**17 - Questions of Identity; Defining Peoplehood for the Purposes of Internal Self-Determination in Wales**

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1. **Introduction**

Self-determination is a human right, claimed by a ‘people’ to control their own destiny when they feel they have been unjustifiably excluded from the community of individuals recognised by international law. (Berman, 1988) It permits people to participate in the democratic process of governance and to influence one’s future politically, socially, and culturally within their state. (Barker, 2015) Although this inherent group right is applicable to all humans, an issue arises when a group of persons claim a right to self-determination, as it forms the question, does the said group constitute a ‘people’ for the purposes of self-determination, as the scope of the term a ‘people’ is not clear. (Suksi, 2005) Within international law, there are few other principles that the status, content, and scope of which are so uncertain and so frequently contested. It is deemed to be ‘Jekyll and Hyde’ in its character by the academic Sparks, who described the right to be a “dangerous and anarchic force” which is “simultaneously lauded as an essential principle of the legal system and one of the core purposes of the United Nations”. (Sparks, 2023) Despite the perplexity surrounding this topic, its importance was illustrated in the East Timor judgement, where it was stated “In the Court’s view, Portugal’s assertion that the right of peoples to self-determination, as it evolved from the Charter and from the United Nations practice has an *erga omnes* character, is irreproachable…it is one of the essential principles of contemporary international law.” (*Portugal v Australia*, 1995) When considering peoplehood and its application to suffice the requirements of self-determination, frequent reference is made to a ‘shared identity’ between a group of individuals, a shared identity that is so distinct it renders the group as vastly different from the others they share their State with. In the Cameroon case, identity was described as an innate characteristic within a people, where external people must recognise such existence and to not deny it. (*Mgwanga Gunme v Cameroon*, 2009) The notion of what a ‘people’ is, feels as though it should be an easy conversation, we know we exist, we have names, long histories, and shared cultures, but the open-ended questions of “what is a people?” invokes more confusion and debate than any other topic within customary international law. It is correct to speak of the right of a ‘people’ when such entities lack clarity as to their accurate meaning? If the denial of self-determination to a people within a State possesses the ability to trigger a possible right to remedial secession, there will first need to be greater clarity on the meaning of the term ‘peoplehood’. (Koskenniemi, 1994) Due to this clear lack of clarity, my research aims to identify the parameters of peoplehood, whilst considering the complexities as to why States remain reluctant to provide a universally agreed definition of peoplehood. I will be using Wales as a case study to assess whether the identified parameters of peoplehood can allow the Welsh community to be acknowledge by the international community as a separate ‘people’ for the purposes of satisfying internal self-determination.

* 1. ***Research Questions***

1. What role does international legislation play in the recognition and protection of group identities?
2. What are the influencing reasons why self-determination groups desire internal self-determination?
3. What are the specified challenges international law faces when recognising and attempting to protect group identity?
4. What are the identified parameters of peoplehood for the purposes of internal self-determination?
5. **Literature Review**

The debate around peoplehood is not a contemporary topic. It is thought by some that Aristotle was the first to discuss the norm-based conception of what a ‘people’ is, as such discourse can be traced back to BCE. The concept was spoken about by Aristotle in *Book III* of the *Politics*, where he suggested to establish the true nature of a polity, and to form adequate governance of such polity, we must first consider who constitutes the people. In other attempts to form a shared understanding of peoplehood, the voice of the people has previously been likened to the voice of God, as Machiavelli suggested, inferring the importance of the people’s voice in a society. (Polansky, 2023)

The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) are both international human rights treaties, with the aim of protecting individuals and groups against any actions or omissions that interfere with their fundamental freedoms, entitlements, and human dignity. (UN High Commissioner for Human Rights, 2006) Both the ICCPR and the ICESCR share an identical Article 1, which states “*All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development*.”

Under the principle of self-determination, a group who share a common identity and have a link to a defined territory are allowed to decide their political future in a democratic fashion. For the group to exercise its entitlement to the collective right, it must qualify as a ‘people’. (Sterio, 2012) A two-part test has been established to evaluate the group determining if they classify as a people, with the first part being an objective test questioning to what extent its members share a common racial background, ethnicity, language, religion, history, and cultural heritage, as well as territorial integrity of the area which the group is claiming. The second part of the test is subjective, it examines the extent to which the individuals within the group self-consciously perceive themselves collectively as a distinct ‘people’ and the degree to which the group could form a viable political entity. (Crawford, 1999) Internal self-determination is known to encompass the governance of peoples within the State which they belong too, (Wilson, 2009) and it is generally understood to be the systematic involvement of all groups in their national democratic process, allowing the preservation of their cultural identity and their development to be on an equal footing with the majority population.

