

Section 3 The scope of private international law

- ◆ Civil legal status for foreigners
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Secebion And International Law

Júlia Miklasová



Secession And International Law:

Self-Determination and Secession in International Law Christian Walter, Antje von Ungern-Sternberg, Kavus Abushov, 2014-06-05 Peoples and minorities in many parts of the world assert a right to self determination autonomy and even secession from a state which naturally conflicts with that state s sovereignty and territorial integrity The right of a people to self determination and secession has existed as a concept within international law since the American Declaration of Independence in 1776 but the exact definition of these concepts and the conditions required for their application remain unclear The Advisory Opinion of the International Court of Justice concerning the Declaration of Independency of Kosovo 2010 which held that the Kosovo declaration of independence was not in violation of international law has only led to further questions This book takes four conflicts in the post Soviet Commonwealth of Independent States CIS as a starting point for examining the current state of the law of self determination and secession Four entities Transnistria Moldova South Ossetia Abkhazia both Georgia and Nagorno Karabakh Azerbaijan claim to be entitled not only to self determination but also to secession from their mother state For this entitlement they rely on historic affiliations and on charges of discrimination and massive human rights violations committed by their mother state This book sets out its analysis of these critical issue in three parts providing a detailed understanding of the principles of international law on which they rely The first part sets out the contours and meaning of self determination and secession including an overall assessment of secession within the Commonwealth of Independent States The second section provides case studies investigating the events in Transnistria South Ossetia Abkhazia and Nagorno Karabach in greater detail The third and final section extends the scope of the examination providing a comparative analysis of similar conflicts involving questions of self determination and secession in Kosovo Western Sahara and Eritrea

Minorities' Claims: From Autonomy to Secession Gnanapala Welhengama, 2017-11-30 This title was first published in 2000 An investigation of how the claims of minority groups for greater political power through autonomy and secession clash with the concerns of the nation State and how States refusals to respond positively to such claims contribute to the escalation of ethnic conflicts in contemporary multi ethnic polities In addition this book examines the extent to which the international community is prepared to accommodate the concerns of minority groups beyond traditionally identified minority rights The validity of claims for autonomy with shared sovereignty autonomy as an inherent part of self determination autonomy as a solution to current ethnic conflicts secessionist and irredentist movements and their impact on peace and security are analyzed in detail Most importantly whether minorities as such can secede from the State in which they live by virtue of self determination is critically analyzed The discussion of peoples in the context of self determination is the first detailed research on this subject to appear in international and human rights literature

Secession Marcelo G. Kohen, 2006-03-21 This book is a comprehensive study of secession from an international law perspective

Self-Determination and Secession Natalija Shikova, 2023-08-28 This book offers a

comprehensive summary of extant international law scholarship on the topics of self determination and secession and positions the concepts among present day theory and relevant practice illustrated through various ongoing cases and historical examples The right to self determination is among the least understood rights within international law Theoretical dilemmas as to whether there is a link between self determination and secession are nothing new In essence self determination is a much broader concept than secession and obtaining independent statehood Unilateral secession is not prohibited by international law but neither is it per se welcomed or accepted in practice Beyond the context of decolonization secession claims have long been viewed with disapproval in international law and lawyers have been extremely skeptical about the issue Although this is still the case there are also new trends and opportunities to explore situations in which secession can be accepted legitimized or even legally permissible The yardstick for this is the diplomatic response to secessionism and the growing involvement of the international community in mediation and conflict resolution Though finding solutions can be difficult within the existing frame the ongoing tension between the duty of every society to recognize pluralism and diversity on the one hand and the inherent desire of every culture whether majority minority or indigenous to protect its values and ensure conformity on the other must be resolved The practices and modalities that envisage the internal dimension of the right to self determination as a right that is exercised within the state borders can offer such opportunities The appropriate role of the state and the international community is to serve as mediators between competing forces and to set parameters that can transform destructive conflicts into productive political models

Self-Determination and Humanitarian Secession in International Law of a Globalized World Juan Francisco Escudero Espinosa, 2017 **Secession and International Law** Julie Dahlitz, 2003 In this volume the contributors focus on the issues of the legality or otherwise of the aspiration to secede in defined situations as well as the appropriate means by which secessionist aims may be pursued or resisted To dispel resentment all cases must be judged by the same criteria while variations in treatment due to factual differences have to be on the basis of clear distinctions made on equitable grounds Even if not uniformly enforceable they must be universally applicable What should be those criteria At present there is only partial consensus on the issues Consequently the Consortium on International Dispute Resolution CIDIR initiated a series of regional conferences on the subject of Secession and International Law in collaboration with a number of the most prestigious institutes of international law and international relations on four continents The contents of this volume are based on the results of those conferences [The Routledge Handbook of Self-Determination and Secession](#) Ryan D. Griffiths, Aleksandar Pavković, Peter Radan, 2023-02-28 The Routledge Handbook of Self Determination and Secession explores the various debates surrounding the issues of self determination and secession and the legal political and normative implications they give rise to Offering a broad survey of the state of the sub discipline today the chapters are divided into seven key parts an Introduction Self Determination Explaining and Justifying Secession Secession Strategies Counter

