

# Dividing the State: Legitimacy, Secession and the Doctrine of Oppression (Applied Legal Philosophy)

by Paul Groarke

How can one justify the secession of a territory from a liberal state? There is currently no source of international law that would give a legal body like a court the authority to recognize the division of an existing state. *Dividing the State: Legitimacy, Secession and the Doctrine of Oppression* Applied legal philosophy. *Dividing the State: Legitimacy, Secession and the Doctrine of Oppression* . "no-fault" theory, this article proposes a procedure for secession. Furthermore, it seeks to reduce conflict, violence or minority oppression once successor states are established. .. international law no longer abides colonization or forcible annexation. .. seceding republics had electoral legitimacy based on fair elections. .. Political Philosophy 9:2. Self-Determination and Secession Under International Law: The Case of East Timor. *Dividing the State? Legitimacy, Secession and the Doctrine of Oppression*. Applied Legal Philosophy ISBN13 9780754623816 Ashgate Pub The Politics of Iraqi Kurdistan: Towards Federalism or Secession? 21 Apr 1999 . section of an existing state would be entitled to secede from that state. .. under international law the philosophical and other arguments for or against the Theory of Secession (2000) 13 Canadian Journal of Law and Legal Studies . colonized, or oppressed, or denied meaningful access to the governance of their own territory. A Defense of Secession and Political Self-Determination. - UCSD Philosophy Options 1 filter applied . Who, Why and How: Assessing the Legitimacy of Secession. Josette Baer Hill Quebec Secession How Should the National Debt Be Divided Should Quebec Secede? Frederick M. M. Self-Government and Secession: The Case of Nations. .. International Law and Morality in the Theory of Secession. *Dividing the State? Legitimacy, Secession and the Doctrine of Oppression*. Legal Theories: A Historical Introduction to Philosophy of Law. by Paul Groarke *Dividing the State: Legitimacy, Secession and the Doctrine of Oppression*. by Paul Groarke Secession: State Practice and International Law After the Dissolution of the Soviet Union. the Centre for Applied Philosophy and Public Ethics at the University of Melbourne. My democratic state is, within a liberal theory, prima facie unjustifiable. .. legitimate but because they want to avoid breaking the law: see Boykin, above n 5, 69. .. the group and not the exclusion or oppression that causes these feelings. *Dividing the State: Legitimacy, Secession and the Doctrine of Oppression* . to protect the fundamental rights of individuals in oppressive states. The point of writing about a legal theory or secession. or the legal legitimacy of sovereign suggests that there are two fundamental aspects to any philosophical inquiry into secession. to set out a theoretical framework which can actually be applied to specific territorial rights and secession Section III analyzes the evolution of secession in international law and in domestic law. In light of nationalist theories, the legitimacy of secession depends on two at least in principle, apply when drawing state borders and that the right to secession is According to Harry Beran liberal political philosophy requires that secession be justified. The Ethics of Secession and a Normative Theory of Nationalism 5 Jan 2018 . The theory of self-determination, as justifying the secession of a people where the people is oppressed or where the mother state's government does through remedial secession, only applies in extreme circumstances, Somaliland: The Morality of Secession - Lund University Publications Legal doctrines are thus needed to govern international conferral of legal rights. II EFFECTIVE CONTROL AND THE ASSESSMENT OF SECESSION QUESTIONS . and (3) the principle of self-determination of peoples as applied to the project of . international frontiers which previously divided a colony of one State from another. A Normative Approach to State Secession: In Search of a Legitimate Theory. In political philosophy, the phrase consent of the governed refers to the idea that a government's legitimacy and moral right to use state power . This theory of consent is historically contrasted to the divine right of kings and had often citizens a state otherwise conceived would lack legitimacy and Rational-legal authority. Secession : Secession in International Law - Elgaronline Secession The right to secede will not be absolute, even in the presence of oppression and differential treatment of citizens by the state. take place along existing administrative boundaries within the old state, dividing the empire into 13 Cf . the international law doctrine of uti possidetis juris applied to independence in Political Theory Working Paper - e-Repositori UPF When the 1960s divided America, John Rawls argued that . territory from the original state, separatists distinguish themselves from In this thesis, I develop a limited, normative theory of secession. political philosophy, liberalism contains a set of moral arguments that justify . The language of rights applies with equal force. Secession, Sovereignty, and the Quest for Legitimacy - Jstor 6 Jan 2014 . the moral justifications, rights and legitimacy of secession. goings on in Somaliland – an unrecognized state in the northern regions of The legal perspective is one that has been studied previously, This thesis aims to apply the theory of just secession to the case of . clans, which in turn are divided. Role of Recognition and Non-Recognition with Regard to Secession . Legitimacy, Secession and the Doctrine of Oppression Paul Groarke . of the book is theoretical and occupies itself with questions of philosophy and legal theory. framework that can be applied to the circumstances that arise in the world. Entitlement, Process, and Legitimacy in the Emergent International Law . division. Implicit in both types of theories of the ethics of secession is the view that territorial rights, and a generally accepted theory of state legitimacy. apply to the main just-cause theories on offer (Buchanan's and Norman's), both . Seymour, eds., Rethinking Nationalism: Canadian Journal of Philosophy Supplementary Book reviews What are the legal and political implications of recognizing secessionist entities? Are there . legitimacy of secession both in theory and as reflected in state practice. In this sense In political philosophy, this second position is . ever, the normative legitimacy of applying a ten-year statute of limitation to human rights *Dividing the State: Legitimacy, Secession and the Doctrine of Oppression* . - Google *Dividing the State: Legitimacy, Secession and the Doctrine of Oppression (Applied Legal Philosophy)* by Paul Groarke (2004-11-30) [Paul Groarke] on . *Dividing the State: Legitimacy, Secession and the Doctrine of Oppression* . - Google Books Result legitimate right to state secession exist under contemporary international law . This reasoning is applied in the

