recognizing Catalonia, this action could encourage further referenda in Belgium, Cyprus, Slovakia, Romania, and possibly Italy, which are all grappling with their own self-determination movements, raising opposition from these members.

However, if the EU denies recognition to Catalonia, this may generate a frozen economic conflict in the core of Europe that would drain political capital and economic resources from an economically fragile Spain. This frozen economic conflict will also create a "state," with the Euro as its currency and seven million Catalonians that could retain their EU citizenship while living outside the EU. Furthermore,

in many European states, non-recognition would be perceived as anti-democratic. Such a move would be extremely difficult to justify, given that nearly three-dozen states have achieved recognition by EU member states in the past twenty-five years.

Earned Sovereignty

Earned sovereignty, as developed in recent state practice, entails the conditional and progressive devolution of sovereign powers and authority from a state to a sub-state entity under international supervision. The foundation for earned sovereignty can be found in peace agreements concerning Serbia and Montenegro, East Timor, Northern Ireland, Bougainville, Bosnia, Kosovo, and the Sudan, as well as the proposed agreements introduced in Israel/Palestine and the Western Sahara.

Earned sovereignty most naturally develops within a peace process as a multistage approach that determines the final political status of the sub-state entity. As an emerging conflict resolution approach, earned sovereignty is defined by three core elements: shared sovereignty, institution building, and a determination of final status. Earned sovereignty may also encompass three additional elements: phased sovereignty, conditional sovereignty, and constrained sovereignty. These elements allow for the modification or development of the approach as necessary to meet the needs of the parties. This increased flexibility helps to address the political fragilities of peace processes and the historical diversity of different conflicts, while further enhancing earned sovereignty's applicability to the circumstances of a particular conflict.

The emergence of earned sovereignty has occurred within the larger political debate concerning the most appropriate means for resolving sovereignty-based conflicts. On both sides of the debate are states, sub-states, diplomats, and policy analysts who prefer either sovereignty or self-determination as the guiding principle for resolving sovereignty-based conflicts. Those who prefer an approach that prioritizes sovereignty are likely to perceive earned sovereignty as potentially destabilizing to the current international order because it may promote the separation of sub-state entities from their parent states. Those who prefer an approach based on the primacy of the right of self-determination are likely to perceive earned sovereignty as a means for raising the bar for independence. In fact, earned sovereignty seeks to bridge these two approaches by providing a mechanism whereby some sub-state entities may be guided through a process of transition to statehood or heightened autonomy in such a way so as not to undermine the legitimate interests of parent states and of the international community.

Given that the earned sovereignty approach generally requires the consent of the parent state and national self-determination movement that are parties to a conflict, the political concerns of each party shape the precise dimensions of the approach. For instance, concerns may relate to the protection of majority group members who might become a minority within a new state. They may also relate to the impact that heightened autonomy or independence may have on the democratic and economic reform process in the parent state. These concerns may affect the mechanisms employed during the process, as well as the length of the process.

Core Elements

Earned sovereignty encompasses three core elements and three optional elements. The core elements include shared sovereignty, institution-building, and final status determination, while the optional elements include phased sovereignty, conditional sovereignty, and constrained sovereignty.

Shared Sovereignty

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The first stage, shared sovereignty, allows parties to deescalate tensions and begin the conflict resolution process. During this stage, the national self-determination movements and any associated sub-state entity are afforded some level of autonomous self-governance. This minimizes the conflict that may arise from outright independence. For example, the Bougainville Peace Agreement between Bougainville and Papua New Guinea provided for "an autonomous Bougainville Government operating under a home-grown Bougainville Constitution with a right to assume increasing control over a wide range of powers…" for ten-to-fifteen years before a referendum of independence.[46]

Shared sovereignty may also build confidence and promote institutional reconciliation between the involved parties. In Northern Ireland, shared sovereignty provided an avenue for the involved parties to establish a working relationship with one another.[47] Shared sovereignty may also normalize the post-conflict environment, and provide the national self-determination movements with viable institutions for stable governance.

New states may share authority with either a central authority or an international organization. Serbia and Montenegro, Northern Ireland, Bougainville, and the Western Sahara utilized a form of shared sovereignty wherein the new states shared authority with a central authority. Demonstrating another option for shared sovereignty, after Kosovo unilaterally declared independence, it shared authority with the United Nations Interim Mission in Kosovo (UNMIK), as did Bosnia with the Office of the High Representative.