Secession Strategies International Law and Secession and Constitutional Law and Secession The authors from a range of disciplinary backgrounds explore all the recent approaches to secession and self determination based on strategic interaction of major actors in a secession process This handbook will be of great interest to students and researchers from a variety of disciplines including politics and international relations security studies and law **On State Secession from**

International Law Perspectives Jing Lu,2018-10-30 This book provides essential legal information on state secession in an innovative manner unlike conventional approaches which invariably focus on whether there is a right to secession here the discussion centers on how secessionist conflicts can be effectively resolved To that end the book not only reveals the inadequacy of the current international legal framework but also carefully considers how relevant actors can work to improve the legal system In short it argues that secessionists and non secessionists should conclude an agreement to reconcile their conflicting rights to self determination while external actors should do their utmost to ensure the success of these efforts Positive external involvement requires external actors to refrain from the use of force and to participate more rationally in secessionist conflicts Given its subject matter the book will appeal to a broad readership including students and researchers in international law international relations and ethnic studies as well as enthusiasts in these fields Secession in

International Law with a Special Reference to the Post-Soviet Space Júlia Miklasová,2024-08-19 The open access publication of this book has been published with the support of the Swiss National Science Foundation International law is increasing in relevance to the topic of secession This book demonstrates that if a secessionist entity s effectiveness is achieved in violation of peremptory norms the emergence of statehood is precluded thereby challenging a classical view of secession as purely factual and meta legal Dr J lia Miklasov coins the term illegal secessionist entity demonstrates the pervasive effects of the original illegality on the subsequent relations of such entities purported diplomatic treaty economic relations acts and laws and outlines the overlapping regimes of the law of occupation human rights law and duty of non recognition Post Soviet secessionist entities result from an illegal use of force They are thus prohibited from becoming States and further consequences of their illegality apply **Secession and Statehood** Ana Gemma López Martín,José Antonio Perea

Unceta,2021-09-08 This book analyses the complex phenomenon of secession as a form of creation of States from the perspective of international law As opposed to other approaches based on the analysis of the political foundation of the secessionist processes or on the construction of a legal basis that justifies the existing practice the aim is to provide an explanation of secession as a practice covered neither by the legal regime of the United Nations for the self determination of colonial peoples nor by the regulations and guidelines relating to the human rights of minorities and indigenous populations both in the UN and in regional organisations Organization of American States Council of Europe or African Union It is stated that secession is a practice that does not comply with international peremptory norms such as those that prohibit going against the territorial integrity of the States the use of force or intervention in the internal affairs of other States Even being

aware of the inevitable consequences of the effective creation of States and other de facto entities on trade relations communications and the rights of individuals among other matters secession is a practice that should lead to an obligation of nonrecognition by States and by international organisations As an example of this practice the secessionist process in Catalonia since 2014 is explained and studied

Secession in International Law Milena Sterio, 2018-08-31 Secession in International Law argues that the effective development of criteria on secession is a necessity in today's world because secessionist struggles can be analyzed through the legal lens only if we have specific legal rules to apply Without legal rules secessionist struggles are dominated by politics and sui generis approaches which validate secessionist attempts based on geo politics and regional states self interest as opposed to the law By using a truly comparative approach Milena Sterio has developed a normative international law framework on secession which focuses on several factors to assess the legitimacy of a separatist quest

The Foreign Policy of Counter Secession James Ker-Lindsay, 2012-10-25 At a time when the question of separatism is becoming increasingly significant in international politics The Foreign Policy of Counter Secession is the first and only comprehensive account of the ways in which states fight acts of secession on the world stage

The Ashgate Research Companion to Secession Peter Radan, 2016-03-23 Secession is a detachment of a territory from an existing state with the aim of creating a new state on the detached territory Secession is usually an outcome of the political mobilization of a population on the territory to be detached and as a political phenomenon is a subject of study in the social sciences Its impact on inter state relations is a subject of study in international relations But secession is also subject to regulation both in the constitutional law of sovereign states and in international law Following a spate of secessions in the early 1990s legal scholars have proposed a variety of ways to regulate the international responses to attempts at secessions Moreover since the 1980s normative justification of secession has been subject to an intense debate among political theorists and moral philosophers This research companion has the following three complementary aims First to offer an overview of the current theoretical approaches to secession in the social sciences international relations legal theory political theory and applied ethics Second to outline the current practice of international recognition of secession and current domestic and international laws which regulate secession Third to offer an account of major secessionist movements past and present from a comparative perspective In their accounts of past secessions and current secessionist movements the contributors to this volume focus on the following four components the nature and source of secessionist grievances the ideologies and techniques of secessionist mobilization the responses of the host state or majority parties in the host state and the international response to attempts at secession This provides a basis for identification of at least some common patterns in the otherwise highly varied processes of secession