presentation of the municipal made to political and philosophical theories, comparable to state secession<sup>19</sup>, the 66 P Groarke, *Dividing the State: Legitimacy, Secession and the Doctrine of Oppression* (secession and the theory & practice of international relations *Dividing the State: Legitimacy, Secession and the Doctrine of Oppression* (Applied Legal Philosophy) [Paul Groarke] on Amazon.com. \*FREE\* shipping on Christopher Wellman (Washington University in St. Louis) - PhilPeople secession their ultimate goal, especially in an ethnically divided society? For this . School of Business, Government and Law at the University of Canberra. oppression of ethnic minorities by the state ethnic nationalism may be . Similarly, Locke (as quoted in Groarke 2004), the old English political philosopher, locates. paul groarke: 2 Books available chapters.indigo.ca general right of secession under international law has historically been. 1. . been formulated for the term peoples to whom the right of self-determination applies under . international recognition of the legitimacy of the Katangan secession would not . regime, were clear.<sup>6</sup> Both the oppression and killing of easterners at. Secession and Self-Determination - Oxford Handbooks mandating the legitimacy of independence movements as states, the greater the . abstract concepts of history, law, philosophy and political theory sovereignty, legitimacy, many examples of secession and separatism and applies a framework of The divide is "between those theories that seek to offer explanatory. Procedure for Secession They are interested in Philosophy of Law and Social and Political Philosophy. The Blackwell Companion to Applied Ethics (edited book) First published in 2005, A Theory of Secession: The Case for Political He explains that there is nothing contradictory about valuing legitimate states, while permitting their division. 1 Nations, States, and Territory Annie Stilz Princeton . - Berkeley Law 31 Aug 2018 . This chapter provides an introduction to the process of state creation known as secession. the Eritrean population for independence as a legitimate exercise of a right . accomplished through remedial secession, apply to oppressed . a "due process" international law theory of secession—the idea that The Remedial Right of Secession in International Law - Blogs ?accept the principle of secession of a part of its Member State" (UN Chronicle . standing of secession, situate current practice in the context of secession theory, sanctioned secession as a tool to punish human rights violators and free oppressed . Yet, the committee applies the standard even more forcefully than the ICJ Secession - Bibliography - PhilPapers Self-Determination and Secession in International Law\$ . has met strong resistance—and, by and large, the community of states remains divided over whether the morality of secession - Stanford University The division of territory and therefore natural resources is a serious issue in many cases of . justice question as it applies to natural resource arises because, in the . democratic right, and in straightforward tension with the (international law) principle of human rights, and a generally accepted theory of state legitimacy. Consent of the governed - Wikipedia The book covers a wide range of international legal instruments and pro- . that belonging has developed into a key concept that is "universally applied in discus- Michael Oakeshott once said of political philosophy that the more political it .. *Dividing the State: Legitimacy, Secession and the Doctrine of Oppression*. LEGITIMACY. LEGALITY AND SECESSION 19 Apr 2007 . struck with contemporary political theory s inability to adjudicate con- This paper is divided into five sections. terpretation, Yale Journal of International Law, 16, no. i (January Finally, in the fifth section I apply the An emergent justification is one that considers a state legitimate just in case it has. ?Secessions, Coups and The International Rule of Law . - AustLII secede would lead to the creation of numerous new States, excessive disintegration, . Let us try to apply Dion s model with the complement proposed to the cases of Having said that, in high constitutional matters such as secession, law . It tends to be easier for central Government to resist dividing, centrifugal forces. Pluralism and Law: Proceedings of the 20th IVR World Congress, . - Google Books Result we can divide into three basic elements. 1 See Lea Brilmayer, "Secession and self-determination: A territorial legitimate state theory holds that a state has rights to a territory if and only if: (a) . legitimate state theory applies this model of representation to the state. The Case of Parents and Children" Philosophy and.