Shared sovereignty is sensitive to the concerned conflict's internal dynamics. As such, the timeframe differs in each situation. Usually, the relevant peace agreement or constitutions provide a specified time period for shared sovereignty. This time period was only two years in East Timor and three years in Serbia and Montenegro, while the Bougainville Peace Agreement called for a 10-15-year period.

In the case of national self-determination movements in Europe, the sub-state entity could simultaneously share sovereignty with the parent state as well as the EU.

<u>Institution Building</u>

Functioning democratic institutions may be the most effective guarantee to prevent renewed conflict in the long-term. As such, earned sovereignty incorporates an institution-building phase, wherein the involved parties promote the development of democratic institutions within the concerned state. In the short-term, institution-building allows for increased capacity in preparation for the assumption of sovereign authority. It also ensures that the functions necessary to establish an autonomous entity or future independent state are present.

This process usually begins in the shared sovereignty phase, and involves international and domestic actors. This international involvement underscores the international community's growing responsibilities in both overseeing and directly engaging in peacemaking activities. The level of international involvement within this phase varies, and may encompass disarmament and demobilization, capacity building, promotion and monitoring of elections, human rights monitoring and transitional justice, refugee return, and the related settlement of land disputes.

In certain instances, levels of international engagement may be quite robust. In Kosovo and East Timor, the international community created the foundation for nearly all political and security institutions to facilitate each sub-state entity's operations as an independent state.

In contrast, where the sub-state entity does not need new administrative institutions, the international community's engagement may be more limited. For example, Northern Ireland already had its own administrative apparatus. Therefore, the Good Friday Agreement only provided for the international community to assist in creating a parliamentary body and oversight mechanisms that facilitated political stability during shared sovereignty.[48]

Moreover, national self-determination movements need not wait until the parties agree to shared sovereignty to create self-government institutions. With EU and U.S. support, the Montenegrin government established a Foreign Ministry with unofficial diplomatic offices abroad, a Ministry of Finance, and a Central Bank. The parties established these institutions prior to signing the Union Treaty, and they remained active afterward.

Final Status Determination

The third stage of earned sovereignty is a final status evaluation, allowing the parties to determine how the sub-state entity's autonomy will manifest, if at all. Final status need not be independence, and may range from substantial autonomy to full independence. As in the above-described stages, the final status determination entails international involvement, specifically through international recognition or support.

Usually, the final status determination is made through referendum or structured negotiations. Typically, a referendum is scheduled to occur after a period of shared sovereignty and institution-building. With Serbia and Montenegro, the agreement provided for Montenegro to separate and become independent via referendum after three years.[49] Similarly, the Bougainville Peace Agreement provides for Bougainville to vote for independence via referendum after ten-to-fifteen years.[50]

The final status determination may also be determined through a negotiated settlement, often with international mediation, between the parent state and the national self-determination movement. Final status determination in these instances may or may not involve a non-binding referendum. The Rambouillet Agreement called for an international conference that would consider the will of the people to determine Kosovo's final status.[51]

Similar to earned sovereignty's other elements, the final status determination is responsive to the underlying conflict's particularities, and again anticipates a significant role for international actors.

Optional Elements

In addition to its three core elements, earned sovereignty includes three optional elements: phased sovereignty, conditional sovereignty, and constrained sovereignty.

Phased Sovereignty

Phased sovereignty provides for the gradual accumulation of sovereign authority by the national self-determination movement. Phased sovereignty may be employed when the involved parties are not able to achieve even preliminary power sharing agreements. This may be the case when the parties' adversarial claims do not provide for a seamless devolution of powers. Beginning in the shared sovereignty phase, phased sovereignty provides for the measured devolution of sovereign functions and authority from the parent state or international community to the sub-state entity.

Consistent with the rest of the earned sovereignty approach, phased sovereignty's timeline and nature may be tailored to the particulars of the underlying situation. The timing and extent of the

devolution of authority and functions may correlate with the sub-state's level of institutional capacity. This process may also or alternatively be conditioned on the fulfillment of certain benchmarks, including democratic reform and the protection of human rights.