The notion of Welsh identity can be traced back to the 5th century, following the Roman withdrawal from Britain, but Wales has been far more closely assimilated into the English state than either Scotland or Northern Ireland has. It is hard to pinpoint when the rise of Welsh national consciousness truly began to happen, but the derogatory treatment of Welsh people throughout history is often considered pivotal to the ethnic divide. When considering potential causes that heighten a group identity that distinctly differs from the identity of the majority, Wales possesses a vast history of alienating treatment that has arguably contributed to their need for internal self-determination. In 1847, Brâd y Llyfrau Gleison (The Treachery of the Blue Books) occurred, in which a report about an inquiry into the condition of education throughout Wales was conducted. The infamous report was commissioned by Parliament in Westminster, with the aim to provide a reform of education in Wales, but this was overshadowed by the reports attitude towards the Welsh people and their language, Cymraeg. In their report, the Blue Books stated “The Welsh language is a vast drawback to Wales, and a manifold barrier to the moral progress and commercial prosperity of the people. It is not easy to over-estimate its evil effects. It is the language of the Cymri, and anterior to that of the ancient Britons. It dissevers the people from intercourse which would greatly advance their civilisation, and bars access of improving knowledge to their minds. As a proof of this, there is no Welsh literature worthy of the name.” (Commissioners of Inquiry, 1847) Consequently, after this report was published, there was a monumental shift in the way the Welsh language was perceived both within Wales, and by its neighbours. This was depicted in a report made by the Times of London in 1929, building upon the work of Matthew Arnold’s ‘Celtic Literature’ (Leerssen, 2006) where it was stated that “the Welsh language is the curse of Wales. Its prevalence and the ignorance of English have excluded, and even now exclude the Welsh people from the civilisation of their English neighbours…If it is desirable that the Welsh should talk English, it is monstrous folly to encourage them in a loving fondness for their old language…The sooner all Welsh specialities disappear from the face of the Earth the better.” (Welsh Outlook, 1929)

1. **Aims and Objectives**

My work aims to identify the parameters of peoplehood for the purposes of internal self-determination, through researching the challenges faced by law makers, such as ensuring the protection of group identity in self-determination claims. One objective of mine is to give recognition to the needs of minority groups and their claim for self-determination, acknowledging the reasons why they wish to identify outside their governing State, and if the international community can provide adequate protection to such groups. Another aim of my research is that it will have a beneficial impact on the legal community regarding minority and indigenous people’s rights, as it is clear such groups benefit from research into the unclear legislation surrounding legislation, offering a deeper understanding of the topic, and providing legislative clarity to smaller ethno-national groups. I also hope that my research can add to Liverpool John Moores University’s academic standing, as my project closely aligns with the University’s ambition to expand international and civic engagement through globally recognised research through placing societal diversity and minority groups at the centre of the analysis.

1. **Justification for Research**

I believe that my research is extremely relevant to domestic scenarios, such as post-Brexit United Kingdom, which has saw a continuing rise in the support for devolved independence in Wales, Scotland, and Northern Ireland, which will be discussed throughout my Welsh case study, questioning if people’s national identity is a large driving factor in the heightened support for their desired sovereignty. My project will offer a refreshing contribution to the current existing work in the self-determination field, by providing a focal point on Welsh group identity and conservation, and its direct relationship with internal self-determination. In identifying the parameters of peoplehood, the research I am conducting, additionally aims to provide to the contribution of acknowledging marginalised minority groups and indigenous people’s rights, offering a greater understanding of the needs of smaller communities and the protection of them. My work will advance the knowledge of socio-political and legal challenges that face those who desire self-determination, such as self-determination being enshrined in the United Nations Charter, ICCPR and ICESCR, yet States displaying clear reluctant to work on indigenous issues, illustrated by the slow development of the Draft Declaration on the Rights of Indigenous Peoples being approved by the General Assembly for adoption.

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