Secessionist Entities and International Law Benedikt C. Harzl, 2025-03-20 This book examines secessionist entities that arose during and after the dissolution process of the USSR and considers them as legal subjects in their own right By employing a novel and more innovative approach the agency of

these subjects otherwise often ignored or disregarded is taken into account Drawing on the cases of the South Caucasus the author suggests going beyond the binary concept of statehood and traditional notions of sovereignty He advocates embracing an inclusive reading of international law which enables to foster creative ambiguity vis vis these entities as means of conflict transformation

Research Handbook on Secession Jure Vidmar, Sarah McGibbon, Lea Raible, 2022-12-13 Combining both theoretical and practical insights the Research Handbook on Secession addresses a wide range of legal issues and concepts surrounding secessions It considers both well known examples such as Kosovo and Bangladesh alongside less frequently discussed cases including Somaliland and Palestine The Research Handbook offers state of the art analysis of international law on among other topics statehood secession self determination as well as comparative constitutional perspectives

Self-Determination and Collective Responsibility in the Secessionist Struggle Costas Laoutides, 2016-03-03 The often violent emergence of new independent states following the end of the Cold War generated discussion about the normative grounds of territorial separatism A number of opposing approaches surfaced debating whether and under which circumstances there is a right for a community to secede from its host country Overwhelmingly these studies placed emphasis on the right to secession and neglected the moral stance of secessionist movements as agents in international relations In this book Costas Laoutides explores the collective moral agency involved in secessionist struggles offering a theoretical model for the collective responsibility of secessionist groups Case studies on the Kurds and the people of Moldova Transdnistria illustrate the author's theoretical arguments as he seeks to establish how although the principle of self determination was envisaged as a means of gradually bestowing political power upon the people it never managed to realize its full potential because it was interpreted strictly within a framework of exclusionary politics of identity

On the Way to Statehood Aleksandar Pavković, Peter Radan, 2008 This collection explores the changes that the current international order has brought to the theory and practice of recognition of secessionist claims and to the conditions for secessionist mobilization The contributors employ comparative analysis within legal international relations and political science frameworks and examine several recent attempts at secession

The Right to Self-Determination in the South Caucasus Bahruz Balayev, 2013-02-07 The Right to Self Determination in the South Caucasus Nagorno Karabakh in Context by Bahruz Balayev explores the relationship in international law between the concept of self determination and territorial integrity in the context of the Caucasus region This study brings together the various self determination movements of the Caucasus Nagorno Karabakh South Ossetia Adjara Abkhazia and Chechnya and provides a comparative analysis The August 2008 war in Georgia and the proclamation of independence of Kosovo renewed the discussion over the right to self determination in international law Has the right to self determination evolved since the solutions to the conflicts over self determination are now determined in a new manner or should it Will the question of self determination in different regions of the world be a spark for a new cold war Unilateral declarations and the recognition of independence of South Ossetia Abkhazia and Kosovo

could be the first spark These are the pressing questions because there are many self determination and secession movements all over the world The Right to Self Determination in the South Caucasus is a unique tool for scholars researchers and the public in understanding South Caucasus regional conflicts from the New Haven School perspective **The Right to Self-determination Under International Law** Milena Sterio,2013 This book proposes a novel theory of self determination the Rule of the Great Powers This book argues that traditional legal norms on self determination have failed to explain and account for recent results of secessionist self determination struggles While secessionist groups like the East Timorese the Kosovar Albanians and the South Sudanese have been successful in their quests for independent statehood other similarly situated groups have been relegated to an at times violent existence within their mother states Thus Chechens still live without significant autonomy within Russia and the South Ossetians and the Abkhaz have seen their conflicts frozen because of the peculiar geo political equilibrium of power within the Caucasus region The Rule of the Great Powers which asserts that only those self determination seeking entities which enjoy the support of the majority of the most powerful states the Great Powers will ultimately have their rights to self determination fulfilled The Great Powers potent military economic and political powerhouses such as the United States China Russia Japan the United Kingdom France Germany and Italy often dictate self determination outcomes through their influence in global affairs Issues of self determination in the modern world can no longer be effectively resolved through the application of traditional legal rules rather resort must be had to novel theories such as the Rule of the Great Powers This book will be of particular interest to academics and students of law political science and international relations *The Nagorno-Karabakh Conflict* M. Hakan Yavuz,Michael Gunter,2022-07-01 This book presents a comprehensive overview of the Nagorno Karabakh conflict the long running dispute between Armenia and Azerbaijan over the Armenian majority region of Azerbaijan It outlines the historical development of the dispute explores the political and social aspects of the conflict examines the wars over the territory including the war of 2020 which resulted in a significant Azerbaijani victory and discusses the international dimensions

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Secebion And International Law Introduction

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