Kosovo's experience with phased sovereignty may be particularly illustrative of this element. Following Resolution 1244, the United Nations endorsed a Provisional Constitutional Framework for Kosovo, under which the U.N. Mission in Kosovo (UNMIK) and Kosovar entities jointly exercised most functions of an independent state, including foreign relations.[52] After several years within this arrangement, UNMIK gradually transferred local and central government powers to Kosovar municipal authorities and government institutions. The timeline for this transfer corresponded with Kosovo's developing institutional capacity, as well as the progress made toward Kosovo's final status.

Similarly, the Good Friday Agreement elucidates how power devolution may be conditioned on certain benchmarks. The Good Friday Agreement provided for the United Kingdom to devolve power in a manner responsive to the Irish Republican Army (IRA)'s progress in fulfilling its requirements to demobilize and decommission its weapons.[53] The Agreement even permitted the United Kingdom Parliament to reverse devolution if the IRA failed to satisfy its obligations.

Conditional Sovereignty

Conditional sovereignty prescribes benchmarks that the sub-state entity must meet before the final independence determination occurs. These benchmarks should be fair to both the parent and sub-state entity, and may include protection of human and minority rights, disarmament and demobilization, development of democratic institutions, institution of the rule of law, and promotion of regional stability.

Conditional sovereignty is rooted in the European approach of earned recognition in response to the requests for recognition from the successor states of the former Soviet Union and former Yugoslavia.[54] Earned recognition required states seeking European Community recognition to fulfill certain detailed criteria.

The conditions on which a final status is determined will necessarily vary with the particularities of the underlying situation. In Kosovo, the United Nations utilized a "standards before status" approach, which prescribed a number of criteria for Kosovo to fulfill prior to undertaking final status negotiations. These conditions specifically addressed concerns related to Kosovo's human rights protections and refugee populations.[55] Furthermore, as noted above, the Good Friday Agreement conditioned the devolution of authority on Northern Ireland's demonstrated commitment to demilitarization and demobilization processes.[56]

However, not all phased arrangements provide for conditional sovereignty. Both Western Sahara's Baker Peace Plan and the Machakos Protocol for Sudan established specific dates for the devolution of sovereign authority and functions. These agreements also provided specific dates for a final status determination without conditions.[57]

Constrained Sovereignty

Constrained sovereignty provides a role for the international community in limiting a new state's sovereign authority and state functions. This may be implemented when a new state remains incapable of independently exercising effective authority, even after a lengthy period of institution building. Constrained sovereignty may also be implemented when the new state's existence itself creates or threatens to create regional destabilization.

Examples of constrained sovereignty may include prolonged international administrative and/or military presence, as well as limits on a state's right to pursue territorial association with other states.

In the case of Bosnia-Herzegovina, the international community undertook to create a strong international presence in Bosnia's government to ensure the Republica Srpska did not pursue secession. The Accords created a de-facto trusteeship between Bosnia and the international community. The Bosnian government shared functions with a High Representative, an international, tasked with overseeing the implementation of the civilian components of the Accords. Furthermore, a NATO-led force simultaneously implemented the Accords' military aspects.[58]

Conclusion

In order to promote long term peace and stability it is imperative that when addressing national self-determination, the United States shift from a policy that solely emphasizes stability and the status quo of existing borders to one of earned sovereignty. Utilizing the approach of earned sovereignty will allow the United States and its allies greater flexibility in managing the aspirations of national self-determination movements in a way that reduces the potential for violence and political and economic instability.

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[1] Concepts in this testimony are further developed in the following articles: Paul R. Williams, Abigail J. Avoryie & Carlie J. Armstrong, *Earned Sovereignty Revisited: Creating a Strategic Framework for Managing Self-Determination Based Conflicts*, 21 ILSA J. INT'L & COMP. L. 425 (2014-2015); Paul R. Williams and Francesca Pecci, *Earned Sovereignty: Bridging the Gap Between Sovereignty and Self-Determination*, 40 STANFORD J. INT'L L. 347 (2004); Paul R. Williams and Karen Heymann, *Earned Sovereignty: An Emerging Conflict Resolution Approach*, 10 ILSA J. INT'L AND COMP. L. 437 (2004); Paul R. Williams and Jim Hooper, *Earned Sovereignty: The Political Dimension*, 31 DENVER J. INT'L LAW & POL'Y 355 (2003); Paul R. Williams, *Earned Sovereignty: The Road to Resolving the Conflict Over Kosovo's Final Status*, 31 DENVER J. INT'L L. & POL'Y 387 (2003); Paul R. Williams, Michael P. Scharf, & James R. Hooper, *Resolving Sovereignty-Based Conflicts: The Emerging Approach of Earned Sovereignty*, 31 DENVER J. INT'L L. & POL'Y 349 (2003). These concepts also appear in Paul R. Williams and Roushani Mansoor, *How the Voters of Catalonia May Change Europe*, ATLANTIC COUNCIL (Jan. 16, 2014), *available at* http://www.atlanticcouncil.org/blogs/new-atlanticist/how-the-voters-of-catalonia-may-change-europe.
[2] The principle of self-determination refers to the right of a people to determine its own political destiny. Beyond this broad definition, however, no legal criteria determine which groups may legitimately claim this right in particular cases. Betty Miller Unterberger, Encyclopedia of American Foreign Policy, *Self-Determination* (2002), *available at* http://www.encyclopedia.com/topic/Self-Determination.aspx. The term self-determination in these remarks is used to characterize the various movements around the world where populations are seeking to gain greater political autonomy. Complete independence is not necessarily the ultimate, or necessary outcome of self-determination movements.
[3] *See* Brian Beary, *Separatist Movements: Should Nations Have a Right to Self-Determination?*, CQ RESEARCHER (2008), *available at* http://library.cqpress.com/cqresearcher/document.php?id=cqrglobal2008040000; W. Alejandro Sanchez & Kimberly Bullard, *On Separatism in Latin America*, E-INT'L REL. (2013), avai*lable at* http://www.e-ir.info/2013/05/20/on-separatism-in-latin-america/; Rick Noack, *These 8 places in Europe could be the next to try for independence*, WASH. Post (Sept. 18, 2014), *available at* http://www.washingtonpost.com/blogs/worldviews/wp/2014/09/18/if-scotland-breaks-away-these-8-places-in-europe-could-be-next.
[4] Christopher J. Borgen, *From Kosovo to Catalonia: Separatism and Integration in Europe*, 2 GEO. J. INT'L. L. 997, 1010 (2010), *available at* http://scholarship.law.stjohns.edu/faculty_publications/114/.
[5] *See* Monica Duffy Toft, *Self-Determination, Secession, and Civil War, Terrorism and Political Violence*, 24:4 THEORETICAL & EMPIRICAL PROGRESS IN RESEARCH ON POLITICAL VIOLENCE 581, 581–82 (July 31, 2012).

[6] *See generally* Myron Weiner, THE MACEDONIAN SYNDROME, WORLD POLITICS 665 (1971); *see also* Myron Wiener*, Bad Neighbors, Bad Neighborhoods: An Inquiry into the Causes of Refugee Flows*, 21:1 INT'L SEC. 5 (1996); *see also* Susan Olzak, THE GLOBAL DYNAMICS OF RACIAL AND ETHNIC MOBILIZATION (2006).

[7] Office of the Coordinator for Counterterrorism, *Foreign Terrorist Organizations,* U.S. DEPT. OF STATE, *available at* http://www.state.gov/j/ct/rls/other/des/123085.htm. These include Abu Nidal and Hamas in Palestine, Abu Sayaf in the Philippines, Basque Fatherland and Liberty in the Basque Region of Spain and France, and the Continuity IRA in Northern Ireland.

[8] This number is derived from compiling estimated death tolls from sovereignty-based conflicts around the world. This number includes civilian casualties and includes conflicts dating from 1945 to 2014. *See* Milton Leitenberg, *Deaths in Wars and Conflicts in the 20th Century*, CORNELL PEACE STUDIES PAPERS (Aug. 2006), *available at* http://www.clingendael.nl/sites/default/files/20060800_cdsp_occ_leitenberg.pdf; *see* Matthew White, *Estimated Totals for the Entire 20th Century*, Historical Atlas of the 20th Century, *available at* http://necrometrics.com/all20c.htm.

[9] *Modern Conflicts: Conflict Profile: Sudan (North-South Ethnic War)*, POLITICAL ECON. RESEARCH INST. (1983–2005), *available at* http://www.peri.umass.edu/fileadmin/pdf/Sudan1.pdf.

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